AGREEMENT BETWEEN SAN LEANDRO UNIFIED SCHOOL DISTRICT AND ENVIROPLEX, INC., FOR 1 NEW 60' X 40' MULTIPURPOSE ROOM BUILDING WITH RESTROOMS AT LINCOLN ALTERNATIVE EDUCATION CENTER INCORPORATING PIGGY BACK CONTRACT FOR CLASSROOM AND DISTRICT OFFICE ADDITIONS, NEW JERUSALEM ELEMENTARY SCHOOL DISTRICT

This agreement ("Agreement") incorporating the January 9, 2012, piggyback contract for Classroom and District Office Additions, New Jerusalem Elementary School District("the New Jerusalem Contract") between the New Jerusalem Elementary School District and Enviroplex, Inc. is entered into between the San Leandro Unified School District ("District") and Enviroplex, Inc. ("Enviroplex") (collectively "Parties') as follows:

RECITALS

WHEREAS, District has a need for 60' x 40' multipurpose room with restrooms at its Lincoln High School site; and

WHEREAS, District wants to purchase 1-story rigid steel moment frame building components and associated materials ("building components") for the Lincoln High School multipurpose room from Enviroplex in a cost-effective manner consistent with the terms of the New Jerusalem Contract;

WHEREAS, Enviroplex entered into a contract with New Jerusalem Elementary School District, dated January 9, 2012 ("New Jerusalem"), that is still a valid contract, **(Exhibit "A");**

WHEREAS, section 20118 of the California Public Contract Code states,

> *Notwithstanding Sections 20111 and 20112, the governing board of any school district without advertising for bids, if the board has determined it to be in the best interests of the district, may authorize by contract, lease, requisition, or purchase order, any public corporation or agency, including any county, city, town, or district, to lease data-processing equipment, purchase materials, supplies, equipment, automotive vehicles, tractors, and other personal property for the district in the manner in which the public corporation or agency is authorized by law to make the leases or purchases. Upon receipt of any such personal property, provided the property complies with the specifications set forth in the contract, lease, requisition, or purchase order, the school district may draw a warrant in favor of the public corporation or agency for the amount of the approved invoice, including the reasonable costs to the public corporation or agency for furnishing the services incidental to the lease or purchase of the personal property, or the school district may make payment directly to the vendor. Alternatively, if there is an existing contract between a public corporation or agency and a vendor for the lease or purchase of the personal property, a school district may authorize the lease or purchase of personal property directly from the vendor by contract, lease, requisition, or purchase order and make payment to the vendor under the same terms that are available to the public corporation or agency under the contract.*

WHEREAS, the New Jerusalem Contract contains a "piggyback" provision pursuant to section 20118 of the California Public Contract Code;

WHEREAS, the District has determined that it is in its best interests to purchase the 1-story rigid steel moment frame building components and associated materials by piggybacking on the New Jerusalem Contract;

WHEREAS, Enviroplex represents that the terms and conditions of the New Jerusalem Contract are extended to the District under this Agreement and that the terms in the attached Exhibit "A" are consistent with the terms and conditions of the New Jerusalem Contract; and

WHEREAS, Enviroplex wants to provide the District with the 1-story rigid steel moment frame building components and associated materials for the District's use at Lincoln High School pursuant to and consistent with the terms of the New Jerusalem Contract;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein, and for other good and valuable consideration, the Parties have agreed and do agree as follows:

TERMS AND CONDITIONS

1. This Agreement fully incorporates by this reference the following documents:

   1.1. The New Jerusalem Contract, including all of its provisions and documents incorporated therein by reference or operation of law.

   The Parties hereby acknowledge and agree that Enviroplex shall comply with all insurance and bond requirements of the New Jerusalem Contract, and shall provide the District with copies of all required insurance documents, payment bond(s), and performance bond(s), at the time Enviroplex executes this Agreement.

2. To the extent any term or condition of this Agreement is inconsistent with the New Jerusalem Contract, the New Jerusalem Contract shall control, except for the delivery, payment, venue, or jurisdiction provisions in this Agreement which shall control over all other contradictory provisions.

