
**LEASE AND SUBLEASE AGREEMENT
BETWEEN SIERRA PLUMAS JOINT UNIFIED SCHOOL DISTRICT
AND RANDY HILL CONSTRUCTION, INC.**

Re-Roof Project at
Loyalton High School
DSA #02-112820

PREAMBLE

This Lease and Sublease Agreement (“Lease” or “Agreement”) is entered into as of April 24, 2013, by and between the **SIERRA PLUMAS JOINT UNIFIED SCHOOL DISTRICT**, a California public school district (“District”) and **RANDY HILL CONSTRUCTION, INC.**, a California Corporation (“Contractor”).

RECITALS

A. The District owns the school site known as Loyalton High School, located at 700 4th Street, Loyalton, CA 96118, which is the site of the District’s proposed Re-Roof Project for the District (“Project”). The site shall be referred to as the “Site” and is depicted on the attached **Exhibit “A.”**

B. California Education Code section 17406 permits the Board of Education of the District, without advertising for bids, to lease to any person, firm, or corporation, any real property owned by the District if the instrument by which such property is leased requires the lessee during the term of the lease to construct on the leased premises, or provide for the construction thereon, improvements for the use of the District, and provides that title to those improvements shall vest in the District at the expiration of the lease.

C. Contractor desires to construct the Project for the District at the Site in accordance with the District’s plans and specifications, with the title to the Project and Site vesting in the District.

D. The District and Contractor desire to enter into a site lease under which the District will lease to Contractor the Site in order for Contractor to construct improvements specified herein.

E. Contractor will lease the Site and the Project back to the District pursuant to a facility sublease provided for in this Agreement (the “Sublease”), under which the District will make lease payments to Contractor for the use of the Project.

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

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AGREEMENT

ARTICLE I

GENERAL CONDITIONS; SITE LEASE

Section 1.1 Purpose of the Lease. The District hereby leases the Site to Contractor and Contractor hereby leases the Site from the District. The purpose of this Lease is for Contractor to have necessary access to and use of the Site for the purpose of construction of the Project and related improvements on the Site during the term of this Lease.

Section 1.2 Term. The term of this Lease begins on **June 10, 2013** and ends when construction of the Project is completed and accepted by the District, which is estimated to be on or before **August 25, 2013**. Acceptance of the Project by the District shall be by the terms defined in Section 3.4 of this Lease.

Section 1.3 Improvements Vest in District. Contractor agrees that all right, title and interest to any improvements, repairs, additions, alterations, or fixtures, including trade fixtures, made to the Site, inclusive of the Project, shall run with the land, regardless of where located on the Site, and will become the property of and be owned and retained by the District upon Acceptance by the District, consistent with the terms to be set forth in Section 3.4 of this Lease.

Section 1.4 Consideration. The Lease payment to be paid by Contractor to the District as adequate consideration for lease of the Site shall be \$1.00 per year, for the duration of the lease term. Contractor shall tender the first payment to the District within 30 calendar days of the Effective Date.

Section 1.5 Permitted Use. Contractor shall use the Site during the Lease term only as necessary for the construction of the Project and related improvement to the Site. Contractor warrants that it will not engage in any unlawful activities on the Site and that Contractor will not engage in activities on the Site not authorized by the District.

Section 1.6 Encumbrances. Contractor warrants that at all times during this Lease, the Site and Project shall remain free and clear of all liens (including mechanic's liens), mortgages, deeds of trust, easements and all other encumbrances, other than liens existing at the time the Project starts, unless the District gives Contractor prior written permission to place, or allow to be placed, any liens, mortgages, deeds of trust, easements or other encumbrances on the Site.

Section 1.7 Termination by Acceptance of Project. Upon Acceptance of the Project by the District pursuant to Section 3.4 of this Lease, this Lease automatically terminates.

Section 1.8 Project Cost. The total maximum cost of the Project (**Guaranteed Maximum Price/GMP**) is **\$829,047.00** as set forth in Contractor's April 23, 2013 proposal, which is attached as **Exhibit "B."** Payments made by the District to Contractor under the Sublease pursuant to Section 12.3 shall be credited towards the total cost of the Project. The District shall pay the balance to Contractor upon completion of any punch list items, and final Acceptance of the Project. District will adjust these payment figures to account for any agreed-upon changes in the scope of the Project.

ARTICLE II
SCOPE OF PROJECT

Section 2.1 Work Scope of Project. The scope of work for the Project is defined by the plans, drawings, and specifications approved by the District. The scope of the Project includes all necessary construction, equipment installation, and on-site improvements, in accordance with the plans, drawings, and specifications attached as **Exhibit "C."** Contractor shall install and construct the Project in accordance with said plans, drawings, and specifications. Contractor has and shall maintain in good standing all required licenses for the duration of Contractor's work on the Project.

Section 2.2 Construction Meetings. If requested by the District, Contractor shall conduct construction progress meetings with District representatives and other interested parties on a schedule to be agreed upon by the parties to discuss such matters as procedures, progress, concerns, and scheduling. To the extent requested by the District, Contractor shall provide written progress reports to the District. Contractor shall promptly inform the District of all anticipated delays in the construction, installation, or improvement of the Project.

Section 2.5 Permit Obligations. Contractor shall obtain and pay for all permits and licenses required for the Project. The District shall reimburse Contractor for the actual costs of such permits and licenses as a part of total Project costs.

Section 2.6 Protection. Contractor shall establish procedures, and be responsible for the protection of all existing structures, equipment, utilities, and other existing improvements, both on-site and off-site.

Section 2.7 Nuisance Abatement. Contractor shall develop a mutually agreed upon program with the District to abate and minimize noise, dust and disruption to normal activities in the area surrounding the Site, including procedures to control on-site noise, dust and pollution during construction. Contractor shall solely be responsible for the costs of developing and implementing said program.

Section 2.8 Utilities. Contractor shall furnish and pay for any gas, electricity, water, and sewer service utilities needed for the Project. Contractor shall pay actual costs for its temporary use of telephone service and trash collection during construction of the Project.

Section 2.9 Warranties. Contractor warrants that material and equipment furnished under the Lease will be of good quality and new unless otherwise required or permitted by the District, that its work will be free from defects not inherent in the quality required or permitted, and that its work will conform to the requirements of this Lease. Work not conforming to these requirements, including substitutions not properly approved and authorized by the District, may be considered defective.

If, within 1 year after the filing of the Notice of Completion, any part of the Project is found to be not in accordance with the requirements of this Lease, then Contractor shall correct it promptly after receipt of written notice from the District to do so, unless the District has previously given Contractor a written acceptance of such condition. This obligation for correction of work shall survive acceptance of the Project under the Lease and termination of the

Lease. The District shall give Contractor notice of any condition requiring correction promptly after discovery of the condition.

Section 2.10 Taxes. Contractor shall pay all sales, consumer, use and similar taxes that were legally enacted at the time its Project proposal was first submitted to the District imposed in connection with construction and installation of the Project.

ARTICLE III COMPLETION AND ACCEPTANCE OF IMPROVEMENTS

Section 3.1 Time and Date of Completion. The District will give Contractor a written Notice to Proceed with the Project and Contractor shall proceed with the construction of the Project with reasonable diligence. Contractor agrees that the Project will be substantially completed on or before **August 25, 2013**. For each calendar day or portion thereof where the critical path of construction is delayed due to weather or other site conditions, Contractor shall be entitled to an extension of 1 calendar day to complete the Project, but shall not be entitled to additional compensation.

Section 3.2 Completion. Contractor shall notify the District when Contractor believes that the Project is completed.

Section 3.3 Inspection and Notice of Completion. Within 10 days of receipt of notice from Contractor that Contractor believes that the Project is completed, the District shall inspect the Project with Contractor to confirm the Project is complete. The District shall notify Contractor within 5 days of the inspection as to whether the District concurs that the Project is complete. If the District concurs, then the District shall issue a Notice of Completion that shall establish the Date of Completion of the Project or shall include a list of items to be completed or corrected, (referred to as the "Punch-List") and shall fix the time within which Contractor shall complete items listed therein. Disputes between the District and Contractor regarding the Certificate of Completion shall be resolved in accordance with the alternative dispute resolution process provided in Section 13.6 of this Lease. Notwithstanding the terms of this Section, the District shall further have the right to have its employees or agents inspect the Project at any time during construction, upon reasonable notice to Contractor.

Section 3.4 Acceptance. Final acceptance of the Project by the District ("Acceptance") shall occur upon the District's notification in writing to Contractor that there are no outstanding Punch-List items. Such Acceptance shall terminate this Lease, with title to the Project vesting in the District pursuant to Section 1.3.

Section 3.5 Liquidated Damages. If the Project is not completed within the time provided for in Section 3.1 above, it is understood and agreed that the District will suffer damage. It being impractical and infeasible to determine the amount of actual damage, it is agreed that Contractor shall pay to the District as fixed and liquidated damages, and not as a penalty, the sum of \$500 for each calendar day of delay after such time period until Project completion, and Acceptance by the District. Contractor shall be liable for the amount thereof. Any money due or to become due to Contractor may be retained to cover said liquidated damages. Should such money not be sufficient to cover said liquidated damages, then the District shall have the right to recover the balance from Contractor, who shall pay said balance forthwith.

ARTICLE IV
EMPLOYMENT RESTRICTIONS

Section 4.1 Debarment of Contractors and Subcontractors. Contractor may select its own subcontractors, subject to District approval. Contractor, or any subcontractor, may not perform work on the Project with a subcontractor who is ineligible to perform work on a public project pursuant to Section 1777.1 or Section 1777.7 of the California Labor Code. Any contract on the Project entered into between Contractor and a debarred contractor or subcontractor is void as a matter of law. A debarred contractor or subcontractor may not receive any compensation for performing work as a contractor or subcontractor on the Project.

