



Magnolia Public Schools

Special Ad-Hoc and Facility Committee Meeting

Date and Time

Monday June 17, 2019 at 5:00 PM PDT

Location

Dial: 1.844.572.5683 Code: 1948435

Meeting Notice

Access to the Committee Meeting: Any interested parties or community members may join remotely or from any of the locations where Committee Members are joining from:

- MSA-SD 6525 Estrella Ave. San Diego, CA 92120 (Dr. Salih Dikbas)
- UCLA- 673 Boyer Hall, 611 Charles Young Dr. East, Los Angeles, CA 90095 (Dr. Saken Sherkhonov)
- 9715 Lockford St. LA, CA 90035 (Mr. Haim Beliak)
- 4701 Patrick Henry Dr. Bldg. #25, Santa Clara, CA 95054 (Dr. Umit Yapanel)
- 683 East Loyola Ave. Carson, CA 90746 (Ms. Charlotte Brimmer)

In compliance with the Americans with Disabilities Act (ADA) and upon request, Magnolia Public Schools may furnish reasonable auxiliary aids and services to qualified individuals with disabilities. Individuals who require appropriate alternative modification of the agenda in order to participate in Board meetings are invited to contact the MPS central office. If you need special assistance to attend the meeting or translation services, please notify Barbara Torres at (213) 628-3634 x100 48 hours in advance of the meeting to make arrangements and accommodations.

Any public records relating to an agenda item for an open session of the committee which are distributed to all, or a majority of all, of the committee members shall be available for public inspection at 250 East 1st St. Ste 1500 Los Angeles, CA 90012.

Facilities Committee Members

Ms. Charlotte Brimmer, Chair
Dr. Umit Yapanel
Dr. Salih Dikbas
Mr. Haim Beliak
Dr. Saken Sherkhonov (alternate)

CEO and Superintendent

Mr. Alfredo Rubalcava

Agenda

| | Purpose | Presenter | Time |
|-------------------------|---------|-----------|-----------------|
| I. Opening Items | | | 05:00 PM |

| | | | |
|---|------|-------------------|-----------------|
| A. Call the Meeting to Order | | | 1 m |
| B. Record Attendance and Guests | | | 1 m |
| C. Public Comments | | | 5 m |
| D. Approval of Agenda | Vote | | 1 m |
| II. AdHoc Committee- Action Items | | | 05:08 PM |
| A. Approval of Revised Furniture Fixtures & Equipment Procurement for MSA-1 | Vote | Patrick Ontiveros | 5 m |
| B. Approval of Revised Play Surface Replacement for MSA-7 | Vote | Patrick Ontiveros | 5 m |
| C. Approval of Prop 39 Energy Upgrade Contracts for MSA-3, MSA-4, MSA-5, MSA-8 | Vote | Patrick Ontiveros | 10 m |
| III. Facility Committee- Recommended Action Items | | | 05:28 PM |
| A. Recommendation of MSA-7 Restroom Renovation Capital Improvement Project Financed by CSFIG Funds | Vote | Patrick Ontiveros | 5 m |
| IV. Closing Items | | | 05:33 PM |
| A. Adjourn Meeting | Vote | | |

Cover Sheet

Approval of Revised Furniture Fixtures & Equipment Procurement for MSA-1

Section: II. AdHoc Committee- Action Items
Item: A. Approval of Revised Furniture Fixtures & Equipment Procurement for
MSA-1
Purpose: Vote
Submitted by:
Related Material: II A MSA-1 Furniture Fixtures and Equipment Procurement.pdf



| | |
|---------------------------------|---|
| Ad Hoc Committee Agenda Item #: | II A- Action Item |
| Date: | June 13, 2019 |
| To: | Magnolia Educational & Research Foundation dba Magnolia Public Schools (" MPS ") Ad Hoc Committee (the " Committee ") |
| From: | Alfredo Rubalcava, CEO & Superintendent |
| Staff Lead: | Patrick Ontiveros, General Counsel & Director of Facilities |
| RE: | MSA-1 Furniture Fixtures & Equipment Procurement (REVISED) |

I. Proposed Recommendation(s)

Staff recommends that the Ad Hoc Committee approve Hertz Furniture ("**Hertz**") as the vendor to provide furniture fixtures and equipment ("**FF&E**") for the new building being constructed at 18220 Sherman Way for the benefit of MSA-1 (the "**Project**") at a cost of **\$224,907.69** and award a contract for the purchase of the FF&E to Hertz.

II. Background

A. Revised Bid

At the June 3, 2019 meeting, the Committee approved the purchase of FF&E from Hertz for a purchase price of **\$216,000**. Subsequent to such approval, Hertz informed MPS staff that its bid had a typo in the installation cost line item resulting in an error of **\$16,200**. MPS Staff discussed the error with Hertz and was able to negotiate an increase of **\$8,97.69** which is a combination of substituting alternate products of equal or greater quality and reducing the installation cost. The revised bid is attached as Exhibit A.

Even with the increase, the Hertz bid is still lower than the other bids received. Therefore, the other bidders were not approached.

A copy of the original RFP and addenda is attached as Exhibit B.

B. Contract

MPS Staff is in the process of developing a contract to be used for the procurement. MPS Staff expects to use AIA Document A151™–2019 which is a stand-alone agreement and is intended for situations



where a vendor will provide a large amount, or perhaps even all, of the furnishings, furniture, and equipment (FF&E) for a project, such as here. A template contract is attached as Exhibit C. "AIA" stands for the American Institute of Architects. AIA publishes a suite of template contracts that are widely used in the design and construction industry. A151 is an agreement for the sale of goods and is governed by the law of the place where the Project is located, including the jurisdiction's Uniform Commercial Code as adopted. In A151, the Vendor not only sells and delivers FF&E, it also is responsible for incidental onsite Work such as placing, assembling, and installing the FF&E. A151 includes Vendor insurance requirements and requires the Vendor to coordinate its Work with the work of others on the Project. The Owner is required to provide the Vendor with access to the Project, storage space, and areas to perform the Work.

In the event that Hertz is not amenable to the aforementioned contract, MPS Staff will negotiate a contract that provides substantially similar protections to MPS.

III. Budget Impacts

The Project budget carries a line item of **\$325,000** for FF&E. The total revised bid amount from Hertz is approximately **\$224,907.69**. See Exhibit A. MPS staff, therefore, expects a savings of **\$100,092.31** (in lieu of the **\$109,000** that was previously reported) that will be transferred to and carried under contingency until completion of the Project.

MPS Staff will also look into the prospect of financing the FF&E purchase in order to conserve cash. In the event, MPS Staff believes it would in the best interests of MSA-1 and MPS to finance such purchase and such financing is allowable under MPS and MSA-1's various loan covenants, MPS Staff will return to the Committee to make a recommendation for financing.

*** PENDING CFO REVIEW AND APPROVAL

Exhibits (attachments):

- A. Revised Hertz FF&E Bid
- B. RFP
- C. Form of Contract -- AIA Document A151™-2019



Exhibit A

Revised Hertz FF&E Bid

(see following pages)



Quote#: 647756
Prepared on: 06/07/2019 3:32 pm

Quote

Thank you for allowing Hertz to quote your furniture. This quote is valid for 30 days. When you are ready to place your order, please sign the final page and return this entire document to me.
 Please let me know if you have any questions.

Please note: Hertz Furniture will be closed on June 10th for religious observance.

Quote for delivery to:
Magnolia Public Schools
250 E 1st St, Suite 1500
Los Angeles, CA 90012

Questions? Please Contact...



CA Regional Sales Manager
Steven Neudorff
 steven@hertzfurniture.com
800-526-4677 x1321

Customer Support Rep
Pauline Van Saders
 pauline@hertzfurniture.com
 ext. 1125

Quote Details

LOBBY



Qty. 6
Titanium Finish Stacking Visitors Chair w/ Arm Rests (\$90.91/unit)
 Model #999 **\$545.46**
Custom item: This item may not be cancelled or returned.



Qty. 1
Class 4K HDR Smart TV, Black (D60-F3) **\$771.68**
 Model #999
Custom item: This item may not be cancelled or returned.



Qty. 1
Magazine Holder, 65.5" x 10", Black Steel (4322 BL) **\$87.36**
 Model #999
Custom item: This item may not be cancelled or returned.



Quote#: 647756
Prepared on: 06/07/2019 3:32 pm



Qty. 1
72"W Spirit Display Case
 Model #SPI-376
Laminate Color: TBD
Frame Color: TBD
Backing Material: TBD
\$2,568.83



Qty. 1
2 Door 4'x3' Aluminum Frame Indoor Directory
 Model #4836CB
Frame Color: Satin Aluminum
\$420.17

Main Office



Qty. 7
5-Drawer Letter Deluxe File Cabinet with Lock
 Model #SGN-526L
Color: TBD
 (\$335.66/unit)
\$2,349.62
Custom item: This item may not be cancelled or returned.



Qty. 3
60"x30" Double Pedestal Teachers Desk - Panel Ends
 Model #CTD-6030P
Desktop Color: TBD
3mm Edge Band Color: TBD
Base & Drawer Color: TBD
 (\$369.00/unit)
\$1,107.00
Custom item: This item may not be cancelled or returned.



Qty. 1
E-Z Stor Steel Project Organizer (12 Compartments)
 Model #999
\$251.33
Custom item: This item may not be cancelled or returned.



Qty. 1
36"Wx52"H Steel Bookcase
 Model #SSB-52
Color: TBD
\$183.40



Qty. 2
36"Wx18"Dx72"H All Purpose Storage Cabinet
 Model #SCT-40
Color: TBD
 (\$231.84/unit)
\$463.68



Quote#: 647756
Prepared on: 06/07/2019 3:32 pm



Qty. 3
Apollo High-Back Mesh Office Chair (\$208.07/unit)
 Model #APL-9400HB **\$624.21**

Counsler's Office



Qty. 1
60"x30" Double Pedestal Teachers Desk - Panel Ends
 Model #CTD-6030P **\$369.00**
Desktop Color: TBD
3mm Edge Band Color: TBD
Base & Drawer Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 1
Apollo High-Back Mesh Office Chair **\$208.07**
 Model #APL-9400HB



Qty. 1
5-Drawer Letter Deluxe File Cabinet with Lock **\$335.66**
 Model #SGN-526L
Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 2
Titanium Finish Stacking Visitors Chair w/ Arm Rests (\$90.91/unit)
 Model #999 **\$181.82**
Custom item: This item may not be cancelled or returned.

Admin Offices



Qty. 3
60"x30" Double Pedestal Teachers Desk - Panel Ends (\$369.00/unit)
 Model #CTD-6030P **\$1,107.00**
Desktop Color: TBD
3mm Edge Band Color: TBD
Base & Drawer Color: TBD
Custom item: This item may not be cancelled or returned.




Quote#: 647756
Prepared on: 06/07/2019 3:32 pm

| | | |
|---|---|---|
|  | <p>Qty. 3 Apollo High-Back Mesh Office Chair Model #APL-9400HB</p> | <p>(\$208.07/unit) \$624.21</p> |
|---|---|---|


| | | |
|---|--|--|
|  | <p>Qty. 6 Titanium Finish Stacking Visitors Chair w/ Arm Rests Model #999</p> | <p>(\$90.91/unit) \$545.46</p> |
|---|--|--|

Custom item: This item may not be cancelled or returned.

| | | |
|---|---|---|
|  | <p>Qty. 3 4-Drawer Letter Deluxe File Cabinet with Lock Model #SGN-426L Color: TBD</p> | <p>(\$249.42/unit) \$748.26</p> |
|---|---|---|

Custom item: This item may not be cancelled or returned.


OUTSIDE

| | | |
|---|--|--|
|  | <p>Qty. 17 6' Extra Heavy Duty Perforated Picnic Table Model #UPT-7230 Thermoplastic Surface Color: TBD Powdercoated Frame Color: TBD</p> | <p>(\$912.71/unit) \$15,516.07</p> |
|---|--|--|

| | | |
|---|---|----------------------|
|  | <p>Qty. 4 Brute 55 Gallon Gray Trash Can Lid, and Dolly Kit Model #999</p> | <p>\$0.00</p> |
|---|---|----------------------|

Custom item: This item may not be cancelled or returned.

TEACHERS LOUNGE

| | | |
|--|--|------------------------|
|  | <p>Qty. 1 72x36" Group Study Adjustable Rectangle School Table Model #GS-3672ADJ Top: TBD Leg Finish: TBD Edge Banding: TBD</p> | <p>\$187.00</p> |
|--|--|------------------------|

| | | |
|---|--|--|
|  | <p>Qty. 6 Cafetorium Stacking Chair - Plastic Seat Model #CSC-8800 Color: TBD</p> | <p>(\$49.11/unit) \$294.66</p> |
|---|--|--|



Quote#: 647756
Prepared on: 06/07/2019 3:32 pm



Qty. 1
**E-Z Sort Mail Filing Station
 (50 Compartments)** **\$673.34**
 Model #999
Custom item: This item may not be cancelled or returned.



Qty. 1
**20.5 cu. ft. Top Freezer
 Refrigerator in Black** **\$0.00**
 Model #999
Custom item: This item may not be cancelled or returned.



Qty. 2
**36"Wx18"Dx72"H All Purpose
 Storage Cabinet** (\$231.84/unit)
\$463.68
 Model #SCT-40
Color: TBD

PE OFFICE



Qty. 2
**60"x30" Double Pedestal
 Teachers Desk - Panel Ends** (\$369.00/unit)
\$738.00
 Model #CTD-6030P
Desktop Color: TBD
3mm Edge Band Color: TBD
Base & Drawer Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 2
**Apollo High-Back Mesh Office
 Chair** (\$208.07/unit)
\$416.14
 Model #APL-9400HB



Qty. 1
**36"Wx18"Dx72"H All Purpose
 Storage Cabinet** **\$231.84**
 Model #SCT-40
Color: TBD



Qty. 1
36"Wx52"H Steel Bookcase **\$183.40**
 Model #SSB-52
Color: TBD

ROOFTOP



Quote#: 647756
Prepared on: 06/07/2019 3:32 pm



Qty. 17
6' Extra Heavy Duty Perforated Picnic Table
 Model #UPT-7230
Thermoplastic Surface Color: TBD
Powdercoated Frame Color: TBD

(\$912.71/unit)
\$15,516.07



Qty. 2
Brute 55 Gallon Gray Trash Can Lid, and Dolly Kit

\$0.00

Model #999
Custom item: This item may not be cancelled or returned.

ROOM # 1



Qty. 1
60"x30" Double Pedestal Teachers Desk - Panel Ends
 Model #CTD-6030P
Desktop Color: TBD
3mm Edge Band Color: TBD
Base & Drawer Color: TBD

\$369.00

Custom item: This item may not be cancelled or returned.



Qty. 1
Apollo High-Back Mesh Office Chair
 Model #APL-9400HB

\$208.07



Qty. 1
4-Drawer Letter Deluxe File Cabinet with Lock
 Model #SGN-426L
Color: TBD

\$249.42

Custom item: This item may not be cancelled or returned.



Qty. 1
36"Wx18"Dx72"H All Purpose Storage Cabinet
 Model #SCT-40
Color: TBD

\$231.84



Qty. 1
36"Wx52"H Steel Bookcase
 Model #SSB-52
Color: TBD

\$183.40



Quote#: 647756
Prepared on: 06/07/2019 3:32 pm



Qty. 30
Petal Collaborative Classroom Desk - Hard Plastic Top
 Model #PET-1900HP
Height Option: TBD
Desktop Color: TBD
Leg/Glide Color: TBD

(\$155.56/unit)
\$4,666.80



Qty. 30
Backpack Hook for Innovation Student Desk
 Model #INN-HOOK
Color: TBD

\$0.00



Qty. 30
18\"H Inspiration Value Poly Classroom Chair
 Model #INS-718
Shell Color: TBD

(\$44.06/unit)
\$1,321.80

ROOM # 2



Qty. 1
4-Drawer Letter Deluxe File Cabinet with Lock
 Model #SGN-426L
Color: TBD
Custom item: This item may not be cancelled or returned.

\$249.42



Qty. 1
Apollo High-Back Mesh Office Chair
 Model #APL-9400HB

\$208.07



Qty. 1
36\"Wx52\"H Steel Bookcase
 Model #SSB-52
Color: TBD

\$183.40



Qty. 1
60\"x30\" Double Pedestal Teachers Desk - Panel Ends
 Model #CTD-6030P
Desktop Color: TBD
3mm Edge Band Color: TBD
Base & Drawer Color: TBD
Custom item: This item may not be cancelled or returned.

\$369.00



Quote#: 647756
Prepared on: 06/07/2019 3:32 pm



Qty. 1
36"Wx18"Dx72"H All Purpose Storage Cabinet **\$231.84**
 Model #SCT-40
 Color: TBD



Qty. 30
Petal Collaborative Classroom Desk - Hard Plastic Top
 Model #PET-1900HP (\$155.56/unit)
Height Option: TBD **\$4,666.80**
Desktop Color: TBD
Leg/Glide Color: TBD



Qty. 30
Backpack Hook for Innovation Student Desk **\$0.00**
 Model #INN-HOOK
 Color: TBD



Qty. 30
18"H Inspiration Value Poly Classroom Chair
 Model #INS-718 (\$44.06/unit)
Shell Color: TBD **\$1,321.80**

ROOM # 3



Qty. 1
4-Drawer Letter Deluxe File Cabinet with Lock **\$249.42**
 Model #SGN-426L
 Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 1
Apollo High-Back Mesh Office Chair **\$208.07**
 Model #APL-9400HB



Qty. 1
36"Wx52"H Steel Bookcase **\$183.40**
 Model #SSB-52
 Color: TBD



Quote#: 647756
Prepared on: 06/07/2019 3:32 pm



Qty. 1
60"x30" Double Pedestal Teachers Desk - Panel Ends
 Model #CTD-6030P **\$369.00**
Desktop Color: TBD
3mm Edge Band Color: TBD
Base & Drawer Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 1
36"Wx18"Dx72"H All Purpose Storage Cabinet **\$231.84**
 Model #SCT-40
Color: TBD



Qty. 30
Petal Collaborative Classroom Desk - Hard Plastic Top
 Model #PET-1900HP (\$155.56/unit)
Height Option: TBD **\$4,666.80**
Desktop Color: TBD
Leg/Glide Color: TBD



Qty. 30
Backpack Hook for Innovation Student Desk **\$0.00**
 Model #INN-HOOK
Color: TBD



Qty. 30
18"H Inspiration Value Poly Classroom Chair (\$44.06/unit)
 Model #INS-718 **\$1,321.80**
Shell Color: TBD

ROOM # 4



Qty. 1
4-Drawer Letter Deluxe File Cabinet with Lock **\$249.42**
 Model #SGN-426L
Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 1
Apollo High-Back Mesh Office Chair **\$208.07**
 Model #APL-9400HB



Quote#: 647756
Prepared on: 06/07/2019 3:32 pm



Qty. 1
36"Wx52"H Steel Bookcase
 Model #SSB-52
Color: TBD **\$183.40**



Qty. 1
60"x30" Double Pedestal Teachers Desk - Panel Ends
 Model #CTD-6030P
Desktop Color: TBD **\$369.00**
3mm Edge Band Color: TBD
Base & Drawer Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 1
36"Wx18"Dx72"H All Purpose Storage Cabinet
 Model #SCT-40
Color: TBD **\$231.84**



Qty. 30
Petal Collaborative Classroom Desk - Hard Plastic Top
 Model #PET-1900HP (\$155.56/unit)
Height Option: TBD **\$4,666.80**
Desktop Color: TBD
Leg/Glide Color: TBD



Qty. 30
Backpack Hook for Innovation Student Desk
 Model #INN-HOOK **\$0.00**
Color: TBD



Qty. 30
18"H Inspiration Value Poly Classroom Chair
 Model #INS-718 (\$44.06/unit)
Shell Color: TBD **\$1,321.80**








ROOM # 5(Conference Room)



Qty. 1
4-Drawer Letter Deluxe File Cabinet with Lock
 Model #SGN-426L **\$249.42**
Color: TBD
Custom item: This item may not be cancelled or returned.



Quote#: 647756
Prepared on: 06/07/2019 3:32 pm

| | | |
|---|--|---|
|  | <p>Qty. 1 Apollo High-Back Mesh Office Chair Model #APL-9400HB</p> | <p>\$208.07</p> |
|  | <p>Qty. 1 36\"Wx52\"H Steel Bookcase Model #SSB-52 Color: TBD</p> | <p>\$183.40</p> |
|  | <p>Qty. 1 36\"Wx18\"Dx72\"H All Purpose Storage Cabinet Model #SCT-40 Color: TBD</p> | <p>\$231.84</p> |
|  | <p>Qty. 15 24\"x60\" Flip-N-Store Training Table Model #FLP-2460 Color: TBD</p> | <p>(\$156.37/unit) \$2,345.55</p> |
|  | <p>Qty. 40 Compact Stacking Chair Model #CSC-480 Color: TBD</p> | <p>(\$46.79/unit) \$1,871.60</p> |
|  | <p>Qty. 1 Compact Chair Dolly Model #CSC-85 color: Black</p> | <p>\$149.00</p> |
|  | <p>Qty. 1 60\"x30\" Double Pedestal Teachers Desk - Panel Ends Model #CTD-6030P Desktop Color: TBD 3mm Edge Band Color: TBD Base & Drawer Color: TBD Custom item: This item may not be cancelled or returned.</p> | <p>\$369.00</p> |

ROOM # 6(Conference Room)



Quote#: 647756
Prepared on: 06/07/2019 3:32 pm



Qty. 1
60"x30" Double Pedestal Teachers Desk - Panel Ends
 Model #CTD-6030P **\$369.00**
Desktop Color: TBD
3mm Edge Band Color: TBD
Base & Drawer Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 1
Apollo High-Back Mesh Office Chair **\$208.07**
 Model #APL-9400HB



Qty. 1
4-Drawer Letter Deluxe File Cabinet with Lock **\$249.42**
 Model #SGN-426L
Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 1
36"Wx52"H Steel Bookcase **\$183.40**
 Model #SSB-52
Color: TBD



Qty. 1
36"Wx18"Dx72"H All Purpose Storage Cabinet **\$231.84**
 Model #SCT-40
Color: TBD



Qty. 15
24"x60" Flip-N-Store Training Table (\$156.37/unit)
\$2,345.55
 Model #FLP-2460
Color: TBD



Qty. 40
Compact Stacking Chair (\$46.79/unit)
\$1,871.60
 Model #CSC-480
Color: TBD



Quote#: 647756
Prepared on: 06/07/2019 3:32 pm



Qty. 1
Compact Chair Dolly **\$149.00**
 Model #CSC-85
color: Black

ROOM # 7(Conference Room)



Qty. 1
Apollo High-Back Mesh Office Chair **\$208.07**
 Model #APL-9400HB



Qty. 1
60"x30" Double Pedestal Teachers Desk - Panel Ends **\$369.00**
 Model #CTD-6030P
Desktop Color: TBD
3mm Edge Band Color: TBD
Base & Drawer Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 1
36"Wx52"H Steel Bookcase **\$183.40**
 Model #SSB-52
Color: TBD



Qty. 1
36"Wx18"Dx72"H All Purpose Storage Cabinet **\$231.84**
 Model #SCT-40
Color: TBD



Qty. 1
24"x60" Flip-N-Store Training Table **\$156.37**
 Model #FLP-2460
Color: TBD



Qty. 40
Compact Stacking Chair (\$46.79/unit)
\$1,871.60
 Model #CSC-480
Color: TBD



Quote#: 647756
Prepared on: 06/07/2019 3:32 pm



Qty. 1
Compact Chair Dolly **\$149.00**
 Model #CSC-85
color: Black



Qty. 1
4-Drawer Letter Deluxe File Cabinet with Lock **\$249.42**
 Model #SGN-426L
Color: TBD
Custom item: This item may not be cancelled or returned.

ROOM # 8



Qty. 1
60"x30" Double Pedestal Teachers Desk - Panel Ends **\$369.00**
 Model #CTD-6030P
Desktop Color: TBD
3mm Edge Band Color: TBD
Base & Drawer Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 1
Apollo High-Back Mesh Office Chair **\$208.07**
 Model #APL-9400HB



Qty. 1
4-Drawer Letter Deluxe File Cabinet with Lock **\$249.42**
 Model #SGN-426L
Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 1
36"Wx18"Dx72"H All Purpose Storage Cabinet **\$231.84**
 Model #SCT-40
Color: TBD



Qty. 1
36"Wx52"H Steel Bookcase **\$183.40**
 Model #SSB-52
Color: TBD



Quote#: 647756
Prepared on: 06/07/2019 3:32 pm



Qty. 30
Petal Collaborative Classroom Desk - Hard Plastic Top
 Model #PET-1900HP
Height Option: TBD
Desktop Color: TBD
Leg/Glide Color: TBD

(\$155.56/unit)
\$4,666.80



Qty. 30
Backpack Hook for Innovation Student Desk
 Model #INN-HOOK
Color: TBD

\$0.00



Qty. 30
18\"H Inspiration Value Poly Classroom Chair
 Model #INS-718
Shell Color: TBD

(\$44.06/unit)
\$1,321.80

ROOM # 9



Qty. 1
60\"x30\" Double Pedestal Teachers Desk - Panel Ends
 Model #CTD-6030P
Desktop Color: TBD
3mm Edge Band Color: TBD
Base & Drawer Color: TBD

\$369.00

Custom item: This item may not be cancelled or returned.



Qty. 1
Apollo High-Back Mesh Office Chair
 Model #APL-9400HB

\$208.07



Qty. 1
4-Drawer Letter Deluxe File Cabinet with Lock
 Model #SGN-426L
Color: TBD

\$249.42

Custom item: This item may not be cancelled or returned.



Qty. 1
36\"Wx18\"Dx72\"H All Purpose Storage Cabinet
 Model #SCT-40
Color: TBD

\$231.84



Quote#: 647756
Prepared on: 06/07/2019 3:32 pm



Qty. 1
36\"/>



Qty. 30
**Petal Collaborative Classroom
 Desk - Hard Plastic Top**
 Model #PET-1900HP
 Height Option: TBD
 Desktop Color: TBD
 Leg/Glide Color: TBD
 (\$155.56/unit)
\$4,666.80



Qty. 30
**Backpack Hook for Innovation
 Student Desk**
 Model #INN-HOOK
 Color: TBD
\$0.00



Qty. 30
**18\"/>
 Classroom Chair**
 Model #INS-718
 Shell Color: TBD
 (\$44.06/unit)
\$1,321.80

PREP ROOM



Qty. 1
**24x72x36\"/>
 Laminate Lab Table with Book B**
 Model #SLT-2472DBH
\$286.72



Qty. 2
**36\"/>
 All Purpose
 Storage Cabinet**
 Model #SCT-40
 Color: TBD
 (\$231.84/unit)
\$463.68



Qty. 1
**Flinn/SciMatCo® Stak-a-Cab™
 Acid Cabinet**
 Model #999
Custom item: This item may not be cancelled or returned.
\$837.76



Quote#: 647756
Prepared on: 06/07/2019 3:32 pm



Qty. 1
Stak-a-Cab™, Floor Stand for SE1460, Acid Cabinet **\$837.76**
 Model #999
Custom item: This item may not be cancelled or returned.



Qty. 1
Flinn/SciMatCo® Stak-a-Cab™ Flammables Cabinet † **\$837.76**
 Model #999
Custom item: This item may not be cancelled or returned.

ROOM # 10 (Chem)



Qty. 12
24x72x36"H High Pressure Laminate Lab Table with Book B **\$3,440.64**
 Model #SLT-2472DBH (\$286.72/unit)



Qty. 36
25-33"H NPS Adj. Metal Lab Stool with Backrest Black Fram **\$1,806.84**
 Model #STO-6224AB-BLK (\$50.19/unit)
Frame Color: Black



Qty. 1
60"x30" Double Pedestal Teachers Desk - Panel Ends **\$369.00**
 Model #CTD-6030P
Desktop Color: TBD
3mm Edge Band Color: TBD
Base & Drawer Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 1
36"Wx52"H Steel Bookcase **\$183.40**
 Model #SSB-52
Color: TBD



Qty. 1
4-Drawer Letter Deluxe File Cabinet with Lock **\$249.42**
 Model #SGN-426L
Color: TBD
Custom item: This item may not be cancelled or returned.



Quote#: 647756
Prepared on: 06/07/2019 3:32 pm



Qty. 1
Apollo High-Back Mesh Office Chair **\$208.07**
 Model #APL-9400HB



Qty. 1
36"Wx18"Dx72"H All Purpose Storage Cabinet **\$231.84**
 Model #SCT-40
Color: TBD

ROOM # 11 (BIO)



Qty. 12
24x72x36"H High Pressure Laminate Lab Table with Book B **\$3,440.64**
 Model #SLT-2472DBH (\$286.72/unit)



Qty. 36
25-33"H NPS Adj. Metal Lab Stool with Backrest Black Fram **\$1,806.84**
 Model #STO-6224AB-BLK (\$50.19/unit)
Frame Color: Black



Qty. 1
60"x30" Double Pedestal Teachers Desk - Panel Ends **\$369.00**
 Model #CTD-6030P
Desktop Color: TBD
3mm Edge Band Color: TBD
Base & Drawer Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 1
36"Wx52"H Steel Bookcase **\$183.40**
 Model #SSB-52
Color: TBD



Qty. 1
4-Drawer Letter Deluxe File Cabinet with Lock **\$249.42**
 Model #SGN-426L
Color: TBD
Custom item: This item may not be cancelled or returned.



Quote#: 647756
Prepared on: 06/07/2019 3:32 pm



Qty. 1
Apollo High-Back Mesh Office Chair **\$208.07**
 Model #APL-9400HB



Qty. 1
36"Wx18"Dx72"H All Purpose Storage Cabinet **\$231.84**
 Model #SCT-40
 Color: TBD

ROOM # 12 (TECH)



Qty. 1
60"x30" Double Pedestal Teachers Desk - Panel Ends **\$369.00**
 Model #CTD-6030P
Desktop Color: TBD
3mm Edge Band Color: TBD
Base & Drawer Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 1
Apollo High-Back Mesh Office Chair **\$208.07**
 Model #APL-9400HB



Qty. 1
4-Drawer Letter Deluxe File Cabinet with Lock **\$249.42**
 Model #SGN-426L
 Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 1
36"Wx18"Dx72"H All Purpose Storage Cabinet **\$231.84**
 Model #SCT-40
 Color: TBD



Qty. 1
36"Wx52"H Steel Bookcase **\$183.40**
 Model #SSB-52
 Color: TBD



Quote#: 647756
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Qty. 15
30x48" V2 Nesting Training Table with Modesty Panel
 Model #INV-4830MP
Tabletop Color: TBD
Frame Color: TBD
Edge Banding: TBD

(\$329.50/unit)
\$4,942.50



Qty. 30
Cafetorium Stacking Chair - Plastic Seat
 Model #CSC-8800
Color: TBD

(\$49.11/unit)
\$1,473.30

ROOM #13



Qty. 1
60"x30" Double Pedestal Teachers Desk - Panel Ends
 Model #CTD-6030P
Desktop Color: TBD
3mm Edge Band Color: TBD
Base & Drawer Color: TBD

\$369.00

Custom item: This item may not be cancelled or returned.



Qty. 1
Apollo High-Back Mesh Office Chair
 Model #APL-9400HB

\$208.07



Qty. 1
4-Drawer Letter Deluxe File Cabinet with Lock
 Model #SGN-426L
Color: TBD

\$249.42

Custom item: This item may not be cancelled or returned.



Qty. 1
36"Wx18"Dx72"H All Purpose Storage Cabinet
 Model #SCT-40
Color: TBD

\$231.84



Qty. 1
36"Wx52"H Steel Bookcase
 Model #SSB-52
Color: TBD

\$183.40



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Qty. 30
Petal Collaborative Classroom Desk - Hard Plastic Top
 Model #PET-1900HP (\$155.56/unit)
Height Option: TBD **\$4,666.80**
Desktop Color: TBD
Leg/Glide Color: TBD



Qty. 30
Backpack Hook for Innovation Student Desk **\$0.00**
 Model #INN-HOOK
Color: TBD



Qty. 30
18\"H Inspiration Value Poly Classroom Chair (\$44.06/unit)
 Model #INS-718 **\$1,321.80**
Shell Color: TBD

ROOM # 14



Qty. 1
60\"x30\" Double Pedestal Teachers Desk - Panel Ends
 Model #CTD-6030P **\$369.00**
Desktop Color: TBD
3mm Edge Band Color: TBD
Base & Drawer Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 1
Apollo High-Back Mesh Office Chair **\$208.07**
 Model #APL-9400HB



Qty. 1
4-Drawer Letter Deluxe File Cabinet with Lock **\$249.42**
 Model #SGN-426L
Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 1
36\"Wx18\"Dx72\"H All Purpose Storage Cabinet **\$231.84**
 Model #SCT-40
Color: TBD



Quote#: 647756
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Qty. 1
36\"/>



Qty. 30
Petal Collaborative Classroom Desk - Hard Plastic Top
 Model #PET-1900HP (\$155.56/unit)
Height Option: TBD **\$4,666.80**
Desktop Color: TBD
Leg/Glide Color: TBD



Qty. 30
Backpack Hook for Innovation Student Desk
 Model #INN-HOOK **\$0.00**
Color: TBD



Qty. 30
18\"/>

ROOM #15



Qty. 1
60\"/>



Qty. 1
Apollo High-Back Mesh Office Chair
 Model #APL-9400HB **\$208.07**



Qty. 1
4-Drawer Letter Deluxe File Cabinet with Lock
 Model #SGN-426L **\$249.42**
Color: TBD
Custom item: This item may not be cancelled or returned.



Quote#: 647756
Prepared on: 06/07/2019 3:32 pm



Qty. 1
36"Wx18"Dx72"H All Purpose Storage Cabinet **\$231.84**
 Model #SCT-40
 Color: TBD



Qty. 1
36"Wx52"H Steel Bookcase **\$183.40**
 Model #SSB-52
 Color: TBD



Qty. 30
Petal Collaborative Classroom Desk - Hard Plastic Top
 Model #PET-1900HP (\$155.56/unit)
Height Option: TBD **\$4,666.80**
Desktop Color: TBD
Leg/Glide Color: TBD



Qty. 30
Backpack Hook for Innovation Student Desk **\$0.00**
 Model #INN-HOOK
 Color: TBD



Qty. 30
18"H Inspiration Value Poly Classroom Chair
 Model #INS-718 (\$44.06/unit)
Shell Color: TBD **\$1,321.80**

ROOM #16



Qty. 1
60"x30" Double Pedestal Teachers Desk - Panel Ends **\$369.00**
 Model #CTD-6030P
Desktop Color: TBD
3mm Edge Band Color: TBD
Base & Drawer Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 1
Apollo High-Back Mesh Office Chair **\$208.07**
 Model #APL-9400HB



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Qty. 1
4-Drawer Letter Deluxe File Cabinet with Lock
 Model #SGN-426L
Color: TBD
Custom item: This item may not be cancelled or returned.
\$249.42



Qty. 1
4-Drawer Letter Deluxe File Cabinet with Lock
 Model #SGN-426L
Color: TBD
Custom item: This item may not be cancelled or returned.
\$249.42



Qty. 1
36"Wx18"Dx72"H All Purpose Storage Cabinet
 Model #SCT-40
Color: TBD
\$231.84



Qty. 1
36"Wx52"H Steel Bookcase
 Model #SSB-52
Color: TBD
\$183.40



Qty. 30
Petal Collaborative Classroom Desk - Hard Plastic Top
 Model #PET-1900HP
Height Option: TBD
Desktop Color: TBD
Leg/Glide Color: TBD
 (\$155.56/unit)
\$4,666.80



Qty. 30
Backpack Hook for Innovation Student Desk
 Model #INN-HOOK
Color: TBD
\$0.00



Qty. 30
18"H Inspiration Value Poly Classroom Chair
 Model #INS-718
Shell Color: TBD
 (\$44.06/unit)
\$1,321.80

ROOM # 17



Quote#: 647756
Prepared on: 06/07/2019 3:32 pm



Qty. 1
60"x30" Double Pedestal Teachers Desk - Panel Ends
 Model #CTD-6030P **\$369.00**
Desktop Color: TBD
3mm Edge Band Color: TBD
Base & Drawer Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 1
Apollo High-Back Mesh Office Chair **\$208.07**
 Model #APL-9400HB



Qty. 1
4-Drawer Letter Deluxe File Cabinet with Lock **\$249.42**
 Model #SGN-426L
Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 1
36"Wx18"Dx72"H All Purpose Storage Cabinet **\$231.84**
 Model #SCT-40
Color: TBD



Qty. 1
36"Wx52"H Steel Bookcase **\$183.40**
 Model #SSB-52
Color: TBD



Qty. 30
Petal Collaborative Classroom Desk - Hard Plastic Top
 Model #PET-1900HP (\$155.56/unit)
Height Option: TBD **\$4,666.80**
Desktop Color: TBD
Leg/Glide Color: TBD



Qty. 30
Backpack Hook for Innovation Student Desk **\$0.00**
 Model #INN-HOOK
Color: TBD



Quote#: 647756
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Qty. 30
17.75"H Hard Plastic Stackable School Chair
 Model #HPC-518
Seat & Back Color: TBD
 (\$49.88/unit)
\$1,496.40

ROOM #18



Qty. 1
60"x30" Double Pedestal Teachers Desk - Panel Ends
 Model #CTD-6030P
Desktop Color: TBD
3mm Edge Band Color: TBD
Base & Drawer Color: TBD
Custom item: This item may not be cancelled or returned.
\$369.00



Qty. 1
Apollo High-Back Mesh Office Chair
 Model #APL-9400HB
\$208.07



Qty. 1
4-Drawer Letter Deluxe File Cabinet with Lock
 Model #SGN-426L
Color: TBD
Custom item: This item may not be cancelled or returned.
\$249.42



Qty. 1
36"Wx18"Dx72"H All Purpose Storage Cabinet
 Model #SCT-40
Color: TBD
\$231.84



Qty. 1
36"Wx52"H Steel Bookcase
 Model #SSB-52
Color: TBD
\$183.40



Qty. 30
Petal Collaborative Classroom Desk - Hard Plastic Top
 Model #PET-1900HP
Height Option: TBD
Desktop Color: TBD
Leg/Glide Color: TBD
 (\$155.56/unit)
\$4,666.80



Quote#: 647756
Prepared on: 06/07/2019 3:32 pm



Qty. 30
Backpack Hook for Innovation Student Desk **\$0.00**
 Model #INN-HOOK
Color: TBD



Qty. 30
18\"H Inspiration Value Poly Classroom Chair **\$1,321.80**
 Model #INS-718
Shell Color: TBD (\$44.06/unit)

ROOM # 19



Qty. 1
60\"x30\" Double Pedestal Teachers Desk - Panel Ends **\$369.00**
 Model #CTD-6030P
Desktop Color: TBD
3mm Edge Band Color: TBD
Base & Drawer Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 1
Apollo High-Back Mesh Office Chair **\$208.07**
 Model #APL-9400HB



Qty. 1
4-Drawer Letter Deluxe File Cabinet with Lock **\$249.42**
 Model #SGN-426L
Color: TBD
Custom item: This item may not be cancelled or returned.



Qty. 1
36\"Wx18\"Dx72\"H All Purpose Storage Cabinet **\$231.84**
 Model #SCT-40
Color: TBD



Qty. 1
36\"Wx52\"H Steel Bookcase **\$183.40**
 Model #SSB-52
Color: TBD



Quote#: 647756
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Qty. 30
Petal Collaborative Classroom Desk - Hard Plastic Top
 Model #PET-1900HP
Height Option: TBD
Desktop Color: TBD
Leg/Glide Color: TBD

(\$155.56/unit)
\$4,666.80



Qty. 30
Backpack Hook for Innovation Student Desk
 Model #INN-HOOK
Color: TBD

\$0.00



Qty. 30
18\"H Inspiration Value Poly Classroom Chair
 Model #INS-718
Shell Color: TBD

(\$44.06/unit)
\$1,321.80

ROOM # 20



Qty. 1
60\"x30\" Double Pedestal Teachers Desk - Panel Ends
 Model #CTD-6030P
Desktop Color: TBD
3mm Edge Band Color: TBD
Base & Drawer Color: TBD

\$369.00

Custom item: This item may not be cancelled or returned.



