



# SAN MATEO COUNTY OFFICE OF EDUCATION

## Quarterly Report on Williams Uniform Complaints

[Education Code § 35186]

District: \_\_\_\_\_

Person completing this form: \_\_\_\_\_ Title: \_\_\_\_\_

Quarterly Report Submission Date:  
(check one)

- ☐ October 31, 2014 (Covers 7/1/14 – 9/30/14)
- ☐ January 31, 2015 (Covers 10/1/14 – 12/31/14)
- ☐ April 30, 2015 (Covers 1/1/15 – 3/31/15)
- ☐ July 31, 2015 (Covers 4/1/15 – 6/30/15)

Date for information to be reported publicly at governing board meeting: \_\_\_\_\_

Please check the box that applies:

- ☐ No complaints were filed with any school in the district during the quarter indicated above.
- ☐ Complaints were filed with schools in the district during the quarter indicated above. The following chart summarizes the nature and resolution of these complaints. Copies of the complaint and the District's written response will be sent to SMCOE.

*Please mark the table below with zero if there are no complaints.*

General Subject Area	Total # of Complaints	# Resolved	# Unresolved
Textbooks and Instructional Materials			
Teacher Vacancy or Misassignment			
Facilities Conditions			
TOTALS			

\_\_\_\_\_  
Print Name of District Superintendent

\_\_\_\_\_  
Signature of District Superintendent

\_\_\_\_\_  
Date

Return via fax or email to Marilyn Canadas  
San Mateo County Office of Education  
mcanadas@smcoe.org  
Fax (650) 802-5322

July 22, 2014  
MC

SEQUOIA UNION HIGH SCHOOL DISTRICT  
Redwood City, California 94062

David Reilly, Assistant Superintendent

SEQUOIA UNION HIGH SCHOOL DISTRICT  
Redwood City, California 94062

TO: Board of Trustees

DATE: November 5, 2014

FROM: James Lianides,  
Superintendent

SUBJECT: Personnel Recommendations  
for November 5, 2014  
Board Meeting

Employment – Classified

Amaku	Etekamba	W	Inclusion Aide/SCIA	Temp	1.0 fte	10/27/14
Bain	Vanessa	M	Inclusion Aide/SCIA	Temp	1.0 fte	10/13/14
Bennett	Joseph	W	Inclusion Aide/SCIA	Temp	1.0 fte	10/22/14
Bracamontes	Paul	D	Custodian On-Call	Temp	1.0 fte	11/03/14
Castro	Carlos	D	Student Worker	Student	0.5 fte	10/27/14
Cervantes	Mariaelana	D	Account Clerk II	Probationary	1.0 fte	11/03/14
Gomez	Lorenzo	M	Campus Security Aide	Temp	1.0 fte	10/23/14
Hutcheson	Meagan	D	Student Worker	Student	0.5 fte	10/27/14
Gonzalez	Jonathan	S	Campus Security Aide	Temp	1.0 fte	08/18/14
Gundogdu	Kenan	D	Student Worker	Student	0.5 fte	10/28/14
Nunez	Michael	D	Maint. Carpenter	Probationary	1.0 fte	10/31/14
Peck	Jennifer	W	GIS	Temp	1.0 fte	10/16/14
Rask	Wallace	D	Maint. Carpenter	Probationary	1.0 fte	10/31/14
Sarina	Roxana	S	Food Service Worker I	Probationary	0.5 fte	10/29/14
Thompson	Jack	D	Student Worker	Student	0.5 fte	10/13/14
Wang	Hannah	D	Custodian On-Call	Temp	1.0 fte	11/03/14

## Notice of Terminations

Gross	Julie	M	Sr. IA	Resignation	1.0 fte	12/02/14
Tautuaa	Joseph	M	Campus Sec. Aide/Temp	Term	1.0 fte	10/21/14
Williams	Brian	W	IA II	Resignation	1.0 fte	10/31/14

Employment – Adult School

NONE

David Reilly, Assistant Superintendent

# NOTICE OF TEXTBOOK TRANSFER

or

AGENDA ITEM 8e  
DATE 11/5/14

## REQUEST TO DECLARE TEXTBOOK OBSOLETE OR NON-ACCOUNTABLE

Site Carlmont High School

Department So.Studies

Date 9/22/14

ISBN #	Description	Qty	On Approved Textbook list	Condition	Reason
0-618-52273-5	Title: A History of Western Society Author: John McKay Publisher: Houghton Mifflin Co. Copyright: 2006 Subject: Western Civilization	256	Yes	Good	No longer being used

Recommended Disposition: Declare obsolete (Board Approval required)

If Declaring Non-Accountable, specify location:

Additional Comments: These books have been replaced with a more up-to-date textbook.

**TEXTBOOK DEFINITIONS:** Please note that a request to declare a textbook obsolete or non-accountable applies to all schools, regardless of which school initiates the request.

**OBSOLETE** A basic or supplementary text that cannot be used for any purpose in the District's program of instruction. Such a text is usually regarded as obsolete when 1) its contents are so out of date that it cannot be used in instruction, or 2) its contents are unusable because of a change in the curriculum.

**NON-ACCOUNTABLE** A basic or supplementary text which has no further value in either category and which would otherwise be recommended for obsolescence. Such texts may be used by teachers as reference books or as part of a classroom library on a non-accountable basis.

**No additional copies of the same copyright and/or edition, either new or used, may be purchased by any school once the textbook/edition/copyright has been approved for obsolescence or non-accountability.**

Dept. Head Jayson Hall  
 Librarian A. Laine (all)  
 Principal or V.P. Jim G. Heaton 9/30/14  
 Deputy Supt., Ed. Services B. M.  
 Director of Purchasing \_\_\_\_\_

Purchasing Dept. & W/H use only

Board Date: \_\_\_\_\_

W/H action: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_



# NOTICE OF TEXTBOOK TRANSFER or

## REQUEST TO DECLARE TEXTBOOK OBSOLETE OR NON-ACCOUNTABLE

Site Carlmont High School

Department So.Studies

Date 9/22/14

ISBN #	Description	Qty	On Approved Textbook list	Condition	Reason
0-314-14090-5	Title: <b>PSYCHOLOGY AND YOU</b> Author: <b>Judith McMahon</b> Publisher: <b>National Textbook Co.</b> Copyright: <b>2000, 3rd Ed.</b> Subject: <b>Psychology</b>	38	Yes	Good	No longer being used

Recommended Disposition: **Declare obsolete (Board Approval required)**

If Declaring Non-Accountable, specify location:


Additional Comments: These books have been replaced with a more up-to-date textbook.

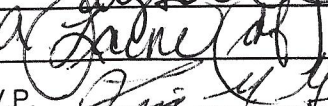
**TEXTBOOK DEFINITIONS:** Please note that a request to declare a textbook obsolete or non-accountable applies to all schools, regardless of which school initiates the request.

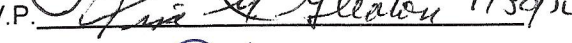
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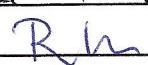
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Dept. Head 

Librarian 

Principal or V.P.  9/30/14

Deputy Supt., Ed. Services 

Director of Purchasing \_\_\_\_\_

*Purchasing Dept. & W/H use only*

Board Date: \_\_\_\_\_

W/H action: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_



# NOTICE OF TEXTBOOK TRANSFER

or

## REQUEST TO DECLARE TEXTBOOK OBSOLETE OR NON-ACCOUNTABLE

Site Carlmont High School

Department So.Studies

Date 9/22/14

ISBN #	Description	Qty	On Approved Textbook list	Condition	Reason
0-314-14090-5	<b>Title: PSYCHOLOGY AND YOU</b> <b>Author: Judith McMahon</b> <b>Publisher: National Textbook Co.</b> <b>Copyright: 2000, 3rd Ed.</b> <b>Subject: Psychology</b>	35	Yes	Good	No longer being used

Recommended Disposition: Permanent transfer to SHS

If Declaring Non-Accountable, specify location: Sending to Sequoia H.S.

Additional Comments:

**TEXTBOOK DEFINITIONS:** Please note that a request to declare a textbook obsolete or non-accountable applies to all schools, regardless of which school initiates the request.

**OBSOLETE** A basic or supplementary text that cannot be used for any purpose in the District's program of instruction. Such a text is usually regarded as obsolete when 1) its contents are so out of date that it cannot be used in instruction, or 2) its contents are unusable because of a change in the curriculum.

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Dept. Head [Signature]

Librarian [Signature]

Principal or V.P. [Signature] 9/30/14

Deputy Supt., Ed. Services [Signature]

Director of Purchasing \_\_\_\_\_

*Purchasing Dept. & W/H use only*

Board Date: \_\_\_\_\_

W/H action: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_



# NOTICE OF TEXTBOOK TRANSFER

or

## REQUEST TO DECLARE TEXTBOOK OBSOLETE OR NON-ACCOUNTABLE

Site

Sequoia High School

Department

World Language

Date

9/10/14

ISBN #	Description	Qty	On Approved Textbook list	Condition	Reason
0821909266	Title: Deutsch Aktuell 11/2/3	79		fair	subject not taught any more
0821925601	Author: Kraft, Wolfgang	30			
0821917021	Publisher: EMC	32			
	Copyright: 1999				
	Subject: German				

Recommended Disposition: obsolete

If Declaring Non-Accountable, specify location: \_\_\_\_\_

Additional Comments:

**TEXTBOOK DEFINITIONS:** Please note that a request to declare a textbook obsolete or non-accountable applies to all schools, regardless of which school initiates the request.

**OBSOLETE** A basic or supplementary text that cannot be used for any purpose in the District's program of instruction. Such a text is usually regarded as obsolete when 1) its contents are so out of date that it cannot be used in instruction, or 2) its contents are unusable because of a change in the curriculum.

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**No additional copies of the same copyright and/or edition, either new or used, may be purchased by any school once the textbook/edition/copyright has been approved for obsolescence or non-accountability.**

Dept. Head \_\_\_\_\_

Librarian, Kevin Stanley 9/25/14

Principal or V.P. \_\_\_\_\_

Deputy Supt., Ed. Services Don

Director of Purchasing \_\_\_\_\_

Purchasing Dept. & W/H use only

Board Date: \_\_\_\_\_

W/H action: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

# Sequoia Union HSD

## Board Policy

### BP 3513.3 Business and Non-instructional Operations

#### Tobacco-Free Schools

The Board of Trustees recognizes that the health hazards associated with smoking and the use of tobacco products, including the breathing of second-hand smoke, are inconsistent with its goal to provide a healthy environment for students and staff. Employees are encouraged to serve as models for good health practices that are consistent with the District's instructional programs.

(cf. 3514 - Environmental Safety)

(cf. [4159/4259/4359](#) - Employee Assistance Programs)

(cf. [5030](#) - Student Wellness)

(cf. [5131.62](#) - Tobacco)

(cf. 5141.23 - Asthma Management)

(cf. [6142.8](#) - Comprehensive Health Education)

(cf. [6143](#) - Courses of Study)

In accordance with state and federal law, smoking is prohibited in all district buildings and grounds, and vehicles. (20 USC [6083](#), Labor Code [6404.5](#))

The Board further prohibits the use of tobacco products or nicotine, including but not limited to, cigarettes, cigars, smokeless tobacco, snuff, chew, betel and clove cigarette, at all times on district grounds. This prohibition also applies to electronic nicotine delivery systems, such as electronic cigarettes, electronic hookahs, and other vapor emitting devices, with or without nicotine content, that mimic the use of tobacco products at any time.

This prohibition applies to all employees, students and visitors at any activity or athletic event on property owned, leased or rented by or from the District.

This prohibition shall also apply to school-sponsored events held off of district property. These activities would include, but not be limited to, field trips, athletic events, and dances. It also applies to all meetings, events, and activities sponsored by community groups held in District facilities.

The Superintendent or designee shall inform students, parents/guardians, employees and the public about this policy and related procedures.

(cf. [4118](#) - Suspension/Disciplinary Action)

(cf. [4218](#) - Dismissal/Suspension/Disciplinary Action)

(cf. [5144.1](#) - Suspension and Expulsion/Due Process)

Signs prohibiting the use of tobacco shall be prominently displayed at all entrances to school property.

The Superintendent or designee shall maintain a list of clinics and other resources which may assist individuals who wish to stop using tobacco products.

(cf. [4159/4259/4359](#) - Employee Assistance Programs)

The following policies and regulations are related to personnel: 3513.3, 3515, 3542, 3543, 5145.7.

Legal Reference:

#### EDUCATION CODE

[48900](#) Grounds for suspension/expulsion

[48901](#) Prohibition against tobacco use by students

#### HEALTH AND SAFETY CODE

[39002](#) Control of air pollution from nonvehicular sources

[104350-104495](#) Tobacco use prevention, especially:

[104495](#) Prohibition of smoking and tobacco waste on playgrounds

119405 Unlawful to sell or furnish electronic cigarettes to minors

#### LABOR CODE

[3300](#) Employer, definition

[6304](#) Safe and healthful workplace

[6404.5](#) Occupational safety and health; use of tobacco products

#### UNITED STATES CODE, TITLE 20

[6083](#) Nonsmoking policy for children's services

7100-[7117](#) Safe and Drug Free Schools and Communities Act

#### CODE OF FEDERAL REGULATIONS, TITLE 21



1140.1-1140.34 Unlawful sale of cigarettes and smokeless tobacco to minors

## PERB RULINGS

Eureka Teachers Assn. v. Eureka City School District (1992) PERB Order #955 (16 PERC 23168)

CSEA #506 and Associated Teachers of Metropolitan Riverside v. Riverside Unified School District (1989) PERB Order #750 (13 PERC 20147)

Management Resources:

## WEB SITES

California Department of Education, Alcohol, Tobacco and Other Drug Prevention: <http://www.cde.ca.gov/ls/he/at>

California Department of Education, Tobacco-Free School District Certification: <http://www.cde.ca.gov/ls/he/at/tobaccofreecert.asp>"><http://www.cde.ca.gov/ls/he/at>"><http://www.cde.ca.gov/ls/he/at/tobaccofreecert.asp>

California Department of Public Health, Tobacco Control: <http://www.cdph.ca.gov/programs/tobacco>

Occupational Safety and Health Standards Board: <http://www.dir.ca.gov/OSHSB/oshsb.html>

U.S. Environmental Protection Agency: <http://www.epa.gov>

## Policy SEQUOIA UNION HIGH SCHOOL DISTRICT

adopted: December 10, 1997 Redwood City, California

revised: February 15, 2012

## AR 3513.3 Business and Noninstructional Operations

### **Tobacco-Free Schools**

#### Employee Notifications

The Superintendent or designee shall notify employees of the District's tobacco-free schools policy. The notification shall also inform them of:

1. Their need to abide by district policy as a condition of employment.
2. The dangers of tobacco use in the workplace, including its threat to the health and safety of employees, students and the public.

3. Available resources which may help employees stop using tobacco.
4. Possible disciplinary actions in accordance with Board policy, state law and applicable collective bargaining agreements.

Enforcement of the policy will be as follows:

1. Students - Students who violate the policy will be dealt with in accordance with Board Policy 5131.62.
2. Staff - Staff who violate the policy will be dealt with in accordance with Board Policy.
3. Community - Community members who are using tobacco products, those used through electronic delivery systems, or those that mimic the use of tobacco products on district property during school-sponsored events shall be asked to refrain from doing so. If individuals fail to comply with the request, a school administrator or supervisory personnel responsible for the event should be notified. That person(s) shall make a decision regarding further action which may include a directive to the violator to leave campus. If deemed necessary, the local law enforcement agency may be called upon to assist with enforcement of this policy.
4. Community groups who use district facilities are expected to enforce this policy. Failure to do so will result in revocation of the group's permit to use the facility.
5. If the person repeatedly violates the tobacco-free schools policy, the Superintendent or designee may prohibit him/her from entering district property for a specified period of time.

(cf. [3515.2](#) - Disruptions)

Regulation SEQUOIA UNION HIGH SCHOOL DISTRICT

Approved: December 10, 1997 Redwood City, California  
Revised: October 15, 2014

ADDENDUM TO FACILITIES USE AGREEMENT BETWEEN SUMMIT PUBLIC  
SCHOOLS, OPERATING EVEREST PUBLIC HIGH SCHOOL, AND SEQUOIA UNION  
HIGH SCHOOL DISTRICT

This Addendum ("Addendum") to the Facilities Use Agreement Between Summit Public Schools ("Summit"), a nonprofit public benefit corporation operating Everest Public High School ("Charter School") and the Sequoia Union High School ("District") is entered into, effective as of October 23, 2014, by and between the Charter School and the District.

RECITALS

- A. The District and the Summit are parties to a Facilities Use Agreement ("Facilities Use Agreement") relating to the Charter School's use of the buildings, land, and improvements owned by the District and located at 455 5<sup>th</sup> Avenue, in Redwood City, California. A copy of the Facilities Use Agreement is attached to this Addendum and is incorporated herein by reference.
- B. The District and Summit now intend to amend the Facilities Use Agreement to provide, starting with the 2014-2015 school year through the end of the 2016-17 school year, that the Charter School will make its pro rata share payment for the facilities subject to this Facilities Use Agreement in accordance with California Education Code Section 47614(b) on ten equal payments during each school year covered by this Addendum, rather than by the July 1<sup>st</sup> immediately following the end of the school year, in arrears.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the District and Summit hereby agree as follows:

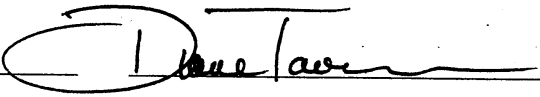
1. Notwithstanding the provisions of the Facilities Use Agreement and the Addendum, the District and Summit agree that, for the 2014-15, 2015-16, and 2016-17 school years (i.e., for the time period between September 1 through June 30 of each of these years), the Charter School shall pay the annual fee to the District in consideration of the use of the Facilities (as defined in the Facilities Use Agreement) in ten equal payments. The District agrees that, for the period covered by this Addendum, it shall, on a monthly basis, transmit to the Charter School an invoice for an amount equal to one tenth of the total annual fee for use of the Facilities. The Charter School agrees that it will pay each such invoice within 21 days after receipt of it.
2. After the 2016-2017 school year, this Addendum shall be of no further effect and the District will have no obligation thereafter to invoice the Charter School on a monthly basis.

3. All other terms and conditions of the Facilities Use Agreement remain in full force and effect.

IN WITNESS WHEREOF, the District and the Charter School have signed this Addendum on the dates set forth below.

SEQUOIA UNION HIGH SCHOOL DISTRICT      SUMMIT PUBLIC SCHOOLS

\_\_\_\_\_  
James Lianides, Ed.D., Superintendent

  
\_\_\_\_\_  
Diane Tavenner, Chief Executive Officer

Date: \_\_\_\_\_

Date: 10/23/14

SECOND ADDENDUM TO FACILITIES USE AGREEMENT BETWEEN SUMMIT  
PREPARATORY CHARTER HIGH SCHOOL AND SEQUOIA UNION HIGH SCHOOL  
DISTRICT

This Second Addendum ("Second Addendum") to the Facilities Use Agreement Between Summit Preparatory Charter High School ("Charter School") and the Sequoia Union High School ("District") is entered into, effective as of October 23, 2014, by and between the Charter School and the District.

RECITALS

- A. The District and the Charter School are parties to a Facilities Use Agreement ("Facilities Use Agreement") relating to the Charter School's use of the buildings, land, and improvements owned by the District and located at 890 Broadway Street, Redwood City, California. A copy of the Facilities Use Agreement is attached to this Second Addendum and is incorporated herein by reference.
- B. The District and the Charter School subsequently entered into an Addendum to the Facilities Use Agreement. A copy of the Addendum is attached to this Second Addendum and is incorporated herein by reference.
- C. The District and the Charter School now intend to further amend the Facilities Use Agreement to provide, starting with the 2014-2015 school year through the end of the 2016-17 school year, that the Charter School will make its pro rata share payment for the facilities subject to this Facilities Use Agreement in accordance with California Education Code Section 47614(b) in ten equal payments during each year covered by this Second Addendum, rather than by the July 1<sup>st</sup> immediately following the end of the school year, in arrears.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the District and Charter School hereby agree as follows:

- 1. Notwithstanding the provisions of the Facilities Use Agreement and the Addendum, the District and the Charter School agree that, for the 2014-15, 2015-16, and 2016-17 school years (i.e., for the time period between September 1 through June 30 of each of these years), the Charter School shall pay the annual fee to the District in consideration of the use of the Facilities (as defined in the Facilities Use Agreement) in ten equal payments. The District agrees that, for the period covered by this Second Addendum, it shall, on a monthly basis, transmit to the Charter School an invoice for an amount equal to one tenth of the total annual fee for use of the Facilities. The



Charter School agrees that it will pay each such invoice within 21 days after receipt of it.

2. After the 2016-2017 school year, this Second Addendum shall be of no further effect and the District will have no obligation thereafter to invoice the Charter School on a monthly basis.
3. All other terms and conditions of the Facilities Use Agreement and the Addendum remain in full force and effect.

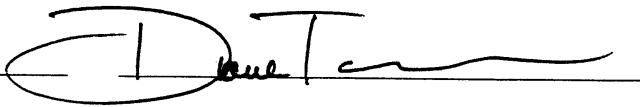
IN WITNESS WHEREOF, the District and the Charter School have signed this Second Addendum on the dates set forth below.

SEQUOIA UNION HIGH SCHOOL DISTRICT

SUMMIT PUBLIC SCHOOLS

\_\_\_\_\_  
James Lianides, Ed.D., Superintendent

Date: \_\_\_\_\_

\_\_\_\_\_  


Diane Tavenner, Chief Executive Officer

Date: 10/23/14

**AGREEMENT BETWEEN THE SEQUOIA UNION HIGH SCHOOL DISTRICT  
AND  
SOUND AND SIGNAL**

**THIS AGREEMENT, entered into this 17TH day of OCTOBER , 20 14 , by and between the SEQUOIA UNION HIGH SCHOOL DISTRICT, hereinafter called "District," and SOUND AND SIGNAL , hereinafter called "Contractor;"**

WITNESSETH:

WHEREAS, The District may contract with independent contractors for the furnishing of services such as those that Contractor proposes to provide to the District;

WHEREAS, it is necessary and desirable that Contractor be retained for the purpose of performing routine service and repairs of fire alarm and intercom equipment in classrooms and elevators district wide.

Sound and Signal will also perform annual fire alarm inspections district wide for fiscal year 2014 - 2015 .

**NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:**

**1. Exhibits and Attachments**

The following exhibits and attachments are included hereto and incorporated by reference herein:

Exhibit A – Services

Exhibit B – Payments and rates

**2. Services to be performed by Contractor**

In consideration of the payments set forth herein and in Exhibit "B," Contractor shall perform services for District in accordance with the terms, conditions and specifications set forth herein and in Exhibit "A."

**3. Payments**

In consideration of the services provided by Contractor in accordance with all terms, conditions and specifications set forth herein and exhibit "A," District shall make payment to Contractor based on the rates and in the manner specified in Exhibit "B." The District reserves the right to withhold payment if the District determines that the quantity or quality of the work performed is unacceptable. In no event shall the District's total fiscal obligation under this Agreement exceed SEVENTY-NINE THOUSAND DOLLARS AND 00/100 , \$79,000.00 .

**4. Term and Termination**

Subject to compliance with all terms and conditions, the term of this Agreement shall be from July 1, 20 14 through June 30 , 20 15.

This Agreement may be terminated by, the District Superintendent or his/her designee at any time without a requirement of good cause upon thirty (30) days' written notice to the other party.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Contractor under this Agreement shall become the property of the District and shall be promptly delivered to the District. Upon termination, the Contractor may make and retain a copy of such materials. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

**5. Availability of funds**

The District may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon unavailability of federal, state, or district funds, by providing written notice to Contractor as soon as is reasonably possible after the District learns of said unavailability of outside funding.

**6. Relationship of Parties**

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent Contractor and not as an employee of the District and that Contractor acquires none of the rights, privileges, powers, or advantages of District employees.

**7. Hold Harmless**

Contractor shall indemnify and save harmless District, its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of: (A) injuries to or death of any person, including Contractor, or (B) damage to any property of any kind whatsoever and to whomsoever belonging, or (C) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of District, its officers, agents, employees, or servants, resulting from the performance of any work required of Contractor or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damage for which District has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

**8. Assignability and Subcontracting**

Contractor shall not assign this Agreement or any portion thereof to a third party or subcontractor with a third party to provide services required by Contractor under this Agreement without the prior written consent of District. Any such assignment or subcontract

without the District's prior written consent shall give District the right to automatically and immediately terminate this Agreement.

**9. Insurance**

The Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this paragraph has been obtained and such insurance has been approved by the District, and Contractor shall use diligence to obtain such insurance and to obtain such approval. The Contractor shall furnish the District with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days notice must be given, in writing, to the District of any pending change in the limits of liability or of any cancellation or modification of the policy.

**(1) Worker's Compensation and Employer's Liability Insurance** The Contractor shall have in effect during the entire life of this Agreement Worker's Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, the Contractor certifies, as required by Section 1861 of the California Labor Code, that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.

**(2) Liability Insurance** The Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him/her while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from contractors operations under this Agreement, whether such operations be by himself/herself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not less than the amount specified below.

Such insurance shall include:

- (a) Comprehensive General Liability ..... \$1,000,000
- (b) Motor Vehicle Liability Insurance ..... \$1,000,000
- (c) Professional Liability ..... \$1,000,000

District and its officers, agents, employees and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that the insurance afforded thereby to the District, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, and that if the District or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall excess insurance only.

In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the Sequoia Union High School District at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

**10. Compliance with laws; Payment of Permits/Licenses**

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable federal, state, district, and municipal laws, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (HIPPA) and the Family Educational Rights and Privacy Act of 1974 ("FERPA"), and all federal regulations promulgated thereunder, as amended, and the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended, and the "Individuals With Disabilities Education Act, as amended, " Such services shall also be performed in accordance with all applicable ordinances, regulations, policies and procedures of the District and its governing board.

In the event of a conflict between the terms of this Agreement and federal, state, district, or municipal law or regulations, the requirements of the applicable law will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

Contractor shall comply with all state fingerprint laws, including education Code 45125.1.

