

**SAUGUS HIGH SCHOOL
BUILDING D MODERNIZATION PROJECT
SITE LEASE**

By and Between

WILLIAM S. HART UNION HIGH SCHOOL DISTRICT

and

[INSERT CONTRACTOR NAME]

Dated as of February , 2012

**SAUGUS HIGH SCHOOL
BUILDING D MODERNIZATION PROJECT
SITE LEASE**

This Saugus High School Building D Modernization Project Site Lease ("Site Lease"), dated for reference purposes as of February [redacted], 2012, is made by and between the William S. Hart Union High School District ("District"), a public school district organized and existing pursuant to the laws of the State of California and lessor herein, and [Insert Contractor Name] ("Contractor"), a [redacted] and lessee herein. The District and the Contractor may be referred to herein individually as "Party" and collectively as "Parties."

RECITALS

A. The District desires to provide for modernization of Building D at the District's Saugus High School, which includes generally interior upgrades, construction of an accessory storage and utility room, construction of a canopy shade structure, utilities upgrades, and replacement of exterior pavement (the "Project"). Saugus High School ("School") is located at 21900 Centurion Way, in the City of Santa Clarita, County of Los Angeles ("County"), State of California ("State"). The portion of the School grounds that will serve as the site for construction of the Project ("Project Site") is depicted and/or described in Exhibit "A" attached hereto.

B. The Governing Board of the District ("District Board") has determined that it is in the best interests of the District to complete construction of the Project by, in accordance with Education Code Section 17406: (i) leasing the Project Site to the Contractor pursuant to this Site Lease for purposes of having the Contractor undertake any and all work and services required to complete such construction in accordance with the LLB Agreements as defined in Recital E herein (the "Work"); and (ii) leasing the Project Site and the Project back from the Contractor pursuant to that certain "Saugus High School Building D Modernization Project Leaseback Agreement" by and between the District and the Contractor, dated for reference purposes as of even date herewith ("Leaseback Agreement" or "LBA").

C. In order to ensure that the Work and resulting improvements to the School will meet the District's expectations, the Parties, concurrently with entering into this Site Lease and the Leaseback Agreement, have entered into that certain "Construction Services Agreement for Saugus High School Building D Modernization Project" by and between the District and the Contractor, dated for reference purposes as of even date herewith ("Construction Services Agreement" or "CSA"). The Work is described in more detail in Exhibit A to the Construction Services Agreement.

D. The District is authorized pursuant to Section 17406 of the California Education Code to lease the Project Site to the Contractor in order to provide for performance of the Work by the Contractor, and the District Board has duly authorized the execution and delivery of this Site Lease. The Contractor is authorized to lease the Project Site from the District for purposes of performing the Work, and the Contractor has duly authorized the execution and delivery of this Site Lease.

E. The Parties intend that this Site Lease, the LBA, and the CSA (collectively, the “LLB Agreements”) shall be construed as an integrated whole, and any capitalized terms used, but not defined, in this Site Lease shall have the meanings ascribed to such terms in the other LLB Agreements.

Now, therefore, in consideration of the foregoing and of the covenants set forth herein, the District and the Contractor agree as follows:

AGREEMENT

Section 1. Lease to Contractor. Subject to the provisions of this Site Lease, the District hereby leases the Project Site to the Contractor, and the Contractor hereby leases the same from the District.

Section 2. Effective Date. Notwithstanding anything to the contrary, the LLB Agreements shall have no force or effect until the date both of the following events have occurred (“Effective Date”): (i) each Party has approved, signed and delivered all of the LLB Agreements; and (ii) the District has obtained all approvals required for the Work. As of the date of this Agreement, the District has obtained approval of the plans and specifications for the Work from the Department of General Services, Division of State Architect (“DSA”). Other required approvals may include, but are not limited to, any approvals by the California Department of Education (“CDE”), the State Allocation Board (“SAB”), the Office of Public School Construction (“OPSC”) and the Department of Toxic Substances Control (“DTSC”).