Section 4.2 Hours of Work

Section 4.2.1 8 hours of work shall constitute a legal day's work. Contractor is directed to Labor Code sections 1810 through 1815 regarding restrictions on number of hours per day and per week for employees of Contractor on the Project permitted under California Law ("Workday Laws"). Contractor shall not exceed those requirements, except that work performed by employees of Contractor and its subcontractors in excess of 8 hours per day is permitted at not less than 1½ times the basic rate of pay, as provided in Labor Code section 1815.

Section 4.2.2 Generally, construction work on the Project shall be accomplished on a regular schedule, 8 hour per day work shift basis, Monday through Friday, between the hours of 7:00 a.m. and 5:00 p.m., however, nothing herein shall prevent Contractor from working weekends and after hours in order to complete the Project so long as not otherwise prohibited by law or local ordinance or regulations.

Section 4.2.3 Hold Harmless. As a further material part of this Lease, Contractor agrees to hold harmless and indemnify the District, its Board and each member of the Board, its officers, employees and agents from any and all claims, liability, loss, costs, damages, expenses, fines and penalties, of whatever kind or nature, including all costs of defense and attorneys' fees, arising from any failure of Contractor or its subcontractors to comply with the Workday Laws of the State of California. If the District or any of the indemnified parties are named as a party in any dispute arising from the failure of Contractor or its subcontractors to comply with Workday Laws, Contractor shall defend such parties and shall have the right to obtain counsel of its choice, subject to the approval of the District, which approval shall not be unreasonably withheld

Section 4.3 Equal Opportunity. Contractor herein agrees not to discriminate in recruiting, hiring, promotion, demotion, or termination practices based on race, religious creed, color, national origin, ancestry, sex, age, or physical handicap in the performance of this Lease and to comply with the provisions of the following laws:

- (a) California Fair Employment and Housing Act (Gov. Code 12900 et seq., prohibiting discrimination in employment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, sexual orientation, or age and prohibiting harassment of an employee or applicant because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition,

marital status, sex, sexual orientation or age.);

- (b) Federal Civil Rights Act of 1964 (42 USC § 2000 et seq., prohibiting discrimination in employment on the basis of race, color, national origin, religion, or sex); Title I of the Americans with Disabilities Act of 1990 (42 USC § 12101 et seq., prohibiting discrimination against qualified individuals with a disability in hiring and employment practices.);
- (c) The Age Discrimination in Employment Act (29 USC § 621 et seq., prohibiting age discrimination in employment against individuals who are at least forty years of age);
- (d) Any other laws or regulations prohibiting discrimination as may be applicable to Contractor.

Section 4.4 Prevailing Wages. Pursuant to the provisions of Section 1770 et seq. of the Labor Code of the State of California, which are hereby incorporated by reference and made a part hereof, the Director of the Department of Industrial Relations has determined the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which the work is to be performed, for each craft, classification or type of worker needed to execute this Contract. Per diem wages shall be deemed to include employer payments for health and welfare, pension, vacation, apprenticeship or other training programs, and similar purposes. Copies of the rates are on file at the District office. The rate of prevailing wage for any craft, classification or type of workmanship to be employed on this Project is the rate established by the applicable collective bargaining agreement which rate so provided is hereby adopted by reference and shall be effective for the life of this Agreement or until the Director of the Department of Industrial Relations determines that another rate be adopted. It shall be mandatory upon Contractor and on any subcontractor to pay not less than the said specified rates to all workers employed in the execution of this Agreement.

Pursuant to Labor Code section 1775, Contractor and any subcontractor under Contractor, as a penalty to the District, shall forfeit not more than \$50.00 for each calendar day or portion thereof for each worker paid less than the stipulated prevailing rates for such work or craft in which such worker is employed. The difference between such stipulated prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the contractor.

Pursuant to Labor Code section 1776, Contractor and each subcontractor shall keep or cause to be kept an accurate record for work on this Project showing the names, addresses, social security numbers, work classification, straight time and overtime hours worked and occupations of all laborers, workers and mechanics employed by them in connection with the performance of this Agreement or any subcontract thereunder, and showing also the actual per diem wage paid to each of such workers, which records shall be open at all reasonable hours to inspection by the District, its officers and agents and to the representatives of the Division of Labor Law Enforcement of the State Department of Industrial Relations.

ARTICLE V
SITE CONDITIONS AND USE DURING CONSTRUCTION

Section 5.1 Protection of Persons and Property

Section 5.1.1 Conduct. Contractor shall at all times enforce orderly and disciplined conduct among those performing work on the Project and shall not employ on the Project any unfit person not skilled in the task assigned to him/her.

Section 5.1.2 Compliance with Safety Standards. In performing the work on the Project, Contractor shall, for the safety of persons or property or to protect them from damage, injury, or loss, comply with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority having jurisdiction. Contractor shall erect and maintain, as required by existing conditions and progress of the Project, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, and shall promulgate safety regulations and notify owners and users of adjacent utilities. Contractor shall designate a responsible member of its organization employed at the Site whose duties shall include the prevention of accidents.

Section 5.1.3 Fingerprinting. By execution of this Agreement, Contractor acknowledges that Contractor, its employees, and subcontractors are required to comply with the fingerprinting requirements as set forth in Education Code Section 45125.2. These requirements are as follows:

- (a) The installation of a physical barrier at the worksite to limit contact with pupils;
- (b) Continual supervision and monitoring of all employees of Contractor and its subcontractors by an employee of Contractor whom the Department of Justice has ascertained has not been convicted of a violent or serious felony;
- (c) Surveillance of employees of Contractor by District personnel.

Contractor shall submit a plan to the District at least 15 days before commencement of work describing how Contractor will comply with the foregoing. Whether to approve or reject the pupil safety plan is within the sole discretion of the District. District reserves the right to impose greater or additional safety requirements, including, but not limited to, compliance with all of the fingerprinting and related requirements of California Education Code Section 45125.1.

The pupil safety plan shall be approved by District before any agents or employees of Contractor may enter school grounds where they may have any contact with pupils. Contractor shall indemnify, hold harmless, and defend the District against any and all actions, proceedings, penalties, or claims arising out of the Contractor's failure to comply with the requirements of this section.

If Contractor believes that its employees will have only limited contact with pupils and should therefore be exempted from the foregoing requirements, Contractor must contact the District with its request for exemption at least 15 days before commencement of work. The request for exemption must specify the grounds for such proposed exemption, considering the totality of circumstances, including, but not limited to, the length of time Contractor will be on

school grounds, whether pupils will be in proximity to the site where the Contractor's employees are working, and whether the Contractor's employees will be working by themselves or with others. Whether to grant or deny the exemption is within the sole discretion of the District.

Section 5.2 Emergencies. In any emergency affecting the safety of persons or property on the Site, Contractor shall act at its discretion to prevent threatened damage, injury, or loss.

Section 5.3 Inspection of Project

Section 5.3.1 District Inspections. The District and its representatives at all times shall have access to the Project whether it is in preparation or progress, and Contractor shall provide for such access and for inspection.

Section 5.3.2 Special Inspections. If the specifications, the District's timely instructions, or any public authority shall require the Site or Project to be specially tested or approved, Contractor shall give the District 48 hours notice of its readiness for such inspection and, if the inspection is to be performed by a party other than the District, of the date fixed for such inspection. Inspections by the District shall be promptly made. If any work required to be inspected by the specifications, by the District's timely instruction, or by a public authority should be covered up before its inspection and without the approval or consent of the District, then it must, if required by the District, be uncovered for examination at Contractor's expense.

The District may order re-examination of questioned work, and if so ordered, then Contractor shall uncover such work. If such work is found to be in accordance with the specifications, then the District shall pay the cost of re-examination and replacement. If such work is found not to be in accordance with the specifications, then Contractor shall make the work comply with the specifications of the Project at Contractor's cost, including all costs of re-examination and replacement.

Section 5.4 Supervision. Contractor shall maintain at the Site on a full-time basis a competent project superintendent and assistant during the construction of the Project. The project superintendent shall represent Contractor and all directions given to the project superintendent shall be deemed to have been given to Contractor. Contractor shall give efficient supervision to the Project, using its skill and attention. It shall be Contractor's responsibility to perform the work described in the Project's plans, drawings, and specifications in substantial compliance therewith. Any proposed changes, including proposed minor and insignificant changes to the extent possible, are subject to advance approval by the District. For purposes of this Section, the term "minor and insignificant" shall mean changes that result in no change in quality, aesthetics, or integrity of the original specifications of the Project.

Section 5.5 Cleaning Up. Contractor shall at all times keep the Site free from accumulations of waste material or rubbish caused by the performance of the construction of the Project. At the completion of the construction and prior to the District Acceptance, Contractor shall remove from the Site all such waste material and rubbish and all tools, scaffolding and surplus material belonging to Contractor and/or subcontractors, laborers or materialmen, it being specifically understood that at the close of construction and prior to turning over the Site to the District for beneficial use and occupancy, Contractor shall leave the Site "broom clean," or its equivalent.

Section 5.6 Site Representations. District warrants and represents that the District has, and will continue to retain at all times during the course of construction, legal title to the Site and that said land has appropriate and applicable approvals so as to permit the construction of the Project and use of said Site. District further warrants and represents that title to said land is free of any easements, conditions, limitation, special permits, variances, agreements, or restrictions that would prevent, limit, or otherwise restrict the construction or use of the Project. District has provided information on the Site to Contractor. Such information shall not relieve Contractor of its responsibility; and the interpretation of such data regarding the Site, as disclosed by any borings or other preliminary investigations, is not warranted or guaranteed, either expressly or implicitly, by the District. Contractor shall be responsible for having ascertained pertinent local conditions such as location, accessibility, and general character of the Site and for having made such surveys and investigations, at the Site or where Project is to be performed. The failure or omission of Contractor to review any information or data pertaining to the Site or to acquaint itself with conditions there existing shall in no way relieve Contractor from any obligation with respect to its obligations under this Lease.