**11. Retention of Records, Right to Monitor and Audit**

(a) CONTRACTOR shall maintain all required records for three (3) years after the DISTRICT makes final payment and all other pending matters are closed, and shall be subject to the examination and/or audit of the District, a Federal grantor agency, and the State of California.

(b) Reporting and Record Keeping: CONTRACTOR shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State and local agencies, and as required by the DISTRICT.

(c) CONTRACTOR agrees to provide to DISTRICT, to any federal or state department having monitoring or review authority, to DISTRICT's authorized representatives, and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.

**12. Merger Clause**

This Agreement, including the Exhibits attached hereto and incorporated herein by reference, constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement or specification set forth in this body of the Agreement conflicts with or is inconsistent with any term, condition, provision, requirement or specification in any exhibit and/or attachment to this Agreement, the provisions of this body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

**13. Controlling Law**



The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California.

**14. Notices**

Any notice, request, demand, or other communication required or permitted hereunder shall be deemed to be properly given when deposited in the United State mail, postage prepaid, or when deposited with a public telegraph company for transmittal, charges prepaid, addressed to:

**In the case of District, to:**  
Walter Haub - Director of Facilities  
Sequoia Union High School District  
480 James Avenue  
Redwood City, CA 94062

**In the case of Contractor, to:**  
Rich Meyers - Vice President  
Sound and Signal  
277 Rickenbacker Circle  
Livermore, CA 94550

SEQUOIA UNION HIGH SCHOOL DISTRICT

By: \_\_\_\_\_  
Superintendent

Date: \_\_\_\_\_

Budget Code: 01-8150-0-0000-8300-5641-SITE  
01-8150-0-0000-8300-5813-SITE

Sound & Signal, Inc  
Contractor's Name

Rich Meyers  
Contractor's Signature

Date: 10-20-14

Exhibit "A"

In consideration of the payments set forth in Exhibit "B," SOUND AND SIGNAL shall provide the following services:

- a. Routine maintenance servicing, repairs and installation services for fire alarm and intercom equipment located in classrooms, all offices and elevators district wide.
- b. Sound and Signal will also perform annual fire alarm inspections district wide.

Exhibit "B"

In consideration of the services provided by SOUND AND SIGNAL in Exhibit "A," Sequoia Union High School District shall pay SOUND AND SIGNAL based on the following fee schedule:

Routine Service and Repairs and Installations of Fire Alarm Equipment  
District Wide.....\$48,520.00

Annual Inspections and Testing:

Sequoia	6,814.00
M-A	5,456.00
Carlmont	6,038.00
Woodside	4,098.00
Redwood	885.00
District	497.00
Summit	1,079.00
Technology	691.00
Teen Wellness	497.00
T.R.A.C.E.	497.00
5 <sup>th</sup> Ave.	1,661.00
Myrtle St.	1,273.00
Green St.	497.00
Adult School	497.00
Total	\$30,480.00

TOTAL CONTRACT .....\$79,000.00

Agenda Item: 8i  
Date: 11/5/14

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

Sequoia Union High School District  
480 James Avenue  
Redwood City, CA 94062  
Attention: Enrique Navas, Associate Superintendent

This document is recorded for the benefit of the  
Sequoia Union High School District, and recording is  
fee exempt under Section 6103 of the Government  
Code.

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**FACILITIES LEASE**  
Menlo-Atherton High School New F Wing Classroom Building and Addition Project

by and between

CAL-PACIFIC CONSTRUCTION INC.  
1009 Terra Nova Blvd.  
Pacifica, CA 94044-4308

and

SEQUOIA UNION HIGH SCHOOL DISTRICT  
480 James Avenue  
Redwood City, CA 94062

Dated as of November 5, 2014

## **FACILITIES LEASE**

**THIS FACILITIES LEASE** ("Facilities Lease"), made as of November 5, 2014 ("Effective Date"), is entered into by and between Cal-Pacific Construction Inc., a California company duly organized and existing under the laws of the State of California, as sublessor (the "Corporation"), and the Sequoia Union High School District, a school district duly organized and validly existing under the Constitution and laws of said State of California, as sublessee (the "District").

### **RECITALS**

WHEREAS, the District desires to provide for the construction of a new classroom building and additional classrooms in the F Wing of the District's Menlo-Atherton High School, at 555 Middlefield Road, Atherton, California as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Project");

WHEREAS, as of the date hereof, the District has leased to the Corporation the real property for the construction of the Project described on Exhibit "B" attached hereto (the "Site") pursuant to the terms of a Site Lease dated November 5, 2014 by and between the District and the Corporation;

WHEREAS, the District is authorized under Section 17406 of the Education Code of the State of California to lease the Site to the Corporation and to have the Corporation construct the Project on the Site and to lease to the District the Site and the Project, and has duly authorized the execution and delivery of this Facilities Lease;

WHEREAS, the Corporation is authorized to sublease the Site as lessee and to construct the Project on the Site, and has duly authorized the execution and delivery of this Facilities Lease;

WHEREAS, the Governing Board of the District (the "Board") has determined that it is in the best interests of the District and for the common benefit of the citizens residing in the District to construct the Project by leasing the Site to the Corporation and by immediately entering into this Facilities Lease under which the District will sublease the Site and lease the Project from the Corporation and make Lease Payments on the dates and in the amounts set forth in the payment schedule attached hereto as Exhibit "C" (the "Lease Payment Schedule").

WHEREAS, the District has performed all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into this Facilities Lease do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Facilities Lease;

**NOW, THEREFORE**, in consideration of the above premises and of the mutual covenants hereinafter contained and for other valuable consideration, the parties hereto do hereby agree as follows:

## ARTICLE I

### DEFINITIONS AND EXHIBITS

Section 1.1. Definitions. Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Facilities Lease, have the meanings herein specified.

“Construction Provisions” means the terms and conditions for construction of the Project as set forth in Exhibit “D” of this Facilities Lease.

“Corporation” means Cal Pacific Construction Inc., a California company duly organized and existing under the laws of the State of California, its successors and assigns.

“Corporation Representative” means the Chief Executive Officer of the Corporation, or any person authorized to act on behalf of the Corporation under or with respect to this Facilities Lease as evidenced by a resolution conferring such authorization adopted by the Board of Directors of the Corporation or as so designated by the Vice-President of the Corporation.

“District” means the Sequoia Union High School District, a school district duly organized and existing under the laws of the State of California.

“District Representative” means the Superintendent or any Assistant Superintendent of the District, the Director of Facilities of the District, or any other person authorized by the Governing Board of the District to act on behalf of the District under or with respect to this Facilities Lease.

“Event of Default” means one or more events of default as defined in Section 9.1 of this Facilities Lease.

“Facilities Lease” means this Facilities Lease together with any duly authorized and executed amendment hereto.

“Lease Payment” means any payment required to be made by the District pursuant to Section 4.5 of this Facilities Lease and as set forth in Exhibit “C” attached to this Facilities Lease.

“Lease Payment Schedule” shall mean the payment schedule attached hereto as Exhibit “C.”

“Permitted Encumbrances” means, as of any particular time: (i) liens for general ad valorem taxes and assessments, if any, not then delinquent, or which the District may, pursuant to provisions of Section 5.1 hereof, permit to remain unpaid; (ii) the Site Lease; (iii) this Facilities Lease; (iv) 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



Facilities Lease and which will not materially impair the use of the Site; and (v) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions established following the date of recordation of this Facilities Lease and to which the Corporation and the District consent in writing which will not impair or impede the operation of the Site.

“Project” means the improvements and equipment to be constructed and installed by the Corporation as more particularly described in Exhibit “A” attached hereto, and includes, unless the context requires otherwise, the Site.

“Site” means that certain parcel of real property and improvements thereon (if any) more particularly described in Exhibit “B” attached hereto.

“Site Lease” or “Lease” means the Site Lease dated as of November 5, 2014, by and between the District and the Corporation together with any duly authorized and executed amendment thereto under which the District leases the Site to the District.

“Term of this Facilities Lease” or “Term” means the time during which this Facilities Lease is in effect, as provided for in Section 4.2 of this Facilities Lease.

Section 1.2. Exhibits. The following Exhibits are attached to and by reference incorporated and made a part of this Facilities Lease:

Exhibit A - DESCRIPTION OF PROJECT: The description of the Project.

Exhibit B - DESCRIPTION OF SITE: The descriptions of the real property constituting the Site.

Exhibit C - SCHEDULE OF LEASE PAYMENTS: The schedule of Lease Payments to be paid by the District hereunder.

Exhibit D - CONSTRUCTION PROVISIONS: The terms and conditions for the construction of the Project.

## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1. Representations, Covenants and Warranties of the District. The District represents, covenants and warrants to the Corporation as follows:

(a) Due Organization and Existence. The District is a school district, duly organized and existing under the Constitution and laws of the State of California.

(b) Authorization. The District has the full power and authority to enter into, to execute and to deliver this Facilities Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution of this Facilities Lease.

(c) No Violations. Neither the execution and delivery of this Facilities Lease nor the Site Lease, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the District is now a party or by which the District is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the District, or upon the Site, except Permitted Encumbrances.

Section 2.2. Representations, Covenants and Warranties of the Corporation. The Corporation represents, covenants and warrants to the District as follows:

(a) Due Organization and Existence. The Corporation is a California company duly organized and existing under the laws of the State of California, has power to enter into this Facilities Lease and the Site Lease; is possessed of full power to own and hold real and personal property, and to lease and sell the same; and has duly authorized the execution and delivery of all of the aforesaid agreements.

(b) No Encumbrances. The Corporation will not pledge the Lease Payments or other amounts derived from the Site and from its other rights under this Facilities Lease, and will not mortgage or encumber the Site, except as provided under the terms of this Facilities Lease or for the purposes of Corporation receiving financing for any portion of the Project.

(c) No Violations. Neither the execution and delivery of this Facilities Lease or the Site Lease, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Corporation is now a party or by which the Corporation is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Corporation, or upon the Site, except Permitted Encumbrances.

(d) No Assignments. Except as provided herein, the Corporation will not assign this Facilities Lease, its right to receive Lease Payments and prepayments from the District, or its duties and obligations hereunder to any other person, firm or Corporation so as to impair or violate the representations, covenants and warranties contained in this Section 2.2. This Lease may be assigned to an affiliate of the Corporation provided that the representations, covenants and warranties in this Section 2.2 are not impaired or violated.

(e) Authorization. The Corporation has the full power and authority to enter into, to execute and to deliver this Facilities Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution of this Facilities Lease.

### **ARTICLE III**

#### **CONSTRUCTION OF PROJECT**

Section 3.1. The Corporation agrees to cause the Project to be constructed and installed in accordance with the Construction Provisions, which are attached hereto as Exhibit "D". The Corporation agrees that it will cause the construction and installation of the Project to be diligently performed. The District and the Corporation may approve changes in the plans and specifications for the Project as provided in the Construction Provisions. The Corporation will cooperate at all times with the District in bringing about the timely completion of the Project. The definition and description of the Project contained herein may be amended by the District from time to time pursuant to Section 8.2.

### **ARTICLE IV**

#### **AGREEMENT TO LEASE; TERMINATION OF LEASE; LEASE PAYMENTS; TITLE TO THE SITE**

Section 4.1. Lease of Property; No Merger. The Corporation hereby leases the Project and the Site to the District, and the District hereby leases said Project and Site from the Corporation upon the terms and conditions set forth in this Facilities Lease. The leasing by the Corporation to the District of the Site shall not effect or result in a merger of the District's leasehold estate pursuant to this Facilities Lease and its fee estate as lessor under the Site Lease, and the Corporation shall continue to have and hold a leasehold estate in said Site pursuant to the Site Lease throughout the term thereof and the term of this Facilities Lease. As to the Site, this Facilities Lease shall be deemed and constitute a sublease.

Section 4.2. Term of Facilities Lease. The Term of this Facilities Lease shall commence as of the Effective Date and shall terminate on the completion of the Project and payment of the last Lease Payment, as provided in the Lease Payment Schedule.

Section 4.3. Termination of Term. The Term of this Facilities Lease shall terminate upon the earliest of any of the following events:

(a) an Event of Default and the Corporation's election to terminate this Facilities Lease pursuant to Section 9.2 hereof; or

(b) the arrival of last day of the Term of this Facilities Lease and payment of all Lease Payments hereunder, or occupancy of a substantially complete Project by District, whichever comes first.

Section 4.4. Possession. The District may take possession of the Project hereunder as it is completed.

Section 4.5. Lease Payments.

(a) Obligation to Pay. Subject to the provisions of Articles III, VI and X hereof, the District agrees to pay to the Corporation, its successors and assigns, as rental for the use and occupancy of the Project and the Site, the Lease Payments in the amounts specified in the Lease Payment Schedule. Pursuant to the Lease Payment Schedule, Lease Payments shall be made for the Site and portions of the Project as construction of the Project is completed. All Lease Payments will be subject to the Final Guaranteed Maximum Sum set forth in the Construction Provisions.

(b) Lease Payments to Constitute Current Expense of the District. The District and the Corporation understand and intend that the obligation of the District to pay Lease Payments and other payments hereunder constitutes a current expense of the District and shall not in any way be construed to be a debt of the District in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by the District, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or moneys of the District. Lease Payments due hereunder shall be payable only from current funds which are budgeted and appropriated, or otherwise legally available, for the purpose of paying Lease Payments or other payments due hereunder as consideration for use of the Site during the fiscal year of the District for which such funds were budgeted and appropriated or otherwise made legally available for such purpose. This Facilities Lease shall not create an immediate indebtedness for any aggregate payments which may become due hereunder. The District has not pledged the full faith and credit of the District, the State of California or any agency or department thereof to the payment of the Lease Payments or any other payments due hereunder.

(c) Appropriation. The District has appropriated the Guaranteed Maximum Price from the District's current fiscal year and/or State funds to be received during the District's current fiscal year, and has segregated such funds in a separate account to be utilized solely for Lease Payments.

Section 4.6. Quiet Enjoyment. Excepting any interference resulting from the Corporation's performance pursuant to the Construction Provisions, during the term of this Facilities Lease, the Corporation shall provide the District with quiet use and enjoyment of the Site, and the District shall during such Term peaceably and quietly have and hold and enjoy the Site, without suit, trouble or hindrance from the Corporation, except as expressly set forth in this Facilities Lease. The Corporation will, at the request of the District, join in any legal action in which the District asserts its right to such possession and enjoyment to the extent the Corporation may lawfully do so, at District's sole cost. Notwithstanding the foregoing, the Corporation shall have the right to inspect the Site as provided in Section 7.1 hereof.

Section 4.7. Title. During the Term of this Facilities Lease, the District shall hold title to the Site and obtain title to the Project from the Corporation, and any and all additions which comprise fixtures, repairs, replacements or modifications thereof, as construction progresses and lease payments are made to Corporation. During the term of this Facilities Lease, the Corporation shall have a leasehold interest in the Site pursuant to the Site Lease.

If the District prepays the Lease Payments in full pursuant to Article X hereof or makes an advance deposit pursuant to Section 10.1 hereof, or pays all Lease Payments, all remaining right, title and interest of the Corporation, if any, in and to the Project and the Site, shall be fully transferred to and vested in the District. Upon such prepayment, this facilities Lease shall terminate and title shall be transferred to and vested in the District hereunder without the necessity for any further instrument of transfer.

Section 4.8. Abatement of Rental in the Event of Substantial Interference With Use and Occupancy of the Project and the Site. The amount of Lease Payments for the Project and the Site shall be abated during any period in which by reason of delay in the completing of the Project beyond the final completion date specified in the Construction Provisions, there is substantial interference with the use and occupancy of the Project and the Site by the District. The amount of such abatement shall be agreed upon by the District and the Corporation such that the resulting Lease Payments represent fair consideration for the use and occupancy of the portion of the Project and the Site, if any, with respect to which there is no such substantial interference. Such abatement shall continue for the period commencing with such substantial interference and ending with the termination of such interference.

Section 4.9. Fair Rental Value. The Lease Payments and any prepayment thereof coming due and payable constitute the total rental for the Project and shall be paid by the District as set forth in Exhibit "C" hereto for and in consideration of the right to use and occupy, and the continued quiet use and enjoyment of, the Project during each month. District and Corporation have agreed and determined that the total Lease Payments and any prepayment thereof do not exceed the fair rental value of the Project. In making such determination, consideration has been given to the obligations of the parties under the Facilities Lease and Site Lease, the uses and purposes which may be served by the Project, and the benefits therefrom which will accrue to the District and the general public.

## ARTICLE V

### MAINTENANCE; TAXES; AND OTHER MATTERS

Section 5.1. Maintenance, Utilities, Taxes and Assessments. Except as provided for in the Construction Provisions, the repair and maintenance of the Project and the Site shall be the responsibility of the District.

If applicable, the District shall also pay or cause to be paid all taxes and assessments of any type or nature charged to the Corporation or District affecting the Project and the Site.

## ARTICLE VI

### EMINENT DOMAIN

Section 6.1. Eminent Domain.

(a) Eminent Domain Takings. If all of the Project and the Site shall be taken permanently under the power of eminent domain, the term of this Facilities Lease shall cease as of the day possession shall be so taken. If less than all of the Project and the Site shall be taken permanently, or if all of the Project and the Site or any part thereof shall be taken temporarily, under the power of eminent domain:

(1) this Facilities Lease shall continue in full force and effect and shall not be terminated by virtue of such taking and the parties waive the benefit of any law to the contrary, and

(2) there shall be a partial abatement of Lease Payments as a result of the application of the net proceeds of any eminent domain award to the prepayment of the Lease Payments hereunder.

(b) From Eminent Domain Award. The net proceeds of any eminent domain or condemnation shall be payable to the District.

## ARTICLE VII

### ACCESS

Section 7.1. The Corporation shall have the right at all reasonable times to enter upon the Site to construct the Project pursuant to the Construction Provisions. The District shall have the right at all reasonable times to enter upon the Site for whatever purpose District chooses provided that during construction, the District shall follow all safety precautions required by the Corporation.

## ARTICLE VIII

### ASSIGNMENT, SUBLEASING; AMENDMENT

Section 8.1. Assignment and Subleasing by the District. This Facilities Lease may not be assigned by the District. Any sublease shall be subject to all of the following conditions:

(a) This Facilities Lease and the obligation of the District to make Lease Payments hereunder shall remain obligations of the District; and

(b) The District shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to the Corporation a true and complete copy of such sublease; and

(c) No such sublease by the District shall cause the Project or the Site to be used for a purpose other than a governmental or proprietary function authorized under the provisions of the Constitution and laws of the State of California.

Section 8.2. Amendment of this Facilities Lease. Without the written consent of the Corporation, the District will not alter, modify or cancel, or agree or consent to alter, modify or cancel this Facilities Lease.

## ARTICLE IX

### EVENTS OF DEFAULT AND REMEDIES

Section 9.1. Events of Default Defined. The following shall be "events of Default" under this Facilities Lease and the Site Lease and the terms "Event of Default" and "default" shall mean, whenever they are used in this Facilities Lease, any one or more of the following events:

(a) Failure by the District to pay any Lease Payment or other payment required to be paid hereunder at the time specified herein.

(b) Failure by the District to observe and perform any covenant, condition or agreement in this Facilities Lease on its part to be observed or performed, other than as referred to in clause (a) of this Section, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to the District by the Corporation; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Corporation shall not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the District within the applicable period and diligently pursued until the default is corrected.

(c) The filing by the District of a voluntary petition in bankruptcy, or failure by the District promptly to lift any execution, garnishment or attachment, or adjudication of the District as a bankrupt, or assignment by the District for the benefit of creditors, or the

entry by the District into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the District in any proceedings instituted under the provisions of the Federal Bankruptcy Statute, as amended, or under any similar acts which may hereafter be enacted.

Section 9.2. Remedies on Default. Whenever any Event of Default referred to in Section 9.1 hereof shall have happened and be continuing, it shall be lawful for the Corporation to exercise any and all remedies available pursuant to law or granted pursuant to this Facilities Lease; provided, however, there shall be no right under any circumstances to accelerate the Lease Payments or otherwise declare any Lease Payments not then in default to be immediately due and payable. Each and every covenant hereof to be kept and performed by the District is expressly made a condition hereof and upon the breach thereof, the Corporation may exercise any and all rights of entry and re-entry upon the Project and the Site, and also, at its option, with or without such entry, may terminate this Facilities Lease; provided, that no such termination shall be effected either by operation of law or acts of the parties hereto, except only in the manner herein expressly provided. In the event of such default and notwithstanding any re-entry by the Corporation, the District shall, as herein expressly provided, continue to remain liable for the payment of the Lease Payments and/or damages for breach of this Facilities Lease and the performance of all conditions herein contained and, in any event such rent and/or damages shall be payable to the Corporation at the time and in the manner as herein provided, to wit:

(a) In the event the Corporation does not elect to terminate this Facilities Lease in the manner herein provided for in subparagraph (b) hereof, the District agrees to and shall remain liable for the payment of all Lease Payments and the performance of all conditions herein contained and shall reimburse the Corporation for any deficiency arising out of the re-letting of the Project and the Site, or, in the event the Corporation is unable to re-let the Project and the Site, then for the full amount of all Lease Payments to the end of the Term of this Facilities Lease, but said Lease Payments and/or deficiency shall be payable only at the same time and in the same manner as hereinbefore provided for the payment of Lease Payments hereunder, notwithstanding such entry or reentry by the Corporation or any suit in unlawful detainer, or otherwise, brought by the Corporation for the purpose of effecting such re-entry or obtaining possession of the Project and the Site or the exercise of any other remedy by the Corporation. The District hereby waives any and all claims for damages caused or which may be caused by the Corporation in re-entering and taking possession of the Project and the Site as herein provided and all claims for damages that may result from the destruction of or injury to the Project and the Site and all claims for damages to or loss of any property belonging to the District that may be in or upon the Project and the Site. The District agrees that the terms of this Facilities Lease constitute full and sufficient notice of the right of the Corporation to re-rent the Project and the Site in the event of such re-entry without effecting a surrender of this Facilities Lease, and further agrees that no acts of the Corporation in effecting such re-renting or re-leasing shall constitute a surrender or termination of this Facilities Lease irrespective of the term for which such re-leasing or re-renting is made or the terms and conditions of such re-leasing or re-renting, or otherwise, but that, on the contrary, in the event of such default by the District the right to terminate this Facilities Lease shall vest in the Corporation to be effected in the sole and exclusive manner hereinafter provided for in subparagraph (b) hereof.



(b) In an event of default by the District hereunder, the Corporation at its option may terminate this Facilities Lease and re-rent or re-lease all or any portion of the Project and the Site. The Corporation has the remedy described in California Civil Code section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has right to sublet, subject only to reasonable limitations.) In the event of the termination of this Facilities Lease by the Corporation at its option and in the manner hereinafter provided on account of default by the District (and notwithstanding any re-entry upon the Project and the Site by the Corporation in any manner whatsoever or the re-renting or re-leasing of the Project and the Site), the District nevertheless agrees to pay to the Corporation all costs, losses or damages howsoever arising or occurring, payable at the same time and in the same manner as is herein provided in the case of payment of Lease Payments. The Net Proceeds relating to the re-renting of the Site and the Project shall be used in the manner set forth in Section 9.6 hereof. Neither notice to pay rent or to deliver up possession of the premises given pursuant to law nor any proceeding in unlawful detainer taken by the Corporation shall of itself operate to terminate this Facilities Lease, and no termination of this Facilities Lease on account of default by the District shall be or become effective by operation of law, or otherwise, unless and until the Corporation shall have given written notice to the District of the election on the part of the Corporation to terminate this Facilities Lease. The District covenants and agrees that no surrender of the Site for the remainder of the Term hereof or any termination of this Facilities Lease shall be valid in any manner or for any purpose whatsoever unless stated or accepted by the Corporation by such written notice.

Section 9.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Corporation is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Facilities Lease or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Corporation to exercise any remedy reserved to it in this Article IX it shall not be necessary to give any notice, other than such notice as may be required in this Article or by law.

Section 9.4. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Facilities Lease should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 9.5. Application of Proceeds. All net proceeds received from the re-rent, re-lease or other disposition of the Project and the Site under this Article IX, and all other amounts derived by the Corporation as a result of an Event of Default hereunder, shall be applied to the Lease Payments in order of payment date and, in the case of the Net Proceeds received from the re-renting or re-leasing of the Project and the Site pursuant to Section 9.2(b), to be applied to the prepayment of the Lease Payments in accordance with Section 10.2 hereof.

## ARTICLE X

### PREPAYMENT OF LEASE PAYMENTS

Section 10.1. Security Deposit. Notwithstanding any other provision of this Facilities Lease, the District may, so long as the District is not in default hereunder, on any date secure the payment of Lease Payments by a deposit with the Corporation of cash in an amount which is sufficient to pay all unpaid Lease Payments, including the principal and interest components thereof, in accordance with the Lease Payment Schedule set forth in Exhibit "C" hereto. In the event of a deposit pursuant to this Section, all obligations of the District under this Facilities Lease, and all security provided by this Facilities Lease for said obligations, shall cease and terminate, excepting only the obligation of the District to make, or cause to be made, Lease Payments from the deposit made by the District pursuant to this Section, and any title interest held by Developer, if any, to the Project and/or the Site shall revert to the District on the date of said deposit automatically and without further action by the District or the Corporation.

Section 10.2. Optional Prepayment. The District may prepay the Lease Payments, in whole or in part, at any time. The District shall give the Corporation written notice of its intention to exercise its option and the date and amount of such prepayment not less than fifteen (15) days in advance of the date of exercise.

## ARTICLE XI

### MISCELLANEOUS

Section 11.1. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed to have been received forty-eight (48) hours after deposit in the United States mail in registered or certified form with postage fully prepaid:

If to the Corporation: Cal-Pacific Construction Inc.