Qty. 1
Apollo High-Back Mesh Office Chair
 Model #APL-9400HB

\$208.07



Qty. 1
4-Drawer Letter Deluxe File Cabinet with Lock
 Model #SGN-426L
Color: TBD

\$249.42

Custom item: This item may not be cancelled or returned.



Qty. 1
36\"Wx18\"Dx72\"H All Purpose Storage Cabinet
 Model #SCT-40
Color: TBD

\$231.84



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Qty. 1
36\"/>



Qty. 30
Petal Collaborative Classroom Desk - Hard Plastic Top
 Model #PET-1900HP (\$155.56/unit)
Height Option: TBD **\$4,666.80**
Desktop Color: TBD
Leg/Glide Color: TBD



Qty. 30
Backpack Hook for Innovation Student Desk **\$0.00**
 Model #INN-HOOK
Color: TBD



Qty. 30
18\"/>



Qty. 1
CUSTOM FEE **\$0.00**
 Model #999
Custom item: This item may not be cancelled or returned.

Notes:

Freight **\$0.00**

Delivery Setup And Removal Of All Packaging Debris **\$17,500.00**

Quote billing address:

Magnolia Public Schools
250 E 1st St, Suite 1500
Los Angeles, CA 90012
213-628-3634

Subtotal:
 Taxes:
Total:

\$205,395.15
 \$19,512.54
\$224,907.69

THANK YOU FOR THE OPPORTUNITY TO QUOTE YOUR FURNITURE.



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Terms and Conditions

We do our best to make sure that your order is correct. Please review this order to confirm that the model #, color, quantity, size and price are correct. If all the information is accurate, please sign and return to me by email. If there is a discrepancy, please call Steven Neudorff at 800-526-4677 x1321 so that we may correct the error and process your order.

1. Steps to take at time of delivery to protect against loss or damage:

- a. **Verify count** - Make sure you are receiving as many cartons as are listed on the delivery receipt. If any shortage is discovered, note exactly how many cartons are short on the carrier's delivery receipt and have the driver note the shortage on your copy.
- b. **Carefully examine each carton for damage** - If damage is visible, note this fact on the delivery receipt and please be specific with your notations (for example, cartons crushed or carton has a hole in it). If the cartons are severely damaged, do not accept the shipment. The customer has a right to accept partial shipments and refuse the remaining damaged units. If a carton has appearances that the contents inside may possibly be damaged, insist that it be opened right at that time, and both you and the driver should make a joint inspection of the contents. Any such concealed damage should likewise be noted on the delivery receipt and on your copy. Be sure to retain your copy. Hertz Furniture should be advised immediately.
- c. **Immediately after delivery, open all cartons and inspect for concealed damage** - Even though the driver has already left, all cartons should immediately be opened and the contents inspected for possible concealed damage. Hertz Furniture will not accept responsibility for damage not reported within 10 days from delivery.

2. Steps to take when visible or concealed damage is discovered:

- a. **Retain damaged items** - Not only must damaged items be held at the point where received, but the cartons and all inner packing materials must be held until an inspection is made by a carrier inspector.
- b. **Report concealed damage to Hertz Furniture immediately** - Upon the discovery of damage of the contents of shipping containers that could not have been determined at time of delivery. Failure to report damages within 10 days will affect replacements of the damaged merchandise and the outcome of the claim.

3. Document all your correspondence in writing

- Pictures of the damaged containers as well as the contents in the containers are required. This documentation will enable Hertz Furniture to settle the freight claims more efficiently and rapidly.

4. Steps to take when carrier makes inspection of damaged items:

- a. **Have damaged items in receiving area** - Make certain the damaged items have not been moved from the receiving area prior to discovery of the damage. Allow inspector to inspect damaged items, cartons, inner packing materials and freight bill. Be sure to retain your delivery receipt - it will be needed as a supporting document when claim is filed.
- b. **After the inspector fills out inspection report, carefully read it before signing** - If you do not agree with any facts or conclusions made by the inspector on the report, do not sign it. Unless repairs will be completely satisfactory, be sure the inspector requests replacement on the inspection report.
- c. **Forward your copy of the inspection report and delivery receipt to Hertz Furniture** - A freight claim will be filed on your behalf. Should you choose to do so, you may file your own claim. Hertz Furniture will take no responsibility should your claim be declined.

5. Steps to take after inspection has been made:

The damaged merchandise must be held in original cartons - Hertz Furniture will advise you of the disposition of the damaged unit when the claim is settled. The customer must make the product available for salvage pick up.

6. Order Cancellation:

An order may be canceled, but only before the order has been sent to production. In some cases, cancellations can be accepted even after the order is in production, but additional



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fees (restocking and/or cancellation) will be billed to your account.

If the order has already shipped, we can no longer cancel the order.

To confirm that your order has been canceled, we will send you a cancellation notice. Only then will the cancellation be in effect.

Custom orders (including many upholstered items) are non-cancelable.



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7. Returns:

A return authorization must be issued before returning any merchandise. A restocking charge, as well as round trip freight charges, will be charged.

All items must be in the original carton, unassembled and unused. Please note that returns cannot be made after the product has been assembled. Custom orders are non-returnable. Many products (e.g. upholstered items) are considered custom items and are non-returnable. Please call us at 800-526-4677 for details.

Returns cannot be made after 30 days.

8. Payment:

Payment is due 30 days after the date of invoice, less any amount requested by Hertz Furniture as a deposit at time of order. The customer is required to pay for products received, but not for products that are on backorder.

Delinquent accounts are subject to a 1.5% monthly interest fee in accordance with the Halachic Guidelines of Heter Iska and shall pay all collections costs. If Hertz Furniture is required to initiate any legal proceedings to enforce collection of the sums due from customer, the prevailing party in such litigation shall be entitled to recover its attorney's fees and costs incurred therein.

The invoice is due and payable in Ramsey, Bergen County, New Jersey. Jurisdiction for all legal issues will be the court system of the State of New Jersey.

Hertz Furniture reserves the right to make any and all changes to its website at its sole discretion without notice to the User. Hertz Furniture reserves the right to deny access to its website to anyone at any time. This Agreement shall be deemed to include all other notices, policies, disclaimers, and other terms contained in its website; provided, however, that in the event of a conflict between such other terms and the terms of this Agreement, the terms of this Agreement shall control.

This Agreement is governed by the laws of the State of New Jersey, USA, without reference to conflicts of laws provisions. User consents to the exclusive jurisdiction and venue of courts in Bergen County, New Jersey, U.S.A. in all disputes arising out of or relating to the use of this Web site. Use of this Web site is unauthorized in any jurisdiction that does not give effect to all provisions of these terms and conditions, including without limitation this paragraph.

Any rights not expressly granted herein are reserved.

I have read, understand, and accept this Quotation set forth above and the terms and conditions attached hereto. I further understand that, by signing and returning to Hertz Furniture a copy of this Quotation, CUSTOMER is entering into a contract with Hertz Furniture Systems, LLC (dba Hertz Furniture) to purchase the items set forth in this Quotation on the terms set forth herein and in the "Terms and Conditions" set forth herein and is further granting to Hertz Furniture Systems, LLC a lien on the items set forth in this Quotation as collateral for the obligations of CUSTOMER pursuant hereto, including payment to Hertz Furniture Systems, LLC, and consents to Hertz Furniture Systems LLC's filing of a UCC-1 Financing Statement with the appropriate governmental agency to perfect said lien.

CUSTOMER

Magnolia Public Schools
250 E 1st St, Suite 1500
Los Angeles, CA 90012
213-628-3634

Quote # 647756

Signature: _____ Name: _____

Title: _____ Date: _____

Alt Phone # (Mobile / Work / Personal) _____



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Version 2016.04.10



Exhibit B

RFP

(see following pages)



MAGNOLIA PUBLIC SCHOOLS

Request for Proposals
to Provide Furniture, Fixtures & Equipment
for Magnolia Science Academy 1 | Reseda

Due Date:

May 7, 2019

1.0 INTRODUCTION

Magnolia Education & Research Foundation ("MERF") doing-business as Magnolia Public Schools ("MPS"), a charter school management organization, operates Magnolia Science Academy 1, a middle and high school ("MSA-1") located at 18238 Sherman Way in the Reseda neighborhood of Los Angeles. MPM Sherman Way LLC, an affiliate of MPS, owns the property at 18220 Sherman Way (the "Project Site") immediately adjacent to the 18238 Sherman Way campus. MPS is in the process of constructing a new building at the Project Site that will house MSA-1's high school population. A floor plan of the new building is attached as Exhibit A.

The purpose of this RFP is to solicit bids to provide furniture, fixtures and equipment ("FF&E") to furnish the new high school building.

Site Tour

A site tour will be facilitated if requested.

Proposals Due

Responses to the RFP are due no later than **5:00 PM (PST), Tuesday, May 7, 2019**, to the following individual:

Patrick Ontiveros
Director of Facilities
Magnolia Public Schools
250 East 1st Street
Suite 1500
Los Angeles, CA 90012
pontiveros@magnoliapublicschools.org
(213) 628-3634 x 103

Questions regarding this RFP may be directed to the individual identified above via email.

Proposal Format:

One (1) electronic PDF copy (by email) of your proposal must be delivered to the person indicated by the deadline stated above and one (1) hard copy must be delivered to the above address no later than two (2) business days thereafter. Please endeavor to keep any emailed material to a single manageable file size (at or about 10 MBs) so that it may be easily distributed to the Selection Committee.

Respondents are encouraged to only include information pertinent to the project and the Selection Committee's ability to select the vendor best suited to successfully complete this job.

Interviews:

Interviews will be held at the discretion of MPS and MSA-1. Interviews, if any, are expected to be held on **May 9th or 10th**. Location and time are to be determined.

Respondents will meet with the Selection Committee for approximately ½ hour to 1 hour. The interview will be an open, unscripted format. Respondents will have 20 minutes to present any information they feel is pertinent followed by questions and answers and general discussion.

Selection Committee:

The Selection Committee will be composed of representatives from MPS and MSA-1.

1.1 Timeline

| | |
|---|--------------------------|
| RFP Distributed: | April 24, 2019 |
| Proposals Due: | May 7, 2019 |
| Interviews, if any (exact date and time TBD): | May 9 or 10, 2019 |
| Selection Announced | May 14, 2019 |
| Delivery of FF&E: | On or about July 3, 2019 |

2.0 FF&E DESCRIPTION

A description of the FF&E that is the subject of this RFP is attached as Exhibit B and corresponds to the floor plans attached as Exhibit A. In some instances, links are provided to products that fit the school's needs.

MPS and MSA-1 may issue an addendum to this RFP for additional FF&E.

3.0 PROPOSAL FORMAT

The Respondent shall format its response as set forth below to facilitate timely review and selection. Please be specific to the RFP, and do not include materials not explicitly requested, such as generic marketing materials.

Your response should include the following:

- Letter of interest
- Name of your company and the individual responsible for the account
- Restate all the requirements of Section 4.0 and provide responses to each

See Section 1.0 for additional proposal format clarifications.

4.0 PROPOSAL REQUIREMENTS

4.1 Cost

The Respondent's proposal should include an overall cost and should also be broken down in detail to provide a cost for each separate piece of FF&E. The proposal should also provide a break-down of any and all other costs and fees including, but not limited to, labor, delivery fees, installation fees, applicable taxes, etc. In order to meet its budget for the purchase of FF&E, MPS reserves the right to accept Respondent's proposal in whole or in part.

4.2 Product Information / Cut Sheets

The Respondent's proposal shall include a description of the FF&E proposed to be provided in accordance with the requirements set forth in Exhibit B. Where a Respondent believes there are multiple types of FF&E that may satisfy the requirements stated herein, the Respondent may provide such alternatives explaining the difference in each alternative and describing the cost differences.

4.3 Warranty Information

Provide a description of the warranty provided for the FF&E to be delivered.

4.4 Financing Availability

If Respondent provides financing for the purchase of the FF&E, Respondent should provide a description of such financing including but not limited to the terms and conditions of such financing (for example, additional fees, interest rate, amortization schedule).

4.5 Schedule

Respondent shall provide an affirmative statement of its ability to deliver the FF&E by the date indicated herein.

5.0 CONTACT

Questions to Owner will be accepted via email by the Director of Facilities identified above. Answers to questions will be provided to all participants as available.

6.0 REQUEST FOR PROPOSAL EXHIBITS

Exhibit A: Floor Plans

Exhibit B: FF&E

7.0 BID ACCEPTANCE/REJECTION

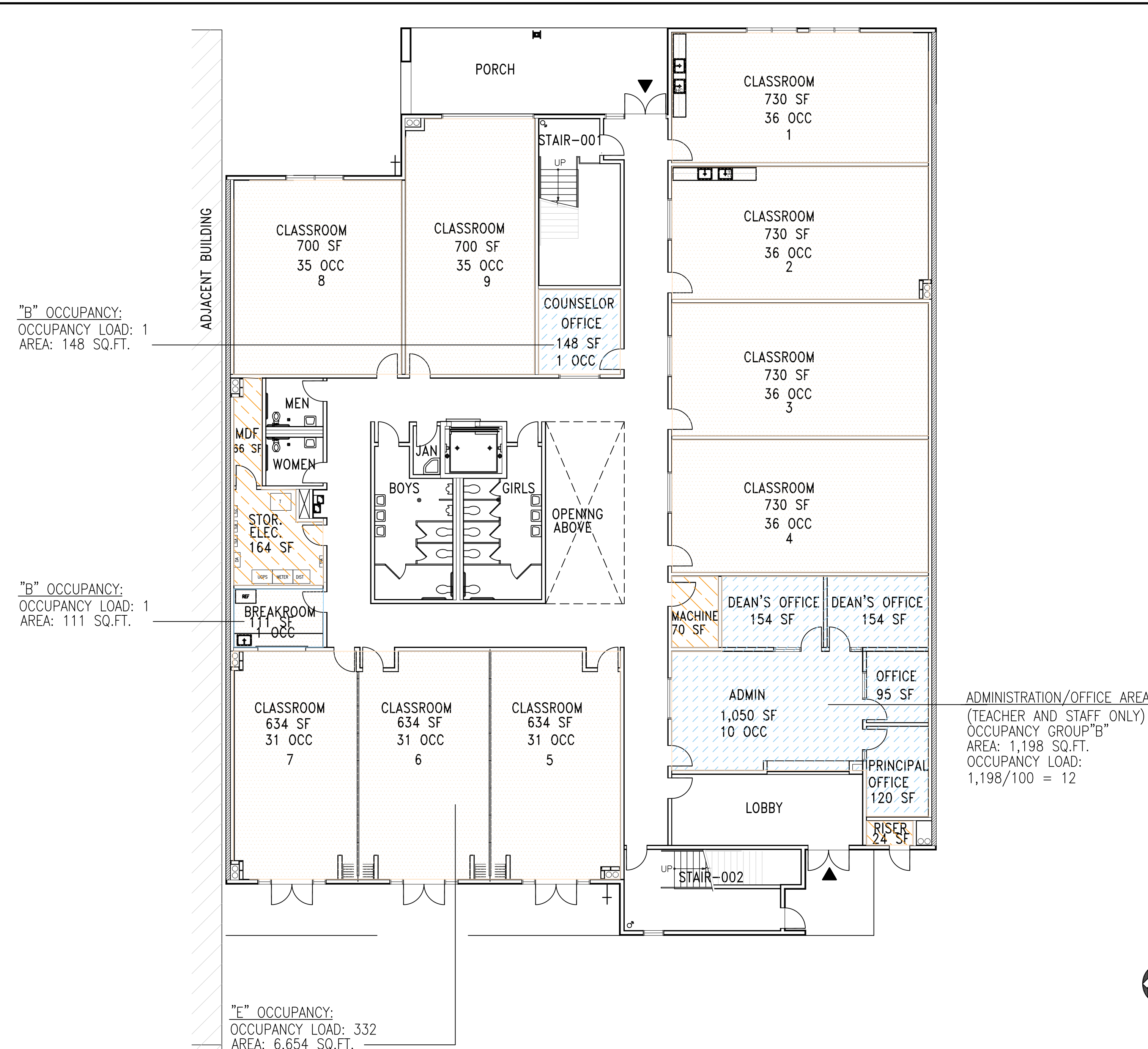
The Owner reserves the right to reject any or all proposals, or cancel the solicitation process at its sole discretion.

8.0 PROPOSAL VALIDITY

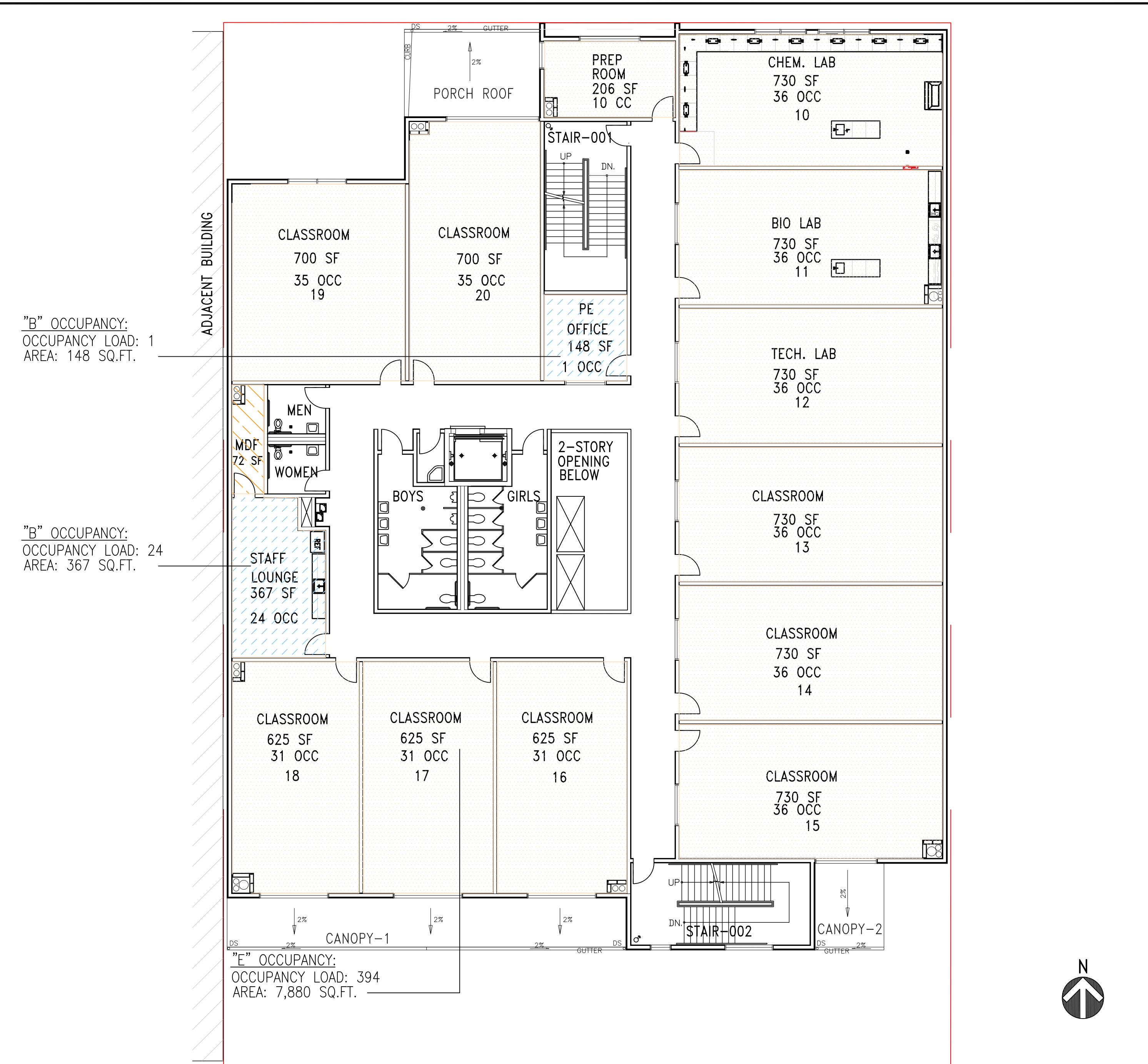
RFP responses shall be valid until execution of a contract, which is expected to occur on or about May 2019. No changes to information received within the Respondent's proposal shall be changed or altered without approval by the Owner.

Exhibit A

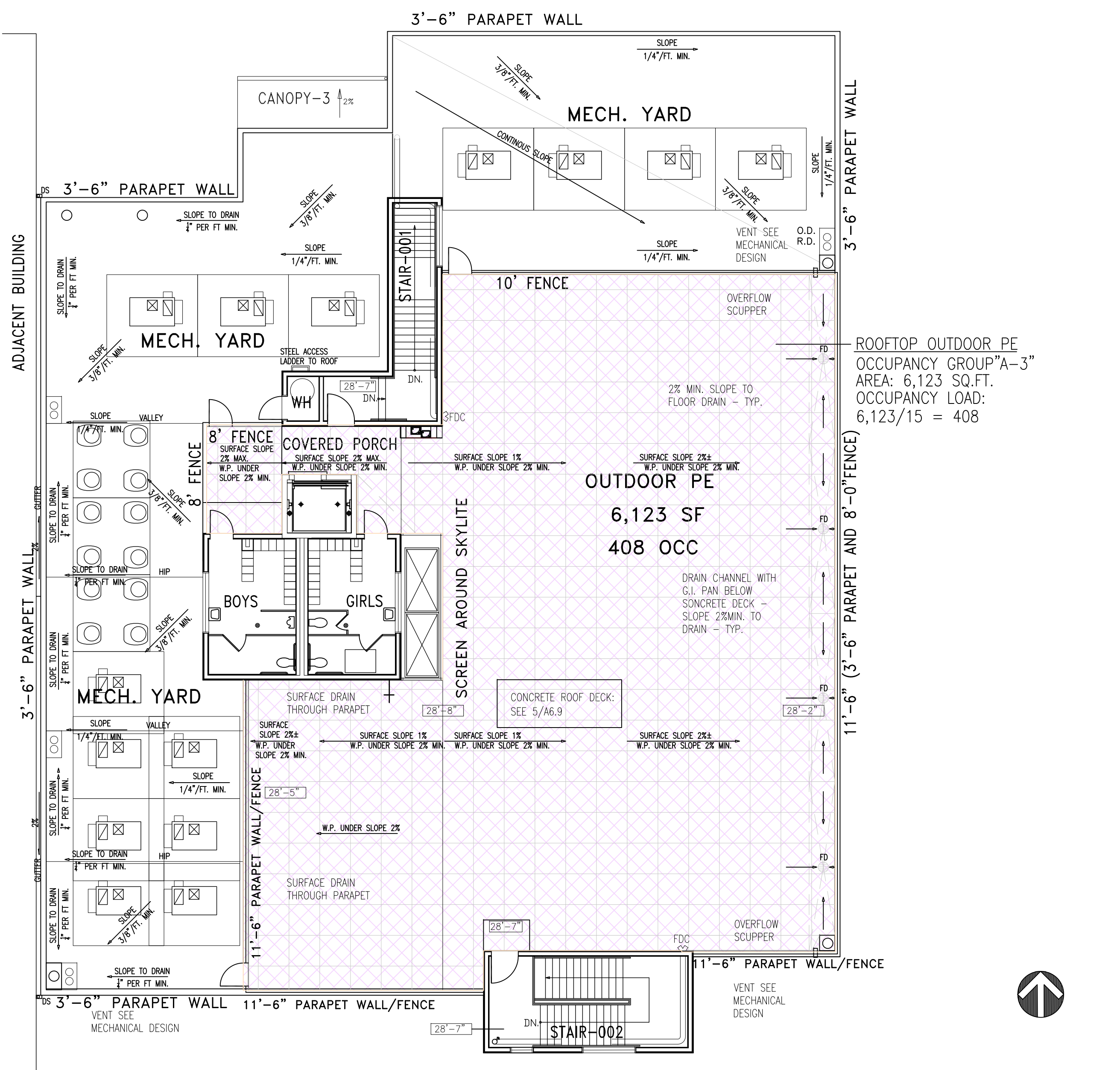
Floor Plans



1 FIRST FLOOR PLAN
SCALE: 3/32" = 1'-0"



2 SECOND FLOOR PLAN
SCALE: 3/32" = 1'-0"



3 ROOF PLAN
SCALE: 3/32" = 1'-0"

CONSTRUCTION TYPE: TYPE III-B WITH SUPERVISED AUTOMATIC SPRINKLER SYSTEM THROUGHOUT
2 HR RATED EXTERIOR BEARING WALL CONSTRUCTION.

ALLOWABLE FLOOR AREAS
2016 CALIFORNIA BUILDING CODE SECTION 506
FLOOR AREA: THE AREA INCLUDED WITHIN SURROUNDING EXTERIOR WALLS (OR EXTERIOR WALLS AND FIRE WALLS) EXCLUSIVE OF VENT SHAFTS AND COURTS. AREA OF THE BUILDING NOT PROVIDED WITH SURROUNDING WALLS SHALL BE INCLUDED IN THE BUILDING AREA IF SUCH AREAS ARE INCLUDED WITHIN THE HORIZONTAL PROJECTION OF THE ROOF OR FLOOR ABOVE.

OCCUPANCY TYPE: E AND B

TOTAL GROSS FLOOR AREA: 1ST FLOOR AREA: 12,706 SF
2ND FLOOR AREA: 11,610 SF
ROOF FLOOR AREA: 912 SF
TOTAL: 25,228 SF

- LEGENDS OF OCCUPANCY**
- B OCCUPANCY OFFICE AREA
 - E OCCUPANCY CLASSROOMS & ROOFTOP PE AREA
 - S-2
 - A-3 OCCUPANCY ROOFTOP OUTDOOR AREA

4 BUILDING LIMITATION CALCULATION
SCALE: 3/32" = 1'-0"

ALLOWABLE NUMBER OF STORIES
ALLOWABLE NUMBER OF STORIES: 3 (WITH SPRINKLER INCREASE)

NON-SEPERATED OCCUPANCIES
ALLOWABLE FLOOR AREA CALCUATION
NON-SEPERATED E OCCUPANCY

GROUND FLOOR - ALLOWABLE FLOOR AREA FOR EACH OCCUPANCY

E OCCUPANCY PER STORY:
TABULATED ALLOWABLE FLOOR AREA FOR E OCCUPANCY PER TABLE 506.2
ALLOWABLE BUILDING HEIGHT: 75' (PER TABLE 504.3)
ALLOWABLE BUILDING FLOOR AREAS: 14,500 SF (PER TABLE 506.2)

ACTUAL BUILDING FIRST FLOOR AREAS (FOR E OCCUPANCY): 12,706 SF

SECOND FLOOR - ALLOWABLE FLOOR AREA FOR EACH OCCUPANCY

E OCCUPANCY PER STORY:
TABULATED ALLOWABLE FLOOR AREA FOR E OCCUPANCY PER TABLE 506.2
ALLOWABLE BUILDING HEIGHT: 75' (PER TABLE 504.3)
ALLOWABLE BUILDING FLOOR AREAS: 14,500 SF (PER TABLE 506.2)

ACTUAL BUILDING SECOND FLOOR AREAS (FOR E OCCUPANCY): 11,610 SF

ROOF LEVEL - ALLOWABLE FLOOR AREA FOR EACH OCCUPANCY

E OCCUPANCY PER STORY:
TABULATED ALLOWABLE FLOOR AREA FOR E OCCUPANCY PER TABLE 506.2
ALLOWABLE BUILDING HEIGHT: 75' (PER TABLE 504.3)
ALLOWABLE BUILDING FLOOR AREAS: 14,500 SF (PER TABLE 506.2)

ACTUAL BUILDING ROOFTOP AREAS (FOR E OCCUPANCY): 912 SF

ALLOWABLE BUILDING AREA CHECK

GROUND FLOOR PER 508.4.2

$$E \text{ OCCUPANCY } \frac{\text{ACTUAL SF}}{\text{ALLOWABLE SF}} = \frac{12,706}{14,500 \text{ SF}} = 0.88 < 1$$

2ND FLOOR PER 508.4.2

$$E \text{ OCCUPANCY } \frac{\text{ACTUAL SF}}{\text{ALLOWABLE SF}} = \frac{11,610}{14,500 \text{ SF}} = 0.80 < 1$$

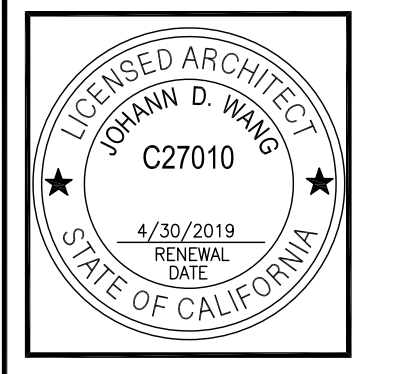
3RD FLOOR PER 508.4.2

$$E \text{ OCCUPANCY } \frac{\text{ACTUAL SF}}{\text{ALLOWABLE SF}} = \frac{912 \text{ SF}}{14,500 \text{ SF}} = 0.06 < 1$$

TOTAL BLDG. SF CHECK:
25,228 SF (TOTAL BLDG. SQ. FT.) < 29,000 SF ALLOWED PER 506.2

OCCUPANCY SEPARATION:
NO SEPARATION IS REQUIRED BETWEEN NON-SEPERATED OCCUPANCIES.
PER SEC. 508.3.3

| REV | DESCRIPTION | DATE |
|-----|---------------|------------|
| 1 | PLAN CHECK #1 | 6/14/2017 |
| 2 | PD PLAN CHECK | 10/31/2017 |
| 3 | PD PLAN CHECK | 12/14/2017 |



| | |
|---|----------------------|
| PROJECT | |
| MAGNOLIA SCIENCE ACADEMY | |
| PROJECT ADDRESS 18220 SHERMAN WAY, RESEDA, CA 91335 | |
| DRAWING TITLE | |
| BUILDING LIMITATIONS | |
| DRAWN BY | DATE |
| AS NOTED | 12/14/2017 |
| JOB NUMBER | DRAWING SCALE |
| AS NOTED | AS NOTED |
| APPROVED BY | |
| | |

Exhibit B

FF&E Schedule by Room

| Item | Description | Quantity |
|----------------|---|----------|
| Lobby Seating | https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM3724/products_id/PRO11359 | 6 |
| TV | https://www.staples.com/vizio-d-d60-f3-55-2160p-led-lcd-tv-16-9-4k-uhdtv/product_IM12TM060 | 1 |
| Magazine Stand | https://www.staples.com/Safco-23-Pocket-Steel-Magazine-Rack-Black/product_148302 | 1 |
| Trophy Case | https://www.schoolspecialty.com/trophy-case-1399724 | 1 |
| Bulletin Board | Navy https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM52960&products_id=PRO71117 | 1 |

| Item | Description | Quantity |
|---------------|---|----------|
| File Cabinet | https://www.staples.com/Staples-5-Drawer-Letter-Size-Vertical-File-Cabinet-Black-26-5-Inch/product_368568 | 7 |
| Desk | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM48701&products_id=PRO64645 | 3 |
| Cubbies | https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM2467/products_id/PRO7686 | 3 |
| Shelving | https://www.schoolspecialty.com/furniture/storage/bookcases/lorell-fortress-series-charcoal-bookcase-charcoal-2005959 | 1 |
| Supply Closet | https://www.staples.com/Sandusky-Standard-Storage-Cabinet-Black/product_1693997 | 2 |
| Office Chairs | https://www.staples.com/staples-marrett-mesh-and-fabric-task-chair-black-53249/product_24328573 | 3 |

| Item | Description | Quantity |
|--------------|---|----------|
| Desk | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM48701&products_id=PRO64645 | 1 |
| Office Chair | https://www.staples.com/staples-marrett-mesh-and-fabric-task-chair-black-53249/product_24328573 | 1 |
| File Cabinet | https://www.staples.com/Staples-5-Drawer-Letter-Size-Vertical-File-Cabinet-Black-26-5-Inch/product_368568 | 1 |
| Guest Chair | https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM3724/products_id/PRO11359 | 2 |

| Item | Description | Quantity |
|-----------------|---|----------|
| Desk | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM48701&products_id=PRO6464 | 3 |
| Office Chair | https://www.staples.com/staples-marrett-mesh-and-fabric-task-chair-black-53249/product_24328573 | 3 |
| Visitor's Chair | https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM3724/products_id/PRO11359 | 6 |
| Filing Cabinet | https://www.officedepot.com/a/products/450092/WorkPro-26-12-D-4-Drawer/ | 3 |

| Item | Description | Quantity |
|--------------|--|----------|
| Lunch tables | | TBD |
| Trash bins | Rubbermaid Trash Can - Reseda Janitorial | 4 |

| Item | Description | Quantity |
|---------------------|--|----------|
| Chair and Table Set | https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM50152/products_id/PRO66771 | 1 |
| Mailbox | 36x72 Graphite Nebula Top, Black Base https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM2472/products_id/PRO7884 | 1 |
| Refrigerator | https://www.homedepot.com/p/Whirlpool-20-5-cu-ft-Top-Freezer-Refrigerator-in-Black-WRT311FZDB/205658150 | 1 |
| Supply Closet | https://www.staples.com/Sandusky-Standard-Storage-Cabinet-Black/product_169399Z | 2 |

| Item | Description | Quantity |
|-----------------|---|----------|
| Desk | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM48701&products_id=PRO6464 | 2 |
| Office Chair | https://www.staples.com/staples-marrett-mesh-and-fabric-task-chair-black-53249/product_24328573 | 2 |
| Storage Cabinet | https://www.staples.com/Sandusky-Standard-Storage-Cabinet-Black/product_1693997 | 1 |
| Bookshelf | https://www.schoolspecialty.com/furniture/storage/bookcases/lorell-fortress-series-charcoal-bookcase | 1 |

| Item | Description | Quantity |
|--------------|---|----------|
| Lunch tables | | TBD |
| Trash bins | Rubbermaid Trash Can - Reseda Janitorial Supply | 2 |

| Item | Description | Quantity |
|-----------------|--|----------|
| Teacher's Desk | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM48701&products_id=PRO64645 | 1 |
| Teacher Chair | https://www.staples.com/staples-marrett-mesh-and-fabric-task-chair-black-53249/product_24328573 | 1 |
| Filing Cabinet | https://www.officedepot.com/a/products/450092/WorkPro-26-12-D-4-Drawer/ | 1 |
| Storage Cabinet | https://www.staples.com/Sandusky-Standard-Storage-Cabinet-Black/product_1693997 | 1 |
| Bookshelf | https://www.schoolspecialty.com/furniture/storage/bookcases/lorell-fortress-series-charcoal-bookcase-charcoal-2005959 | 1 |
| Student Desks | https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM21250/products_id/PRO37991 | 30 |
| Student Chairs | Solid Plastic Top, White Nebula Desktop Color, Champagne Metallic Frame Color, Bag Hook https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM1560/products_id/PRO4743 | 30 |
| | Seat Height 18", Color Sky Blue | |

| Item | Description | Quantity |
|-----------------|---|----------|
| Filing Cabinet | https://www.officedepot.com/a/products/450092/WorkPro-26-12-D-4-Drawer/ | 1 |
| Teacher's Chair | https://www.staples.com/staples-marrett-mesh-and-fabric-task-chair-black-53249/product_24328573 | 1 |
| Bookshelf | https://www.schoolspecialty.com/furniture/storage/bookcases/lorell-fortress-series-charcoal-bookcase-charcoal-2005959 | 1 |
| Teacher's Desk | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM48701&products_id=PRO64645 | 1 |
| Storage Cabinet | https://www.staples.com/Sandusky-Standard-Storage-Cabinet-Black/product_1693997 | 1 |
| Student Desks | https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM21250/products_id/PRO37991 | 30 |
| | Solid Plastic Top, White Nebula Desktop Color, Champagne Metallic Frame Color, Bag Hook | |
| Student Chairs | https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM1560/products_id/PRO4743 | 30 |
| | Seat Height 18", Color Sky Blue | |

| Item | Description | Quantity |
|-----------------|--|----------|
| Filing Cabinet | https://www.officedepot.com/a/products/450092/WorkPro-26-12-D-4-Drawer/ | 1 |
| Teacher's Chair | https://www.staples.com/staples-marrett-mesh-and-fabric-task-chair-black-53249/product_24328573 | 1 |
| Bookshelf | https://www.schoolspecialty.com/furniture/storage/bookcases/lorell-fortress-series-chair-black-2005959 | 1 |
| Teacher's Desk | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM48701&products_id=PRO64645 | 1 |
| Storage Cabinet | https://www.staples.com/Sandusky-Standard-Storage-Cabinet-Black/product_1693997 | 1 |
| Student Desks | https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM21250/products_id/PRO37991 | 30 |
| Student Chairs | Solid Plastic Top, White Nebula Desktop Color, Champagne Metallic Frame Color, Bag Hook https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM1560/products_id/PRO4743 | 30 |
| | Seat Height 18", Color Sky Blue | |

| Item | Description | Quantity |
|-----------------|--|----------|
| Filing Cabinet | https://www.officedepot.com/a/products/450092/WorkPro-26-12-D-4-Drawer/ | 1 |
| Teacher's Chair | https://www.staples.com/staples-marrett-mesh-and-fabric-task-chair-black-53249/product_24328573 | 1 |
| Bookshelf | https://www.schoolspecialty.com/furniture/storage/bookcases/lorell-fortress-series-charcoal-bookcase-charcoal-2005959 | 1 |
| Teacher's Desk | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM48701&products_id=PRO64645 | 1 |
| Storage Cabinet | https://www.staples.com/Sandusky-Standard-Storage-Cabinet-Black/product_1693997 | 1 |
| Student Desks | https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM21250/products_id/PRO37991 | 30 |
| Student Chairs | Solid Plastic Top, White Nebula Desktop Color, Champagne Metallic Frame Color, Bag Hook https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM1560/products_id/PRO4743 | 30 |
| | Seat Height 18", Color Sky Blue | |

| Item | Description | Quantity |
|------------------|---|----------|
| Filing Cabinet | https://www.officedepot.com/a/products/450092/WorkPro-26-12-D-4-Drawer/ | 1 |
| Teacher's Chair | https://www.staples.com/staples-marrett-mesh-and-fabric-task-chair-black-53249/product_24328573 | 1 |
| Bookshelf | https://www.schoolspecialty.com/furniture/storage/bookcases/lorell-fortress-series-charcoal-bookcase-charcoal-2005959 | 1 |
| Storage Cabinet | https://www.staples.com/Sandusky-Standard-Storage-Cabinet-Black/product_1693997 | 1 |
| Folding Tables | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM53587&products_id=PRO72103 | 15 |
| Stackable Chairs | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM51423&products_id=PRO68951 | 1 |
| Teacher's desk | Color: Navy https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM48701&products_id=PRO64645 | 1 |

| Item | Description | Quantity |
|------------------|---|----------|
| Teacher's desk | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM48701&products_id=PRO64645 | 1 |
| Teacher's chair | https://www.staples.com/staples-marrett-mesh-and-fabric-task-chair-black-53249/product_24328573 | 1 |
| Filing Cabinet | https://www.officedepot.com/a/products/450092/WorkPro-26-12-D-4-Drawer/ | 1 |
| Bookshelf | https://www.schoolspecialty.com/furniture/storage/bookcases/lorell-fortress-series-charcoal-bookcase-charcoal-2005959 | 1 |
| Storage Cabinet | https://www.staples.com/Sandusky-Standard-Storage-Cabinet-Black/product_1693997 | 1 |
| Folding Tables | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM53587&products_id=PRO72103 | 15 |
| Stackable Chairs | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM51423&products_id=PRO68951 | 1 |
| Color: Navy | | |

| Item | Description | Quantity |
|------------------|---|----------|
| Teacher's Chair | https://www.staples.com/staples-marrett-mesh-and-fabric-task-chair-black-53249/product_24328573 | 1 |
| Teacher's desk | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM48701&products_id=PRO64645 | 1 |
| Bookshelf | https://www.schoolspecialty.com/furniture/storage/bookcases/lorell-fortress-series-charcoal-bookcase-charcoal-2005959 | 1 |
| Storage Cabinet | https://www.staples.com/Sandusky-Standard-Storage-Cabinet-Black/product_1693997 | 1 |
| Folding Tables | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM53587&products_id=PRO72103 | 15 |
| Stackable Chairs | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM51423&products_id=PRO68951 | 1 |
| | Color: Navy | |
| Filing Cabinet | https://www.officedepot.com/a/products/450092/WorkPro-26-12-D-4-Drawer/ | 1 |