Section 5.7 Hazardous Waste and Unknown Physical Conditions Contractor shall promptly, and before the following conditions are disturbed, notify the District in writing, of any:

- (a) Material that Contractor believes may be hazardous waste, as defined in Section 25117 of the Health and Safety Code and that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.
- (b) Subsurface or latent physical conditions at the Site differing from those indicated, including geological, soils, and/or water table issues that impede construction or increase construction costs.
- (c) Unknown physical conditions at the Site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Lease.

The District has not advised Contractor of the presence of asbestos-containing material on the Site. If asbestos-related work or hazardous substance removal is discovered which is not disclosed in this Lease, such work shall be performed pursuant to a contract separate from any other work to be performed as required by Section 25914.2 of the Health and Safety Code, as may from time to time be amended, and as further described in Article VI of this Lease. If Contractor determines during the course of construction that any of the remediation efforts being made by the District pursuant to this section are making the workplace too dangerous for its subcontractors and workers to continue, then it shall give District written notice of such determination and then may halt the work until conditions become safe once again. If the remediation efforts of the District interfere with the performance of Contractor's obligations under the contract, such that the work is delayed, Contractor shall have the right to extend the completion date set forth in section 3.1 by the amount of time work is delayed by such remediation efforts.

Section 5.8 Submittals. Contractor shall furnish to the District for its approval, all submittals as required in the Project's specifications. District and/or District's representative will

review and approve or deny such submittals within a reasonable time so as not to cause delays on the Project.

Section 5.9 Compliance with DTSC Guidelines - Imported Soils. If the Project requires the use of imported soils, Contractor shall be responsible to use and shall certify that the imported material it uses is free of any hazardous and/or toxic substance or material of any nature or type as defined in accordance with California Law.

ARTICLE VI ASBESTOS

Section 6.1 Contractor shall execute and submit an "Asbestos-Free Materials Certification." Contractor further is aware of the following:

Section 6.2 If Contractor installs asbestos-containing material (or causes such material to be installed) in violation of this certification, then decontaminations and removals must be performed in accordance with the requirements of all applicable laws and will meet the following criteria:

- (a) Decontamination and removal of work found to contain asbestos or work installed with asbestos containing equipment shall be done only under the supervision of a qualified consultant, knowledgeable in the field of asbestos abatement and accredited by the Environmental Protection Agency ("EPA") for such work.
- (b) The asbestos removal contractor shall be an EPA accredited contractor qualified in the removal of asbestos.
- (c) The asbestos removal contractor shall be chosen by Contractor and approved in writing by the District.
- (d) The Project will not be accepted until asbestos contamination is reduced to levels deemed acceptable by the asbestos consultant.

Section 6.3 Hold Harmless. Interface of work for the Project with preexisting conditions on the Site containing asbestos shall be executed by Contractor at its risk and discretion, with full knowledge of the currently accepted standards, hazards, risks, and liabilities associated with asbestos work and asbestos-containing products. By execution of this Lease, Contractor acknowledges the above and agrees to the fullest extent permitted by law to hold harmless the District, its Board and each member of the Board, its officers, employees, agents, and representatives, including its engineers and architects, for all asbestos liability arising out of (a) Contractor's introduction or installation of asbestos-containing products or equipment onto the site in violation of the "Asbestos-Free Materials Certification," or (b) Contractor's execution of work on the Project which interfaces with preexisting conditions on the Site containing asbestos which the District has disclosed to Contractor pursuant to Section 5.7 above. Contractor further agrees to instruct its employees and subcontractors with respect to the above-mentioned standards, hazards, risk, and liabilities.

Section 6.4 District Representations. Pursuant to Section 5.7 above, the District has

not advised Contractor of the presence of asbestos-containing material on the Site. District represents that it is unaware of the existence of any asbestos on the Site. If asbestos is discovered on the Site as a preexisting condition, then the cost of all such asbestos removal, including but not necessarily limited to the cost of the asbestos removal contractor, the cost of the asbestos consultant, analytical and laboratory fees, time delays and additional costs that may be incurred, shall be borne entirely by the District.

Section 6.5 Hold Harmless. Any removal of asbestos that is a preexisting condition on the Site shall be executed by the District at the District's risk and discretion with full knowledge of the currently accepted standards, hazards, risks and liabilities associated with asbestos work and asbestos-containing products. By execution of this Lease, the District acknowledges the above and agrees to the fullest extent permitted by law to hold harmless Contractor, its officers, employees, agents, and representatives for all asbestos liability that may be associated with any preexisting condition on the Site.

ARTICLE VII LIABILITY

Section 7.1 Indemnification/Hold Harmless. The District, its Board, and each member of the Board, its officers, employees and agents shall not be liable for, and Contractor shall defend, indemnify and hold harmless the District, its Board and each member of the Board, its officers, employees, and agents from and against any and all claims, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, injuries to property or persons (including death), expenses, charges or costs of any kind or character, including attorneys' fees and court costs (herein collectively referred to as "Liability Claims"), which arise out of or are in any way connected to the Project or this Lease, arising either directly or indirectly from any act, error, omission or negligence of Contractor or its subcontractors, consultants, architects, engineers, licensees, agents, servants or employees. In the event of concurrent negligence on the part of the District and Contractor, or any of the officers, officials, employees, agents or volunteers of either of them, the liability for any and all such Liability Claims shall be apportioned under the State of California's doctrine of comparative negligence as presently established or as may be modified hereafter. Contractor shall have no obligation to defend or indemnify the District from Liability Claims if it is determined by a court of competent jurisdiction that such Liability Claim was caused by the sole negligence, or willful misconduct of the District or its agents or employees.

Section 7.2 Removal of Liens. If any liens or claims are filed against the Site, Contractor shall remove the liens and claims at Contractor's own expense. If Contractor fails to remove the liens or claims and any judgment is entered thereon or thereunder, Contractor shall pay the judgment. Should Contractor fail, neglect, or refuse to remove any lien or claim by the date of the completion of the Project, the District may, at its sole election, pay any amount required to release any such liens or claims, or to defend any action brought on the liens or claims, in which event Contractor shall be liable to the District for all costs, damages, reasonable attorney's fees, and any amounts expended in defending any proceedings or in the payment of any of said liens or claims or any judgment obtained therefore.

Section 7.3 Attorney's Fees. In the event of a claim or action, including, but not limited to, eviction or litigation as a result of breach or default under this Lease or to interpret

this Lease, or if Contractor or the District otherwise use an attorney to secure compliance with these provisions, to recover damages, or to terminate this Lease, the prevailing party shall be entitled to reimbursement, upon demand, for the percentage of all documented, reasonable attorneys' fees, costs and expenses incurred in successfully pursuing or defending the matter that is commensurate with the adverse party's percentage of fault or liability in the matter, as determined by the court or other competent authority.

ARTICLE VIII INSURANCE

Contractor, at its expense, shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Commercial General Liability on an occurrence form (no sunset clauses). Liability deductible or Self-Insured Retention not to exceed \$5,000. Claims Made or Modified Occurrence Liability coverage will not be accepted. Coverage shall be at least as broad as ISO form CG0001.
2. Umbrella/Excess Liability
3. Automobile Liability including owned, non-owned, and hired automobiles.
4. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
5. Builder's Risk (Course of Construction). Deductible not to exceed \$2,500.
6. Performance & Payment Bonds.

Minimum Limits of Insurance

Contractor shall maintain limits no less than:

- | | | |
|-------------------------------|---|--|
| 1. General Liability: | \$2,000,000 | General Aggregate (Per Project) |
| | \$2,000,000 | Products/Completed Operations Aggregate |
| | \$1,000,000 | Personal & Advertising Injury |
| | \$1,000,000 | Each Occurrence |
| 2. Umbrella/Excess Liability: | \$1,000,000 | Aggregate |
| | \$1,000,000 | Each Occurrence |
| 3. Automobile Liability: | \$1,000,000 | Per Accident for Bodily Injury & Property Dmg. |
| 4. Workers' Compensation: | As required by the State of California | |
| 5. Employer's Liability: | \$1,000,000 | Per Accident for Bodily Injury or Disease |
| 6. Builder's Risk: | Completed Value of the Project with no Coinsurance Penalty. | |

Insurance Provisions

The general liability policy is to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured:** The **Owner**, its elected or appointed officials, employees, agents and volunteers are to be covered as Additional Insured's (utilizing Form CG2010 11/85 edition or an acceptable equivalent) by an endorsement to the general liability policy. A CG2010 11/85 acceptable equivalent is an additional insured endorsement that includes the named insured's "ongoing" operations and completed operations.
2. **Primary Insurance:** For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the **Owner**, its elected or appointed officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the **Owner**, its elected or appointed officials, employees, agents and volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
3. **Cancellation Provision:** Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) day's prior written notice has been provided to the **Owner**.

Waiver of Subrogation

The Contractor's General Liability and Workers' Compensation insurance policies shall provide a Waiver of Subrogation in favor of the **Owner**.

Builder's Risk (Course of Construction) Insurance

Contractor shall procure and maintain Builder's Risk insurance (all-risk, special form with valuation on a replacement cost basis) on a one hundred percent completed value of the project for the benefit of the **Owner**, and the Contractor and Subcontractor, as their interest may appear. The policy shall contain a clause which provides coverage until the building is accepted by the **Owner**. If the Builder's Risk policy contains an occupancy provision, permission for early occupancy must be obtained from the insurance company. The Policy should include debris removal, collapse, theft, and transit coverage with no coinsurance penalty provisions. The Builders' Risk Policy is primary and no insurance held or owned by the **Owner** shall be called upon to contribute to a loss. The **Owner** will not be responsible for loss of Contractor tools or machinery. **[Builders' Risk: Contractor is required to provide Builders' Risk Insurance at 100% of the completed value of this modernization/remodeling project when contract amount meets or exceeds \$250,000.00]**

Workers' Compensation

Before the Contract is entered into, the Bidder to whom it is awarded shall furnish to the **Owner** satisfactory proof that he and all Subcontractors he intends to employ have taken out, for the period covered by the proposed Contract, full compensation insurance and Employer's Liability with limits of at least \$1,000,000 with an insurance carrier satisfactory to the **Owner** for all persons whom they may employ in carrying out the work contemplated under this Contract in accordance with the Act of the Legislature of the State of California, known as the "Workers' Compensation Insurance and Safety Act" approved May 26, 1913, and all Acts amendatory or supplemental thereto. Such insurance shall be maintained in full force and effect during the period covered by the Contract. In the event the Contractor is self-insured, he shall furnish a Certificate of Permission to Self-Insure, signed by the Department of Industrial Relations Administration of Self-Insurance, Sacramento, California.