Attn: Kennedy Chan

WITH A COPY TO-  
IRENE LUM, Cal-Pacific Construction, Inc.  
Fax: 650-557-1239

If to District:

Sequoia Union High School District  
480 James Avenue  
Redwood City, CA 94062  
Attention: Enrique Navas, Associate Superintendent  
Fax: 650-306-8870  
[enavas@seq.org](mailto:enavas@seq.org)

WITH COPY TO  
John D. Nibbelin, Chief Deputy County Counsel  
Office of the San Mateo County Counsel  
400 County Center, 6<sup>th</sup> Floor  
Redwood City, CA 94063  
Fax: 650-363-4034  
jnibbelin@smcgov.org

The Corporation and the District, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

Section 11.2. Binding Effect. This Facilities Lease shall inure to the benefit of and shall be binding upon the Corporation and the District and their respective successors and assigns.

Section 11.3. Severability. In the event any provision of this Facilities Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.4. Net-Net-Net Lease. This Facilities Lease shall be deemed and construed to be a "net-net-net lease" and the District hereby agrees that the Lease Payments shall be an absolute net return to the Corporation, free and clear of any expenses, charges or setoffs whatsoever.

Section 11.5. Further Assurances and Corrective Instruments. The Corporation and the District agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Site hereby leased or intended so to be or for carrying out the expressed intention of this Facilities Lease. Within fifteen (15) days of receipt of written notice by District from Corporation or Corporation's lender, District agrees that it will execute, acknowledge and deliver to Corporation and Corporation's lender a written estoppel certificate in customary form declaring any modifications, defaults or advance payments and stating whether this Facilities Lease, as it may be modified, is in full force and effect. Any such estoppel certificate may be conclusively relied upon for the intended transaction for which the certificate was requested.

Section 11.6. Execution in Counterparts. This Facilities Lease may be executed in several counterparts, each of which shall be original and all of which shall constitute but one and the same instrument.

Section 11.7. Applicable Law. This Facilities Lease shall be governed by and construed in accordance with the laws of the State of California, County of San Mateo.

Section 11.8. Corporation and District Representatives. Whenever under the provisions of this Facilities Lease the approval of the Corporation or the District is required, or the Corporation or the District is required to take some action at the request of the other, such approval or such request shall be given for the Corporation by the Corporation Representative

and for the District by the District Representative, and any party hereto shall be authorized to rely upon any such approval or request.

Section 11.9. Captions. The captions or headings in this Facilities Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or section of this Facilities Lease, nor the construction or interpretation of any part thereof.

Section 11.10 Prior Agreements. This Facilities Lease and the corresponding Site Lease collectively contain all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Facilities Lease and no prior agreements or understanding pertaining to any such matter shall be effective for any purpose. No provision of this Facilities Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors-in-interest.

Section 11.11. Attorney's Fees. If either party brings an action or proceeding involving the Property or to enforce the terms of this Facilities Lease or to declare rights hereunder, each party shall bear the costs of its own attorney's fees.

Section 11.12 Further Assurances. Parties shall promptly execute and deliver all documents and instruments reasonably requested to give effect to the provisions of this Facilities Lease.

Section 11.13 Effect of Recitals. The Recitals above are deemed true and correct, are hereby incorporated into this Section as though fully set forth herein, and Corporation and District each acknowledge and agree that they are each bound by the same.

Section 11.14 Time of the Essence. Time is of the essence with respect to each of the terms, covenants, and conditions of this Facilities Lease.

Section 11.15 Interpretation. None of the Parties hereto, nor their respective counsel, shall be deemed the drafters of this Facilities Lease for purposes of construing the provisions thereof. The language in all parts of this Facilities Lease shall in all cases be construed according to its fair meaning, not strictly for or against any of the Parties hereto.

#### Section 11.16 Indemnity.

Corporation's Indemnity Obligation. Corporation shall indemnify, defend and hold harmless District and District's officers, agents and employees from and against any claims, damages, costs, expenses (including reasonable attorneys' fees), judgments or liabilities arising out of or in any way connected with this Facilities Lease, including, without limitation, claims, damages, expenses, or liabilities for loss or damage to any property, or for death or injury to any person or persons, in proportion to and to the extent that such claims, damages, expenses, judgments or liabilities arise from the negligence or willful acts or omissions of Corporation, its officers, agents, or employees at the Project.

District's Indemnity Obligation. District shall indemnify, defend and hold harmless Corporation and Corporation's officers, directors, shareholders, partners, members, agents and employees from and against any claims, damages, costs, expenses (including reasonable

attorneys' fees), judgments or liabilities arising out of or in any way connected with this Facilities Lease, including, without limitation claims, damages, expenses, or liabilities for loss or damage to any property or for death or injury to any person or persons, in proportion to and to the extent that such claims, damages, expenses, judgments or liabilities arise from the negligence or willful acts or omissions of District, its officers, agents or employees at the Project.

IN WITNESS WHEREOF, the parties hereto have caused this Facilities Lease to be executed by their respective officers thereunto duly authorized, as of the Effective Date.

**SEQUOIA UNION HIGH SCHOOL DISTRICT**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**CAL-PACIFIC CONSTRUCTION INC.**

By: \_\_\_\_\_  
Kennedy Chan, Vice-President

Approved as to form:

By: \_\_\_\_\_  
John D. Nibbelin, Chief Deputy, Office of the San  
Mateo County Counsel, Counsel for District

By: \_\_\_\_\_  
Patricia Walsh, Esq., Counsel for Corporation

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, <Year>, before me, the undersigned notary public, personally appeared \_\_\_\_\_, [ ] personally known to me OR [ ] proved to me on the basis of satisfactory evidence to be the person(s) whole name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary

STATE OF CALIFORNIA    )  
                                      ) ss.  
COUNTY OF \_\_\_\_\_)

On \_\_\_\_\_, <Year>, before me, the undersigned notary public, personally appeared \_\_\_\_\_, [ ] personally known to me OR [ ] proved to me on the basis of satisfactory evidence to be the person(s) whole name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary

STATE OF CALIFORNIA    )  
  ) ss.  
COUNTY OF \_\_\_\_\_)

On \_\_\_\_\_, <Year>, before me, the undersigned notary public,  
personally appeared \_\_\_\_\_, [ ] personally known to me OR  
[ ] proved to me on the basis of satisfactory evidence to be the person(s) whole name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument  
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary



## **EXHIBIT "A"**

### **DESCRIPTION OF PROJECT**

Project Name: Menlo-Atherton High School New F Wing Classroom Building and Addition  
Project  
Address: 555 Middlefield Road, Atherton, California  
Owner: Sequoia Union High School District  
Architects: Spencer Associates Architects  
DSA Number: 01-114285

Project Description: Build a new three classroom building in the vicinity of the existing F Wing Building on the Menlo Atherton High School campus. Also add two classrooms to the existing F Wing Building structure. Perform attendant site work and related tasks and paint the new building.

**EXHIBIT "B"**

**DESCRIPTION OF SITE LEASE**

**The following pages are the Site Description and map of the Menlo-Atherton High School  
New F Wing Classroom Building and Addition Project**

**and**

**A map of the Site Lease, dated November 5, 2014**

[illegible][illegible]

PLANNED LOT	TOTAL # OF SPOTS	ACCESSIBLE	VAN	STANDARD	ADDITIONAL ACCESSIBLE
WINDFLOO ROAD	410	10	2	286	8
BRIMCOO MOORE #1	18	0	1	17	1
BRIMCOO AVENUE #2	72	3	1	68	3

**LEGEND**

✓ ☐ **ACCESSION** = IN, OF, THRU, STOW, THROUGH, BEHIND, AND  
BEFORE, AFTER, AROUND, UNDER, OVER, UNDERNEATH, AND  
BETWEEN, AMONG, STAY, TO, THE, FROM, OF, ALL, CLOSURES.

☒ **THE** **GOVERNMENT** **ACROSS**

☒ **DEPENDENCY** **WORLD** **WIDE**

☒ **THE** **PROHIBIT**

☐ **FORCE**

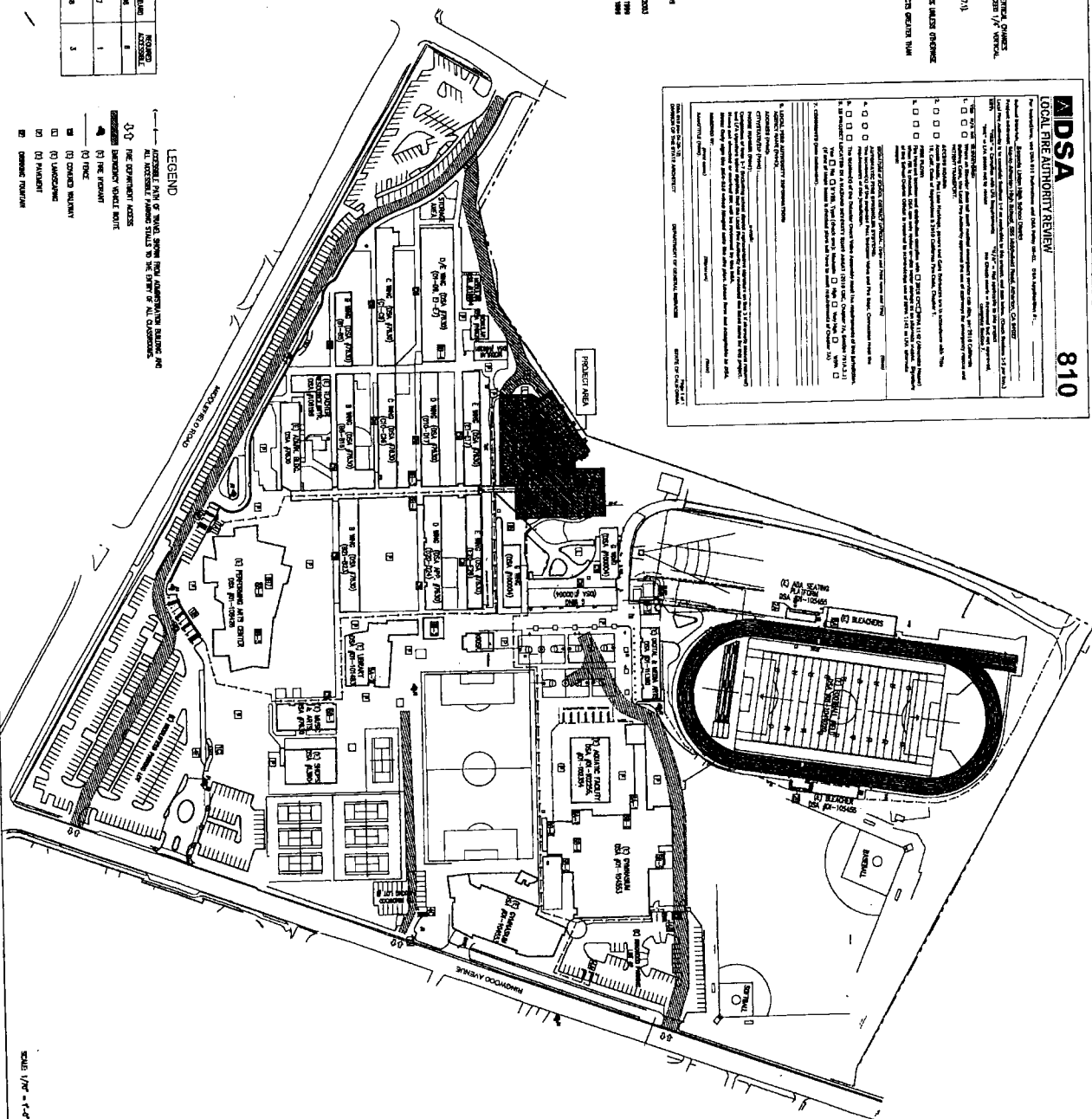
☒ **COVERED** **RELEVANT**

☒ **LANDSCAPING**

☒ **MANAGEMENT**

☒ **CONCRETE** **FOOTPATH**

**810**

[illegible]

SCALE: 1/16" = 1'-0"

**SPENCER  
ASSOCIATES**  
architects

1121 San Antonio Road, Suite C20  
Palo Alto, CA 94303  
(415) 865-7000  
Fax: (415) 865-7001



Copyright © 2004

**Agency Approval**

### Key Point

Project 1105

**F-WING  
CLASSROOM  
ADDITIONS**

MENTO-ATHERTON HIGH SCHOOL  
505 WOODFIELD ROAD  
ATHERTON, CA 94027

SENIOR UNION HIGH SCHOOL, CHICAGO

1. Type names to

---

—

1000

2000

---

[illegible]

1. **NAME**

—

\_\_\_\_\_

## **EXHIBIT "C"**

### **SCHEDULE OF LEASE PAYMENTS**

District shall make Lease Payments for the Facilities Lease in conformance with and subject to the terms and conditions for payments for the Project as set forth in the Construction Provisions. Beginning upon the term described in the Lease, the District shall pay One Dollar and no cents (\$1.00) per month for nine months, at which time all conditions described in the lease shall be satisfied, unless the construction schedule extends beyond nine months. In the event the construction schedule extends beyond the nine months the District shall continue to pay the same per-month lease payment as stipulated above until the Project is substantially completed or beneficially occupied by the District.

**EXHIBIT "D"**  
**CONSTRUCTION PROVISIONS**

**Dated November 5, 2014**

**(attached)**

EXHIBIT 'D'

**CONSTRUCTION PROVISIONS**

FOR

Sequoia Union High School District  
Menlo-Atherton High School  
Menlo-Atherton High School New F Wing Classroom Building and Addition Project  
555 Middlefield Road, Atherton, CA 94027

## 1. ACKNOWLEDGMENTS

The Sequoia Union High School District (the "District") and Cal Pacific Construction Inc. (the "Corporation") acknowledge the following, as of November 5, 2014 ("Effective Date"):

a. The District desires to have Corporation construct the Menlo-Atherton High School New F Wing Classroom Building and Addition Project at the District's Menlo-Atherton High School at the site ("Site"), which is subject to a Site Lease and a Facilities Lease, both dated October November 5, 2014 between both the District and the Corporation; and

b. The District owns the Site, or will own the Site prior to execution of the Site Lease and Facilities Lease; and

c. The District and Spencer Associates (the "Architect") have entered into an agreement for architectural services with respect to the design of the Project (the "Architectural Services Agreement"); and

d. Construction documents for the Project, including plans and specifications (collectively the "Construction Documents"), have been submitted to the Division of State Architect ("DSA") for approval, have been approved or will be approved by DSA, and are incorporated herein by this reference; and

e. Upon completion of the Construction Documents, the Corporation will have thoroughly investigated the site conditions and reviewed the Construction Documents to establish that there are no known problems with respect to the site conditions or the Construction Documents and that Corporation can and will construct the Project for the Guaranteed Maximum Price as set forth and defined in Article 3(b) of these Construction Provisions, and Corporation will not seek any additional compensation whatsoever, including, without limitation, any requests based upon known site conditions unless otherwise provided in these documents; and

f. Corporation is experienced in the construction of the type of facility desired by District and will have all construction performed by firms with all necessary licenses and qualifications which are required to build and deliver the Project.

g. District agrees to remove or relocate all identified obstructions from the site that will be in conflict with the performance of the Work prior to the start of demolition and construction, specifically, but not limited to hazardous material abatement.

## 2. CORPORATION'S DUTIES AND STATUS

Corporation shall be responsible for furnishing and completing the construction of the Project pursuant to these Construction Provisions and the Construction Documents. Corporation further agrees to furnish efficient business administration and superintendence and to provide all reasonably necessary labor, equipment and materials, and to perform the work appropriately, expeditiously, and economically, consistent with the interests of District.

### 3. DEFINITIONS

a. CONSTRUCTION. The term "Construction" as used herein includes all labor and services necessary for the construction and delivery of the Project, and all materials, equipment, tools, supplies and incidentals incorporated or to be incorporated in such construction as fully described in the Scope of Work for Construction Services set forth in Article 7. Unless otherwise expressly stipulated, Corporation shall perform all work and provide and pay for all materials, labor, tools, equipment and utilities, including, but not limited to, light, water and power, necessary for the proper execution and completion of the Project pursuant to the Construction Documents and the terms of these Construction Provisions.

b. GUARANTEED MAXIMUM PRICE. The term "Guaranteed Maximum Price" (also sometimes referred to herein as the "GMP") as used herein means the amount of three million four hundred and forty three thousand six hundred dollars (\$3,443,600), to be paid to Corporation by the District for the performance of Construction Services, subject to the provisions of the Contingency Fund as set forth in Article 4 of these provisions, and subject to any adjustments for Extra Work/Modifications as provided in Article 8, and Supplemental Provisions (Attachment No. 2) or Savings as provided in Article 6. The parties agree that the GMP includes the amount of one hundred and thirty seven thousand six hundred dollars (\$137,600) that has already been disbursed to the Corporation to pay for preconstruction services pursuant to a Preconstruction Agreement between the District and the Corporation dated October 8, 2014. Consequently, the District will be entitled to an offset against its obligation to pay Corporation for work done pursuant to this agreement equal to the \$137,600 already disbursed for preconstruction services.

Corporation will prepare a detailed line item costing of the Guaranteed Maximum Price and once agreed to by District and Corporation it shall be attached to this Exhibit D as Attachment No. 3. All parties acknowledge that the Guaranteed Maximum Price is based on the plans and specifications, which are attached hereto as Attachment No. 1 upon DSA approval, and as amended by DSA or as amended by mutual agreement of Corporation and District.

District and Contractor represent and warrant that the Guaranteed Maximum Price consists of progress payments ("Progress Payments") to be paid by District during the course of construction, plus the additional sums to be paid as a portion of the Lease Payments or optional prepayment thereof. District and Corporation represent and warrant that 1) the total amount of Lease Payments and optional prepayment thereof constitute the total rental for the Project, which total does not exceed the fair market value for the Project, 2) said rental amount has been incorporated into the Guaranteed Maximum Price in consideration and inducement of this document and the Site Lease and Facilities Lease, the uses and purposes which may be served by the Project, and the benefits there from which will accrue to the District and the general public, and 3) said rental amount shall be paid by the District as a part of the Guaranteed Maximum Price, pursuant to the terms of this document. For purposes of accounting and tracking expenditures, the Guaranteed Maximum Price includes an amount of Twelve Dollars (\$12.00), which amount shall be paid as rental/lease payments or prepayment thereof, which rental/lease



payments or prepayment thereof shall be paid monthly by the District during the course of construction, in equal payments, with District non-local match contribution local funds.

To the extent that the Construction Documents, as defined below, differ from the plans and specifications ("Plans and Specifications") attached hereto, such differences will be dealt with under the provisions for Modifications and Savings as addressed in this document.

If the Guaranteed Maximum Price shall contain allowances for items the scope of which cannot be fixed, such allowances shall be described in Section 4 of these Construction Provisions and they shall be in the control of the District. Allowance funds shall be used only for the direct cost of labor, material, equipment, subcontract cost and shall not be applied to general conditions, overhead, or profit.

District shall pay to Corporation upon execution of the Site Lease and Facilities Lease, upon presentment of an invoice from Corporation and review and approval thereof by District, for all services rendered by Corporation as of said date of execution, if any. Any such payment shall be included within the Guaranteed Maximum Price.

- c. SUBCONTRACTOR. As used herein, the term "Subcontractor" shall mean any person or entity that has a contract with the Corporation to perform any of the Construction.
- d. CONSTRUCTION DOCUMENTS. The term "Construction Documents" means those Construction Documents for the Project, including without limitation, the Plans and Specifications which have been reviewed by Corporation, approved or to be approved by DSA, and adopted by the District.
- e. CONSTRUCTION ALLOWANCE. Funds included the GMP for scopes of work required to complete the Project without clearly identifiable quantities. Corporation shall utilize these funds, at their discretion, for the benefit of the Project. Any unspent Construction Allowance shall be credited to the District at the end of the Project.
- f. DESIGN ALLOWANCES. Funds included in the GMP for scopes of work not designed at the time of the signing of the GMP. The District shall provide the final designs for these scopes of work. Should the final cost for these scopes of work exceed the design allowance the District will increase the GMP in the amount of the overrun. Should the final cost for these scopes of work result in a savings to the GMP the Corporation will credit the savings to the District. Reference Attachment #3 for a list of these items.

#### 4. DISTRICT CONTINGENCY FUND AND ALLOWANCES

- a. Corporation and District hereby create a construction contingency fund ("Contingency Fund") for the Project's benefit that shall originally consist of one hundred and sixty one thousand dollars (\$161,000.00). This Contingency Fund is a line item within the

Guaranteed Maximum Price. In no event shall the total Project budget exceed the budget set forth in section 3(b) herein.

The Contingency Fund shall be utilized for the payment of: (1) design constructability issues; or (2) scheduling issues; or 3) overruns in construction allowances general requirements and general conditions; or 4) scopes of work required by the contract documents but not identified in the subcontract scopes of work or allowances. Utilization of this Contingency Fund shall be at the discretion of the District for the funding of work herein defined.

b. Owner Allowance for Removal of Hazardous Materials. Corporation and District hereby establish an allowance of fifty thousand dollars (\$50,000) which shall be for the Project's benefit and used to remove from the Site and dispose of hazardous materials presently on the Site ("Hazardous Materials Removal Allowance"). This allowance is a line item within the Guaranteed Maximum Price. Utilization of the Hazardous Materials Removal Allowance shall be at the discretion of the District.

#### 5. NOTICE TO PROCEED WITH CONSTRUCTION SERVICES

After execution of the Facilities Lease and any related documents relating to the lease of the Site and/or the construction of the Project, District shall promptly issue to Corporation a Notice to Proceed with the construction of the Project pursuant to the terms hereof.

#### 6. COST SAVINGS

The Corporation shall work cooperatively with Architect, subcontractors and District, in good faith, to identify appropriate opportunities to reduce the Project costs and promote cost savings. Any identified cost savings from the Guaranteed Maximum Price shall be identified by Corporation, and if approved in writing by the District, such cost savings shall be credited to the District as indicated in Attachment No. 2. If any cost savings require revisions to the Construction Documents, Corporation shall work with the Architect with respect to revising the Construction Documents and, if necessary, assist the Architect in obtaining the approval of DSA with respect to such revisions. Any reasonable cost incurred by Architect for such revisions shall be paid for out of the identified savings by the District. Corporation shall be entitled to an extension of contract time equal to the delay in completion caused by any cost savings adopted by District.

#### 7. SCOPE OF WORK FOR CONSTRUCTION SERVICES

a. Corporation shall complete the construction of the Project in accordance with the Construction Documents and these Construction Provisions, performing all work relating to the Project appropriately, expeditiously, and economically, with a reasonable standard of quality with respect to material, assembly, finishes and workmanship. All construction shall be pursuant to DSA-approved construction documents.

- b. Corporation shall establish procedures for the protection of the Project and all existing structures, equipment, utilities, and other existing improvements, both on-site and off-site.
- c. District represents that for this project there are no CEQA mitigation measures for Corporation to perform.
- d. Corporation will establish an electronic document control system including all internal and external correspondence related to the Project, and all project documents, drawings, contracts, change orders (if applicable), contractor submittals, and shop drawings.
- e. Corporation will prepare, file, and distribute a Project Status Report as requested by the District, as well as Verified Reports required by Title 24 and expenditure logs required by OPSC.

Notwithstanding the above, District shall be responsible for the following:

(1) With the assistance of Corporation, District shall cause the appropriate professionals to stamp and sign, as required, the original Construction Documents or parts thereof.

(2) District shall pay for all utility hook-ups and utility connection fees.

(3) With Corporation's assistance and guidance, District shall obtain and pay for all permits, inspections, fees and licenses relating to the Project, however, District shall not be responsible for any costs for the building licenses of Corporation and Corporation's subcontractors.

## 8. EXTRA WORK/MODIFICATIONS

a. The District may prescribe additional work or a modification of requirements or of methods of performing the construction of the Project which differ from the work or requirements set forth in the Construction Documents (the "Modifications"); and for such purposes, the District may at any time during the life of the Facilities Lease, by written order, make such changes as it shall find necessary in the design, line, grade, form, location, dimensions, plan, or material of any part of the work or equipment specified herein or in the Construction Documents, or in the quantity or character of the work or equipment to be furnished.

b. Prior to Corporation commencing any work with respect to Modifications, District and Corporation must agree upon the cost or savings of such Modifications or a mutually agreeable mechanism for establishing the cost or savings, which shall be added to the Guaranteed Maximum Price.

## 9. TIME OF COMPLETION OF CONSTRUCTION SERVICES

Once the District has issued a Notice to Proceed pursuant to Article 5, hereof, Corporation shall proceed with the construction of the Project with due diligence. If Notice to Proceed is given to allow work to begin November 10, 2014, Corporation agrees to substantially complete the work by August 5, 2015. Project Substantial Completion is the stage at which the entire Project is sufficiently complete in accordance with the Contract Documents to allow District to use and occupy the entire Project as intended. Weather days shall be in addition to the allotted time and will extend the substantial completion date when incurred.

10. PROGRESS SCHEDULE

Within fifteen (15) days after the District's issuance of a Notice to Proceed with Construction Services pursuant to Article 5 hereof, Corporation shall furnish District with a schedule setting forth the expected dates for commencement and completion of each of the various stages of construction to be performed by Corporation pursuant to the terms hereof (the "Progress Schedule"). The Progress Schedule shall utilize the Completion Date and shall be updated by Corporation as necessary and revisions in said schedule shall be furnished to District. Up to five (5) calendar days shall be allotted for in the Progress Schedule for weather days. The weather days shall be shown on the Progress Schedule and if used will extend the Project Substantial Completion date. It is specifically understood that District will utilize the Progress Schedule as it is revised from time to time to determine final dates upon which to make decisions it must make with respect to the Project.

11. LIQUIDATED DAMAGES

IF THE PROJECT IS NOT COMPLETED BY AUGUST 5, 2015 IT IS UNDERSTOOD THAT THE DISTRICT WILL SUFFER DAMAGE. IT BEING IMPRACTICAL AND UNFEASIBLE TO DETERMINE THE AMOUNT OF ACTUAL DAMAGE, IT IS AGREED THAT THE CORPORATION SHALL PAY TO DISTRICT, AS FIXED AND LIQUIDATED DAMAGES, AND NOT AS A PENALTY, TWO THOUSAND DOLLARS (\$2,000) FOR EACH CALENDAR DAY OF DELAY IN SUBSTANTIAL COMPLETION OF THE PROJECT.

