

**SITE AGREEMENT FOR INSTALLATION, OPERATION, AND MAINTENANCE
OF GREEN INFRASTRUCTURE IMPROVEMENTS**

THIS SITE AGREEMENT (this “**Site Agreement**”) is made by and between the **SAN FRANCISCO UNIFIED SCHOOL DISTRICT**, a California public school district (“**District**”), and the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation and charter city organized and existing under the laws of the State of California (“**City**”), acting by and through its **Public Utilities Commission** (“**SFPUC**”). The District and City may be referred to in this Site Agreement as a “**Party**” or collectively as the “**Parties**.”

RECITALS

This Site Agreement is made with reference to the following facts and objectives:

- A.** WHEREAS, City, through the SFPUC, and the District have entered into that certain Umbrella Memorandum of Understanding for Installation, Operation, and Maintenance of Green Infrastructure, dated as of [REDACTED], 2024 (“**Umbrella MOU**”), to collaborate on a comprehensive program to support sustainable stormwater management and work together to make certain capital improvements, including Green Infrastructure installation and other site improvements (each a “**Green Infrastructure Project**”) on selected sites located on the District’s school campuses in the City and County of San Francisco, all as more particularly set forth in the Umbrella MOU; and
- B.** WHEREAS, as contemplated in, and pursuant to, the Umbrella MOU, the Parties desire to enter into this Site Agreement to allow City to construct, operate, and maintain, subject to the terms and conditions of the Umbrella MOU and this Site Agreement, a Green Infrastructure Project on and under the portion of the school site depicted on the attached **Exhibit 1** [Project Limit of Work] (the “**Project Site**”) that constitutes a portion of the District’s **[name of school]** located at **[school street address]**, and as described in Exhibit 3; and
- C.** WHEREAS, in general, any building or structure that is to be used for school purposes is subject to the requirements of the Field Act (commencing with Education Code §§ 17280 et seq.), unless an exemption applies; and
- D.** WHEREAS, the Field Act defines “school buildings” as any physical structure capable of being occupied by pupils, but excludes: (a) any bleacher or grandstand with less than six rows of seats, (b) any building which is used exclusively for warehouse storage, garage, or district wide administrative office purposes which pupils are not required to enter, and buildings utilized by adult schools for off-campus, voluntary adult education courses or registered apprentice course, (c) swimming pools, or (d) any yard or lighting poles or flagpoles or playground equipment which does not exceed 35 feet in height.” (Education Code § 17368); and
- E.** WHEREAS, the Green Infrastructure Project as set-forth in **Exhibit 1** to the Site Agreement must comply with the Field Act in order for the District to use it for school purposes; and
- F.** WHEREAS, the Division of State Architect (“**DSA**”) has jurisdiction over access compliance requirements for all District buildings, structures and related facilities in California (including schools) that are constructed by the use of state, county or municipal funds of any political subdivision of the state and intended for use by the public. (Government Code § 4450.); and

G. WHEREAS, for access compliance, the building standards published in the State Building Standards Code relating to access by the physically handicapped and the other regulations adopted by the DSA must be used as the minimum requirements to ensure that the Improvements are accessible to, and functional for, the physically disabled. Now, therefore, City, through the SFPUC, and the District agree as follows:

BASIC SITE AGREEMENT INFORMATION	
District:	San Francisco Unified School District
School Site (Project Site)	Identify School ADDRESS
SFPUC:	San Francisco Public Utilities Commission
City	City and County of San Francisco
Site Agreement Term	Commencing on the Site Agreement Effective Date and lasting until its termination or expiration.
Site Agreement Effective Date:	[DATE]
Site Agreement Expiration Date:	The earlier of (a) the termination or expiration of the Umbrella MOU or (b) the day before the 30 th anniversary of this Site Agreement.
Extension Option:	One (1) additional term of ten (10) or fewer years if agreed to by the Parties pursuant to the procedures set forth in Section 3.3 [Option to Extend Umbrella MOU] of the Umbrella MOU and Section 8 [Option to Extend Site Agreement Term] below.
City's Permitted Use:	Uses of a Project Site permitted pursuant to this Site Agreement include the installation, operation, use, maintenance, and repair of Green Infrastructure, together with improvements reasonably necessary to restore or re-purpose areas impacted by Project construction, as long as there is no disruption to the educational environment. Specifically, this Site Agreement permits [insert explanatory and descriptive text] .
Green Infrastructure and Other Project Site Improvements:	The Green Infrastructure and Other Project Site Improvements described in Section 5 [Project Description] and as shown in the attached Exhibit 3 [SFPUC Green Infrastructure and Other Project Site Improvements].
Property to be Removed or Modified	The Green Infrastructure described in the attached Exhibit 4 [SFPUC Property to be Removed or Modified].