| Item | Description | Quantity |
|-----------------|--|----------|
| Teacher's Desk | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM48701&products_id=PRO64645 | 1 |
| Teacher's Chair | https://www.staples.com/staples-marrett-mesh-and-fabric-task-chair-black-53249/product_24328573 | 1 |
| Filing Cabinet | https://www.officedepot.com/a/products/450092/WorkPro-26-12-D-4-Drawer/ | 1 |
| Storage Cabinet | https://www.staples.com/Sandusky-Standard-Storage-Cabinet-Black/product_1693997 | 1 |
| Bookshelf | https://www.schoolspecialty.com/furniture/storage/bookcases/lorell-fortress-series-charcoal-bookcase-charcoal-2005959 | 1 |
| Student Desks | https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM21250/products_id/PRO37991 | 30 |
| Student Chairs | Solid Plastic Top, White Nebula Desktop Color, Champagne Metallic Frame Color, Bag Hook https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM1560/products_id/PRO4743 | 30 |
| | Seat Height 18", Color Sky Blue | |

| Item | Description | Quantity |
|-----------------|--|----------|
| Teacher's Desk | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM48701&products_id=PRO64645 | 1 |
| Teacher's Chair | https://www.staples.com/staples-marrett-mesh-and-fabric-task-chair-black-53249/product_24328573 | 1 |
| Filing Cabinet | https://www.officedepot.com/a/products/450092/WorkPro-26-12-D-4-Drawer/ | 1 |
| Storage Cabinet | https://www.staples.com/Sandusky-Standard-Storage-Cabinet-Black/product_1693997 | 1 |
| Bookshelf | https://www.schoolspecialty.com/furniture/storage/bookcases/lorell-fortress-series-charcoal-bookcase-charcoal-2005959 | 1 |
| Student Desks | https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM21250/products_id/PRO37991 | 30 |
| Student Chairs | Solid Plastic Top, White Nebula Desktop Color, Champagne Metallic Frame Color, Bag Hook https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM1560/products_id/PRO4743 | 30 |
| | Seat Height 18", Color Sky Blue | |

| Item | Description | Quantity |
|-------------------|---|----------|
| Lab Table | https://www.hertzfurniture.com/lab-tables--high-pressure-laminate-lab-table-with-book-box--14186--mo.html | 1 |
| Storage Cabinet | https://www.staples.com/Sandusky-Standard-Storage-Cabinet-Black/product_169399Z | 2 |
| Acid Storage | https://www.finnsoci.com/finnscimatco-stak-a-cab-acid-cabinet/se1460/ | 1 |
| Base Storage | https://www.finnsoci.com/finnscimatco-stak-a-cab-acid-cabinet/se1460/ | 1 |
| Flammable Storage | https://www.finnsoci.com/finnscimatco-stak-a-cab-flammables-cabinet/se1860/ | 1 |

| Item | Description | Quantity |
|-----------------|---|----------|
| Lab Tables | https://www.hertzfurniture.com/lab-tables--high-pressure-laminate-lab-table-with-book-box--14186--mo.html | 12 |
| Lab Stools | https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM47602/products_id/PRO62865 | 36 |
| Teacher's Desk | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM48701&products_id=PRO64645 | 1 |
| Bookshelf | https://www.schoolspecialty.com/furniture/storage/bookcases/lorell-fortress-series-charcoal-bookcase-charcoal-2005959 | 1 |
| Filing Cabinet | https://www.officedepot.com/a/products/450092/WorkPro-26-12-D-4-Drawer/ | 1 |
| Teacher's Chair | https://www.staples.com/staples-marrett-mesh-and-fabric-task-chair-black-53249/product_24328573 | 1 |
| Storage Cabinet | https://www.staples.com/Sandusky-Standard-Storage-Cabinet-Black/product_1693997 | 1 |

| Item | Description | Quantity |
|-----------------|---|----------|
| Lab Tables | https://www.hertzfurniture.com/lab-tables--high-pressure-laminate-lab-table-with-book-box--14186--mo.html | 12 |
| Lab Stools | https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM47602/products_id/PRO62865 | 36 |
| Teacher's Desk | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM48701&products_id=PRO64645 | 1 |
| Bookshelf | https://www.schoolspecialty.com/furniture/storage/bookcases/lorell-fortress-series-charcoal-bookcase-charcoal-2005959 | 1 |
| Filing Cabinet | https://www.officedepot.com/a/products/450092/WorkPro-26-12-D-4-Drawer/ | 1 |
| Teacher's Chair | https://www.staples.com/staples-marrett-mesh-and-fabric-task-chair-black-53249/product_24328573 | 1 |
| Storage Cabinet | https://www.staples.com/Sandusky-Standard-Storage-Cabinet-Black/product_1693997 | 1 |

| Item | Description | Quantity |
|----------------------|---|----------|
| Teacher Desk | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM48701&products_id=PRO64645 | 1 |
| Teacher's Chair | https://www.staples.com/staples-marrett-mesh-and-fabric-task-chair-black-53249/product_24328573 | 1 |
| Filing Cabinet | https://www.officedepot.com/a/products/450092/WorkPro-26-12-D-4-Drawer/ | 1 |
| Storage Cabinet | https://www.staples.com/Sandusky-Standard-Storage-Cabinet-Black/product_1693997 | 1 |
| Bookshelf | https://www.schoolspecialty.com/furniture/storage/bookcases/lorell-fortress-series-charcoal-bookcase-charcoal-2005959 | 1 |
| Tables | https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM49750/products_id/PRO66185 | 15 |
| Student Chairs | https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM49750/products_id/PRO66185 | 30 |
| Another Table option | https://www.schooloutfitters.com/catalog/product_family_info/mPath/MAN680_CAT112/pfam_id/PFAM51821 | |

| Item | Description | Quantity |
|-----------------|--|----------|
| Teacher's Desk | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM48701&products_id=PRO64645 | 1 |
| Teacher's Chair | https://www.staples.com/staples-marrett-mesh-and-fabric-task-chair-black-53249/product_24328573 | 1 |
| Filing Cabinet | https://www.officedepot.com/a/products/450092/WorkPro-26-12-D-4-Drawer/ | 1 |
| Storage Cabinet | https://www.staples.com/Sandusky-Standard-Storage-Cabinet-Black/product_1693997 | 1 |
| Bookshelf | https://www.schoolspecialty.com/furniture/storage/bookcases/lorell-fortress-series-charcoal-bookcase-charcoal-2005959 | 1 |
| Student Desks | https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM21250/products_id/PRO37991 | 30 |
| Student Chairs | Solid Plastic Top, White Nebula Desktop Color, Champagne Metallic Frame Color, Bag Hook https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM1560/products_id/PRO4743 | 30 |
| | Seat Height 18", Color Sky Blue | |

| Item | Description | Quantity |
|-----------------|--|----------|
| Teacher's Desk | https://www.schooloutfitters.com/catalog/product_info?pfam_id=PFAM48701&products_id=PRO64645 | 1 |
| Teacher's Chair | https://www.staples.com/staples-marrett-mesh-and-fabric-task-chair-black-53249/product_24328573 | 1 |
| Filing Cabinet | https://www.officedepot.com/a/products/450092/WorkPro-26-12-D-4-Drawer/ | 1 |
| Storage Cabinet | https://www.staples.com/Sandusky-Standard-Storage-Cabinet-Black/product_1693997 | 1 |
| Bookshelf | https://www.schoolspecialty.com/furniture/storage/bookcases/lorell-fortress-series-charcoal-bookcase-charcoal-2005959 | 1 |
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| Student Chairs | Solid Plastic Top, White Nebula Desktop Color, Champagne Metallic Frame Color, Bag Hook https://www.schooloutfitters.com/catalog/product_info/pfam_id/PFAM1560/products_id/PRO4743 | 30 |
| | Seat Height 18", Color Sky Blue | |

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Exhibit C

Form of Contract

AIA Document A151™–2019

(see following pages)

DRAFT AIA® Document A151™ - 2019

Standard Form of Agreement between Owner and Vendor for Furniture, Furnishings, and Equipment (FF&E)

AGREEMENT made as of the « » day of « » in the year « »
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

« »
« »
« »
« »

and the Vendor:
(Name, legal status, address, and other information)

« »
« »
« »
« »

for the following Project:
(Name, location, and detailed description)

«MSA-1 FF&E»
«18220 Sherman Way»
« »

The Architect:
(Name, legal status, address, and other information)

« »
« »
« »
« »

The Owner and Vendor agree as follows.

ADDITIONS AND DELETIONS: The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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- 10 ARCHITECT**
- 11 RELATED ACTIVITIES OF OWNER OR OF SEPARATE VENDORS**
- 12 PROTECTION OF PERSONS AND PROPERTY**
- 13 INSURANCE**
- 14 CLAIMS AND DISPUTES**
- 15 ENUMERATION OF CONTRACT DOCUMENTS**

ARTICLE 1 GENERAL PROVISIONS**§ 1.1 Governing Law, including the Uniform Commercial Code**

This Agreement is for the sale of goods, specifically furniture, furnishings, and equipment (FF&E), and shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rule and including the jurisdiction's Uniform Commercial Code (UCC) as adopted. If this Agreement conflicts with terms provided by the UCC, the Agreement shall prevail. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 14.7.

§ 1.2 The Contract Documents

The Contract Documents are enumerated in Article 15 and consist of this Agreement (including, if applicable, Supplementary and other Conditions of the Contract), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Vendor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all. Performance by the Vendor shall be required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.3 The Contract

The Contract Documents form the Contract for the Work. The Contract represents the entire and integrated agreement between the parties hereto and supersedes all prior proposals, offers, terms and conditions, negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Vendor. The primary purpose of the Contract is the sale of goods, and any services provided are incidental to such primary purpose.

§ 1.4 Modifications

A Modification is a written amendment to the Contract for changes in the Work signed by both parties or a written order for a minor change in the Work signed by the Architect. A minor change in the Work is a change that is consistent with the intent of the Contract Documents and does not involve an adjustment in the Contract Sum or an extension of the Contract Time.

§ 1.5 The Work

The Work means the Vendor's performance, including the sale of FF&E and any incidental fabrication, shipping, warehousing, delivery, installation, and other items or services required by the Contract Documents and provided, or to be provided, by the Vendor. The Work includes all labor, materials, temporary protection, storage, and equipment necessary to fulfill the Vendor's obligations, except as specifically indicated in the Contract Documents to be the responsibility of others. The Work may constitute the whole or a part of the Project.

§ 1.6 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.7 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.7.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and will retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Vendor, sub-vendors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.7.2 The Vendor, sub-vendors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to the protocols established pursuant to Sections 1.8 and 1.9, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Vendor, sub-vendors, and suppliers may not use the Instruments of Service on other projects, or in connection with additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.8 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.9 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its vendors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

§ 1.10 Severability

The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.11 Notice

§ 1.11.1 Except as otherwise provided in Section 1.11.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to

whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering Notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

« »

§ 1.11.2 Notice of Claims shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.12 Assignment of Contract

Neither party to the Contract shall assign the Contract without written consent of the other, except that the Owner may, without consent of the Vendor, assign the Contract to a lender providing financing for the Project if the lender assumes the Owner’s rights and obligations under the Contract Documents. The Vendor shall execute all consents reasonably required to facilitate such assignment.

ARTICLE 2 CONTRACT SUM AND PAYMENTS

§ 2.1 Contract Sum

§ 2.1.1 The Owner shall pay the Vendor the Contract Sum in current funds for the Vendor’s performance of the Contract. The Contract Sum shall be « » (\$ « »), subject to additions and deductions as provided in the Contract Documents.

§ 2.1.2 Alternates

§ 2.1.2.1 Alternates, if any, included in the Contract Sum:

| Item | Price |
|------|-------|
| « » | « » |

§ 2.1.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. *(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*

| Item | Price | Conditions for Acceptance |
|------|-------|---------------------------|
| « » | « » | « » |

§ 2.1.3 Unit prices, if any:

(Identify the item and state the unit price and the quantity limitations, if any, to which the unit price will be applicable.)

| Item | Units and Limitations | Price per Unit (\$0.00) |
|------|-----------------------|-------------------------|
| « » | « » | « » |

§ 2.1.4 Allowances, if any, included in the Contract Sum:

(Identify each allowance.)

| Item | Price |
|------|-------|
| « » | « » |

§ 2.1.5 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

« »

§ 2.1.6 Other:

(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

<< >>

§ 2.2 Payments

§ 2.2.1 The Owner shall make payments to the Vendor in conformance with the following payment terms:
(Insert payment terms, such as payment due dates, deposit requirements, and prompt payment discounts, if any.)

<< >>

§ 2.2.2 When payment is due pursuant to the payment terms of Section 2.2.1, the Vendor shall submit to the Owner an itemized invoice, supported by data substantiating the Vendor’s right to payment.

§ 2.2.3 Except with the Owner’s knowledge and consent, the Vendor shall not engage in any activity, or offer any employment, interest, or contribution to the Owner’s employees or consultants, that would reasonably appear to compromise the Owner’s employees’ or consultants’ judgment with respect to this Project.

ARTICLE 3 TIME

§ 3.1 Contract Time

§ 3.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for completion of the Work. The Contract Time shall be measured from the date of commencement. The term “day” as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 3.1.2 Time limits stated in the Contract Documents are of the essence of the Contract. By executing this Agreement, the Vendor confirms that the Contract Time is a reasonable period for performing the Work.

§ 3.1.3 If the Vendor is delayed at any time in the commencement or progress of the Work by (1) changes ordered in the Work; (2) labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties, or any causes beyond the Vendor’s control; or (3) other causes that the Vendor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine, subject to the provisions of Article 14.

§ 3.1.4 If the Vendor fails to achieve completion of the Work as provided in this Article 3, liquidated damages, if any, shall be assessed as set forth in Section 2.1.5.

§ 3.2 Date of Commencement

The date of commencement of the Work shall be:

(Check one of the following boxes.)

[<< >>] The date of this Agreement.

[<< >>] A date set forth in a notice to proceed issued by the Owner.

[<< >>] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

<< >>

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.3 Completion

§ 3.3.1 Completion of the Work occurs upon acceptance of all FF&E in the Contract Documents in accordance with Article 8.

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Vendor shall achieve completion of the entire Work:
(Check the appropriate box and complete the necessary information.)

[« »] Not later than « » (« ») calendar days from the date of commencement of the Work.

[« »] By the following date: « »

§ 3.3.3 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to completion of the entire Work, the Vendor shall achieve completion of such portions by the following dates:

| Portion of Work | Completion Date |
|-----------------|-----------------|
| | |

ARTICLE 4 OWNER

§ 4.1 The Owner's Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall not be changed without ten days' prior notice to the Vendor. The Owner identifies the following representative:

(Name, address, email address, and other information)

« »
« »
« »
« »
« »
« »

§ 4.2 Information and Services Required of the Owner

§ 4.2.1 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 4.2.2 Unless otherwise provided in the Contract Documents, the Owner shall provide

- .1 areas of the Project premises that the Vendor may use to perform the Work;
- .2 access to the Project premises for the Vendor at reasonable times;
- .3 information regarding any restrictions on the use of, or access to, the Project premises;
- .4 suitable space for receipt, inspection, acceptance, and staging of materials and FF&E;
- .5 utilities and facilities on the Project premises and vertical transportation necessary for progress and execution of the Work; and
- .6 a secured premises for storage of FF&E until acceptance.

§ 4.2.3 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall furnish any other information or services under the Owner's control and relevant to the Vendor's performance of the Work with reasonable promptness after receiving the Vendor's written request for such information or services.

ARTICLE 5 VENDOR

§ 5.1 The Vendor's Representative

The Vendor shall identify a representative authorized to act on behalf of the Vendor with respect to the Project. The Vendor's representative shall not be changed without ten days' prior notice to the Owner and Architect. The Vendor identifies the following representative:

(Name, address, email address, and other information)

« »
« »
« »
« »
« »
« »

§ 5.2 The Vendor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents by activities or duties of the Architect in the Architect's administration of the Contract.

§ 5.3 The Vendor shall coordinate its Work with the work provided by the Owner and the Owner's other vendors, consultants, and contractors. The Vendor may communicate with the Owner's other vendors, consultants, and contractors, for the purposes of completing the Work. The Vendor shall keep the Owner reasonably informed of any such communications. The Vendor shall be entitled to rely on the accuracy and completeness of work and information furnished by the Owner and the Owner's other vendors, consultants, and contractors. The Vendor shall provide prompt written notice to the Owner if the Vendor becomes aware of any error, omission, or inconsistency in such work or information.

§ 5.4 Review of Contract Documents and Inspection of Project Premises by Vendor

§ 5.4.1 Execution of the Contract by the Vendor is a representation that the Vendor has visited the Project premises, if required in the Contract Documents, and correlated personal observations with requirements of the Contract Documents.

§ 5.4.2 Before starting each portion of the Work, including placing orders for FF&E, the Vendor shall (1) carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 4.2; (2) visit and inspect the Project premises in order to gain an understanding of the conditions under which the Work is to be performed; (3) determine availability of facilities for access, delivery, transportation, and staging; (4) determine any restrictions imposed by the Owner and the Owner's separate vendors and contractors; and (5) correlate observations with the requirements of the Contract Documents. The Vendor shall promptly report to the Owner and Architect conditions observed that would impede the Vendor's performance of the Work. The Vendor's obligations to review the Contract Documents are for the purpose of facilitating delivery and installation by the Vendor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Vendor shall promptly report to the Architect any errors, inconsistencies, or omissions discovered by or made known to the Vendor as a request for information in such form as the Architect may require. It is recognized that the Vendor's review is made in the Vendor's capacity as a vendor and not as a licensed design professional, unless otherwise specifically provided for in the Contract Documents.

§ 5.4.3 The Vendor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Vendor shall promptly report to the Architect any nonconformity discovered by or made known to the Vendor as a request for information in such form as the Architect may require.

§ 5.4.4 If the Vendor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Vendor's notices or requests for information pursuant to Sections 5.4.2 or 5.4.3, the Vendor shall submit Claims as provided in Article 14. If the Vendor fails to perform the obligations of Sections 5.4.2 or 5.4.3, the Vendor shall pay such costs and damages to the Owner, subject to Section 14.12, as would have been avoided if the Vendor had performed such obligations. If the Vendor performs those obligations, the Vendor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies, or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 5.5 Supervision

§ 5.5.1 The Vendor shall supervise and direct the Work using the Vendor's best skill and attention. The Vendor shall be solely responsible for and have control over the means, methods, techniques, sequences, and procedures of fabrication, shipment, delivery, and installation, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters.

§ 5.5.2 The Vendor shall be responsible to the Owner for acts and omissions of the Vendor's employees, sub-vendors, and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Vendor or any of its sub-vendors.

§ 5.5.3 The Vendor shall be responsible for inspection of portions of the Work already performed to determine that such portions are in proper condition for subsequent Work.

§ 5.6 Labor and Materials

§ 5.6.1 Unless otherwise provided in the Contract Documents, the Vendor shall provide and pay for labor, materials, tools, installation equipment and machinery, delivery, and other facilities and services necessary for proper execution and completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 5.6.2 The Vendor shall enforce strict discipline and good order among the Vendor's employees and other persons carrying out the Work. The Vendor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

§ 5.6.3 The Vendor shall make no substitution or change in the Contract Documents unless done in accordance with a Modification, and after providing the Architect notice and a reasonable opportunity to evaluate the proposed substitution or change and consult with the Owner.

§ 5.7 Taxes

The Vendor shall pay sales, consumer, use, and other similar taxes that are legally enacted when quotes are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 5.8 Permits, Fees, Notices, and Compliance with Laws

§ 5.8.1 Unless otherwise provided in the Contract Documents, the Vendor shall secure and pay for permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 5.8.2 The Vendor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work. If the Vendor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Vendor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 5.9 Allowances

The Vendor shall include in the Contract Sum all allowances stated in the Contract Documents. The Owner shall select items under allowances with reasonable promptness. Allowance amounts shall include the costs to the Vendor of items delivered at the Project premises and all required taxes, less applicable trade discounts. Vendor's costs for unloading and handling at the Project premises, labor, installation, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowance. Whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Modification. The amount of the Modification shall reflect the difference between actual costs and the allowances under Section 2.1.4.

§ 5.10 Vendor's Schedules

§ 5.10.1 The Vendor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a progress schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the progress of the Work and Project, shall be related to the entire Project, and shall provide for expeditious and practicable execution of the Work.

§ 5.10.2 The Vendor shall perform the Work in general accordance with the most recent schedule submitted to the Owner and Architect.

§ 5.10.3 The Vendor's progress schedule shall indicate dates for commencement and completion of phases of the Work within the Contract Time, including dates for order placement, fabrication, shipping, delivery, and installation. The schedule shall indicate other critical dates, such as deadlines for approval of submittals of colors, finishes, and materials. The Vendor shall obtain and submit for the Owner's and the Architect's information written confirmation from sub-vendors of dates of fabrication and delivery.

§ 5.10.4 The Vendor shall cooperate with the Owner and Architect in coordinating the Vendor's progress schedule with those of contractors and separate vendors and with the requirements of the Owner and Architect. The Vendor shall cooperate in determining mutually acceptable dates and times for delivery, installation, and inspection of the Work, and

use of services and facilities provided to the Vendor, all to be confirmed in writing within a reasonable time in advance of such dates and times.

§ 5.11 Submittals

§ 5.11.1 The Vendor shall review for compliance with the Contract Documents and submit to the Architect shop drawings, product data, samples, and similar submittals required by the Contract Documents in coordination with the Vendor's progress schedule and in such sequence as to allow the Architect reasonable time for review. By submitting shop drawings, product data, samples, and similar submittals, the Vendor represents to the Owner and Architect that the Vendor has (1) reviewed and approved them; (2) determined and verified materials, field measurements, and field installation criteria related thereto, or will do so; and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. The Work shall be in accordance with approved submittals. Shop drawings, product data, samples and similar submittals are not Contract Documents.

§ 5.11.2 The Vendor shall provide the Owner with available manufacturer's warranty documents, product data, and material safety data sheets.

§ 5.12 Cleaning Up

The Vendor shall keep the Project premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Vendor shall remove waste materials, rubbish, the Vendor's tools, construction equipment, machinery, and surplus material from and about the Project.

§ 5.13 Access to Work

The Vendor shall provide the Owner and Architect with reasonable access to the Work in preparation and progress wherever located.

§ 5.14 Indemnification

§ 5.14.1 To the fullest extent permitted by law, the Vendor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Vendor, a sub-vendor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 5.14.1.

§ 5.14.2 In claims against any person or entity indemnified under Section 5.14.1 by an employee of the Vendor, a sub-vendor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 5.14.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Vendor or sub-vendor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 5.14.3 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Vendor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any sub-vendor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Vendor. If approved by the applicable court, when required, the Vendor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

ARTICLE 6 TITLE AND RISK OF LOSS

§ 6.1 Title to all FF&E shall be transferred to the Owner upon acceptance in accordance with Article 8.

§ 6.2 The risk of loss with respect to all FF&E provided by the Vendor shall remain with the Vendor, and the Owner has no obligation to insure such FF&E, until acceptance in accordance with Article 8.

ARTICLE 7 DELIVERY AND INSTALLATION

§ 7.1 The Vendor shall deliver FF&E in accordance with the Vendor's progress schedule, or at a time agreed upon by the Owner and Architect, and in accordance with Article 5.

§ 7.2 Delivery and installation of all FF&E shall be made at the Project premises unless otherwise specified in the Contract Documents.

§ 7.3 The Vendor shall coordinate with the Owner regarding the logistics of the Vendor's delivery and installation obligations at the Project premises.

ARTICLE 8 ACCEPTANCE

§ 8.1 The Owner and Architect may conduct a preliminary inspection of FF&E within seven days after its delivery to the Project premises for the purpose of verifying the delivery and quantities. Preliminary inspections shall not constitute acceptance of, taking charge over, or taking control of, such FF&E. The Architect shall report to the Vendor any defects, damage, deficiencies, or nonconformity observed during the preliminary inspection.

§ 8.2 When the Vendor considers the Work, or a portion thereof which the Owner agrees to accept separately, to be complete, the Vendor shall notify the Owner and Architect. The Vendor shall allow the Owner and Architect a reasonable amount of time to inspect the FF&E to determine, based on conformance with the Contract Documents, if it is accepted or rejected in whole or in part. Based on the Architect's recommendation to the Owner and the Owner's own inspection, if any, the Owner shall accept or reject the FF&E, in whole or in part.

§ 8.3 If the Owner rejects any of the FF&E, the Owner, or the Architect acting on behalf of the Owner, shall notify the Vendor within seven days of the date of inspection, specifying the basis for such rejection. Upon rejection, the Vendor shall provide a remedy and evidence of arrangements to accomplish such remedy. The Owner shall allow the Vendor a reasonable amount of time to remedy the rejected FF&E. When the Vendor considers the remedied FF&E to be complete, the parties shall follow the procedures set forth in Section 8.2. If the Owner rejects any of the FF&E for a second time, the Owner shall promptly notify the Vendor and the Vendor shall promptly remove the rejected FF&E from the Project premises and refund payments made for such rejected goods to the Owner. If the Vendor disagrees with an Owner's rejection, the Vendor may make a claim.

§ 8.4 FF&E not inspected in accordance with Section 8.2 or rejected in accordance with Section 8.3 shall be deemed accepted.

§ 8.5 The Owner's acceptance under this Article 8 cannot be revoked; however, the provisions of this Article 8 do not preclude recovery of damages as provided by law. The Owner's acceptance, or failure to discover a Vendor's breach after acceptance, shall not bar the Owner from making claims in accordance with Article 14 or from remedies and damages due to the Vendor's breach of this Agreement, including the Vendor's breach of warranties in Article 9.

ARTICLE 9 WARRANTIES

§ 9.1 The Vendor warrants to the Owner that the FF&E furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Vendor further warrants that the FF&E will conform to the requirements of the Contract Documents. FF&E not conforming to these requirements may be considered defective. The Vendor's warranty excludes remedy for damage or defect caused by abuse, alterations to the FF&E not executed by the Vendor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage.

§ 9.2 The Vendor assigns to the Owner all FF&E manufacturers' warranties and guarantees upon acceptance in accordance with Article 8.

§ 9.3 The Vendor hereby provides to the Owner all warranties relating to the FF&E implied by law, including the warranty of merchantability and warranty of fitness for a particular purpose.

§ 9.4 The Vendor acknowledges that no exclusion of, or limitation on, warranties contained in any proposal, product literature, or other submittal shall affect the warranties provided in this Article 9.

ARTICLE 10 ARCHITECT

§ 10.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during the Vendor's performance, and until completion, of the Work. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 10.2 Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Vendor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with sub-vendors and suppliers shall be through the Vendor. Communications by and with separate vendors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 10.3 The Architect will assist the Owner in coordinating schedules for fabrication, delivery, and installation of the Work, but will not be responsible for failure of the Vendor or a sub-vendor to meet schedules for completion or to perform their respective duties and responsibilities in conformance with applicable schedules.

§ 10.4 The Architect will visit the Project premises at intervals appropriate to the stage of the Work, or as otherwise agreed with the Owner, to become generally familiar with, and to keep the Owner informed about, the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. The Architect will not have control over, charge of, or responsibility for, the means, methods, techniques, sequences, or procedures of fabrication, shipment, delivery, storage, or installation, or for the safety precautions and programs in connection with the Work, as these are solely the Vendor's rights and responsibilities under the Contract Documents.

§ 10.5 The Architect may order minor changes in the Work. The Architect's order for minor changes shall be in writing. If the Vendor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Vendor shall notify the Architect and shall not proceed to implement the change in the Work. If the Vendor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Vendor waives any adjustment to the Contract Sum or extension of the Contract Time.

§ 10.6 The Architect will conduct inspections of FF&E and provide recommendations as set forth in Article 8. Pursuant to Article 8, the Architect is only responsible for identifying defects, deficiencies, or nonconformities that the Architect actually observes, or reasonably should observe, during its inspections. The Architect is not required to make exhaustive or continuous inspections to fulfill its responsibilities in Article 8 and has no responsibility to discover latent defects.

§ 10.7 The Architect will review and approve or take other appropriate action upon the Vendor's submittals such as shop drawings, product data, and samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

ARTICLE 11 RELATED ACTIVITIES OF OWNER OR OF SEPARATE VENDORS

§ 11.1 The Owner shall coordinate the activities of the Owner's own forces and of each separate vendor or contractor, if any, with the Work.

§ 11.2 If the Work depends for proper execution or results upon activities by the Owner or a separate vendor or contractor, the Vendor shall, prior to proceeding with that portion of the Work, promptly report to the Owner and Architect apparent discrepancies or defects in, or arising from, the activities of the Owner or separate vendors or contractors, that would impede the Vendor in achieving proper execution and results. If the Vendor fails to report reasonably discoverable discrepancies or defects, it shall be responsible for deficiencies or defects in its Work due to such deficiencies or defects.

§ 11.3 The Vendor shall reimburse the Owner for costs the Owner incurs that are payable to a separate vendor or contractor because of the Vendor's delays, improperly timed activities, or damage to the work of a separate vendor or contractor. The Owner shall be responsible to the Vendor for costs the Vendor incurs because of the delays, improperly timed activities, or damage to the Work caused by a separate vendor or contractor.

§ 11.4 If a dispute arises among the Vendor, separate vendors, or contractors, and the Owner as to the responsibility under their respective contracts for maintaining the Project premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 12 PROTECTION OF PERSONS AND PROPERTY**§ 12.1 Safety Precautions and Programs**

The Vendor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Vendor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work, and materials and FF&E to be incorporated therein, whether in storage on or off the Project premises, under care, custody, or control of the Vendor or sub-vendors; and
- .3 other property at the Project premises or adjacent thereto.

The Vendor shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury, or loss. The Vendor shall promptly remedy damage and loss to property caused in whole or in part by the Vendor, sub-vendors, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Vendor is responsible under Sections 12.1.2 and 12.1.3. The Vendor may make a claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect, or of anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Vendor. The foregoing obligations of the Vendor are in addition to the Vendor's obligations under Section 5.14.

§ 12.2 Hazardous Materials and Substances

§ 12.2.1 The Vendor is responsible for compliance with the requirements of the Contract Documents regarding hazardous materials or substances. If the Vendor encounters a hazardous material or substance not addressed in the Contract Documents, and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the Project premises by the Vendor, the Vendor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Vendor. By written agreement between the Owner and Vendor, the Contract Time shall be extended appropriately, and the Contract Sum shall be increased in the amount of the Vendor's reasonable additional costs of shutdown, delay, and start-up.

§ 12.2.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Vendor, sub-vendors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area, if in fact, the material or substance presents the risk of bodily injury or death as described in Section 12.2.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 12.2.3 If, without negligence on the part of the Vendor, the Vendor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Vendor for all cost and expense thereby incurred.

ARTICLE 13 INSURANCE

§ 13.1 The Vendor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in this Article 13 or elsewhere in the Contract Documents. The Vendor shall purchase and maintain the insurance required by this Agreement from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Vendor shall maintain the required insurance from the date of commencement of the Work to the date of completion of the Work, unless a different duration is stated below.

§ 13.2 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than « » (\$ « ») each occurrence, « » (\$ « ») general aggregate, and « » (\$ « ») aggregate for products-completed operations hazard, providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal and advertising injury;

- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 the Vendor's indemnity obligations under Section 5.14.

§ 13.3 Automobile Liability covering vehicles owned by the Vendor and non-owned vehicles used by the Vendor, with policy limits of not less than « » (\$ « ») per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

§ 13.4 The Vendor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Sections 13.2 and 13.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 13.5 Workers' Compensation at statutory limits.

§ 13.6 Employers' Liability with policy limits not less than « » (\$ « ») each accident, « » (\$ « ») each employee, and « » (\$ « ») policy limit.

§ 13.7 If the Vendor is required to furnish professional services as part of the Work, the Vendor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate.

§ 13.8 The Vendor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article 13 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final invoice and thereafter upon renewal or replacement of such coverage until the expiration of the period required by Section 13.1. The certificates will show the Owner as an additional insured on the Vendor's Commercial General Liability and excess or umbrella liability policy.

§ 13.9 The Vendor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Vendor.

§ 13.10 To the fullest extent permitted by law, the Vendor shall cause the commercial liability coverage required by this Article 13 to include (1) the Owner, the Architect, and the Architect's Consultants as additional insureds for claims caused in whole or in part by the Vendor's negligent acts or omissions during the Vendor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Vendor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's Consultants, CG 20 32 07 04.

§ 13.11 Within three (3) business days of the date the Vendor becomes aware of an impending or actual cancellation or expiration of any insurance required by this Article 13, the Vendor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Vendor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Vendor. The furnishing of notice by the Vendor shall not relieve the Vendor of any contractual obligation to provide any required coverage.

§ 13.12 Other Insurance Provided by the Vendor

(List below any other insurance coverage to be provided by the Vendor and any applicable limits.)

Coverage**Limits****§ 13.13 Waiver of Subrogation**

§ 13.13.1 The Owner and Vendor waive all rights against (1) each other and any of their sub-vendors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) separate vendors or contractors, if any, and any of their sub-vendors, subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by this Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Vendor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, separate vendors and contractors, and sub-vendors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this Section 13.13.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 13.13.2 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause. The Owner shall pay the Architect and Vendor their just shares of insurance proceeds received by the Owner, and by appropriate agreements, written where legally required for validity, the Architect and Vendor shall make payments to their consultants and sub-vendors in similar manner.

ARTICLE 14 CLAIMS AND DISPUTES**§ 14.1 Binding Dispute Resolution**

For any claim subject to, but not resolved by, mediation pursuant to Section 14.6, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

Arbitration pursuant to Section 14.7 of this Agreement

Litigation in a court of competent jurisdiction

Other *(Specify)*

If the Owner and Vendor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, claims will be resolved in a court of competent jurisdiction.

§ 14.2 Claims, disputes, and other matters in question arising out of or relating to this Contract, including those alleging an error or omission by the Architect but excluding those arising under Section 12.2, shall be referred initially to the Architect for decision. Such matters, except those waived as provided for in Section 14.12, shall, after initial decision by the Architect or 30 days after submission of the matter to the Architect, be subject to mediation as a condition precedent to binding dispute resolution.

§ 14.3 Notice of Claims

Claims by either the Owner or Vendor shall be initiated by notice to the other party in accordance with Section 1.11.2.

§ 14.4 Time Limits on Claims

The Owner and Vendor shall commence all claims and causes of action against the other and arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in this Agreement, whether in contract, tort, breach of warranty, or otherwise, within the period specified by applicable law, but in any case not more than 10 years after the date of completion of the Work. The Owner and Vendor waive all claims and causes of action not commenced in accordance with this Section 14.4.

§ 14.5 If a claim, dispute, or other matter in question relates to or is the subject of a mechanic's lien, the party asserting such matter may proceed in accordance with applicable law to comply with the lien procedures, including notice or filing deadlines.

§ 14.6 The parties shall endeavor to resolve their disputes by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with their Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 14.7 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association, in accordance with the Construction Industry Arbitration Rules in effect on the date of this Agreement. Demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 14.8 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 14.9 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, any party to an arbitration may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of a Claim not described in the written Consent.

§ 14.10 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 14.11 Continuing Contract Performance

Pending final resolution of a Claim, except as otherwise agreed in writing, the Vendor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 14.12 Waiver of Claims for Consequential Damages

The Vendor and Owner waive claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Vendor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business, and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages. Nothing contained in this Section 14.12 shall be deemed to preclude an assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

ARTICLE 15 ENUMERATION OF CONTRACT DOCUMENTS

§ 15.1 The Contract Documents are defined in Article 1 and, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 15.2 The Agreement is this executed AIA Document A151™–2019, Standard Form of Agreement Between Owner and Vendor for Furniture, Furnishings, and Equipment.

§ 15.3 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203–2013 incorporated into this Agreement.)

« »

§ 15.4 The Specifications:

(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

« »

| Section | Title | Date | Pages |
|---------|-------|------|-------|
| | | | |

§ 15.5 The Drawings:

(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

« »

| Number | Title | Date |
|--------|-------|------|
| | | |

§ 15.6 The Addenda, if any:

| Number | Date | Pages |
|--------|------|-------|
| | | |

Portions of Addenda relating to quotations or proposal requirements are not part of the Contract Documents unless the quotation or proposal requirements are enumerated in this Article 15.

§ 15.7 Additional documents, if any, forming part of the Contract Documents:

.1 Other Exhibits:
(Check all boxes that apply.)

[] The Sustainability Plan:

| Title | Date | Pages |
|-------|------|-------|
| | | |

[] Supplementary and other Conditions of the Contract:

| Document | Title | Date | Pages |
|----------|-------|------|-------|
| | | | |

.2 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents.)

« »

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

« »« »

(Printed name and title)

VENDOR (Signature)

« »« »

(Printed name and title)

TEBRA

Cover Sheet

Approval of Revised Play Surface Replacement for MSA-7

Section: II. AdHoc Committee- Action Items
Item: B. Approval of Revised Play Surface Replacement for MSA-7
Purpose: Vote
Submitted by:
Related Material: II B MSA-7 Playground Replacement.pdf



| | |
|---------------------------------|---|
| Ad Hoc Committee Agenda Item #: | II B ACTION ITEM |
| Date: | June 13, 2019 |
| To: | Magnolia Educational & Research Foundation dba Magnolia Public Schools (“ MPS ”) Ad Hoc Committee (the “ Committee ”) |
| From: | Alfredo Rubalcava, CEO & Superintendent |
| Staff Lead: | Patrick Ontiveros, General Counsel & Director of Facilities |
| RE: | MSA-7 – Play Surface Replacement – REVISED AUTHORIZATION |

I. Proposed Recommendation(s)

Staff recommends that the Ad Hoc Committee approve the replacement of the play surfaces at Magnolia Science Academy 7 Northridge (the “**Project**”) at a revised cost of **\$170,000** (**\$163,385.50** bid amount plus a **\$6,614.50** contingency) and that Great Western Recreation be awarded the contract for said scope of work.

II. Background

At a meeting on June 3, 2019, the Ad Hoc Committee approved the replacement of the play surfaces at Magnolia Science Academy 7 Northridge (“**MSA-7**”) at 18355 Roscoe Boulevard in Northridge and the award of the contract for such work to Great Western Recreation (“**Great Western**”).

Subsequent to such approval but before execution of a contract, Great Western informed MPS Staff that they made in error in their bid, specifically they left out a large segment of poured in place (“PIP”) material from their bid, approximately 5,0000 square feet. The Committee approved a budget of **\$125,000** for the Project. The difference, therefore, is **\$45,000.00** (inclusive of a **\$6,614.50** contingency that MSA-7 will hold for unforeseen cost increases).

MPS Staff argued with Great Western to honor their original bid but they will not do so. Their re-bid was originally \$170,000 but after much back and forth they lowered it to \$163,385.50. Concurrent with such negotiations MPS Staff reached out to other vendors who had bid on the Project. None was able to match or beat Great Western’s revised pricing. A copy of Great Western’s revised bid is attached as Exhibit A. The original bid is attached as Exhibit B.

MSA7 is the recipient of a Charter School Facility Incentive Grant (“**CSFIG**”). The total CSFIG is **\$414,975**. It previously spent a portion of its grant, approximately **\$148,562.90**, to repair the pavement at its



facilities. MSA7 would now like to spend a portion of its remaining grant on the Project. **\$266,412.10** of the CSFIG remains. Assuming a budget of **\$170,000** for the Project (the bid price plus a contingency), approximately **\$96,412.00** remains to complete the restroom capital improvement project (compared to the **\$141,412** that was previously reported). MPS Staff has discussed the restroom capital improvement project with a vendor and such vendor will do as much of the restroom capital improvement project as possible within the revised budget.

III. Procurement Process

The procurement process was described in the June 3, 2019 Committee Report. It is reiterated here for convenience.

*An RFP was issued to multiple contractors producers and installers of play surfacing. See Exhibit [C] attached hereto. Staff received bids from three (3) companies. After a review of the bids, the selection committee decided to interview two (2) bidders. Such interviews occurred on April 24th at the MSA-7 campus. Base on the bids received and the interviews conducted, the selection committee recommends approval of the award of the contract for the Project to Great Western Resources. The bid received [was] for **\$100,851.10**.*

IV. Budget Impacts

The Project will be paid for with CSFIG funds. CSFIG funds must be spent on or before August 31, 2019.