Section 11 "Liquidated Damages," is expressly understood and agreed to by the parties hereto:

\_\_\_\_\_ Corporation's Initials

\_\_\_\_\_ District's Initials

In the event that the performance and/or completion of the Project is delayed at any time by any act or omission of District or by any employee or agent of District, by strikes, by lockouts, by fire, by embargoes, by flood, by weather, by earthquake, by acts of war or God, or by any other cause beyond the reasonable control of Corporation, the aforesaid date for completion of the Project shall be extended for a reasonable period as a consequence of such delay.

## 12. PROGRESS PAYMENTS FOR CONSTRUCTION SERVICES

Subject to the provisions set forth in the Facilities Lease, each month while Corporation is providing Construction Services, District shall pay to Corporation a sum equal to ninety five percent (95%) of value of the construction service work performed up to the last day of the previous month, less the aggregate of previous payments (the "Progress Payments"). District's obligation to make progress payments is contingent on Corporation providing information and documentation relating to such payments (e.g., waivers, affidavits, etc.) in a form reasonably acceptable to the District. If all of the necessary information is submitted and accurate (including the schedule of values), District shall approve the Progress Payments within five (5) days after District's receipt of the periodic estimate for partial payment and District shall pay such Progress Payments within thirty (30) days after the District's approval of the periodic estimate for partial payment, provided, however, that the District will use reasonable efforts to process complete applications for Progress Payments more quickly. The District shall return any Progress Payment application that it asserts does not conform with the contract requirements within five (5) days of receipt, with a written explanation of each item that the District contends is nonconforming. Progress Payments shall be made on the basis of monthly estimates which shall be prepared by Corporation on a form approved by District and certified by Architect and Project Inspector, or the approved representative of the District, and filed before the fifth day of the month during which payment is to be made. Work completed as estimated shall be an estimate only and no inaccuracy or error in said estimate shall release Corporation or any bondsman from such work or from enforcing each and every provision of this Construction Provisions and District shall have the right subsequently to correct any error made in any estimate for payment. Corporation shall not be entitled to have any payment estimates processed or be entitled to have any payment made for work performed so long as any lawful or proper direction concerning non-complying work or any portion thereof given by the District lacks correction by Corporation. District shall withhold from the Progress Payments 150% of the estimated value of non-complying work unless satisfactorily corrected or remedied.

In no event shall the cumulative total of the Progress Payments for Construction Services, along with the balance of the Contingency Fund and any anticipated retention ever exceed the Guaranteed Maximum Price as defined herein, unless modified pursuant to Article 8 of these Construction Provisions.

Title to new materials and/or equipment for the work of this contract, on a continuous basis while the Project is being completed, shall vest in the District. However, responsibility for such new material and/or work of this contract shall remain with the Corporation until incorporated into the work and accepted by District pursuant to Section 14 herein; no part of said materials and/or equipment shall be removed from its place of storage except for immediate installation in the work of this contract; and Corporation shall keep an accurate inventory of all said materials and/or equipment in a manner satisfactory to the owner or its authorized representative.

## 13. PAYMENTS WITHHELD

a. District may withhold from the Progress Payments a sufficient amount or amounts (a maximum of 150%) as in its judgment may be necessary to cover:

(1) Payments which may be past due and payable for just claims against Corporation or any subcontractors for labor/materials furnished in and about the performance of work on the Project.

(2) Defective work not remedied.

(3) Failure of Corporation to make proper payments to its subcontractor(s) for material or labor.

(4) Completion of contract if there exists a reasonable doubt that contract can be substantially completed for balance then unpaid.

(5) Damage to another contractor.

(6) Site clean-up.

When the above grounds are removed or corrected, payment shall be made for amounts withheld because of them.

b. District may apply such withheld amount or amounts to payment of such claims or obligations at its reasonable discretion. In so doing, District shall be deemed the agent of Corporation and any payment so made by District shall be considered as a payment made under contract by District to Corporation and District shall not be liable to Corporation for such payments made in good faith. Such payments may be made without prior judicial determination of claim or obligations. District will render Corporation a proper accounting of such funds disbursed on behalf of Corporation.

#### 14. ACCEPTANCE OF COMPLETION; RELEASE OF RETENTION; SUBSTITUTION OF SECURITIES

The Project shall only be considered complete after District accepts completion of the Project and records the Notice of Completion for the Project. District shall have no obligation to accept completion of the Project until the entire work has been completed to the satisfaction of the District, except for minor corrective items, as distinguished from incomplete items. Architect and Project Inspector, or any other approved representative of the District, shall determine when the work is complete. Subject to these Construction Provisions, District will release any retention within thirty-five (35) days of recordation of the Notice of Completion, provided, however, that the District's obligation to release the retention shall be contingent on the Corporation providing information and documentation (e.g., affidavits and waivers, etc.) in a form reasonably satisfactory to the District. The release of the retention hereunder shall constitute the final Lease Payment, as provided for in the Facilities Lease. Furthermore, District shall make said final Lease Payment within 35 days from recordation of the Notice of Completion, or upon the date of occupancy of the Project by District, whichever comes first.



The District will permit the substitution of securities in accordance with the provisions of Public Contract Code Section 22300.

15. PAYMENTS BY CORPORATION

Corporation shall make all payments to subcontractors and suppliers as expeditiously and timely as possible, consistent with the subcontract agreement so as to prevent any stop payment notices, liens or claims from being filed against the District or the Site. Corporation shall subject to the owners' objection to pay indemnify, defend and hold District harmless from any claims or actions which allege that any subcontractor or supplier failed to be paid with respect to the Project.

16. CORPORATION'S SUPERVISION

Corporation shall supervise and direct the construction and completion of the Project using the Corporation's best skill and attention. Corporation shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Project. Specific duties of the Corporation shall be in accordance with all applicable sections of Title 24 of the California Code of Regulations, which relate to the duties of a contractor. Corporation shall construct the Project in accordance with the DSA approved Construction Documents. Corporation shall correct any deficiencies, which are the cause of Corporation noted by Inspector, DSA, or other applicable agencies before or during construction, so that the Project upon completion shall be fit for occupancy for any and all school purposes.

Corporation shall be responsible to the District for acts and omissions of the Corporation's employees, subcontractors, material and equipment suppliers, employees, and other persons performing or completing portions of the Project under direct or indirect contract with the Corporation of any of its subcontractors.

Corporation shall not be relieved of obligations to perform the Project in accordance with the Construction Documents by tests, inspections, or approvals required or performed by persons other than the Corporation.

Corporation shall provide a competent superintendent and assistants as necessary that shall be in attendance at the Project site during construction of the Project.

Corporation and each subcontractor shall furnish a competent and adequate staff as necessary for the proper administration, coordination, supervision, and superintendence of its portion of the Project, organize the procurement of all materials and equipment so that they will be available at the time they are needed for the Project, and keep an adequate force of skilled and fit workers on the job to complete the Project in accordance with all requirements of the Construction Documents.

District shall have the right, but not the obligation, to require the removal from the Project of any superintendent, staff member, agent, or employee of Corporation, subcontractor, material or equipment supplier, etc., for cause.

Corporation shall enforce strict discipline and good order among the Corporation's employees and other persons carrying out the Contract. Corporation shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

17. DOCUMENTS ON SITE

Corporation shall keep one copy of all Construction Documents (as well as these Construction Provisions) including addenda, change orders and Titles 21 and 24 of the California Code of Regulations on the job site at all times. Said documents shall be kept in good order and available to District and representatives. Corporation shall be acquainted with and comply with the provisions of said Titles 21 and 24 as they relate to the Project. (See particularly the Duties of Contractor, Title 21, California Code of Regulations, Section 43.)

18. PROVISION OF TEMPORARY UTILITIES

All temporary utilities, including, but not limited to, gas and telephone used, shall be provided and paid for by Corporation. Corporation shall furnish and install necessary temporary distribution systems, including meters, if necessary, from distribution points to points on site where any utility is necessary to carry on the work. Upon completion of work on the Project, Corporation shall remove all temporary distribution systems. District will pay monthly usage charges for gas, water and electric.

19. TEMPORARY SANITARY FACILITIES

Corporation shall provide a sanitary temporary toilet building as directed by the District's Inspector for use of all workmen. The building shall be maintained in a sanitary condition at all times and shall be left at the site until removal is directed by the Inspector. Use of toilet facilities in the work under construction shall not be permitted except by approval of the Inspector.

20. PROTECTION OF WORK AND PROPERTY

- a. Corporation shall be responsible for all damages to persons or property that occur as a result of its fault or negligence in connection with the prosecution of the Project and shall be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance by District. All work with respect to the Project shall be solely at the Corporation's risk. Corporation shall adequately protect adjacent property from settlement or loss of lateral support as provided by law and the Construction Documents. Corporation shall take all necessary precautions for safety of employees on the work site and shall comply with all applicable safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to premises where work is being performed. Corporation shall erect and properly maintain at all times, as required by conditions and progress of work, all necessary safeguards, signs, barriers,

light, for protection of workmen and the public and shall post danger signs warning against hazards created by such features in the course of construction shall designate a responsible member of its organization on the worksite, whose duty shall be prevention of accidents. Name and position of person so designated shall be reported to the District by Corporation.

b. In an emergency affecting safety of life or of work or of adjoining property, Corporation, without special instruction or authorization from District, is hereby permitted to act, at its discretion, to prevent such threatened loss or injury and it shall so act, without appeal. If so authorized or instructed by District, any compensation claimed by Corporation on account of emergency work shall be determined by the Construction Provisions.

c. Corporation shall take adequate precautions to protect existing sidewalks, curbs, pavements, utilities, adjoining property, and structures, and to avoid damage thereof, and repair any damage thereto caused by construction operations.

d. Corporation shall:

(1) When directed by District, take preventive measures to eliminate objectionable dust.

(2) Confine any apparatus, the storage of materials, and the operations of workers to limits indicated by law, ordinances, permits, or directions of District and shall not unreasonably encumber premises with its materials, and enforce all instructions of District regarding signs, advertising, fires, danger signals, barricades, and smoking and require that all persons employed on work comply with all regulations while on the Project site.

(3) Take care to prevent disturbing or covering any survey markers, monuments, or other devices marking property boundaries or corners. If such markers are disturbed by accident, they shall be replaced by an approved civil engineer at no cost to the District.

## 21. CLEAN UP

a. Corporation at all times shall keep premises reasonably free from debris such as waste, rubbish, and excess materials and equipment caused by work on the Project. Corporation shall not leave debris under, in or about the premises at the end of any day. Upon completion of work, Corporation shall clean interior and exterior of building, including fixtures, equipment, walls, floors, ceilings, roofs, window sills and ledges, horizontal projections, and any areas where debris has collected so surfaces are free from foreign material or discoloration. Corporation shall also clean and polish all glass, plumbing fixtures, and finish hardware and similar surfaces and equipment. Upon completion of work, Corporation shall remove temporary fencing, barricades, planking and construction toilet and similar temporary facilities from site.

- b. If Corporation fails to clean up at the completion of the work, District may do so and the cost of such clean up shall be charged back to the Corporation.

22. CORRECTION OF WORK BEFORE ACCEPTANCE

a. Corporation shall promptly remove from premises all work identified by District as failing to conform to Construction Document requirements selected for completion by the Construction Documents. Corporation shall promptly replace and re-execute its own work to comply with the Construction Documents without additional expense to District and shall bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement.

b. If Corporation does not remove such identified work within a reasonable time, fixed by written notice, District may remove it and may store the material at Corporation's expense. If Corporation does not pay expenses of such removal within ten (10) days time thereafter, District may, upon ten (10) days written notice, sell such materials at auction or at private sale and shall account for net proceeds thereof, after deducting all costs and expenses that should have been borne by Corporation.

c. If Corporation fails to correct any damaged work, items of poor quality, or improperly performed work within a reasonable period of time, in no case exceeding ten (10) days after written notice by District, District may deem it inexpedient to correct such work and at the District's sole discretion, the value of such work shall be deducted from any payments due the Corporation and the District shall not be responsible for the payment of such amount.

23. CONTRACT CLOSE-OUT

a. Utility Connections. All buildings shall be connected to water, gas, sewer, and electric services, complete and ready for use. Service connections shall be made and existing services reconnected.

b. Record Drawings.

(1) Corporation shall keep one complete set of blue line prints of all drawings in good order on the job. Drawings shall be kept up to date as the work progresses and shall be available at all times for inspection.

(2) In addition to keeping the set of blue line prints discussed above, Corporation shall prepare and review an exact "as built" record of the work throughout the duration of the Project and provide a final set of "as built" drawings upon completion of the Project. The following information shall be carefully and correctly drawn on the prints and all items shall be accurately located and dimensioned from finished surfaces of building walls on all record drawings.

(A) Any work not installed as indicated on drawings.

(B) The exact location and elevations of all covered utilities, including valves, cleanouts, etc.

(3) Upon completion of the Project and as a condition precedent to approval of the Project by the District, Corporation shall obtain the District's inspector of records approval of the corrected prints and employ a competent draftsman to transfer the "as-built" information to a complete set of reproducible drawings. Corporation shall submit the complete set of drawings to District.

(4) Corporation shall deliver to District one (1) complete set of operating manuals, repair parts lists, service instructions for all electrical and mechanical equipment, and equipment warranties.

c. Maintenance Manuals. At least ten (10) days prior to final inspection, three (3) copies of complete operations and maintenance manuals shall be submitted for review. All installation, operating, and maintenance information and drawings shall be bound in 8-1/2" X 11" binders. Corporation shall provide a table of contents and all items shall be indexed with tabs. Each manual shall also contain a list of subcontractors, with their addresses and the names of persons to contact in case of emergencies. Identifying labels shall provide names of manufacturers, their addresses, ratings, and capacities of equipment and machinery.

d. Inspection Requirements.

(1) Before calling for final inspection, Corporation shall determine that the following work has been performed:

A. General construction has been completed.

B. Mechanical and electrical work complete, fixtures, in place, connected and ready for tryout and test.

C. Electrical circuits scheduled in panels and disconnect switches labeled.

D. Painting and special finishes complete.

E. Door complete with hardware, cleaned of protective film and relieved of sticking or binding and in working order.

F. Tops and bottoms of doors sealed, if needed.

G. Floors waxed and polished as specified.

H. Broken glass replaced and glass cleaned.

I. Grounds cleared of Corporation's equipment, raked clean of debris, and trash removed from site.

J. Work cleaned, free of stains, scratches, and other foreign matter, replacement of damaged and broken material.

K. Finish and decorative work shall have marks, dirt and superfluous labels removed.

(2) Final inspection will be made upon written notification from Corporation to District that work has been completed. Corporation shall receive a list (punch list) of items found unacceptable and shall promptly correct them. Upon written notification from Corporation that all items have been corrected, re-inspection for final acceptance of the Project will be made. Failure of Corporation to complete punch list items will necessitate further re-inspection. Costs of re-inspection will be deducted from contract amount.

(3) Coordinate and schedule training sessions for District personnel and verify that any subcontractor's obligations to train District personnel is satisfied. Corporation shall furnish a letter to District stating that responsible representatives of District (i.e. Director of Facilities and his designees) have been instructed in working characteristics of mechanical and electrical equipment.

e. Reporting Requirements. Corporation shall prepare and submit the final Project accounting and close-out report including all DSA forms to the Architect.

f. Post Construction Follow-up Requirements. Corporation shall provide the District with post construction follow-up for contractor warranty and guarantee items. Architect shall follow-up approximately one year from that date which is the later of: 1) eleven months from the occupancy by District of a substantially completed Project, or 2) eleven months from the date of the filing of the Notice of Completion of the Project; in order to fully assess and identify any pertinent warranty issues associated with the Project.

#### 24. ACCESS TO WORK

District and its representatives shall at all times have access to work. Corporation shall provide safe and proper facilities for such access. District and its representative shall check in with the Project Superintendent and observe all safety requirements of Corporation.

#### 25. OCCUPANCY

District reserves the right to occupy portions of the Project before completion of the Project, and such occupancy shall not constitute final acceptance of any part of work covered by this contract pursuant to Public Contract Code Section 7107 without interfering with the construction of the

Project. In the event the District occupies the Project upon substantial completion, District shall make the final Lease Payment pursuant to Section 14 herein. Corporation shall schedule, coordinate, and assist the District in occupancy of the completed project or portions thereof.

26. DISTRICT'S INSPECTOR

a. One or more inspectors employed by District (the "Inspector") in accordance with requirements of Title 21 and Title 24 of the California Code of Regulations will be assigned to the work. The Inspector's duties are specifically defined in Section 42 of Title 21.

b. Inspector shall have access to all plant operations involving work under this contract and shall be provided reasonable advance notice of the time and place of operations, which he desires to observe. Inspector shall be provided with all necessary samples of materials and work for testing purposes.

All work shall be under observation of said Inspector. Inspector shall have free access to any or all parts of work at any time. Inspection of work shall not relieve Corporation from any obligation to fulfill this contract. District's Inspector shall have authority to stop or reject work whenever there is a violation of Building Code, Title 24, the Field Act or if provisions of contract documents are not being complied with and Corporation shall instruct its employees accordingly.

Corporation shall coordinate the activities of the Inspector for the Project, as well as the activities of other technical inspections and testing agencies.

27. INSPECTOR'S FIELD OFFICE

Corporation shall provide for the use of Inspector at the site of the project a temporary office of not less than seventy-five (75) square feet of floor area to be located as directed by Inspector and to be maintained until removal is authorized by the District. The office shall be of substantial waterproof construction with adequate natural light and ventilation by means of stock design windows. Door shall have a key-type lock or padlock hasp.

A table satisfactory for study of plans and two chairs shall be provided by Corporation. Corporation shall provide and pay for adequate electric lights, local telephone service (not a pay phone), and adequate heat for the field office until authorized removal. Corporation shall also provide Inspector with the reasonable use of a copy machine and a fax machine.

28. PERFORMANCE/PAYMENT BONDS

Prior to commencement of any construction services, Corporation shall furnish a performance bond in an amount equal to the Guaranteed Maximum Price and a payment bond acceptable to the District in an amount equal to the Guaranteed Maximum Price. All bonds shall be provided by a California admitted surety as defined in Code of Civil Procedure Section 995.120. Personal sureties and unregistered sureties are unacceptable. Corporation shall keep the performance

bond in effect until expiration of the guarantee/warranty period referenced herein. Corporation shall keep the payment bond in effect for an additional six (6) months after the period in which stop payment notices may be filed as set forth in Civil Code Section 9356.

29. PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE; DAMAGE TO WORK

a. Corporation shall take out and maintain at its sole cost and expense during the term of work performed hereunder public liability and property damage insurance in the following amounts:

(1) Comprehensive general liability insurance including Corporation's risk, blanket contractual, broad form property damage, completed operations and independent contractor's liability all applicable to personal injury, bodily injury, and property damage to a limit of \$5,000,000 each occurrence and \$5,000,000 aggregate. Policy shall include a standard waiver of rights of subrogation against District by the insurance company issuing the policy.

(2) Comprehensive automobile liability insurance including owned, hired, and non-owned automobiles, for bodily injury and property damage to a combined single limit of \$1,000,000 each occurrence.

b. Corporation shall require its subcontractors, if any, to take out and maintain similar public liability and property damage insurance and comprehensive automobile liability insurance in an amount of \$1,000,000 each occurrence and \$2,000,000 aggregate.

c. All insurance policies must be issued by California admitted insurers. Alternatively, a non-California admitted insurer may be accepted at the sole discretion of the District.

d. General liability limits can be met using umbrella or excess coverage.

30. ALL RISK INSURANCE

District shall take out and maintain All Risk (Corporation's Risk) insurance on all work of improvement required by the Contract documents subject to loss or damage in an amount equal to the Guaranteed Maximum Price or the replacement construction cost, whichever is greater. Corporation and its subcontractors will be named as additionally insured and a waiver of subrogation will be included on the policy. Corporation is responsible for the deductible.

31. PROOF OF CARRIAGE OF INSURANCE

Concurrent with the execution of the Facilities Lease, Corporation shall have obtained all insurance and endorsements for such insurance which have been delivered in duplicate and approved by District.



a. Endorsements and insurance policies shall include this following clause:  
“This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to District stating date of cancellation or reduction may not be less than thirty (30) days after date of receipt of notice.”

b. Endorsements shall state in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date and cancellation and reduction notice.

c. Endorsements shall clearly state that the District is named as additional insured under the policy described and that such insurance policy shall be primary to any insurance or self-insurance maintained by the District. Said endorsements must be provided in a commercially available form deemed suitable to the District, in its sole and absolute discretion.

32. PERMITS AND LICENSES

Permits and licenses necessary for prosecution of work shall be secured and paid for by District, unless otherwise specified. Business licenses shall be secured and paid for by Corporation and subcontractors.

33. EXCISE TAXES. Not used.

34. PATENTS AND ROYALTIES

Corporation shall indemnify, defend and hold harmless the District, its officers, agents and employees harmless from liability of any nature or kind, including cost and expense, for or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of this contract, including its use by the District, unless otherwise specifically stipulated in the contract documents.

35. INDEMNITY

a. Indemnification of District.

(1) Corporation agrees to and does hereby indemnify, defend and hold harmless District, its officers, and their employees from every claim or demand made, and every liability, loss, damage, or expense of any nature whatsoever, which may arise out of Corporation's acts and/or construction of the Project including without limitation the following:

(A) Liability for damages for death or bodily injury to persons, injury to, loss or theft of property, or any other loss, damage or expense arising from the above, sustained by any person or entity, including without limitation, District, the

Corporation or any person, firm, or corporation employed by either District or Corporation upon or in connection with the Project, except for liability resulting from the active and primary negligence or willful misconduct of District, its officers, employees, agents, design professionals or independent contractors who are directly employed by the District, or resulting from defects in designs furnished by the District; and

(B) Any injury to or death of persons or damage to property caused by any act, neglect, default or omission of the Corporation, or any person, firm, or corporation employed by Corporation, either directly or by independent contract, including all damages due to loss or theft, sustained by any person, firm or corporation, including District, arising out of, or in any way connected with Corporation's performance, whether said injury or damage occurs either on or off District property, or if the liability arose from the negligence or willful misconduct of anyone employed by Corporation, either directly or by independent contract.

(C) Any dispute between Corporation and Corporation's subcontractors/suppliers/sureties, including, but not limited to, any stop payment notice actions.

Corporation, at its own expense, cost and risk, shall defend any and all actions, suits, claims, demands or other proceedings to the extent of the above-described indemnification that may be brought or instituted against District, its officers, agents, or employees, and shall pay or satisfy any judgment that may be rendered against District, its officers, agents, or employees in any action suit or other proceedings as a result thereof.

(2) Corporation shall require that indemnitee language in substantially the same form as set forth above be inserted in any agreements with its subcontractors.

(3) Where approval by the District or representative of the District is indicated, it is understood to be conceptual approval only and does not relieve Corporation of responsibility for complying with all laws, codes, industry standards and liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of Corporation or its subcontractors.

### 36. TESTS AND INSPECTIONS

With respect to any work which is required to be specially tested or approved, Corporation shall give notice in accordance with such authority of its readiness for observation or inspection at least two (2) working days prior to being tested or covered up. If inspection is by authority other than District, Corporation shall inform District of date fixed for such inspection. Required certificates of inspection shall be secured by Corporation. Observations by District shall be promptly made, and where practicable at source of supply. If any work should be covered up without approval or consent of District, it must, if required by District, be uncovered for examination and satisfactorily reconstructed at Corporation's expense in compliance with contract. Costs of tests of any materials found to be not in compliance with contract shall be

paid for by Corporation. Other costs for tests and inspections of materials shall be paid by District.

Where such inspection and testing are to be conducted by an independent laboratory or agency, such materials or samples of materials to be tested shall be selected by such laboratory or agency, or District's representative, and not by Corporation.

Corporation shall notify District a sufficient time in advance of manufacture of materials to be supplied by him under contract, which must by terms of contract be tested in order that District may arrange for testing of same at source of supply. Any materials shipped by Corporation from source of supply prior to having satisfactorily passed such testing and inspection, or prior to receipt of notice from said representative that such testing and inspection will not be required, shall not be incorporated in work without prior approval of District and subsequent testing and inspection.

Re-examination of questioned work may be ordered by District and, if so ordered, work must be uncovered by Corporation. If such work is found in accordance with contract documents, District shall pay costs of re-examination and replacement. If such work is not found to be in accordance with contract documents, Corporation shall pay such costs from the Contingency Fund.

### 37. MATERIALS

a. Except as otherwise specifically stated in this contract, Corporation shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary constructions of every nature, and all other services and facilities of every nature whatsoever necessary to complete the Project contract within specified time.

b. Unless otherwise specified, all materials shall be new and meet or exceed industry standard for school construction and all workmanship shall be of good quality.

c. Materials shall be furnished in ample quantities and at such times as to ensure uninterrupted progress of work and shall be stored properly and protected as required.

d. No materials, supplies, or equipment for work under this contract shall be purchased subject to any chattel mortgage, or under a conditional sale or other agreement by which any interest therein, or in any part thereof, is retained by seller or supplier. Corporation warrants good title to all material, supplies and equipment installed or incorporated in work and agrees upon completion of all work to deliver premises, together with all improvements and appurtenances constructed or placed thereon by him, to District free from any claim, liens or charges. Corporation further agrees that neither it nor any person, firm or corporation furnishing any materials or labor from any work covered by the Construction Provisions shall have any right to lien upon premises or any improvement of appurtenances thereon, except that Corporation may install metering

devices or other equipment of utility companies or of political subdivisions, title to which is commonly retained by utility company or political subdivision. In event of installation of any such metering device or equipment, Corporation shall advise District as to owner thereof.

e. Nothing contained in this Article, however, shall defeat or impair the rights of persons furnishing material or labor under any bond given by Corporation for their protection or any rights under any law permitting such persons to look to funds due Corporation in hands of District, and this provision shall be inserted in all subcontracts and material contracts and notice of its provisions shall be given to all persons furnishing material for work when no formal contract is entered into for such material.

f. Materials shall be stored on the premises in such manner so as not to interfere with the work and so that no portion of the structure shall be overloaded.

g. Materials or work required or necessary to be tested shall be tested under supervision of, as directed by, and at such places as may be convenient to the District. The required testing of all structural materials shall be done by an approved testing laboratory.