<p>SFPUC Notice Address:</p>	<p>San Francisco Public Utilities Commission 525 Golden Gate Ave, 13th Floor San Francisco, CA 94102 Attn: General Manager Re: SFUSD Umbrella Joint Use Agreement Site Agreement for [REDACTED] Project Site</p>
<p>With a copy to:</p>	<p>San Francisco Public Utilities Commission Real Estate Services Division 525 Golden Gate Ave, 10th Floor San Francisco, CA 94102 Attn: Real Estate Director Re: SFUSD Umbrella Joint Use Agreement Site Agreement for [REDACTED] Project Site Telephone No.: (415) 487-5210</p>
<p>With a copy to:</p>	<p>Office of the City Attorney City and County of San Francisco Room 234, City Hall 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4682 Attn: Real Estate/Finance Team Re: SFUSD Umbrella Joint Use Agreement Site Agreement for [REDACTED] Project Site Telephone No.: (415) 554-2700</p>
<p>SFPUC Project Manager and Key Day-to-Day contact for the SFPUC:</p>	<p>Mary Tienken Project Manager, Project Management Division Telephone No.: (415) 554-2482</p>
<p>SFPUC Operations and Maintenance Contact:</p>	<p>Telephone No. [REDACTED]:</p>
<p>District Notice Address:</p>	<p>San Francisco Unified School District Facilities Department 135 Van Ness Avenue, 2nd Floor San Francisco, CA 94102 Attn: Head Facilities Officer Re: SFPUC Umbrella Joint Use Agreement</p>
<p>With a copy to:</p>	<p>San Francisco Unified School District General Counsel's Office 555 Franklin Street San Francisco, CA 94102 Attn: Facilities General Counsel Re: SFPUC Umbrella Joint Use Agreement</p>
<p>District Key Contact:</p>	<p>Name [REDACTED] [Title] Telephone No.: [REDACTED]</p>

District Project Representative:	Telephone No.: _____
District On-call and Emergency Contact:	Telephone No.: _____

1. **Effective Date.** This Site Agreement shall become effective upon the approval of the Board of Education, SFPUC Commission and proper execution of the Parties (the “**Site Agreement Effective Date**”).

2. **Definitions.** Capitalized terms not otherwise defined in this Site Agreement have the meanings set forth in the Umbrella MOU.

3. **Site Agreement Information.** This Site Agreement Information is intended to provide a summary of certain provisions relating to this Site Agreement and is for the Parties’ reference only. If any information in the Site Agreement Information conflicts with any more specific provision of the Umbrella MOU or this Site Agreement, the more specific provision will control. This Site Agreement:

- a. Authorizes City to engage in the Permitted Use activities on a Project Site as outlined by **Exhibits 1 and 3** and ensures reasonable City Project Site access subject to certain limitations to engage in those Permitted Uses.
- b. Ensures that the Green Infrastructure will not be removed from the Project Site during the Term of this Site Agreement without City consent, which shall not be unreasonably withheld.
- c. Acknowledges that the School Site is an appropriate location for a Project, verified that the Green Infrastructure Work complies with applicable school codes and regulations, and is consistent with existing SFUSD plans and programs for the (School Site).
- d. Establishes the Parties’ respective responsibility for maintaining the Green Infrastructure.