*** PENDING CFO REVIEW AND APPROVAL

Exhibits (attachments):

- A. Great Western Revised Bid
- B. Great Western Original Bid
- C. RFP



Exhibit A

Revised Bid

(see following pages)



Great Western Recreation 975 S. Hwy 89-91
Logan, UT 84321 435-245-5055
www.gwpark.com

QUOTE
#99353

06/05/2019

Magnolia Science Academy 7 Surfacing and Sitework Option 2B

Magnolia Science Academy
 Attn: F. Metin
 18355 Roscoe Blvd.
 Northridge, CA 91325
 Phone: 818-806-0585
 fmetin@magnoliapublicschools.org

Project #: P69695
 Ship To Zip: 91325

ANNOTATIONS BY PATRICK ONTIVEROS

| | Quantity | Part # | Description | Unit Price | Amount |
|-------|----------|---------|--|-------------|-------------|
| [1] | 7570 | PIP | GT-Impax - Poured in Place Surfacing, Delivered and Installed - 7570 Total Sq Ft (2 pads adjacent to each other) 2,570 sf, 3.5" depth AND 5,000 sf, 3.5" depth Includes 50/50 Standard EPDM and Black - TBD Aromatic Binder, PREVAILING Wages Based on good job access and no design | \$11.55 | \$87,433.50 |
| [2] | 1 | INSTALL | Game Time - Site Prep, Area 1 - Remove and dispose of sand 2570 SFT at 19.5" deep Provide and install 4" aggregate base Remove and dispose of 150 ln ft of 2 course block perimeter wall | \$26,473.00 | \$26,473.00 |
| [3] | 1 | INSTALL | Game Time - Equipment Lowering, Area 1 | \$6,267.00 | \$6,267.00 |
| [4] | 1 | INSTALL | Game Time - Site Prep, Area 2 - Remove and dispose of 12" sand at 5000 SFT Provide and install 4" aggregate base Remove and dispose of 350 ft of 2 course block perimeter wall | \$33,089.00 | \$33,089.00 |
| [5] | 1 | INSTALL | Game Time - Equipment Lowering, Area 2 | \$10,123.00 | \$10,123.00 |

PO

Site:
 18355 Roscoe Blvd
 Northridge, CA 91325

SubTotal: \$163,385.50
Total Amount: \$163,385.50

Prevailing Wages

DIR# 1000015526 CSLB#855664

***Note: If you are issuing a P.O. or CONTRACT please make it payable to GameTime c/o Great Western. Checks should also be made payable to GameTime c/o Great Western**





Exhibit B

Original Bid

(see following pages)



Great Western Recreation
 975 S. Hwy 89-91
 Logan, UT 84321
 435-245-5055
 www.gwpark.com

QUOTE
#97992

03/19/2019

Magnolia Science Academy 7 Surfacing and Sitework Bid 2019 Option 1A

Magnolia Science Academy
 Attn: F. Metin
 18355 Roscoe Blvd.
 Northridge, CA 91325
 Phone: 818-806-0585
 fmetin@magnoliapublicschools.org

Project #: P69695
 Ship To Zip: 91325

| Quantity | Part # | Description | Unit Price | Amount |
|----------|---------|--|-------------|-------------|
| 2570 | PIP | GT-Impax - Poured in Place Surfacing, Delivered and Installed - 2,570 sf, 3.5" depth Includes 50/50 Standard EPDM and Black - TBD Aromatic Binder, PREVAILING Wages Based on good job access and no design | \$12.73 | \$32,716.10 |
| 1 | SS | GT-Impax - Site Security | \$530.00 | \$530.00 |
| 1 | INSTALL | Game Time - Site Prep, Area 1 - Remove and dispose of sand 2570 SFT at 19.5" deep Provide and install 4" aggregate base Remove and dispose of 150 ln ft of 2 course block perimeter wall | \$28,030.00 | \$28,030.00 |
| 1 | INSTALL | Game Time - Equipment Lowering, Area 1 | \$6,640.00 | \$6,640.00 |
| 1 | INSTALL | Game Time - Site Prep, Area 2 - Remove and dispose of 12" sand at 5000 SFT Provide and install 4" aggregate base Remove and dispose of 350 ft of 2 course block perimeter wall | \$35,040.00 | \$35,040.00 |
| 1 | INSTALL | Game Time - Equipment Lowering, Area 2 | \$10,720.00 | \$10,720.00 |

Site:
 18355 Roscoe Blvd
 Northridge, CA 91325

SubTotal: \$113,676.10
Total Amount: \$113,676.10

Prevailing Wages

DIR# 1000015526 CSLB#855664

***Note: If you are issuing a P.O. or CONTRACT please make it payable to GameTime C/O Great Western. Checks should also be made payable to GameTime C/O Great Western Recreation**





Exhibit C

RFP

(see following pages)



MAGNOLIA PUBLIC SCHOOLS

Request for Proposal to Provide
Playground Surface Installation Services for
Magnolia Science Academy 7

Due Date:

Monday, March 18, 2019

I. Overview & Background

Magnolia Education & Research Foundation doing-business as Magnolia Public Schools ("MPS") and headquartered in Los Angeles is a charter school management organization that operates Magnolia Science Academy 7 ("MSA 7"). MPS is seeking a contractor to design, permit and re-construct a playground on MSA 7's campus. The existing playground has two large areas filled with sand that MSA 7 would like to remove and replace with a rubber surface.

MPS expects to pay for the Services described in this RFP with a federal grant administered by the California School Finance Authority—the Charter School Facility Incentive Grant. **Therefore, all work must be prevailing wage.**

MPS is a network of 10 high-performing public charter schools that serves students in Los Angeles, Orange, and San Diego Counties. For more than a decade, MPS has delivered high quality education emphasizing science, technology, engineering and math. MPS is regularly recognized as having some of the top-performing-schools in the nation.

II. Scope of Services to be Provided

MSA-7, the subject of this Request for Proposal ("RFP"), is located at 18355 Roscoe Boulevard in the City of Northridge. See Exhibit A for location of the School which rents space at the location from a church. The existing playground has two large areas filled with sand (see Exhibit B). MSA 7 would like to remove the sand and replace it with a rubber surface, artificial turf, or another suitable material. Exhibit C shows some of the highest points of the playground equipment for planning purposes.

The scope of services covered by this RFP (the "Services") shall include the following:

- Determine the feasibility and constructability of the desired playground improvements.
- Design and submit drawings for permits, if needed, to LADBS
- Construct the improvements which shall include the following:
 - Remove existing sand and brick perimeter
 - Remove existing play structures
 - Install a new rubber play surface
 - Reinstall play structures

The MPS Board of Directors, upon recommendation by MPS management, will approve the selected firm (the "Provider") to provide the Services. Further, the Services will be provided under a contract approved by the MPS Board of Directors.

MPS will be responsible for the following tasks in order to facilitate the provision of the Services by the Provider.

- Arrange access to the School site.
- Provide any plans that exist.
- Provide such other support as shall be necessary to facilitate the completion of the Services

according to the desired completion date cited herein.

III. Timetable for Selecting a Provider

The proposed timetable for selecting a Provider to provide the requested Services and the provision of Services by said Provider is as follows:

| Date | Description |
|--|---|
| Wednesday, March 6, 2019 | Issue RFP |
| TBD on a case by case basis – Week of March 11, 2019 | MSA7 Site Visits for Interested Vendors |
| Monday, March 18, 2019 | Proposal Responses Due |
| Tuesday-Wednesday, March 19-21, 2019 | Selection of Service Provider |
| On or about March 28, 2019 | Recommendation and Board or Ad Hoc Committee Approval |
| Monday, April 15, 2019 | Commencement of Services |
| Sunday, April 21, 2019 | Completion of Services |

MPS understands that the commencement and duration of the work will be impacted by any permitting and inspections that may be required by the City of Los Angeles Department of Building and Safety.

If it is not feasible to complete the work during the time period set forth above (during a school break), the Work may be done commencing June 10, 2019.

IV. Questions and Submission

All questions regarding this RFP should be directed to the following person, preferably by e-mail, as shown below.

Mr. Patrick Ontiveros, Esq.
 General Counsel and Director of Facilities
 Magnolia Public Schools
 250 East 1st Street, Suite 1500 Los Angeles, CA 90012
pontiveros@magnoliapublicschools.org
 Office: (213) 628-3634 x103
 Mobile: (323) 490-0701

All proposals are due ***no later than 5:00 p.m. on Thursday, October 18, 2018*** and may be delivered either by email or in hard copy form to the person indicated above. Samples may be delivered to the above referenced address.

V. Proposal Format

Proposals may not exceed twelve (12) pages including any exhibits but excluding any surfacing samples. Proposals are to include the following content:

A. ***Vendor Qualifications and Experience.***

- (1) State the name, size of you firm, the size of the staff, the location of the office from which the work on this engagement is to be performed, and the number and nature of the professional staff to be employed in this engagement. If you are sole proprietor, please state this fact.
- (2) Provide a summary of the firm's experiences over the past five (5) years in providing directly relevant services.
- (3) Disclose relationships that have been terminated and the circumstances around such terminations.
- (4) Describe your experience with prevailing wage jobs and ability to meet the applicable rules and regulations governing prevailing wage jobs.

B. ***Qualifications and Experience of Key Personnel.***

- (1) Contractor's license and in good standing.
- (2) Identify the person that will be principally responsible for working with MPS and leading this engagement.

C. *References.* Provide three (3) references of clients for whom you have provided a similar scope of services over the past three (3) years. Please include full name, position, telephone number and email address and a description of the engagement.

D. *Insurance Requirements.* MPS will require that the Provider possess certificates of insurance evidencing required coverage and the minimums as indicated below. MPS will require that Provider procure and maintain for the duration of its engagement with MPS insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of work by the Provider, its agents, representatives or employees. It is required that broad coverage include the following:

- (1) Commercial General Liability on an occurrence basis for bodily injury and property damage including products completed operations, personal injury and advertising;
- (2) Automobile Liability for bodily injury and property damage;

- (3) Workers Compensation Insurance as required by the State of California with Statutory Limits, and Employer's Liability;
- (4) And, such other insurance as MPS may reasonably require.
- (5) Given the foregoing requirements, please provide a statement as to the willingness and ability of your firm to provide the required minimums.

E. Conflicts of Interest. Please disclose each of the following:

- (1) Any violations of federal, state or local regulations/laws within the past three (3) years regardless of how resolved;
- (2) All threatened, pending or current disputes (including litigations) and the status of said disputes;
- (3) Arrangements with other firms that may pose a potential conflict of interest to the MPS engagement; any arrangements that are likely to be made in order to deliver upon the MPS engagement; and
- (4) If none of the above apply, provide a statement to that effect.

F. Cost Proposal. Please present a cost proposal as a not to exceed amount based on the scope of the Services identified in this RFP and the site walk. Proposals should include **ALL** standard costs associated with providing the services described in the Scope of Work.

- (1) Include specifications for the new proposed play surface, including but not limited to any options to choose from and provide the pros and cons of each.
- (2) Proposals may include a compensation that includes the hourly rate for each individual who would be assigned to MPS, and a cost by category for all major activities.
- (3) Provide separate line items for material and labor. For labor, provide separate line items for the removal and disposal of the sand and the balance of the work.
- (4) Be clear as to any services that might be typically provided with an engagement such as the one outlined in this RFP and which may fall outside your cost proposal. If there are none, ensure that you make a statement to that effect.
- (5) Please provide an estimated overall cost for the Services based on the information provided in this RFP and the site-walk including taking into account the desired completion timeframe and the prevailing wage requirements set forth herein.
- (6) Provide a description of the warranty provided.

G. Form of Agreement. The successful responder will agree to enter into an agreement substantially similar to AIA Document A105™–2017 Standard Short Form of Agreement Between Owner and Contractor or another mutually agreeable contract form. Any objections to this form of agreement should be indicated in your response and an alternative agreement should be proposed.

H. Site Visit. MPS expects that interested contractors will visit the site on the dates set forth above to understand and define the exact scope of work.

VI. Evaluation of Proposals and Negotiations.

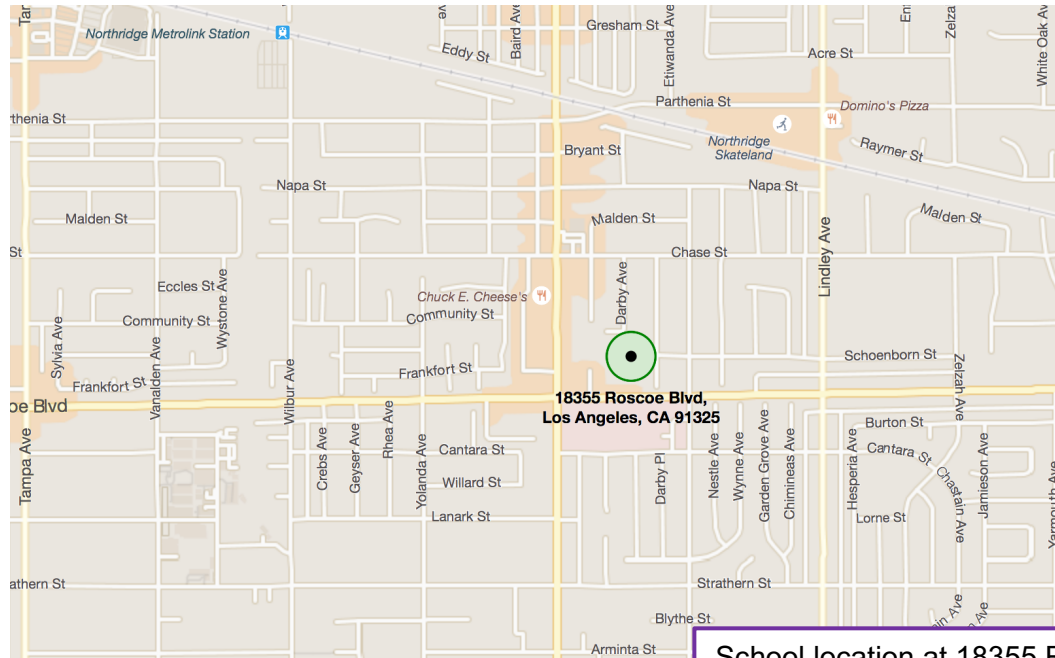
Overall responsiveness made within the response to this RFP are important factors in the overall evaluation process. MPS will select a firm that has the highest suitability for the work with MPS and the ability to meet the stated deadline for completion at a competitive price point.

VII. Award.

MPS reserves the right to reject any and all proposals; to waive any informality in the proposal process; and to accept the proposal that appears to be in its best interests. Further, MPS reserves the right to modify or issue amendments to this RFP and to cancel or reissue this RFP at any time.

End of Request for Proposal

EXHIBIT A MAP OF SCHOOL LOCATION



School location at 18355 Roscoe Blvd

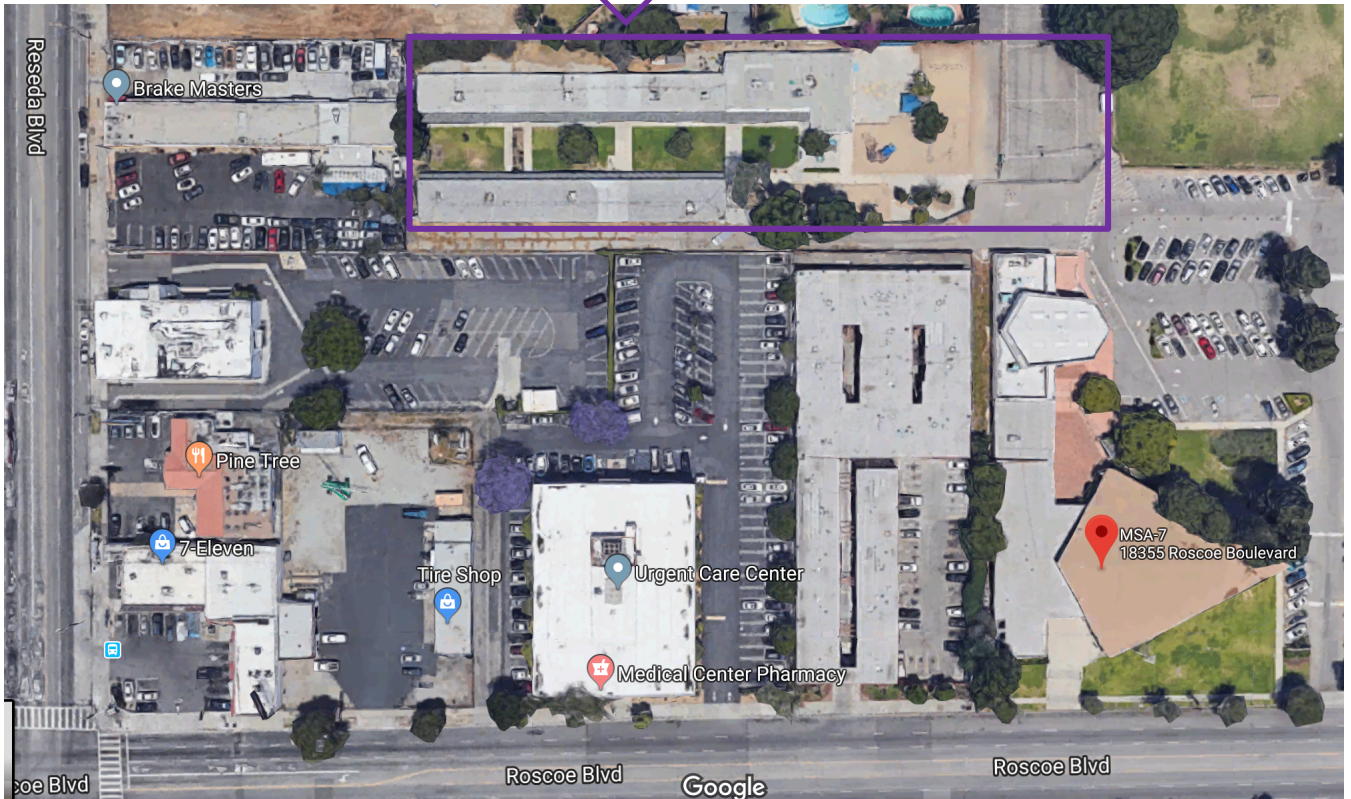


EXHIBIT B

Plan of Improvement



Exhibit C



Cover Sheet

Approval of Prop 39 Energy Upgrade Contracts for MSA-3, MSA-4, MSA-5, MSA-8

Section: II. AdHoc Committee- Action Items
Item: C. Approval of Prop 39 Energy Upgrade Contracts for MSA-3, MSA-4,
MSA-5, MSA-8
Purpose: Vote
Submitted by:
Related Material: II C Prop 39 Contracts.pdf



| | |
|---------------------------------|---|
| Ad Hoc Committee Agenda Item #: | II C- ACTION ITEM |
| Date: | June 13, 2019 |
| To: | Magnolia Educational & Research Foundation dba Magnolia Public Schools (" MPS ") Ad Hoc Committee (the " Committee ") |
| From: | Alfredo Rubalcava, CEO & Superintendent |
| Staff Lead: | Patrick Ontiveros, General Counsel & Director of Facilities |
| RE: | Prop 39 Energy Upgrade Contracts |

I. Proposed Recommendation(s)

Staff hereby recommends and moves that the Ad Hoc Committee approve the Prop 39 contracts listed below under Article III.

II. Prop 39 Background

A. Authorization

At an earlier Board Meeting, the Facilities Committee was designated by the MPS Board as an Ad Hoc Committee to review and approve Prop 39 energy grant contracts.

B. Prop 39 Energy Upgrades

MPS applied for and received grants for its schools under the Proposition 39 California Clean Energy Jobs Act ("Prop 39"), a state program providing funding to local educational agencies for improving energy efficiency and creating clean energy jobs. Under Prop 39, all MPS schools except for MSA-Santa Ana received funding. According to Prop 39 rules and regulations, Prop 39 projects must be under contract (aka encumbered) by June 30, 2019. Otherwise, such Prop 39 funds which have already been received must be returned to the State of California.

MPS signed an agreement with First Note Finance, inc. ("FNF") to manage MPS's Prop 39 projects. FNF performs site walks, issues RFPs and together with MPS Staff selects a contractor for each scope of work.



III. The Prop 39 Contracts

The proposed Agreements between MPS and the various vendors are substantially similar except for example the scope of work, vendor party to the contract, and contract price. The form of contract has been reviewed by MPS's general counsel and found to be acceptable. The contracts are listed below and attached as exhibits.

MPS Staff expects to hire someone familiar with labor compliance/prevaling wage requirements for Prop 39 and/or to engage a third party vendor to insure that all labor compliance/prevaling wage requirements are met. MPS shall only issue a notice to proceed once it is satisfied that all contracts are in order.

1. MSA 3

- HVAC – Contract with Highlands Diversified, Inc. dba Highlands Trade Partners. (\$190,260.59) [See Exhibit A]
- LED Lighting – Contract with ReGreen (\$40,737.94) [See Exhibit B]

2. MSA 4

- HVAC – Contract with Highlands Diversified, Inc. dba Highlands Trade Partners. (\$191,499.52) [See Exhibit C]
- LED Lighting – Contract with Fess Energy, Inc. (\$21,921.62) [See Exhibit D]

3. MSA 5

- LED Lighting – Contract with Fess Energy, Inc. (\$47,582.00) [See Exhibit E]

4. MSA 8

- HVAC - Contract with Mesa Energy Systems, Inc (\$26,040.00) [See Exhibit F]
- LED Lighting – Contract with Vector Energy Group (\$74,812.16) [See Exhibit G]

IV. Budget Impacts

All costs for the energy efficiency upgrades will be paid with Prop 39 funds previously received by MPS. In the event that LAUSD charges any fees for co-located schools for approving the upgrades, Staff will consult with the school site team and MPS finance to determine whether any such fees can be paid from the school's operating budget or whether the improvements must be downsized so that Prop 39 funds can be used to pay such fees and the project remains cost neutral.

*** REVIEWED AND APPROVED BY THE CFO***

Exhibits (attachments): See Article III. above



Exhibit A

*MSA-3 HVAC – Contract with Highlands Diversified, Inc. dba Highlands Trade Partners.
(\$190,260.59)*

AGREEMENT BETWEEN OWNER AND CONTRACTOR

A G R E E M E N T made as of the 4th day of June, 2019.

B E T W E E N the Owner: Magnolia Educational & Research Foundation dba
Magnolia Public Schools
17125 Victory Boulevard
Van Nuys, CA 91406

and the Contractor: Highlands Diversified, Inc. dba Highlands Trade
Partners 5114 E. Clinton Way #111
Fresno, CA 93727 Tel: (559) 455 – 1700 ext. 102

the Project is: Magnolia Science Academy 3
219 E Dimondale Dr.
Carson, CA 90746

The Owner and Contractor agree as follows.

ARTICLE 1 THE WORK OF THIS CONTRACT

This Agreement entered into as of the day and year first written above.

The Contractor shall fully execute the Work described in the Contract Documents, described as follows:

The Work is generally described as the construction work necessary to provide turnkey installation of eight (8) wall mounted packaged heat pump units, three (3) packaged AC units, and eleven (11) programmable thermostats. The heat pumps unit replacements must meet a minimum efficiency 11.0 EER and 14.0 IPLV and the replacement rooftop packaged AC units must be at least SEER-14. They will replace (11) existing units at the site. The project is to be implemented as soon as possible as determined by school client. The project includes development of all documentation required for permit from the local jurisdiction and a full one (1) year replacement labor warranty and warranty to commence upon startup of equipment. The contractor includes a one (1) year warranty period, dated from date of Substantial Completion and must meet requirements of the Los Angeles Unified School District.

A more detailed Scope of Work is provided by attaching a TASK ORDER (Exhibits “A”, “B”, and “C”) to this Contract, and the terms and conditions of the Task Order will take precedence

ARTICLE 2 RELATIONSHIP OF THE PARTIES

The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Owner and exercise the Contractor’s skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner’s interests. The Owner agrees to furnish and approve, in a timely manner, the information required by the Contractor to perform the Work and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The date of commencement of the Work shall be per a Notice to Proceed to be issued by the Owner.

3.2 The Contractor shall have a reasonable period of time to complete this Project, consistent with the timing of the information provided by the Owner concerning the scope of work to be performed.

ARTICLE 4 BASIS FOR PAYMENT

4.1 CONTRACT SUM

4.1.1 The Owner shall pay the Contractor the Cost of the Work for the scope of work as defined in the Scope and Work Schedule attached hereto as TASK ORDER Exhibit “A” and the Fixed Turnkey Price attached hereto under as TASK ORDER Exhibit “B” Price and Payment Terms.

ARTICLE 5

5.1 PROGRESS PAYMENTS

5.1.1 The Contractor shall, once every month, deliver to the Owner an application for payment (“Application for Payment”) setting forth the amount which the Contractor believes it is entitled to be paid for the current period. Such Application for Payment shall be supported by such data substantiating the Contractor’s right to payment as the Owner may reasonably require including, without limitation, copies of invoices from Subcontractors and material suppliers, receipts and vouchers, a Prevailing Wage Report using the standard California Department of Industrial Relations form, attached hereto as TASK ORDER Exhibit “C”, and a conditional release of lien upon progress payment and a Conditional Release upon Progress Payment. Upon payment, Contractor shall supply Owner with an Unconditional Release of Lien upon Progress Payment.

5.1.2 The Owner will review each Application for Payment, and will pay the amount due within thirty (30) days after Owner’s receipt of the Application for Payment.

5.1.3 The Contractor shall promptly pay each Subcontractor upon receipt of payment out of the amount paid to the Contractor on account of each Subcontractor’s Work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor’s Work.

5.1.4 The Contractor agrees to keep the Work on the site(s) on which Work is to be performed or materials to be furnished pursuant to the Contract Documents free and clear of all mechanic’s liens and claims of liens, provided that the Owner has paid the Contractor the amount due for the labor, services and materials which are the subject of the lien.

5.2 FINAL PAYMENT

5.2.1 Upon receipt of written notice from the Contractor that the Work is complete and ready for final inspection, all corrections made, all reports and there is no other unfinished Work, and upon receipt of a final Application for Payment, including all completed and signed Prevailing Wage Reports using the standard California Department of Industrial Relations form, attached hereto as TASK ORDER Exhibit “C”, the Owner will promptly make such inspection and, when it finds the Work acceptable and the Contract fully performed, the Owner will promptly approve final payment.

5.2.2 Final payment, constituting the unpaid balance of the Contract Sum, if any, (subject to any retention with respect to minor work or defective work) shall be due and payable thirty (30) days following the receipt of a final Application for Payment provided that as a condition to such payment the Owner has approved the Work, and Contractor has provided an Unconditional Release of Lien upon final payment for itself and all subcontractors or supplier.

5.2.3 If there should remain minor items to be completed, the Contractor and the Owner shall list such items and the Contractor shall deliver, in writing, its unconditional promise to complete said items within a reasonable time following substantial completion of the work. The Owner may retain an amount equal to one and one-half (1-1/2) times the cost to complete the minor work (“punch-list work”), as reasonably determined by Owner, until such time as the punch-list work is completed.

ARTICLE 6 THE CONTRACT DOCUMENTS

6.1 The Contract Documents consist of this Agreement Between Owner and Contractor, the bid set of Construction Documents, and the Contractor’s proposal attached as Exhibit “A”. The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Change Order. The Contract Documents shall not be construed to create a contractual relationship between the Owner and a Subcontractor or sub-subcontractor between any persons or entities other than the Owner and Contractor.

6.2 The term “Work” means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations. The Work may constitute the whole or a part of the Project.

ARTICLE 7 OWNER

7.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER

7.1.1 The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

7.1.2 The Contractor shall pay for the building permit and final inspection. Owner shall pay other permits, governmental fees and charges required for the construction, use or occupancy of permanent structures or permanent changes in existing facilities.

7.2 OWNER’S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, or persistently fails to carry out the Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order is eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

7.3 OWNER’S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or persistently fails or neglects to carry out the Work in accordance with the Contract Documents, or fails to perform a provision of the Contract, the Owner, after ten (10) days written notice to the Contractor and without prejudice to any other remedy the

Owner may have, may make good such deficiencies and may deduct the reasonable cost thereof, from the payment then or thereafter due the Contractor.

ARTICLE 8 CONTRACTOR

8.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters.

8.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors.

8.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

8.4 WARRANTY

8.4.1 The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation or normal wear and tear and normal usage.

8.4.2 Pursuant to the terms of this warranty, the Contractor shall promptly correct Work rejected by the Owner for failing to conform to the requirements of the Contract Documents if discovered within one year after the date of Substantial Completion of the Work, provided that the Owner gives the Contractor prompt written notice of the discovery of the condition. The Contractor shall correct it promptly after receipt of written notice from the Owner to do so.

8.5 CLEANING UP

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus material.

ARTICLE 9 CHANGES IN THE WORK

9.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly. Such changes in the Work shall be

authorized by written Change Order signed by the Owner and Contractor or by a written Construction Change Directive signed by the Owner.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- (1) employees on the Work and other persons who may be affected thereby;
- (2) the Work and materials and equipment to be incorporated therein; and
- (3) other property at the site or adjacent thereto.

The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, a Subcontractor, a sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible, except for damage or loss attributable to acts or omissions of the Owner, and not attributable to the fault or negligence of the Contractor.

10.2 PROTECTION OF STUDENTS – WORK DURING SCHOOL HOURS

10.2.1 Fingerprinting and Criminal Records Check of Contractor’s Employees.

Contractor shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees.

Contractor shall not permit any employee to have any contact with school pupils until such time as Contractor has verified in writing to the Owner that such employee has not been convicted of a felony, as defined in Education Code §45125.1.

ARTICLE 11 INSURANCE

11.1 CONTRACTOR’S LIABILITY INSURANCE

11.1.1 The Contractor shall purchase and maintain such insurance as will protect him from claims set forth below which may arise out of or result from the Contractor’s operations under the Contract, whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

Worker’s Compensation and Employer’s Liability Insurance with limits of not less than required by law.

Commercial General Liability Insurance, (Insurance Services Office, Form CG 00 01 or equivalent), including

- Personal Injury, including accidental death, with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate;
- Property Damage, including Broad Form Property Damage Coverage, with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate;
- Products Liability/Completed Operations Liability, with limits of not less than One Million Dollars (\$1,000,000) in the aggregate; and
- Automobile Liability - One million dollars (\$1,000,000) for bodily injury and property damage each accident limit.

Before commencing the Work, the Contractor shall furnish a) certificate, satisfactory to Owner, from each insurance company showing that the above insurance is in force, stating policy numbers, dates of expiration, and limit of liability thereunder and b) a certificate naming Owner as an additional insured on a combination of a ISO form CG 20 37 and an ISO CG 20 10 10/01 form or its approved equivalent.

ARTICLE 12 MISCELLANEOUS PROVISIONS

12.1 ASSIGNMENT OF CONTRACT

Neither party to the Contract shall assign the Contract without written consent of the other.

12.2 GOVERNING LAW

The Contract shall be governed by the laws of the State of California.

12.3 TESTS AND INSPECTIONS

Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority. The Owner shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures.

ARTICLE 13 INDEMNIFICATION

13.1 To the fullest extent permitted by law, Contractor agrees to indemnify, hold harmless and defend Owner and its Officers, Agents and Employees from and against any and all claims, losses, damages, liability including defects in the work arising out of the negligent acts, errors or omissions and/or breaches of this agreement except to the extent caused by the active or sole negligence, or willful misconduct of the Owner.

ARTICLE 14 DISPUTES

14.1 All disputes not settled by negotiation or mediation shall be resolved by resort to such rights and remedies as the parties each may have at law or in equity. Except to the extent that this AGREEMENT expressly permits a party to suspend performance, pending final resolution of a dispute, the parties shall each proceed diligently and faithfully with performance of their respective obligations under this AGREEMENT. CONTRACTOR acknowledges and agrees that, should a dispute proceed pursuant to this Section, the only issues that the CONTRACTOR may raise in such proceedings are those that were specifically included in its written claim submitted in accordance with this AGREEMENT, as applicable to the type of WORK. Failure to specifically describe an issue in the written claim within 10 days constitutes a waiver of that claim and shall preclude CONTRACTOR from raising such claim in any court or arbitration proceeding.

This Agreement entered into as of the day and year first written above.

Magnolia Educational & Research Foundation
dba Magnolia Public Schools

Highlands Trade Partners

President & CEO (Signature)

By: Alfredo Rubalcava
Its: Chief Executive Officer &
Superintendent

CONTRACTOR (Signature)

By: Leonel Alvarado
Its: President
861507
License Number

**Form of TASK ORDER
Exhibit A**

Scope of Work and Schedule

Facility: Magnolia Science Academy 3

Address: 219 E Dimondale Dr., Carson, CA 90746

Primary Contact for Site: Patrick Ontiveros, Tel: (213) 628-3634; Email: pontiveros@magnoliapublicschools.org

Project Manager Name and Contact Info:

James Richmond, First Note Finance *inc*; Cell: (303) 517-8640; Email: James@FirstNoteFinance.com

Amanda Kielian, First Note Finance *inc*; Cell: (650) 534-8102; Email: Amanda@FirstNoteFinance.com

Scope of Work Narrative:

The Work is generally described as the construction work necessary to provide turnkey installation of eight (8) wall mounted packaged heat pump units, three (3) packaged AC units, and eleven (11) programmable thermostats.

The heat pump unit replacements must meet a minimum efficiency 11.0 EER and 14.0 IPLV and the replacement rooftop packaged AC units must be at least SEER-14. All units include isolation curbs, sound attenuators, CO2 sensors, Bard guards, and IAQ Controllers. The contractor includes a one (1) year warranty period, dated from date of Substantial Completion and meets requirements of the Los Angeles Unified School District.

Additionally, the kWh savings in the CEC approved plan for this scope is 26,911 kWh/year. The energy savings of the project shall be within 15% of 26,911 kWh/year.

| | (8) 3.5 ton Wall Mounted Heat Pumps | (1) 7.5 ton Rooftop Packaged AC | (2) 5 ton Rooftop Packaged AC |
|--|--|--|--------------------------------------|
| Manufacturer | Marvair | Trane | Trane |
| Model Number | HVPSA42HP2 | YHC092F4ELA | YHC060F4ELA |
| Efficiency (EER and IPLV or SEER) | 11.0 EER and 14.0 IPLV | 14.50 SEER | 15.0 SEER |

Contract for HVAC Project – Highlands and MSA 3

6/4/19



Date: June 12, 2018

Magnolia Science Academy 3
1254 East Helmick Street
Carson, CA 90746-3164
Attention: Shandrea Daniel

Warrant: **Magnolia Science Charter Academy 3**
Project: **Prop 39 HVAC Replacement Project**
Address: **1254 East Helmick Street, Carson, CA 90746-3164**
Substantial Completion Date: **xx/xx/20xx**

We, Highlands Diversified, Inc. dba Highlands Trade Partners, do hereby warrant the performed scope of work in accordance with Contract Documents and the work provided to fulfill the requirements of the warranty.

We agree to repair or replace without any expense to the Owner, ordinary wear and tear and unusual abuse or neglect excepted, any or all our work that may prove to be defective in its workmanship, materials, or fail to conform to Contract requirements together with any other work that may be damaged or displaced by so doing within a period of one (1) year from date of Substantial Completion of the above-named Project, unless greater requirements are otherwise stipulated in the Contract Documents.

In the event of our failure to comply with the above-mentioned conditions within thirty (30) days after being notified in writing by the Owner, we collectively or separately do hereby authorize the Owner to proceed to have said defects repaired and made good at our expense and we will honor and pay costs and charges upon demand.

On behalf of Contractor:

On behalf of Owner:

Dated: _____

Dated: _____

By: _____

By: _____

Frank Kaiser
General Superintendent

Highlands Diversified, Inc.
dba Highlands Trade Partners • CSLB License #861507
5114 East Clinton Way, Ste. 111 • Fresno, CA 93727 • Phone (559) 455-1700 • Fax (559) 455-1711

The funding for this project and scope is dependent upon the availability of State Proposition 39 energy funding. The Prop-39 program requires that State funding be encumbered (that is, committed as evidenced by a signed contract) no later than June 30, 2019. If this Agreement is not executed by both parties by June 30, 2019, this Agreement will be null and void and of no further force or effect. Moreover, this Agreement is subject to the availability of public funding, and if the funding is subsequently determined to be unavailable, CONTRACTOR has no right to be compensated for equipment or supplies purchased, or for WORK performed under this Agreement. Therefore CONTRACTOR shall not purchase any equipment or supplies, or perform any WORK under this Agreement until a written, executed, NOTICE TO PROCEED is provided by Magnolia Science Academy. CONTRACTOR shall have no remedy at law or in equity as a consequence of having violated the foregoing provision. This Agreement will automatically terminate on March 15, 2020, if no NOTICE TO PROCEED is issued by Magnolia Science Academy.

CONTRACTOR will install the following equipment, and ensure that the SEER-14 minimum for rooftop packaged AC systems and 11.0 EER , IPLV 14.0 minimum for heat pumps are met and each system is validated with an ARI certificate.

Project Budget: \$190,260.59

The project budget includes all costs of all contractors, including mechanical, electrical, permits, materials, supplies, demolition... everything.

Product Cut Sheets:

A comprehensive set of project cut sheets will be submitted by CONTRACTOR. Please see link below for a comprehensive set of project cut sheets.

<https://www.dropbox.com/sh/xpnhhjdqtg3ozsr/AAAv5N3DE4vp4BBbT7K6Jx8a?dl=0>

Exhibit B**Price and Payment Terms**

Fixed Turnkey Price: \$190,260.59

(This is the fixed turnkey price to be paid to CONTRACTOR for its completion of the Work, including all products, parts, materials, labor, travel expenses, permits and overhead.)

Contingencies/Additional Services Budget: \$358.00

A contingency amount of \$358.00 to cover changes to cover unforeseen circumstances in the project.

School Budget for LAUSD District Review Process: \$5,000.00

The amount of \$5,000.00 will be reserved and paid by the school to LAUSD for their project approval review fees.

Payment Terms:

- One final invoice per the following Schedule of Values. Payment terms at net 15 days.
- Joint-party checks to ensure payment to equipment suppliers shall be indicated on Final Invoice. All material & equipment suppliers shall be identified, so joint-party checks can be issued.
- Unconditional Waiver and Release upon Final Payment (California Civil Code 8138) is required from all equipment suppliers and/or subcontractors for final payment.
- Unconditional Waiver and Release upon Final Payment (California Civil Code 8138) from the CONTRACTOR is required for final payment.

Schedule of Values:

| Project Milestone | % Completed | Amount |
|---|--------------------|---------------|
| Installation Complete, Warranty, & O&M Manual | 100% | \$190,260.59 |

Exhibit C

CA Department of Industrial Relations Prevailing Wage Reporting Form – PWC 100

This project is funded in whole or in part using Proposition 39 State funding. This statute prohibits sole sourcing of contractors and requires registration with DIR as well as compliance with applicable Prevailing Wage law.

Please use your existing DIR login or register at:

DIR PWC 100 Log-in Site: <https://www.dir.ca.gov/pwc100ext/LoginPage.aspx>



Exhibit B

MSA-3 LED Lighting – Contract with ReGreen (\$40,737.94)

AGREEMENT BETWEEN OWNER AND CONTRACTOR

A G R E E M E N T made as of the 4th day of June, 2019.

B E T W E E N the Owner:

Magnolia Educational & Research Foundation dba
Magnolia Public Schools
17125 Victory Boulevard
Van Nuys, CA 91406

and the Contractor:

Regreen Inc.
120 Standard Street
El Segundo, CA 90245
Tel: (310) 920-0747

the Project is:

Magnolia Science Academy 3
219 E Dimondale Dr.
Carson, CA 90746

The Owner and Contractor agree as follows.

ARTICLE 1 THE WORK OF THIS CONTRACT

This Agreement entered into as of the day and year first written above.

The Contractor shall fully execute the Work described in the Contract Documents, described as follows:

The Work is generally described as the construction work necessary to perform a comprehensive, turnkey, LED Lighting Retrofit for all lighting fixtures, both Interior and Exterior fixtures, including all equipment and materials, installation labor, any sensors and controls necessary for permit or regulatory compliance, permitting, securing rebates, customer acceptance, and warranty.

