SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION

9.1a

Meeting Date: , 2015

Subject: **Approval of Grants, Entitlements, and Other Income Agreements**
Ratification of Other Agreements
Approval of Bid Awards
Approval of Declared Surplus Materials and Equipment
Change Notices
Notices of Completion

- ☐
- ☒
- ☐
- ☐
- ☐
- ☐
- ☐

Division:

Recommendation:

Background/Rationale:

Financial Considerations:

LCAP Goal(s): ;

Documents Attached:
1.
2.
3.
4.

Estimated Time of Presentation: N/A
Submitted by: , CBO
Approved by:

LEASE-LEASEBACK AGREEMENT

LEASE-LEASEBACK AGREEMENT

Fire Alarm System Upgrade at Transportation, Central Warehouse & Facilities Maintenance

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THIS LEASE-LEASEBACK AGREEMENT (this "Agreement") is made as of March 5, 2015 by and between the Sacramento City Unified School District, a school district organized and existing under the laws of

NOW, THEREFORE, in consideration of the covenants hereinafter contained, the Owner and Contractor agree as follows:

TERMS AND CONDITIONS:

ARTICLE I. SCOPE OF WORK. The Contractor agrees to furnish all labor, equipment and materials, including tools, implements, and appliances required, and to perform all the work in a good and workmanlike manner, free from any and all liens and claims from mechanics, materialmen, suppliers, subcontractors, artisans, machinists, teamsters, freight carriers, and laborers required for:

Fire Alarm System Upgrade atTransportation, Central Warehouse

Accordingly, the parties agree that the following dollar figure shall be the amount of damages which the Owner shall directly incur upon failure of the Contractor to complete the Project within the times specified, for each calendar day by which completion of the Project, or portion thereof, is delayed beyond the completion dates specified above.

If the Contractor becomes liable under this section, the Owner, in addition to all other remedies provided by law, shall have the right to withhold any and all retained percentages of payments, and to collect the interest thereon, which would otherwise be or become due the Contractor until the liability of the Contractor under this section has been finally determined. If the retained percentage is not sufficient to discharge all liabilities of the Contractor incurred under this Article, the Contractor and its sureties shall continue to remain liable to the Owner for such liabilities until all such liabilities are satisfied in full.

If the Owner accepts any work or makes any payment under this Agreement after a default by reason of delays, the payment or payments shall in no respect constitute a waiver or modification of any Agreement provisions regarding time of completion and liquidated damages.

ARTICLE IV. GUARANTEED PROJECT COST. &RQWUDFWRU¶V *XDUDQWHHG 3URMHFW
performance of all work required by the Contract for the Project shall be Four Hundred Ninety One Thousand, One Hundred Seventeen Dollars ($491,117), based upon the Scope of Work set forth in Exhibits A and B of this Agreement. Except as otherwise provided in the General Conditions, the Contractor shall assume the risk of all costs in excess of the GPC in the performance of such work and shall not be entitled to additional payments because of such excess costs. Should the Contractor believe that it is entitled to additional compensation, whether money or time, it must request it pursuant to the procedures in the General Conditions for change orders and claims. The GPC is also referred to in the &RQWUDFWRU¶V &RQWUDFW 6XP &RQWUDFWRU¶V FRVW EUHD attached (see Exhibit C) DV &RQWUDFWRU¶V VFKHGXOH RI YDOXHV IRU WKH 3U General Conditions.

The GPC shall include a line item for allowances as follows:

1. Transportation: Devices = $3,000; Patch & Repair = $3,000; Owners Contingency = $17,687
2. Central Warehouse: Devices = $1,500; Patch & Repair = $1,500; Owners Contingency = $18,550
3. Facilities Maintenance: Devices = $1,000; Patch & Repair = $1,000; Gate Conduit = $5,000; Intrusion Alarm = $5,000; Owners Contingency = $8,410

These allowances are intended to fund extra work that may be required as a result of unforeseen scopes of work LGHQWLILHG DIWHU H[HFXWLRQ RI WKLV $JUHHPHQW WKH ³$GGLWL scopes shall be considered part of the Additional Scope. Contractor shall not be authorized to use these Contingency Funds for the Additional Scope without prior written approval by District. Any Contingency Funds not used for such purposes shall be credited to the District to reduce the GPC. If scope of the Additional Sc exceeds the Allowance Funds, Contractor is not precluded from seeking additional compensation pursuant to Section 4.5 and Article 7 of the General Conditions.