4. **Green Infrastructure Project Designation and Authorization; Permitted Use.**

Pursuant and subject to the terms and conditions of the Umbrella MOU, City shall develop and construct on the Project Site identified above the Green Infrastructure Project (the “**Project**”) consisting of the Green Infrastructure [and Other Project Site Improvements] or [, Other Project Site Improvements, and Non-Project Improvements] described in the attached **Exhibits 3 and 5**. The District hereby authorizes City to construct, install, operate, and maintain the Green Infrastructure [and Other Project Site Improvements] or [, Other Project Site Improvements, and Non-Project Improvements] and the activities described as Permitted Uses on the subject Project Site based on the representation that the Green Infrastructure will enhance and improve the School. The District further guarantees that City will have reasonable Project Site access necessary to perform those functions as further described in **Section 17** [City’s Access to Project Site], as long as such access does not interfere with District’s educational mission, and that the Green Infrastructure will not be removed from the Project Site during the Term of this Agreement without

City's express written approval, except in the event of termination as allowed in the Umbrella MOU pursuant to **Section 3.5.b** (Termination in the Event of Sale, Lease, or Other Conveyance of Project Site) or pursuant to **Section 24.c** of this Site Agreement.

5. Project Description.

- a. **Description of Project.** The Project consists of the Green Infrastructure [and Other Project Site Improvements] or [, Other Project Site Improvements, and Non-Project Improvements] described below.
- b. **Green Infrastructure.** City will install or construct the Green Infrastructure identified on the attached **Exhibit 3**. The Green Infrastructure consists of: [itemize each element, its size and location]. The work shall be performed and completed as required in Exhibit 3.
- c. **Other Project Site Improvements.** City will install or construct, the Other Project Site Improvements identified on the attached **Exhibit 3**. The Other Project Site Improvements consists of: [itemize each element, its size and location]
- d. **Non-Project Improvements.** Pursuant to **Section 5.6.a** [District Requests for Additional Construction Work] of the Umbrella MOU, the District has requested, and City has agreed to install or construct, the Non-Project Improvements identified on the attached **Exhibit 5**. The Non-Project Improvements consists of: [itemize each element, its size and location]
- e. **Project Timeline:** Work shall begin upon issuance of the City's Notice to Proceed and shall be completed by _____, 20____ ("Completion Date").
- f. **Labor, Materials and Equipment:** City shall require that Contractor shall furnish all tools, equipment, apparatus, facilities, transportation, labor, and material necessary to furnish the services herein. The services under this site agreement will be performed at such times and location listed in the Special Conditions. District shall not have authority to direct Contractor's means and methods. Unless otherwise specified, all materials shall be new and previously unused, and workmanship shall meet the industry standard for quality.

6. Site Agreement Term. The term of this Site Agreement ("**Site Agreement Term**") shall commence on [DATE] ("**Site Agreement Effective Date**") and ends on the earlier of (a) the termination or expiration of the Umbrella MOU or (b) the day before the 30th anniversary of this Site Agreement ("**Site Agreement Expiration Date**"). Work shall proceed according to the Approved Schedule included in **Exhibit 1**.

7. Option to Extend Site Agreement Term. If the Parties extend the Term of the Umbrella MOU pursuant to **Section 3.3** [Option to Extend Umbrella MOU] of the Umbrella MOU, the Parties may extend the Site Agreement Term for a single option term ("**Site Agreement Option Term**") lasting for a period of up to ten (10) years or until the date that the Umbrella MOU's Term (as extended) expires, whichever occurs first, pursuant to the following procedure: If City desires to extend the Term, at least sixty (60) days prior to the expiration of the initial Site Agreement Term, City will give notice to the District stating City's desire to extend the Site Agreement Term

as set forth above. The District shall respond to such notice within thirty (30) days of the District's receipt of such notice by stating that it either agrees or refuses to the proposed extension. If the District does not agree to extend the initial Term, the Site Agreement Term will automatically terminate on the Site Agreement Expiration Date.

8. **Project Funding Sources and Uses.** The funding sources, amounts, and eligible funding activities are as described in Exhibit 2: Project Budget Sources & Uses.

9. **Terms of Repayment or Reimbursement between Parties.** **[Reserve if not needed]**

10. **Project Delivery Roles and Responsibilities.** **[Use only if different then Umbrella MOU]**

Project delivery roles per Article 5 and Article 7 of Umbrella MOU. If different, [insert change in roles here].

