

**AMENDMENT NO. 01 TO FACILITIES LEASE
BY AND BETWEEN
MARTINEZ UNIFIED SCHOOL DISTRICT AND JL MODULAR, INC.**

This Amendment No. 01 to the Facilities Lease ("Amendment"), is made and entered into this _____ day of _____ 2017 ("Effective Date"), by and between the Martinez Unified School District ("District") and JL Modular, Inc. ("Developer") (collectively, the "Parties") as follows:

RECITALS

WHEREAS, the Parties entered into a Facilities Lease, dated June 29, 2016, pertaining to the Alhambra High School New Classroom Building K Project ("Project") at Alhambra High School, located at 150 E Street, Martinez, CA 94553, ("Project Site"), and at this time desire to amend and supplement the Facilities Lease.

NOW, THEREFORE, the Parties agree as follows:

Section 1. Amendment of Facilities Lease.

Exhibit D (General Construction Provisions) to the Facilities Lease is amended and supplemented as follows:

- a. Section 1.1.12 (Contract Documents) is amended and supplemented so that the existing Skilled and Trained Workforce Certification, listed in Section 1.1.12.3.16, is struck in its entirety and replaced with the amended Skilled and Trained Workforce Certification attached hereto as **EXHIBIT 1**, in fully executed form, and incorporated herein by this reference.
- b. Section 19.4 (Decisions to Withhold Payment) is amended and supplemented so that the existing language of Section 19.4.1.3 is struck in its entirety and replaced with the following:

19.4.1.3 Failure to provide to the District a complete, monthly report demonstrating that Developer and its Subcontractors are complying with the requirements of Public Contract Code section 2600 et seq., unless Developer and its subcontractors have agreed to be bound by a Project Labor Agreement as provided in Education Code section 17407.5 ("Skilled and Trained Workforce Requirements").

19.4.1.3.1 Failure to provide a monthly report is cured by providing a complete report.

19.4.1.3.2 Failure to demonstrate compliance with the Skilled and Trained Workforce Requirements is cured by providing a plan to achieve substantial compliance with the Skilled and Trained Workforce Requirements, with respect to the relevant apprenticeable occupation, prior to completion of the Project.

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- c. Section 26.7 (Skilled and Trained Workforce) is amended and supplemented so that the existing language of Section 26.7 is struck in its entirety and replaced with the following:

26.7 Skilled and Trained Workforce

26.7.1 Developer and its subcontractors at every tier hereby provides an enforceable commitment to comply with Public Contract Code section 2600 et seq., which requires use of a skilled and trained workforce to perform all work on the Contract or Project that falls within an apprenticeable occupation in the building and construction trades.

26.7.1.1 "Apprenticeable Occupation" means an occupation for which the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations ("Chief") had approved an apprenticeship program pursuant to Section 3075 of the Labor Code before January 1, 2014.

26.7.1.2 "Skilled and Trained Workforce" means a workforce that meets all of the following conditions:

26.7.1.2.1 All of the workers are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the Chief.

26.7.1.2.2 That, for the applicable dates, either (A) the number of the skilled journeypersons employed to perform work on the Contract or Project by the Developer or its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation that was either approved by the Chief pursuant to Labor Code section 3075 or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor, or (B) the hours of work performed by skilled journeypersons who have graduated from an approved apprenticeship program meet at least the percentages set forth in the following chart:

APPLICABLE DATES	% REQUIREMENT
1/1/2016 – 12/31/2017	At least 30%
1/1/2018 – 12/31/2018	At least 40%
1/1/2019 – 12/31/2019	At least 50%
1/1/2020 – 12/31/2020	At least 60%

26.7.1.2.3 For an apprenticeable occupation in which no apprenticeship program has been approved by the Chief before January 1, 1995, up to one-half of the above graduation percentage requirements set forth in the above chart may be satisfied by skilled journeypersons who commenced working in the apprenticeable occupation before the Chief's approval of an apprenticeship program for that occupation in the county in which the Project is located.