Section 3. Validation of LLB Agreements. Notwithstanding that the conditions precedent set forth in Section 2 herein may have been satisfied, the Contractor shall not be obligated to perform the Work and the District shall not be obligated pursuant to the LLB Agreements or otherwise to pay any amount to the Contractor on account of the Work unless and until: (i) the District has filed an action in a court of competent jurisdiction to validate the LLB Agreements (“Validation Action”) and has obtained a final judgment in the Validation Action that validates the LLB Agreements; and (ii) all periods for appeal of such judgment have expired without any appeal having been filed, or, if an appeal is filed, the appeal and all subsequent proceedings are resolved in favor of the District. The Parties may agree in writing to waive the requirements of this Section.

Section 4. Site Lease Term. The Project is a “summer” project that must be completed prior to start of classes at the School in mid-August of 2012, and the District anticipates, but does not guarantee, that the Project Site will be available in late May of 2012 for the Contractor to commence construction of the Project. The Contractor shall have 100 days to complete the Project. Upon satisfaction of the requirements set forth in Sections 2 and 3 of this Site Lease, if any and all other applicable conditions have been satisfied, the District, in accordance with Section 4 of the CSA, shall issue a notice to the Contractor to proceed with the Work (“Notice to Proceed”). The term of this Site Lease (“Site Lease Term”) shall begin on the date specified in the Notice to Proceed as the date for commencement of the Work or, if no such date is specified, as of the date of the Notice to Proceed, and the Site Lease Term shall expire 100 days thereafter unless extended or sooner terminated as provided in any of the LLB Agreements. Notwithstanding anything to the contrary, in the event either (or both)

the LBA or the CSA is terminated in accordance with its provisions, this Site Lease shall concurrently terminate.

Section 5. Possession and Use by Contractor. The Contractor may use the Project Site solely for purposes related to performance of the Work and leasing the Project Site and the Project back to the District. The Contractor and, to the extent reasonably necessary for such purposes, its officers, employees, subcontractors, consultants, agents and other representatives (collectively, "Contractor Agents") shall have the right at all reasonable times during the Site Lease Term to enter in and upon the Project Site for purposes of performing the Work, examining and inspecting the Work, and undertaking any and all actions necessary and/or convenient in regard to the Work. Except for such authorized uses, and any uses by the District in accordance with the LLB Agreements as may be amended from time to time, the Contractor shall not suffer or permit any use of the Project Site or other portions of the School. Except as provided in the LLB Agreements, the Contractor, at its own expense, must obtain or otherwise have in effect all permits, licenses and similar authorizations for its activities on and in the Project Site and the School. The Contractor must not use, operate or maintain the Project Site or other portions of the School improperly or carelessly, and, during the Site Lease Term, the Contractor must comply with all applicable laws and any applicable orders or rules of any governmental entity with competent jurisdiction over the Project Site and/or the Project. However, nothing shall be deemed to prohibit the Contractor from non-compliance with any such law, order or rule during any action or other proceeding undertaken in good faith by the Contractor to contest the validity or application of the law, order or rule, but the Contractor shall indemnify, defend and hold-harmless the District Indemnitees as provided in this Site Lease with respect to any such non-compliance.

Section 6. Performance of Work. The Contractor shall: (i) perform the Work in strict accordance with the LLB Agreements and other documents incorporated therein or approved in accordance therewith; and (ii) complete the Work within the Site Lease Term, as it may be modified from time to time in accordance with the LLB Agreements. The compensation payable to the Contractor for performance of the Work shall be determined as provided in the CSA.

Section 7. Quiet Enjoyment. Except as permitted pursuant to the LLB Agreements, the District shall not take any action during the Site Lease Term to prevent the Contractor's quiet enjoyment of the Project Site for the purposes authorized pursuant to this Site Lease. In the event any challenge to the District's fee title to the Project Site results in or is likely to result in interference with the Contractor's right to occupy or use the Project Site for such purposes, the District shall use such of its governmental powers at its disposal, including the power of eminent domain, as necessary to obtain unencumbered fee title to the Project Site and to defend the Contractor's right to so occupy and use the Project Site. No use of the Project Site or the other portions of the School by the District that is contemplated in or by the LLB Agreements shall be deemed or construed to constitute interference with the Contractor's right to occupy and use the Project Site.