### 38. CLAIMS

If the Corporation shall claim compensation for any damage sustained by reason of the acts of the District or its agents, Corporation shall, within fourteen (14) days after Corporation becomes aware that it has sustained damage, make to the District a written statement of the damage sustained. On or before the fifteenth (15<sup>th</sup>) day of the month succeeding that in which such damage shall have been sustained, the Corporation shall file with the District an itemized statement of the details and amount of such damage and unless such statement shall be made as required.

### 39. WORKERS

a. Corporation shall at all times enforce strict discipline and good order among Corporation's employees and shall not employ on work any unfit person or anyone not skilled in work assigned to Corporation.

b. Corporation shall remove from the work site any person in the employ of the Corporation whom District may deem incompetent or unfit and such worker shall not again participate in the work and shall not again be employed on it except with written consent of District.

c. Corporation shall take all reasonable steps necessary to ensure that any employees of Corporation or any of its subcontractors' employees report for work in a manner fit to do their job. Such employees: (i) shall not utilize tobacco on the Project site, and (ii) shall not be under the influence of or in possession of any alcoholic beverage or of any controlled substance (except a controlled substance as prescribed by a physician so

long as the performance or safety at the Project Site is not affected thereby). Corporation shall advise its employees of these requirements before they enter on the site and shall immediately remove from the site any employee in violation of these requirements as determined by Corporation or by the District. Corporation shall impose these requirements on its subcontractors.

d. Unless exempted, Corporation shall comply with the applicable requirements of Education Code Sections 45125.1 and 45125.2 with respect to fingerprinting of employees who may have contact with the District's pupils. Corporation shall also ensure that its subcontractors on the Project also comply with the requirements of Education Code Sections 45125.1 and 45125.2.

#### 40. WAGE RATES

a. Pursuant to the provisions of Article 2 (commencing at Section 1770), Chapter 1, Part 7, Division 2 of the Labor Code of California, the governing body of District has ascertained the general prevailing rate of per diem wages in the locality in which this public work is to be performed for each craft, classification, or type of workmen needed to execute the contract.

Per diem wages shall be deemed to include employer payments for health and welfare, pension, vacation, travel time and subsistence pay as provided in Labor Code Section 1773.1 apprenticeship or other training programs authorized by Labor Code Section 3093, and similar purposes when the term "per diem wages" is used herein.

b. Each worker needed to execute the work must be paid travel and subsistence payments as defined in the applicable collective bargaining agreements filed in accordance with Labor Code Section 1773.8.

c. Holiday and overtime work when permitted by law shall be paid for at a rate of at least one and one-half times the above specified rate of per diem wages, unless otherwise specified.

d. There shall be paid each worker of the Corporation or any of its subcontractors engaged in work on the project not less than the prevailing wage rate, regardless of any contractual relationship which may be alleged to exist between the Corporation or any subcontractors and such workers.

e. Corporation shall, as a penalty to the District, forfeit an amount as determined by the Labor Commissioner pursuant to Labor Code Section 1775 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the director for such work or draft in which such worker is employed for any public work done under the contract by him or by any subcontractor under him. The difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by Corporation.

f. Copies of the determined prevailing wage rates are on file and available upon request at the District's office. District shall provide Corporation with current prevailing wage rates, in writing. Corporation shall post, at appropriate conspicuous points on the site of the Project, a schedule showing all determined general prevailing wage rates. Corporation will promptly provide the District with certified copies of its payroll records for the project upon request of the District.

g. Any worker employed to perform work on the Project which is not covered by any classification available in the District office, shall be paid not less than the minimum rate of wages specified for the classification which most nearly corresponds with work to be performed by him, and that minimum wage rate shall be retroactive to the time of initial employment of the person in the classification.

#### 41. RECORD OF WAGES PAID: INSPECTION

Pursuant to Labor Code Section 1776, Corporation stipulates to the following:

a. Corporation and each subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public under the Construction Provisions. Such records shall be recorded as mandated by the Division of Labor Standards Enforcement or shall contain the same information of such forms. Prior to beginning work pursuant to these Construction Provisions, Corporation and all subcontractors shall register and meet all requirements using the California Department of Industrial Relations' online application as required pursuant to the public works contractor registration program set forth in California Senate Bill 854.

b. The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal, or project office of the Corporation, or the appropriate subcontractor, on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employees or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (A) shall be made available for inspection or furnished upon request to a representative of the District, the Division of Labor Standards Enforcement and Division of Apprenticeship Standards of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (A) shall be made available upon request by the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the

District, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the Corporation, subcontractors, and the entity through which the request was made. The public shall not be given access to such records at the principal office of the Corporation.

c. Corporation shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested such records within ten (10) days after receipt of the written request.

d. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency, the District, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Corporation awarded the contract or performing the contract shall not be marked or obliterated.

e. Corporation shall inform the District of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five (5) working days, provide a notice of a change of location and address.

f. In the event of noncompliance with the requirements of this Article, the Corporation shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects the Corporation must comply with this Article. Should noncompliance still be evident after such 10-day period, the Corporation shall pay a penalty of twenty-five Dollars (\$25.00) to the District for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payment then due.

g. The responsibility for compliance with this Article shall rest upon Corporation.

#### 42. HOURS OF WORK

a. As provided in Article 3 (commencing at Section 1810), Chapter 1, Part 7, Division 2 of the Labor Code, Corporation stipulates that eight (8) hours of labor shall constitute a legal day's work. The time of service of any worker employed at any time by the Corporation or by the work or upon any part of the work contemplated by this contract is limited and restricted to eight hours during any one calendar day and forty (40) hours during any one calendar week, except as hereinafter provided. Notwithstanding the provisions hereinabove set forth, work performed by employees of contractors in excess of eight (8) hours per day and forty (40) hours during any one week upon this public work shall be permitted compensation of all hours worked in excess of eight (8) hours per day at not less than one and one-half times the basic rate of pay.

b. Corporation shall pay to the District at a penalty of twenty-five dollars (\$25.00) for each worker employed in the execution of this contract by the Corporation or by any subcontractor for each calendar day during which such workman is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week in violation of the provisions of Article 3 (commencing at Section 1810), Chapter 1, Part 7, Division 2 of the Labor Code, unless compensation to the worker so employed by the Corporation is not less than one and one-half (1-1/2) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

c. Any work necessary to be performed after regular working hours or on Sundays or other holidays shall be performed without additional expense to District, unless otherwise agreed to by the parties.

d. Construction work under the Construction Provisions shall be accomplished on a schedule consistent with the normal and reasonable practices of the Corporation and in compliance with applicable ordinances.

#### 43. APPRENTICES

a. All apprentices employed by Corporation to perform services under the contract shall be paid the standard wage paid to apprentices under the regulation of the craft or trade at which that apprentice is employed, and shall be employed only at the work of the craft or trade in which that apprentice is registered. Only apprentices, as defined in Labor Code Section 3077, who are in training under apprenticeship standards and written apprenticeship agreements under Chapter 4 (commencing at Section 3070), Division 3 of the Labor Code, are eligible to be employed under this contract. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprenticeship agreements under which that apprentice is training.

b. When the Corporation to whom the contract is awarded by the District or any subcontractor under the Corporation, in performing any of the work under the contract or subcontract, employs workers in any apprenticeable craft or trade, the Corporation and subcontractor shall apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the site of the public work, for a certificate approving the Corporation or subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, approval as established by the joint apprenticeship committee or committees shall be subject to the approval of the Administrator of Apprenticeship. Corporations or subcontractors shall not be required to submit individual applications for approval to local joint apprenticeship committees provided they are already covered by the local apprenticeship standards. The ratio of work performed by apprentices to journeymen, who shall be employed in the craft or trade on the public work, may be the ratio stipulated in the apprenticeship standards under which the joint apprenticeship committee operates, but in no case shall the ratio be less than one hour of



apprentices work for each five hours of labor performed by a journeyman, except as otherwise provided in Section 1777.5, of the Labor Code. However, the minimum ratio for the land surveyor classification shall not be less than one apprentice for each five journeymen.

c. "Apprenticeable craft or trade" as used in Labor Code Section 1777.5 and this Article, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the Apprenticeship Council.

d. Corporation, or any subcontractor under Corporation, who, in performing any of the work under this contract, employs journeymen or apprentices in any apprenticeable craft or trade and who is not contributing to a fund or funds to administer and conduct the apprenticeship programming any craft or trade in the area of the site of the public work, to which fund or funds other contractors in that they are at the site of the public work are contributing, shall contribute to the fund or funds in each craft or trade in which that Corporation employs journeymen or apprentices on the public work in the same amount or upon the same basis and in the same manner as other contractors do, but where the trust fund administrators are unable to accept the funds, contractors not signatory to the trust agreement shall pay like amount to the California Apprenticeship Council. Corporation or subcontractor may add the amount of such contributions in computing their bid for the contract. The Division of Labor Standards Enforcement is authorized to enforce the payment of the contributions to the fund or funds as set forth in Labor Code Section 227.

e. The responsibility of compliance with Labor Code Section 1777.5 and this Article for all apprenticeable occupations is with the Corporation.

f. The interpretation and enforcement of Sections 1777.5 and 1777.7 of the Labor Code shall be in accordance with the rules and procedures of the California Apprenticeship Council.

#### 44. WORKERS' COMPENSATION INSURANCE

Corporation shall provide, at all times in which it is providing or performing any work on the Project, at its sole cost and expense, workers' compensation insurance for all of the employees engaged in work under the terms hereof. In case any of Corporation's work is sublet, Corporation shall require the subcontractor similarly to provide workers' compensation insurance for all the latter's employees. Any class of employee or employees not covered by a subcontractor's insurance shall be covered by the Corporation's insurance. In case any class of employees engaged in work under this contract, on or at the site of the Project is not protected under Workers' Compensation laws, Corporation shall provide or shall cause a subcontractor to provide, adequate insurance coverage for the protection of such employee, not otherwise protected. Corporation shall file with the District certificates of its insurance protecting workmen. Corporation is required to secure payment of compensation to its employees in accordance with the provisions of Section 3700 of the Labor Code.

45. CERTIFICATE OF CORPORATION PURSUANT TO SECTION 1861 OF THE LABOR CODE

An authorized officer of Corporation shall sign under penalty of perjury, date and notarize a certificate which states the following: "I am aware of the provisions of Section 3700 of the Labor Code which requires 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 the performance of the work of the Construction Provisions."

46. ASSIGNMENT

Corporation shall not assign the Corporation's obligations set forth in these Construction Provisions or any part thereof.

47. CHANGE IN NAME AND NATURE OF CORPORATION'S LEGAL ENTITY

Should a change be contemplated in the name or nature of the Corporation's legal entity, the Corporation shall first notify the District in order that proper steps may be taken to have the change reflected in all corresponding legal documents.

48. WARRANTY/GUARANTEE

a. Neither final payment nor any provision in the Construction Documents shall relieve Corporation of responsibility for faulty materials or workmanship incorporated in the Project. Corporation warrants that all work done and facilities constructed pursuant to these Construction Provisions will be free of faulty materials or workmanship and hereby agrees, immediately upon receiving notification from District, to remedy, repair or replace, without cost to District, all defects which may appear as a result of faulty materials or workmanship in the Project, at any time, or from time to time, during a period beginning with commencement of the Project and ending one year after the Notice of substantial completion. The foregoing warranty of Corporation applies to the remedy, repair or replacement of defects which may appear as a result of faulty designs prepared by Corporation and/or any party retained by, through or under Corporation in connection with the Project, but the foregoing warranty of Corporation does not guarantee against damage to the Project sustained by lack of normal maintenance or as a result of changes or additions to the Project made or done by parties not directly responsible to Corporation, except where such changes or additions to the Project are made in accordance with Corporation's directions. No guarantee furnished by a party other than Corporation with respect to equipment manufactured or supplied by such party shall relieve Corporation from the foregoing warranty obligation of Corporation. The warranty period set forth hereinabove shall not apply to latent defects appearing in the Project, and with respect to such defects, the applicable statute of limitations shall apply.

b. In the event of failure of Corporation to comply with above mentioned conditions within one week after being notified in writing, District is hereby authorized to proceed to have defects repaired and made good at expense of Corporation who hereby agrees to pay reasonable costs and charges therefore immediately on demand.

c. If, in the reasonable opinion of the District, defective work creates a dangerous condition or requires immediate correction or attention to prevent further loss to the District, the District will attempt to give the notice required by this article. If Corporation cannot be contacted or does not comply with the District's requirements for correction within a reasonable time as determined by the District, the District may, notwithstanding the provisions of this article, proceed to make such correction and the reasonable cost shall be charged against Corporation. Such action by the District will not relieve the Corporation of the guarantee provided in this article or elsewhere in this contract.

d. This Article does not in any way limit the guarantee on any items for which a longer guarantee is specified or on any items for which a manufacturer gives a guarantee for a longer period. Corporation shall furnish District all appropriate guarantee and warranty certificates upon completion of the Project.

#### 49. SUBCONTRACTING

Corporation agrees to bind every subcontractor by terms of the contract as far as such terms are applicable to subcontractor's work. If Corporation shall subcontract any part of this contract, Corporation shall be as fully responsible to District for acts and omissions of each subcontractor and of persons either directly or indirectly employed by subcontractor, as Corporation is for acts and omissions of persons directly employed by it. Nothing contained herein shall create any contractual relation between any subcontractor and District.

#### 50. ASSIGNMENT OF ANTITRUST CLAIMS

Pursuant to Section 7103.5 of the Public Contract Code, in entering into a public work contract or a subcontract to supply goods, services or materials pursuant to a public works contract Corporation and its subcontractors offer and agree to assign to the District all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 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 District tenders final payment to Corporation, without further acknowledgment by the parties.

#### 51. COST BREAKDOWN AND PERIODICAL ESTIMATES

Corporation shall furnish on forms approved by District:

a. As soon as practical, a detailed estimate giving complete breakdown (including a schedule of values) of the Guaranteed Maximum Price; and,

b. A monthly application for payment with estimated percentages of completion for each bid package shall be submitted for the purposes of making Progress Payments for the Project pursuant to Article 11 of these provisions. The monthly application shall include a schedule of values for each bid package.

c. Within ten (10) days of request by District, a schedule of estimated time for Progress Payments that shall be due to Corporation under the Construction Provisions.

## 52. LAYOUT AND FIELD ENGINEERING

All field engineering and surveying required for laying out the Project and establishing grades for earthwork operations shall be furnished by Corporation. Such work shall be done by a qualified engineer. Any required "As-built" drawings of site development shall be prepared by a qualified engineer. The District shall confirm the location of the corners of the Site and benchmarks. Costs for layout and field engineering shall be included in the GMP.

## 53. CUTTING AND PATCHING

Corporation shall do all cutting, fitting, or patching of work as required to make its several parts come together properly.

## 54. SOILS INVESTIGATION REPORT

Upon completion of the Geotechnical Report and the demolition work, Corporation acknowledges that it will make a visual examination of the Site. Corporation will review the report for the Project site. No claims for allowances or damages because of Corporation's failure to adequately acquaint itself with the known conditions of the Site will be recognized provided the Geotechnical Report is completed prior to the establishment of a Guaranteed Maximum Price.

## 55. TRENCH EXCAVATION

Corporation shall submit an excavation plan, prior to start of the excavation. The plan shall be in compliance with CAL-OSHA and prepared and signed by a California registered civil or structural engineer.

All shoring submittals shall include surcharge loads from adjacent embankments, construction loads and spoil bank. Submittal shall indicate minimum horizontal distance from top of trench to edge of all surcharge loads for all cases of shoring and side slopes.

Nothing in this Article shall relieve Corporation of the full responsibility for providing shoring, bracing, sloping, or other provisions adequate for worker protection.

56. REGIONAL NOTIFICATION CENTER

Corporation, except in an emergency, shall contact the appropriate regional notification center at least two working days prior to commencing any excavation if the excavation will be conducted in an area or in a private easement which is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the District, and obtain an inquiry identification number from that notification center. No excavation shall be commenced and carried out by Corporation unless such an inquiry identification number has been assigned to the Corporation or any subcontractor of the Corporation and the District has been given the identification number by Corporation.

Emergency shall be defined as a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage (Government Code Section 4216).

57. UTILITIES - REMOVAL AND RESTORATION

No excavations were made to verify the locations of any underground utilities. Since the Project is being constructed pursuant to Education Code Section 17406, Corporation shall be responsible for the investigation of the Site with respect to any underground utilities including, without limitation, trunk, mainline and service utilities. It shall be the responsibility of Corporation to determine, within reason, the exact location of all utilities. Corporation shall make its own reasonable investigations, including exploratory excavations, to determine the locations and type of service connections, prior to commencing work which could result in damage to such utilities. District shall provide Corporation with all available information regarding the location of utilities.

58. LAWS AND REGULATIONS

Corporation shall give all notices and comply with all laws, ordinances, rules and regulations bearing on conduct of work as indicated and specified. If Corporation performs any work which is contrary to any law, ordinance, rule or regulation, Corporation shall bear all costs and expenses arising there from.

59. NOTICE AND SERVICE

a. Any notice from one party to the other under the Construction Provisions shall be in writing and shall be dated and signed by party giving such notice or by duly authorized representative of such party. The District's representative is the District's Superintendent or any other party, as designated by the District's Superintendent in writing to the Corporation. Any such notice shall not be effective for any purpose whatsoever unless serviced in one of the following manners:

(1) If notice is given to District, by personal delivery thereof to District or by depositing same in United States mail, enclosed in a sealed envelope addressed to District, postage prepaid and registered.

(2) If notice is given to Corporation, by personal delivery thereof to said Corporation or to its foreman at site of project, or by depositing same in United States mails, enclosed in a sealed envelope, addressed to said Corporation at its regular place of business or at such other address as may have been established for the conduct of work under this contract, postage prepaid and registered.

60. DISTRICT'S RIGHT TO ASSIGN THE CORPORATION'S OBLIGATIONS

a. If Corporation refuses or fails to prosecute the work or any separable part thereof with such diligence as will insure its completion within the time specified or any extension thereof, or fails to complete said work within such time, or if Corporation should be adjudged as bankrupt, or file for bankruptcy or if it should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of its insolvency, or if Corporation should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials to complete the Project in the specified time, or if Corporation should fail to make prompt payments to subcontractors or for material or labor, or persistently disregards laws, ordinances or instruction of the District, or otherwise be guilty of a substantial violation of the Construction Provisions, or if Corporation or its subcontractors should violate any other provisions of the Construction Provisions, then the District may, without prejudice or any other right or remedy, serve written notice of default reserving the right to assign ("Notice of Assignment") upon Corporation and its surety of District's intention to require the Corporation to assign the Corporation's obligations pursuant to these Construction Provisions (the "Obligations") to a party as designated by the District due to Corporation's default. Such notice shall contain the reasons for the default and Notice of Assignment and unless within twenty (20) calendar days after the service of such notice, such violation shall cease and satisfactory arrangements for the correction thereof be made by the Corporation or in the event that Corporation fails to cease such violation and make, in the District's reasonable discretion, satisfactory arrangements for the correction thereof, upon written notice from District, Corporation shall not be entitled to receive any further payment as set forth in these Construction Provisions, except as provided for in Article 60(b) of these Construction Provisions, and District shall have the absolute right to designate an assignment of the Obligations from Corporation to another party and Corporation hereby consents to such assignment.

In the event of any such written notice thereof upon surety and Corporation, surety shall have the right to take over and complete the Project by giving the District written notice of such within fifteen (15) days after service upon it of the Notice of Assignment. If the surety fails to commence performance thereof within thirty (30) days from date of serving such notice, the District may require that the Corporation and/or the surety assign the Obligations to a party designated by the District. The District may, without liability

for doing so, take possession of and utilize in completing the work such materials, appliances, plants, and other property belonging to the Corporation as may be on the site of the work and necessary herefore.

b. If the unpaid balance of the Guaranteed Maximum Price shall exceed the expenses of finishing the work including compensation for additional managerial and administrative services, such excess shall be paid to Corporation. If such expenses shall exceed such unpaid balance, Corporation shall pay difference to District within sixty (60) days of recordation of the Notice of Completion for the Project. Any expense incurred by District as herein provided, and damage incurred through Corporation's default shall be certified by the Architect.

c. The foregoing provisions are in addition to and not in limitation of any other rights or remedies available to the District.

#### 61. ASSIGNMENT FOR CONVENIENCE

The Obligations may be assigned to a party designated by the District without cause by District upon fourteen (14) days written notice to the Corporation. In the event of such assignment without cause, the District shall pay Corporation for all services performed and all expenses incurred under these Construction Provisions supported by documentary evidence, including payroll records, and expense reports up until the date of notice of assignment plus any sums due the Corporation for Board approved extra services. In ascertaining the services actually rendered hereunder up to the date of assignment, consideration shall be given to both completed work and work in process of completion whether delivered to the District or in the possession of the Corporation. In addition, Corporation will be reimbursed for reasonable assignment costs in the amount of 10% beyond the sum due the Corporation under this paragraph as assignment costs. This 10% payment is agreed to compensate the Corporation for the actual level of completion reached on the date of assignment and is consideration for entry into this assignment for convenience clause. In the event that the District requires Corporation to assign the Obligations pursuant to this Article, the Site Lease and Facilities Lease shall be terminated as of the date of the 10% payment by District and Corporation shall not be entitled to any further compensation except as provided for in this Article.

#### 62. CONTINUANCE OF WORK

In the event of a dispute between the parties as to performance of the work or the interpretation of the Construction Provisions, or payment or nonpayment for work performed or not performed, the parties shall attempt to resolve the dispute. Pending resolution of this dispute, Corporation agrees to continue the work diligently to completion. If the dispute is not resolved, Corporation agrees it will neither rescind the Facilities Lease, nor stop the progress of the work on the Project, so long as District is not in material breach of this agreement.

#### 63. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon application of either party the contract shall forthwith be physically amended to make such insertion or correction.

64. NON-DISCRIMINATION

Pursuant to the provisions of Labor Code Section 1735, Corporation and its subcontractors shall not unlawfully discriminate in the employment of persons on this project because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, and sex.

65. INDEPENDENT CONTRACTOR

Corporation is retained as an independent contractor and is not employed by the District. No employee or agent of Corporation shall become an employee of the District.

66. LIEN RELEASES

a. If a lien or stop payment notice of any nature should at any time be filed against the Project, the Site or any District property, or both of them, by an entity which has supplied material or services at the request of Corporation or subcontractor or supplier to Corporation, Corporation shall promptly, on demand by District and at Corporation's own expense, take any and all action necessary to cause any such lien or stop payment notice to be released or discharged immediately there from, or secure and file a security bond covering one hundred twenty-five percent (125%) of the amount of such lien or stop payment notice.

b. If Corporation fails to furnish satisfactory evidence to the District within ten (10) calendar days after demand by the District that a lien or stop payment notice has been so released, discharged, or secured, then District may discharge such indebtedness and deduct the amount required therefore, together with any and all losses, costs, damages, and attorney's fees and expenses incurred or suffered by District from any sum payable to Corporation.

c. Corporation shall, at its own cost, defend, indemnify and hold harmless the District, its officers, agents, employees, assigns, and successors in interest, from and against any and all liability, damages, losses, claims, demands, actions, causes of action, and costs including attorney's fees and expenses, arising from or attributable to a lien or stop payment notice filed and/or served in connection with the Project.

67. MEDIATION

The parties shall make their best efforts to informally resolve any controversy or claim arising out of or relating to the Site Lease or Facilities Lease. If informal attempts at resolution are



unsuccessful, the parties shall equally share all costs of Mediation. Each side shall bear its own attorneys fees. If the parties are unsuccessful at Mediation, by mutual agreement, they may submit the matter for non-binding arbitration, in accordance with the AAA Construction Rules. At any time, either party reserves the right to bring an action in Superior Court of San Mateo County.

68. LABOR/EMPLOYMENT SAFETY

Corporation shall maintain emergency first aid treatment for its employees which complies with the State Occupational Safety and Health Act of 1970 (29 USC, section 651 et seq.).

69. NOTICE OF TAXABLE POSSESSORY INTEREST

The terms of this document may result in the creation of a possessory interest. If such a possessory interest is vested in a private party to this document, the private party may be subjected to the payment of personal property taxes levied on such interest.

70. COMPLIANCE WITH STATE STORM WATER PERMIT FOR CONSTRUCTION

a. Corporation shall comply with all conditions of the State Water Resources Control Board (State Water Board) National Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity (the "Permit") for all construction activity which results in the disturbance of in excess of five acres of total land area or which is part of a larger common area of development or sale. District shall be responsible for filing the Notice of Intent and for obtaining the Permit. A copy of the Permit and supporting rules and orders by the State Water Board is on file with the District. District shall provide a draft of the Storm Water Pollution Prevention Program (SWPPP) for the project to Corporation at least two weeks prior to the opening of bids. It shall be Corporation's responsibility to evaluate the cost of compliance with the SWPPP in bidding on this contract. Corporation shall comply with all requirements of the State Water Resources Control Board. Corporation shall include all costs of compliance with specified requirements in the contract amount.

b. Corporation shall be responsible for implementing and complying with the provisions of the Permit and the SWPPP, including the standard provisions, monitoring and reporting requirements as required by Permit. Corporation shall provide copies of all reports and monitoring information to District.

c. Corporation shall comply with the lawful requirements of any applicable municipality, the County, drainage district, and other local agencies regarding discharges of storm water to separate storm drain system or other watercourses under their jurisdiction, including applicable requirements in municipal storm water management programs.

d. Failure to comply with the Permit is a violation of federal and state law. Corporation hereby agrees to indemnify and hold harmless District, its officers, agents, and employees from and against any and all claims, demands, losses or liabilities of any kind or nature which District, its officers, agents, and employees may sustain or incur for noncompliance with the Permit arising out of or in connection with the project, except for liability resulting from the negligence or willful misconduct of District, its officers, agents or employees. District may seek damages from Corporation for delay in completing the contract in accordance with Article 6 hereof, caused by Corporation's failure to comply with Permit.