3. Enviroplex extends to the District identical terms and conditions as those granted under the New Jerusalem Contract.

4. The total cost for 1-story rigid steel moment frame building materials and associated components shall be as specified and quoted in **Exhibit "B".** The District shall pay for the 1-story rigid steel moment frame building materials and associated components per the approved Schedule of Values.

5. Enviroplex hereby acknowledges and certifies that that the prices indicated herein and the referenced documents are at or below the prices indicated and/or authorized in the New Jerusalem Contract.

6. Enviroplex shall deliver the building according to the following delivery schedule:

   Delivery Date: June 25, 2012
   Setup complete and ready for occupancy: August 15, 2012

   The liquidated damages provision of the New Jerusalem Contract will apply if any delivery is later than indicated in this section. The amount of liquidated damages, if not otherwise stated in the New Jerusalem Contract, shall be One Thousand Dollars ($1,000) per day.

7. The Parties acknowledge that each of them has fully discussed the contents of this Agreement with their chosen representatives and/or legal counsel and has had the benefit of legal counsel in negotiating and drafting the terms of this Agreement. Accordingly, this Agreement shall not be construed as having been drafted by one party or the other.

8. This Agreement and the attachments hereto and the documents specifically incorporated into the Agreement by reference, constitute the entire Agreement between the District and Enviroplex. No other promises, contracts, or statements between the Parties shall be binding unless made in writing and signed by all Parties hereto.

9. Each party hereto shall bear its own costs and attorneys' fees incurred or connected with the drafting and signing of this Agreement and the events leading up to this Agreement.

10. This Agreement and the rights and obligations of the Parties hereunder shall be construed and interpreted in accordance with the laws of the State of California. Any action or proceeding to enforce this Agreement shall be commenced and maintained in Alameda County, California. Notwithstanding any provision to the contrary, this venue and jurisdiction provision shall control over any contradictory provision in the New Jerusalem Contract.

11. The Parties hereto hereby agree to execute all such other documents and to take all such other action as may be reasonably necessary to effectuate the purposes of this Agreement.

12. This Agreement may be executed in several counterparts and shall be deemed legally effective at such time as counterparts thereof duly executed on behalf of all Parties have been furnished and delivered to the attorneys for all Parties to this Agreement. Signature of copies and facsimile versions of this Agreement shall have the same force and effect as signature of the original.

ACCEPTED AND AGREED on the date indicated below:

Dated: _____, 2012	Dated: _____, 2012
SAN LEANDRO UNIFIED SCHOOL DISTRICT	**ENVIROPLEX, INC.**
By: _____	By: _____
Print Name: _____	Print Name: _____
Print Title: _____	Print Title: _____

Exhibit "A"

OWNER-CONTRACTOR AGREEMENT

OWNER-CONTRACTOR AGREEMENT

This Agreement is made and entered into this 09 day of January , 2012 by and between New Jerusalem Elementary School District of San Joaquin County, California, First Party, sometimes hereinafter called the Owner and Enviroplex, Inc. , Second Party, sometimes hereinafter called the Contractor.

WITNESSETH: That the parties hereto mutually have covenanted and agreed, and by these present do covenant and agree with each other, as follows:

1. The NOTICE TO CONTRACTORS, INSTRUCTIONS TO BIDDERS, BID FORM, LIST OF SUBCONTRACTORS, GENERAL and SUPPLEMENTARY CONDITIONS, CALIFORNIA BID BOND, NON-COLLUSION AFFIDAVIT, LABOR AND MATERIAL PAYMENT and FAITHFUL PERFORMANCE BONDS, GUARANTEE, and STRUCTURAL TESTS AND INSPECTIONS LIST are attached to and are a part of this Agreement. The complete Contract includes also the Drawings, Specifications, all items listed in the Project Manual, and all modifications and amendments thereto. All Contract Documents are intended to cooperate so that any work called for in one and not mentioned in the other, or vice versa, is to be executed the same as if mentioned in all Contract Documents.

2. The said Contractor agrees to furnish all tools, equipment, apparatus, facilities, transportation, labor, and material, other than material, if any, agreed to be furnished by the Owner hereunder, necessary to perform and complete in a manner acceptable to the Owner and Architect, the work of

Classroom and District Office Additions

as called for, and in the manner designated in, and in strict conformity with this Agreement, and with the Drawings and Project Manual adopted by the Board of Trustees, New Jerusalem Elementary School District which said Drawings and Project Manual are entitled respectively

Classroom and District Office Additions

and are hereby specifically referred to and made a part of this Agreement with like effect as if fully set forth herein.