Contractor shall finance the cost of construction of the Project, which costs shall not exceed the GPC, except as otherwise provided in the Contract. The Owner shall pay Contractor sublease payments pursuant to the terms and conditions of Section 6 of the Sublease (the "Sublease Payments"), which said conditions include the 5% retention desc LEHG LQ 6HFWLRQ RI WKH 6XEOHDVH WKH ³UHWHQWLRQ´ exceed the GPC established pursuant to Article IV hereof. Retention or release of the Sublease Payments shall be i accordance with the General Conditions.

ARTICLE V. CHANGES. Changes in this Agreement or in the Work to be done under this Agreement shall be made as provided in the General Conditions.

ARTICLE VI. TERM AND TERMINATION. The term of the Contract begins on the date shown on page 1 above and automatically ends when construction of the Project is complete, or the Contract is otherwise terminated,

all in accordance with the General Conditions. All of the covenants, representations and warranties set forth in the Contract, including indemnification obligations, that are intended to bind the Parties after the completion of the Project or termination of the Contract will survive such completion or termination for the periods provided for in the Contract or otherwise allowed by law. The Owner or Contractor may terminate the Contract as provided in the General Conditions

IN WITNESS WHEREOF, the Parties have, by their duly authorized representatives, executed this Agreement of the day and year first written above.

OWNER	CONTRACTOR
SACRAMENTO CITY UNIFIED SCHOOL DISTRICT	STUDEBAKER BROWN ELECTRIC
By: _____	By: _____
Gerardo Castillo Chief Business Officer	David Studebaker President
_____	_____
Date	Date
	By: _____
	Shane Brown Vice President
	_____
	Date

&RQWUDFWRU¶V /LFHQVH 1R
Date:

957296, Exp. 2/28/15

NOTE: &RQWUDFWRU PXVW JLYH WKH IXOO EXVLQHVV DGGUHVV RI WK
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EXHIBIT A - LeaseLeaseback Agreement

SCOPE OF WORK

Fire Alarm System Upgrade atTransportation, Central Warehouse & Facilities Maintenance

The GPC for construction costs is based on the plans, specifications, drawings, and design packages prepared by DC Architects, architects for the Owner. The detailed Scope of Work is set forth in said plans, specifications, drawings, and design packages, which are incorporated herein by this reference.

EXHIBIT B - LeaseLeaseback Agreement

Fire Alarm System Upgrade atTransportation, Central Warehouse
& Facilities Maintenance

The Parties hereby agree that the following are hereby incorporated into the Scope of Work for the Project:

NO ADDENDUMS HAVE BEEN ISSUED FOR THIS PROJECT

EXHIBIT C - LeaseLeaseback Agreement

Fire Alarm System Upgrade atTransportation, Central Warehouse

& Facilities Maintenance

7KH 3DUWLHV KHUHE\ DJUHH WKDW WKH IROORZLQJ GRFXPHQW LV &
General Conditions Section 9.2.1.A

Business Services
Contracts Office
5735 47th Avenue • Sacramento, CA 9582
(916) 643-2464

Gerardo Castillo, Chief Business Of
Kimberly Teague, Contract S

SITE LEASE AGREEMENT

Dated as of March 5, 2015

Between

Sacramento City Unified School District

and

Studebaker Brown Electric, Inc.

Fire Alarm System Upgrade at Transportation, Central Warehouse & Facilities Maintenance

respective interests hereunder automatically ended and released, and title to the Sites and Project automatically and fully vested in the Owner.

SECTION 3. Representations, Covenants, and Warranties of the Owner. The Owner represents, covenants and warrants to Contractor that:

(a) The Owner has good and merchantable fee title to the Sites and has authority to enter into and perform its obligations under this Sites Lease;

(b) There are no liens on the Sites other than permitted encumbrances;

(c) All taxes, assessments, or impositions of any kind with respect to the Sites, if applicable, except current taxes, have been paid in full;

(d) The Sites are

(i) 7KH WHUP ³SHUPLWWHG HQFXPEUDQFHV´ DV XVHG KHUHLQ liens for general ad valorem taxes and assessments, if any, not then delinquent; (ii) this Sites Lease, the Sublease, any right or claim of any mechanic, laborer, materialman, supplier, or vendor, if applicable, not filed or perfected in the manner prescribed by law, easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions, or restrictions which exist of record as of the date of this Sites Lease and which will not materially impair the use of the Sites; (iii) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions, or restrictions established following the date of recordation of this Sites Lease and to which Contractor and the Owner consent in writing which will not impair or impede the operation of the Sites.