A more detailed Scope of Work is provided by attaching a TASK ORDER (Exhibits “A”, “B”, and “C”) to this Contract, and the terms and conditions of the Task Order will take precedence.

ARTICLE 2 RELATIONSHIP OF THE PARTIES

The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Owner and exercise the Contractor’s skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner’s interests. The Owner agrees to furnish and approve, in a timely manner, the information required by the Contractor to perform the Work and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The date of commencement of the Work shall be per a Notice to Proceed to be issued by the Owner.

3.2 The Contractor shall have a reasonable period of time to complete this Project, consistent with the timing of the information provided by the Owner concerning the scope of work to be performed.

ARTICLE 4 BASIS FOR PAYMENT

4.1 CONTRACT SUM

4.1.1 The Owner shall pay the Contractor the Cost of the Work for the scope of work as defined in the Scope and Work Schedule attached hereto as TASK ORDER Exhibit “A” and the Fixed Turnkey Price attached hereto under as TASK ORDER Exhibit “B” Price and Payment Terms.

ARTICLE 5

5.1 PROGRESS PAYMENTS

Contract for LED Lighting Retrofit Project – MSA 3 & Regreen**6/4/19**

5.1.1 The Contractor shall, once every month, deliver to the Owner an application for payment (“Application for Payment”) setting forth the amount which the Contractor believes it is entitled to be paid for the current period. Such Application for Payment shall be supported by such data substantiating the Contractor’s right to payment as the Owner may reasonably require including, without limitation, copies of invoices from Subcontractors and material suppliers, receipts and vouchers, a Prevailing Wage Report using the standard California Department of Industrial Relations form, attached hereto as TASK ORDER Exhibit “C”, and a conditional release of lien upon progress payment and a Conditional Release upon Progress Payment. Upon payment, Contractor shall supply Owner with an Unconditional Release of Lien upon Progress Payment.

5.1.2 The Owner will review each Application for Payment, and will pay the amount due within thirty (30) days after Owner’s receipt of the Application for Payment.

5.1.3 The Contractor shall promptly pay each Subcontractor upon receipt of payment out of the amount paid to the Contractor on account of each Subcontractor’s Work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor’s Work.

5.1.4 The Contractor agrees to keep the Work on the site(s) on which Work is to be performed or materials to be furnished pursuant to the Contract Documents free and clear of all mechanic’s liens and claims of liens, provided that the Owner has paid the Contractor the amount due for the labor, services and materials which are the subject of the lien.

5.2 FINAL PAYMENT

5.2.1 Upon receipt of written notice from the Contractor that the Work is complete and ready for final inspection, all corrections made, all reports and there is no other unfinished Work, and upon receipt of a final Application for Payment, including all completed and signed Prevailing Wage Reports using the standard California Department of Industrial Relations form, attached hereto as TASK ORDER Exhibit “C”, the Owner will promptly make such inspection and, when it finds the Work acceptable and the Contract fully performed, the Owner will promptly approve final payment.

5.2.2 Final payment, constituting the unpaid balance of the Contract Sum, if any, (subject to any retention with respect to minor work or defective work) shall be due and payable fifteen (15) days following the receipt of a final Application for Payment provided that as a condition to such payment the Owner has approved the Work, and Contractor has provided an Unconditional Release of Lien upon final payment for itself and all subcontractors or supplier.

5.2.3 If there should remain minor items to be completed, the Contractor and the Owner shall list such items and the Contractor shall deliver, in writing, its unconditional promise to complete said items within a reasonable time following substantial completion of the work. The Owner may retain an amount equal to one and one-half (1-1/2) times the cost to complete the minor work (“punch-list work”), as reasonably determined by Owner, until such time as the punch-list work is completed.

ARTICLE 6 THE CONTRACT DOCUMENTS

6.1 The Contract Documents consist of this Agreement Between Owner and Contractor, the bid set of Construction Documents, and the Contractor’s proposal attached as Exhibit “A”. The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Change Order. The Contract Documents shall not be construed to create a contractual relationship between the Owner and a Subcontractor or sub-subcontractor between any persons or entities other than the Owner and Contractor.

6.2 The term “Work” means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations. The Work may constitute the whole or a part of the Project.

ARTICLE 7 OWNER

7.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER

7.1.1 The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

7.1.2 The Owner shall pay for the building permit, other permits, governmental fees and charges required for the construction, use or occupancy of permanent structures or permanent changes in existing facilities.

7.2 OWNER’S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, or persistently fails to carry out the Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order is eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

7.3 OWNER’S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or persistently fails or neglects to carry out the Work in accordance with the Contract Documents, or fails to perform a provision of the Contract, the Owner, after ten (10) days written notice to the Contractor and without prejudice to any other remedy the Owner may have, may make good such deficiencies and may deduct the reasonable cost thereof, from the payment then or thereafter due the Contractor.

ARTICLE 8 CONTRACTOR

8.1 The Contractor shall supervise and direct the Work, using the Contractor’s best skill and attention. The Contractor shall be solely responsible for and have control over construction

means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters.

8.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors.

8.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

8.4 WARRANTY

8.4.1 The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation or normal wear and tear and normal usage.

8.4.2 Pursuant to the terms of this warranty, the Contractor shall promptly correct Work rejected by the Owner for failing to conform to the requirements of the Contract Documents if discovered within one year after the date of Substantial Completion of the Work, provided that the Owner gives the Contractor prompt written notice of the discovery of the condition. The Contractor shall correct it promptly after receipt of written notice from the Owner to do so.

8.5 CLEANING UP

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus material.

ARTICLE 9 CHANGES IN THE WORK

9.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly. Such changes in the Work shall be authorized by written Change Order signed by the Owner and Contractor or by a written Construction Change Directive signed by the Owner.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS

Contract for LED Lighting Retrofit Project – MSA 3 & Regreen**6/4/19**

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- (1) employees on the Work and other persons who may be affected thereby;
- (2) the Work and materials and equipment to be incorporated therein; and
- (3) other property at the site or adjacent thereto.

The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, a Subcontractor, a sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible, except for damage or loss attributable to acts or omissions of the Owner, and not attributable to the fault or negligence of the Contractor.

10.2 PROTECTION OF STUDENTS – WORK DURING SCHOOL HOURS**10.2.1 Fingerprinting and Criminal Records Check of Contractor’s Employees.**

Contractor shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees.

Contractor shall not permit any employee to have any contact with school pupils until such time as Contractor has verified in writing to the Owner that such employee has not been convicted of a felony, as defined in Education Code §45125.1.

ARTICLE 11 INSURANCE**11.1 CONTRACTOR’S LIABILITY INSURANCE**

11.1.1 The Contractor shall purchase and maintain such insurance as will protect him from claims set forth below which may arise out of or result from the Contractors operations under the Contract, whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for shows acts any of them may be liable:

Workers Compensation and Employers Liability Insurance with limits of not less than required by law.

Commercial General Liability Insurance, (Insurance Services Office, Form CG 00 01 or equivalent), including

Contract for LED Lighting Retrofit Project – MSA 3 & Regreen**6/4/19**

- Personal Injury, including accidental death, with limits of not less than One Million Dollar (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate;
- Property Damage, including Broad Form Property Damage Coverage, with limits of not less than One Million Dollars (\$1,000,00) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate;
- Products Liability/Completed Operations Liability, with limits of not less than One Million Dollars (\$1,000,000) in the aggregate; and
- Automobile Liability – One Million dollars (\$1,000,000) for bodily injury and property damage each accident limit.

Before commencing the Work, the Contractor shall furnish a) a certificate, satisfactory to Owner, from each insurance company showing that the above insurance is in force, stating policy numbers, dates of expiration, and limit of liability thereunder and b) a certificate naming Owner as an additional insured on a combination of a ISO form CG 20 37 and an ISO CG 20 10 10/01 form or its approved equivalent.

ARTICLE 12 MISCELLANEOUS PROVISIONS

12.1 ASSIGNMENT OF CONTRACT

Neither party to the Contract shall assign the Contract without written consent of the other.

12.2 GOVERNING LAW

The Contract shall be governed by the laws of the State of California.

12.3 TESTS AND INSPECTIONS

Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority. The Owner shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures.

ARTICLE 13 INDEMNIFICATION

13.1 To the fullest extent permitted by law, Contractor agrees to indemnify, hold harmless and defend Owner and its Officers, Agents and Employees from and against any and all claims, losses, damages, liability including defects in the work arising out of the negligent acts, errors or omissions and/or breaches of this agreement except to the extent caused by the active or sole negligence, or willful misconduct of the Owner.

ARTICLE 14 DISPUTES

14.1 All disputes not settled by negotiation or mediation shall be resolved by resort to such rights and remedies as the parties each may have at law or in equity. Except to the extent that this AGREEMENT expressly permits a party to suspend performance, pending final resolution of a dispute, the parties shall each proceed diligently and faithfully with performance of their respective obligations under this AGREEMENT. CONTRACTOR acknowledges and agrees that, should a dispute proceed pursuant to this Section, the only issues that the CONTRACTOR may raise in such proceedings are those that were specifically included in its written claim submitted in accordance with this AGREEMENT, as applicable to the type of WORK. Failure to specifically describe an issue in the written claim within 10 days constitutes a waiver of that claim and shall preclude CONTRACTOR from raising such claim in any court or arbitration proceeding.

This Agreement entered into as of the day and year first written above.

Magnolia Educational & Research
Foundation dba Magnolia Public Schools

Regreen

President & CEO (Signature)

CONTRACTOR (Signature)

By: Alfredo Rubalcava
Its: Chief Executive Officer &
Superintendent

By: Chad Clark
Its: President
License Number: 939440

**TASK ORDER
Exhibit A****Scope of Work and Schedule**

Facility: Magnolia Science Academy 3

Address: 219 E Dimondale Dr., Carson, CA 90746

Primary Contact for Site: Patrick Ontiveros, Tel: (213) 628-3634; Email: pontiveros@magnoliapublicschools.org

Project Manager Name and Contact Info:

James Richmond, First Note Finance *inc*; Cell: (303) 517-8640; Email: James@FirstNoteFinance.com

Amanda Kielian, First Note Finance *inc*; Cell: (650) 534-8102; Email: Amanda@FirstNoteFinance.com

Project Manager Name and Contact Info for CONTRACTOR:

Carly Moss, Tel: (469) 422-0676; Email: carly@regreencorp.com

Karina Branum, Tel: (213)378-1761; Email: karina@regreencorp.com

Scope of Work Narrative:

CONTRACTOR shall perform a comprehensive, turnkey, LED Lighting Retrofit for all lighting fixtures, both Interior and Exterior, including all equipment and materials, installation labor, 40 sensors and controls necessary for permit or regulatory compliance, permitting, securing rebates, customer acceptance, and warranty. CONTRACTOR shall perform its own site survey and provide Owner with a scope and price proposal prior to executing this contract. The site survey shall be of sufficient detail to capture in advance any potential change orders, including but not limited to emergency lighting, battery backups, product compatibility with compact fluorescent ballasts, occupancy sensor integration, and/or product voltage compatibility. The annual kWh energy savings of the CONTRACTOR proposed systems shall be within 15% of the calculated energy savings of 58,671 kWh in order to adhere to the CA Proposition 39 funding guidelines. For fluorescent tube fixture retrofits, the Owner's preference is a line-voltage LED replacement where the fluorescent ballasts are removed. CONTRACTOR shall prepare and submit rebate applications and assist Owner with collection of the rebates, even after the on-site work is complete and accepted.

All lighting materials and equipment shall follow the specifications required by LAUSD.

Contract for LED Lighting Retrofit Project – MSA 3 & Regreen**6/4/19**

The funding for this project and scope is dependent upon the availability of State Proposition 39 energy funding. The Prop-39 program requires that State funding be encumbered (that is, committed as evidenced by a signed contract) no later than June 30, 2019. If this Agreement is not executed by both parties by June 30, 2019, this Agreement will be null and void and of no further force or effect. Moreover, this Agreement is subject to the availability of public funding, and if the funding is subsequently determined to be unavailable, CONTRACTOR has no right to be compensated for equipment or supplies purchased, or for WORK performed under this Agreement. Therefore CONTRACTOR shall not purchase any equipment or supplies, or perform any WORK under this Agreement until a written, executed, NOTICE TO PROCEED is provided by Magnolia Science Academy. CONTRACTOR shall have no remedy at law or in equity as a consequence of having violated the foregoing provision. This Agreement will automatically terminate on March 15, 2020, if no NOTICE TO PROCEED is issued by Magnolia Science Academy.

Bill of Materials:

| Part Number | Qty |
|---------------------------------|------------|
| ESPEN L48T8/840/14G-ID | 372 |
| GREEN CREATIVE 9.5PLH/840/BYP | 9 |
| LUNERA SN-360-E39-L-8KLM-840-G3 | 34 |
| TCP L11A19D2541K | 4 |

Contract for LED Lighting Retrofit Project – MSA 3 & Regreen**6/4/19****Project Budget: \$40,737.94**

(The PROJECT MANAGER will provide a dollar amount which is the maximum project budget here. This is the maximum amount of project funding secured through the Proposition 39 application.)

Contingencies /Additional Services Budget: \$358.00

A contingency amount of \$358.00 to cover changes to cover unforeseen circumstances in the project.

School Budget for LAUSD District Review Process: \$5,000.00

The amount of \$5,000.00 will be reserved and paid by the school to LAUSD for their project approval review fees.

Tabular Listing of the Work to be Performed:

| | |
|--|--------------------|
| Interior: Fluorescent Tube Fixture Retrofit: | \$15,890.94 |
| Interior: LED Bulbs: | \$ 9,968.49 |
| Exterior: LED Retrofit: | \$ 1,573.16 |
| Interior: Lighting Occupancy Controls: | <u>\$13,305.33</u> |
| Total LED Retrofit: | \$40,737.94 |

Schedule: The LED lighting project is requested to be undertaken during after regular school hours or during the upcoming Summer Break 2019 as determined by school client.

Product Cut Sheets:

A comprehensive set of project cut sheets will be submitted by CONTRACTOR and included here by reference attachment.

The link name is: <https://www.dropbox.com/s/m4dkevtq35eo84b/MSA%203%20-%20Attachment%20A%20-%20Product%20Information.pdf?dl=0>

Exhibit B**Price and Payment Terms****Fixed Turnkey Price:** \$40,737.94

(This is the fixed turnkey price to be paid to CONTRACTOR for its completion of the Work, including all products, parts, materials, labor, travel expenses, permits and overhead. CONTRACTOR's price shall be in conformance with its bid that it submitted with the RFQ.)

Payment Terms:

- One final invoice per the following Schedule of Values. Payment terms at net 15 days.
- Joint-party checks to ensure payment to equipment suppliers shall be indicated on Final Invoice. All material & equipment suppliers shall be identified, so joint-party checks can be issued.
- Unconditional Waiver and Release upon Final Payment (California Civil Code 8138) is required from all equipment suppliers and/or subcontractors for final payment.
- Unconditional Waiver and Release upon Final Payment (California Civil Code 8138) from the CONTRACTOR is required for final payment.

Schedule of Values:

| Project Milestone | % Completed | Amount |
|---|--------------------|---------------|
| Installation Complete, Warranty, & O&M Manual | 100% | \$40,737.94 |

Contract for LED Lighting Retrofit Project – MSA 3 & Regreen

6/4/19

Bid Form & Schedule of Values for OPTION A – LINE VOLTAGE LED LAMP RETROFIT APPROACH
 Date: 7/12/2018 Company: ReGreen, Inc. Email: chad@regreencorp.com
 Name: Chad Clark Telephone: 310.920.0747

Magnolia Science Academy 3

| | | PRICE OF | | | | Schedule of Values (5) | Estimated Rebates (6) | Payer(s) of Rebates (7) |
|-----------------------------------|--|--|----------------------------|--------------------------------|-----------------------|------------------------|-----------------------|-------------------------|
| | | Interior Fluorescent Tube Fixture Retrofit (1) | Interior Bulb Retrofit (2) | Exterior Lighting Retrofit (3) | Occupancy Sensors (4) | | | |
| Option A | Line Voltage Lamp Retrofit Approach | | | | | | | |
| 1 | Magnolia Science Academy 3 Lighting Products | \$ 9,080.54 | \$ 5,696.28 | \$ 898.95 | \$ 7,983.20 | 60% | \$ - | SCE* |
| 2 | Magnolia Science Academy 3 Installation Labor, Lamp & Ballast Disposal | \$ 6,053.69 | \$ 3,797.52 | \$ 599.30 | \$ 4,789.92 | 36% | | |
| 3 | Magnolia Science Academy 3 Cost of Permits and Inspections | \$ 756.71 | \$ 474.69 | \$ 74.91 | \$ 532.21 | 4% | | |
| TOTAL TURNKEY FIXED PRICE: | | | | | | 100% | | |

Total: \$ 40,737.94
 *No rebate available on Line Voltage Lamp Retrofit with SCE

Please list the DLC product numbers for the lighting products included in the Option A – Line Voltage LED Lamp Retrofit Approach table above

| DLC Number | Product Description and Lamp or Fixture Lumens | Includes Integrated Area Controls or Occupancy Sensing? (Yes / No) | Includes Integrated Dimming Controls? (Yes / No) | Product Cut Sheet Provided with Bid? (Yes / No) | |
|------------|--|--|--|---|---|
| PCG3GEYZ | 4ft LED T8, 14W, 4000K, 1800 lm | No** | No** | Yes | **See attached proposal for control details |
| PD8TCCSH | LED HID Replacement, 53.55W, 4000K, 5070.58 lm | No** | No** | Yes | |
| | | | | | |
| | | | | | |

I, (name) Chad Clark, am qualified to make this bid-offer commitment on behalf of my company. The fixed, turnkey price provided is all-inclusive. I understand that this bid is provided to the client without expectation for compensation of any kind for the cost of preparing it, and that the Client (Magnolia Science Academy 3), or its designated Energy Manager (First Note Finance inc) may reject this bid if it is not responsive, complete or submitted after Thursday, July 12 2018, 4:00 PM.

Exhibit C

CA Department of Industrial Relations Prevailing Wage Reporting Form – PWC 100

This project is funded in whole or in part using Proposition 39 State funding. This statute prohibits sole sourcing of contractors and requires registration with DIR as well as compliance with applicable Prevailing Wage law.

Please use your existing DIR login or register at:

DIR PWC 100 Log-in Site: <https://www.dir.ca.gov/pwc100ext/LoginPage.aspx>



Exhibit C

*MSA-4 HVAC – Contract with Highlands Diversified, Inc. dba Highlands Trade Partners.
(\$191,499.52)*

AGREEMENT BETWEEN OWNER AND CONTRACTOR

A G R E E M E N T made as of the 5th day of June, 2019.

B E T W E E N the Owner:

Magnolia Educational & Research Foundation dba
Magnolia Public Schools
17125 Victory Boulevard
Van Nuys, CA 91406

and the Contractor:

Highlands Diversified, Inc. dba Highlands Trade
Partners 5114 E. Clinton Way #111
Fresno, CA 93727 Tel: (559) 455 – 1700 ext. 102

the Project is:

Magnolia Science Academy 4
11330 Graham Place
Los Angeles, CA 90064

The Owner and Contractor agree as follows.

Contract for HVAC Project – Highlands Trade Partners and Magnolia Science Academy 4 6/4/19

ARTICLE 1 THE WORK OF THIS CONTRACT

This Agreement entered into as of the day and year first written above.

The Contractor shall fully execute the Work described in the Contract Documents, described as follows:

The Work is generally described as the construction work necessary to provide turnkey installation of nine (9) Wall Mounted Heat Pump Systems and nine (9) programmable, networking, smart thermostats. These replacement units shall be 11.0 EER and 14.0 IPLV or better, and will replace (9) existing Wall Mounted Heat Pump units located on the portable classrooms. All units include isolation curbs, sound attenuators, CO2 sensors, Bard guards, and IAQ Controllers.

The project is to be implemented as soon as possible as determined by school client. The project includes development of all documentation required for permit from the local jurisdiction and a full one (1) year replacement labor warranty and warranty to commence upon startup of equipment. The contractor includes a one (1) year warranty period, dated from date of Substantial Completion and must meet requirements of the Los Angeles Unified School District.

A more detailed Scope of Work is provided by attaching a TASK ORDER (Exhibits “A”, “B”, and “C”) to this Contract, and the terms and conditions of the Task Order will take precedence

ARTICLE 2 RELATIONSHIP OF THE PARTIES

The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Owner and exercise the Contractor’s skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner’s interests. The Owner agrees to furnish and approve, in a timely manner, the information required by the Contractor to perform the Work and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The date of commencement of the Work shall be per a Notice to Proceed to be issued by the Owner.

3.2 The Contractor shall have a reasonable period of time to complete this Project, consistent with the timing of the information provided by the Owner concerning the scope of work to be performed.

ARTICLE 4 BASIS FOR PAYMENT

4.1 CONTRACT SUM

Contract for HVAC Project – Highlands Trade Partners and Magnolia Science Academy 4 6/4/19

4.1.1 The Owner shall pay the Contractor the Cost of the Work for the scope of work as defined in the Scope and Work Schedule attached hereto as TASK ORDER Exhibit “A” and the Fixed Turnkey Price attached hereto under as TASK ORDER Exhibit “B” Price and Payment Terms.

ARTICLE 5**5.1 PROGRESS PAYMENTS**

5.1.1 The Contractor shall, once every month, deliver to the Owner an application for payment (“Application for Payment”) setting forth the amount which the Contractor believes it is entitled to be paid for the current period. Such Application for Payment shall be supported by such data substantiating the Contractor’s right to payment as the Owner may reasonably require including, without limitation, copies of invoices from Subcontractors and material suppliers, receipts and vouchers, a Prevailing Wage Report using the standard California Department of Industrial Relations form, attached hereto as TASK ORDER Exhibit “C”, and a conditional release of lien upon progress payment and a Conditional Release upon Progress Payment. Upon payment, Contractor shall supply Owner with an Unconditional Release of Lien upon Progress Payment.

5.1.2 The Owner will review each Application for Payment, and will pay the amount due within thirty (30) days after Owner’s receipt of the Application for Payment.

5.1.3 The Contractor shall promptly pay each Subcontractor upon receipt of payment out of the amount paid to the Contractor on account of each Subcontractor’s Work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor’s Work.

5.1.4 The Contractor agrees to keep the Work on the site(s) on which Work is to be performed or materials to be furnished pursuant to the Contract Documents free and clear of all mechanic’s liens and claims of liens, provided that the Owner has paid the Contractor the amount due for the labor, services and materials which are the subject of the lien.

5.2 FINAL PAYMENT

5.2.1 Upon receipt of written notice from the Contractor that the Work is complete and ready for final inspection, all corrections made, all reports and there is no other unfinished Work, and upon receipt of a final Application for Payment, including all completed and signed Prevailing Wage Reports using the standard California Department of Industrial Relations form, attached hereto as TASK ORDER Exhibit “C”, the Owner will promptly make such inspection and, when it finds the Work acceptable and the Contract fully performed, the Owner will promptly approve final payment.

5.2.2 Final payment, constituting the unpaid balance of the Contract Sum, if any, (subject to any retention with respect to minor work or defective work) shall be due and payable thirty (30) days following the receipt of a final Application for Payment provided that as a condition to such payment the Owner has approved the Work, and Contractor has provided an Unconditional Release of Lien upon final payment for itself and all subcontractors or supplier.

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5.2.3 If there should remain minor items to be completed, the Contractor and the Owner shall list such items and the Contractor shall deliver, in writing, its unconditional promise to complete said items within a reasonable time following substantial completion of the work. The Owner may retain an amount equal to one and one-half (1-1/2) times the cost to complete the minor work (“punch-list work”), as reasonably determined by Owner, until such time as the punch-list work is completed.

ARTICLE 6 THE CONTRACT DOCUMENTS

6.1 The Contract Documents consist of this Agreement Between Owner and Contractor, the bid set of Construction Documents, and the Contractor’s proposal attached as Exhibit “A”. The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Change Order. The Contract Documents shall not be construed to create a contractual relationship between the Owner and a Subcontractor or sub-subcontractor between any persons or entities other than the Owner and Contractor.

6.2 The term “Work” means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations. The Work may constitute the whole or a part of the Project.

ARTICLE 7 OWNER**7.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER**

7.1.1 The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

7.1.2 The Contractor shall pay for the building permit and final inspection. Owner shall pay other permits, governmental fees and charges required for the construction, use or occupancy of permanent structures or permanent changes in existing facilities.

7.2 OWNER’S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, or persistently fails to carry out the Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order is eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

7.3 OWNER’S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or persistently fails or neglects to carry out the Work in accordance with the Contract Documents, or fails to perform a provision of the Contract, the Owner, after ten (10) days written notice to the Contractor and without prejudice to any other remedy the

Contract for HVAC Project – Highlands Trade Partners and Magnolia Science Academy 4 6/4/19

Owner may have, may make good such deficiencies and may deduct the reasonable cost thereof, from the payment then or thereafter due the Contractor.

ARTICLE 8 CONTRACTOR

8.1 The Contractor shall supervise and direct the Work, using the Contractor’s best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters.

8.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor’s employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors.

8.3 The Contractor shall enforce strict discipline and good order among the Contractor’s employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

8.4 WARRANTY

8.4.1 The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. The Contractor’s warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation or normal wear and tear and normal usage.

8.4.2 Pursuant to the terms of this warranty, the Contractor shall promptly correct Work rejected by the Owner for failing to conform to the requirements of the Contract Documents if discovered within one year after the date of Substantial Completion of the Work, provided that the Owner gives the Contractor prompt written notice of the discovery of the condition. The Contractor shall correct it promptly after receipt of written notice from the Owner to do so.

8.5 CLEANING UP

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor’s tools, construction equipment, machinery and surplus material.

ARTICLE 9 CHANGES IN THE WORK

9.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly. Such changes in the Work shall be

Contract for HVAC Project – Highlands Trade Partners and Magnolia Science Academy 4 6/4/19

authorized by written Change Order signed by the Owner and Contractor or by a written Construction Change Directive signed by the Owner.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- (1) employees on the Work and other persons who may be affected thereby;
- (2) the Work and materials and equipment to be incorporated therein; and
- (3) other property at the site or adjacent thereto.

The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, a Subcontractor, a sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible, except for damage or loss attributable to acts or omissions of the Owner, and not attributable to the fault or negligence of the Contractor.

10.2 PROTECTION OF STUDENTS – WORK DURING SCHOOL HOURS

10.2.1 Fingerprinting and Criminal Records Check of Contractor’s Employees.

Contractor shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees.

Contractor shall not permit any employee to have any contact with school pupils until such time as Contractor has verified in writing to the Owner that such employee has not been convicted of a felony, as defined in Education Code §45125.1.

ARTICLE 11 INSURANCE

11.1 CONTRACTOR’S LIABILITY INSURANCE

11.1.1 The Contractor shall purchase and maintain such insurance as will protect him from claims set forth below which may arise out of or result from the Contractor’s operations under the Contract, whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

Contract for HVAC Project – Highlands Trade Partners and Magnolia Science Academy 4 6/4/19

Worker’s Compensation and Employer’s Liability Insurance with limits of not less than required by law.

Commercial General Liability Insurance, (Insurance Services Office, Form CG 00 01 or equivalent), including

- Personal Injury, including accidental death, with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate;
- Property Damage, including Broad Form Property Damage Coverage, with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate;
- Products Liability/Completed Operations Liability, with limits of not less than One Million Dollars (\$1,000,000) in the aggregate; and
- Automobile Liability - One million dollars (\$1,000,000) for bodily injury and property damage each accident limit.

Before commencing the Work, the Contractor shall furnish a) certificate, satisfactory to Owner, from each insurance company showing that the above insurance is in force, stating policy numbers, dates of expiration, and limit of liability thereunder and b) a certificate naming Owner as an additional insured on a combination of a ISO form CG 20 37 and an ISO CG 20 10 10/01 form or its approved equivalent.

ARTICLE 12 MISCELLANEOUS PROVISIONS

12.1 ASSIGNMENT OF CONTRACT

Neither party to the Contract shall assign the Contract without written consent of the other.

12.2 GOVERNING LAW

The Contract shall be governed by the laws of the State of California.

Contract for HVAC Project – Highlands Trade Partners and Magnolia Science Academy 4 6/4/19

12.3 TESTS AND INSPECTIONS

Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority. The Owner shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures.

ARTICLE 13 INDEMNIFICATION

13.1 To the fullest extent permitted by law, Contractor agrees to indemnify, hold harmless and defend Owner and its Officers, Agents and Employees from and against any and all claims, losses, damages, liability including defects in the work arising out of the negligent acts, errors or omissions and/or breaches of this agreement except to the extent caused by the active or sole negligence, or willful misconduct of the Owner.

ARTICLE 14 DISPUTES

14.1 All disputes not settled by negotiation or mediation shall be resolved by resort to such rights and remedies as the parties each may have at law or in equity. Except to the extent that this AGREEMENT expressly permits a party to suspend performance, pending final resolution of a dispute, the parties shall each proceed diligently and faithfully with performance of their respective obligations under this AGREEMENT. CONTRACTOR acknowledges and agrees that, should a dispute proceed pursuant to this Section, the only issues that the CONTRACTOR may raise in such proceedings are those that were specifically included in its written claim submitted in accordance with this AGREEMENT, as applicable to the type of WORK. Failure to specifically describe an issue in the written claim within 10 days constitutes a waiver of that claim and shall preclude CONTRACTOR from raising such claim in any court or arbitration proceeding.

This Agreement entered into as of the day and year first written above.

Magnolia Educational & Research
Foundation dba Magnolia Public Schools

Highlands Trade Partners

President & CEO (Signature)

CONTRACTOR (Signature)

By: Alfredo Rubalcava
Its: Chief Executive Officer &
Superintendent

By: Leonel Alvarado
Its: President
861507
License Number

Contract for HVAC Project – Highlands Trade Partners and Magnolia Science Academy 4 6/4/19

**Form of TASK ORDER
Exhibit A**

Scope of Work and Schedule

Facility: Magnolia Science Academy 4

Address: 11330 Graham Place, Los Angeles, CA 90064

Primary Contact for Site: Patrick Ontiveros, Tel: (213) 628-3634; Email:
pontiveros@magnoliapublicschools.org

Project Manager Name and Contact Info:

James Richmond, First Note Finance *inc*; Cell: (303) 517-8640; Email:
James@FirstNoteFinance.com

Amanda Kielian, First Note Finance *inc*; Cell: (650) 534-8102; Email:
Amanda@FirstNoteFinance.com

Project Manager Name and Contact Info for CONTRACTOR:

Frank Kaiser, Highlands Trade Partners, Cell: (559) 978-3876; Email:
fkaiser@highlandstraes.com

Contract for HVAC Project – Highlands Trade Partners and Magnolia Science Academy 4 6/4/19

Scope of Work Narrative:

This project includes the turnkey (Design-Build) Engineering, Design, Electrical, permitting, Installation, and Commissioning Support of nine (9) Bard Wall Mounted Heat Pumps and nine (9) Bard programmable, networking, smart thermostats.

The unit replacements must meet a minimum efficiency 11.0 EER and 14.0 IPLV. All units include isolation curbs, sound attenuators, CO2 sensors, Bard guards, and IAQ Controllers. The contractor includes a one (1) year warranty period, dated from date of Substantial Completion and meets requirements of the Los Angeles Unified School District.

Additionally, the kWh savings in the CEC approved plan for this scope is 24,527 kWh/year. The energy savings of the project shall be within 15% of 24,527 kWh/year.

| (9) 3.5 ton Wall Mounted Heat Pumps | |
|--|------------------------|
| Manufacturer | Bard |
| Model Number | C42H1-A0ZVP4XXX |
| Efficiency (EER and IPLV) | 11.0 EER and 14.7 IPLV |

The funding for this project and scope is dependent upon the availability of State Proposition 39 energy funding. The Prop-39 program requires that State funding be encumbered (that is, committed as evidenced by a signed contract) no later than June 30, 2019. If this Agreement is not executed by both parties by June 30, 2019, this Agreement will be null and void and of no further force or effect. Moreover, this Agreement is subject to the availability of public funding, and if the funding is subsequently determined to be unavailable, CONTRACTOR has no right to be compensated for equipment or supplies purchased, or for WORK performed under this Agreement. Therefore CONTRACTOR shall not purchase any equipment or supplies, or perform any WORK under this Agreement until a written, executed, NOTICE TO PROCEED is provided by Magnolia Science Academy. CONTRACTOR shall have no remedy at law or in equity as a consequence of having violated the foregoing provision. This Agreement will automatically terminate on March 15, 2020, if no NOTICE TO PROCEED is issued by Magnolia Science Academy.

Contract for HVAC Project – Highlands Trade Partners and Magnolia Science Academy 4 6/4/19

CONTRACTOR will install the following equipment, and ensure that 11.0 EER and 14.7 IPLV specification for each system is validated with an ARI certificate.

Project Budget: \$ 191,499.52

The project budget includes all costs of all contractors, including mechanical, electrical, permits, materials, supplies, demolition... everything.

Product Cut Sheets:

A comprehensive set of project cut sheets will be submitted by CONTRACTOR. Please see link below for a comprehensive set of project cut sheets.

https://www.dropbox.com/s/0tu5oq2pt3crr80/Build-A-Bard%20LAUSD-%20MSA_4%20Submittal.pdf?dl=0

Contract for HVAC Project – Highlands Trade Partners and Magnolia Science Academy 4 6/4/19

Exhibit B

Price and Payment Terms

Fixed Turnkey Price: \$191,499.52

(This is the fixed turnkey price to be paid to CONTRACTOR for its completion of the Work, including all products, parts, materials, labor, travel expenses, permits and overhead.)

Contingencies/Additional Services Budget: \$3,207.00

A contingency amount of \$3,207.00 to cover changes to cover unforeseen circumstances in the project.

School Budget for LAUSD District Review Process: \$5,000.00

The amount of \$5,000.00 will be paid by the school to LAUSD for their project approval review fees.

Payment Terms:

- One final invoice per the following Schedule of Values. Payment terms at net 15 days.
- Joint-party checks to ensure payment to equipment suppliers shall be indicated on Final Invoice. All material & equipment suppliers shall be identified, so joint-party checks can be issued.
- Unconditional Waiver and Release upon Final Payment (California Civil Code 8138) is required from all equipment suppliers and/or subcontractors for final payment.
- Unconditional Waiver and Release upon Final Payment (California Civil Code 8138) from the CONTRACTOR is required for final payment.

Schedule of Values:

| Project Milestone | % Completed | Amount |
|---|-------------|--------------|
| Installation Complete, Warranty, & O&M Manual | 100% | \$191,499.52 |

Contract for HVAC Project – Highlands Trade Partners and Magnolia Science Academy 4 6/4/19

Exhibit C

CA Department of Industrial Relations Prevailing Wage Reporting Form – PWC 100

This project is funded in whole or in part using Proposition 39 State funding. This statute prohibits sole sourcing of contractors and requires registration with DIR as well as compliance with applicable Prevailing Wage law.

Please use your existing DIR login or register at:

DIR PWC 100 Log-in Site: <https://www.dir.ca.gov/pwc100ext/LoginPage.aspx>



Exhibit D

MSA-4 LED Lighting – Contract with Fess Energy, Inc. (\$21,921.62)

AGREEMENT BETWEEN OWNER AND CONTRACTOR

A G R E E M E N T made as of the 5th day of June, 2019.

B E T W E E N the Owner: Magnolia Educational & Research Foundation dba
Magnolia Public Schools
17125 Victory Boulevard
Van Nuys, CA 91406

and the Contractor: FESS Energy, Inc.
527 S. Lake Avenue
Pasadena, CA 91101
Tel: (626) 308-3000
Fax: (626) 689-6265
jcrossman@financialenergy.com

the Project is: Magnolia Science Academy 4
11330 Graham Place
Los Angeles, CA 90064

The Owner and Contractor agree as follows.

ARTICLE 1 THE WORK OF THIS CONTRACT

This Agreement entered into as of the day and year first written above.

The Contractor shall fully execute the Work described in the Contract Documents, described as follows:

The Work is generally described as the construction work necessary to perform a comprehensive, turnkey, LED Lighting Retrofit for all lighting fixtures, both Interior and Exterior fixtures, including all equipment and materials, installation labor, any sensors and controls necessary for permit or regulatory compliance, permitting, securing rebates, customer acceptance, and warranty.

A more detailed Scope of Work is provided by attaching a TASK ORDER (Exhibits “A”, “B”, and “C”) to this Contract, and the terms and conditions of the Task Order will take precedence.

ARTICLE 2 RELATIONSHIP OF THE PARTIES

The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Owner and exercise the Contractor’s skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner’s interests. The Owner agrees to furnish and approve, in a timely manner, the information required by the Contractor to perform the Work and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The date of commencement of the Work shall be per a Notice to Proceed to be issued by the Owner.

3.2 The Contractor shall have a reasonable period of time to complete this Project, consistent with the timing of the information provided by the Owner concerning the scope of work to be performed.

ARTICLE 4 BASIS FOR PAYMENT

4.1 CONTRACT SUM

4.1.1 The Owner shall pay the Contractor the Cost of the Work for the scope of work as defined in the Scope and Work Schedule attached hereto as TASK ORDER Exhibit “A” and the Fixed Turnkey Price attached hereto under as TASK ORDER Exhibit “B” Price and Payment Terms.

ARTICLE 5

5.1 PROGRESS PAYMENTS

5.1.1 The Contractor shall, once every month, deliver to the Owner an application for payment (“Application for Payment”) setting forth the amount which the Contractor believes it is entitled to be paid for the current period. Such Application for Payment shall be supported by such data substantiating the Contractor’s right to payment as the Owner may reasonably require including, without limitation, copies of invoices from Subcontractors and material suppliers, receipts and vouchers, a Prevailing Wage Report using the standard California Department of Industrial Relations form, attached hereto as TASK ORDER Exhibit “C”, and a conditional release of lien upon progress payment and a Conditional Release upon Progress Payment. Upon payment, Contractor shall supply Owner with an Unconditional Release of Lien upon Progress Payment.

5.1.2 The Owner will review each Application for Payment, and will pay the amount due within thirty (30) days after Owner’s receipt of the Application for Payment.

5.1.3 The Contractor shall promptly pay each Subcontractor upon receipt of payment out of the amount paid to the Contractor on account of each Subcontractor’s Work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor’s Work.

5.1.4 The Contractor agrees to keep the Work on the site(s) on which Work is to be performed or materials to be furnished pursuant to the Contract Documents free and clear of all mechanic’s liens and claims of liens, provided that the Owner has paid the Contractor the amount due for the labor, services and materials which are the subject of the lien.

5.2 FINAL PAYMENT

5.2.1 Upon receipt of written notice from the Contractor that the Work is complete and ready for final inspection, all corrections made, all reports and there is no other unfinished Work, and upon receipt of a final Application for Payment, including all completed and signed Prevailing Wage Reports using the standard California Department of Industrial Relations form, attached hereto as TASK ORDER Exhibit “C”, the Owner will promptly make such inspection and, when it finds the Work acceptable and the Contract fully performed, the Owner will promptly approve final payment.

5.2.2 Final payment, constituting the unpaid balance of the Contract Sum, if any, (subject to any retention with respect to minor work or defective work) shall be due and payable fifteen (15) days following the receipt of a final Application for Payment provided that as a condition to such payment the Owner has approved the Work, and Contractor has provided an Unconditional Release of Lien upon final payment for itself and all subcontractors or supplier.

5.2.3 If there should remain minor items to be completed, the Contractor and the Owner shall list such items and the Contractor shall deliver, in writing, its unconditional promise to complete said items within a reasonable time following substantial completion of the work. The Owner may retain an amount equal to one and one-half (1-1/2) times the cost to complete the minor work (“punch-list work”), as reasonably determined by Owner, until such time as the punch-list work is completed.

ARTICLE 6 THE CONTRACT DOCUMENTS

6.1 The Contract Documents consist of this Agreement Between Owner and Contractor, the bid set of Construction Documents, and the Contractor’s proposal attached as Exhibit “A”. The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Change Order. The Contract Documents shall not be construed to create a contractual relationship between the Owner and a Subcontractor or sub-subcontractor between any persons or entities other than the Owner and Contractor.

6.2 The term “Work” means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations. The Work may constitute the whole or a part of the Project.