11. **Restrictions and Limitations on Use.**

- a. The District shall retain ownership, possession, and control of all Project Sites for District operations, which will at all times be superior to City's interest and City shall not interfere with the District's use and operation of any portion of the Project Sites or any other District property for any purpose. Nothing in this Site Agreement shall limit, restrict, or prohibit the District from entering into agreements with third parties regarding the use of any Project Site and surface improvements, provided, however, that any such third-party use does not unreasonably interfere with City's rights under this Site Agreement. The District shall have the right to inspect (for purpose) the Project for adherence to District requirements and timely completion of work.
- b. No Illegal Uses or Nuisances: City shall not use or occupy any Project Site in any unlawful manner, for any illegal purpose, or in any manner that constitutes a nuisance. City shall take all reasonable precautions to eliminate or minimize any nuisances or hazards the City's use or occupation of any Project Site, or to the extent caused by City, the SFPUC, or their respective officers or employees in connection with their use of the Project Sites.
- c. Waste: City shall not commit, or suffer to be committed, any waste upon the Project Site, or place any harmful liquids, debris, or other materials in the plumbing, sewer, or storm water drainage system of any Project Site. No waste materials or refuse shall be dumped by City upon or permitted to remain upon any part of the Project Site except in trash containers designated for that purpose.

12. **[RESERVED]**

13. **Responsibility.** City shall be solely responsible to make payment for any service or work performed in connection with the design and construction of the Project. City shall administer and resolve any claims or disputes that may arise in connection with the design and construction of the Project. District shall assume no liability for loss or damage to personal property or injuries to or deaths of agents, contractors, or employees of City by reason of the City's exercise of privileges

given in this Agreement. City shall indemnify and hold District harmless from any damage caused by the City's activities authorized in this section, except to the extent such damage was caused by District's negligence or willful misconduct. City shall either reimburse the District for any damage or destruction to the Site, or other property, occurring by reason of the City's exercise of rights granted, or replace or restore said property to its preexisting condition.

The Agreement is made on the express condition that District shall not be liable for, or suffer loss by reason of, injury to person or property, from whatever cause in any way connected with the condition or City's use or occupancy of the Project Site specifically including, without limitation, any liability for injury to the person or property of the City, its agents, officers, employees, licensees and invitees,. City shall keep the Project Site clear of all liens, encumbrances and/or clouds on District's title to any portion of the Project Site that arise out of the City's activities under this Agreement.

14. Maintenance Hours. City's right to enter the Property to complete maintenance activities pursuant to this Site Agreement shall be limited to [weekdays, weekends, holidays] between the hours of [8:00 AM to 5:00 PM]. In no event shall City have the right to enter the School Site on weekdays or when school is in session, unless the District provides written permission. City to provide written notice to the District at least 48 hours prior to required access.

15. Site-Specific Laws. In addition to the requirements of **Article 4** [Compliance with Laws; Licensing] of the Umbrella MOU, the following laws apply to this specific Site Agreement:

The Parties shall not use or permit the School Site to be used in whole or in part for any purpose or use in violation of the laws or ordinances applicable thereto. City shall indemnify, defend, and hold District harmless against any loss, expense, damage, attorneys' fees or liability arising out of City's failure to comply with any applicable law, regulation, rule or ordinance, except to the extent caused by the District's negligence or misconduct.

16. Division of State Architect (DSA) Coordination and Approval. The Parties will cooperate to confirm with DSA whether the District may delegate certain of its construction phase statutory duties to City for purposes of holding contracts with DSA Inspector and/or testing laboratories, or agree to another method for adhering to DSA IR A-24 (Construction Phase Duties of the School District, Design Professional and Contractor) requirements. Apart from this cooperation, City is responsible for producing a design that meets DSA requirements. City will reimburse District for all costs paid by District for DSA inspections, testing, and other DSA requirements, to the extent they are associated with the Green Infrastructure or the Other Project Improvements. District will pay for all such costs associated with Non-Project Improvements.