71. COMPLIANCE WITH DTSC GUIDELINES - IMPORTED SOILS

If the Project requires the use of imported soils, the Corporation shall be responsible to use and shall certify that the imported material it uses is free of any hazardous and/or toxic substance or material of any nature or type as defined in accordance with California Law and the California Health and Safety Code. The District reserves the right to reject any imported material that has come from agricultural or commercial land issues. Corporation must notify the District of the source of material and comply with all local applicable regulations, and when applicable, with the guidelines of the Department of Toxic Substances Control (DTSC).

72. NO ASBESTOS

a. The Corporation shall execute and submit a Certificate Regarding Non-asbestos Containing Materials.

b. Should asbestos containing materials be installed by the Corporation in violation of this certification, or if removal of asbestos containing materials is part of the Project, decontaminations and removals will be performed in accordance with the requirements of all applicable laws and will meet the following criteria:

1. Decontamination and removal of work found to contain asbestos or work installed with asbestos containing equipment shall be done only under the supervision of a qualified consultant, knowledgeable in the field of asbestos abatement and accredited by the Environmental Protection Agency (EPA).

2. The asbestos removal Corporation shall be an EPA accredited Corporation qualified in the removal of asbestos and shall be chosen and approved by the asbestos consultant who shall have sole discretion and final determination in this matter.

3. The asbestos consultant shall be chosen and approved by the District which shall have sole discretion and final determination in this matter.

4. The work will not be accepted until asbestos contamination is reduced to levels deemed acceptable by the asbestos consultant.

c. If removal of asbestos containing materials is part of the project, the costs of all asbestos removal, including, but not necessarily limited to the cost of the asbestos removal Corporation, the costs of the asbestos consultant, analytical and laboratory fees, time delays and additional costs that may be incurred by the District shall be borne entirely by the District.

73. Disabled Veteran Business Enterprises. Corporation acknowledges that, pursuant to section 17076.11 of the California Education Code, the District has established a participation goal for Disabled Veteran Business Enterprises (DVBEs) of three percent (3%) of the overall dollar amount of funds allocated to the District by the California State Allocation Board and expended by the District for construction and modernization projects. The parties agree that the DVBE goal for this project is three percent (3%) of the GMP. In furtherance of the District's goal, Corporation will make reasonable efforts to obtain DVBE services for performance of all or some of the Work and will ensure that DVBEs are afforded full opportunity to submit bids in response to all subcontracts entered into in connection with the Project. Corporation will require that DVBE firms are included in and are made a part of the Contract Documents for the subcontracts for the Project. After the subcontractors have been selected in accordance with the Contract Documents, the Developer must complete, execute and submit to the District a certification regarding DBVE compliance in a form to be determined by the District.

74. Time is of the essence.

**CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS IF A COMPLAINT REGARDING A PATENT ACT OR OMISSION IS FILED WITHIN FOUR YEARS OF THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN 10 YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD, P.O. BOX 26000, SACRAMENTO, CALIFORNIA 95826.**

IN WITNESS WHEREOF, the parties hereto have caused these Construction Provisions to be executed by their respective officers thereunto duly authorized, as of the Effective Date.

**SEQUOIA UNION HIGH SCHOOL DISTRICT**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**CAL-PACIFIC CONSTRUCTION INC.**

By: \_\_\_\_\_  
Kennedy Chan, Vice-President

Approved as to form:

By: \_\_\_\_\_

John D. Nibbelin, Chief Deputy, Office of the San  
Mateo County Counsel, Counsel for District

By: \_\_\_\_\_

Patricia Walsh, Esq. Counsel for Corporation

**ATTACHMENT NO. 1**  
**CONSTRUCTION DOCUMENTS**

Approved Construction Plans, Drawings, and Other Associated Material Included in DSA  
Application Number 01-114285

## ATTACHMENT #2

### SUPPLEMENTAL PROVISIONS AND QUALIFICATIONS

#### SUPPLEMENTAL PROVISIONS:

1. Corporation's fee is a fixed amount of three million four hundred and forty three thousand six hundred dollars (\$3,443,600.00), based on the scope of work identified in DSA approved documents. The general intent of this Agreement is to build the **Menlo-Atherton High School New F Wing Classroom Building and Addition Project** described by the DSA approved documents and minor changes initiated by the District within the scope of this Agreement shall not incur any additional fee.
2. The District Contingency Fund is included in the GMP in the amount of one hundred and sixty one thousand six hundred dollars (\$161,600.00).
3. The Hazardous Materials Removal Allowance is included in the GMP in the amount of fifty thousand dollars (\$50,000.00).
4. In that this Agreement is a Guaranteed Maximum Price arrangement, any unspent funds or savings realized during the execution of the contract will be shared between the Corporation and the District, with the Corporation receiving fifty percent (50%) of any such savings and the District receiving fifty percent (50%). The District's savings shall be returned in the form of a credit to the GMP.
5. Notwithstanding the foregoing, all unspent amounts from the District Contingency Fund and the Hazardous Materials Removal Allowance shall be dispersed one hundred percent (100%) to the District.
6. Self-performed work:
  - a. The Corporation may self-perform various scopes of work, including, but not limited to direct construction work, general conditions and general requirements work as identified in the GMP, see Attachment No. 3.
  - b. Materials, consumables, equipment rental or purchase, shall be reimbursed at actual costs to the Corporation.
  - c. Management staff and labor rates shall be reimbursable at the rates indicated in Attachment No. 4. Rates shall be adjusted annually in the month of March.

#### QUALIFICATIONS:

1. The GMP is based on the plans, specifications and addenda, and the narrative description of the changes incorporated into the DSA approved documents included with DSA Application Number 01-114285.
2. Corporation will provide assistance to the District's Commissioning Agent.



**ATTACHMENT #3**

**BREAKDOWN AND DEFINITION OF GUARANTEED MAXIMUM PRICE**



# Menlo Atherton High School

Base Bid

	Lal	Total
Mobilization	\$	6,500.00
General Condition / Submittals	\$	6,500.00
Project Manager / Superintendent	\$	120,000.00
temporary facilities	\$	5,000.00
Debris & Clean up	\$	9,500.00
Final Clean-up	\$	6,500.00
Demobilization	\$	3,500.00
Equipment and rental	\$	13,000.00
Suvey	\$	6,000.00
Temp Fence	\$	6,000.00
24100 Site and General Demolition	\$	81,500.00
31000 Concrete Formwork	\$	65,000.00
32000 Concrete Reinforcement	\$	27,085.00
33000 Cast in Place Concrete	\$	83,975.00
51200 Structural Steel	\$	148,836.00
Metal Bird Screen	\$	23,000.00
61000 Rough Carpentry	\$	409,970.00
62000 Finish Carpentry	\$	12,500.00
64100 Custom Casework	\$	48,542.00
72100 Building Insulation	\$	23,230.00
72613 Above-Grade Vapor Retarder	\$	5,000.00
72616 Below-Grade Vapor Retarder	\$	5,000.00
74453 Glass Fiber Reinforced Cementitious Panel	\$	7,800.00
76113 Standing Seam Metal Roof	\$	269,430.00
79200 Caulking and Sealants	\$	6,000.00
81213 Hollow Metal Door Frames, wood & FRP doors	\$	62,260.00
83116 Access Panels	\$	3,000.00
84113 Aluminum Framed Storefront System, windows	\$	187,500.00
87100 Finish Hardware	\$	9,775.00
92400 Cement Plaster	\$	65,000.00
92900 gypsum Wallboard	\$	52,600.00
95113 Acoustical Panel Ceilings	\$	51,000.00
96119 Polished Concrete	\$	49,600.00
97723 Vinyl Covered Wall Panels	\$	24,551.00
99100 Painting	\$	45,000.00
101116 Interactive Whiteboards	\$	20,555.00
101467 Signage	\$	3,560.00
102239 Folding Panel Partition	\$	32,000.00
104413 Fire Extinguishers & Cabinets	\$	2,266.00
122400 Window Shades	\$	12,000.00
124823 Entrance Floor Grids	\$	16,000.00
21 Fire Sprinkler System	\$	60,000.00
22 Plumbing	\$	7,000.00
23 Mechanical	\$	82,500.00
26 Electrical	\$	165,000.00
Lighting	\$	70,000.00
low voltage	\$	26,000.00
Fire alarm	\$	36,560.00
310900 Soils Investigation Report	\$	5,000.00
312333 Trenching and Backfilling	\$	30,000.00
313119 Vegetation Control	\$	10,000.00
Formwork	\$	59,200.00
320523 Concrete for Exterior Improvements	\$	76,150.00
321100 Base Courses	\$	56,000.00

332000 Natural Gas Utilities	\$	68,750.00
	\$	2,788,195.00
Allowance 5%	\$	139,409.75
Bond and Insurance 1.75%	\$	51,233.08
Overhead and Profit 8.5%	\$	253,201.22
Grand Total	\$	3,232,039.05

**ATTACHMENT #4**

**MANAGEMENT STAFF AND LABOR RATES**

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

SEQUOIA UNION HIGH SCHOOL DISTRICT  
480 James Street  
Redwood City, CA 94062

Attention: Enrique Navas, Associate Superintendent

This document is recorded for the benefit of the Sequoia  
Union High School District, and recording is fee exempt under  
Section 6103 of the Government Code.

---

**SITE LEASE**

Menlo-Atherton High School New F Wing Classroom Building and Addition Project

by and between

CAL-PACIFIC CONSTRUCTION INC.  
1009 Terra Nova Blvd.  
Pacifica, CA 94044-4308  
and

SEQUOIA UNION HIGH SCHOOL DISTRICT  
480 James Street  
Redwood City, CA 94062

Dated as of November 5, 2014

## **SITE LEASE**

THIS SITE LEASE (this "Lease") dated as of November 5, 2014 ("Effective Date"), is made and entered into by and between the Sequoia Union High School District (the "District"), a school district duly organized and validly existing under the laws of the State of California, as lessor, and Cal-Pacific Construction Company ("Corporation") a California company duly organized and existing under the laws of the State of California, as lessee.

## **RECITALS**

WHEREAS, the District currently owns a parcel of land located at 555 Middlefield Road, in Atherton, California, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Site"), which Site contains the Menlo-Atherton High School;

WHEREAS, the District desires to undertake a project to construct a new classroom building and addition on the F Wing at the Site as more particularly described in Exhibit "A" to the Facilities Lease (defined below) and incorporated herein by this reference (the "Project");

WHEREAS, the Governing Board of the District (the "Board") has determined that it is in the best interests of the District and for the common benefit of the citizens residing in the District to construct the Project by leasing the Site to the Corporation and by immediately entering into the Facilities Lease (defined below) under which the District will sublease the Site and lease the Project from the Corporation;

WHEREAS, the District is authorized under Section 17406 of the Education Code of the State of California to lease the Site to the Corporation and to have the Corporation construct the Project on the Site and to lease to the District the Site and the Project, and has duly authorized the execution and delivery of this Lease;

WHEREAS, the Corporation is authorized to lease the Site as lessee and to construct the Project on the Site, and has duly authorized the execution and delivery of this Lease; and

WHEREAS, District has performed all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into this Lease do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Lease;

**NOW, THEREFORE**, in consideration of the promises and of the mutual agreements and covenants contained herein, the sum of One Dollar (\$1.00) and other valuable

consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

Section 1.1. Unless the context clearly otherwise requires, all words and phrases defined in Section 1.1 of the Facilities Lease dated November 5, 2014 by and between the District and the Corporation (the "Facilities Lease") shall have the same meaning in this Lease.

## **ARTICLE II**

### **DEMISING CLAUSES**

Section 2.1. Lease of the Site. The District hereby leases to the Corporation, and the Corporation hereby leases from the District the Site, subject only to Permitted Encumbrances, in accordance with the provisions of this Lease, to have and to hold for the term of this Lease. This Lease shall only take effect if the Facilities Lease is executed by the District and Corporation within three (3) days of execution of this Lease.

Section 2.2. Rental. In consideration for the lease of the Site by the District to the Corporation and for other good and valuable consideration, the Corporation shall pay One Dollar (\$1.00) to the District.

Section 2.3. No Merger. The leasing of the Site by the Corporation to the District pursuant to the Facilities Lease shall not effect or result in a merger of the estates of the District in the Site, and the Corporation shall continue to have a leasehold estate in the Site pursuant to this Lease throughout the term hereof.

## **ARTICLE III**

### **QUIET ENJOYMENT**

Section 3.1. The parties intend that the Site will be leased back to the District pursuant to the Facilities Lease for the term thereof. It is further intended that, to the extent provided herein and in the Facilities Lease, if an Event of Default, as defined in the Facilities Lease dated November 5, 2014, occurs under the Facilities Lease, the Corporation, or its assignee, will have the right, for the then remaining term of this Lease, to: (a) take possession of the Site; (b) if it deems it appropriate, cause appraisal of the Site and a study of the then reasonable use thereof to be undertaken; and (c) relet the Site. Subject to any rights the District may have under the Facilities Lease (in the absence of an Event of Default) to possession and enjoyment of the Site, the District hereby covenants and agrees that it will not take any action to prevent the Corporation from having quiet and peaceable possession and enjoyment of the Site

during the term hereof and will, at the request of the Corporation, to the extent that it may lawfully do so, join in any legal action in which the Corporation asserts its right to such possession and enjoyment.

## ARTICLE IV

### SPECIAL COVENANTS AND PROVISIONS

Section 4.1. Waste. The Corporation 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 that it will not willfully or knowingly use or permit the use of the Site for any illegal purpose or act.

Section 4.2. Further Assurances and Corrective Instruments. The District and the Corporation agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Site hereby leased or intended so to be or for carrying out the expressed intention of this Lease and the Facilities Lease.

Section 4.3. Right of Entry. The District reserves the right for any of its duly authorized representatives to enter upon the Site at any reasonable time to inspect the same, provided the District follow all safety precautions required by the Corporation.

Section 4.4. Representations of the District. The District represents, covenants and warrants to the Corporation as follows:

(a) Due Organization and Existence. The District is a school district, duly organized and existing under the Constitution and laws of the State of California.

(b) Authorization. The District has the full power and authority to enter into, to execute and to deliver this Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution of this Lease.

(c) No Violations. Neither the execution and delivery of this Lease nor the Facilities Lease, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the District is now a party or by which the District is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the District, or upon the Site, except Permitted Encumbrances.

(d) CEQA Compliance. The District has complied with all requirements imposed upon it by the California Environmental Quality Act (Public Resource Code Section

21000 *et seq.* ("CEQA") in connection with the Project, and no further environmental review of the project is necessary pursuant to CEQA before the construction of the Project may commence.

(e) No Litigation. There is no action, suit, proceeding, inquiry or investigation pending before or by any court or federal, state, municipal or other governmental authority or, to the knowledge of the District after reasonable investigation, threatened against or affecting the District or the assets, properties or operations of the District which, if determined adversely to the District or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Facilities Lease or upon the financial condition, assets, properties or operations of the District, and the District is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummations of the transactions contemplated by this Facilities Lease and the Site Lease or the financial conditions, assets, properties or operations of the District.

(f) Regarding Condemnation Proceedings. The District hereby covenants and agrees, to the extent it may lawfully do so, that as long as the Facilities Lease and Site Lease remain in effect, the District will not exercise the power of condemnation or eminent domain with respect to the Project. The District further covenants and agrees, to the extent it may lawfully do so, that if for any reason the foregoing covenant is determined to be unenforceable or if the District should fail or refuse to abide by such covenant and condemns or takes the Project by eminent domain, then District agrees that the appraised value of the Project shall not be less than the aggregate total of all Lease Payments provided for under this Facilities Lease, less any Lease Payment previously made; provided however, that if the taking occurs prior to the completion of the Project, Corporation shall be entitled to the value of construction completed, less the value of any Tenant Improvement Payments or Lease Payments made by District.

(g) Use and Zoning. Site is properly zoned for its intended purpose and the use or activities contemplated by this Lease will not conflict with local, state or federal law.

(h) Taxes. All taxes and assessments are paid current and such taxes and assessments will continue to be paid to the extent that the District is not exempt.

(i) Hazardous Materials. District is not currently aware of any contamination to the Site by Hazardous Materials. If District becomes aware of any act or circumstance, which would change or render this representation incorrect, in whole or in part, District will give immediate written notice of such changed fact or circumstance to Corporation.

Section 4.5. Representations of the Corporation. The Corporation represents, covenants and warrants to the District as follows:

(a) Due Organization and Existence. The Corporation is a California company duly organized and existing under the laws of the State of California, has power to



enter into this Lease and the Facilities Lease; is possessed of full power to own and hold real and personal property, and to lease and sell the same; and has duly authorized the execution and delivery of all of the aforesaid agreements.

(b) Authorization. The Corporation has the full power and authority to enter into, to execute and to deliver this Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution of this Lease.

(c) No Violations. Neither the execution and delivery of this Lease or the Facilities Lease, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Corporation is now a party or by which the Corporation is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Corporation, or upon the Site, except Permitted Encumbrances.

## **ARTICLE V**

### **ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING**

Section 5.1. Assignment and Subleasing. This Lease may be assigned and the Site subleased, as a whole or in part, by the Corporation only upon the prior written consent of the District to such sublease, which shall not be unreasonably withheld.

Section 5.2. Restrictions on District. The District agrees that it will not mortgage, sell, encumber, assign, transfer or convey the Site or any portion thereof during the term of this Lease.

Section 5.3. Liens. Corporation agrees to keep the Site and every part thereof free and clear of any and all liens, including without limitation, pledges, charges, encumbrances, claims, materialmen liens, mechanic liens and other liens for or arising out of or in connection with work or labor done, services performed, or materials or appliances used or furnished for or in connection with the Site or the Project. Pursuant to Section 66 of the Construction Provisions dated November 5, 2014, Corporation further agrees to pay promptly and fully and discharge any and all claims on which any such lien may or could be based, and to save and hold District and all of the free and harmless from any and all such liens, mortgages, including without limitation, and claims of liens and suits or other proceedings pertaining thereto.

## **ARTICLE VI**

### **IMPROVEMENTS**

Section 6.1. Title to all improvements made on the Site during the term hereof shall vest subject to the terms of the Facilities Lease.

## **ARTICLE VII**

### **TERM AND TERMINATION**

Section 7.1. Term. The term of this Lease shall commence as of the Effective Date and shall terminate on the last day of the Term of the Facilities Lease, provided the District has paid to the Corporation, or its assignee, all Lease Payments and other payments which may be due under the Facilities Lease, and provided this Lease has not terminated pursuant to Sections 4.3(a) of the Facilities Lease.

## **ARTICLE VIII**

### **MISCELLANEOUS**

Section 8.1. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed to have been received forty-eight (48) hours after deposit in the United States mail in registered or certified form with postage fully prepaid:

If to the Corporation:

Cal-Pacific Construction, Inc.  
1009 Terra Nova Blvd.  
Pacifica, CA 94044-4308  
Attn: Kennedy Chan

WITH A COPY TO-  
Irene Lum, Cal-Pacific Construction, Inc.  
Fax: 650-557-1239  
il@pacific888.com

If to District:

Sequoia Union High School District  
480 James Avenue  
Redwood City, CA 94062

Attention: Enrique Navas, Associate Superintendent  
Fax: 650-306-8870  
enavas@seq.org

-WITH A COPY TO-  
Office of the San Mateo County Counsel  
Hall of Justice and Records

400 County Center, 6<sup>th</sup> Floor  
Redwood City, CA 94063  
Attn: John Nibbelin, Chief Deputy  
Fax: 650-363-4034  
jnibbelin@smcgov.org

The Corporation and the District, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

Section 8.2. Binding Effect. This Site Lease shall inure to the benefit of and shall be binding upon the Corporation and the District and their respective successors and assigns.

Section 8.3. Severability. In the event any provision of this Site Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 8.4. Amendments, Changes and Modifications. This Site Lease may not be effectively amended, changed, modified, altered or terminated without the written agreement of both parties hereto.

Section 8.5. Obligations Absolute. The Corporation agrees that the obligations of the Corporation are absolute and unconditional and not subject to any charges or setoffs against the District whatsoever.

Section 8.6. Execution in Counterparts. This Site Lease may be executed in several counterparts, each of which shall be original and all of which shall constitute but one and the same instrument.

Section 8.7. Applicable Law. This Site Lease shall be governed by and construed in accordance with the laws of the State of California, County of San Mateo.

Section 8.8. Corporation and District Representatives. Whenever under the provisions of this Site Lease the approval of the Corporation or the District is required, or the Corporation or the District is required to take some action at the request of the other, such approval or such request shall be given for the Corporation by the Corporation Representative and for the District by the District Representative, and any party hereto shall be authorized to rely upon any such approval or request.

Section 8.9. Captions. 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 or sections of this Site Lease.

Section 8.10 Prior Agreements. This Site Lease and the corresponding Facilities Lease collectively contain all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Site Lease and no prior agreements or understanding

pertaining to any such matter shall be effective for any purpose. No provision of this Site Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors-in-interest.

Section 8.11 Attorney's Fees. If either party brings an action or proceeding involving the Property to enforce the terms of this Site Lease or to declare rights hereunder, each party shall bear the costs of its own attorneys' fees.

Section 8.12 Further Assurances. Parties shall promptly execute and deliver all documents and instruments reasonably requested to give effect to the provisions of this Site Lease.

Section 8.13 Effect of Recitals. The Recitals above are deemed true and correct, are hereby incorporated into this Section as though fully set forth herein, and Parties acknowledge and agree that they are each bound by the same.

Section 8.14 Time of the Essence. Time is of the essence with respect to each of the terms, covenants, and conditions of this Site Lease.

Section 8.15 Interpretation. None of the Parties hereto, nor their respective counsel, shall be deemed the drafters of this Site Lease for purposes of construing the provisions thereof. The language in all parts of this Site Lease shall in all cases be construed according to its fair meaning, not strictly for or against any of the Parties hereto.

**IN WITNESS WHEREOF**, the parties hereto have caused this Site Lease to be executed by their respective officers thereunto duly authorized, as of the Effective Date.

**SEQUOIA UNION HIGH SCHOOL DISTRICT**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**CAL-PACIFIC CONSTRUCTION, INC.**

By: \_\_\_\_\_  
Kennedy Chan, Vice-President

Approved as to form:

\_\_\_\_\_  
John D. Nibbelin, Chief Deputy County Counsel  
Counsel for District

\_\_\_\_\_  
Patricia Walsh, Esq.  
Counsel for Corporation

STATE OF CALIFORNIA    )  
  ) ss.  
COUNTY OF \_\_\_\_\_)

On \_\_\_\_\_, <Year>, before me, the undersigned notary public, personally appeared \_\_\_\_\_, [ ] personally known to me OR [ ] proved to me on the basis of satisfactory evidence to be the person(s) whole name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary

STATE OF CALIFORNIA    )  
  ) ss.  
COUNTY OF \_\_\_\_\_)

On \_\_\_\_\_, <Year>, before me, the undersigned notary public, personally appeared \_\_\_\_\_, [ ] personally known to me OR [ ] proved to me on the basis of satisfactory evidence to be the person(s) whole name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary

**EXHIBIT "A"**

**DESCRIPTION OF SITE**

**The following pages are the Site Legal Description and map of the Menlo-Atherton High School New F Wing Classroom Building and Addition Project**

**and**

**A map of the Site Lease, dated November 5, 2014**



[illegible][illegible]

PARKING LOT	TOTAL # OF SPACES	ACCESSIBLE	VAN	STANDARD	REQUIRED ACCESSIBLE
WOLFELEND ROAD	410	10	2	280	8
PANICOLO AVENUE #1	18	0	1	17	1
PANICOLO AVENUE #2	72	3	1	68	3

**LEGEND**

→ ACCEPTABLE RANGE OF STUDENT SCORES THAT REPRESENTS A RANGE OF ALL POSSIBLE PRACTICE TESTS IN THE COUNTRY OF ALL COUNTRIES.

↑↑↑ FIRE ORNAMENT ACCESS

🚒 FIRE TRUCK

🚑 EMERGENCY VEHICLE ROUTE

👤 (1) FIRE INCIDENT

— (2) FORCE

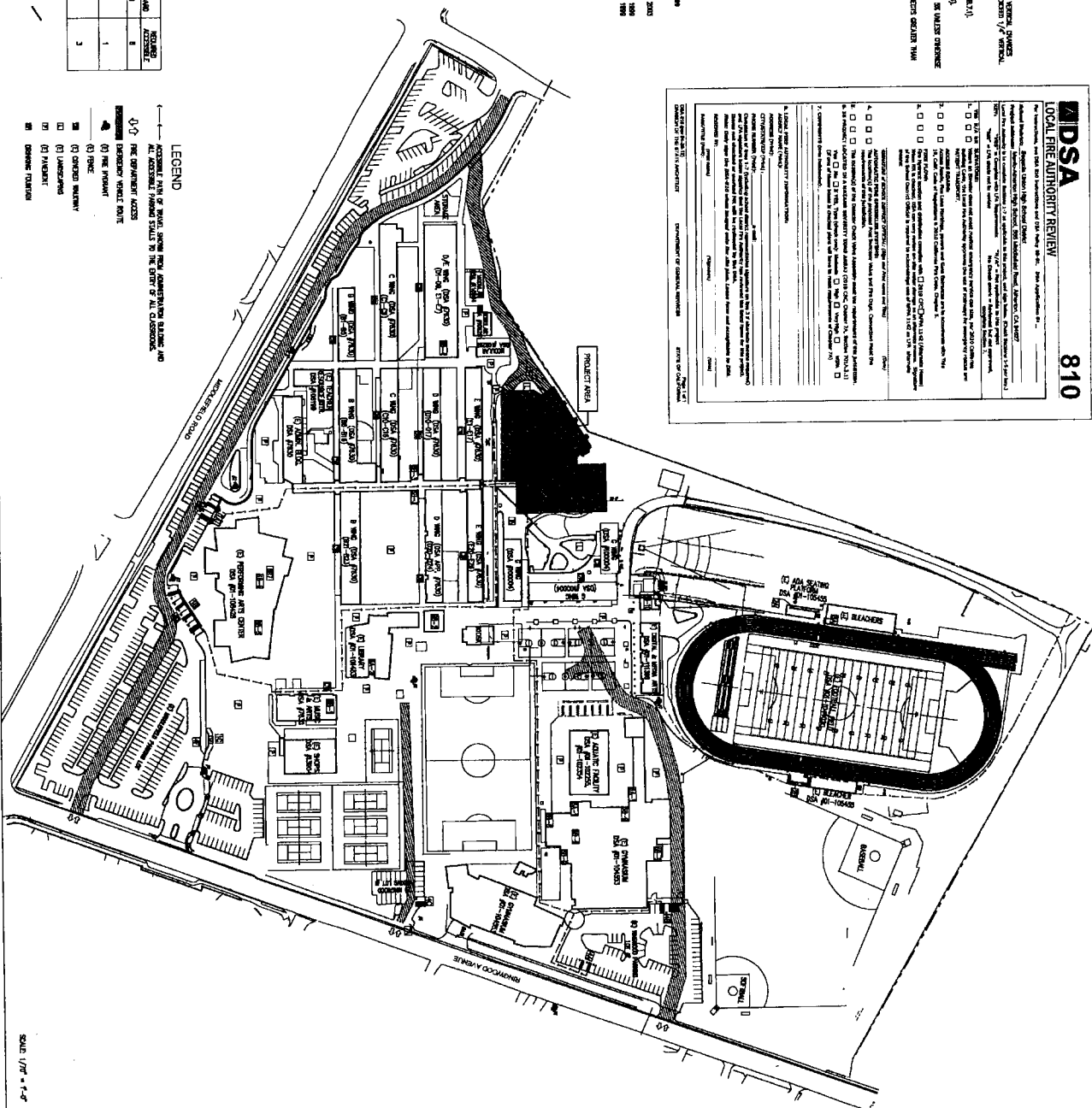
👤 (3) CHIEFED BURNING

👤 (4) LARGEST

👤 (5) INCIDENT

👤 (6) DEGREE OF INJURY

**810**

[illegible]

SCALE 1/10" = 1'-0"



**SPENCER  
ASSOCIATES**

STOCKHOLM

7121 San Antonio Road, Suite C201  
Palo Alto, CA 94303  
(650) 865-7000  
Fax: (650) 865-7001



Architect's Seal

Consultant's Seal

Agency Approval \_\_\_\_\_

### Key Plan

Project Title

**F-WING  
CLASSROOM  
ADDITIONS**

MENTLOATHERTON HIGH SCHOOL  
505 WINDFIELD ROAD  
ALBERTON, ON N4G2T7

**SEVCO UNION HIGH SCHOOL DISTRICT**

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**Revisions**

Sheet Title

## CAMPUS PLAN

Date	08/22/14	Job No.	10670
Drawn by		Checked by	SB
Scale	AS NOTED		
Sheet No.			