Section 8. No Waste or Illegal Acts. At all times that it occupies or otherwise is in possession of the Project Site, the Contractor shall not commit, suffer or permit any waste of the Project Site or the other portions of the School, and the Contractor shall not willfully or knowingly use or permit the use of the Project Site for any illegal act or purpose.

Section 9. Payment of Rent. In each month during the Site Lease Term or portion thereof, the Contractor shall pay rent to the District of one dollar. Alternatively, upon execution and delivery of this Site Lease, the Contractor may pay to the District the aggregate sum of four dollars as an advance payment of the rent for the anticipated 100-day Site Lease Term. However, the Contractor shall not be entitled to a refund of any rent payment(s) in the event this Site Lease is terminated prior to the end of such anticipated Site Lease Term.

Section 10. Responsibility for Taxes. The Contractor, at its expense, shall be responsible for payment of all taxes, assessments, fees and other charges as are attributable to actions by the Contractor or any of the Contractor Agents in connection with the performance of the Work. In addition, the Contractor, at its own expense, shall be responsible for payment of any and all taxes on or measured by: (i) the Contractor's income in connection with the transaction(s) contemplated in the LLB Agreements; and (ii) the operation of the Contractor's business. The terms of this Site Lease may result in the creation in the Contractor of a taxable possessory interest; and, in such event, notwithstanding the foregoing provisions of this Section, upon receipt of sufficient documentary evidence of the obligation and amount, the District shall reimburse the Contractor for payment of taxes levied on such possessory interest.

Section 11. Title to Property. Notwithstanding anything to the contrary, upon expiration of the Site Lease Term or other termination of this Site Lease, title to the Project Site and the other portions of the School, and all improvements constructed and/or made thereon or thereto by the Contractor, shall fully vest in the District. Title to improvements constructed on the Project Site shall progressively vest in the District as the Project is completed and the Contractor is paid in accordance with the Contract Documents.

Section 12. District Conveyance of Interests In Project Site. During the Site Lease Term, the District shall not mortgage, sell, assign, transfer or otherwise convey the Project Site or any interest therein to any person or entity without first obtaining the written consent of the Contractor, if such action by the District would impair any of the Contractor's rights pursuant to the LLB Agreements. The foregoing shall not be deemed or construed to preclude the District from granting utility easements, rights-of-way or similar interests in the Project Site to facilitate the use and operation of the Project or as required by any governmental or quasi-governmental agency.

Section 13. District Right of Entry. At any and all times during the Site Lease Term, the District and/or its employees and other representatives may enter in and upon the Project Site and the Project for inspection or other purposes related to the Work or arising in connection with the operation and management of the Project Site, the Project and/or the School, provided that the District shall not unreasonably interfere with the Contractor's right to use and occupy the Project Site and the Project. The foregoing shall be deemed and construed to include the right of the District and its students to occupy and use completed phases of the Work for educational and related purposes. The Contractor shall cooperate and coordinate with the District as necessary to facilitate such uses by the District.

Section 14. Existing and Potential Site Conditions. In regard to the existing and potential conditions of or at the Project Site, each Party hereby acknowledges all of the following:

- (i) Asbestos-containing materials, lead-based paints, polychlorinated biphenyls (e.g., in light fixtures), mercury (e.g., in thermostats), chlorofluorocarbon refrigerants (e.g., in HVAC systems) and batteries (e.g., in emergency lights and exit signs) are believed to have been incorporated into various portions of the existing improvements comprising Building D at the School; the District has provided to the Contractor a report prepared by Environmental Network Corp. dated May 26, 2010, regarding such products and materials determined to have been incorporated into Building D; and Contractor acknowledges and agrees that, as described therein, such report may not reveal the full scope of such products and materials existing at or in Building D;
- (ii) Building D has served as the location of various industrial arts, graphic arts and similar programs, which may have involved the use of petroleum-based and/or other fluids and chemicals; although the District is not aware that any such fluids or chemicals have been discharged or are otherwise present on or at the Project Site;
- (iii) If and to the extent so provided in the Lease-Leaseback Agreements, the final approved plans and specifications for the Project or other of the Contract Documents, the Contractor shall be responsible at its cost for proper removal and disposal, in accordance with applicable laws and regulations, of the products, materials, fluids and/or chemicals described in clauses (i) and (ii) of this Section;
- (iv) The District shall be responsible, at its cost for proper removal and disposal, in accordance with applicable laws and regulations, of the products, materials, fluids and/or chemicals described in clauses (i) and (ii) of this Section to the extent those are not Contractor's responsibilities pursuant to the Lease-Leaseback Agreements, the final approved plans and specifications for the Project and/or other of the Contract Documents;
- (v) The existence or potential existence of, and requirements for clean-up or other remediation of, the site conditions described in this Section are hereby deemed and construed to be normal, foreseeable and anticipated conditions and requirements incident to property that has been developed, constructed, and/or used in manners and at times consistent with Building D.

Section 15. District Representations and Warranties. The District represents and warrants to the Contractor that, to the best of the District's knowledge:

- (i) The District has good and merchantable fee title to the Project Site and has authority to enter into, and perform its obligations pursuant to the LLB Agreements;
- (ii) The District is not aware of any tax, assessment or imposition of any kind applicable to the Project Site that has not been paid in full, excluding any current and future taxes, assessments or impositions that may be assessed in regard to the Project Site;

- (iii) The District is not aware of any pending or threatened litigation involving the Project Site or the other portions of the School that might affect the ability to use them for the intended purposes of LLB Agreements;
- (iv) Except for the potential conditions described in clauses (i) and (ii) of Section 14 herein, the District is not aware of any dangerous, toxic or hazardous pollutants, contaminants, chemicals, waste, materials or substances regulated pursuant to applicable local, State or federal environmental laws, rules or regulations (“Hazardous Substances”) that are located in, on or about the Project Site and that would subject the Contractor to any damages, penalties or liabilities under any such applicable local, State or federal environmental laws, rules or regulations (“Environmental Laws”); and
- (v) The District has received no notice, from any governmental entity with competent jurisdiction, of any violation of any of the Environmental Laws with respect to the Project Site or the other portions of the School that now exists or allegedly exists.

Section 16. Contractor Representations and Warranties. The Contractor represents and warrants to the District that, to the best of the Contractor’s knowledge:

- (i) The Contractor is a duly organized corporation or other business entity, validly existing and in good standing in accordance with the laws of the State, with full power, authority and legal right to lease and otherwise acquire and convey interests in real and personal property;
- (ii) The Contractor has full power, authority and legal right to enter into and perform its obligations pursuant to the LLB Agreements, and the execution, delivery and performance thereof has been duly authorized by all necessary actions on the part of the Contractor and does not require any further approvals;
- (iii) Execution, delivery and performance of the LLB Agreements does not and/or will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement or instrument to which the Contractor is a party or by which it or its property is bound; and
- (iv) There are no pending or threatened actions or proceedings before any court or administrative agency that may materially and adversely affect the ability of the Contractor to perform its obligations pursuant to the LLB Agreements.

Section 17. Termination. Notwithstanding anything to the contrary, at any time prior to the Effective Date, the District may terminate this Site Lease by giving written notice to the Contractor, in which event neither Party shall have any obligation to the other Party pursuant to the LLB Agreements. Otherwise, upon expiration of the Site Lease Term or other termination of this Site Lease: (i) the Contractor shall quit and surrender the Project Site and the other portions of the School, which must be in the condition required pursuant to the LLB Agreements and otherwise in good order and condition, no worse than when Contractor took possession thereof; (ii) to the extent provided in the LLB Agreements, the District shall remain obligated to compensate the Contractor for the performance

of the Work; and (iii) in accordance with the LLB Agreements, the Contractor shall release, remove or cure any stop notices, liens and/or other encumbrances arising from the Work.