If the Contractor fails to maintain such insurance, the **Owner** may take out compensation insurance to cover any compensation which the **Owner** might be liable to pay under the provisions of said Act as amended, by reason of any employee of the Contractor being injured or killed, and deduct and retain the amount of the premiums for such insurance from any sums due the Contractor under the Contract.

If an injury occurs to any employee of the Contractor for which the employee, or the employee's dependents in the event of the employee's death, is entitled to compensation from the **Owner** under the provisions of said Act as amended, or for which compensation is claimed from the **Owner**, the **Owner** may retain out of the sums due the Contractor under this Contract, an amount sufficient to cover such compensation, as fixed by said Act as amended, until such compensation is paid, or until it is determined that no compensation is due, and if the **Owner** is compelled to pay such compensation, it will deduct and retain from such sums the amount so paid.

The policies represented by the certificates must contain the provision (and the certificates must so state) that the insurance cannot be cancelled until thirty (30) days after written notice of intended revocation has been given to the **Owner** by Certified Mail.

Indemnity

Contractor shall indemnify, hold harmless and defend **Owner** and its elected or appointed officials, agents and employees from and against all claims, damages, losses and expenses, including reasonable costs and attorneys' fees, arising out of or resulting from Contractor's performance of the Work, or work performed by Contractor's agents or employees, or subcontractors employed on the project, their agents or employees, or products installed on the project by Contractor or subcontractors, excepting only such injury or harm as may be caused solely and exclusively by **Owner's** fault or negligence. Such indemnification shall extend to all claims, demands, or liabilities occurring after completion of the project as well as during the progress of work.

Acceptability of Insurers

All required insurance must be written by an admitted company licensed to do business in the State of California at the time the policy is issued. All required Insurance as set forth in this Contract shall be underwritten by a company with a balance sheet strength, operating performance and business profile that are equal to or exceed an A VIII rating as listed in the A.M. Best Insurance Guide's latest edition. On a case-by-case basis, the **Owner** may accept insurance written on a company listed on the State of California Department of Insurance List of Eligible Surplus Lines ("LESLI List") with a rating of A VIII or above as listed in Best's Insurance Guide's latest edition. Exception may be made for Workers' Compensation Insurance provided by the State Compensation Insurance Fund when not specifically rated.

Subcontractors

Contractor shall require and verify that all subcontractors maintain insurance meeting all of the requirements stated herein, with the exception of Umbrella/Excess Liability Insurance, Builders' Risk Insurance, and Performance/Payment Bonds.

Proof of Insurance

Contractor shall furnish the **Owner** with original certificates and amendatory endorsements effecting coverage required by this contract. All certificates and endorsements are to be received and approved by the **Owner** before work commences. However, failure to do so shall not operate as a waiver of these insurance requirements. If the Contractor fails to maintain such insurance as specified by this Contract, the **Owner** may take out such insurance to cover any damages of the above mentioned classes for which the District might be held liable on account of the Contractor's failure to pay such damages, and deduct and retain the amount of the premium from any sums due the Contractor under the Contract.

The **Owner** reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

Mail all certificates and endorsements to:

Sierra Plumas Joint Unified School District
Attn: Stan Hardeman
P.O. Box 357
305 S. Lincoln Street
Sierraville, CA 96126

Performance Bond & Payment Bond

Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds may be obtained through the Contractor's usual source and the cost thereof shall be included in the Contract Sum. The amount of each bond shall be equal to 100 percent of the Contract Sum. The surety must be an admitted surety insurer in the State of California. These bonds shall be maintained for the life of the Contract and one year after the date of filing the Notice of Completion.

The Contractor shall deliver the required bonds to the **Owner** not later than ten days following the date of the Agreement is entered into. If the Work is to be commenced prior thereto in response to a letter of intent, the Contractor shall, prior to commencement of Work, submit evidence satisfactory to the **Owner** that such bonds will be furnished.

The Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney, and to have the signature acknowledged by a notary public.

The following requirements shall apply where the NCSIG document (above) does not address:

Section 8.1 Insurance Coverage Required. Before the commencement of the Lease and during the term of the Lease, Contractor shall obtain and maintain, at its expense, in companies acceptable to the District, the following insurance policies:

- (a) commercial general liability insurance for bodily injury, personal injury and property damage, and including products, completed operations, and non-owned and hired automobile coverage, with liability limits of not less than One Million Dollars (\$1,000,000) combined single limit. The policy shall provide coverage for broad form property damages. If the policy contains a General Aggregate, then the liability limits must be not less than One Million Dollars;
- (b) automobile liability insurance for bodily injury, personal injury, and property damages for vehicles owned, non-owned, or hired, with policy limits of not less than \$1,000,000 combined single limit;
- (c) builder's risk insurance for risk of loss to the Project and the Site from fire, lightning, theft, vandalism, and all risk of physical loss (excluding floods and earthquakes), with policy limits of not less than the full insurance value of the Project. The policy must include an extended coverage endorsement.

Section 8.2 Insurance Provisions

- (a) The policies described in Section 8.1 above shall:
- (i) name the District as an additional insured;
 - (ii) state that such policy is primary and non-contributing with any insurance carried by the District;
 - (iii) state that the naming of any additional insured shall not negate any right that additional insured would have had as a claimant under the policy if not so named; and
 - (iv) state that not less than 30 days written notice shall be given to the District before the cancellation or reduction of coverage or amount of such policy.
- (b) A certificate issued by the carrier of the policies described in subsection 8.1 above shall be delivered to the District prior to Contractor's, its employees, volunteers, and independent contractor's entry onto the Site. Each such certificate shall set forth the limits, coverage, and other provisions required under this Section. A renewal certificate for each of the policies described above shall be delivered to the District not less than 30 days before the expiration of the term of the policy.
- (c) The policy described in Section 8.1 above may be made part of a blanket policy of insurance so long as such blanket policy contains all of the provisions required in this Section and does not reduce the coverage, impair the District's right under this Lease, or negate Contractor's obligations under this Lease.
- (d) Upon District request, a copy of the insurance policies described above shall be provided to the District.

Section 8.3 Damages or Destruction. If, during the Lease term, the Project is totally or partially destroyed from a risk not covered by the insurance described in section 8.1, rendering the Project totally or partially inaccessible or unusable, at its expense Contractor shall restore the Project to substantially the same condition as it was in immediately before the damage or destruction. Such damage or destruction shall not terminate this Lease.

Section 8.4 Workers' Compensation Insurance and Employer's Liability Insurance. Before the commencement of Project, Contractor shall provide a certificate of insurance and endorsements on forms acceptable to the District, for the period of the Lease, with full Workers' Compensation Insurance coverage for no less than the statutory limits, and employer's liability insurance coverage with limits not less than One Million Dollars (\$1,000,000) for all persons whom it employees or may employ in carrying out work under the Lease. This insurance shall be in strict accordance with the requirements of the most current and applicable State Workers' compensation insurance laws.

IX
BONDING REQUIREMENT

Section 9.1 Payment and Performance Bonds. Contractor shall provide a separate "Payment (Labor and Material) Bond" and "Performance Bond" (collectively, "Bonds") from a Surety and in the forms attached hereto before commencing construction on the Project. The Payment Bond shall be for One Hundred Percent (100%) of the actual projected cost of the Project as agreed to by the District, to guarantee the payment in full of all claims for labor performed and materials supplied for the Project, and faithful performance of all of its obligations under this Lease. The Bonds shall be substantially in the form attached hereto as **Exhibits "D" and "E,"** and shall be maintained by Contractor in full force and effect until the Project is fully completed and accepted, and all claims for materials and labor are paid, and shall otherwise comply with California law. The Bonds shall name the District as the entity to which the Principal and Surety, as defined in the Bonds, are bound.

Section 9.2 Bond Criteria. The bonds required by this section shall meet the following criteria:

- (a) The bonds shall be signed by Contractor and the authorized agent of the Surety. All signatures must be notarized.
- (b) Should the bonds become insufficient, Contractor shall renew or amend the bonds within 10 calendar days after receiving notice from the District.
- (c) Should any Surety at any time not be a California admitted surety, notice will be given to the District to that effect and Contractor shall obtain a new Surety that qualifies and is accepted by the District.
- (d) Changes in the Project, or extensions of time, made pursuant to the Lease shall in no way release Contractor or Surety from its obligations. The Surety shall waive notice of such changes or extensions.

ARTICLE X
CHANGES IN PROJECT

Section 10.1 Change Orders. A Change Order is a written instrument prepared by Contractor and signed by the District stating their agreement upon all of the following:

- (a) an additive or deductive change order in the Project requested by the District;
- (b) an additive or deductive change order in the Project caused by an unforeseen condition;
- (c) an adjustment to the Project Cost;

- (d) an extension for time that adversely impacts the time for completion of the Project caused by change in the Project or any other delay which could extend the time for completion of the Project.

An additive or deductive change order requested by the District, or an additive or deductive change order caused by unforeseen conditions, shall include a component for change in compensation and a component for time extension to the extent a time extension to the completion date is needed. All other change orders shall be change orders extending time and shall not include any change in compensation.