26.7.1.2.4 The contractor or subcontractor need not meet the apprenticeship graduation requirements if:

26.7.1.2.4.1 During a calendar month, the Developer or subcontractor employs skilled journeypersons to perform fewer than 10 hours of work on the Contract or Project; or

26.7.1.2.4.2 The subcontractor was not a listed subcontractor under Public Contract Code section 4104 or a substitute for a listed subcontractor, and the subcontract does not exceed one-half of 1 percent (0.5%) of the price of the prime contract.

26.7.1.3 "Skilled Journeyperson" means a worker who either:

26.7.1.3.1 Graduated from an apprenticeship program for the applicable occupation that was approved by the Chief or located outside of California and approved for federal purposes pursuant to the apprenticeship regulation adopted by the federal Secretary of Labor; or

26.7.1.3.2 Has at least as many hours of on-the-job experience in the applicable occupation as would be required to graduate from an apprenticeship program for the applicable occupation that is approved by the Chief.

26.7.2 Developer and its subcontractors will demonstrate its compliance with the Skilled and Trained Workforce requirements by either of the following:

26.7.2.1 Provide monthly reports to the District demonstrating that the Developer and its subcontractors are complying with the requirements of Public Contract Code section 2600 et seq., which shall be a public record under California Public Records Act, Government Code section 6250 et seq.; or

26.7.2.2 Provide evidence that Developer and its subcontractors have agreed to be bound by: (1) a project labor agreement entered into by the District that binds all contractors and all its subcontractors at every tier performing work on the Project to use a skilled and trained workforce; (2) the extension or renewal of a project labor agreement entered into by the District prior to January 1, 2017; or (3) a project labor agreement that binds all contractors and all its subcontractors at every tier performing work on the Project to use a skilled and trained workforce.

Section 2. All Other Provisions Reaffirmed.

All other provisions of the Facilities Lease shall remain in full force and effect and are hereby reaffirmed. If there is any conflict between this Amendment and any provision of the Facilities Lease relating to Skilled and Trained Workforce requirements, certification, and/or compliance only, the provisions of this Amendment shall control.

IN WITNESS WHEREOF, the Parties have caused this Amendment to the Facilities Lease to be executed by their respective officers who are duly authorized, as of the Effective Date.

ACCEPTED AND AGREED on the date indicated below:

Dated: _____, 2017

Dated: _____, 2017

Martinez Unified School District

JL Modular, Inc.

By: _____

By: _____

Name: _____

Name: Jeff Luchetti

Title: _____

Title: President

EXHIBIT 1

SKILLED AND TRAINED WORKFORCE CERTIFICATION

The undersigned does hereby certify to the governing board of the District as follows:

That I am a representative of the Developer currently performing work on the Project; that I am familiar with the facts herein certified; and that I am authorized and qualified to execute this certificate on behalf of Developer.

That Developer and its subcontractors at every tier will use a Skilled and Trained Workforce to perform all work on the Contract or Project that falls within an Apprenticeshipable Occupation in the building and construction trades in accordance with Public Contract Code section 2600 et seq.

"Apprenticeshipable occupation" means an occupation for which the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations ("Chief") had approved an apprenticeship program pursuant to Section 3075 of the Labor Code before January 1, 2014.