ARTICLE 7 OWNER

7.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER

7.1.1 The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

7.1.2 The Owner shall pay for the building permit, other permits, governmental fees and charges required for the construction, use or occupancy of permanent structures or permanent changes in existing facilities.

7.2 OWNER’S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, or persistently fails to carry out the Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order is eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

7.3 OWNER’S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or persistently fails or neglects to carry out the Work in accordance with the Contract Documents, or fails to perform a provision of the Contract, the Owner, after ten (10) days written notice to the Contractor and without prejudice to any other remedy the Owner may have, may make good such deficiencies and may deduct the reasonable cost thereof, from the payment then or thereafter due the Contractor.

ARTICLE 8 CONTRACTOR

8.1 The Contractor shall supervise and direct the Work, using the Contractor’s best skill and attention. The Contractor shall be solely responsible for and have control over construction

means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters.

8.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors.

8.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

8.4 WARRANTY

8.4.1 The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation or normal wear and tear and normal usage.

8.4.2 Pursuant to the terms of this warranty, the Contractor shall promptly correct Work rejected by the Owner for failing to conform to the requirements of the Contract Documents if discovered within one year after the date of Substantial Completion of the Work, provided that the Owner gives the Contractor prompt written notice of the discovery of the condition. The Contractor shall correct it promptly after receipt of written notice from the Owner to do so.

8.5 CLEANING UP

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus material.

ARTICLE 9 CHANGES IN THE WORK

9.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly. Such changes in the Work shall be authorized by written Change Order signed by the Owner and Contractor or by a written Construction Change Directive signed by the Owner.

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10.1 SAFETY PRECAUTIONS AND PROGRAMS

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- (1) employees on the Work and other persons who may be affected thereby;
- (2) the Work and materials and equipment to be incorporated therein; and
- (3) other property at the site or adjacent thereto.

The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, a Subcontractor, a sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible, except for damage or loss attributable to acts or omissions of the Owner, and not attributable to the fault or negligence of the Contractor.

10.2 PROTECTION OF STUDENTS – WORK DURING SCHOOL HOURS

10.2.1 Fingerprinting and Criminal Records Check of Contractor’s Employees.

Contractor shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees.

Contractor shall not permit any employee to have any contact with school pupils until such time as Contractor has verified in writing to the Owner that such employee has not been convicted of a felony, as defined in Education Code §45125.1.

ARTICLE 11 INSURANCE

11.1 CONTRACTOR’S LIABILITY INSURANCE

11.1.1 The Contractor shall purchase and maintain such insurance as will protect him from claims set forth below which may arise out of or result from the Contractors operations under the Contract, whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for shows acts any of them may be liable:

Workers Compensation and Employers Liability Insurance with limits of not less than required by law.

Commercial General Liability Insurance, (Insurance Services Office, Form CG 00 01 or equivalent), including

- Personal Injury, including accidental death, with limits of not less than One Million Dollar (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate;
- Property Damage, including Broad Form Property Damage Coverage, with limits of not less than One Million Dollars (\$1,000,00) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate;
- Products Liability/Completed Operations Liability, with limits of not less than One Million Dollars (\$1,000,000) in the aggregate; and
- Automobile Liability – One Million dollars (\$1,000,000) for bodily injury and property damage each accident limit.

Before commencing the Work, the Contractor shall furnish a) a certificate, satisfactory to Owner, from each insurance company showing that the above insurance is in force, stating policy numbers, dates of expiration, and limit of liability thereunder and b) a certificate naming Owner as an additional insured on a combination of a ISO form CG 20 37 and an ISO CG 20 10 10/01 form or its approved equivalent.

ARTICLE 12 MISCELLANEOUS PROVISIONS

12.1 ASSIGNMENT OF CONTRACT

Neither party to the Contract shall assign the Contract without written consent of the other.

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The Contract shall be governed by the laws of the State of California.

12.3 TESTS AND INSPECTIONS

Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority. The Owner shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures.

ARTICLE 13 INDEMNIFICATION

13.1 To the fullest extent permitted by law, Contractor agrees to indemnify, hold harmless and defend Owner and its Officers, Agents and Employees from and against any and all claims, losses, damages, liability including defects in the work arising out of the negligent acts, errors or omissions and/or breaches of this agreement except to the extent caused by the active or sole negligence, or willful misconduct of the Owner.

ARTICLE 14 DISPUTES

14.1 All disputes not settled by negotiation or mediation shall be resolved by resort to such rights and remedies as the parties each may have at law or in equity. Except to the extent that this AGREEMENT expressly permits a party to suspend performance, pending final resolution of a dispute, the parties shall each proceed diligently and faithfully with performance of their respective obligations under this AGREEMENT. CONTRACTOR acknowledges and agrees that, should a dispute proceed pursuant to this Section, the only issues that the CONTRACTOR may raise in such proceedings are those that were specifically included in its written claim submitted in accordance with this AGREEMENT, as applicable to the type of WORK. Failure to specifically describe an issue in the written claim within 10 days constitutes a waiver of that claim and shall preclude CONTRACTOR from raising such claim in any court or arbitration proceeding.

This Agreement entered into as of the day and year first written above.

Magnolia Educational & Research
Foundation dba Magnolia Public Schools

FESS Energy, Inc.

President & CEO (Signature)

CONTRACTOR (Signature)

By: Alfredo Rubalcava
Its: Chief Executive Officer &
Superintendent

By: James Crossman
Its: President
License Number: C10-958711

**TASK ORDER
Exhibit A****Scope of Work and Schedule**

Facility: Magnolia Science Academy 4

Address: 11330 Graham Place, Los Angeles, CA 90064

Primary Contact for Site: Patrick Ontiveros, Tel: (213) 628-3634; Email: pontiveros@magnoliapublicschools.org

Project Manager Name and Contact Info:

James Richmond, First Note Finance *inc*; Cell: (303) 517-8640; Email: James@FirstNoteFinance.com

Amanda Kielian, First Note Finance *inc*; Cell: (650) 534-8102; Email: Amanda@FirstNoteFinance.com

Project Manager Name and Contact Info for CONTRACTOR:

Jim Crossman, Tel: (303) 883-0515; Email: jcrossman@financialenergy.com

John McGuinnis, Tel: (303) 781-8455; Email: jmcguinnis@financialenergy.com

Scope of Work Narrative:

CONTRACTOR shall perform a comprehensive, turnkey, LED Lighting Retrofit for all lighting fixtures, including all equipment and materials, installation labor, using existing sensors, permitting, securing rebates, customer acceptance, and warranty. CONTRACTOR shall perform its own site survey and provide Owner with a scope and price proposal prior to executing this contract. The site survey shall be of sufficient detail to capture in advance any potential change orders, including but not limited to emergency lighting, battery backups, product compatibility with compact fluorescent ballasts, occupancy sensor integration, and/or product voltage compatibility. The annual kWh energy savings of the CONTRACTOR proposed systems shall be within 15% of the calculated energy savings of 23,188 kWh in order to adhere to the CA Proposition 39 funding guidelines. For fluorescent tube fixture retrofits, the Owner's preference is a line-voltage LED replacement where the fluorescent ballasts are removed. CONTRACTOR shall prepare and submit rebate applications and assist Owner with collection of the rebates, even after the on-site work is complete and accepted.

Contract for LED Lighting Retrofit Project – MSA 4 & FESS Energy, Inc**6/5/19**

The funding for this project and scope is dependent upon the availability of State Proposition 39 energy funding. The Prop-39 program requires that State funding be encumbered (that is, committed as evidenced by a signed contract) no later than June 30, 2019. If this Agreement is not executed by both parties by June 30, 2019, this Agreement will be null and void and of no further force or effect. Moreover, this Agreement is subject to the availability of public funding, and if the funding is subsequently determined to be unavailable, CONTRACTOR has no right to be compensated for equipment or supplies purchased, or for WORK performed under this Agreement. Therefore CONTRACTOR shall not purchase any equipment or supplies, or perform any WORK under this Agreement until a written, executed, NOTICE TO PROCEED is provided by Magnolia Science Academy. CONTRACTOR shall have no remedy at law or in equity as a consequence of having violated the foregoing provision. This Agreement will automatically terminate on March 15, 2020, if no NOTICE TO PROCEED is issued by Magnolia Science Academy.

Bill of Materials:

| Item | Qty | Manufacturer and Model |
|---------------------------|------------|--------------------------------|
| 4 lamp driver | 119 | Philips ICN4P16TLEDSC |
| 4' 840 LED Tube Optimized | 475 | Philips 10T8 LED48-4000 IF |
| Green Creative PLC | 19 | Green Creative 11PLHG4/840/DIR |
| | | |
| | | |
| | | |

Project Budget: \$21,921.62

(The PROJECT MANAGER will provide a dollar amount which is the maximum project budget here. This is the maximum amount of project funding secured through the Proposition 39 application.)

Contingencies/Additional Services Budget: \$3,207.00

A contingency amount of \$3,207.00 to cover changes to cover unforeseen circumstances in the project.

School Budget for LAUSD District Review Process: \$5,000.00

The amount of \$5,000.00 will be paid by the school to LAUSD for their project approval review fees.

Tabular Listing of the Work to be Performed:

| | |
|-----------------------------------|--------------------|
| Interior: Line Voltage LED Tubes: | \$20,566.40 |
| Interior/Exterior: LED Bulbs: | \$1,355.22 |
| Total LED Retrofit: | \$21,921.62 |

Schedule: The LED lighting project is requested to be undertaken during after regular school hours or during the upcoming Summer Break as soon as possible as determined by school client.

Product Cut Sheets:

A comprehensive set of project cut sheets will be submitted by CONTRACTOR and included here by reference attachment.

The link name is

https://www.dropbox.com/sh/mcy0848yagwxzgv/AAAd2_7cT75A004mZapuhuZaa?dl=0

Exhibit B

Price and Payment Terms

Fixed Turnkey Price: \$ 21,921.62

(This is the fixed turnkey price to be paid to CONTRACTOR for its completion of the Work, including all products, parts, materials, labor, travel expenses, permits and overhead. CONTRACTOR’s price shall be in conformance with its bid that it submitted with the RFQ.)

Payment Terms:

- One final invoice per the following Schedule of Values. Payment terms at net 15 days.
- Joint-party checks to ensure payment to equipment suppliers shall be indicated on Final Invoice. All material & equipment suppliers shall be identified, so joint-party checks can be issued.
- Unconditional Waiver and Release upon Final Payment (California Civil Code 8138) is required from all equipment suppliers and/or subcontractors for final payment.
- Unconditional Waiver and Release upon Final Payment (California Civil Code 8138) from the CONTRACTOR is required for final payment.

Schedule of Values:

| Bid Form & Schedule of Values for OPTION B – Low Voltage / External Driver | | | | | | | |
|--|--|---|--|---|------------------------|-----------------------|-------------------------|
| Date: 05/23 Company: FESS Energy | | Email: mikottenstette@financialenergy.com | | | | | |
| Name: Matthew Kottenstette | | Telephone: (303) 562-7145 | | | | | |
| Magnolia #4 | PRICE OF | | | | Schedule of Values (5) | Estimated Rebates (6) | Payer(s) of Rebates (7) |
| | Interior Fluorescent Tube Fixture Retrofit (1) | Interior Bulb Retrofit (2) | Exterior Lighting Retrofit (3) | Occupancy Sensors (4) | | | |
| Option B Low Voltage Lamp and External Driver Retrofit Approach | | | | | | | |
| 1 | Magnolia #4 Lighting Products | \$6,691.98 | \$336.49 | \$0.00 | \$0.00 | \$7,028.47 | LADWP |
| 7 | Magnolia #4 Lighting Installation Labor, Lamp & Ballast Disposal | \$13,463.10 | \$991.63 | \$0.00 | \$0.00 | \$14,454.73 | |
| 13 | Magnolia #4 Cost of Permits and Inspections | \$411.33 | \$27.10 | \$0.00 | \$0.00 | \$438.43 | |
| TOTAL TURNKEY FIXED PRICE: | | \$20,566.40 | \$1,355.22 | \$0.00 | \$0.00 | 100% | |
| | | | | | | \$21,921.63 | |
| Please list the DLC product numbers for the lighting products included in the Option B – Low Voltage Lamp and External Drivers. | | | | | | | |
| DLC Number | Product Description and Lamp or Fixture Lumens | Includes Integrated Area Controls or Occupancy Sensing? (Yes / No) | Includes Integrated Dimming Controls? (Yes / No) | Product Cut Sheet Provided with Bid? (Yes / No) | | | |
| | Watt Stopper CI-205 | Yes | No | Yes | | | |
| | Watt Stopper BZ-50 | Yes | No | Yes | | | |
| | Green Creative 11PLHG4/840/DIR | No | No | Yes | | | |
| | ICN4P16TLEDN35M | No | No | Yes | | | |
| | Philips 10T8 LED/48-4000 IF | No | Yes | Yes | | | |
| I, (name) Matthew Kottenstette, am qualified to make this bid-offer commitment on behalf of my company. The fixed, turnkey price provided is all-inclusive. I understand that this bid is provided to the client without expectation for compensation of any kind for the cost of preparing it, and that the Client (Magnolia #4), or its designated Energy Manager (First Note Finance Inc) may reject this bid if it is not responsive, complete or submitted after Thursday, May 30, 2019, 6:00 PM. | | | | | | | |

Exhibit C
CA Department of Industrial Relations Prevailing Wage Reporting Form – PWC 100

This project is funded in whole or in part using Proposition 39 State funding. This statute prohibits sole sourcing of contractors and requires registration with DIR as well as compliance with applicable Prevailing Wage law.

Please use your existing DIR login or register at:

DIR PWC 100 Log-in Site: <https://www.dir.ca.gov/pwc100ext/LoginPage.aspx>



Exhibit E

MSA-5 LED Lighting – Contract with Fess Energy, Inc. (\$47,582.00)

AGREEMENT BETWEEN OWNER AND CONTRACTOR

A G R E E M E N T made as of the 4th day of June, 2019.

Between the Owner:

Magnolia Science Academy 5
18230 Kittridge Street
Reseda, CA 91335

and the Contractor:

FESS Energy, Inc.
527 S. Lake Avenue
Pasadena, CA 91101
Tel: (626) 308-3000
Fax: (626) 689-6265
jcrossman@financialenergy.com

the Project is:

Magnolia Science Academy 5
18230 Kittridge Street
Reseda, CA 91335

The Owner and Contractor agree as follows.

ARTICLE 1 THE WORK OF THIS CONTRACT

This Agreement entered into as of the day and year first written above.

The Contractor shall fully execute the Work described in the Contract Documents, described as follows:

The Work is generally described as the construction work necessary to perform a comprehensive, turnkey, LED Lighting Retrofit for all lighting fixtures, both Interior and Exterior fixtures, including all equipment and materials, installation labor, any sensors and controls necessary for permit or regulatory compliance, permitting, securing rebates, customer acceptance, and warranty.

A more detailed Scope of Work is provided by attaching a TASK ORDER (Exhibits “A”, “B”, and “C”) to this Contract, and the terms and conditions of the Task Order will take precedence.

ARTICLE 2 RELATIONSHIP OF THE PARTIES

The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Owner and exercise the Contractor’s skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner’s interests. The Owner agrees to furnish and approve, in a timely manner, the information required by the Contractor to perform the Work and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The date of commencement of the Work shall be per a Notice to Proceed to be issued by the Owner.

3.2 The Contractor shall have a reasonable period of time to complete this Project, consistent with the timing of the information provided by the Owner concerning the scope of work to be performed.

ARTICLE 4 BASIS FOR PAYMENT

4.1 CONTRACT SUM

4.1.1 The Owner shall pay the Contractor the Cost of the Work for the scope of work as defined in the Scope and Work Schedule attached hereto as TASK ORDER Exhibit “A” and the Fixed Turnkey Price attached hereto under as TASK ORDER Exhibit “B” Price and Payment Terms.

ARTICLE 5

5.1 PROGRESS PAYMENTS

5.1.1 The Contractor shall, once every month, deliver to the Owner an application for payment (“Application for Payment”) setting forth the amount which the Contractor believes it is entitled to be paid for the current period. Such Application for Payment shall be supported by such data substantiating the Contractor’s right to payment as the Owner may reasonably require including, without limitation, copies of invoices from Subcontractors and material suppliers, receipts and vouchers, a Prevailing Wage Report using the standard California Department of Industrial Relations form, attached hereto as TASK ORDER Exhibit “C”, and a conditional release of lien upon progress payment and a Conditional Release upon Progress Payment. Upon payment, Contractor shall supply Owner with an Unconditional Release of Lien upon Progress Payment.

5.1.2 The Owner will review each Application for Payment, and will pay the amount due within thirty (30) days after Owner’s receipt of the Application for Payment.

5.1.3 The Contractor shall promptly pay each Subcontractor upon receipt of payment out of the amount paid to the Contractor on account of each Subcontractor’s Work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor’s Work.

5.1.4 The Contractor agrees to keep the Work on the site(s) on which Work is to be performed or materials to be furnished pursuant to the Contract Documents free and clear of all mechanic’s liens and claims of liens, provided that the Owner has paid the Contractor the amount due for the labor, services and materials which are the subject of the lien.

5.2 FINAL PAYMENT

5.2.1 Upon receipt of written notice from the Contractor that the Work is complete and ready for final inspection, all corrections made, all reports and there is no other unfinished Work, and upon receipt of a final Application for Payment, including all completed and signed Prevailing Wage Reports using the standard California Department of Industrial Relations form, attached hereto as TASK ORDER Exhibit “C”, the Owner will promptly make such inspection and, when it finds the Work acceptable and the Contract fully performed, the Owner will promptly approve final payment.

5.2.2 Final payment, constituting the unpaid balance of the Contract Sum, if any, (subject to any retention with respect to minor work or defective work) shall be due and payable fifteen (15) days following the receipt of a final Application for Payment provided that as a condition to such payment the Owner has approved the Work, and Contractor has provided an Unconditional Release of Lien upon final payment for itself and all subcontractors or supplier.

5.2.3 If there should remain minor items to be completed, the Contractor and the Owner shall list such items and the Contractor shall deliver, in writing, its unconditional promise to complete said items within a reasonable time following substantial completion of the work. The Owner may retain an amount equal to one and one-half (1-1/2) times the cost to complete the minor work (“punch-list work”), as reasonably determined by Owner, until such time as the punch-list work is completed.

ARTICLE 6 THE CONTRACT DOCUMENTS

6.1 The Contract Documents consist of this Agreement Between Owner and Contractor, the bid set of Construction Documents, and the Contractor’s proposal attached as Exhibit “A”. The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Change Order. The Contract Documents shall not be construed to create a contractual relationship between the Owner and a Subcontractor or sub-subcontractor between any persons or entities other than the Owner and Contractor.

6.2 The term “Work” means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations. The Work may constitute the whole or a part of the Project.

ARTICLE 7 OWNER

7.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER

7.1.1 The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

7.1.2 The Owner shall pay for the building permit, other permits, governmental fees and charges required for the construction, use or occupancy of permanent structures or permanent changes in existing facilities.

7.2 OWNER’S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, or persistently fails to carry out the Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order is eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

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8.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors.

8.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

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- (2) the Work and materials and equipment to be incorporated therein; and
- (3) other property at the site or adjacent thereto.

The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, a Subcontractor, a sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible, except for damage or loss attributable to acts or omissions of the Owner, and not attributable to the fault or negligence of the Contractor.

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10.2.1 Fingerprinting and Criminal Records Check of Contractor’s Employees.

Contractor shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees.

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- Personal Injury, including accidental death, with limits of not less than One Million Dollar (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate;
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12.1 ASSIGNMENT OF CONTRACT

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Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority. The Owner shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures.

ARTICLE 13 INDEMNIFICATION

13.1 To the fullest extent permitted by law, Contractor agrees to indemnify, hold harmless and defend Owner and its Officers, Agents and Employees from and against any and all claims, losses, damages, liability including defects in the work arising out of the negligent acts, errors or omissions and/or breaches of this agreement except to the extent caused by the active or sole negligence, or willful misconduct of the Owner.

ARTICLE 14 DISPUTES

14.1 All disputes not settled by negotiation or mediation shall be resolved by resort to such rights and remedies as the parties each may have at law or in equity. Except to the extent that this AGREEMENT expressly permits a party to suspend performance, pending final resolution of a dispute, the parties shall each proceed diligently and faithfully with performance of their respective obligations under this AGREEMENT. CONTRACTOR acknowledges and agrees that, should a dispute proceed pursuant to this Section, the only issues that the CONTRACTOR may raise in such proceedings are those that were specifically included in its written claim submitted in accordance with this AGREEMENT, as applicable to the type of WORK. Failure to specifically describe an issue in the written claim within 10 days constitutes a waiver of that claim and shall preclude CONTRACTOR from raising such claim in any court or arbitration proceeding.

This Agreement entered into as of the day and year first written above.

Magnolia Educational & Research
Foundation dba Magnolia Public Schools

FESS Energy, Inc.

President & CEO (Signature)

CONTRACTOR (Signature)

By: Alfredo Rubalcava

By: James Crossman

Its: President

Its: Chief Executive Officer &
Superintendent

License Number: C10-958711

**TASK ORDER
Exhibit A**

Scope of Work and Schedule

Facility: Magnolia Science Academy 5

Address: 18230 Kittridge Street, Reseda, CA 91335

Primary Contact for Site: Patrick Ontiveros, Tel: (213) 628-3634; Email: pontiveros@magnoliapublicschools.org

Project Manager Name and Contact Info:

James Richmond, First Note Finance *inc*; Cell: (303) 517-8640; Email: James@FirstNoteFinance.com

Amanda Kielian, First Note Finance *inc*; Cell: (650) 534-8102; Email: Amanda@FirstNoteFinance.com

Project Manager Name and Contact Info for CONTRACTOR:

Jim Crossman, Tel: (303) 883-0515; Email: jcrossman@financialenergy.com

John McGuinnis, Tel: (303) 781-8455; Email: jmcguinnis@financialenergy.com

Scope of Work Narrative:

CONTRACTOR shall perform a comprehensive, turnkey, LED Lighting Retrofit for all lighting fixtures, both Interior and Exterior, including all equipment and materials, installation labor, any sensors and controls necessary for permit or regulatory compliance, permitting, securing rebates, customer acceptance, and warranty.

All existing fluorescent T8 and T12 fixtures will be modified in that the ballast will be removed and replaced with 0-10V dimmable Philips LED drivers and DLC listed Philips LED tubes as outlined in the LAUSD specification. By separating the driver from the tubes, the installation is safer, the life of the LEDs is extended, and it is capable to dim the lights. Ambient dimming controls shall be added to 9 classrooms to dim the lights in response to daylight. All existing interior incandescent and compact fluorescent fixtures shall be upgraded to LED. In fixtures with ballasts, the ballast will be bypassed and wired to line voltage. Exterior HID fixtures shall be replaced with new LED lighting fixtures.

The annual kWh energy savings of the CONTRACTOR proposed systems shall be within 15% of the calculated energy savings of 28,256 kWh in order to adhere to the CA Proposition 39 funding guidelines.

Contract for LED Lighting Retrofit Project – MSA 5 & FESS Energy, Inc**6/4/19**

The funding for this project and scope is dependent upon the availability of State Proposition 39 energy funding. The Prop-39 program requires that State funding be encumbered (that is, committed as evidenced by a signed contract) no later than June 30, 2019. If this Agreement is not executed by both parties by June 30, 2019, this Agreement will be null and void and of no further force or effect. Moreover, this Agreement is subject to the availability of public funding, and if the funding is subsequently determined to be unavailable, CONTRACTOR has no right to be compensated for equipment or supplies purchased, or for WORK performed under this Agreement. Therefore CONTRACTOR shall not purchase any equipment or supplies, or perform any WORK under this Agreement until a written, executed, NOTICE TO PROCEED is provided by Magnolia Science Academy. CONTRACTOR shall have no remedy at law or in equity as a consequence of having violated the foregoing provision. This Agreement will automatically terminate on March 15, 2020, if no NOTICE TO PROCEED is issued by Magnolia Science Academy.

Bill of Materials:

| <u>Item</u> | <u>Qty</u> | <u>Manufacturer and Model</u> |
|---------------------------|-------------------|--------------------------------------|
| 9 Watt A19 | 2 | Green Creative 9A19G4/840 |
| 2 lamp driver | 27 | Philips IZT2P16TLEDSC |
| 4 lamp driver | 145 | Philips IZT4P16TLEDSC |
| 4' 840 LED Tube Optimized | 489 | Philips 13T8 LED48-4000 IF DIM |
| Ambient Dimming Sensor | 9 | Watt Stopper LS-301 |
| Canopy Light | 3 | LA Lighting BCL1001 Canopy |
| Wall Pack | 4 | Hubbell LNC2 Wall Pack |
| Exit Sign | 4 | CREE E-XPL2RBW |
| Battery Kit | 7 | Keystone KT-EMRG-LED-5-500-K1 |

Project Budget: \$ 47,582.00

(The PROJECT MANAGER will provide a dollar amount which is the maximum project budget here. This is the maximum amount of project funding secured through the Proposition 39 application.)

Tabular Listing of the Work to be Performed:

| | |
|--|---------------------|
| Interior: Line Voltage LED Tubes: | \$ 31,324.69 |
| Interior: LED Bulbs: | \$ 705.56 |
| Exterior: LED Retrofit: | \$ 6,180.73 |
| Interior: Lighting Occupancy Controls: | \$ <u>9,371.02</u> |
| Total LED Retrofit: | \$ 47,582.00 |

Schedule: The LED lighting project is requested to be undertaken during after regular school hours as soon as possible as determined by school client.

Product Cut Sheets:

A comprehensive set of project cut sheets will be submitted by CONTRACTOR and included here by reference attachment.

The link name is

<https://www.dropbox.com/sh/nhdt8rbliyvpqpt/AADScMLKYvQ8QSsnQ32TglO7a?dl=0>

Exhibit B**Price and Payment Terms****Fixed Turnkey Price: \$ 47,582.00**

(This is the fixed turnkey price to be paid to CONTRACTOR for its completion of the Work, including all products, parts, materials, labor, travel expenses, permits and overhead. CONTRACTOR's price shall be in conformance with its bid that it submitted with the RFQ.)

Add Alternate (Option B): \$141,292.00

A Hybrid Approach combining Line Voltage and New Fixture Retrofit options is available as an add alternate for an additional \$141,292.00. Magnolia will indicate whether the add-alternate approach is accepted if/when it issues its Notice to Proceed.

Contingencies/ Additional Services Budget: \$4,758.00

A contingency amount of \$4,758.00 to cover changes to cover unforeseen circumstances in the project.

School Budget for LAUSD District Review Process: \$10,000.00

The amount of \$10,000.00 will be reserved and paid by the school to LAUSD for their project approval review fees.

Payment Terms:

- One final invoice per the following Schedule of Values. Payment terms at net 15 days.
- Joint-party checks to ensure payment to equipment suppliers shall be indicated on Final Invoice. All material & equipment suppliers shall be identified, so joint-party checks can be issued.
- Unconditional Waiver and Release upon Final Payment (California Civil Code 8138) is required from all equipment suppliers and/or subcontractors for final payment.
- Unconditional Waiver and Release upon Final Payment (California Civil Code 8138) from the CONTRACTOR is required for final payment.

Contract for LED Lighting Retrofit Project – MSA 5 & FESS Energy, Inc

6/4/19

Schedule of Values:

| Bid Form & Schedule of Values for OPTION B – Low Voltage / External Driver | | | | | | | |
|--|--|--|--|---|-----------------------|------------------------|-------------------------|
| Date: 05/22 Company: FESS Energy | | Email: mkottenstette@financialenergy.com | | | | | |
| Name: Matthew Kottenstette | | Telephone: (303) 562-7145 | | | | | |
| Magnolia #5 | | PRICE OF | | | | Estimated Rebates (6) | Payer(s) of Rebates (7) |
| | | Interior Fluorescent Tube Fixture Retrofit (1) | Interior Bulb Retrofit (2) | Exterior Lighting Retrofit (3) | Occupancy Sensors (4) | Schedule of Values (5) | |
| Option B Low Voltage Lamp and External Driver Retrofit Approach | | | | | | | |
| 1 | Magnolia #5 Lighting Products | \$11,194.36 | \$105.75 | \$2,522.41 | \$1,388.97 | \$15,211.50 | LADWP |
| 7 | Magnolia #5 Lighting Installation Labor, Lamp & Ballast Disposal | \$19,503.83 | \$585.69 | \$3,534.70 | \$7,794.63 | \$31,418.86 | |
| 13 | Magnolia #5 Cost of Permits and Inspections | \$626.49 | \$14.11 | \$123.61 | \$187.42 | \$951.64 | |
| TOTAL TURNKEY FIXED PRICE: | | \$31,324.69 | \$705.56 | \$6,180.73 | \$9,371.02 | 100% | |
| Please list the DLC product numbers for the lighting products included in the Option B – Low Voltage Lamp and External Drivers. | | | | | | | |
| DLC Number | Product Description and Lamp or Fixture Lumens | Includes Integrated Area Controls or Occupancy Sensing? (Yes / No) | Includes Integrated Dimming Controls? (Yes / No) | Product Cut Sheet Provided with Bid? (Yes / No) | | | |
| | LA Lighting BCL1001 Canopy | No | Yes | Yes | | | |
| | Green Creative 9A19G4/840 | No | No | Yes | | | |
| | Hubbell LNC2 Wall Pack | Yes | Yes | Yes | | | |
| | E-conolight E-XML2W | No | No | Yes | | | |
| | Philips 13T8 LED48-4000 IF DIM | No | Yes | Yes | | | |
| | Philips IZ2P16TLEDSC | No | Yes | Yes | | | |
| | Philips IZ4P16TLEDSC | No | Yes | Yes | | | |
| I, (name) Matthew Kottenstette, am qualified to make this bid-offer commitment on behalf of my company. The fixed, turnkey price provided is all-inclusive. I understand that this bid is provided to the client without expectation for compensation of any kind for the cost of preparing it, and that the Client (Magnolia #5), or its designated Energy Manager (First Note Finance inc) may reject this bid if it is not responsive, complete or submitted after Friday, May 24, 2019, 6:00 PM. | | | | | | | |

Exhibit C

CA Department of Industrial Relations Prevailing Wage Reporting Form – PWC 100

This project is funded in whole or in part using Proposition 39 State funding. This statute prohibits sole sourcing of contractors and requires registration with DIR as well as compliance with applicable Prevailing Wage law.

Please use your existing DIR login or register at:

DIR PWC 100 Log-in Site: <https://www.dir.ca.gov/pwc100ext/LoginPage.aspx>



Exhibit F

MSA-8 HVAC - Contract with Mesa Energy Systems, Inc (\$26,040.00)

AGREEMENT BETWEEN OWNER AND CONTRACTOR

A G R E E M E N T made as of the 4th day of June, 2019.

B E T W E E N the Owner:

Magnolia Educational & Research Foundation dba
Magnolia Public Schools
17125 Victory Boulevard
Van Nuys, CA 91406

and the Contractor:

Mesa Energy Systems, Inc.
2 Cromwell
Irvine, CA 92618

the Project is:

Magnolia Science Academy 8
6411 Orchard Ave
Bell, CA 90201

The Owner and Contractor agree as follows.

ARTICLE 1 THE WORK OF THIS CONTRACT

This Agreement entered into as of the day and year first written above.

The Contractor shall fully execute the Work described in the Contract Documents, described as follows:

The Work is generally described as the construction work necessary to provide turnkey installation of twenty-two (22) programmable, networking thermostats. These replacement thermostats will wire directly to the existing units. The project is to be implemented as soon as possible as determined by school client. The project includes development of all documentation required for permit from the local jurisdiction and a full one (1) year replacement labor warranty and warranty to commence upon startup of equipment.

A more detailed Scope of Work is provided by attaching a TASK ORDER (Exhibits “A”, “B”, and “C”) to this Contract, and the terms and conditions of the Task Order will take precedence

ARTICLE 2 RELATIONSHIP OF THE PARTIES

The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Owner and exercise the Contractor’s skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner’s interests. The Owner agrees to furnish and approve, in a timely manner, the information required by the Contractor to perform the Work and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The date of commencement of the Work shall be per a Notice to Proceed to be issued by the Owner.

3.2 The Contractor shall have a reasonable period of time to complete this Project, consistent with the timing of the information provided by the Owner concerning the scope of work to be performed.

ARTICLE 4 BASIS FOR PAYMENT

4.1 CONTRACT SUM

4.1.1 The Owner shall pay the Contractor the Cost of the Work for the scope of work as defined in the Scope and Work Schedule attached hereto as TASK ORDER Exhibit “A” and the Fixed Turnkey Price attached hereto under as TASK ORDER Exhibit “B” Price and Payment Terms.

ARTICLE 5

5.1 PROGRESS PAYMENTS

5.1.1 The Contractor shall, once every month, deliver to the Owner an application for payment (“Application for Payment”) setting forth the amount which the Contractor believes it is entitled to be paid for the current period. Such Application for Payment shall be supported by such data substantiating the Contractor’s right to payment as the Owner may reasonably require including, without limitation, copies of invoices from Subcontractors and material suppliers, receipts and vouchers, a Prevailing Wage Report using the standard California Department of Industrial Relations form, attached hereto as TASK ORDER Exhibit “C”, and a conditional release of lien upon progress payment and a Conditional Release upon Progress Payment. Upon payment, Contractor shall supply Owner with an Unconditional Release of Lien upon Progress Payment.

5.1.2 The Owner will review each Application for Payment, and will pay the amount due within thirty (30) days after Owner’s receipt of the Application for Payment.

5.1.3 The Contractor shall promptly pay each Subcontractor upon receipt of payment out of the amount paid to the Contractor on account of each Subcontractor’s Work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor’s Work.

5.1.4 The Contractor agrees to keep the Work on the site(s) on which Work is to be performed or materials to be furnished pursuant to the Contract Documents free and clear of all mechanic’s liens and claims of liens, provided that the Owner has paid the Contractor the amount due for the labor, services and materials which are the subject of the lien.

5.2 FINAL PAYMENT

5.2.1 Upon receipt of written notice from the Contractor that the Work is complete and ready for final inspection, all corrections made, all reports and there is no other unfinished Work, and upon receipt of a final Application for Payment, including all completed and signed Prevailing Wage Reports using the standard California Department of Industrial Relations form, attached hereto as TASK ORDER Exhibit “C”, the Owner will promptly make such inspection and, when it finds the Work acceptable and the Contract fully performed, the Owner will promptly approve final payment.

5.2.2 Final payment, constituting the unpaid balance of the Contract Sum, if any, (subject to any retention with respect to minor work or defective work) shall be due and payable thirty (30) days following the receipt of a final Application for Payment provided that as a condition to such payment the Owner has approved the Work, and Contractor has provided an Unconditional Release of Lien upon final payment for itself and all subcontractors or supplier.

5.2.3 If there should remain minor items to be completed, the Contractor and the Owner shall list such items and the Contractor shall deliver, in writing, its unconditional promise to complete said items within a reasonable time following substantial completion of the work. The Owner may retain an amount equal to one and one-half (1-1/2) times the cost to complete the minor

work (“punch-list work”), as reasonably determined by Owner, until such time as the punch-list work is completed.

ARTICLE 6 THE CONTRACT DOCUMENTS

6.1 The Contract Documents consist of this Agreement Between Owner and Contractor, the bid set of Construction Documents, and the Contractor’s proposal attached as Exhibit “A”. The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Change Order. The Contract Documents shall not be construed to create a contractual relationship between the Owner and a Subcontractor or sub-subcontractor between any persons or entities other than the Owner and Contractor.

6.2 The term “Work” means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations. The Work may constitute the whole or a part of the Project.

ARTICLE 7 OWNER

7.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER

7.1.1 The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

7.1.2 The Contractor shall pay for the building permit and final inspection. Owner shall pay other permits, governmental fees and charges required for the construction, use or occupancy of permanent structures or permanent changes in existing facilities.

7.2 OWNER’S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, or persistently fails to carry out the Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order is eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

7.3 OWNER’S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or persistently fails or neglects to carry out the Work in accordance with the Contract Documents, or fails to perform a provision of the Contract, the Owner, after ten (10) days written notice to the Contractor and without prejudice to any other remedy the Owner may have, may make good such deficiencies and may deduct the reasonable cost thereof, from the payment then or thereafter due the Contractor.

ARTICLE 8 CONTRACTOR

8.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters.

8.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors.

8.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

8.4 WARRANTY

8.4.1 The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation or normal wear and tear and normal usage.

8.4.2 Pursuant to the terms of this warranty, the Contractor shall promptly correct Work rejected by the Owner for failing to conform to the requirements of the Contract Documents if discovered within one year after the date of Substantial Completion of the Work, provided that the Owner gives the Contractor prompt written notice of the discovery of the condition. The Contractor shall correct it promptly after receipt of written notice from the Owner to do so.

8.5 CLEANING UP

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus material.

ARTICLE 9 CHANGES IN THE WORK

9.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly. Such changes in the Work shall be authorized by written Change Order signed by the Owner and Contractor or by a written Construction Change Directive signed by the Owner.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY**10.1 SAFETY PRECAUTIONS AND PROGRAMS**

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- (1) employees on the Work and other persons who may be affected thereby;
- (2) the Work and materials and equipment to be incorporated therein; and
- (3) other property at the site or adjacent thereto.

The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, a Subcontractor, a sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible, except for damage or loss attributable to acts or omissions of the Owner, and not attributable to the fault or negligence of the Contractor.

10.2 PROTECTION OF STUDENTS – WORK DURING SCHOOL HOURS**10.2.1 Fingerprinting and Criminal Records Check of Contractor’s Employees.**

Contractor shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees.

Contractor shall not permit any employee to have any contact with school pupils until such time as Contractor has verified in writing to the Owner that such employee has not been convicted of a felony, as defined in Education Code §45125.1.

ARTICLE 11 INSURANCE**11.1 CONTRACTOR’S LIABILITY INSURANCE**

11.1.1 The Contractor shall purchase and maintain such insurance as will protect him from claims set forth below which may arise out of or result from the Contractor’s operations under the Contract, whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

Worker’s Compensation and Employer’s Liability Insurance with limits of not less than required by law.

Commercial General Liability Insurance, (Insurance Services Office, Form CG 00 01 or equivalent), including

- Personal Injury, including accidental death, with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate;
- Property Damage, including Broad Form Property Damage Coverage, with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate;
- Products Liability/Completed Operations Liability, with limits of not less than One Million Dollars (\$1,000,000) in the aggregate; and
- Automobile Liability - One million dollars (\$1,000,000) for bodily injury and property damage each accident limit.

Before commencing the Work, the Contractor shall furnish a) certificate, satisfactory to Owner, from each insurance company showing that the above insurance is in force, stating policy numbers, dates of expiration, and limit of liability thereunder and b) a certificate naming Owner as an additional insured on a combination of a ISO form CG 20 37 and an ISO CG 20 10 10/01 form or its approved equivalent.

ARTICLE 12 MISCELLANEOUS PROVISIONS

12.1 ASSIGNMENT OF CONTRACT

Neither party to the Contract shall assign the Contract without written consent of the other.

12.2 GOVERNING LAW

The Contract shall be governed by the laws of the State of California.

12.3 TESTS AND INSPECTIONS

Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority. The Owner shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures.

ARTICLE 13 INDEMNIFICATION

13.1 To the fullest extent permitted by law, Contractor agrees to indemnify, hold harmless and defend Owner and its Officers, Agents and Employees from and against any and all claims, losses, damages, liability including defects in the work arising out of the negligent acts, errors or

omissions and/or breaches of this agreement except to the extent caused by the active or sole negligence, or willful misconduct of the Owner.

ARTICLE 14 DISPUTES

14.1 All disputes not settled by negotiation or mediation shall be resolved by resort to such rights and remedies as the parties each may have at law or in equity. Except to the extent that this AGREEMENT expressly permits a party to suspend performance, pending final resolution of a dispute, the parties shall each proceed diligently and faithfully with performance of their respective obligations under this AGREEMENT. CONTRACTOR acknowledges and agrees that, should a dispute proceed pursuant to this Section, the only issues that the CONTRACTOR may raise in such proceedings are those that were specifically included in its written claim submitted in accordance with this AGREEMENT, as applicable to the type of WORK. Failure to specifically describe an issue in the written claim within 10 days constitutes a waiver of that claim and shall preclude CONTRACTOR from raising such claim in any court or arbitration proceeding.