Change order mark up: In case of a change order for compensation (as opposed to time extension only), the cost shall include overhead and profit determined per paragraph (c) below. In such case, Contractor shall provide an itemized accounting together with appropriate supporting data.

The Value of any such extra work, change, or deduction shall be determined at the discretion of the District in one or more of the following ways:

- (a) By acceptable lump sum proposal from Contractor with itemization as required by the District.
- (b) By unit prices contained in Contractor's original bid and incorporated in the Lease or fixed by subsequent agreement between the District and Contractor.
- (c) By the cost of material and labor and a percentage for overhead and profit.

The following form shall be followed as applicable for additions and deductions to this Lease:

	EXTRA/ (CREDIT)
1. Material and equipment costs, including rental equipment (attach itemized quantify and net cost plus sales tax)	_____
2. Labor (attach itemized hours and base rates from identified prevailing wage schedules)	_____
3. Additional costs of supervision and field office personnel directly attributable to the change; and fees paid to professionals. Contractor shall provide an hourly rate schedule which shall apply to this Agreement based upon rates in effect as of the effective date of this Lease	_____

- | | | |
|-----|---|-------|
| 4. | General Liability and Builder's Risk Insurance, Workers' Compensation Insurance, Social Security, Pension and Unemployment Taxes at actual and verified cost. | _____ |
| 5. | Subtotal | _____ |
| 6. | Subcontractor's overhead and profit not to exceed 10% of item (5) | _____ |
| 7. | Subtotal | _____ |
| 8. | Contractor's Overhead and Profit, including extended home office overhead, not to exceed 10% of item (7) | _____ |
| 9. | Subtotal | _____ |
| 10. | Payment Bond Premium, not to exceed 1% of Item (9) | _____ |
| 11. | Total
The total amount shall be added to or deducted from the Project Cost (if approved). | _____ |

Section 10.2 Minor Changes in the Project. Any minor changes in the Project that do not increase the Cost of the Project, and does not extend the completion date, if approved by the District, may be made without a change order.

Section 10.3 Regulatory Changes. To the extent it applies to a public project, Contractor shall be compensated for changes in the construction necessitated by the enactment or revision of codes, laws, or regulations during the term of this Lease.

ARTICLE XI
CORRECTION IN PROJECT

Section 11.1 Contractor shall promptly correct any work on the Project rejected by the District or known by Contractor to be defective or failing to conform to the requirements of the Lease, whether observed before or after completion of the Project and whether or not fabricated, installed or completed. Contractor shall bear all costs of correcting such rejected work, including additional testing and inspections necessitated by such correction.

If Contractor fails to correct nonconforming work as required, or fails to carry out the work in accordance with the Lease, the District, by written order signed personally or by an agent specifically so empowered by the District in writing, may order Contractor to stop work on the Project, or any portion thereof, until the cause for such order has been eliminated; however, the District's right to stop the Project shall not give rise to a duty on the part of the District to exercise the right for benefit of Contractor or other persons or entities.

If Contractor defaults or neglects to carry out the Project in accordance with the Lease and fails within 7 days after receipt of written notice from the District to commence and continue correction of such default or neglect with diligence and promptness, the District may give a second written notice to Contractor and, 7 days following receipt by Contractor of that second written notice and without prejudice to other remedies the District may have, correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due Contractor, the costs to correct such deficiencies, which will reduce the Project Cost. If the payments then or thereafter due Contractor are not sufficient to cover the amount of the deduction, Contractor shall pay the difference to the District. Such action by the District shall be subject to dispute resolution procedures as provided in Article XIII.

ARTICLE XII
FACILITIES SUBLEASE

Section 12.1 Purpose of the Sublease. Contractor hereby subleases the Site to the District and District hereby leases the Site from Contractor ("Sublease"). The purpose of this Sublease is for the District to have necessary access to and use of the Site on and after such times as it will not impede the construction of the Project, and before the termination of the Lease.

Section 12.2 Term. The term of this Sublease coincides with the term of the Lease, as provided in Section 1.2 of this Agreement.

Section 12.3 Consideration. The Sublease payments to be paid by District to Contractor as adequate consideration for sublease of the Site shall be equal to the Project Cost stated in section 1.8 above, and shall be paid as follows: Each month Contractor shall provide District with an itemized summary reflecting the percentage of work performed and signed off on by the District's Inspector of Record or other designated employee. District shall pay Contractor monthly payments, without interest, in amounts commensurate with the amount of work performed, invoiced, and signed off on by the Inspector of Record or other designated employee to date, assuming Contractor is making satisfactory progress on the Project as payments become due. Said sums shall be deducted from any payments to be made by the District to Contractor under Section 1.8 of this Agreement.

ARTICLE XIII
MISCELLANEOUS PROVISIONS

Section 13.1 Access. Contractor shall permit the District and its agents to enter into and upon the Site and the Project at all reasonable times for purposes set forth in this Lease. Upon entering, the District shall not unduly disturb, or unreasonably interfere with progress on, Contractor's work on the Project and related improvement to the Site.

Section 13.2 Assignment. Contractor shall not assign or sublet any of its obligations, rights, or duties under this lease, or change a subcontractor to one not originally retained, nor sublet the leased Site or any part thereof, without the prior written consent of the District, which will not be unreasonably withheld. Any assignment, subcontract, or sublet made without such prior written consent shall be void, and at the option of the District, shall terminate this Lease. No right under this Lease, nor claim for any money due or to become due hereunder shall be asserted against the District, or persons acting for the District, by reason of any assignment, subcontract, or sublet of this Lease made without the District's prior written consent.

Section 13.3 Binding Effect. The agreements, conditions, and provisions contained in this Lease shall, subject to provisions for assignment in paragraph 13.2, apply to and bind the heirs, executors, administrators, successors and assigns of the parties to it.

Section 13.4 Termination of the Lease. This Lease may be terminated for a material breach of any provision of this Lease and by the individual parties as set forth below in this section.

Section 13.4.1 Termination by District. District may terminate this Lease at any time, with proper notice pursuant to section 11.1, if (1) Contractor materially breaches a provision of this Lease; (2) Contractor seeks relief under any law for the benefit of insolvents or is adjudicated bankrupt; (3) if any legal proceedings are commenced against Contractor which may interfere with the performance of this Lease and the construction of the Project; or (4) Contractor fails to supply an adequate working force, or has failed in other material respect to comply with the obligations of this Lease relative to the construction of the Project. Contractor shall have 15 days after the District provides written notice to cure any breach enumerated in this section. If the required cure of the noticed breach cannot be completed within 15 days, Contractor shall be in breach of this agreement unless Contractor undertakes to cure the breach within 15 days of receiving notice and diligently and continuously attempts to complete the cure of the breach as soon as reasonably possible. In the event that the District elects to complete the Project at its own cost following termination pursuant to this section, Contractor shall promptly make all plans and information concerning the Project and Site available to the District, and shall ensure that the District has an appropriate license to use and rely upon such plans and information.

Section 13.4.2 Termination by Contractor. Contractor may terminate this Lease if (1) Contractor discovers it cannot perform the requirements of the Lease for any reason or (2) the District materially breaches a provision of the Lease. In the event of termination by Contractor pursuant to clause (1) hereinabove, the District may require Contractor, at Contractor's sole cost, to restore the Site to its original condition existing immediately before the beginning of the term of this Lease. However, if Contractor exercises its right to terminate the lease pursuant to clause (2) hereinabove due to the District's failure to act in compliance with the terms of this Lease, then

Contractor shall have no such obligation to restore the Site.

Section 13.5 Force Majeure. If any prevention, delay, or stoppage caused by strikes; lockouts; labor disputes; acts of God; inability to obtain services, labor, or government actions; civil commotions; fire or other casualty; or other causes beyond the reasonable control of a party obligated to perform makes it impossible to perform any portion of this Lease, then that party is excused from performance for a period equal to the period of that prevention, delay or stoppage.

Section 13.6 Resolution of Lease Claims. Any claims arising under this Lease may be resolved through binding arbitration at the parties' agreement in the following manner:

- (a) The dispute review process set forth in this section shall be administered by a neutral mediator/arbitrator or organization engaged in the business of mediation/arbitration, utilizing the American Arbitration Association ("AAA") commercial rules in effect at the time of filing (hereinafter called "Administrator"). If the parties are unable to agree on a neutral mediator/arbitrator or organization engaged in the business of mediation/arbitration, AAA shall serve as the Administrator.
- (b) If a dispute arises out of, or relates to this Lease or the breach thereof, and if said dispute cannot be settled through normal contract negotiations, the parties agree first to endeavor to settle the dispute using mediation.
- (c) The costs for all mediation, including mediator compensation, and Administrator fees, if any, will be shared equally by both parties. Both parties shall jointly negotiate fees directly with the Administrator, if any. If both parties agree, then the mediation costs may increase as required for resolution of the dispute. A party producing witnesses shall pay the expenses of such witnesses.
- (d) A single mediator, acceptable to both parties, shall be used to mediate the dispute. The mediator will be knowledgeable in construction and will be selected jointly by the parties from names proposed by each, or from lists furnished by an Administrator if an Administrator is utilized. The initial mediation session shall commence within 30 calendar days of filing, unless otherwise agreed by the parties, or at the direction of the mediator. The parties acknowledge that timing of the Project is of the essence, and that if the deadlines for mediation set forth herein would delay completion of the Project, said deadlines will be expedited to the greatest extent feasible.
- (e) Mediation hearings will be conducted in an informal manner and discovery will not be allowed unless agreed by both parties. All discussions, statements, or admissions will be confidential to the proceedings and will not be used for any other purpose as it relates to the parties' legal positions.
- (f) Any resultant agreements from mediation shall be documented in writing and may be used as the basis for a change order or other directive as appropriate. All mediation results and documentation shall be non-binding and inadmissible for any purpose in any legal proceedings, in accordance with Evidence Code Section 1152, unless such admission is otherwise agreed in writing by both parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to

discovery.