Section 18. Events of Default. Notwithstanding anything to the contrary, any Claim within the scope of Part 22 of the General Conditions: (i) shall be subject to the requirements of such Part 22; and (ii) shall not be subject to this Section or Section 19 of this Site Lease. For all purposes of the LLB Agreements other than any such Claims, each of the following events with respect to a Party shall be deemed a default by such Party of its obligations pursuant to the LLB Agreements (each an “Event of Default”):

- (i) The Party fails, within the time required, to pay any undisputed or unexcused payment due or asserted to be due to the other Party, or any undisputed or unexcused portion of a payment due or asserted to be due to the other Party pursuant to any of the LLB Agreements; or
- (ii) The Party fails to perform or observe any covenant, condition or agreement to be performed or observed by such Party pursuant to any of the LLB Agreements, and such failure materially and adversely affects the other Party’s rights; or
- (iii) Any statement, representation or warranty by the Party and set forth in any of the LLB Agreements is determined to be intentionally misleading or erroneous in any material respect and materially and adversely affects the other Party’s rights; or
- (iv) The Party makes any general assignment for the benefit of creditors, any voluntary or involuntary petition for bankruptcy or for reorganization pursuant to federal bankruptcy law is filed and not withdrawn or dismissed within sixty days of filing, a court of competent jurisdiction appoints a trustee or receiver to manage or control all or substantially all of the Party’s assets, all or substantially all of the Party’s assets are subject to attachment, execution or other judicial seizure, or a court of competent jurisdiction determines that such Party has become insolvent or unable to pay its debts when due.

Section 19. Notice and Opportunity to Cure. If a Party is alleged to be responsible for an Event of Default (“Defaulting Party”), the other Party (“Non-Defaulting Party”) may provide written notice thereof to the Defaulting Party, specifying in reasonable detail the nature and extent of the alleged default (“Notice of Default”). If the Defaulting Party has not cured the Event of Default within twenty days after receipt of the Notice of Default in the case of a monetary default (i.e., failure to pay money or secure the payment of money), or within forty-five days after receipt of the Notice of Default in the case of a non-monetary default, the Non-Defaulting Party in its discretion may initiate the dispute resolution provisions set forth in Section 20 of this Site Lease. The giving of a Notice of Default and allowing the period for cure of the Event of Default in accordance with this Section shall be a condition precedent to the Non-Defaulting Party exercising any available remedy in response to the Event of Default. Nothing shall be construed to prohibit the Defaulting Party from disputing that an Event of Default has occurred. Neither the giving of any Notice of Default, nor the initiation by the Non-Defaulting Party of any dispute resolution, legal or equitable action, or other proceeding in connection with an Event of Default, shall by itself operate to terminate this Site Lease.

Section 20. Informal Attempts at Dispute Resolution. Except for any Claims subject to Part 22 of the General Conditions, if a dispute arises out of or relates to any of the LLB Agreements (“Dispute”), the Parties shall attempt as provided in this Section to resolve the Dispute as quickly and as amicably as possible, including, without limitation, any Disputes as to the meaning of any provision of the LLB Agreements, the validity of any determination or calculation required pursuant to the LLB Agreements, or the rights or obligations of the Parties pursuant to the LLB Agreements. If the Dispute does not relate to an Event of Default or is not of such nature that a Party may give a Notice of Default, then the Party alleging the Dispute shall give to the other Party a written notice of the Dispute (“Notice of Dispute”). Within a reasonable time, not in excess of seven calendar days, after receipt of either a Notice of Default or a Notice of Dispute, the Parties shall commence attempts to informally resolve the Dispute as required pursuant to this Section. Such attempts shall include good-faith, reasonable and diligent efforts by both Parties to communicate and, if possible, to reconcile or compromise their respective positions. The participation by a Party in such attempts to informally resolve a Dispute shall be a condition precedent to such Party exercising any available remedy in response to the Dispute. If, after diligently making the attempts required pursuant to this Section for at least thirty calendar days, the Parties cannot resolve a Dispute, either Party may give written notice to the other Party that the attempts have been unavailing and, therefore, have been terminated effective upon receipt of the notice.