17. City's Access to Project Site. The District hereby confers on City and City's officers, employees, Contractors, and Invitees throughout the Site Agreement Term the nonpossessory reasonable, limited access rights to enter the Project Site specified in the Site Agreement to install, construct, operate, maintain, repair, replace, and remove the Green Infrastructure [and Other Project Site Improvements / and Non-Project Improvements] and use the subject Project Site for such purposes. It is understood that the City's Use of the Project Site may result in minor disruptions of the normal use to the District Parcel. The City will complete all Non-Project Improvements as soon as reasonably possible after City has completed the Green Infrastructure. Working hours and restrictions shall be in compliance with the Special Conditions.

18. Project Construction.

- a. City shall enter into a Construction Contract with a licensed Contractor pursuant to the Umbrella MOU. Prior to the commencement of construction, City will submit to the District for its review and written approval an overall construction schedule, including the sequencing and staging of all construction activities, anticipated project deliveries, scheduled utility shutdowns, and any other activities that may impact the Districts use of the facility. City shall require Contractor to have examined the Site and certifies that it accepts all measurements, specifications and conditions affecting the Project to be performed at the Site, to the extent the Contractor has access to the information necessary to confirm the accuracy of such items.
- b. From commencement of construction through completion of the project punchlist following Substantial Completion, unless agreed to in writing by the District, the City shall maintain a full-time on-site Construction Manager, as required by the Umbrella MOU. The Construction Manager shall duly notify the City Project Manager and the District Project Manager of on-site occurrences, including conversations with school site staff, construction site incidents, disputes, or injuries, and any Project construction issue that reasonably requires escalation.
- c. The City shall keep District staff informed as to the status and completion of the Project. City shall at its own expense obtain all necessary environmental and governmental approvals and permits, including, without limitation, the California Environmental Quality Act ("CEQA") requirements, any necessary approvals from any local or state authority including any site, grading, zoning, design review and other required permits or approvals, if applicable, prior to commencing construction and shall provide District with evidence of approval by all applicable governmental agencies.
- d. City shall be responsible for ensuring that all Green Infrastructure work is performed in strict compliance with the approved SWPPP, Rain Event Action Plan, Active Treatment Systems, and the Construction Stormwater permit issued, as required by applicable law.
- e. All construction activities that City or its Contractors or subcontractors perform shall comply with the Environmental Protection Agency's National Pollution Discharge Elimination System program and the Clean Water Act to prevent storm water pollution and a SWPPP) approved by the appropriate governing authority, if applicable.
- f. City and any person performing work for construction of the Green Infrastructure on the City's behalf shall exercise reasonable precautions to avoid damage and protect persons or property while on the Project Site and any adjacent staging area. District assumes no liability for loss or damage to property or injuries to or deaths of agents, contractors, or employees of City that result from the City's exercise of privileges given in this section.

- g. City shall ensure that Contractor shall perform, diligently prosecute and complete the Project in a good and workmanlike manner within the Agreement Time, and in strict conformity with all Exhibits, and that Contractor provides competent supervision of personnel employed on the job Site, use of equipment, and quality of workmanship.

19. Contractor(s) Insurance. City shall cause its Contractor(s) engaged pursuant to the Construction Contract(s) with respect to the proposed installation and construction of the Green Infrastructure at the Project Site to maintain the following levels of insurance at all times while performing services on or about the Project Site in accordance with the Umbrella MOU and the Construction Contract(s):

- a. **CONTRACTOR'S INSURANCE:** Contractor 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 and the results of that work by the Contractor, his or her agents, representatives, employees or sub-providers.

- i. Commercial General Liability. Minimum \$2,000,000 per occurrence, \$4,000,000 aggregate, including coverage for property damage, bodily injury, personal & advertising injury, products and completed operations, and liability assumed under an insured contract.
- ii. Commercial Automobile Liability. Minimum amount of \$1,000,000 per accident for bodily injury and property damage covering any auto, including all vehicles that are owned, non-owned, and hired and personal injury protection.
- iii. Workers' Compensation. As required by the State of California, with Statutory Limits, and Employer's Liability Insurance with a limit of no less than \$2,000,000 per accident for bodily injury or disease.
- iv. Professional Liability (Errors and Omissions) Insurance. Appropriate to Provider's profession, with limits not less than \$2,000,000 per occurrence or claim and \$4,000,000 aggregate.