3. It is understood and agreed that said tools, equipment, apparatus, facilities, transportation, labor, and materials shall be furnished and said work performed and completed as required in said Drawings and Project Manual under the direction and supervision of the Contractor and subject to the approval of the Architect and Owner. The Architect and Owner shall have the right to accept or reject materials or workmanship, and to determine when the Contractor has complied with the conditions of the Contract. The Building Inspector employed by the District shall represent the Architect and Owner on the project.

4. In accordance with SB 975 and the provisions of Section 1770 and 1773 of the Labor Code, the project is a "Public Work" and the Owner has determined the general prevailing rate of wages applicable to the work to be done. These rates are set forth in a schedule located as indicated in the Notice to Contractors. Said schedule is available to any interested party on request. The Contractor shall post a copy at all job sites.

5. The Owner has established a Labor Compliance Program, which adheres to the statutory

requirements as enunciated in Section 1771.7 of the Labor Code. It is the intent of the District to actively enforce this Labor Compliance Program at all state-funded construction projects. The Contractor agrees to comply with these provisions and the District's Labor Compliance Program.

6. Pursuant to Section 4551 of the Government Code of the State of California, the following provisions shall be a part of this Contract:

> In entering into a public works contract, the Contractor or Subcontractor offers and agrees to assign to the awarding body all rights, title and interest in and to all courses of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code, arising from purchases of goods, services or materials pursuant to the public works contract or subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the Contractor without further acknowledgement by the parties.

7. The Owner agrees to pay and the Contractor agrees to accept, in full payment for the work above agreed to be done, the sum of

*******Two million, four hundred-nine thousand, nine hundred sixteen****** DOLLARS

$ 2,409,916.00

which sum is to be paid according to the provisions of the General and Supplementary Conditions. This sum is payment for performance of work covered by Base Bid **and Bid Alternate numbers (list alternates accepted here).**

Alternate 1: Unit Prices, see Section 01270

Alternate 2: Site work and low voltage systems per drawings

8. The Contractor shall prosecute the Work in a prompt, diligent and workmanlike manner. The time limit for the completion of said Work is per Section 01010. Should the Work contracted for under this Agreement not be completed within the Contract Performance Period plus, if any, authorized extensions of time, there will be deducted from any money due or that which may become due the Contractor under this Contract the sum of Seven Hundred Fifty Dollars ($750) per day as liquidated damages, but not as a penalty, for each day of delay after the expiration of such period until the final physical completion of the Work and its delivery to Owner. In addition, extended liquidated damages (same amount as above), may be assessed by the Owner if punch list work is not completed as described in Section 01010, Summary of Work.

9. Contractor agrees to relinquish all claims for costs incurred for any approved extensions of time limit for completion of work unless such extensions are due to the willful and negligent acts of the Owner or Architect.

OWNER-CONTRACTOR AGREEMENT

IN WITNESS HEREOF, the said Board of Trustees has caused this Agreement to be subscribed by its duly authorized officer on its behalf, and the said Contractor has signed this Agreement the day and year first above written.

New Jerusalem Elementary
School District of San Joaquin County, a Political Subdivision of the State of California

by _____
Authorized Official

Enviroplex, Inc.
Contractor

by _____

Title PRESIDENT

9. "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing with the performance of the work of the Contract".

Enviroplex, Inc.
Contractor

by _____

Title PRESIDENT

Approved as to form:

_____
School District Legal Counsel

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Exhibit B

Pricing Matrix
San Leandro Unified School District
Lincoln High School
(1) new 60x40 Multipurpose Room Building w/Restrooms
Subject to Confirmation upon Final Design and Finish Schedule