This Agreement entered into as of the day and year first written above.

Magnolia Educational & Research Foundation
dba Magnolia Public Schools

Mesa Energy Systems, Inc.

President & CEO (Signature)

CONTRACTOR (Signature)

By: Alfredo Rubalcava
Its: Chief Executive Officer &
Superintendent

By: Harry Archung
Its: Vice President
611215

License Number

**Form of TASK ORDER
Exhibit A**

Scope of Work and Schedule

Facility: Magnolia Science Academy 8

Address: 6411 Orchard Ave, Bell, CA 90201

Primary Contact for Site: Patrick Ontiveros, Tel: (213) 628-3634; Email: pontiveros@magnoliapublicschools.org

Project Manager Name and Contact Info:

James Richmond, First Note Finance *inc*; Cell: (303) 517-8640; Email: James@FirstNoteFinance.com

Amanda Kielian, First Note Finance *inc*; Cell: (650) 534-8102; Email: Amanda@FirstNoteFinance.com

Project Manager Name and Contact Info for CONTRACTOR:

Justin Davie, Tel: (949) 447-6044; Email: jdavie@emcor.net

Scope of Work Narrative:

The Work is generally described as the construction work necessary to provide turnkey installation of twenty-two (22) programmable, networking thermostats. These replacement thermostats will wire directly to the existing units. The contractor includes a one (1) year warranty period, dated from date of Substantial Completion and meets requirements of the Los Angeles Unified School District.

Additionally, the kWh savings in the CEC approved plan for this scope is 4,180 kWh/year. The energy savings of the project shall be within 15% of 4,180 kWh/year.

Contract for HVAC Project – Magnolia Science Academy and Emcor**6/4/19**

Below is the proposed scope of work:

1. Check in with campus engineering.
2. Safe off units associated with thermostat replacement (22) total.
3. Remove existing thermostat and dispose off site.
4. Provide and install (22) new Capital Energy Systems TWC46 Thermostats.
5. Provide programming and support as dictated in scope below.
6. Start up units and verify operations.

INITIAL SOFTWARE SETUP

EMCOR will work with a district representative to perform the following initial software setup:

- This will include setting the operating mode, override time, In-session and out-of-session temperature set points, degrees of freedom, 365-day holiday calendar, In-session and out-of-session times for the week, and a fan program. All classrooms will be appropriately labeled with the names provided by the school, and we will set up the groups necessary to meet the needs of MSA 8 (Bell).

INITIAL HARDWARE SETUP

EMCOR will perform the following initial thermostat setup:

- EMCOR representative will preload twenty-seven (22) thermostats delivered to the school with the WiFi credentials and certificates specified by the IT department.
- EMCOR will replace the existing twenty-seven (22) thermostats with new Capital Energy System T stats.
- A technician representing EMCOR will be onsite during one day of installation to confirm connection to the districts WiFi network, proper wiring, and how to configure the thermostats for gas/electric or heat pump.
- After district installation is complete, EMCOR will verify each thermostat is connected to the districts wireless network, communicating properly with the online software, and configured for the HVAC unit to function properly.
- 2-months after district installation is complete, a representative from EMCOR will walk the campus to trouble shoot any issues, make sure the system is programed correctly to meet the district needs, go over run time minutes, and discuss ways to increase energy savings.
- 1-year of unlimited phone technical support and on-site visits when needed to resolve issues

SOFTWARE UPGRADES

All software upgrades and enhancements shall be included at no additional cost for the life of the EMS system.

The funding for this project and scope is dependent upon the availability of State Proposition 39 energy funding. The Prop-39 program requires that State funding be encumbered (that is, committed as evidenced by a signed contract) no later than June 30, 2019. If this Agreement is not executed by both parties by June 30, 2019, this Agreement will be null and void and of no further force or effect. Moreover, this Agreement is subject to the availability of public funding, and if the funding is subsequently determined to be unavailable, CONTRACTOR has no right to be compensated for equipment or supplies purchased, or for WORK performed under this Agreement. Therefore CONTRACTOR shall not purchase any equipment or supplies, or perform any WORK under this Agreement until a written, executed, NOTICE TO PROCEED is provided by Magnolia Science Academy. CONTRACTOR shall have no remedy at law or in equity as a consequence of having violated the foregoing provision. This Agreement will automatically terminate on March 15, 2020, if no NOTICE TO PROCEED is issued by Magnolia Science Academy.

Project Budget: \$ 26,040.00

The project budget includes all costs of all contractors, including mechanical, electrical, permits, materials, supplies, demolition... everything.

Product Cut Sheets:

A comprehensive set of project cut sheets will be submitted by CONTRACTOR. Please see link below for a comprehensive set of project cut sheets.

<https://www.dropbox.com/s/nq7c4f2tc3jv6wp/CES-TWC46-Spec-Sheet.pdf?dl=0>

Exhibit B**Price and Payment Terms**

Fixed Turnkey Price: \$ 26,040.00

(This is the fixed turnkey price to be paid to CONTRACTOR for its completion of the Work, including all products, parts, materials, labor, travel expenses, permits and overhead.)

Contingencies/Additional Services Budget: \$2,604.00

A contingency amount of **\$2,604.00** to cover changes to cover unforeseen circumstances in the project.

School Budget for LAUSD District Review Process: \$5,000.00

The amount of \$5,000.00 will be reserved and paid by the school to LAUSD for their project approval review fees.

Payment Terms:

- One final invoice per the following Schedule of Values. Payment terms at net 15 days.
- Joint-party checks to ensure payment to equipment suppliers shall be indicated on Final Invoice. All material & equipment suppliers shall be identified, so joint-party checks can be issued.
- Unconditional Waiver and Release upon Final Payment (California Civil Code 8138) is required from all equipment suppliers and/or subcontractors for final payment.
- Unconditional Waiver and Release upon Final Payment (California Civil Code 8138) from the CONTRACTOR is required for final payment.

Schedule of Values:

| Project Milestone | % Completed | Amount |
|---|--------------------|---------------|
| Installation Complete, Warranty, & O&M Manual | 100% | \$ 26,040.00 |

Exhibit C

CA Department of Industrial Relations Prevailing Wage Reporting Form – PWC 100

This project is funded in whole or in part using Proposition 39 State funding. This statute prohibits sole sourcing of contractors and requires registration with DIR as well as compliance with applicable Prevailing Wage law.

Please use your existing DIR login or register at:

DIR PWC 100 Log-in Site: <https://www.dir.ca.gov/pwc100ext/LoginPage.aspx>



Exhibit G

MSA-8 LED Lighting – Contract with Vector Energy Group (\$74,812.16)

AGREEMENT BETWEEN OWNER AND CONTRACTOR

A G R E E M E N T made as of the 4th day of June, 2019.

B E T W E E N the Owner:

Magnolia Educational & Research Foundation dba
Magnolia Public Schools
17125 Victory Boulevard
Van Nuys, CA 91406

and the Contractor:

Vector Energy Group
17337 Ventura Blvd. Suite 304
Encino, CA 91316
Tel: (818) 600-4348

the Project is:

Magnolia Science Academy 8
6411 Orchard Ave
Bell, CA 90201

The Owner and Contractor agree as follows.

ARTICLE 1 THE WORK OF THIS CONTRACT

This Agreement entered into as of the day and year first written above.

The Contractor shall fully execute the Work described in the Contract Documents, described as follows:

The Work is generally described as the construction work necessary to perform a comprehensive, turnkey, LED Lighting Retrofit for all lighting fixtures, both Interior and Exterior fixtures, including all equipment and materials, installation labor, any sensors and controls necessary for permit or regulatory compliance, permitting, securing rebates, customer acceptance, and warranty.

A more detailed Scope of Work is provided by attaching a TASK ORDER (Exhibits “A”, “B”, and “C”) to this Contract, and the terms and conditions of the Task Order will take precedence.

ARTICLE 2 RELATIONSHIP OF THE PARTIES

The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Owner and exercise the Contractor’s skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner’s interests. The Owner agrees to furnish and approve, in a timely manner, the information required by the Contractor to perform the Work and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The date of commencement of the Work shall be per a Notice to Proceed to be issued by the Owner.

3.2 The Contractor shall have a reasonable period of time to complete this Project, consistent with the timing of the information provided by the Owner concerning the scope of work to be performed.

ARTICLE 4 BASIS FOR PAYMENT

4.1 CONTRACT SUM

4.1.1 The Owner shall pay the Contractor the Cost of the Work for the scope of work as defined in the Scope and Work Schedule attached hereto as TASK ORDER Exhibit “A” and the Fixed Turnkey Price attached hereto under as TASK ORDER Exhibit “B” Price and Payment Terms.

ARTICLE 5

5.1 PROGRESS PAYMENTS

Contract for LED Lighting Retrofit Project – Magnolia and Vector**6/4/19**

5.1.1 The Contractor shall, once every month, deliver to the Owner an application for payment (“Application for Payment”) setting forth the amount which the Contractor believes it is entitled to be paid for the current period. Such Application for Payment shall be supported by such data substantiating the Contractor’s right to payment as the Owner may reasonably require including, without limitation, copies of invoices from Subcontractors and material suppliers, receipts and vouchers, a Prevailing Wage Report using the standard California Department of Industrial Relations form, attached hereto as TASK ORDER Exhibit “C”, and a conditional release of lien upon progress payment and a Conditional Release upon Progress Payment. Upon payment, Contractor shall supply Owner with an Unconditional Release of Lien upon Progress Payment.

5.1.2 The Owner will review each Application for Payment, and will pay the amount due within thirty (30) days after Owner’s receipt of the Application for Payment.

5.1.3 The Contractor shall promptly pay each Subcontractor upon receipt of payment out of the amount paid to the Contractor on account of each Subcontractor’s Work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor’s Work.

5.1.4 The Contractor agrees to keep the Work on the site(s) on which Work is to be performed or materials to be furnished pursuant to the Contract Documents free and clear of all mechanic’s liens and claims of liens, provided that the Owner has paid the Contractor the amount due for the labor, services and materials which are the subject of the lien.

5.2 FINAL PAYMENT

5.2.1 Upon receipt of written notice from the Contractor that the Work is complete and ready for final inspection, all corrections made, all reports and there is no other unfinished Work, and upon receipt of a final Application for Payment, including all completed and signed Prevailing Wage Reports using the standard California Department of Industrial Relations form, attached hereto as TASK ORDER Exhibit “C”, the Owner will promptly make such inspection and, when it finds the Work acceptable and the Contract fully performed, the Owner will promptly approve final payment.

5.2.2 Final payment, constituting the unpaid balance of the Contract Sum, if any, (subject to any retention with respect to minor work or defective work) shall be due and payable fifteen (15) days following the receipt of a final Application for Payment provided that as a condition to such payment the Owner has approved the Work, and Contractor has provided an Unconditional Release of Lien upon final payment for itself and all subcontractors or supplier.

5.2.3 If there should remain minor items to be completed, the Contractor and the Owner shall list such items and the Contractor shall deliver, in writing, its unconditional promise to complete said items within a reasonable time following substantial completion of the work. The Owner may retain an amount equal to one and one-half (1-1/2) times the cost to complete the minor work (“punch-list work”), as reasonably determined by Owner, until such time as the punch-list work is completed.

ARTICLE 6 THE CONTRACT DOCUMENTS

6.1 The Contract Documents consist of this Agreement Between Owner and Contractor, the bid set of Construction Documents, and the Contractor’s proposal attached as Exhibit “A”. The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Change Order. The Contract Documents shall not be construed to create a contractual relationship between the Owner and a Subcontractor or sub-subcontractor between any persons or entities other than the Owner and Contractor.

6.2 The term “Work” means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations. The Work may constitute the whole or a part of the Project.

ARTICLE 7 OWNER**7.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER**

7.1.1 The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

7.1.2 The Owner shall pay for the building permit, other permits, governmental fees and charges required for the construction, use or occupancy of permanent structures or permanent changes in existing facilities.

7.2 OWNER’S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, or persistently fails to carry out the Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order is eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

7.3 OWNER’S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or persistently fails or neglects to carry out the Work in accordance with the Contract Documents, or fails to perform a provision of the Contract, the Owner, after ten (10) days written notice to the Contractor and without prejudice to any other remedy the Owner may have, may make good such deficiencies and may deduct the reasonable cost thereof, from the payment then or thereafter due the Contractor.

ARTICLE 8 CONTRACTOR

8.1 The Contractor shall supervise and direct the Work, using the Contractor’s best skill and attention. The Contractor shall be solely responsible for and have control over construction

Contract for LED Lighting Retrofit Project – Magnolia and Vector**6/4/19**

means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters.

8.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors.

8.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

8.4 WARRANTY

8.4.1 The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation or normal wear and tear and normal usage.

8.4.2 Pursuant to the terms of this warranty, the Contractor shall promptly correct Work rejected by the Owner for failing to conform to the requirements of the Contract Documents if discovered within one year after the date of Substantial Completion of the Work, provided that the Owner gives the Contractor prompt written notice of the discovery of the condition. The Contractor shall correct it promptly after receipt of written notice from the Owner to do so.

8.5 CLEANING UP

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus material.

ARTICLE 9 CHANGES IN THE WORK

9.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly. Such changes in the Work shall be authorized by written Change Order signed by the Owner and Contractor or by a written Construction Change Directive signed by the Owner.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY**10.1 SAFETY PRECAUTIONS AND PROGRAMS**

Contract for LED Lighting Retrofit Project – Magnolia and Vector**6/4/19**

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- (1) employees on the Work and other persons who may be affected thereby;
- (2) the Work and materials and equipment to be incorporated therein; and
- (3) other property at the site or adjacent thereto.

The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, a Subcontractor, a sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible, except for damage or loss attributable to acts or omissions of the Owner, and not attributable to the fault or negligence of the Contractor.

10.2 PROTECTION OF STUDENTS – WORK DURING SCHOOL HOURS**10.2.1 Fingerprinting and Criminal Records Check of Contractor’s Employees.**

Contractor shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees.

Contractor shall not permit any employee to have any contact with school pupils until such time as Contractor has verified in writing to the Owner that such employee has not been convicted of a felony, as defined in Education Code §45125.1.

ARTICLE 11 INSURANCE**11.1 CONTRACTOR’S LIABILITY INSURANCE**

11.1.1 The Contractor shall purchase and maintain such insurance as will protect him from claims set forth below which may arise out of or result from the Contractors operations under the Contract, whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for shows acts any of them may be liable:

Workers Compensation and Employers Liability Insurance with limits of not less than required by law.

Commercial General Liability Insurance, (Insurance Services Office, Form CG 00 01 or equivalent), including

Contract for LED Lighting Retrofit Project – Magnolia and Vector**6/4/19**

- Personal Injury, including accidental death, with limits of not less than One Million Dollar (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate;
- Property Damage, including Broad Form Property Damage Coverage, with limits of not less than One Million Dollars (\$1,000,00) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate;
- Products Liability/Completed Operations Liability, with limits of not less than One Million Dollars (\$1,000,000) in the aggregate; and
- Automobile Liability – One Million dollars (\$1,000,000) for bodily injury and property damage each accident limit.

Before commencing the Work, the Contractor shall furnish a) a certificate, satisfactory to Owner, from each insurance company showing that the above insurance is in force, stating policy numbers, dates of expiration, and limit of liability thereunder and b) a certificate naming Owner as an additional insured on a combination of a ISO form CG 20 37 and an ISO CG 20 10 10/01 form or its approved equivalent.

ARTICLE 12 MISCELLANEOUS PROVISIONS

12.1 ASSIGNMENT OF CONTRACT

Neither party to the Contract shall assign the Contract without written consent of the other.

12.2 GOVERNING LAW

The Contract shall be governed by the laws of the State of California.

12.3 TESTS AND INSPECTIONS

Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority. The Owner shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures.

ARTICLE 13 INDEMNIFICATION

13.1 To the fullest extent permitted by law, Contractor agrees to indemnify, hold harmless and defend Owner and its Officers, Agents and Employees from and against any and all claims, losses, damages, liability including defects in the work arising out of the negligent acts, errors or omissions and/or breaches of this agreement except to the extent caused by the active or sole negligence, or willful misconduct of the Owner.

ARTICLE 14 DISPUTES

14.1 All disputes not settled by negotiation or mediation shall be resolved by resort to such rights and remedies as the parties each may have at law or in equity. Except to the extent that this AGREEMENT expressly permits a party to suspend performance, pending final resolution of a dispute, the parties shall each proceed diligently and faithfully with performance of their respective obligations under this AGREEMENT. CONTRACTOR acknowledges and agrees that, should a dispute proceed pursuant to this Section, the only issues that the CONTRACTOR may raise in such proceedings are those that were specifically included in its written claim submitted in accordance with this AGREEMENT, as applicable to the type of WORK. Failure to specifically describe an issue in the written claim within 10 days constitutes a waiver of that claim and shall preclude CONTRACTOR from raising such claim in any court or arbitration proceeding.

This Agreement entered into as of the day and year first written above.

Magnolia Educational & Research
Foundation dba Magnolia Public Schools

Vector Energy Group

President & CEO (Signature)

CONTRACTOR (Signature)

By: Alfredo Rubalcava
Its: Chief Executive Officer &
Superintendent

By: Al Gancman
Its: President
License Number: 988062

**TASK ORDER
Exhibit A****Scope of Work and Schedule**

Facility: Magnolia Science Academy 8

Address: 6411 Orchard Ave, Bell, CA 90201

Primary Contact for Site: Patrick Ontiveros, Tel: (213) 628-3634; Email: pontiveros@magnoliapublicschools.org

Project Manager Name and Contact Info:

James Richmond, First Note Finance *inc*; Cell: (303) 517-8640; Email: James@FirstNoteFinance.com

Amanda Kielian, First Note Finance *inc*; Cell: (650) 534-8102; Email: Amanda@FirstNoteFinance.com

Project Manager Name and Contact Info for CONTRACTOR:

Al Gancman, Vector Energy Group, Tel: (818) 600-4348, Email: agancman@vectorenergygroup.com

Scope of Work Narrative:

CONTRACTOR shall perform a comprehensive, turnkey, LED Lighting Retrofit for all lighting fixtures, both Interior and Exterior, including all equipment and materials, installation labor, any sensors and controls necessary for permit or regulatory compliance, permitting, securing rebates, customer acceptance, and warranty. CONTRACTOR shall perform its own site survey and provide Owner with a scope and price proposal prior to executing this contract. The site survey shall be of sufficient detail to capture in advance any potential change orders, including but not limited to emergency lighting, battery backups, product compatibility with compact fluorescent ballasts, occupancy sensor integration, and/or product voltage compatibility. The annual kWh energy savings of the CONTRACTOR proposed systems shall be within 15% of the calculated energy savings of 83,063 kWh in order to adhere to the CA Proposition 39 funding guidelines. For fluorescent tube fixture retrofits, the Owner's preference is a line-voltage LED replacement where the fluorescent ballasts are removed. CONTRACTOR shall prepare and submit rebate applications and assist Owner with collection of the rebates, even after the on-site work is complete and accepted.

This installation includes sensors in every classroom and office as well as 1 emergency fixture per classroom.

Contract for LED Lighting Retrofit Project – Magnolia and Vector**6/4/19**

The funding for this project and scope is dependent upon the availability of State Proposition 39 energy funding. The Prop-39 program requires that State funding be encumbered (that is, committed as evidenced by a signed contract) no later than June 30, 2019. If this Agreement is not executed by both parties by June 30, 2019, this Agreement will be null and void and of no further force or effect. Moreover, this Agreement is subject to the availability of public funding, and if the funding is subsequently determined to be unavailable, CONTRACTOR has no right to be compensated for equipment or supplies purchased, or for WORK performed under this Agreement. Therefore CONTRACTOR shall not purchase any equipment or supplies, or perform any WORK under this Agreement until a written, executed, NOTICE TO PROCEED is provided by Magnolia Science Academy. CONTRACTOR shall have no remedy at law or in equity as a consequence of having violated the foregoing provision. This Agreement will automatically terminate on March 15, 2020, if no NOTICE TO PROCEED is issued by Magnolia Science Academy.

Bill of Materials:

24-May-19

| MSA 8 - BILL OF MATERIALS | | |
|---|-----------------|--------------|
| VECTOR RETROFIT | Fixtures | Units |
| PHILIPS 12T8/PRO/48-840/IF18/G 10/1 FB PNP | 11 | 22 |
| PHILIPS 16A21/PER/840/P/E26/DIM 6/1 FB | 52 | 52 |
| PHILIPS 12PLC/32H/V/840/IF/4P/DIM/ 1/PK 10/1 - HORIZ | 137 | 137 |
| PHILIPS 12PLC/32H/V/840/IF/4P/DIM/ 1/PK 10/1 VERTICAL | 38 | 304 |
| PHILIPS 150HB/LED/740/ND WB DL BB 2/1 | 6 | 42 |
| PHILIPS 25T5HO/COR/46-840/MF35/G 25/1 BYPASS | 59 | 118 |
| PHILIPS 75HB/LED/840/ND FB 4/1 | 28 | 56 |
| PHILLIPS 14T8PRO/48-840/BB18/G 10/1 FB BYPASS | 551 | 1037 |
| | 882 | 1764 |

Contract for LED Lighting Retrofit Project – Magnolia and Vector**6/4/19****Project Budget: \$ 74,812.16**

(The PROJECT MANAGER will provide a dollar amount which is the maximum project budget here. This is the maximum amount of project funding secured through the Proposition 39 application.)

Tabular Listing of the Work to be Performed:

| | |
|--|--------------------|
| Interior: Line Voltage LED Tubes: | \$37,092.75 |
| Interior: LED Bulbs: | \$ 7,643.80 |
| Exterior: LED Retrofit: | \$18,566.93 |
| Interior: Lighting Occupancy Controls: | <u>\$10,698.67</u> |
| Total LED Retrofit: | \$74,812.16 |

Schedule: The LED lighting project is requested to be undertaken during after regular school hours as soon as possible as determined by school client.

Product Cut Sheets:

A comprehensive set of project cut sheets will be submitted by CONTRACTOR and included here by reference attachment.

The link name is

<https://www.dropbox.com/s/yxpq0c3vctm9kdo/Vector%20cut%20sheets.pdf?dl=0>

Exhibit B**Price and Payment Terms****Fixed Turnkey Price: \$74,812.16**

(This is the fixed turnkey price to be paid to CONTRACTOR for its completion of the Work, including all products, parts, materials, labor, travel expenses, permits and overhead. CONTRACTOR's price shall be in conformance with its bid that it submitted with the RFQ.)

Add Alternate (Option B): \$101,372.00

A Hybrid Approach combining Line Voltage and New Fixture Retrofit options is available as an add alternate for an additional \$101,372.00. Magnolia will indicate whether the add-alternate approach is accepted if/when it issues its Notice to Proceed.

Contingencies/Additional Services Budget: \$7,481.00

A contingency amount of \$7,481.00 to cover changes to cover unforeseen circumstances in the project.

School Budget for LAUSD District Review Process: \$5,000.00

The amount of \$5,000.00 will be reserved and paid by the school to LAUSD for their project approval review fees.

Payment Terms:

- One final invoice per the following Schedule of Values. Payment terms at net 15 days.
- Joint-party checks to ensure payment to equipment suppliers shall be indicated on Final Invoice. All material & equipment suppliers shall be identified, so joint-party checks can be issued.
- Unconditional Waiver and Release upon Final Payment (California Civil Code 8138) is required from all equipment suppliers and/or subcontractors for final payment.
- Unconditional Waiver and Release upon Final Payment (California Civil Code 8138) from the CONTRACTOR is required for final payment.

Schedule of Values:

| Project Milestone | % Completed | Amount |
|---|--------------------|---------------|
| Installation Complete, Warranty, & O&M Manual | 100% | \$74,812.16 |

Contract for LED Lighting Retrofit Project – Magnolia and Vector

6/4/19

EXHIBIT A

Bid Form & Schedule of Values for OPTION A - LINE VOLTAGE LED LAMP RETROFIT APPROACH

DATE 5/8/2019 COMPANY VECTOR ENERGY GROUP, LLC EMAIL agancman@vectorenergygroup.com

NAME AL GANCMAN, PRESIDENT TELEPHONE 310-991-2017

MAGNOLIA SCIENCE ACADEMY 8

| | | PRICE OF | | | | TOTAL | SCHEDULE OF VALUES (5) | ESTIMATED REBATES (6) | PAYER OF REBATES (7) |
|----------------------------------|--|--|----------------------------|--------------------------------|-----------------------|---------------------|------------------------|-----------------------|----------------------|
| | | INTERIOR FLUORESCENT TUBE FIXTURE RETROFIT (1) | INTERIOR BULB RETROFIT (2) | INTERIOR LIGHTING RETROFIT (3) | OCCUPANCY SENSORS (4) | | | | |
| OPTION A | LINE VOLTAGE LAMP RETROFIT APPROACH | | | | | | | | |
| 1 | MAGNOLIA SCIENCE ACADEMY 8 LIGHTING PRODUCTS | \$ 19,948.72 | \$ 5,370.76 | \$ 12,793.39 | \$ 6,581.50 | \$ 44,694.38 | 60% | \$ - | SCE |
| 2 | MAGNOLIA SCIENCE ACADEMY 8 INSTALLATION LABOR, LAMP & BALLAST DISPOSAL | \$ 17,954.03 | \$ 2,273.04 | \$ 5,773.54 | \$ 4,117.17 | \$ 30,117.78 | 40% | | |
| 3 | MAGNOLIA SCIENCE ACADEMY 8 COST OF PERMITS AND INSPECTIONS | | | | | | | | |
| TOTAL TURNKEY FIXED PRICE | | \$ 37,902.75 | \$ 7,643.80 | \$ 18,566.93 | \$ 10,698.67 | \$ 74,812.16 | 100% | | |

Please list the DLC product numbers for the lighting products included in option A - Line Voltage LED Lamp Retrofit Approach table above

| DLC Number | Model Number | Product Description and Lamp or Fixture Lumens | INCLUDES INTEGRATED AREA CONTROLS OR OCCUPANCY SENSING? (YES / NO) | INCLUDES INTEGRATED DIMMING CONTROLS? (YES / NO) | PRODUCT CUT SHEET PROVIDED WITH BID? (YES / NO) |
|---------------|----------------------------|--|--|--|---|
| PLYX19CCA05U | LED12T8/148/FG/B41/SUB/B/F | 4' LINEAR T8 12w BYPASS | NO | NO | YES |
| P3MSKVQ3 | HV-V-G24Q-B-11W-840-G4 | 11W 4 PIN LED LAMP | NO | NO | YES |
| P4ZNIOTD | T5-25-48G-840-BYP | 25W T5 BYPASS | NO | NO | YES |
| ENERGY STAR | SKPT50LEDU30E39 | 50W CORN COB | NO | NO | YES |
| ENERGY STAR | SKPT300LEDU30E39 | 50W CORN COB | NO | NO | YES |
| ENERGY STAR | LED10A19/DIM/O/940/U/B | 10W LED A LAMP | NO | NO | YES |
| ACUITY SENSOR | CM-PDT-9 | ACUITY CEILING SENSOR | NO | NO | YES |
| POWER PACK | PP20 | POWER PACK | NO | NO | YES |

I, AL GANCMAN, am qualified to make this bid offer commitment on behalf of my company. The fixed, turnkey price provided is all-inclusive. I understand that this bid is provided to the client without expectation for compensation of any kind for the cost of preparing it, and that the Client (Magnolia Science Academy 8), or its designated Energy Manager (First Note Finance Inc) may reject this bid if it is not responsive, complete or submitted in time.

Exhibit C

CA Department of Industrial Relations Prevailing Wage Reporting Form – PWC 100

This project is funded in whole or in part using Proposition 39 State funding. This statute prohibits sole sourcing of contractors and requires registration with DIR as well as compliance with applicable Prevailing Wage law.

Please use your existing DIR login or register at:

DIR PWC 100 Log-in Site: <https://www.dir.ca.gov/pwc100ext/LoginPage.aspx>

Cover Sheet

Recommendation of MSA-7 Restroom Renovation Capital Improvement Project Financed by CSFIG Funds

Section: III. Facility Committee- Recommended Action Items
Item: A. Recommendation of MSA-7 Restroom Renovation Capital Improvement Project Financed by CSFIG Funds
Purpose: Vote
Submitted by:
Related Material: III A Restroom Renovation.pdf



| | |
|---------------------------------|---|
| Ad Hoc Committee Agenda Item #: | III A- RECOMMENDED ACTION ITEM |
| Date: | June 13, 2019 |
| To: | Magnolia Educational & Research Foundation dba Magnolia Public Schools (“ MPS ”) Facilities Committee (the “ Committee ”) |
| From: | Alfredo Rubalcava, CEO & Superintendent |
| Staff Lead: | Patrick Ontiveros, General Counsel & Director of Facilities |
| RE: | MSA7 – Restroom Renovation Capital Improvement Project Financed by CSFIG Funds |

I. Proposed Recommendation(s)

Staff recommends and moves that the Facilities Committee approve and recommend to the full MPS Board the approval of the expenditure of CSFIG funds to add up to two (2) new staff restrooms, renovate an existing staff restroom, and renovate the remaining student restrooms at Magnolia Science Academy 7 Northridge (the “**Project**”) at a cost of approximately **\$96,412** and that TNL Construction, Inc. (License #988454) be awarded the contract for said Project.

II. Background

A. CSFIG Funds Remaining

MSA7 is the recipient of a Charter School Facility Incentive Grant (“**CSFIG**”). The total CSFIG is **\$414,975**. It previously spent a portion of its grant, approximately **\$148,562.90**, to repair the pavement at its facilities. MSA7 would now like to spend a portion of its remaining grant on the Project. After approval of the playground surfacing replacement at a cost of approximately \$170,000, approximately **\$96,412.00** remains to complete the restroom capital improvement project. MPS Staff has discussed the restroom capital improvement project with the vendor referenced under subsection B below and such vendor will do as much of the restroom capital improvement project as possible within the revised budget. **All CSFIG projects must be completed by August 31, 2019 in order to receive funding. Therefore, time is of the essence in selecting a contractor to complete this capital improvement project.**



B. Procurement Process and Recommended Vendor

Multiple RFPs have been issued for the Project since mid-2018. The first one was issued and published on or about May 2, 2018. The most recent one was issued and published on or about March 5, 2019. The March 5th RFP is attached as Exhibit A. Very few expressions of interest have been received. The RFPs have been issued to contractors referred to Staff by other general contractors with whom we have worked. When no expressions of interest were received, Staff referred to the list of contractors registered with the Department of Industrial Relations and issued the RFP to multiple contractors on said list. See Exhibit B for a partial list. Finally, Staff published the RFP on a website called “Buildzoom”. Several expressions of interest were received from that posting; however, only one has followed through, TNL Construction, Inc. (“**TNL**”). TNL’s company resume is attached as Exhibit C. TNL proposes to perform the work on the Project under an affiliate company that carries workers’ compensation insurance and the other categories of insurance that Staff would require.

While TNL understands the need to meet the August 31st deadline and will proceed accordingly. TNL submitted a proposal in response to the March 5th RFP before the reduction in the CSFIG budget available for the Project. A copy of the original proposal is attached as Exhibit D. TNL has acknowledged the reduced budget and will adjust its scope of work accordingly.

MPS will either hire someone familiar with labor compliance / prevailing wage requirements and/or engage a third party vendor that specializes in labor compliance / prevailing wage requirements to insure that all requirements are met.

A draft copy of the proposed contract with TNL is attached as Exhibit E. Staff will negotiate the final form of the contract to conform to the requirements of the CSFIG program.

III. Budget Impacts

The Project will be paid for with CSFIG funds. CSFIG funds must be spent on or before August 31, 2019.

*** PENDING CFO APPROVAL

Exhibits (attachments):

- A. RFP
- B. Partial List of DIR Registered Contractors
- C. Company Resume
- D. Original TNL Bid
- E. Form of Contract



Exhibit A

RFP

(see following pages)



MAGNOLIA PUBLIC SCHOOLS

Request for Proposal to Provide
Restroom Repair, Improvement and Installation
Services for
Magnolia Science Academy 7
located at 18355 Roscoe Boulevard in the City of
Northridge

Due Date:

March 15, 2019

I. Overview & Background

Magnolia Education & Research Foundation doing-business as Magnolia Public Schools (“MPS”) and headquartered in Los Angeles is a charter school management organization that operates Magnolia Science Academy 7 (“MSA 7”). MPS is seeking a contractor to design, permit and construct certain restroom improvements (as more particularly described herein) to its MSA 7’s campus.

MPS expects to pay for the Services described in this RFP with a federal grant administered by the California School Finance Authority—the Charter School Facility Incentive Grant. **Therefore, all work must be prevailing wage.**

MPS is a network of 10 high-performing public charter schools that serves students in Los Angeles, Orange, and San Diego Counties. For more than a decade, MPS has delivered high quality education emphasizing science, technology, engineering and math. MPS is regularly recognized as having some of the top-performing-schools in the nation.

II. Scope of Services to be Provided

MSA-7, the subject of this Request for Proposal (“RFP”), is located at 18355 Roscoe Boulevard in the City of Northridge. See Exhibit A for location of the School which rents space at the location from a church.

The scope of services covered by this Request for Proposal shall include the following:

- Determine the feasibility and constructability of the desired restroom improvements.
- Design and submit drawings for permits, if needed, to LADBS
- Construct the improvements. The location of the existing restrooms (both staff and student and office) to be converted to ADA compliant restrooms are highlighted in Exhibit B. The Services are as follows:
 - Convert an existing bank of boys and girls restrooms to ADA compliant restrooms
 - Convert an existing office into an ADA compliant staff restroom
 - Upgrade an existing staff restroom to be ADA compliant
 - Upgrade a current inaccessible restroom to allow for staff accessibility
- Upgrading an existing water heater is part of the scope of work.

The MPS Board of Directors, upon recommendation by MPS management, will approve the selected firm (the “Provider”) to provide the Services. Further, the Services will be provided under a contract approved by the MPS Board of Directors.

MPS will be responsible for the following tasks in order to facilitate the provision of the Services by the Provider.

- Arrange access to the School site.
- Provide any plans that exist.

- Provide such other support as shall be necessary to facilitate the completion of the Services according to the desired completion date cited herein.

III. Timetable for Selecting a Provider

The proposed timetable for selecting a Provider to provide the requested Services is as follows:

| Date | Description |
|---|---|
| Wednesday, March 6, 2019 | Issue RFP |
| TBD on a case by case basis – Week of March 11th | MSA7 Site Visits for Interested Vendors |
| Friday, March 15, 2019 | Proposal Responses Due |
| Tuesday, March 19, 2019 | Selection of Service Provider |
| Monday, April 15, 2019 | Commencement of Services |
| Friday, April 19, 2019 | Completion of Services |

MPS understands that the commencement and duration of the work will be impacted by any permitting and inspections required by the City of Los Angeles Department of Building and Safety.

If it is not feasible to complete the work as described above (during the spring break), the Work may be done over the summer of 2019, commencing June 10, 2019 but must be completed by not later than July 31, 2019.

IV. Questions and Submission

All questions regarding this RFP should be directed to the following person, preferably by e-mail, as shown below.

Mr. Patrick Ontiveros
General Counsel and Director of Facilities
Magnolia Public Schools
250 East 1st Street, Suite 1500 Los Angeles, CA 90012
pontiveros@magnoliapublicschools.org
Office: (213) 628-3634 x103
Mobile: (323) 490-0701

All proposals are due ***no later than 5:00 p.m. on Friday, March 15, 2019*** and may be delivered either by email or in hard copy form to the person indicated above.

V. Proposal Format

Proposals may not exceed 10 pages including any exhibits. Proposals are to include the following content:

A. Vendor Qualifications and Experience.

- (1) State the name, size of you firm, the size of the staff, the location of the office from which the work on this engagement is to be performed, and the number and nature of the professional staff to be employed in this engagement. If you are sole proprietor, please state this fact.
- (2) Provide a summary of the firm's experiences over the past five (5) years in providing directly relevant services.
- (3) Disclose relationships that have been terminated and the circumstances around such terminations.
- (4) Describe your experience with prevailing wage jobs and ability to meet the applicable rules and regulations governing prevailing wage jobs.

B. Qualifications and Experience of Key Personnel.

- (1) Contractor's license and in good standing.
- (2) Identify the person that will be principally responsible for working with MPS and leading this engagement.

C. References. Provide three (3) references of clients for whom you have provided a similar scope of services over the past three (3) years. Please include full name, position, telephone number and email address and a description of the engagement.

D. Insurance Requirements. MPS will require that the Provider possess certificates of insurance evidencing required coverage and the minimums as indicated below. MPS will require that Provider procure and maintain for the duration of its engagement with MPS insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of work by the Provider, its agents, representatives or employees. It is required that broad coverage include the following:

- (1) Commercial General Liability on an occurrence basis for bodily injury and property damage including products completed operations, personal injury and advertising;
- (2) Automobile Liability for bodily injury and property damage;
- (3) Workers Compensation Insurance as required by the State of California with Statutory Limits, and Employer's Liability;

- (4) And, such other insurance as MPS may reasonably require.
- (5) Given the foregoing requirements, please provide a statement as to the willingness and ability of your firm to provide the required minimums.

E. Conflicts of Interest. Please disclose each of the following:

- (1) Any violations of federal, state or local regulations/laws within the past three (3) years regardless of how resolved;
- (2) All threatened, pending or current disputes (including litigations) and the status of said disputes;
- (3) Arrangements with other firms that may pose a potential conflict of interest to the MPS engagement; any arrangements that are likely to be made in order to deliver upon the MPS engagement; and
- (4) If none of the above apply, provide a statement to that effect.

F. Cost Proposal. Please present a cost proposal based on the scope of the Services identified in this RFP and the site walk. Proposals should include all standard costs associated with providing the services described in the Scope of Work.

- (1) Proposals may include a compensation that includes the hourly rate for each individual who would be assigned to MPS, and a cost by category for all major activities.
- (2) Be clear as to any services that might be typically provided with an engagement such as the one outlined in this RFP and which may fall outside your cost proposal. If there are none, ensure that you make a statement to that effect.
- (3) Please provide an estimated overall cost for the Services based on the information provided in this RFP and the site-walk including taking into account the desired completion timeframe and the prevailing wage requirements set forth herein.
- (4) Provide a description of the warranty provided.

G. Form of Agreement. The successful responder will agree to enter into an agreement substantially similar to AIA Document A104™–2017 Standard Abbreviated Form of Agreement Between Owner and Contractor or another mutually agreeable contract form. Any objections to this form of agreement should be indicated in your response and an alternative agreement should be proposed.

H. Site Visit. MPS expects that interested contractors will visit the site on the date set forth above to understand and define the exact scope of work.

VI. Evaluation of Proposals and Negotiations.

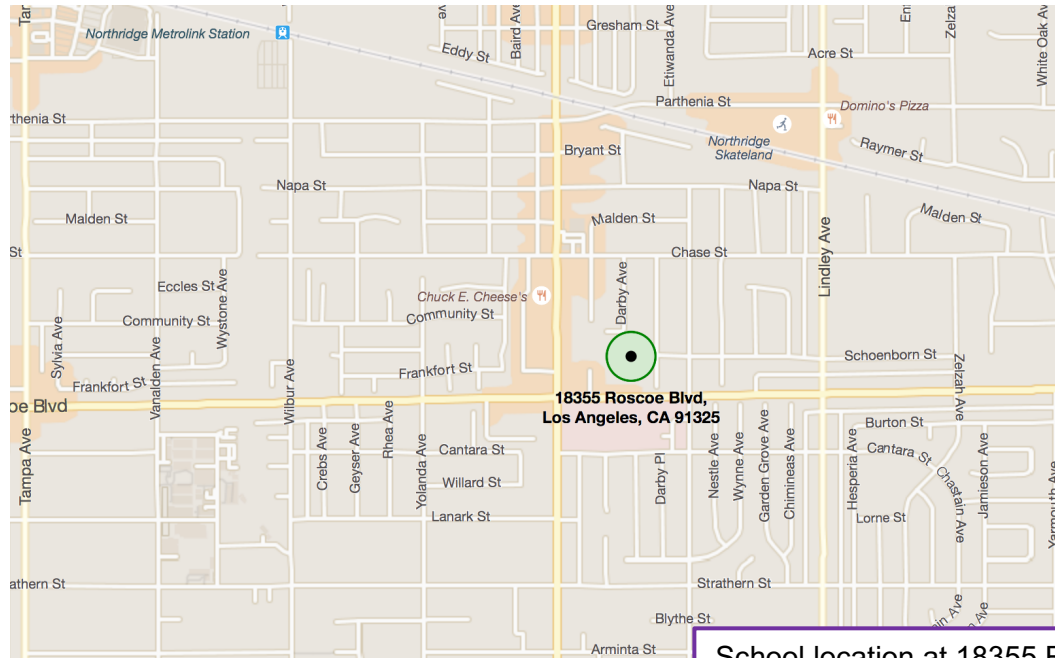
Overall responsiveness made within the response to this RFP are important factors in the overall evaluation process. MPS will select a firm that has the highest suitability for the work with MPS and the ability to meet the stated deadline for completion with a competitive price point.