b. OTHER INSURANCE PROVISIONS

- i. Additional Insured: With the exception of Workers' Compensation and Professional Liability insurance, and to the fullest extent permitted by law, San Francisco Unified School District, its Board, officers, officials, employees, and volunteers shall be named additional insureds with respect to liability arising out of the Services performed by or on behalf of the Provider under this Agreement.
- ii. Primary and Noncontributory: For any claims related to this Agreement, Contractor's insurance coverage shall be primary insurance coverage. Any insurance or self-insurance maintained by the District shall be excess of the Contractor's insurance and shall not contribute with it.

- iii. Transfer of Rights of Recovery against Others to Us (Waiver of Subrogation): Contractor hereby grants to the District, a waiver of any right to subrogation which any insurer of said Contractor may acquire against the District, its Board, officers, officials, employees, and volunteers by virtue of the payment of any loss under such insurance, to the extent commercially feasible. Contractor shall obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the District, its Board, officers, officials, employees, and volunteers have received a Transfer of Rights of Recovery against Others to Us endorsement from the insurer(s).
- iv. Severability of Interest: A severability of interest provision must apply for the additional insureds, ensuring that Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the policies' limits.
- v. Broader Coverage: If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the District requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor hereunder.
- c. Acceptability of Insurers: Unless otherwise acceptable to the District, all insurance is to be placed with insurers authorized to conduct business in California with a current A.M. Best's rating of no less than A:VII, or approved by the Surplus Lines Association to do business in California.
- d. Claims Made Policies: If any of the required policies provide claims-made coverage:
 - i. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
 - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract work.
 - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.
- e. Subcontractor Insurance: Should the Contractor use any subcontractor(s) to perform services under this Agreement, Contractor shall be responsible for ensuring that such subcontractor(s) procure and maintain insurance and limits appropriate to the nature and scope of services provided. Contractor shall collect Certificates of Insurance evidencing coverage(s) and limits of insurance, and with the exception of Workers' Compensation and Professional Liability policies, the Contractor and the District shall be included as additional insureds for all ongoing and completed operations of the subcontractor(s).
- f. District's Right to Modify Insurance Requirements: District reserves the right to modify these requirements, including limits, based on the nature of the risk, prior

experience, insurer, coverage, or other special circumstances.

- g. Notice of Cancellation: No policy required to be maintained by Contractor shall be canceled, nonrenewed, or materially altered without thirty (30) days prior written notice to the District, except where cancellation is due to the nonpayment of premium(s) in which event, ten (10) days prior written notice to the District shall suffice. For contracts in which the total compensation to the Contractor is one million dollars (\$1,000,000) or more, a policy endorsement is required to obligate Contractor's insurance carrier to notify the District directly of policy cancellations.
- h. Verification of Coverage: Prior to the commencement of services pursuant to this Agreement, Contractor shall furnish the District with insurance certificates and amendatory endorsements for the Additional Insured and Primary and Noncontributory provisions, or copies of the applicable policy language evidencing the insurance coverage and limits required by this Agreement. The District reserves the right to require additional amendatory endorsements and complete copies of any policy(ies) required hereunder at any time. Acceptance of the Certificates of Insurance by the District does not relieve Contractor of the insurance requirements, nor decrease the liability of Contractor under this Agreement. It is the Contractor's responsibility to ensure compliance with these insurance requirements. Any actual or alleged failure on the part of the District to obtain proof of insurance required under this Agreement shall not in any way be construed to be a waiver of any right or remedy of the District, in this or any regard.

20. District Acceptance Procedure for Other Site Improvements and Non-Project Improvements. **Article 8** of the Umbrella MOU sets forth the acceptance procedure. **[In addition to that process, the following additional actions are required pursuant to this Site Agreement:]**

21. Post-Construction Operation and Maintenance. After Final Completion of Project construction, the Parties shall operate and maintain the Green Infrastructure pursuant to the Site-Specific Operations and Maintenance Plan attached as **Exhibit 6**, and pursuant to the process, roles, and responsibilities outlined in the Umbrella MOU. City shall have no obligation to operate or maintain any Other Project Site Improvements or Non-Project Improvements.