02/17/2012

Price Breakdown Standard Enviroplex 60x40 Multipurpose Room Building					
Piggyback Available			Yes		
Building Size			60x40		
Square Footage ft²			2400		
P-back Item #	Description	Unit	Qty	Piggyback Price	Total
1-STORY RIGID STEEL FRAME BUILDINGS					
1000	24x40 MMMC Typical Classroom [With no floor Coverings: With Ceiling Tiles; T-8 light fixtures with dual level control; 9' floor to ceiling height in all modules; 2x4 fixed grid, lay in panel ceiling system (no suspension wires); (1) 3070 steel door w/Schlage lever hardware (2) 8040 windows, (2) porcelain/steel marker boards, battery wall clock, walls-full height tackboard; (6) duplex receptacles; (1) 125 amp single-phase panel; (1) 4 ton Bard exterior HVAC with ducted air and programmable T-Stat; Standard bi-pitch roof design, approximately .25:12 dual slope, 5' overhang in front 2'6"rear overhang	each	1	$39,218	$39,218
1003	add 12x40 center module	each	3	$18,085.00	$54,255
SUB-FLOOR					
1100	125 lb floor load, standard wood subfloor	per mod	5	$278.00	$1,390
FOUNDATION					
2200	12x40 at grade foundation w/18" crawl space and 12" footing embedment (initial foundation segment)	each	1	$11,369.00	$11,369
2201	12x40 at grade foundation (additional foundations segments)	each	4	$9,295.00	$37,180
2300	2x4 access vent well with retained metal grate (non ADA)	each	1	$3,575.00	$3,575
2304	12" high, 24 ga metal flashing	Lft	200	$18.00	$3,600
INTERIOR OPTIONS					
3006	Toilet room, single, cold only (ADA compliant) (includes Lavatory, sink, TP dispenser, grab bars, FRP wall panels, sheet vinyl flooring)	each	2	$2,867.00	$5,734
3007	DEDUCT 8x4 porcelain / steel markerboard	each	2	$(269.00)	$(538)
DOORS					
3102	3070 steel door w/Schlage D93 (classroom lockdown) lever hardware, Norton 7500 door closer with hold open	each	1	$1,403.00	$1,403
3111	Panic hardware, Von Duprin CD99NL or equal	each	2	$2,129.00	$4,258

Pricing Matrix
San Leandro Unified School District
Lincoln High School
(1) new 60x40 Multipurpose Room Building w/Restrooms
Subject to Confirmation upon Final Design and Finish Schedule

02/17/2012

WINDOWS					
3200	8040 xox DG, Low E, clear anodized frames with screens	each	2	$759.00	$1,518
ELECTRICAL PANELS					
3300	125 amp 1-phase panel	each	1	$562.00	$562
LIGHTING					
3407	Fluorescent exterior door light	each	3	$154.00	$462
3408	Lighted "Exit" sign (battery back-up)	each	2	$187.00	$374
ELECTRICAL INFRASTRUCTURE					
3512	Add motion sensor switch	each	1	$236.00	$236
3502	Add duplex recptacle	each	12	$48.00	$576
3505	Add dedicated circuits	each	2	$144.00	$288
3507	4 square box with switch ring and 3/4" conduit stub to attic	each	6	$36.00	$216
LOW VOLTAGE ITEMS					
3703	Rough-in only for pull station	each	1	$29.00	$29
3704	Rough-in only for interior horn/strobe	each	1	$29.00	$29
3705	Rough-in only for exterior horn/strobe	each	1	$41.00	$41
FIRE SPRINKLER					
3800	Fire sprinklers - light hazard, per sf (attaches to site riser by others). Enviroplex assumed occupancy A2, 160 occupants	sf	2,400	$6.76	$16,224
HVAC					
3901	Bard 4 ton CH, "Quiet Climate 2" wall hung heat pump, 4 duct runs, programmable thermostat	each	1	$8,004.00	$8,004
FLOORING					
6300	Vinyl transition strip	Lft	6	$3.22	$19
				Sub-Total Piggyback Line Items	**$190,022**

ADDITIONAL ITEMS NECESSARY

1	Mondo Terranova Rubber Tile flooring	sf	1	$31,888.00	$31,888
2	Water and Waste Piping allowance	each	1	$1,250.00	$1,250
3	On-Site Labor (project close-out)	hour	80	$45.00	$3,600
				Sub Total Additional Line Items	**$36,738**
				Delivery and Installation (includes crane)	**$31,600**
				Estimated Taxes (9.75 @ 40% school rate) & Bonds	**$8,310**
				Grand Total	**$266,670**