3

Sheet \_\_\_\_\_ of \_\_\_\_\_  
PRELIMINARY BID SET

Agenda Item: 8j  
Date: 11/5/14

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

Sequoia Union High School District  
480 James Avenue  
Redwood City, CA 94062  
Attention: Enrique Navas, Assistant Superintendent

This document is recorded for the benefit of the  
Sequoia Union High School District, and recording is  
fee exempt under Section 6103 of the Government  
Code.

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FACILITIES LEASE  
Mills Way Corporate Yard Renovation Project  
1090 Mills Way, Redwood City, CA 94063

by and between

ALTEN CONSTRUCTION, INC.  
720 12<sup>th</sup> Street  
Richmond, CA 94801

and

SEQUOIA UNION HIGH SCHOOL DISTRICT  
480 James Avenue  
Redwood City, CA 94062

Dated as of November 5, 2014

## **FACILITIES LEASE**

**THIS FACILITIES LEASE** ("Facilities Lease"), made as of November 5, 2014 ("Effective Date"), is entered into by and between Alten Construction, Inc., a California company duly organized and existing under the laws of the State of California, as sublessor (the "Corporation"), and the Sequoia Union High School District, a school district duly organized and validly existing under the Constitution and laws of said State of California, as sublessee (the "District").

### **RECITALS**

WHEREAS, the District desires to undertake a project to renovate the improvements at a parcel of land that it owns at 1090 Mills Way, Redwood City, CA 94063 as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Project");

WHEREAS, as of the date hereof, the District has leased to the Corporation the real property for the construction of the Project described on Exhibit "B" attached hereto (the "Site") pursuant to the terms of a Site Lease dated November 5, 2014 by and between the District and the Corporation;

WHEREAS, the District is authorized under Section 17406 of the Education Code of the State of California to lease the Site to the Corporation and to have the Corporation construct the Project on the Site and to lease to the District the Site and the Project, and has duly authorized the execution and delivery of this Facilities Lease;

WHEREAS, the Corporation is authorized to sublease the Site as lessee and to construct the Project on the Site, and has duly authorized the execution and delivery of this Facilities Lease;

WHEREAS, the Governing Board of the District (the "Board") has determined that it is in the best interests of the District and for the common benefit of the citizens residing in the District to construct the Project by leasing the Site to the Corporation and by immediately entering into this Facilities Lease under which the District will sublease the Site and lease the Project from the Corporation and make Lease Payments on the dates and in the amounts set forth in the payment schedule attached hereto as Exhibit "C" (the "Lease Payment Schedule").

WHEREAS, the District has performed all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into this Facilities Lease do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Facilities Lease;

**NOW, THEREFORE**, in consideration of the above premises and of the mutual covenants hereinafter contained and for other valuable consideration, the parties hereto do hereby agree as follows:

## ARTICLE I

### DEFINITIONS AND EXHIBITS

Section 1.1. Definitions. Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Facilities Lease, have the meanings herein specified.

“Construction Provisions” means the terms and conditions for construction of the Project as set forth in Exhibit “D” of this Facilities Lease.

“Corporation” means Alten Construction, Inc., a California company duly organized and existing under the laws of the State of California, its successors and assigns.

“Corporation Representative” means the Chief Executive Officer of the Corporation, or any person authorized to act on behalf of the Corporation under or with respect to this Facilities Lease as evidenced by a resolution conferring such authorization adopted by the Board of Directors of the Corporation or as so designated by the Vice-President of the Corporation.

“District” means the Sequoia Union High School District, a school district duly organized and existing under the laws of the State of California.

“District Representative” means the Superintendent or any Assistant Superintendent of the District, the Director of Facilities of the District, or any other person authorized by the Governing Board of the District to act on behalf of the District under or with respect to this Facilities Lease.

“Event of Default” means one or more events of default as defined in Section 9.1 of this Facilities Lease.

“Facilities Lease” means this Facilities Lease together with any duly authorized and executed amendment hereto.

“Lease Payment” means any payment required to be made by the District pursuant to Section 4.5 of this Facilities Lease and as set forth in Exhibit “C” attached to this Facilities Lease.

“Lease Payment Schedule” shall mean the payment schedule attached hereto as Exhibit “C.”

“Permitted Encumbrances” means, as of any particular time: (i) liens for general ad valorem taxes and assessments, if any, not then delinquent, or which the District may, pursuant to provisions of Section 5.1 hereof, permit to remain unpaid; (ii) the Site Lease; (iii) this Facilities Lease; (iv) 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

Facilities Lease and which will not materially impair the use of the Site; and (v) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions established following the date of recordation of this Facilities Lease and to which the Corporation and the District consent in writing which will not impair or impede the operation of the Site.

“Project” means the improvements and equipment to be constructed and installed by the Corporation as more particularly described in Exhibit “A” attached hereto, and includes, unless the context requires otherwise, the Site.

“Site” means that certain parcel of real property and improvements thereon (if any) more particularly described in Exhibit “B” attached hereto.

“Site Lease” or “Lease” means the Site Lease dated as of November 6, 2014, by and between the District and the Corporation together with any duly authorized and executed amendment thereto under which the District leases the Site to the District.

“Term of this Facilities Lease” or “Term” means the time during which this Facilities Lease is in effect, as provided for in Section 4.2 of this Facilities Lease.

Section 1.2. Exhibits. The following Exhibits are attached to and by reference incorporated and made a part of this Facilities Lease:

Exhibit A - DESCRIPTION OF PROJECT: The description of the Project.

Exhibit B - DESCRIPTION OF SITE: The descriptions of the real property constituting the Site.

Exhibit C - SCHEDULE OF LEASE PAYMENTS: The schedule of Lease Payments to be paid by the District hereunder.

Exhibit D - CONSTRUCTION PROVISIONS: The terms and conditions for the construction of the Project.

## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1. Representations, Covenants and Warranties of the District. The District represents, covenants and warrants to the Corporation as follows:

(a) Due Organization and Existence. The District is a school district, duly organized and existing under the Constitution and laws of the State of California.

(b) Authorization. The District has the full power and authority to enter into, to execute and to deliver this Facilities Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution of this Facilities Lease.

(c) No Violations. Neither the execution and delivery of this Facilities Lease nor the Site Lease, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the District is now a party or by which the District is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the District, or upon the Site, except Permitted Encumbrances.

Section 2.2. Representations, Covenants and Warranties of the Corporation. The Corporation represents, covenants and warrants to the District as follows:

(a) Due Organization and Existence. The Corporation is a California company duly organized and existing under the laws of the State of California, has power to enter into this Facilities Lease and the Site Lease; is possessed of full power to own and hold real and personal property, and to lease and sell the same; and has duly authorized the execution and delivery of all of the aforesaid agreements.

(b) No Encumbrances. The Corporation will not pledge the Lease Payments or other amounts derived from the Site and from its other rights under this Facilities Lease, and will not mortgage or encumber the Site, except as provided under the terms of this Facilities Lease or for the purposes of Corporation receiving financing for any portion of the Project.

(c) No Violations. Neither the execution and delivery of this Facilities Lease or the Site Lease, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Corporation is now a party or by which the Corporation is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Corporation, or upon the Site, except Permitted Encumbrances.

(d) No Assignments. Except as provided herein, the Corporation will not assign this Facilities Lease, its right to receive Lease Payments and prepayments from the District, or its duties and obligations hereunder to any other person, firm or Corporation so as to impair or violate the representations, covenants and warranties contained in this Section 2.2. This Lease may be assigned to an affiliate of the Corporation provided that the representations, covenants and warranties in this Section 2.2 are not impaired or violated.

(e) Authorization. The Corporation has the full power and authority to enter into, to execute and to deliver this Facilities Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution of this Facilities Lease.

### **ARTICLE III**

#### **CONSTRUCTION OF PROJECT**

Section 3.1. The Corporation agrees to cause the Project to be constructed and installed in accordance with the Construction Provisions, which are attached hereto as Exhibit "D." The Corporation agrees that it will cause the construction and installation of the Project to be diligently performed. The District and the Corporation may approve changes in the plans and specifications for the Project as provided in the Construction Provisions. The Corporation will cooperate at all times with the District in bringing about the timely completion of the Project. The definition and description of the Project contained herein may be amended by the District from time to time pursuant to Section 8.2.

### **ARTICLE IV**

#### **AGREEMENT TO LEASE; TERMINATION OF LEASE; LEASE PAYMENTS; TITLE TO THE SITE**

Section 4.1. Lease of Property; No Merger. The Corporation hereby leases the Project and the Site to the District, and the District hereby leases said Project and Site from the Corporation upon the terms and conditions set forth in this Facilities Lease. The leasing by the Corporation to the District of the Site shall not effect or result in a merger of the District's leasehold estate pursuant to this Facilities Lease and its fee estate as lessor under the Site Lease, and the Corporation shall continue to have and hold a leasehold estate in said Site pursuant to the Site Lease throughout the term thereof and the term of this Facilities Lease. As to the Site, this Facilities Lease shall be deemed and constitute a sublease.

Section 4.2. Term of Facilities Lease. The Term of this Facilities Lease shall commence as of the Effective Date and shall terminate on the completion of the Project and payment of the last Lease Payment, as provided in the Lease Payment Schedule.

Section 4.3. Termination of Term. The Term of this Facilities Lease shall terminate upon the earliest of any of the following events:

(a) an Event of Default and the Corporation's election to terminate this Facilities Lease pursuant to Section 9.2 hereof; or

(b) the arrival of last day of the Term of this Facilities Lease and payment of all Lease Payments hereunder, or occupancy of a substantially complete Project by District, whichever comes first.

Section 4.4. Possession. The District may take possession of the Project hereunder as it is completed.

Section 4.5. Lease Payments.

(a) Obligation to Pay. Subject to the provisions of Articles III, VI and X hereof, the District agrees to pay to the Corporation, its successors and assigns, as rental for the use and occupancy of the Project and the Site, the Lease Payments in the amounts specified in the Lease Payment Schedule. Pursuant to the Lease Payment Schedule, Lease Payments shall be made for the Site and portions of the Project as construction of the Project is completed. All Lease Payments will be subject to the Final Guaranteed Maximum Sum set forth in the Construction Provisions.

(b) Lease Payments to Constitute Current Expense of the District. The District and the Corporation understand and intend that the obligation of the District to pay Lease Payments and other payments hereunder constitutes a current expense of the District and shall not in any way be construed to be a debt of the District in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by the District, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or moneys of the District. Lease Payments due hereunder shall be payable only from current funds which are budgeted and appropriated, or otherwise legally available, for the purpose of paying Lease Payments or other payments due hereunder as consideration for use of the Site during the fiscal year of the District for which such funds were budgeted and appropriated or otherwise made legally available for such purpose. This Facilities Lease shall not create an immediate indebtedness for any aggregate payments which may become due hereunder. The District has not pledged the full faith and credit of the District, the State of California or any agency or department thereof to the payment of the Lease Payments or any other payments due hereunder.

(c) Appropriation. The District has appropriated the Guaranteed Maximum Price from the District's current fiscal year and/or State funds to be received during the District's current fiscal year, and has segregated such funds in a separate account to be utilized solely for Lease Payments.

Section 4.6. Quiet Enjoyment. Excepting any interference resulting from the Corporation's performance pursuant to the Construction Provisions, during the term of this Facilities Lease, the Corporation shall provide the District with quiet use and enjoyment of the Site, and the District shall during such Term peaceably and quietly have and hold and enjoy the Site, without suit, trouble or hindrance from the Corporation, except as expressly set forth in this Facilities Lease. The Corporation will, at the request of the District, join in any legal action in which the District asserts its right to such possession and enjoyment to the extent the Corporation may lawfully do so, at District's sole cost. Notwithstanding the foregoing, the Corporation shall have the right to inspect the Site as provided in Section 7.1 hereof.



Section 4.7. Title. During the Term of this Facilities Lease, the District shall hold title to the Site and obtain title to the Project from the Corporation, and any and all additions which comprise fixtures, repairs, replacements or modifications thereof, as construction progresses and lease payments are made to Corporation. During the term of this Facilities Lease, the Corporation shall have a leasehold interest in the Site pursuant to the Site Lease.

If the District prepays the Lease Payments in full pursuant to Article X hereof or makes an advance deposit pursuant to Section 10.1 hereof, or pays all Lease Payments, all remaining right, title and interest of the Corporation, if any, in and to the Project and the Site, shall be fully transferred to and vested in the District. Upon such prepayment, this facilities Lease shall terminate and title shall be transferred to and vested in the District hereunder without the necessity for any further instrument of transfer.

Section 4.8. Abatement of Rental in the Event of Substantial Interference With Use and Occupancy of the Project and the Site. The amount of Lease Payments for the Project and the Site shall be abated during any period in which by reason of delay in the completing of the Project beyond the final completion date specified in the Construction Provisions, there is substantial interference with the use and occupancy of the Project and the Site by the District. The amount of such abatement shall be agreed upon by the District and the Corporation such that the resulting Lease Payments represent fair consideration for the use and occupancy of the portion of the Project and the Site, if any, with respect to which there is no such substantial interference. Such abatement shall continue for the period commencing with such substantial interference and ending with the termination of such interference.

Section 4.9. Fair Rental Value. The Lease Payments and any prepayment thereof coming due and payable constitute the total rental for the Project and shall be paid by the District as set forth in Exhibit "C" hereto for and in consideration of the right to use and occupy, and the continued quiet use and enjoyment of, the Project during each month. District and Corporation have agreed and determined that the total Lease Payments and any prepayment thereof do not exceed the fair rental value of the Project. In making such determination, consideration has been given to the obligations of the parties under the Facilities Lease and Site Lease, the uses and purposes which may be served by the Project, and the benefits therefrom which will accrue to the District and the general public.

## ARTICLE V

### MAINTENANCE; TAXES; AND OTHER MATTERS

Section 5.1. Maintenance, Utilities, Taxes and Assessments. Except as provided for in the Construction Provisions, the repair and maintenance of the Project and the Site shall be the responsibility of the District.

If applicable, the District shall also pay or cause to be paid all taxes and assessments of any type or nature charged to the Corporation or District affecting the Project and the Site.

## ARTICLE VI

### EMINENT DOMAIN

Section 6.1. Eminent Domain.

(a) Eminent Domain Takings. If all of the Project and the Site shall be taken permanently under the power of eminent domain, the term of this Facilities Lease shall cease as of the day possession shall be so taken. If less than all of the Project and the Site shall be taken permanently, or if all of the Project and the Site or any part thereof shall be taken temporarily, under the power of eminent domain:

(1) this Facilities Lease shall continue in full force and effect and shall not be terminated by virtue of such taking and the parties waive the benefit of any law to the contrary, and

(2) there shall be a partial abatement of Lease Payments as a result of the application of the net proceeds of any eminent domain award to the prepayment of the Lease Payments hereunder.

(b) From Eminent Domain Award. The net proceeds of any eminent domain or condemnation shall be payable to the District.

## ARTICLE VII

### ACCESS

Section 7.1. The Corporation shall have the right at all reasonable times to enter upon the Site to construct the Project pursuant to the Construction Provisions. The District shall have the right at all reasonable times to enter upon the Site for whatever purpose District chooses provided that during construction, the District shall follow all safety precautions required by the Corporation.

## ARTICLE VIII

### ASSIGNMENT, SUBLEASING; AMENDMENT

Section 8.1. Assignment and Subleasing by the District. This Facilities Lease may not be assigned by the District. Any sublease shall be subject to all of the following conditions:

(a) This Facilities Lease and the obligation of the District to make Lease Payments hereunder shall remain obligations of the District; and

(b) The District shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to the Corporation a true and complete copy of such sublease; and

(c) No such sublease by the District shall cause the Project or the Site to be used for a purpose other than a governmental or proprietary function authorized under the provisions of the Constitution and laws of the State of California.

Section 8.2. Amendment of this Facilities Lease. Without the written consent of the Corporation, the District will not alter, modify or cancel, or agree or consent to alter, modify or cancel this Facilities Lease.

## ARTICLE IX

### EVENTS OF DEFAULT AND REMEDIES

Section 9.1. Events of Default Defined. The following shall be "events of Default" under this Facilities Lease and the Site Lease and the terms "Event of Default" and "default" shall mean, whenever they are used in this Facilities Lease, any one or more of the following events:

(a) Failure by the District to pay any Lease Payment or other payment required to be paid hereunder at the time specified herein.

(b) Failure by the District to observe and perform any covenant, condition or agreement in this Facilities Lease on its part to be observed or performed, other than as referred to in clause (a) of this Section, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to the District by the Corporation; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Corporation shall not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the District within the applicable period and diligently pursued until the default is corrected.

(c) The filing by the District of a voluntary petition in bankruptcy, or failure by the District promptly to lift any execution, garnishment or attachment, or adjudication of the District as a bankrupt, or assignment by the District for the benefit of creditors, or the

entry by the District into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the District in any proceedings instituted under the provisions of the Federal Bankruptcy Statute, as amended, or under any similar acts which may hereafter be enacted.

Section 9.2. Remedies on Default. Whenever any Event of Default referred to in Section 9.1 hereof shall have happened and be continuing, it shall be lawful for the Corporation to exercise any and all remedies available pursuant to law or granted pursuant to this Facilities Lease; provided, however, there shall be no right under any circumstances to accelerate the Lease Payments or otherwise declare any Lease Payments not then in default to be immediately due and payable. Each and every covenant hereof to be kept and performed by the District is expressly made a condition hereof and upon the breach thereof, the Corporation may exercise any and all rights of entry and re-entry upon the Project and the Site, and also, at its option, with or without such entry, may terminate this Facilities Lease; provided, that no such termination shall be effected either by operation of law or acts of the parties hereto, except only in the manner herein expressly provided. In the event of such default and notwithstanding any re-entry by the Corporation, the District shall, as herein expressly provided, continue to remain liable for the payment of the Lease Payments and/or damages for breach of this Facilities Lease and the performance of all conditions herein contained and, in any event such rent and/or damages shall be payable to the Corporation at the time and in the manner as herein provided, to wit:

(a) In the event the Corporation does not elect to terminate this Facilities Lease in the manner herein provided for in subparagraph (b) hereof, the District agrees to and shall remain liable for the payment of all Lease Payments and the performance of all conditions herein contained and shall reimburse the Corporation for any deficiency arising out of the re-letting of the Project and the Site, or, in the event the Corporation is unable to re-let the Project and the Site, then for the full amount of all Lease Payments to the end of the Term of this Facilities Lease, but said Lease Payments and/or deficiency shall be payable only at the same time and in the same manner as hereinbefore provided for the payment of Lease Payments hereunder, notwithstanding such entry or reentry by the Corporation or any suit in unlawful detainer, or otherwise, brought by the Corporation for the purpose of effecting such re-entry or obtaining possession of the Project and the Site or the exercise of any other remedy by the Corporation. The District hereby waives any and all claims for damages caused or which may be caused by the Corporation in re-entering and taking possession of the Project and the Site as herein provided and all claims for damages that may result from the destruction of or injury to the Project and the Site and all claims for damages to or loss of any property belonging to the District that may be in or upon the Project and the Site. The District agrees that the terms of this Facilities Lease constitute full and sufficient notice of the right of the Corporation to re-rent the Project and the Site in the event of such re-entry without effecting a surrender of this Facilities Lease, and further agrees that no acts of the Corporation in effecting such re-renting or re-leasing shall constitute a surrender or termination of this Facilities Lease irrespective of the term for which such re-leasing or re-renting is made or the terms and conditions of such re-leasing or re-renting, or otherwise, but that, on the contrary, in the event of such default by the District the right to terminate this Facilities Lease shall vest in the Corporation to be effected in the sole and exclusive manner hereinafter provided for in subparagraph (b) hereof.

(b) In an event of default by the District hereunder, the Corporation at its option may terminate this Facilities Lease and re-rent or re-lease all or any portion of the Project and the Site. The Corporation has the remedy described in California Civil Code section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has right to sublet, subject only to reasonable limitations.) In the event of the termination of this Facilities Lease by the Corporation at its option and in the manner hereinafter provided on account of default by the District (and notwithstanding any re-entry upon the Project and the Site by the Corporation in any manner whatsoever or the re-renting or re-leasing of the Project and the Site), the District nevertheless agrees to pay to the Corporation all costs, losses or damages howsoever arising or occurring, payable at the same time and in the same manner as is herein provided in the case of payment of Lease Payments. The Net Proceeds relating to the re-renting of the Site and the Project shall be used in the manner set forth in Section 9.6 hereof. Neither notice to pay rent or to deliver up possession of the premises given pursuant to law nor any proceeding in unlawful detainer taken by the Corporation shall of itself operate to terminate this Facilities Lease, and no termination of this Facilities Lease on account of default by the District shall be or become effective by operation of law, or otherwise, unless and until the Corporation shall have given written notice to the District of the election on the part of the Corporation to terminate this Facilities Lease. The District covenants and agrees that no surrender of the Site for the remainder of the Term hereof or any termination of this Facilities Lease shall be valid in any manner or for any purpose whatsoever unless stated or accepted by the Corporation by such written notice.

Section 9.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Corporation is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Facilities Lease or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Corporation to exercise any remedy reserved to it in this Article IX it shall not be necessary to give any notice, other than such notice as may be required in this Article or by law.

Section 9.4. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Facilities Lease should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 9.5. Application of Proceeds. All net proceeds received from the re-rent, re-lease or other disposition of the Project and the Site under this Article IX, and all other amounts derived by the Corporation as a result of an Event of Default hereunder, shall be applied to the Lease Payments in order of payment date and, in the case of the Net Proceeds received from the re-renting or re-leasing of the Project and the Site pursuant to Section 9.2(b), to be applied to the prepayment of the Lease Payments in accordance with Section 10.2 hereof.

## ARTICLE X

### PREPAYMENT OF LEASE PAYMENTS

Section 10.1. Security Deposit. Notwithstanding any other provision of this Facilities Lease, the District may, so long as the District is not in default hereunder, on any date secure the payment of Lease Payments by a deposit with the Corporation of cash in an amount which is sufficient to pay all unpaid Lease Payments, including the principal and interest components thereof, in accordance with the Lease Payment Schedule set forth in Exhibit "C" hereto. In the event of a deposit pursuant to this Section, all obligations of the District under this Facilities Lease, and all security provided by this Facilities Lease for said obligations, shall cease and terminate, excepting only the obligation of the District to make, or cause to be made, Lease Payments from the deposit made by the District pursuant to this Section, and any title interest held by Developer, if any, to the Project and/or the Site shall revert to the District on the date of said deposit automatically and without further action by the District or the Corporation.

Section 10.2. Optional Prepayment. The District may prepay the Lease Payments, in whole or in part, at any time. The District shall give the Corporation written notice of its intention to exercise its option and the date and amount of such prepayment not less than fifteen (15) days in advance of the date of exercise.

## ARTICLE XI

### MISCELLANEOUS

Section 11.1. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed to have been received forty-eight (48) hours after deposit in the United States mail in registered or certified form with postage fully prepaid:

If to the Corporation: Alten Construction, Inc.  
720 12th Street  
Richmond, CA 94801  
Attn: Bob Alten  
Fax:

WITH A COPY TO-

If to District: Sequoia Union High School District  
480 James Avenue  
Redwood City, CA 94062  
Attention: Enrique Navas, Assistant Superintendent  
Fax: 650-306-8870  
[enavas@seq.org](mailto:enavas@seq.org)

WITH COPY TO  
John D. Nibbelin, Chief Deputy County Counsel  
Office of the San Mateo County Counsel  
400 County Center, 6<sup>th</sup> Floor  
Redwood City, CA 94063  
Fax: 650-363-4034  
jnibbelin@smcgov.org

The Corporation and the District, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

Section 11.2. Binding Effect. This Facilities Lease shall inure to the benefit of and shall be binding upon the Corporation and the District and their respective successors and assigns.

