

**LEASE-LEASEBACK
SITE LEASE AGREEMENT
COVINA HIGH SCHOOL POOL REMODEL PROJECT**

THIS LEASE-LEASEBACK SITE LEASE AGREEMENT (“Site Lease”) is entered into as of this 12th day of December, 2023 between the **COVINA-VALLEY UNIFIED SCHOOL DISTRICT** (“Owner” and/or “District”), as lessor, and [REDACTED], a **[Insert Company Type]** and licensed general contractor (“Contractor”), as lessee. Owner and Contractor are individually referred to herein as a “Party” and are collectively referred to as the “Parties” to this Site Lease.

WHEREAS, the Owner desires to provide for the financing and construction of certain public improvements (“Project”) more fully described in the Facilities Lease Agreement between the Owner and Contractor executed concurrently herewith, to be constructed at Covina High School (collectively, the “Site”); and

WHEREAS, the Owner’s governing body has determined that it is in the best interests of the Owner and for the common benefit of the community it serves to construct and finance the Project by leasing the Site on which the public improvements are to be constructed to Contractor, and subleasing from Contractor the Site, including the Project, under a Facilities Lease Agreement effective the same date as this Site Lease (“Facilities Lease”); and

WHEREAS, the Owner is authorized under Education Code section 17406 to lease the Site, and its governing body has authorized the execution and delivery of this Site Lease; and

WHEREAS, the purpose of this Site Lease is for Contractor to have necessary access to and use of the Site for the purpose of making, during the term of the Lease, the tenant improvements included in the Project, and as a condition of the Site Lease, Contractor agrees to make those tenant improvements; and

WHEREAS, Contractor is authorized to lease the Site as lessee and to make the tenant improvements defined as the Project on the Site, and has authorized the execution and delivery of this Site Lease.

NOW THEREFORE, the Parties agree as follows:

- 1. Site Lease.** The Owner leases to Contractor and Contractor leases from the Owner, on the terms and conditions of this Site Lease, the Site more specifically described or depicted in **Exhibit A** attached to this Site Lease, including any real property improvements now or later placed on the Site. Reference in this Site Lease to the term “Contractor” means Contractor and Contractor’s assigns for those rights, interests, and obligations that may be assigned by Contractor with Owner’s written consent. The Site is leased to Contractor on an “as is” basis. Owner shall not be required to make or construct any alterations including structural changes, additions or improvements to the Site. By entering and taking possession of the Site pursuant to this Lease, Contractor accepts the Site in “as is” condition. Any agreements, warranties, or representations not expressly contained herein

shall in no way bind either Owner or Contractor, and Owner and Contractor expressly waive all claims for damages by reason of any statement, representation, warranty, promise or agreement, if any, not contained in this Site Lease or the Contract Documents.

2. **Term.** The term of this Site Lease (“Lease Term”) shall begin as of the date above and shall end when the Facilities Lease ends. At the end of the Facilities Lease, the Parties’ respective interests under this Site Lease will automatically end and be released, and title to the Site and Project will automatically and fully vest in the Owner. Upon termination, Contractor shall immediately quit and surrender the Site to Owner in good order and condition, and shall remove all of Contractor’s personal property and also any trash, debris, chemicals or hazardous materials.
3. **Representations and Warranties of the Owner.** The Owner represents and warrants to Contractor that:
 - 3.1 The Owner has good and merchantable fee title to the Site and has authority to enter into and perform its obligations under this Site Lease.
 - 3.2 There are no liens on the Site other than permitted encumbrances.
 - 3.3 All taxes, assessments, or impositions of any kind with respect to the Site, if applicable, except current taxes, have been paid in full.
 - 3.4 The Site is properly zoned for the intended purpose and utilization of it or the Owner intends to render zoning inapplicable pursuant to Government Code section 53094.
 - 3.5 The Owner is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to the Site.
 - 3.6 There is no litigation of any kind currently pending or threatened regarding the Site or the Owner’s use of the Site for the purposes contemplated by this Site Lease, the Facilities Lease, and the Lease-Leaseback Agreement.
 - 3.7 To the best of the Owner’s knowledge: (i) other than any that may be addressed in the scope of the Work, no dangerous, toxic or hazardous pollutants, contaminants, chemicals, waste, materials or substances, as defined in or governed by the provisions of any State or Federal Law relating thereto (hereinafter collectively called “Environmental Regulations”), and also including, but not limited to, urea-formaldehyde, polychlorinated biphenyls, asbestos, asbestos containing materials, nuclear fuel or waste, radioactive materials, explosives, carcinogens and petroleum products, or any other waste, material, substance, pollutant or contaminant which would subject the owner of the Site or Contractor or Contractor’s subcontractors to any damages, penalties or liabilities under any applicable Environmental Regulation (hereinafter collectively called “Hazardous Substances”),