"Skilled and Trained Workforce" means a workforce that meets all of the following conditions:

1. All of the workers are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the Chief.
2. That, for the applicable dates, either (A) the number of skilled journeypersons employed to perform work on the Contract or Project by the Developer or its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation that was either approved by the Chief pursuant to Labor Code section 3075 or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor, or (B) the hours of work performed by skilled journeypersons who have graduated from an approved apprenticeship program meet at least the percentages set forth in the following chart:

APPLICABLE DATES	% REQUIREMENT
1/1/2016 – 12/31/2017	At least 30%
1/1/2018 – 12/31/2018	At least 40%
1/1/2019 – 12/31/2019	At least 50%
1/1/2020 – 12/31/2020	At least 60%

3. For an apprenticeshipable occupation in which no apprenticeship program has been approved by the Chief before January 1, 1995, up to one-half of the above graduation percentage requirements set forth in the above chart may be satisfied by skilled journeypersons who commenced working in the apprenticeshipable occupation before the Chief's approval of an apprenticeship program for that occupation in the county in which the Project is located.
4. The contractor or subcontractor need not meet the apprenticeship graduation requirements if:
 - a. During a calendar month, the Developer or subcontractor employs skilled journeypersons to perform fewer than 10 hours of work on the Contract or Project; or
 - b. The subcontractor was not a listed subcontractor under Public Contract Code section 4104 or a substitute for a listed subcontractor and the subcontract does not exceed one-half of 1 percent of the price of the prime contract.

EXHIBIT 1

That Developer and its subcontractors will demonstrate its compliance with the Skilled and Trained Workforce requirements by either of the following methods (check what applies):

- ☐ Using the form attached hereto, provide monthly reports to the District from the Developer and its subcontractors demonstrating that they are complying with the requirements of Public Contract Code section 2600 et seq., which shall be a public record under California Public Records Act, Government Code section 6250 et seq.; or
- ☐ Provide evidence that Developer and its subcontractors have agreed to be bound by: (1) a project labor agreement entered into by the District that binds all contractors and all its subcontractors at every tier performing work on the Project to use a skilled and trained workforce; (2) the extension or renewal of a project labor agreement entered into by the District prior to January 1, 2017; or (3) a project labor agreement that binds all contractors and all its subcontractors at every tier performing work on the Project to use a skilled and trained workforce.

I hereby certify that I am aware of the provisions of section 17407.5 of the Education Code and sections 2600 through 2602 of the Public Contract Code and will comply with such provisions during the performance of the Work of this Contract and will bind all of my subcontractors at every tier, with the exception of the subcontractors identified in Public Contract Code section 2602, to comply with such provisions.

Date: _____

Name of Developer: _____

Signature: _____

Print Name: _____

Title: _____

EXHIBIT 1

SKILLED AND TRAINED WORKFORCE MONTHLY REPORT

NAME OF PROJECT: _____

NAME OF CONTRACTOR: _____

For the month of: _____

The undersigned hereby certifies that all the workers employed by the above-referenced contractor performing work in an apprenticeable occupation in the building and construction trades on the Project are either skilled journeypersons or apprentices registered in an apprenticeship programs approved by the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations ("Chief").

Public Contract Code section 2601, subdivision (e), defines a "Skilled Journeyperson" as a worker who either:

- A. Graduated from an apprenticeship program for the applicable occupation that was approved by the Chief or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.
- B. Has at least as many hours of on-the-job experience in the applicable occupation as would be required to graduate from an apprenticeship program for the applicable occupation that is approved by the Chief.

Contractor demonstrates its compliance by either of the following (check which that applies):

☐ **Number of Skilled Journeypersons:**

- 1. Number of Skilled Journeypersons performing work on the Project: _____
- 2. Number of Skilled Journeypersons who are graduates of an apprenticeship program for the applicable occupation: _____

Percentage of Skilled Journeypersons fitting the description in subparagraph A (Divide Line 2 by Line 1): _____%

☐ **Number of Hours of Work Performed by Skilled Journeypersons:**

- 1. Number of Hours of Work Performed by Skilled Journeypersons on the Project: _____
- 2. Number of Hours of Work Performed by Skilled Journeypersons who are graduates of an apprenticeship program for the applicable occupation: _____

Percentage of Hours of Work Performed by Skilled Journeypersons fitting the description in subparagraph A (Divide Line 2 by Line 1): _____%

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

Signature: _____

Print Name: _____

Title: _____

END OF DOCUMENT