SECTION 4. Representations and Warranties of Contractor. Contractor represents and warrants to the Owner that:

(a) Contractor is duly organized, validly existing and in good standing under the laws of the State of California, with full corporate power and authority to lease and own real and personal property.

(b) Contractor has full power, authority, and legal right to enter into and perform its obligations under this Sites Lease, and the execution, delivery, and performance of this Sites Lease have been duly authorized by all necessary corporate actions on the part of Contractor and do not require any further approvals or consents.

(c) Execution, delivery, and performance of this Sites Lease do not and will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement, or instrument to which Contractor is a party or by which it or its property is bound.

(d) There is no pending or, to the best knowledge of Contractor, threatened action, or proceeding before any court or administrative agency that will materially adversely affect the ability of Contractor to perform its obligations under this Sites Lease.

SECTION 5. Rental. Contractor shall pay to the Owner as and for advance rental hereunder $1.00 per year per Sites, on or before the date of commencement of the term of this Sites Lease. The duration of the rental is expected to be from March 9, 2015 through approximately July 15, 2015 unless earlier terminated or otherwise agreed by the parties.

SECTION 6. Purpose. Contractor shall use the Sites solely for the purpose of constructing the Project thereon and for subleasing the Sites and leasing the Project to the Owner; provided, that in the Event of Default by the Owner under the Sublease, the Contractor may exercise the remedies provided for in the Sublease.

SECTION 7. Termination. Contractor agrees, upon termination of this Sites Lease: (i) to quit and surrender the Sites in the same good order and condition as it was in at the time of commencement of the term hereunder, reasonable wear and tear excepted; (ii) to release and reconvey to the Owner any liens and encumbrances created or caused by Contractor; and (iii) that all permanent improvements and structures existing upon the Sites at the time of the termination of this Sites

SECTION 9. No Liens. The Owner shall not mortgage, sell, assign, transfer, or convey the System or any

If to Owner:	If to Contractor:
Sacramento City Unified School District Attn: Kimberly Teague, Contract Specialist 5735 47th Avenue Sacramento, CA 95824	Studebaker Brown Electric, Inc. Attn: Shane Brown 6643 32nd St, Ste 106 North Highlands, CA 95660

SECTION 19. Binding Effect. This Sites Lease shall inure to the benefit of and shall be binding upon the Owner, Contractor and their respective successors in interest and permitted assigns, if any.

SECTION 20. Amendments and Modifications. This Sites Lease shall not be effectively amended, changed, modified, altered, or terminated without the written agreement of the Owner and Contractor.

SECTION 21. Execution in Counterparts. This Sites Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 22. Applicable Law. This Sites Lease and the rights of the parties hereunder shall be governed by and construed in accordance with the laws of the State of California.

SECTION 23. Headings. The captions or headings in this Sites Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Sites Lease.

SECTION 24. Time. Time is of the essence in this Sites Lease and each and all of its provisions.

SECTION 25. Terms Not Defined. Capitalized terms used in this Sites Lease that are not defined shall have the same meaning as in the Lease-Leaseback Agreement.

SECTION 26. Exhibits Incorporated. All Exhibits attached to this Sites Lease are hereby incorporated into the Sites Lease by this reference as if set forth in full.

IN WITNESS WHEREN9(i)-4(n t)6(hx tTJ)-4s, eacng7(w)23(e)6(he b)9(5(he s)7s)-3(x-4(ne)] i)-4(nd11(e

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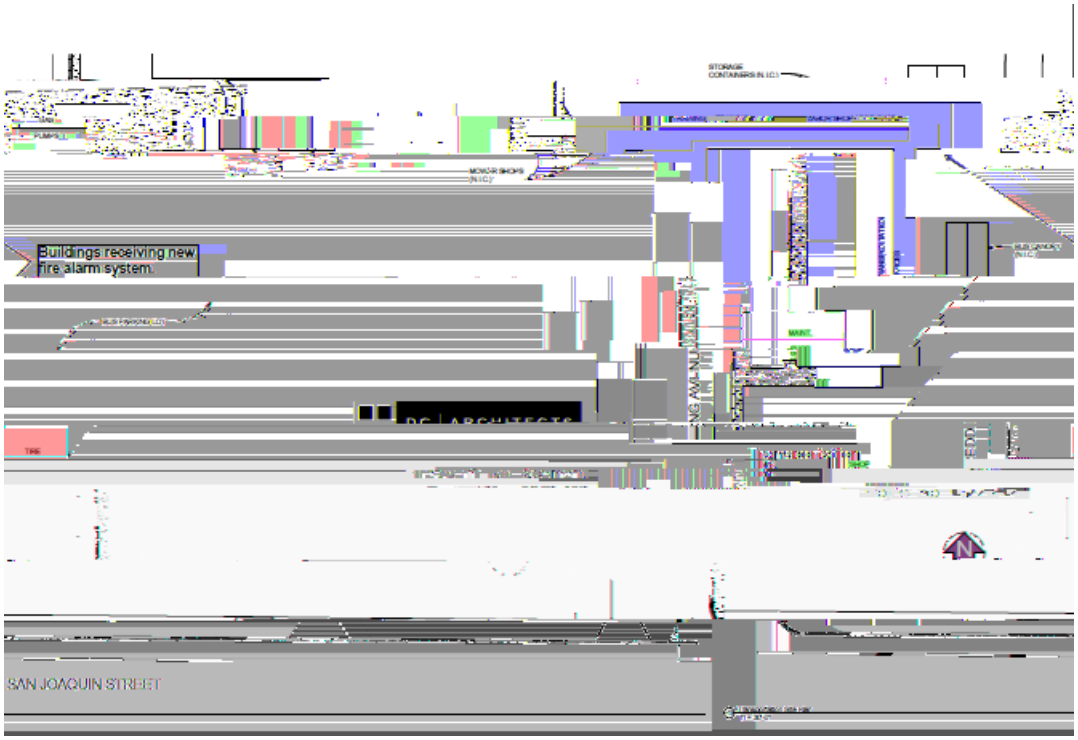
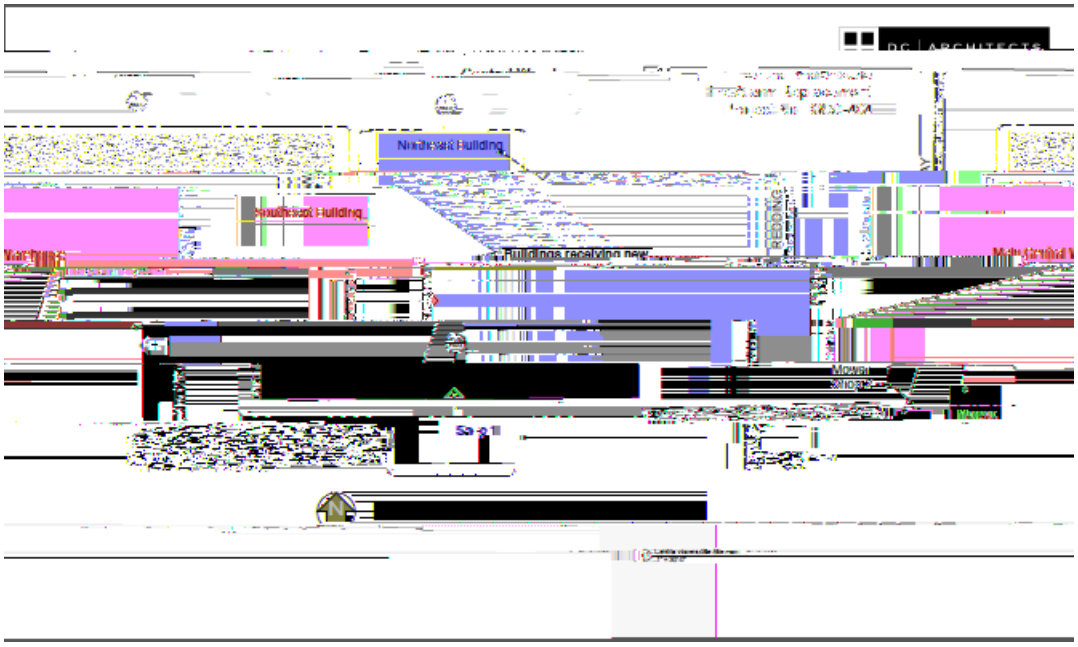
DESCRIPTION OR DEPICTION OF SITES





SUBLEASE AGREEMENT

Fire Alarm System Upgrade atTransportation, Central Warehouse

& Facilities Maintenance

This SUBLEASE AGREEMENT ³6XEOHDVH´ is made and entered into as of March 5, 2015, by and between Studebaker Brown Electric, Inc. ³Contractor´), a corporation organized and operating under the laws of the State RI &DOLIRUQLD lessor, and the City Unified School District ³Owner´ D SXEOLF school district duly organized and existing under the Constitution and laws of the State as lessee.

RECITALS:

WHEREAS, pursuant to Section 17406 et seq. of the Education Code, the Ownermay enter into leases and agreements relating to real property and buildings used by the Owner, and

orderto acquire and construct the Project. The cost of the acquisition, construction, and installation of the Project is determined by the CPC

SECTION 9.

Owner agrees, to the extent the law allows, to indemnify Contractor against and hold Contractor harmless from and against any and all claims, actions, suits, proceedings, cost, expenses, damages, and liabilities, including attorneys' fees, arising out of, connected with or resulting from the clean-up of any hazardous materials or toxic wastes from the Site or the Project; provided, however, that Owner shall not be required to indemnify Contractor in the event that such liability or damages are caused by the negligence or intentional misconduct of Contractor.

SECTION 17. Events of Default. The term "Event of Default" as used in this Agreement means the occurrence of any one or more of the following events: (a) Owner fails to make any undisputed and non-excused Sublease Payment (or any other payment) within 15 days after the due date thereof; (b) Owner or the Contractor fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder and such failure to either make the payment or perform the covenant, condition or agreement is not cured within 10 days after written notice thereof by the other Party; (c) the discovery by a Party that any statement, representation or warranty made by the other Party in this Sublease, or in any document ever delivered by that other Party pursuant hereto or in connection herewith is misleading or erroneous in any material respect; (d) a Party becomes insolvent, is unable to pay its debts as they become due, makes an assignment for the benefit of creditors, applies or consents to the appointment of a receiver, trustee, conservator or liquidator of the Party or of all or a substantial part

Sublease Prepayments to the Contractor. (a) No Sublease Prepayments requested by Contractor may be made by the Owner in an amount which exceeds the aggregate true cost to Contractor of the work on the Project completed to the date Contractor submits the request for a Sublease

SECTION 23. Release of Liens.

(a) Notwithstanding Section 22 hereof, upon the Owner executing a Certificate of Acceptance and filing a Notice of Completion on the Project, as such term is defined herein and in the General Conditions, Contractor or its assignee and the Owner shall release [illegible] Leaseback Interest in the Project.

(b) Contractor shall authorize, execute, and deliver to the Owner all documents reasonably requested by the Owner to evidence (i) the release of any and all liens created pursuant to the provisions of this Sublease and the Site Lease, and (ii) any other documents required to terminate the Site Lease and this Sublease.

SECTION 24. Severability. If a court of competent jurisdiction shall hold any provision of this Sublease invalid or unenforceable, such holdings shall not invalidate or render unenforceable any other provision of this Sublease, unless elimination of such provision materially alters the rights and obligations embodied in this Sublease.

SECTION 25. Entire Agreement. This Sublease, the Site Lease, the Lease-Leaseback Agreement, and the [illegible] Contract Documents between the Contractor and the Owner, and it shall not be amended, altered, or changed except by a written agreement signed by the parties.

SECTION 26. Notices. Any notices or filings required to be given or made under this Sublease shall be served, given, or made in writing upon the Owner or Contractor, as the case may be, by personal delivery or registered mail (with a copy sent via fax or regular mail) to the respective addresses given below, or at such address as such party may provide in writing from time to time.

If to Owner:

Sacramento City Unified School District
Attn: Kimberly Teague, Contracts Specialist
5735 47th Avenue
Sacramento, California 95824

If to Contractor:

Studebaker Brown Electric, Inc.

EXHIBIT A

SCHEDULE OF SUBLEASE PAYMENTS

The term of this sublease shall commence as of March 5, 2015. Sublease payments shall be paid monthly and the total Sublease Payments made shall not exceed the amount of the GPC as defined in Article IV of the Lease Leaseback Agreement. Each month Contractor shall provide Owner with an itemized summary reflecting the percentage of work performed and signed off on by the Owner ¶ V ' 6 $, Q V S H F W R U R U R W K H U G H V L Sublease Payments shall be commensurate with the amount of work performed, or invoiced, and signed off on by the DSA Inspector to date, all in accordance with the procedures set forth in the General Conditions.

Notwithstanding the foregoing, the term of this Sublease may be extended and payment options may be modified by written agreement of the parties hereto.