are now or have been stored, located, generated, produced, processed, treated, transported, incorporated, discharged, emitted, released, deposited or disposed of in, upon, under, over or from the Site; (ii) no threat exists of a discharge, release or emission of a Hazardous Substance upon or from the Site into the environment; (iii) the Site has not been used as or for a mine, a landfill, a dump or other disposal facility, industrial or manufacturing facility, or a gasoline service station; (iv) no underground storage tank is now located in the Site; (v) no violation of any Environmental Regulation now exists relating to the Site, no notice of any such violation or any alleged violation thereof has been issued or given by any governmental entity or agency, and there is not now any investigation or report involving the Site by any governmental entity or agency which in any way relates to Hazardous Substances; (vi) no person, party, or private or governmental agency or entity has given any notice of or asserted any claim, cause of action, penalty, cost or demand for payment or compensation, whether or not involving any injury or threatened injury to human health, the environment or natural resources, resulting or allegedly resulting from any activity or event described in (i) above; (vii) there are not now any actions, suits, proceedings or damage settlements relating in any way to Hazardous Substances, in, upon, under over or from the Site; (viii) the Site is not listed in the United States Environmental Protection Agency's National Priorities List of Hazardous Waste Sites or any other list of Hazardous Substance sites maintained by any federal, state or local governmental agency; and (ix) the Site is not subject to any lien or claim for lien or threat of a lien in favor of any governmental entity or agency as a result of any release or threatened release of any Hazardous Substance.

3.8 To the extent permitted by law, the Owner shall not abandon the Site for the use for which it is currently required by the Owner and further, shall not seek to substitute or acquire property to be used as a substitute for the uses for which the Site and Project are to be maintained under the Facilities Lease.

3.9 The term "permitted encumbrances" as used herein shall mean, as of any particular time: (i) liens for general ad valorem taxes and assessments, if any, not then delinquent; (ii) this Site Lease, the Facilities Lease, any right or claim of any mechanic, laborer, materialman, supplier, or vendor, if applicable, whether or 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 Site Lease and which will not materially impair the use of the Site; (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 Site Lease and to which Contractor and the Owner consent in writing which will not impair or impede the operation of the Site.

4. Representations and Warranties of Contractor. Contractor represents and

warrants to the Owner that:

- 4.1 Contractor is duly organized, validly existing and in good standing as a corporation and licensed general contractor under the laws of the State of California, with full corporate power and authority to lease and own real and personal property.
 - 4.2 Contractor has full power, authority, and legal right to enter into and perform its obligations under this Site Lease, and the execution, delivery, and performance of this Site Lease have been duly authorized by all necessary corporate actions on the part of Contractor and do not require any further approvals or consents.
 - 4.3 The execution, delivery, and performance of this Site 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.
 - 4.4 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 Site Lease.
5. **Rental Fee.** Contractor shall pay to the Owner as and for advance rental hereunder one dollar (\$1.00) per year per Site, on or before the date of commencement of the term of this Site Lease.
 6. **Purpose.** Contractor shall use the Site solely for the purpose of constructing the Project on the Site and for subleasing the Site and leasing the Project to the Owner; provided, that in the Event of Default by the Owner under the Facilities Lease, the Contractor may exercise the remedies provided for in the Facilities Lease. 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 Owner.
 7. **Termination.** Contractor agrees, upon the end of and/or termination of this Site Lease: (i) to quit and surrender the Site in the same good order and condition as it was in at the time of beginning of the term of this Site Lease, reasonable wear and tear excepted; (ii) to cause the release and reconveyance to the Owner any liens and encumbrances created or caused by Contractor; and (iii) that any permanent improvements and structures existing upon the Site at the time of the termination of this Site Lease, including the Project, shall remain on the Site and title to such improvement shall vest in the Owner. Notwithstanding the Owner's rights in the event of termination under this Section 7, Contractor shall retain the right to full compensation for all services rendered before the termination in accordance with the Lease-Leaseback Agreement and the Facilities Lease.
 8. **Quiet Enjoyment.** The Owner covenants and agrees that it will not take any action to prevent Contractor's quiet enjoyment of the Site during the term of

this Site Lease; and, that in the event the Owner's fee title to the Site is ever challenged so as to interfere with Contractor's right to occupy, use and enjoy the Site, the Owner will use all governmental powers at its disposal, including the power of eminent domain, to obtain unencumbered fee title to the Site and to defend Contractor's right to occupy, use, and enjoy that portion of the Site.

- 9. Right of Entry.** The Owner reserves the right for any of its duly authorized representatives to enter upon the Site at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof, but in doing so shall not interfere with Contractor's operations on the Project. For clarity and avoidance of doubt, Owner shall have the right to utilize the Site for its own purposes, and Contractor shall coordinate with Owner to minimize any disruption to Owner activities during construction of the Project.
- 10. Incorporation of Documents.** All of the terms of the Lease-Leaseback Agreement and Facilities Lease apply to this Site Lease as if they were contained in this Site Lease.
- 11. Insurance.** The Contractor and the Owner shall maintain such damage and public liability insurance policies with respect to the Project and the Site as are required of them by the Lease-Leaseback Agreement.
- 12. Taxes.** The Owner covenants and agrees that as between Owner and Contractor, Owner shall pay any and all assessments of any kind or character and also all taxes, including possessory interest taxes, levied or assessed upon the Site or the improvements thereon, excluding, however, all taxes on or measured by Contractor's income.
- 13. Default.** In the event Contractor shall be in default in the performance of any obligation on its part to be performed under the terms of this Site Lease, which default continues for thirty (30) days following notice and demand for correction thereof to Contractor, the Owner may exercise any and all remedies granted by law, except that no merger of this Site Lease and of the Facilities Lease shall be deemed to occur as a result thereof.
- 14. Assignment and Subleasing.** Other than the Facilities Lease, Contractor will not assign or otherwise dispose of or encumber the Site or this Site Lease without the prior written consent of the Owner. This Site Lease shall inure to the benefit of and shall be binding upon the Parties and their respective successors in interest and permitted assigns, if any.
- 15. No Waste.** Contractor agrees that at all times that it is in possession of the Site it will not commit, suffer, or permit any waste on the Site, and it will not willfully or knowingly use or permit the use of the Site for any illegal act or purpose.
- 16. Eminent Domain.** In the event the whole or any part of the Site or the improvements thereon is taken by eminent domain, the financial interest of Contractor shall be recognized and is hereby determined to be the amount of

all Facilities Lease Payments then due or past due and the next succeeding Facilities Lease Payment. The balance of the award, if any, shall be paid to the Owner.

- 17. **No Liens.** The Owner shall not mortgage, sell, assign, transfer, or convey the Site or any part thereof to any person during the term of this Site Lease without the written consent of Contractor. Nothing herein shall preclude the Owner from granting utility easements across the Site to facilitate the use and operation of the Project for which it is intended. 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 Owner 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.
- 18. **Severability.** If a court of competent jurisdiction shall hold any provision of this Site Lease invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Site Lease, unless elimination of such provision materially alters the rights and obligations embodied in this Site Lease.
- 19. **Entire Agreement.** This Site Lease, the Facilities Lease, the Lease-Leaseback Agreement, and the Contract Documents that make up the "Contract" constitute the entire agreement between the Parties with respect to the Project, and it shall not be amended, altered, or changed except by a written agreement signed by both Parties.
- 20. **Notices.** Any notices or filings required to be given or made under this Site Lease 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 Contractor:

Attn: _____

Phone: _____

Email: _____

If to District:

[Covina-Valley](#) Unified School District
Attn: Manuel Correa
Chief Business Officer
519 E. Badillo Street
Covina, California 91723

Phone: (626) 974-7000
Email: mcorrea@c-vusd.org

With a Copy to:

Fagen, Friedman & Fulfroost LLP
Attn: Jessica Ehrlich, Esq.
6300 Wilshire Boulevard, Suite 1700
Los Angeles, California 90048
Phone: (323) 330-6300
Email: jehrlich@f3law.com

21. **Amendments and Modifications.** This Site Lease shall not be effectively amended, changed, modified, altered, or terminated without the written agreement of both Parties.
22. **Exhibits.** The following Exhibits are attached to and by reference incorporated and made a part of this Site Lease:

**EXHIBIT A - DESCRIPTION OR DEPICTION OF SITE &
DESCRIPTION OF PROJECT**

23. **Execution in Counterparts.** This Site Lease may be simultaneously executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.
24. **Applicable Law.** This Site Lease and the rights of the Parties under it shall be governed by and construed in accordance with the laws of California.
25. **Headings.** The captions or headings in this Site Lease are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Site Lease.
26. **Time.** Time is of the essence in this Site Lease and all of its provisions.
27. **Terms Not Defined.** Capitalized terms used in this Site Lease that are not defined shall have the same meaning as in the Lease-Leaseback Agreement or General Construction Provisions.
28. **Board Approval.** This Site Lease shall be subject to the approval of the District's Board of Education.

Remainder of page intentionally left blank.

CONTRACTOR

[INSERT CONTRACTOR NAME]

By: _____

Title: _____

Date: _____

OWNER

**COVINA-VALLEY UNIFIED
SCHOOL DISTRICT**

By: _____

Title: _____

Date: _____

Date of Approval by District's Board of Education: _____

EXHIBIT A TO SITE LEASE

DESCRIPTION OR DEPICTION OF SITE & DESCRIPTION OF PROJECT

The scope of work for the Project includes the following:

Name: Covina High School Pool Remodel Project

Anticipated Project Cost/Budget: \$7,434,500.00

Description of Project: All construction and related services, labor and materials required for the demolition of existing pool and associated buildings with remodel of an existing building for equipment, construction of a new building, new pool and deck on the existing campus at Covina High School, 463 S. Hollenbeck Ave., Covina, California, 91723 as per the detailed description below.

Covina High School Pool Replacement Project Summary Scope of Work

The Covina High School Pool Project replaces the existing pool and associated pool equipment. The new concrete pool (Rim Flow style gutter) is 35 meters long (115'-0") by 25 Yd (75'-1") feet wide. Other structures/components included in this project are as follows:

1. Aluminum bleacher seating for 400 spectators with integral shade structure.
2. A new aquatic building housing restrooms, storage room, outdoor showers, concession space, and office. The building will be constructed using concrete masonry units, metal studs for furring and interior framing, structural steel roof framing, metal roof deck, and single ply roofing. Outdoor showers will be part of the new building and will be constructed of concrete masonry units, structural steel, and porcelain ceramic tile.
3. A renovated pool equipment building housing pool filtration, heating, and sanitizing equipment.
4. 6-inch-thick reinforced concrete pool deck.
5. 6 pole mounted LED pool lighting.
6. 6-foot-high galvanized ornamental iron fencing and gates.
7. Miscellaneous concrete and asphalt paving flatwork/site work.
8. All associated pool timing system and freestanding scoreboard structure.
9. Subgrade reinforced concrete surge chamber.
10. Rerouting and upgrade of affected low voltage cabling currently mounted on existing walkway shelters
11. All associated subgrade utilities and patching of existing ornamental plaza paving.
12. All associated selective demolition.
13. Earthwork.

Project DSA Status: The project was approved by DSA, A# 03-122700

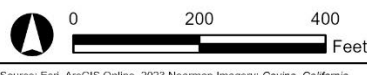
Anticipated Project Schedule: The District desires to commence construction on this Project on March 25, 2024, and complete the Project on or before February 28, 2025.



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Legend

- Covina High School
- Project Site



Source: Esri, ArcGIS Online, 2023 Nearmap Imagery; Covina, California

COVINA HIGH SCHOOL
 POOL REHABILITATION PROJECT
Local Vicinity Aerial Map

Figure 2



Aerial view of the existing aquatics facility with the pool, pool deck, pool house, and storage shed.



View of the southwest side of the existing pool house and restroom facilities.



View of the southeast side of the existing fenced aquatics facility and pool house.

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