22. SFPUC Property to be Removed or Modified. On or before City's surrender of the Project Site pursuant to **Article 16** [Surrender] of the Umbrella MOU, City shall remove or modify the Green Infrastructure at the Project Site. (collectively, "**Property to be Removed**") identified in the attached **Exhibit 4**. Upon removal or modification of the Green Infrastructure, City shall restore District's property to a condition substantially similar to its original condition or better and ensure the property is safe for District use.

23. Termination for Convenience by City. City shall have the option, in its sole discretion, to terminate this Site Agreement at any time for convenience and without cause, as long as the City either completes any work under active construction or restores District's property to its original condition or better and ensures the property is safe for District use. City shall exercise this option by giving the District written notice that specifies the effective date of termination. Upon receipt of the notice of termination, the District and City shall undertake with diligence all necessary actions to effect the termination of this Site Agreement on the date specified by City and minimize the liability of City and the District to third parties.

24. Termination by District

- a. Termination for Convenience. The District shall have the option, in its sole discretion, to terminate this Site Agreement at any time for convenience and without cause. The District agrees to work in good faith to close out this Site Agreement and to evaluate if termination of only minimal scope of the project is feasible and/or find an alternative site with comparable stormwater performance for the project. District shall exercise this option by giving City written notice of the termination, which will be effective as of the date City receives notice.
- b. Termination After the Start of Construction. After the commencement of construction of a Green Infrastructure Project, the District may not terminate the Site Agreement for that Green Infrastructure Project for any reason other than an uncured City Event of Default with respect to City's obligations under the Umbrella MOU Umbrella Agreement or this Site Agreement, unless such termination is necessary for the health and safety of students as determined by SFUSD Board of Education, in the event of a force majeure event, or as allowed in the Umbrella Agreement or in this Section. The District may request early termination of this Site Agreement for a reason other than for an uncured City Event of Default, if the District agrees (1) to relieve the City of any obligation to remove or modify the Green Infrastructure, under Article 16 of the Umbrella MOU Umbrella Agreement and Section 20 of this Site Agreement, and (2) to evaluate if any of the Green Infrastructure can remain.
- c. Termination in the Event of Sale, Lease, or other Conveyance of Project Site. The District shall have the option, in its sole discretion, to terminate this Site Agreement at any time in the event of a Board action to sell, lease, exchange, or otherwise convey or dispose of all or a portion of the Project Site.

25. Default and Remedies. An event of default (a “**Default**”) under this Site Agreement shall occur when one of the Parties (a “**Breaching Party**”) fails to comply in a material manner with any of its obligations or representations made under this Site Agreement, if the failure continues for ninety (90) days after the date of notice from the other Party (a “**Nonbreaching Party**”) specifying such failure, or, if such default is not capable of cure within the ninety (90)-day period, the Breaching Party fails to promptly undertake action to cure such failure within such ninety (90)-day period and thereafter fails to use reasonable diligence to complete such cure within sixty (180) days after the Nonbreaching Party's notice.

In the event the Nonbreaching Party elects to terminate a Site Agreement, the Nonbreaching Party will deliver at least sixty (60) days' prior notice of termination to the Breaching Party, specifying the subject Site Agreement. If City is the Breaching Party, City will remove the Property to be Removed identified in such Site Agreement from the affected Project Site and comply with City's obligations under the Umbrella MOU. If City does not remove its Green Infrastructure within the specified periods, the District will be entitled to remove City's Property to be Removed from the Project Site. If District is the Breaching Party, then the City shall be relieved of its obligations under the Umbrella MOU, and District shall maintain the Green Infrastructure for the remainder of its useful life.

26. **Amendments.** No part of this Site Agreements may be changed, waived, discharged, or terminated orally, nor may any breach thereof be waived, altered, or modified, except by a written instrument executed and approved in the same manner as this Agreement; provided, however, that both parties agree to said amendment which shall be subject to Board ratification/approval as applicable.