- (g) If mediation is unsuccessful, the parties thereafter may, but are not required to, agree to submit the matter to the Administrator for binding arbitration. If the parties so agree to arbitrate, the following provision shall govern such arbitration, unless the parties otherwise agree in writing. The parties agree that the matter shall be submitted to one (1) arbitrator unless they agree in writing to three (3) arbitrators. A judgment of a court having competent jurisdiction may be entered upon the arbitrator's award, and such judgment shall be enforceable as a final judgment to the fullest extent under the law. The parties agree to split evenly all arbitration and arbitrator(s)' fees and expenses, subject to readjustment by the arbitrator as part of any award. The arbitration shall be subject to, and proceed in accordance with California Code of Civil Procedure, Sections 1280 through 1294.2. If the parties do not agree to submit to binding arbitration, neither party is prevented from pursuing other legal remedies.

Section 13.7 Remedies. The remedies given to each party shall be cumulative. The exercise of any one remedy by either party shall not waive that party's right to pursue any other remedy.

Section 13.8 Modification. At any time during the term of this Lease, the parties may mutually agree in writing to amend, supplement, terminate, or otherwise modify this Lease.

Section 13.9 Waiver. The waiver by either party of any breach of any term, covenant, or condition, shall not be deemed a waiver of such term, covenant, or condition or any subsequent breach of the same, or any other term, covenant, or condition herein contained.

Section 13.10 Compliance with Laws. Both parties agree to observe and obey all local, state or federal laws, ordinances, rules, statutes and regulation now in effect or promulgated in the future with respect to the use of the Site and activities conducted thereon. Neither party shall use or permit the Site to be used for any purpose or purposes other than the purpose or purposes for which the Site is hereby leased.

Section 13.11 Prevailing Law. In the event of any conflict or ambiguity between this Lease and state or federal law or regulations, the latter shall prevail. Additionally, all equipment to be supplied or services to be performed under this Lease shall conform to all applicable requirements of local, state, and federal law.

Section 13.12 Governing Law and Venue. In the event of litigation, this Lease shall be governed by and construed in accordance with the laws of the State of California. Venue shall be with the appropriate state or federal court serving Shasta County.

Section 13.13 Entire Agreement. This Lease and its Exhibits represents the entire agreement of the District and Contractor and hereby supersedes and cancels all previous negotiations, oral agreements, arrangements, brochures, agreements, and understandings between the District and Contractor regarding this Lease, except as otherwise set forth herein or in the Exhibits. There are no representations between the District and Contractor except as otherwise set forth in this Lease or its Exhibits.

Section 13.14 Severability. If any portion of this Lease is determined to be illegal or unenforceable by a court of law or by later-enacted legislation, this determination shall not affect any other provision of this Lease, and all other provisions shall remain in full force and effect.

Section 13.15 Exhibits. The exhibits specified in this Lease are attached to this Lease and by this reference made a part of it.

Section 13.16 Captions. Any captions in this Lease are included only as a matter of convenience and for reference and in no way define the scope or extent of this Lease or the construction of any provision.

Section 13.17 Recordation of Notice of Completion and Posting of Notices. The District or Contractor may elect to record any Notice of Completion relating to the Project. District may also elect to post any Notice of Completion and/or a notice of the District non-responsibility at the Site and/or anywhere else during the duration of the Lease.

Section 13.18 Notice. Any and all notices or other communication required or permitted by this Lease or by law to be delivered to, served on, or given to either party to this Lease shall be in writing and shall be deemed properly delivered to such party at the earliest of (i) the date actually received; (ii) three (3) business days after deposit in the United States mail, postage paid, certified or registered, addressed to the respective party at the address identified below; or (iii) one (1) business day if delivered by a commercial service which guarantees next-business-day delivery. Permitted delivery methods include commercial delivery services, facsimile transmission, or certified, registered, or postage prepaid United States mail, when received or refused. Either party may change its address for purposes of notice by giving written notice of such change of address, which shall become effective 5 business days after giving notice thereof.

Notices to the District (Lessor) shall be sent to:

Stan Hardeman
Superintendent
Sierra Plumas Joint Unified School District
P.O. Box 357
305 S. Lincoln Street
Sierraville, California 96126

Notices to Contractor shall be sent to:

Trenton McCuen
Vice President
Randy Hill Construction, Inc
5237 Mallard Estates Dr.,
Chico, CA 95973

Section 13.19 Signature in Counterparts. This Lease may be executed in any number of counterparts, including facsimile copies which shall be treated as originals, all of which, taken together shall constitute the same instrument.

Section 13.20 Time. Time is of the essence in this Lease.

Section 13.21 Subject to Approval of Board. This Lease confers no legal or equitable rights until the District Board of Trustees approves it at a lawfully conducted public meeting.

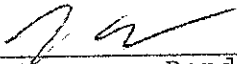
Section 13.22 Warranty of Authority. Each person signing below warrants and guarantees that s/he is legally authorized to execute this Lease on behalf of the designated entity and that such execution shall bind the designated entity to the terms of this Lease.

Section 13.23 Defined Terms. Each capitalized term not otherwise defined in this Lease shall have the meaning assigned in the Project Plans, Drawings, and Specifications.

**SIERRA PLUMAS JOINT UNIFIED
SCHOOL DISTRICT**

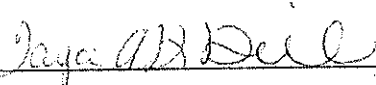
**RANDY HILL CONSTRUCTION INC.,
a California Corporation**

By _____
Stan Hardeman
Superintendent

By 
= Trenton McCuen - Randy Hill
= Vice-President President

Date _____

Date 4-23-2013

By 

Title: Secretary: _____

Date 4/23/2013

NOTE: Contractor must give the full business address of the Contractor and sign with Contractor's usual signature. Partnerships must furnish the full name of all partners and the Agreement must be signed in the partnership name by a general partner with authority to bind the partnership in such matters, followed by the signature and designation of the person signing. The name of the person signing shall also be typed or printed below the signature. Corporations must sign with the legal name of the corporation, followed by the name of the state of incorporation and by the signature and designation of the chairman of the board, president or any vice president, and then followed by a second signature by the secretary, assistant secretary, the chief financial officer, or assistant treasurer. All persons signing must be authorized to bind the corporation in the matter. The name of each person signing shall also be typed or printed below the signature. Satisfactory evidence of the authority of the officer signing on behalf of a corporation shall be furnished.

Exhibit A
Site Diagrams
(Attached)

Exhibit B

**Contractor's April 23, 2013 Proposal
(Attached)**

Exhibit C

**Project Plans, Drawings, and Specifications
DSA #02-112820
(Attached)**

Exhibit D

FORM OF PAYMENT BOND
(Labor and Material)

KNOW ALL MEN BY THESE PRESENTS:

That WHEREAS, **SIERRA PLUMAS JOINT UNIFIED SCHOOL DISTRICT** and **RANDY HILL CONSTRUCTION, INC.**, a California corporation, hereinafter designated as the "Principal," have entered into a Contract for the furnishing of all materials and labor, services and transportation, necessary, convenient, and proper to construct:

Sierra Plumas Joint Unified School District
Re-Roof Project
At Loyalton High School

Which said agreement dated April 24, 2013, and all of the Contract Documents are hereby referred to and made a part hereof;

and

WHEREAS, the Principal is required, before entering upon the performance of the work, to file a good and sufficient bond with the body by whom the Contract is awarded to secure the claims arising under said agreement.

NOW, THEREFORE, THESE PRESENTS WITNESSETH:

That the said Principal and the undersigned _____

are held and firmly bound unto all laborers, material men, and other persons referred to in Civil Code section 3248, subdivision (b), in the sum of \$ _____ which sum well and truly be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns, jointly and severally, by these presents.

The condition of this obligation is that if the said Principal or any of its subcontractors, or the heirs, executors, administrators, successors, or assigns of any, all, or either of them, shall fail to pay any of the persons named in Civil Code section 3181, or any of the amounts due as specified in Civil Code section 3248, subdivision (b), to pay for any materials, provisions, provender or other supplies, or teams, used in, upon, for, or about the performance of the work contracted to be done, that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay costs and reasonable attorney's fees to be awarded and fixed by the Court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

And the said Surety, for value received, thereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of said contract or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety this _____ day of _____, _____.

(To be signed by _____)
(Principal and Surety, _____)
(and acknowledged and _____)
(Notarial Seal attached _____)

Principal

Surety

By: _____
Attorney-in-Fact

The above bond is accepted and approved this _____ day of _____

Exhibit E

FORM OF PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS that we **RANDY HILL CONSTRUCTION, INC.**, a California corporation, as Principal, and

_____ as Surety, are held and firmly bound unto **SIERRA PLUMAS JOINT UNIFIED SCHOOL DISTRICT**, in the County of Sierra, State of California, hereinafter called the "Owner," in the sum of \$ _____ for the payment of which sum well and truly made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

The condition of this obligation is such, that whereas the Principal entered into a certain contract with the Owner, the terms of which are incorporated herein by reference, dated _____, _____ for construction of:

**Sierra Plumas Joint Unified School District
Re-Roof Project
At Loyalton High School**

NOW, THEREFORE, if the Principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said Contract during the original term of said Contract and any extensions thereof that may be granted by the Owner, with or without notice to the Surety, and during the life of any guaranty or warranty required under the Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreement of any and all duly authorized modifications of said Contract that may hereafter be made, then this obligation is to be void, otherwise to remain in full force and virtue.

And the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work, or to the specifications.

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IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals this _____ day of _____, hereto affixed, and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(To be signed by)
(Principal and Surety,)
(and acknowledged and)
(Notarial Seal attached)

(Affix Corporate Seal)

(Individual Principal)

(Business Address)

(Affix Corporate Seal)

(Corporate Principal)

(Business Address)

(Affix Corporate Seal)

(Corporate Surety)

(Business Address)

By: _____

The rate of premium on this bond is _____ per thousand.