Section 21. Exercise of Available Remedies. If attempts at informal resolution of a Dispute pursuant to Section 20 herein are terminated without the Dispute having been resolved to the satisfaction of a Party, the Party may initiate any legal or equitable action or other proceeding in response to the Dispute that is available pursuant to applicable law and the LLB Agreements. In addition, however, if a Party fails to respond to any requests or requirements for, or fails to participate in good faith in, attempts at informal resolution of the Dispute, the other Party, in its discretion, without needing to further comply with Section 20 herein, may initiate any legal or equitable action or other proceeding in response to the Dispute that is available pursuant to applicable law and the LLB Agreements. However, in any case in which a Notice of Default has been provided pursuant to Section 19 herein, no such action or proceeding may be initiated until the applicable period for cure of the Event of Default pursuant to such Section 19 has expired without cure of the Event of Default.

Section 22. Scope and Limitations of Available Remedies. Except as provided in this Section or other applicable provisions of the LLB Agreements, each Party may exercise any or all available legal or equitable rights in response to an unresolved Dispute. However, at all times while any informal dispute-resolution attempts, legal or equitable actions, or other authorized proceedings relating to a Dispute are pending, each Party, except to the extent provided in this Section, shall continue to perform its obligations pursuant to the LLB Agreements, as those may be amended from time to time. Notwithstanding the foregoing, a Party shall not be responsible for continued performance of its obligations pursuant to the LLB Agreements to the extent an Event of Default by the other Party makes such performance impossible, impractical or unreasonable. Except as expressly provided in any of the LLB Agreements, a Party shall be entitled to termination of any of the LLB Agreements in response to an uncured Event of Default only if a court of competent jurisdiction determines that damages and specific performance are not sufficient, appropriate or available remedies. Any remedies available to a Party shall not be deemed exclusive, and the Party may exercise any remedy individually or in combination with any other remedy it has available.

Section 23. Giving of Notice. Any notice given by a Party pursuant to this Site Lease must be given in accordance with Section 23.10 of the General Conditions.

Section 24. Governing Law and Venue. The terms and provisions of this Site Lease shall be construed in accordance with the laws of the State. Any action, arbitration, mediation or other proceeding arising from this Site Lease shall be initiated and conducted only in the County.

Section 25. Modifications. This Site Lease may not be amended or otherwise modified except by written agreement duly-approved, signed and delivered by the Parties.

Section 26. Recitals and Exhibits. The Recitals set forth herein, and all Exhibits referenced herein and attached hereto, are hereby incorporated as operative and effective provisions of this Site Lease.

Section 27. Counterparts. This Site Lease may be signed in one or more counterparts, which, taken together, shall constitute one and the same original instrument. Signature pages may be detached from counterpart originals and combined to physically form one or more original copies of this Site Lease bearing signatures of both Parties.

Section 28. Due Authority of Signatories. Each person signing this Site Lease represents and warrants that he or she has been duly authorized by appropriate action of the Party he or she represents to execute, and thereby bind such Party to, this Site Lease.

In Witness Whereof, the Parties have executed this Site Lease as evidenced by the signatures of their authorized representatives below.

William S. Hart Union High School District

[Insert Contractor Name]

By: _____
Thomas B. Cole, Chief
Operations Officer

By: _____
Print Name: _____
Print Title: _____

Approved as to Form

By: Bowie, Arneson, Wiles & Giannone,
Attorneys for the William S. Hart
Union High School District

By: _____
Brian W. Smith

EXHIBIT A

Depiction and Description of Project Site