27. **Force Majeure.** The Parties shall be excused from performance hereunder during the time and to the extent that they are prevented from obtaining delivery, or performing by act of God, fire, strike, loss, or shortage of transportation facilities, lock-out, commandeering of materials, products, plants, or facilities by the government, when satisfactory evidence thereof is presented provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the Party claiming force majeure.

28. **Independent Status.** This Agreement is by and between two independent entities and is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture, or association.

29. **Confidentiality.** The Contractor shall maintain the confidentiality of all information, documents, programs, procedures, and all other items that Contractor encounters while performing the Contractor's Work to the extent allowed by law. This requirement shall be ongoing and shall survive the expiration or termination of this Contract and specifically includes all student, parent, and disciplinary information.

30. **Time is of the Essence.** Time is of the essence in the performance of and compliance with each of the provisions and conditions of this Contract.

31. **Umbrella MOU Incorporated by Reference.** This Site Agreement incorporate the provisions of the Umbrella MOU as though fully stated herein.

32. **Incorporation of Preamble, Recitals and Exhibits.** The Recitals and each Exhibit attached hereto are hereby incorporated herein by reference.

[SIGNATURES ON FOLLOWING PAGE]

The District and City have executed this Site Agreement as of the date last written below.

CITY:

CITY AND COUNTY OF
SAN FRANCISCO, a municipal corporation,
operating by and through its PUBLIC
UTILITIES COMMISSION

By: _____
Dennis Herrera
General Manager

Date: _____

DISTRICT:

SAN FRANCISCO UNIFIED SCHOOL
DISTRICT, a California public school district

By: _____
Its: _____

By: _____
Its: _____
Date: _____

APPROVED AS TO FORM:
DAVID CHIU,
City Attorney

By: _____
Tyson Arbuthnot, Deputy City Attorney

EXHIBITS

- EXHIBIT 1 Project Limit of Work & Approved Schedule**
- EXHIBIT 2 Project Budget Sources & Uses**
- EXHIBIT 3 SFPUC Green Infrastructure and Other Project Site Improvements**
- EXHIBIT 4 SFPUC Property to be Removed or Modified**
- EXHIBIT 5 District Funded Non-Project Improvements**
- EXHIBIT 6 Site-Specific Operations and Maintenance Plan**
- EXHIBIT 7 Site-Specific District Special Conditions**

EXHIBIT 1

Project Limit of Work & Approved Schedule

[Attach Depiction of Project Site]

EXHIBIT 2

Project Budget Sources & Uses

[Include budget by funding source any any relevant expenditure limitation detail]

EXHIBIT 3

SFPUC Green Infrastructure and Other Project Site Improvements

[Attach List and Illustration]

A. The Green Infrastructure to be installed on the Project Site are the following:

- 1.** [Description of Green Infrastructure]
- 2.** [Description of Green Infrastructure]
- 3.** [Description of Green Infrastructure]

B. The Other Project Site Improvements to be installed on the Project Site are the following:

- 1.** [Description of Other Project Site Improvements]
- 2.** [Description of Other Project Site Improvements]
- 3.** [Description of Other Project Site Improvements]

EXHIBIT 4

SFPUC Property to be Removed or Modified

[Attach List and Illustration]

A. The Green Infrastructure to be removed or modified at the Project Site upon the termination of this Site Agreement consists of the following:

- 1.** [Description of Green Infrastructure]
- 2.** [Description of Green Infrastructure]
- 3.** [Description of Green Infrastructure]

EXHIBIT 5

District Funded Non-Project Improvements

If none, then: [NONE]

If there are Non-Project Improvements, then:

[Pursuant to **Section 5.6** [District Requests for Additional Construction Work] of the Umbrella MOU , the District has requested, and City has agreed to install or construct, the following Non-Project Improvements.

1. [Describe Non-Project Improvements]
2. [Describe Non-Project Improvements]
3. [Describe Non-Project Improvements]

EXHIBIT 6

Site-Specific Operations and Maintenance Plan

[Attach copy of Site-Specific Operations and Maintenance Plan]

EXHIBIT 7

Site-Specific District Special Conditions

[Attach copy of Site-Specific Special Conditions]