The total amount of premium charged is _____.

The above must be filled in by Corporate Surety.

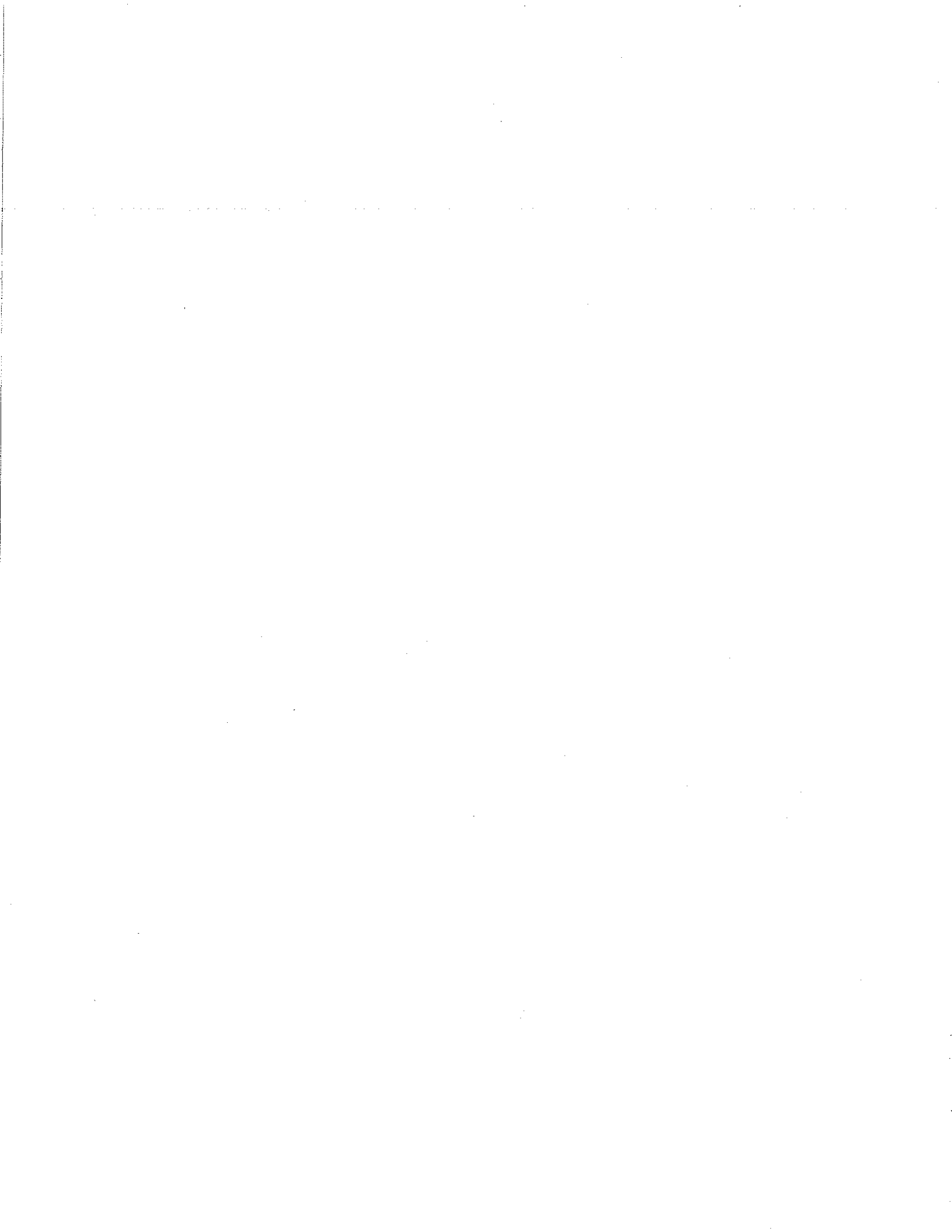
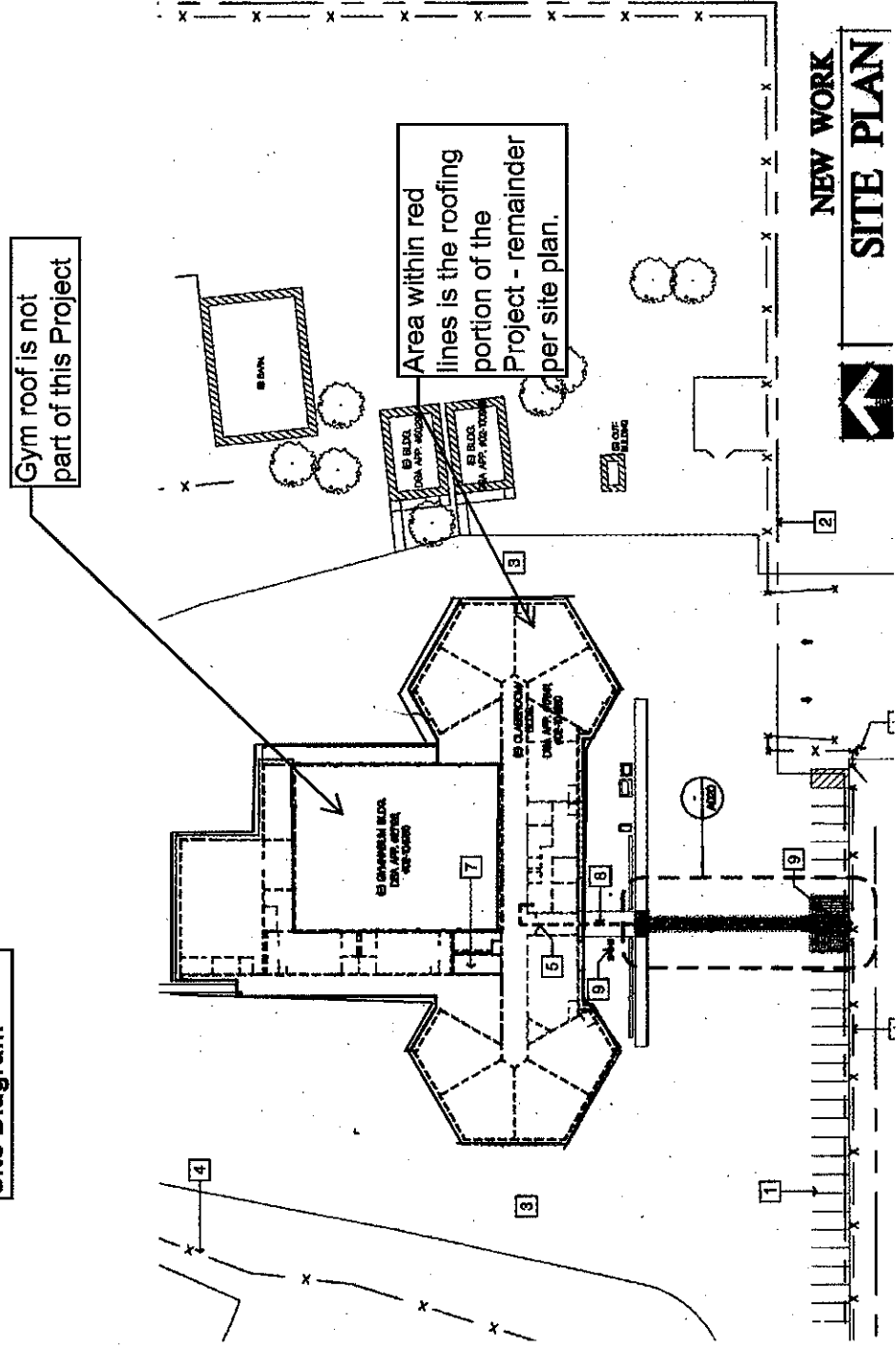


Exhibit A
Site Diagram



2. GRATING WITHIN THE POT SHALL HAVE OPENINGS NOT TO EXCEED 1/2" IN THE DIRECTION OF TRAVEL, OR EACH WAY IN PLAZAS

ROUTE WITHOUT ANY ABRUPT VERTICAL CHANGES EXCEEDING 1/4" PER FOOT. MAXIMUM SLOPE EXCEPT THAT LEVEL CHANGES NOT EXCEED 1/4" VERTICAL, AND 8" AT LEAST 48" WIDE SURFACE BE RESISTANT, STABLE, FIRM AND SMOOTH. CROSS-SLOPE DOES NOT EXCEED 2% AND SLOPE IN THE DIRECTION OF TRAVEL IS LEAST 1/4% UNLESS OTHERWISE SPECIFIED. ALL CURBS SHALL BE CONFORMING CONSTRUCTIONS TO 307 MINIMUM HEIGHTS AND PROTRUDING OBJECTS GREATER THAN 1/4" PROJECTION FROM WA ABOVE 27" AND LESS THAN 47" (USUBS). ARCHITECT TO VERIFY ALL BARRIERS IN THE PATH OF TRAVEL HAVE BEEN REMOVED OR BE REMOVED UNDER THIS PROJECT, AND PATH OF TRAVEL COME WITH CSC 1288.32

PARKING CALCULATION

STANDARD STALLS PROVIDED	25
STANDARD ACCESSIBLE STALLS REQUIRED	1
STANDARD ACCESSIBLE STALLS PROVIDED	1
VAN ACCESSIBLE STALLS REQUIRED *	1
VAN ACCESSIBLE STALLS PROVIDED	1