VII. Award.

MPS reserves the right to reject any and all proposals; to waive any informality in the proposal process; and to accept the proposal that appears to be in its best interests. Further, MPS reserves the right to modify or issue amendments to this RFP and to cancel or reissue this RFP at any time.

End of Request for Proposal

EXHIBIT A MAP OF SCHOOL LOCATION



School location at 18355 Roscoe Blvd

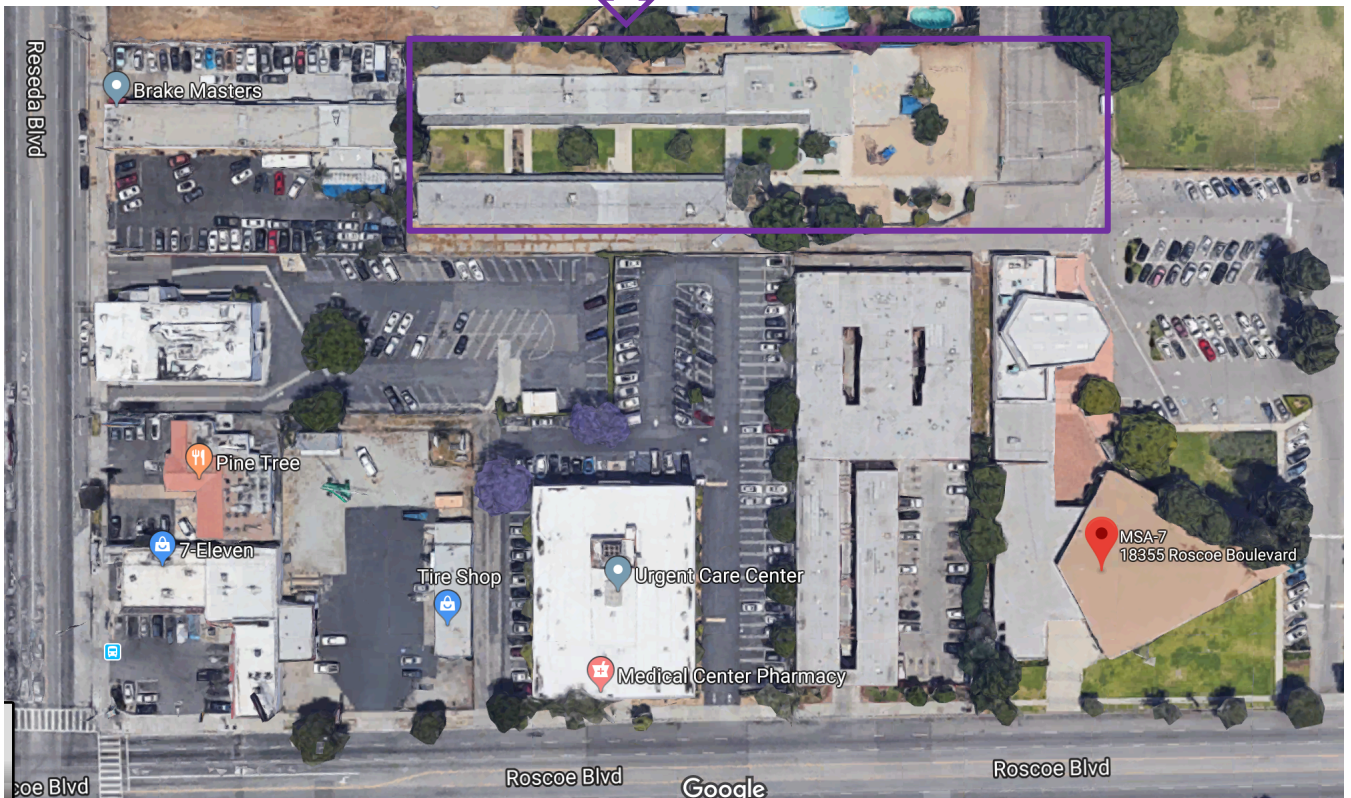
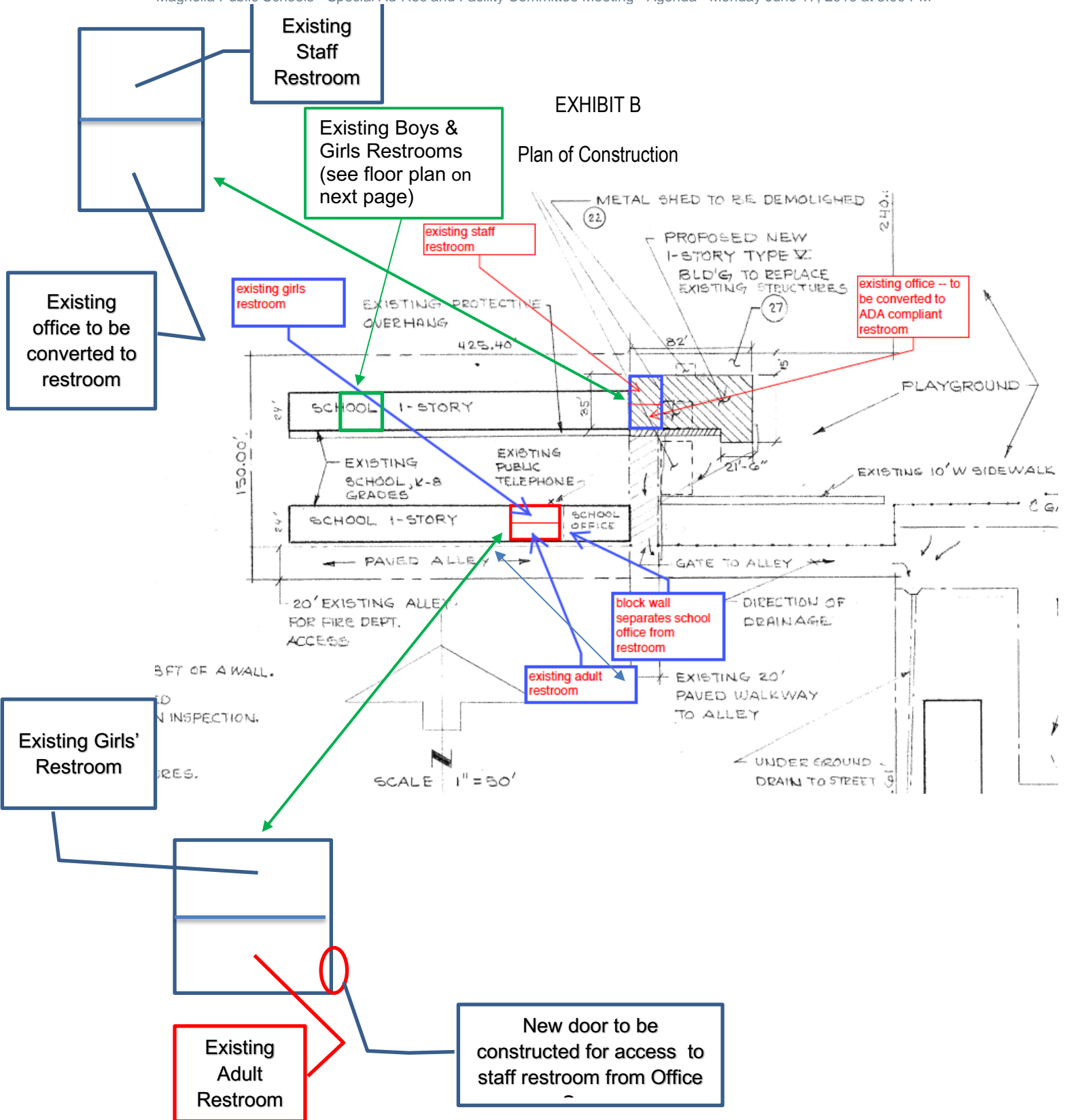


EXHIBIT B

Plan of Construction



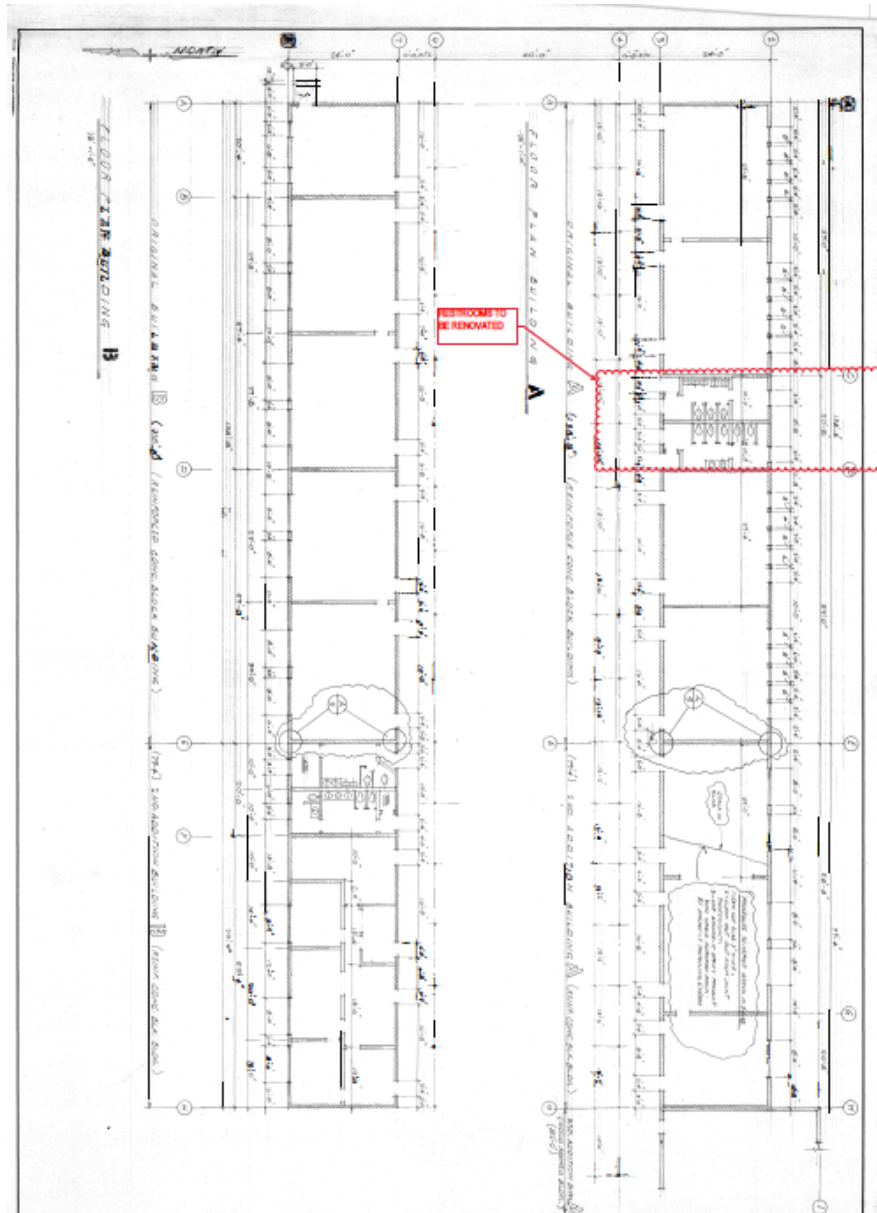




Exhibit B

Contractors Registered with DIR

(see following pages)

DIR PREVAILING WAGE CONTRACTORS

1000044254 Contractor Details ✕

Contractor Information
Legal Entity Information
Workers' Compensation

| | |
|---|---|
| Legal Name A & E CONSTRUCTION & PAINTING INC. | Legal Entity Type CORPORATION |
| Trade Name A & E CONSTRUCTION & PAINTING INC. | |
| License Number(s) CSLB :1014539 | |
| Mailing Address 7330 LASAINE AVENUE LAKE BALBOA, CA 91406 | |
| Physical Address 7330 LASAINE AVENUE LAKE BALBOA, CA 91406 | |
| Email Address ALASEVERTS08@HOTMAIL.COM | |

1000059830 Contractor Details ✕

Contractor Information
Legal Entity Information
Workers' Compensation

| | |
|--|---|
| Legal Name ADS PLUMBING AND CONSTRUCTION | Legal Entity Type GENERAL PARTNERSHIP |
| Trade Name | |
| License Number(s) CSLB :1036912 | |
| Mailing Address 4268 PETALUMA AVE LAKEWOOD, CA 90713 | |
| Physical Address 4268 PETALUMA AVE LAKEWOOD, CA 90713 | |
| Email Address ADSPUMBINGANDCONSTRUCTION@AOL.COM | |

1000015064 Contractor Details ✕

Contractor Information
Legal Entity Information
Workers' Compensation

| | |
|--|---|
| Legal Name A G M CONSTRUCTION CORPORATION | Legal Entity Type CORPORATION |
| Trade Name A G M CONSTRUCTION CORPORATION | |
| License Number(s) CSLB :696539 | |
| Mailing Address 10139 LARRYLYN DR WHITTIER, CA 90603 | |
| Physical Address 10139 LARRYLYN DR WHITTIER, CA 90603 | |
| Email Address AGMCONSTRUCTION@VERIZON.NET | |

1000027144 Contractor Details ✕

Contractor Information
Legal Entity Information
Workers' Compensation

| | |
|---|---|
| Legal Name ALLIANCE CONSTRUCTION SERVICES, INC | Legal Entity Type CORPORATION |
| Trade Name ALLIANCE BUILDING & CONSTRUCTION SERVICES | |
| License Number(s) CSLB :990901 | |
| Mailing Address 8011 QUARTZ AVE. WINNETKA, CA 91343 | |
| Physical Address 8011 QUARTZ AVE. WINNETKA, CA 91343 | |
| Email Address JACKIE@THEALLIANCECHOICE.COM | |

1000053651 Contractor Details

Contractor Information | Legal Entity Information | Workers' Compensation

Legal Name
BAUM CONSTRUCTION & DEVELOPMENT, INC.

Legal Entity Type
CORPORATION

Trade Name
BAUM CONSTRUCTION & DEVELOPMENT INC.

License Number(s)
CSLB :1003379

Mailing Address
2900 FIDLER AVE
LONG BEACH, CA 90815

Physical Address
2900 FIDLER AVE
LONG BEACH, CA 90815

Email Address
MBAUM@BAUMCON.COM

1000055625 Contractor Details

Contractor Information | Legal Entity Information | Workers' Compensation

Legal Name
BNC CONSTRUCTION INC

Legal Entity Type
CORPORATION

Trade Name

License Number(s)
CSLB :1034928

Mailing Address
17324 CAINE DR.
ARTESIA, CA 90701

Physical Address
17510 PIONEER BLVD #216
ARTESIA, CA 90701

Email Address
PROBNC17@GMAIL.COM

1000033438 Contractor Details

Contractor Information | Legal Entity Information | Workers' Compensation

Legal Name
FS CONTRACTORS INC

Legal Entity Type
CORPORATION

Trade Name

License Number(s)
CSLB :1005940

Mailing Address
14838 BLEDSOE ST.
SYLMAR, CA 91342

Physical Address
14838 BLEDSOE ST.
SYLMAR, CA 91342

Email Address
MARTHA@FSCONTRACTORSINC.COM

| Contractor Information | Legal Entity Information | Workers' Compensation |
|---|--------------------------|---|
| Legal Name J L MOODY CONSTRUCTION & DEVELOPMENT, INC | | Legal Entity Type CORPORATION |
| Trade Name J L MOODY CONSTRUCTION & DEVELOPMENT, INC | | |
| License Number(s) CSLB :967218 | | |
| Mailing Address 335 E ALBERTONI ST #200-221 CARSON, CA 90746 | | |
| Physical Address 1123 E. DOMINGUEZ AVE UNIT A CARSON, CA 90746 | | |
| Email Address JLMOODYCONSTRUCTION@GMAIL.COM | | |

100002699 Contractor Details ✕

| Contractor Information | Legal Entity Information | Workers' Compensation |
|---|--------------------------|---|
| Legal Name KEMP BROS. CONSTRUCTION, INC. | | Legal Entity Type CORPORATION |
| Trade Name | | |
| License Number(s) CSLB :149816 | | |
| Mailing Address 10135 GEARY AVENUE SANTA FE SPRINGS, CA 90670 | | |
| Physical Address 10135 GEARY AVENUE SANTA FE SPRINGS, CA 90670 | | |
| Email Address INFO@KEMPBROS.COM | | |

100004332 Contractor Details ✕

| Contractor Information | Legal Entity Information | Workers' Compensation |
|--|--------------------------|---|
| Legal Name MCM INTEGRATED SYSTEMS, INC. | | Legal Entity Type CORPORATION |
| Trade Name | | |
| License Number(s) CSLB :716840 | | |
| Mailing Address 6961 HAYVENHURST AVENUE VAN NUYS, CA 91406 | | |
| Physical Address 6961 HAYVENHURST AVENUE VAN NUYS, CA 91406 | | |
| Email Address RICH_MCMILLAN@MCMINTEGRATED.COM | | |



Exhibit C

TNL Company Resume

(see following pages)



“A division of TNL Renovation Lic. #1052062”

19528 Ventura Blvd. #152, Tarzana, CA 91356

18075 Ventura Blvd. Suite 101 Encino, California 91316

Licence #988454 – A, B, C10

(800) 232-1648

info@tnlconstructioninc.com

tnlrenovation@gmail.com

INTRODUCTION

Welcome to TNL Construction, one of LA’s premier Design & Build firms. As a true family business, we collectively help each one of our clients with all of their construction & development needs. Backed by almost half a century of combined industry experience, we are some of the most skilled and knowledgeable builders in the LA area, guaranteed. Our team has experience in various construction fields, such as Public Works/Government Construction Projects, Land Development, Residential & Commercial Construction, and Remodeling.

Our committed team of professionals will be constantly available to cater to every one of your project needs. We pride ourselves by taking the “hands-on” approach with all of our clients, ensuring quality of service and workmanship is impeccable. After all, it is each and every detail that eventually becomes the entire picture!

KEY SKILLS

- Design & Build
- Commercial & Residential Construction
- Land Development
- General Construction
- Remodeling
- Construction Management

COMPANY PERSONNEL

RMO/CONSTRUCTION MANAGEMENT—Meir Levi

CEO/PRESIDENT—Tami Kochlani

VICE PRESIDENT/FIELD OFFICER—Tomer Levi

CFO/CONTRACTOR/PROJECT MANAGEMENT—Avi Kochlani

COMPLETED PROJECTS

1. Private Client—4750 Louise Avenue, Encino, CA 91316
 - 34,000 sq. ft. Residential Construction & Development
 - 6 acre lot
 - Build additional square footage & completely remodel all aspects of the residence
 - Includes interior & exterior remodeling

2. La Curacao (Retail Stores)—Several Locations
 - Locations: Los Angeles, Panorama City, Huntington Park
 - Design & Build—Commercial developments
 - Generate blueprints for permits & construct new construction buildings for retail use.
 - Includes all aspects of construction, including foundation, framing, steel work, utilities, and finish work

3. Department of LA Parks & Recreation—Harvard Park & Lanark Park Pools
 - Complete Park Renovation for community use
 - Including new pools, facilities, basketball courts, and various playgrounds
 - Includes running new underground utilities, foundation, framing, steel work, and landscaping/hardscaping finish work

4. Private Client/Developer—11218 Camarillo Street, North Hollywood, CA 91602
 - Design & Build—Housing Development
 - 28 Unit Condominium Building
 - Generate blueprints for permits
 - Complete/Turnkey project—demolition of existing site & general construction for new building

5. Private Client/Developer—5303 Satsuma Avenue, North Hollywood, CA 91601
 - Housing Development
 - 20 Unit Condominium Building

- Generate blueprints for permits
 - Complete/Turnkey project—demolition of existing site & general construction for new building
6. City of Santa Barbara—Courthouse Building in Downtown Santa Barbara, CA
- Complete seismic retrofit & upgrade for courthouse
 - Building catwalks in attic for future access
 - Re-routing plumbing, electrical, and HVAC
 - Landscaping/Hardscaping—including new ADA compliant walkways, grass fields, and driveways.
 - General Construction

....and more!

CURRENT PROJECTS

1. Private Client—8535 W. Venice Blvd, Los Angeles, CA 90034
 - Commercial Development
 - Converting Auto Body Garage into New Office Building
 - Started: February 2019
 - Estimated Completion: June 2019

2. Private Client—4838 Calderon Road, Woodland Hills, CA 91364
 - **DESIGN & BUILD CLIENT**
 - Residential Construction & Development
 - 18,000 sq. ft. Estate
 - 8,000 sq. ft. accessory building with subterranean garage & rooftop basketball court
 - 1.8 acre lot/1.0 acre flat
 - Work included grading, excavation, foundation, framing, utilities, finish work, new street improvements, etc.
 - Started: January 2017 (Construction Start Date)
 - Estimated Completion: June 2019

3. Private Client—913 Hilldale Ave, West Hollywood, CA 90069
 - **DESIGN & BUILD CLIENT**
 - Housing Development for land owner
 - 3 New (approx. 4000 sq. ft.) Townhomes with Subterranean Parking Garage
 - Work includes demolition, grading, excavation, shoring, foundation, framing, utilities, finish work, new street improvements, etc.
 - Started: October 2018 (Construction Start Date)

- Estimated Completion Date: August 2019
4. Private Client—15801 Moorpark Street, Encino, CA 91316
 - **DESIGN & BUILD CLIENT**
 - New Construction Home
 - Approx. 3600 sq. ft. 2 story home
 - Work includes demolition, foundation, framing, utilities, finish work, landscaping, hardscaping, etc.
 - Started: April 1, 2019 (Construction Start Date)
 - Estimated Completion Date: November 2019
 5. Private Client—928 Fifth Ave, Los Angeles, CA 90019
 - **DESIGN & BUILD CLIENT**
 - Garage Conversion/ADU
 - New Deck & Hardscaping
 - Seismic Retrofitting
 - Work includes demolition, major foundation & framing work, utilities, finish work, landscaping, hardscaping, etc.
 - Started: March 2019 (Construction Start Date)
 - Estimated Completion Date: June 2019
 6. Private Client—11616 Laurelwood Drive, Studio City, CA
 - Approx. 600 sq. ft. hillside room addition for new master bedroom/bathroom
 - Complete Home Remodeling
 - Includes relocation/remodeling of kitchen, bathrooms, raising ceiling height to 9' throughout home, general remodeling, landscaping/hardscaping, finish work
 - Project start date: March 2019
 - Estimated Completion Date: August 2019
 7. Company & Investor Partnership—4050 Deerhorn Drive, Sherman Oaks, CA
 - Starting soon!
 - 10 acre lot
 - Land Development & Subdivision
 - (2) homes—26,000 sq. ft. & 18,000 sq. ft.
 - Work includes major grading, excavation, shoring, foundation, framing, utilities, finish work, new street improvements, landscaping, hardscaping, etc.
 - Projected start date: 10/2019
 - Estimated Completion Date: TBD

...and more!



Exhibit D

Original TNL Proposal

(see following pages)



19528 Ventura Blvd. #152, Tarzana, CA 91356

18075 Ventura Blvd. Suite 101 Encino, California 91316

Licence #988454 – A, B, C10

(800) 232-1648

info@tnlconstructioninc.com

Date: 5/13/19

Client: Magnolia Public Schools
Magnolia Science Academy 7

OAR: Patrick Anton C. Ontiveros
213-628-3634 x103

Site Address: 18355 Roscoe Blvd, Northridge, CA 91325

Project: Bathroom Renovations

Phase #1—Design Services

JOB DESCRIPTION:

- Convert an existing bank of boys & girls restrooms to ADA compliant restrooms**
- Convert an existing office into an ADA compliant restroom**
- Upgrade an existing staff restroom to be ADA compliant**
- Upgrade a currently inaccessible restroom to allow for staff accessibility**

Preliminary Evaluation

This phase consists of reviewing and defining floor plan requirements.

- A. Field measurements, verifications and drafting of existing conditions
- B. Furnish requested surveys, soil analyses, and legal description of the site as required by the city
- C. Zoning and code review with Los Angeles Department of Building & Safety (LADBS)

Customer Signature & Date

Design

Preparation of design drawings that will fix and describe the size, nature and character of the entire project. Includes 3D renderings for visuals. Meetings, as necessary, to refine the design until your needs are met functionally, aesthetically, and economically. In the process of design, lower priority goals may have to be sacrificed in order to meet a certain budget goal.

Construction Documents

Construction documents begin once you approve the final design. These documents are used for obtaining permits and consist of plans, elevations, and sections, which detail and dimension the scope of work. All building code items are addressed. This is including, but not limited to:

- A. Architectural
- B. Civil/Structural
- C. Electrical Engineering
- D. Mechanical Engineering (Plumbing & HVAC)
- E. Utility Plan
- F. Title 24
- G. Etc.

Design Services Cost: \$32,500.00

Not including: Plan check/permit fees

Duration:

Design Services: Approx. 3 months (for permit issuance)
Construction: Approx. 2 months

Ballpark for Construction Costs: \$125,000.00 (+/- 10%)

****PLEASE NOTE:** If client wishes to proceed with TNL Construction and sign a construction contract, client will be reimbursed 50% of design services fee**

Customer Signature & Date



Exhibit E

Form of Contract

(see following pages)

DRAFT AIA® Document A105™ - 2017

Standard Short Form of Agreement Between Owner and Contractor

AGREEMENT made as of the « » day of « » in the year « »
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

« »
« »
« »
« »

and the Contractor:
(Name, legal status, address and other information)

« »
« »
« »
« »

for the following Project:
(Name, location and detailed description)

«MSA-7 RESTROOM RENOVATION AND CONSTRUCTION»
«18335 Roscoe Blvd»
« »

The Architect:
(Name, legal status, address and other information)

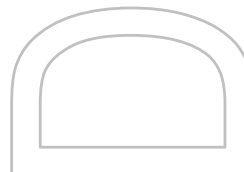
« »
« »
« »
« »

The Owner and Contractor agree as follows.



ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA Standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.



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User Notes: (1164275821)

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 3 CONTRACT SUM
- 4 PAYMENTS
- 5 INSURANCE
- 6 GENERAL PROVISIONS
- 7 OWNER
- 8 CONTRACTOR
- 9 ARCHITECT
- 10 CHANGES IN THE WORK
- 11 TIME
- 12 PAYMENTS AND COMPLETION
- 13 PROTECTION OF PERSONS AND PROPERTY
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- 15 MISCELLANEOUS PROVISIONS
- 16 TERMINATION OF THE CONTRACT
- 17 OTHER TERMS AND CONDITIONS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contractor shall complete the Work described in the Contract Documents for the Project. The Contract Documents consist of

- .1 this Agreement signed by the Owner and Contractor;
- .2 the drawings and specifications prepared by the Architect, dated « », and enumerated as follows:

Drawings:

| Number | Title | Date |
|--------|-------|------|
| | | |

Specifications:

| Section | Title | Pages |
|---------|-------|-------|
| | | |

- .3 addenda prepared by the Architect as follows:

| Number | Date | Pages |
|--------|------|-------|
| | | |

- .4 written orders for changes in the Work, pursuant to Article 10, issued after execution of this Agreement; and

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User Notes: (1164275821)

.5 other documents, if any, identified as follows:

« »

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The Contract Time is the number of calendar days available to the Contractor to substantially complete the Work.

§ 2.2 Date of Commencement:

Unless otherwise set forth below, the date of commencement shall be the date of this Agreement.

(Insert the date of commencement if other than the date of this Agreement.)

« »

§ 2.3 Substantial Completion:

Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion, as defined in Section 12.5, of the entire Work:

(Check the appropriate box and complete the necessary information.)

[« »] Not later than « » (« ») calendar days from the date of commencement.

[« »] By the following date: « »

ARTICLE 3 CONTRACT SUM

§ 3.1 The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work. Subject to additions and deductions in accordance with Article 10, the Contract Sum is:

« » (\$ « »)

§ 3.2 For purposes of payment, the Contract Sum includes the following values related to portions of the Work: *(Itemize the Contract Sum among the major portions of the Work.)*

| Portion of the Work | Value |
|---------------------|-------|
| « » | « » |

§ 3.3 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and hereby accepted by the Owner:

(Identify the accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

« »

§ 3.4 Allowances, if any, included in the Contract Sum are as follows: *(Identify each allowance.)*

| Item | Price |
|------|-------|
| « » | « » |

§ 3.5 Unit prices, if any, are as follows: *(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*

| Item | Units and Limitations | Price per Unit (\$0.00) |
|------|-----------------------|-------------------------|
| « » | « » | « » |

ARTICLE 4 PAYMENTS

§ 4.1 Based on Contractor's Applications for Payment certified by the Architect, the Owner shall pay the Contractor, in accordance with Article 12, as follows:

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(Insert below timing for payments and provisions for withholding retainage, if any.)

« »

§ 4.2 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate below, or in the absence thereof, at the legal rate prevailing at the place of the Project.
(Insert rate of interest agreed upon, if any.)

« » % « »

ARTICLE 5 INSURANCE

§ 5.1 The Contractor shall maintain the following types and limits of insurance until the expiration of the period for correction of Work as set forth in Section 14.2, subject to the terms and conditions set forth in this Section 5.1:

§ 5.1.1 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than « » (\$ « ») each occurrence, « » (\$ « ») general aggregate, and « » (\$ « ») aggregate for products-completed operations hazard.

§ 5.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than « » (\$ « ») per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

§ 5.1.3 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 5.1.1 and 5.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 5.1.4 Workers' Compensation at statutory limits.

§ 5.1.5 Employers' Liability with policy limits not less than « » (\$ « ») each accident, « » (\$ « ») each employee, and « » (\$ « ») policy limit.

§ 5.1.6 The Contractor shall provide builder's risk insurance to cover the total value of the entire Project on a replacement cost basis.

§ 5.1.7 Other Insurance Provided by the Contractor
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

| Coverage | Limits |
|----------|--------|
| | |

§ 5.2 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance and shall provide property insurance to cover the value of the Owner's property. The Contractor is entitled to receive an increase in the Contract Sum equal to the insurance proceeds related to a loss for damage to the Work covered by the Owner's property insurance.

§ 5.3 The Contractor shall obtain an endorsement to its Commercial General Liability insurance policy to provide coverage for the Contractor's obligations under Section 8.12.

§ 5.4 Prior to commencement of the Work, each party shall provide certificates of insurance showing their respective coverages.

§ 5.5 Unless specifically precluded by the Owner's property insurance policy, the Owner and Contractor waive all rights against (1) each other and any of their subcontractors, suppliers, agents, and employees, each of the other; and (2) the Architect, Architect's consultants, and any of their agents and employees, for damages caused by fire or other

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causes of loss to the extent those losses are covered by property insurance or other insurance applicable to the Project, except such rights as they have to the proceeds of such insurance.

ARTICLE 6 GENERAL PROVISIONS

§ 6.1 The Contract

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification in accordance with Article 10.

§ 6.2 The Work

The term "Work" means the construction and services required by the Contract Documents, and includes all other labor, materials, equipment, and services provided, or to be provided, by the Contractor to fulfill the Contractor's obligations.

§ 6.3 Intent

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all.

§ 6.4 Ownership and Use of Architect's Drawings, Specifications and Other Documents

Documents prepared by the Architect are instruments of the Architect's service for use solely with respect to this Project. The Architect shall retain all common law, statutory, and other reserved rights, including the copyright. The Contractor, subcontractors, sub-subcontractors, and suppliers are authorized to use and reproduce the instruments of service solely and exclusively for execution of the Work. The instruments of service may not be used for other Projects or for additions to this Project outside the scope of the Work without the specific written consent of the Architect.

§ 6.5 Electronic Notice

Written notice under this Agreement may be given by one party to the other by email as set forth below. *(Insert requirements for delivering written notice by email such as name, title, and email address of the recipient, and whether and how the system will be required to generate a read receipt for the transmission.)*

« »

ARTICLE 7 OWNER

§ 7.1 Information and Services Required of the Owner

§ 7.1.1 If requested by the Contractor, the Owner shall furnish all necessary surveys and a legal description of the site.

§ 7.1.2 Except for permits and fees under Section 8.7.1 that are the responsibility of the Contractor, the Owner shall obtain and pay for other necessary approvals, easements, assessments, and charges.

§ 7.1.3 Prior to commencement of the Work, at the written request of the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence.

§ 7.2 Owner's Right to Stop the Work

If the Contractor fails to correct Work which is not in accordance with the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made.

§ 7.3 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, correct such deficiencies. In such case, the Architect may withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the cost of correction, provided the actions of the Owner and amounts charged to the Contractor were approved by the Architect.

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§ 7.4 Owner's Right to Perform Construction and to Award Separate Contracts

§ 7.4.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project.

§ 7.4.2 The Contractor shall coordinate and cooperate with the Owner's own forces and separate contractors employed by the Owner.

ARTICLE 8 CONTRACTOR

§ 8.1 Review of Contract Documents and Field Conditions by Contractor

§ 8.1.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 8.1.2 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies, or omissions discovered to the Architect.

§ 8.2 Contractor's Construction Schedule

The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work.

§ 8.3 Supervision and Construction Procedures

§ 8.3.1 The Contractor shall supervise and direct the Work using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work.

§ 8.3.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner, through the Architect, the names of subcontractors or suppliers for each portion of the Work. The Contractor shall not contract with any subcontractor or supplier to whom the Owner or Architect have made a timely and reasonable objection.

§ 8.4 Labor and Materials

§ 8.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work.

§ 8.4.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

§ 8.5 Warranty

The Contractor warrants to the Owner and Architect that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents. Any material or equipment warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 12.5.

§ 8.6 Taxes

The Contractor shall pay sales, consumer, use, and similar taxes that are legally required when the Contract is executed.

§ 8.7 Permits, Fees and Notices

§ 8.7.1 The Contractor shall obtain and pay for the building permit and other permits and governmental fees, licenses, and inspections necessary for proper execution and completion of the Work.

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§ 8.7.2 The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the Architect in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules, and regulations.

§ 8.8 Submittals

The Contractor shall promptly review, approve in writing, and submit to the Architect shop drawings, product data, samples, and similar submittals required by the Contract Documents. Shop drawings, product data, samples, and similar submittals are not Contract Documents.

§ 8.9 Use of Site

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents, and the Owner.

§ 8.10 Cutting and Patching

The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly.

§ 8.11 Cleaning Up

The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery, and surplus material; and shall properly dispose of waste materials.

§ 8.12 Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

ARTICLE 9 ARCHITECT

§ 9.1 The Architect will provide administration of the Contract as described in the Contract Documents. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 9.2 The Architect will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work.

§ 9.3 The Architect will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

§ 9.4 Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor.

§ 9.5 The Architect has authority to reject Work that does not conform to the Contract Documents.

§ 9.6 The Architect will promptly review and approve or take appropriate action upon Contractor's submittals, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 9.7 On written request from either the Owner or Contractor, the Architect will promptly interpret and decide matters concerning performance under, and requirements of, the Contract Documents.

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§ 9.8 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from the Contract Documents, and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.

§ 9.9 The Architect's duties, responsibilities, and limits of authority as described in the Contract Documents shall not be changed without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

ARTICLE 10 CHANGES IN THE WORK

§ 10.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, and the Contract Sum and Contract Time shall be adjusted accordingly, in writing. If the Owner and Contractor cannot agree to a change in the Contract Sum, the Owner shall pay the Contractor its actual cost plus reasonable overhead and profit.

§ 10.2 The Architect may authorize or order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such authorization or order shall be in writing and shall be binding on the Owner and Contractor. The Contractor shall proceed with such minor changes promptly.

§ 10.3 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to equitable adjustment.

ARTICLE 11 TIME

§ 11.1 Time limits stated in the Contract Documents are of the essence of the Contract.

§ 11.2 If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes beyond the Contractor's control, the Contract Time shall be subject to equitable adjustment.

§ 11.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the responsible party.

ARTICLE 12 PAYMENTS AND COMPLETION

§ 12.1 Contract Sum

The Contract Sum stated in this Agreement, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 12.2 Applications for Payment

§ 12.2.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment for Work completed in accordance with the values stated in this Agreement. The Application shall be supported by data substantiating the Contractor's right to payment as the Owner or Architect may reasonably require, such as evidence of payments made to, and waivers of liens from, subcontractors and suppliers. Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing.

§ 12.2.2 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or other encumbrances adverse to the Owner's interests.

§ 12.3 Certificates for Payment

The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the

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Contractor; (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in part; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole. If certification or notification is not made within such seven day period, the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time and the Contract Sum shall be equitably adjusted due to the delay.

§ 12.4 Progress Payments

§ 12.4.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner provided in the Contract Documents.

§ 12.4.2 The Contractor shall promptly pay each subcontractor and supplier, upon receipt of payment from the Owner, an amount determined in accordance with the terms of the applicable subcontracts and purchase orders.

§ 12.4.3 Neither the Owner nor the Architect shall have responsibility for payments to a subcontractor or supplier.

§ 12.4.4 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.

§ 12.5 Substantial Completion

§ 12.5.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

§ 12.5.2 When the Contractor believes that the Work or designated portion thereof is substantially complete, it will notify the Architect and the Architect will make an inspection to determine whether the Work is substantially complete. When the Architect determines that the Work is substantially complete, the Architect shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, establish the responsibilities of the Owner and Contractor, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 12.6 Final Completion and Final Payment

§ 12.6.1 Upon receipt of a final Application for Payment, the Architect will inspect the Work. When the Architect finds the Work acceptable and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment.

§ 12.6.2 Final payment shall not become due until the Contractor submits to the Architect releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests, or encumbrances arising out of the Contract.

§ 12.6.3 Acceptance of final payment by the Contractor, a subcontractor or supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 13 PROTECTION OF PERSONS AND PROPERTY

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees on the Work and other persons who may be affected thereby, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

ARTICLE 14 CORRECTION OF WORK

§ 14.1 The Contractor shall promptly correct Work rejected by the Architect as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement, and additional testing.

§ 14.2 In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents.

§ 14.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 7.3.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Assignment of Contract

Neither party to the Contract shall assign the Contract as a whole without written consent of the other.

§ 15.2 Tests and Inspections

§ 15.2.1 At the appropriate times, the Contractor shall arrange and bear cost of tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 15.2.2 If the Architect requires additional testing, the Contractor shall perform those tests.

§ 15.2.3 The Owner shall bear cost of tests, inspections, or approvals that do not become requirements until after the Contract is executed. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 15.3 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

ARTICLE 16 TERMINATION OF THE CONTRACT

§ 16.1 Termination by the Contractor

If the Work is stopped under Section 12.3 for a period of 14 days through no fault of the Contractor, the Contractor may, upon seven additional days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed including reasonable overhead and profit, and costs incurred by reason of such termination.

§ 16.2 Termination by the Owner for Cause

§ 16.2.1 The Owner may terminate the Contract if the Contractor

- 1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- 2 fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the subcontractors;
- 3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- 4 is otherwise guilty of substantial breach of a provision of the Contract Documents.

§ 16.2.2 When any of the above reasons exist, the Owner, after consultation with the Architect, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may

- 1 take possession of the site and of all materials thereon owned by the Contractor, and
- 2 finish the Work by whatever reasonable method the Owner may deem expedient.

§ 16.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 16.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 16.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Contract.

§ 16.3 Termination by the Owner for Convenience

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

ARTICLE 17 OTHER TERMS AND CONDITIONS

(Insert any other terms or conditions below.)

« »

This Agreement entered into as of the day and year first written above.

(If required by law, insert cancellation period, disclosures or other warning statements above the signatures.)

« »

OWNER (Signature)

« »« »

(Printed name and title)

CONTRACTOR (Signature)

« »« »

(Printed name and title)

LICENSE NO.:
JURISDICTION:

