

AGREEMENT BETWEEN OWNER AND CONTRACTOR

This Agreement, effective June 27, 2024, is by and between **Visions In Education**, hereinafter called the "Owner" and **Creekside Commerical Builders, Inc.** hereinafter called the "Contractor."

WITNESSETH: That the Contractor and the Owner for the consideration hereinafter named agree as follows:

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

**VISIONS IN EDUCATION
TENANT IMPROVEMENT PROJECT
PROJECT #24-01**

all in strict compliance with the plans, drawings and specifications therefore prepared by:

**GRA ARCHITECTURE
205 23RD Street
Sacramento, CA 95816**

and other Contract Documents relating thereto.

ARTICLE II. CONTRACT DOCUMENTS. The Contractor and the Owner agree that all of the documents listed in Article 1.13 of the General Conditions form the Contract Documents which form the Contract.

ARTICLE III. TIME TO COMPLETE AND LIQUIDATED DAMAGES. Time is of the essence in this Contract, and the time for Completion of the Work ("the Contract Time") shall be **July 10, 2024 to December 20, 2024 (163 calendar days)** if no other dates are established in a Notice to Proceed from Owner.

Failure to Complete the Work within the time and in the manner provided for by the Contract Documents shall subject the Contractor to liquidated damages. The actual occurrence of damages and the actual amount of the damages which the Owner would suffer if the Work were not Completed within the Contract Time are dependent upon many circumstances and conditions which could prevail in various combinations and, from the nature of the case, it is impracticable and extremely difficult to fix the actual damages. Damages which the Owner would suffer in the event of such delay include, but are not limited to, loss of the use of the Work, disruption of activities, costs of administration and supervision, and the incalculable inconvenience and loss suffered by the public.

Accordingly, the parties agree that the amount herein set forth shall be the amount of damages which the Owner shall directly incur upon failure of the Contractor to Complete the Work within the Contract Time: **\$500**, for each calendar day by which Completion of the Work is delayed beyond the Contract Time as adjusted by Change Orders.

If Contractor causes delay to any other contractor's work on the Project that results in delayed *completion* of the Project, Contractor shall be subject to liquidated damages in the amount set forth above for each calendar day Contractor delayed *completion* of the Project. The actual occurrence of damages and the actual amount of the damages which the Owner would suffer for such delayed *completion* of the Project are dependent upon many circumstances and conditions which could prevail in various combinations and, from the nature of the case, it is impracticable and extremely difficult to fix the actual damages. Damages which the Owner would suffer in the event of such delay include, but are not limited to, loss of the use of the other contractor's work and the Project, disruption of activities, costs of administration and supervision, and the incalculable inconvenience and loss suffered by the public.

Accordingly, the parties agree that the amount set forth herein shall be presumed to be the amount of damages which the Owner shall directly incur for each calendar day that *completion* of the Project is delayed because of Contractor caused delays to the work of other contractors.

If liquidated damages accrue as described above, the Owner, in addition to all other remedies provided by law, shall have the right to assess the liquidated damages at any time, and to withhold liquidated damages (and any interest thereon) at any time from any and all retention or progress payments, which would otherwise be or become due the Contractor. In addition, if it is reasonably apparent to the Owner before liquidated damages begin to accrue that Contractor cannot or will not Complete the Work within the Contract Time, Owner may assess and withhold, from retention or progress payments, the estimated amount of liquidated damages that will accrue in the future. If the retained percentage or withheld progress payments are not sufficient to discharge all liabilities of the Contractor incurred under this Article, the Contractor and its sureties shall continue to remain liable to the Owner until all such liabilities are satisfied in full.

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

ARTICLE IV. PAYMENT AND RETENTION. The Owner agrees to pay the Contractor in current funds **ONE MILLION FIVE HUNDRED SIXTY-FIVE THOUSAND DOLLARS AND NO CENTS (\$ 1,565,000.00)** for work satisfactorily performed after receipt of properly documented and submitted Applications for Payment and to make payments on account thereof, as provided in the General Conditions. Contractor agrees that Owner may retain ten percent (10%) of the amount otherwise due. The Contract Sum represents the Contractor's Base Bid price of ONE MILLION FOUR HUNDRED SIXTY-FIVE THOUSAND DOLLARS AND NO CENTS (\$ 1,465,000.00) plus the Owner Discretionary Allowance of ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$100,000.00).

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

ARTICLE VI. TERMINATION. The Owner or Contractor may terminate the Contract as provided in the General Conditions.

ARTICLE VII. [RESERVED].

ARTICLE VIII. [RESERVED].

ARTICLE IX. [RESERVED].

ARTICLE X. [RESERVED].

ARTICLE XI. INDEMNIFICATION AND INSURANCE. The Contractor will defend, indemnify and hold harmless the Owner, its governing board, officers, agents, trustees, employees and others as provided in the General Conditions.

By this statement the Contractor represents that it has secured the payment of Workers' Compensation in compliance with the provisions of the Labor Code of the State of California and during the performance of the work contemplated herein will continue so to comply with said provisions of said Code. The Contractor shall supply the Owner with certificates of insurance evidencing that Workers' Compensation Insurance is in effect and providing that the Owner will receive thirty (30) days' notice of cancellation.

Contractor shall provide the insurance set forth in the General Conditions. The amount of general liability insurance shall be \$3,000,000 per occurrence for bodily injury, personal injury and property damage and the amount of automobile liability insurance shall be \$2,000,000 per accident for bodily injury and property damage combined single limit. The Owner shall be named as an additional insured on all policies provided by Contractor under this Agreement.

ARTICLE XII. ENTIRE AGREEMENT. The Contract constitutes the entire agreement between the parties relating to the Work and supersedes any prior or contemporaneous agreement between the parties, oral or written, including the Owner's award of the Contract to Contractor, unless such agreement is expressly incorporated herein. The Owner makes no representations or warranties, express or implied, not specified in the Contract. The Contract is intended as the complete and exclusive statement of the parties' agreement pursuant to Code of Civil Procedure section 1856.

ARTICLE XIII. EXECUTION OF OTHER DOCUMENTS. The parties to this Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of the Contract.

ARTICLE XIV. EXECUTION IN COUNTERPARTS. This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, or an original, with all signatures appended together, shall be deemed a fully executed Agreement.

ARTICLE XV. BINDING EFFECT. Contractor, by execution of this Agreement, acknowledges that Contractor has read this Agreement and the other Contract Documents, understands them, and agrees to be bound by their terms and conditions. The Contract shall inure to the benefit of

and shall be binding upon the Contractor and the Owner and their respective successors and assigns.

ARTICLE XVI. SEVERABILITY; GOVERNING LAW; CHOICE OF FORUM. If any provision of the Contract shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. The Contract shall be governed by the laws of the State of California. Any action or proceeding seeking any relief under or with respect to this Agreement shall be brought solely in the Superior Court of the State of California for the County of Alameda, subject to transfer of venue under applicable State law, provided that nothing in this Agreement shall constitute a waiver of immunity to suit by Owner.

ARTICLE XVII. AMENDMENTS. The terms of the Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement, including change orders, signed by the parties and approved or ratified by the Governing Board.

ARTICLE XVIII. ASSIGNMENT OF CONTRACT. The Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of the surety on the payment bond, the surety on the performance bond and the Owner.

ARTICLE XIX. WRITTEN NOTICE. Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified or overnight mail to the last business address known to the person who gives the notice.

OWNER

Visions In Education

By:

Its:

Date:

CONTRACTOR

Creekside Commercial Builders, Inc.

By: _____

Its: _____

Date: _____

Address: _____

California License No: _____

Expiration Date: _____

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.