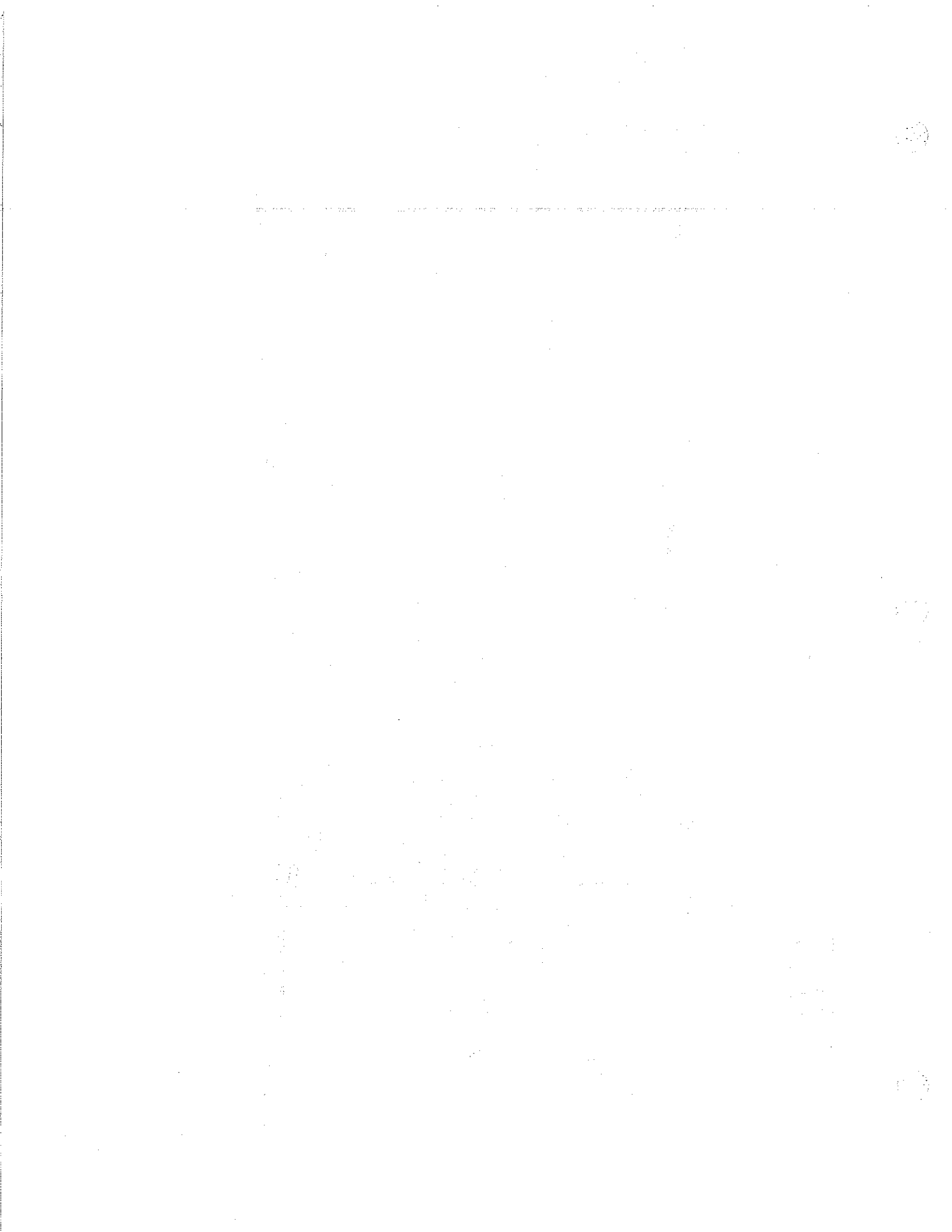
* 1 IN 8 ACCESSIBLE SPACES SHALL BE VAN ACCESSIBLE WITH AN 8'x7' ACCESSIBLE 201 CSC 1288.32

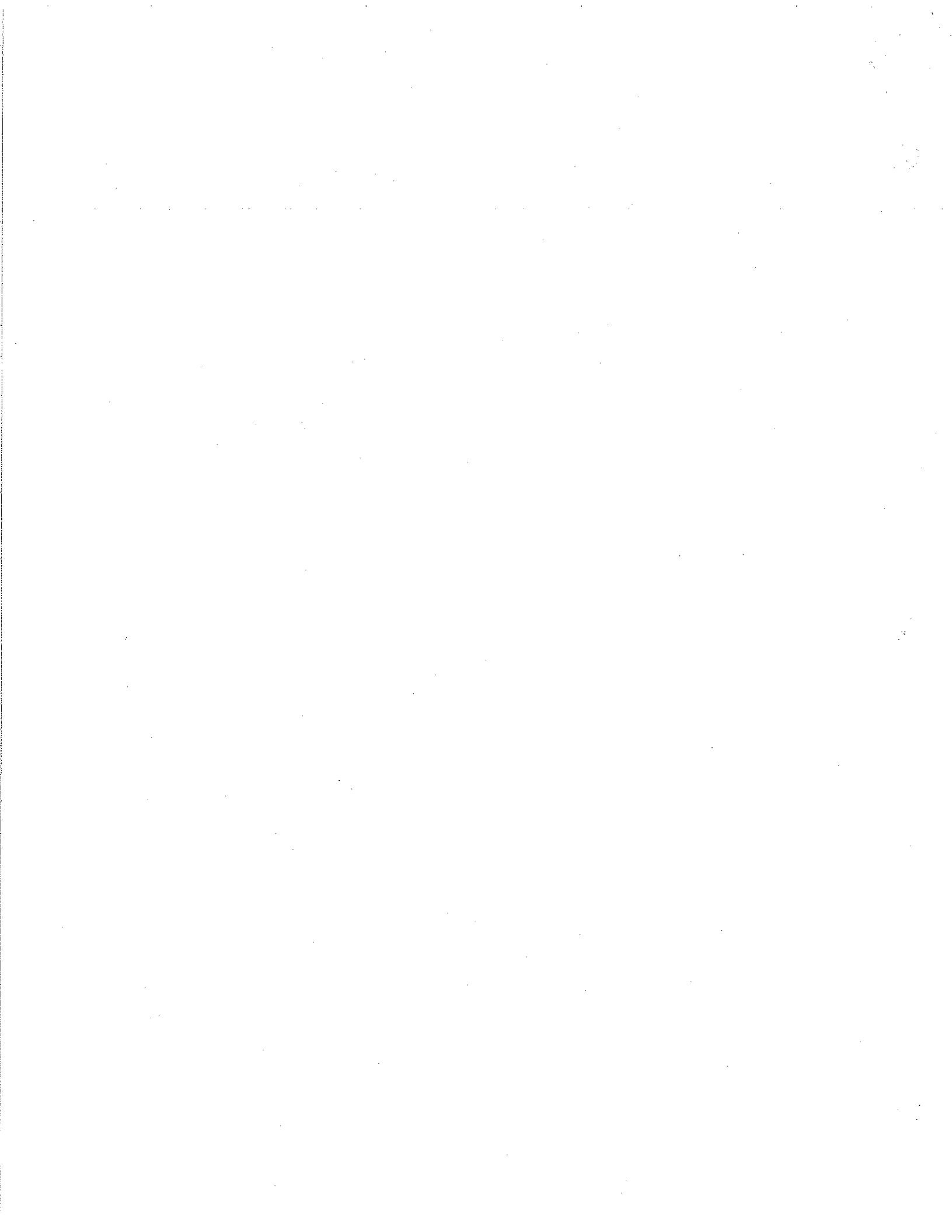
LEGEND

--- ACCESSIBLE PATH OF TRAVEL - SEE PART OF TRAVEL, NOTE ABOVE

APPROVAL

FILE NO. 4838





PROPOSED 2013-2014 Extra Duty Assignments - Positions To Be Filled

Handout
4/24/13

--- (cross out) = Positions not being filled in 2013-2014 school year; remain in collective bargaining agreement

Positional Compensation

Peer Assistance Review (PAR)	Tier 4	
Beginning Teacher Support and Assessment (BTSA) per teacher	Tier 4	
Textbook Adoption Lead Teacher		
Year 1	Tier 1	} State Board of Education determination
Year 2	Tier 3	
Year 3	Tier 1	
WASC Lead		
Self Study Visitation Year	Tier 4	
Mid-term visitation year	Tier 2	
Maintenance Years	Tier 1	
Site Technology Coordinator	Tier 3	
• Loyalton Junior/Senior High 7-12 * (permanent change)		
• Downieville K-12		
• Loyalton Elementary (eliminate position; permanent change)		
• Loyalton Middle (eliminate position; permanent change)		
Teacher-In-Charge (per semester)	Tier 2	
• Loyalton Junior/Senior High 7-12 * (permanent change)		
• Downieville K-12		
• Loyalton Elementary		
Lead Teacher Downieville	per month	\$1,000
Athletic Director		
Loyalton High		\$4,000
Downieville		Tier 2
Loyalton Grades 6, 7, 8		Tier 2
Varsity Football		Tier 4
Assistant Varsity Football		Tier 3
Varsity Basketball (Boys or Girls)		Tier 4
J.V. Basketball (Boys or Girls)		Tier 4
Boys Baseball		Tier 4
Girls Softball		Tier 4
Varsity Volleyball		Tier 4
J.V. Volleyball		Tier 3
Soccer		Tier 4
Cross Country (Downieville)		Tier 1
7 th /8 th Gr. Coed Basketball (Boys/ Girls)		Tier 3
7 th Grade Basketball Boys		Tier 1
7 th Grade Basketball Girls		Tier 1
8 th Grade Basketball Boys		Tier 1
8 th Grade Basketball Girls		Tier 1
Track		Tier 4
Tennis (Downieville)		Tier 3
Golf (Downieville)		Tier 3
Cheerleading Advisor (per season)		Tier 2
Physical Fitness Testing Coordinator		Tier 1
Response to Intervention Coordinator		
• LMS-Loyalton Jr. High 7-8		Tier 1 * (permanent change)
• Loyalton Senior High		Tier 1
• Downieville K-12		Tier 1
• LES K-8 -6		Tier 2 * (permanent change)

* = Permanent change in position