Section 11.3. Severability. In the event any provision of this Facilities Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.4. Net-Net-Net Lease. This Facilities Lease shall be deemed and construed to be a "net-net-net lease" and the District hereby agrees that the Lease Payments shall be an absolute net return to the Corporation, free and clear of any expenses, charges or setoffs whatsoever.

Section 11.5. Further Assurances and Corrective Instruments. The Corporation and the District agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Site hereby leased or intended so to be or for carrying out the expressed intention of this Facilities Lease. Within fifteen (15) days of receipt of written notice by District from Corporation or Corporation's lender, District agrees that it will execute, acknowledge and deliver to Corporation and Corporation's lender a written estoppel certificate in customary form declaring any modifications, defaults or advance payments and stating whether this Facilities Lease, as it may be modified, is in full force and effect. Any such estoppel certificate may be conclusively relied upon for the intended transaction for which the certificate was requested.

Section 11.6. Execution in Counterparts. This Facilities Lease may be executed in several counterparts, each of which shall be original and all of which shall constitute but one and the same instrument.

Section 11.7. Applicable Law. This Facilities Lease shall be governed by and construed in accordance with the laws of the State of California, County of San Mateo.

Section 11.8. Corporation and District Representatives. Whenever under the provisions of this Facilities Lease the approval of the Corporation or the District is required, or

the Corporation or the District is required to take some action at the request of the other, such approval or such request shall be given for the Corporation by the Corporation Representative and for the District by the District Representative, and any party hereto shall be authorized to rely upon any such approval or request.

Section 11.9. Captions. The captions or headings in this Facilities Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or section of this Facilities Lease, nor the construction or interpretation of any part thereof.

Section 11.10 Prior Agreements. This Facilities Lease and the corresponding Site Lease collectively contain all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Facilities Lease and no prior agreements or understanding pertaining to any such matter shall be effective for any purpose. No provision of this Facilities Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors-in-interest.

Section 11.11. Attorney's Fees. If either party brings an action or proceeding involving the Property or to enforce the terms of this Facilities Lease or to declare rights hereunder, each party shall bear the costs of its own attorney's fees.

Section 11.12 Further Assurances. Parties shall promptly execute and deliver all documents and instruments reasonably requested to give effect to the provisions of this Facilities Lease.

Section 11.13 Effect of Recitals. The Recitals above are deemed true and correct, are hereby incorporated into this Section as though fully set forth herein, and Corporation and District each acknowledge and agree that they are each bound by the same.

Section 11.14 Time of the Essence. Time is of the essence with respect to each of the terms, covenants, and conditions of this Facilities Lease.

Section 11.15 Interpretation. None of the Parties hereto, nor their respective counsel, shall be deemed the drafters of this Facilities Lease for purposes of construing the provisions thereof. The language in all parts of this Facilities Lease shall in all cases be construed according to its fair meaning, not strictly for or against any of the Parties hereto.

Section 11.16 Indemnity.

Corporation's Indemnity Obligation. Corporation shall indemnify, defend and hold harmless District and District's officers, agents and employees from and against any claims, damages, costs, expenses (including reasonable attorneys' fees), judgments or liabilities arising out of or in any way connected with this Facilities Lease, including, without limitation, claims, damages, expenses, or liabilities for loss or damage to any property, or for death or injury to any person or persons, in proportion to and to the extent that such claims, damages, expenses, judgments or liabilities arise from the negligence or willful acts or omissions of Corporation, its officers, agents, or employees at the Project.



District's Indemnity Obligation. District shall indemnify, defend and hold harmless Corporation and Corporation's officers, directors, shareholders, partners, members, agents and employees from and against any claims, damages, costs, expenses (including reasonable attorneys' fees), judgments or liabilities arising out of or in any way connected with this Facilities Lease, including, without limitation claims, damages, expenses, or liabilities for loss or damage to any property or for death or injury to any person or persons, in proportion to and to the extent that such claims, damages, expenses, judgments or liabilities arise from the negligence or willful acts or omissions of District, its officers, agents or employees at the Project.

IN WITNESS WHEREOF, the parties hereto have caused this Facilities Lease to be executed by their respective officers thereunto duly authorized, as of the Effective Date.

**SEQUOIA UNION HIGH SCHOOL DISTRICT**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**ALTEN CONSTRUCTION, INC.**

By: \_\_\_\_\_  
Bob Alten

Approved as to form:

By: \_\_\_\_\_  
John D. Nibbelin, Chief Deputy, Office of the San  
Mateo County Counsel, Counsel for District

By: \_\_\_\_\_

STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_

) ss.

On \_\_\_\_\_, <Year>, before me, the undersigned notary public, personally appeared \_\_\_\_\_, [ ] personally known to me OR [ ] proved to me on the basis of satisfactory evidence to be the person(s) whole name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary

STATE OF CALIFORNIA    )  
                                  ) ss.  
COUNTY OF \_\_\_\_\_)

On \_\_\_\_\_, <Year>, before me, the undersigned notary public, personally appeared \_\_\_\_\_, [ ] personally known to me OR [ ] proved to me on the basis of satisfactory evidence to be the person(s) whole name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary

STATE OF CALIFORNIA    )  
  ) ss.  
COUNTY OF \_\_\_\_\_)

On \_\_\_\_\_, <Year>, before me, the undersigned notary public,  
personally appeared \_\_\_\_\_, [ ] personally known to me OR  
[ ] proved to me on the basis of satisfactory evidence to be the person(s) whole name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument  
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary

## **EXHIBIT "A"**

### **DESCRIPTION OF PROJECT**

Project Name: Mills Way Corporate Yard Renovation Project  
Address: 1090 Mills Way, Redwood City, CA 94063  
Owner: Sequoia Union High School District  
Architects: Quattrocchi Kwok Architects

Project Description: Modification and renovation of a 26,000 square foot commercial building to serve as the District's corporate yard.

**EXHIBIT "B"**

**DESCRIPTION OF SITE LEASE**

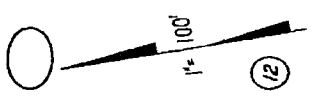
**The following pages are the Site Description and map of the Mills Way Corporate Yard  
Renovation Project**

**and**

**A map of the Site Lease, dated November 5, 2014**

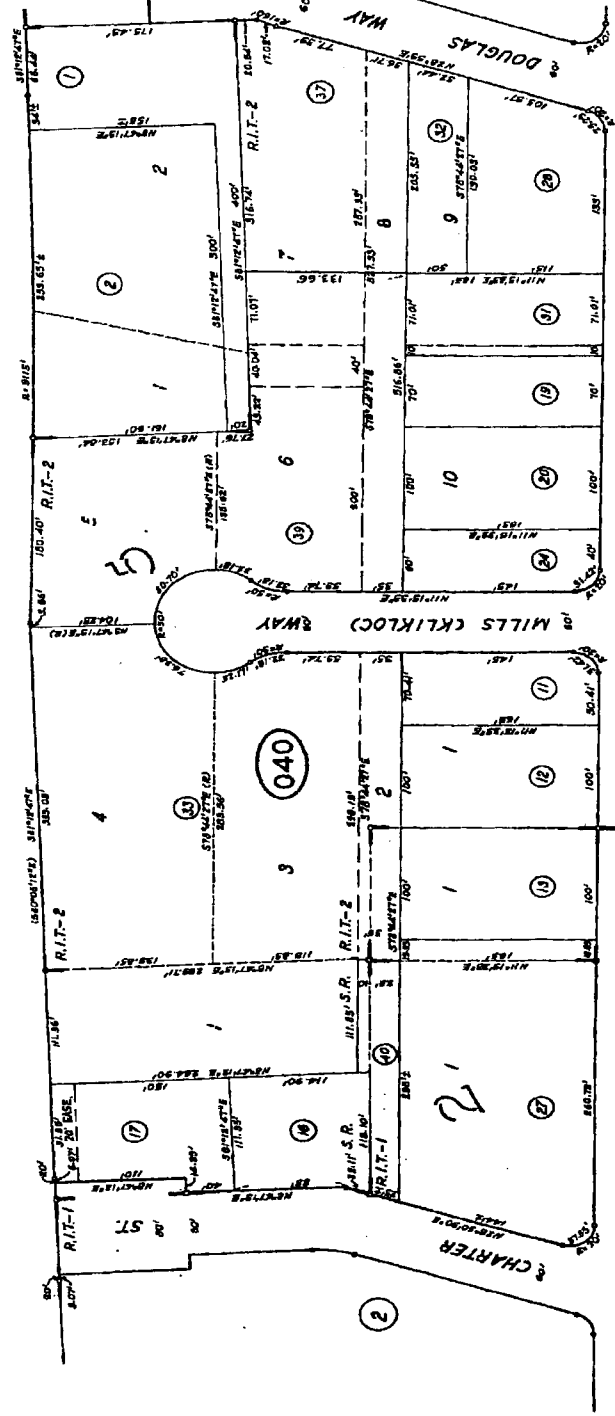
TAX CODE AREA

54-4



BAYSHORE

FREEWAY



BROADWAY

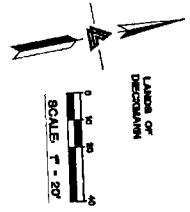
- △ SWEENEY RANCH PTN. OF- RSM 2/97
- △ REDWOOD INDUSTRIAL TRACT NO.1 PTN. OF- RSM 27/39
- △ REDWOOD INDUSTRIAL TRACT NO.2 PTN. OF- RSM 35/04

BOUNDARY LINE
PROPERTY LINE
CASE TV OVERHEAD LINE
ELC/TELE/COLE TV OVERHEAD LINE
WATER LINE
ONE LINE (PER USA MARKING)
HIGH VOLTAGE ELECTRICAL LINE (PER USA MARKING)
SEWANTY WASTE LINE
TELEPHONE/COLE TV OVERHEAD LINE
WATER LINE (PER USA MARKING)
ROAD MARKING
NOTION OF WALL

11

## BENCHMARK

WAD AND RIMEN SET IN ASPHALT  
ELEVATION = 2.40'



APN: 034-040-380



WORKSHEET NO.	21700087
DATE	08-08-12
SCALE	1" = 20'
DRAWING BY	JH



## SCHEDULE A

### *First American Title Insurance Company*

Name and Address of the issuing Title Insurance Company:  
First American Title Insurance Company  
1737 North First Street, Suite 500  
San Jose, CA 95112

File No.: **NCS-538325-SC**

Policy No.: **538325**

Address Reference: 1090 Mills Way, Redwood City, CA 94063

Amount of Insurance: \$4,000,000.00

Date of Policy: August 02, 2012 at 8:00 A.M.

1. Name of Insured:

Sequoia Union High School District, a governmental agency

2. The estate or interest in the Land that is insured by this policy is:

A Fee.

3. Title is vested in:

Sequoia Union High School District, a governmental agency

4. The Land referred to in this policy is described as follows:

Real property in the City of Redwood City, County of San Mateo, State of California, described as follows:

LOT 5 AND 6, TOGETHER WITH THOSE PORTIONS OF LOTS 7 AND 8 LYING WESTERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE NORTHWEST CORNER OF LOT 7, AND RUNNING THENCE SOUTH 81° 12' 47" EAST, ALONG THE NORTHERLY LINE OF SAID LOT 7, 71.07 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 11° 15' 33" WEST, 133.66 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 8, ALL IN BLOCK 5, AS SHOWN ON THAT CERTAIN MAP ENTITLED "REDWOOD INDUSTRIAL TRACT NO. 2, REDWOOD CITY, CALIFORNIA", AS FILED IN THE OFFICE OF THE COUNTY OF RECORDER OF SAID COUNTY, IN BOOK 35 OF MAPS, AT PAGES 3, 4, 5 AND 6.

EXCEPTING THEREFROM THAT PORTION OF LOT 5 DESCRIBED IN PARCEL TWO OF THE DEED FROM CALIFORNIA PACIFIC TITLE INSURANCE COMPANY, A CORPORATION, TO THE STATE OF CALIFORNIA, RECORDED IN BOOK 3063 OF OFFICIAL RECORDS AT PAGE 258, (FILE NO. 72395-N) RECORDS OF SAN MATEO COUNTY.

ALSO EXCEPTING THEREFROM, THE TITLE AND EXCLUSIVE RIGHT TO ALL OF THE MINERALS AND MINERAL ORES OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED UPON, WITHIN OR UNDERLYING SAID LAND, OR THAT MAY BE PRODUCED THEREFROM, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ALL PETROLEUM, OIL, NATURAL GAS AND OTHER HYDROCARBON SUBSTANCES AND PRODUCTS DERIVED THEREFROM, TOGETHER WITH THE EXCLUSIVE AND PERPETUAL RIGHT THERETO, WITHOUT, HOWEVER, THE RIGHT TO USE OR PENETRATE THE SURFACE OF, OR TO ENTER UPON, SAID LAND, WITHIN 500 FEET OF THE SURFACE THEREOF, TO EXTRICATE OR REMOVE THE SAME.

SAID EXCEPTION WAS CREATED BY THE DEED FROM SOUTHERN PACIFIC COMPANY TO KLIKLOK CORPORATION, RECORDED MAY 16, 1968, IN BOOK 5474 OF OFFICIAL RECORDS, AT PAGE 130 (FILE NO. 43362-AB).

SAID LANDS BEING SECONDLY DESCRIBED IN EXHIBIT "A" OF THAT CERTAIN LOT LINE ADJUSTMENT EXECUTED BY THE CITY OF REDWOOD CITY ON JULY 31, 1986, AND RECORDED ON OCTOBER 1, 1986, AS DOCUMENT NO. 86121097, RECORDS OF SAN MATEO COUNTY, CALIFORNIA.

APN: 054-040-390

JPN(S): 054-004-040-03A, 054-004-040-08A, 054-004-040-25A, 054-004-040-26A, 054-004-040-34A

## **EXHIBIT "C"**

### **SCHEDULE OF LEASE PAYMENTS**

District shall make Lease Payments for the Facilities Lease in conformance with and subject to the terms and conditions for payments for the Project as set forth in the Construction Provisions. Beginning upon the term described in the Lease, the District shall pay One Dollar and no cents (\$1.00) per month for eight months, at which time all conditions described in the lease shall be satisfied, unless the construction schedule extends beyond eight months. In the event the construction schedule extends beyond the eight months the District shall continue to pay the same per-month lease payment as stipulated above until the Project is substantially completed or beneficially occupied by the District.

**EXHIBIT "D"**  
**CONSTRUCTION PROVISIONS**

**Dated November 5, 2014**

**(attached)**

EXHIBIT 'D'

**CONSTRUCTION PROVISIONS**

FOR

Sequoia Union High School District  
Mills Way Corporate Yard Renovation Project  
1090 Mills Way, Redwood City, CA 94063

1. ACKNOWLEDGMENTS

The Sequoia Union High School District (the "District") and Alten Construction, Inc. (the "Corporation") acknowledge the following, as of November 5, 2014 ("Effective Date"):

a. The District desires to have Corporation construct the Mills Way Corporate Yard Renovation Project at the District's property located at 1090 Mills Way, Redwood City, California, 94063 ("Site"), which is subject to a Site Lease and a Facilities Lease, both dated November 5, 2014 between both the District and the Corporation; and

b. The District owns the Site, or will own the Site prior to execution of the Site Lease and Facilities Lease; and

c. The District and Quattrocchi Kwok Architects (the "Architect") have entered into an agreement for architectural services with respect to the design of the Project (the "Architectural Services Agreement"); and

d. Construction documents for the Project, including plans and specifications (collectively the "Construction Documents"), have been submitted to the City of Redwood City, California (The "City") for approval, have been approved or will be approved by the City, and are incorporated herein by this reference; and

e. Upon completion of the Construction Documents, the Corporation will have thoroughly investigated the site conditions and reviewed the Construction Documents to establish that there are no known problems with respect to the site conditions or the Construction Documents and that Corporation can and will construct the Project for the Guaranteed Maximum Price as set forth and defined in Article 3(b) of these Construction Provisions, and Corporation will not seek any additional compensation whatsoever, including, without limitation, any requests based upon known site conditions unless otherwise provided in these documents; and

f. Corporation is experienced in the construction of the type of facility desired by District and will have all construction performed by firms with all necessary licenses and qualifications which are required to build and deliver the Project.

g. District agrees to remove or relocate all identified obstructions from the site that will be in conflict with the performance of the Work prior to the start of demolition and construction, specifically, but not limited to hazardous material abatement.

2. CORPORATION'S DUTIES AND STATUS

Corporation shall be responsible for furnishing and completing the construction of the Project pursuant to these Construction Provisions and the Construction Documents. Corporation further agrees to furnish efficient business administration and superintendence and to provide all reasonably necessary labor, equipment and materials, and to perform the work appropriately, expeditiously, and economically, consistent with the interests of District.

### 3. DEFINITIONS

a. CONSTRUCTION. The term "Construction" as used herein includes all labor and services necessary for the construction and delivery of the Project, and all materials, equipment, tools, supplies and incidentals incorporated or to be incorporated in such construction as fully described in the Scope of Work for Construction Services set forth in Article 7. Unless otherwise expressly stipulated, Corporation shall perform all work and provide and pay for all materials, labor, tools, equipment and utilities, including, but not limited to, light, water and power, necessary for the proper execution and completion of the Project pursuant to the Construction Documents and the terms of these Construction Provisions.

b. GUARANTEED MAXIMUM PRICE. The term "Guaranteed Maximum Price" (also sometimes referred to herein as the "GMP") as used herein means the amount of two million eight hundred and sixty eight thousand eight hundred and twenty four dollars (\$2,868,824.00), to be paid to Corporation by the District for the performance of Construction Services, subject to the provisions of the Contingency Fund as set forth in Article 4 of these provisions, and subject to any adjustments for Extra Work/Modifications as provided in Article 8, and Supplemental Provisions (Attachment No. 2) or Savings as provided in Article 6. The parties agree that the GMP includes an amount equal to fifteen thousand dollars (\$15,000) that has already been disbursed to the Corporation to pay for preconstruction services pursuant to a Preconstruction Agreement between the District and the Corporation dated October 7, 2014. Consequently, the District will be entitled to an offset against its obligation to pay Corporation for work done pursuant to this agreement equal to the \$15,000 already disbursed for preconstruction services.

Corporation will prepare a detailed line item costing of the Guaranteed Maximum Price and once agreed to by District and Corporation it shall be attached to this Exhibit D as Attachment No. 3. All parties acknowledge that the Guaranteed Maximum Price is based on the plans and specifications, which are attached hereto as Attachment No. 1 upon DSA approval, and as amended by DSA or as amended by mutual agreement of Corporation and District.

District and Contractor represent and warrant that the Guaranteed Maximum Price consists of progress payments ("Progress Payments") to be paid by District during the course of construction, plus the additional sums to be paid as a portion of the Lease Payments or optional prepayment thereof. District and Corporation represent and warrant that 1) the total amount of Lease Payments and optional prepayment thereof constitute the total rental for the Project, which total does not exceed the fair market value for the Project, 2) said rental amount has been incorporated into the Guaranteed Maximum Price in consideration and inducement of this document and the Site Lease and Facilities Lease, the uses and purposes which may be served by the Project, and the benefits there from which will accrue to the District and the general public, and 3) said rental amount shall be paid by the District as a part of the Guaranteed Maximum Price, pursuant to the terms of this document. For purposes of accounting and tracking expenditures, the Guaranteed Maximum Price includes an amount of Twelve Dollars (\$12.00), which amount shall be paid as rental/lease payments or prepayment thereof, which rental/lease

payments or prepayment thereof shall be paid monthly by the District during the course of construction, in equal payments, with District non-local match contribution local funds.

To the extent that the Construction Documents, as defined below, differ from the plans and specifications ("Plans and Specifications") attached hereto, such differences will be dealt with under the provisions for Modifications and Savings as addressed in this document.

If the Guaranteed Maximum Price shall contain allowances for items the scope of which cannot be fixed, such allowances shall be described in section 4 of these Construction Provisions and they shall be in the control of District. Allowance funds shall be used only for the direct cost of labor, material, equipment, subcontract cost and shall not be applied to general conditions, overhead, or profit.

District shall pay to Corporation upon execution of the Site Lease and Facilities Lease, upon presentment of an invoice from Corporation and review and approval thereof by District, for all services rendered by Corporation as of said date of execution, if any. Any such payment shall be included within the Guaranteed Maximum Price.

- c. SUBCONTRACTOR. As used herein, the term "Subcontractor" shall mean any person or entity that has a contract with the Corporation to perform any of the Construction.
- d. CONSTRUCTION DOCUMENTS. The term "Construction Documents" means those Construction Documents for the Project, including without limitation, the Plans and Specifications which have been reviewed by Corporation, approved or to be approved by DSA, and adopted by the District.
- e. CONSTRUCTION ALLOWANCE. Funds included the GMP for scopes of work required to complete the Project without clearly identifiable quantities. Corporation shall utilize these funds, at their discretion, for the benefit of the Project. Any unspent Construction Allowance shall be credited to the District at the end of the Project.
- f. DESIGN ALLOWANCES. Funds included in the GMP for scopes of work not designed at the time of the signing of the GMP. The District shall provide the final designs for these scopes of work. Should the final cost for these scopes of work exceed the design allowance the District will increase the GMP in the amount of the overrun. Should the final cost for these scopes of work result in a savings to the GMP the Corporation will credit the savings to the District. Reference Attachment No. #3 for a list of these items.

#### 4. DISTRICT CONTINGENCY FUND AND ALLOWANCES

- a. District Contingency Fund. Corporation and District hereby create a District construction contingency fund ("Contingency Fund") for the Project's benefit that shall originally consist of seventy five thousand dollars (\$75,000). This Contingency Fund is a line



item within the Guaranteed Maximum Price. In no event shall the total Project budget exceed the budget set forth in section 3(b) herein.

The Contingency Fund shall be utilized for the payment of: (1) design constructability issues; or (2) scheduling issues; or 3) overruns in construction allowances general requirements and general conditions; or 4) scopes of work required by the contract documents but not identified in the subcontract scopes of work or allowances. Utilization of this Contingency Fund shall be at the discretion of the District for the funding of work as herein defined.

b. Owner Allowance for Unforeseen Vandalism Repairs. Corporation and District hereby establish an allowance of two hundred thousand dollars (\$200,000) which shall be for the Project's benefit and used to repair unforeseen vandalism occurring at the Site ("Vandalism Repairs Allowance"). This allowance is a line item within the Guaranteed Maximum Price. Utilization of the Vandalism Repairs Allowance shall be at the discretion of the District.

5. NOTICE TO PROCEED WITH CONSTRUCTION SERVICES

After execution of the Facilities Lease and any related documents relating to the lease of the Site and/or the construction of the Project, District shall promptly issue to Corporation a Notice to Proceed with the construction of the Project pursuant to the terms hereof.

6. COST SAVINGS

The Corporation shall work cooperatively with Architect, subcontractors and District, in good faith, to identify appropriate opportunities to reduce the Project costs and promote cost savings. Any identified cost savings from the Guaranteed Maximum Price shall be identified by Corporation, and if approved in writing by the District, such cost savings shall be credited to the District and the Corporation as indicated in Attachment No. 2. If any cost savings require revisions to the Construction Documents, Corporation shall work with the Architect with respect to revising the Construction Documents and, if necessary, assist the Architect in obtaining the approval of DSA with respect to such revisions. Any reasonable cost incurred by Architect for such revisions shall be paid for out of the identified savings by the District. Corporation shall be entitled to an extension of contract time equal to the delay in completion caused by any cost savings adopted by District.

7. SCOPE OF WORK FOR CONSTRUCTION SERVICES

a. Corporation shall complete the construction of the Project in accordance with the Construction Documents and these Construction Provisions, performing all work relating to the Project appropriately, expeditiously, and economically, with a reasonable standard of quality with respect to material, assembly, finishes and workmanship. All construction shall be pursuant to DSA-approved construction documents.

- b. Corporation shall establish procedures for the protection of the Project and all existing structures, equipment, utilities, and other existing improvements, both on-site and off-site.
- c. District represents that for this project there are no CEQA mitigation measures for Corporation to perform.
- d. Corporation will establish an electronic document control system including all internal and external correspondence related to the Project, and all project documents, drawings, contracts, change orders (if applicable), contractor submittals, and shop drawings.
- e. Corporation will prepare, file, and distribute a Project Status Report as requested by the District, as well as Verified Reports required by Title 24 and expenditure logs required by OPSC.

Notwithstanding the above, District shall be responsible for the following:

- (1) With the assistance of Corporation, District shall cause the appropriate professionals to stamp and sign, as required, the original Construction Documents or parts thereof.
- (2) District shall pay for all utility hook-ups and utility connection fees.
- (3) With Corporation's assistance and guidance, District shall obtain and pay for all permits, fees and licenses relating to the Project, however, District shall not be responsible for any costs for the building licenses of Corporation and Corporation's subcontractors.

#### 8. EXTRA WORK/MODIFICATIONS

a. The District may prescribe additional work or a modification of requirements or of methods of performing the construction of the Project which differ from the work or requirements set forth in the Construction Documents (the "Modifications"); and for such purposes, the District may at any time during the life of the Facilities Lease, by written order, make such changes as it shall find necessary in the design, line, grade, form, location, dimensions, plan, or material of any part of the work or equipment specified herein or in the Construction Documents, or in the quantity or character of the work or equipment to be furnished.

b. Prior to Corporation commencing any work with respect to Modifications, District and Corporation must agree upon the cost or savings of such Modifications or a mutually agreeable mechanism for establishing the cost or savings, which shall be added to the Guaranteed Maximum Price.

#### 9. TIME OF COMPLETION OF CONSTRUCTION SERVICES

Once the District has issued a Notice to Proceed pursuant to Article 5, hereof, Corporation shall proceed with the construction of the Project with due diligence. If Notice to Proceed is given to allow work to begin November 17, 2014, Corporation agrees to substantially complete the work by June 19, 2015. Project Substantial Completion is the stage at which the entire Project is sufficiently complete in accordance with the Contract Documents to allow District to use and occupy the entire Project as intended. Weather days shall be in addition to the allotted time and will extend the substantial completion date when incurred.

10. PROGRESS SCHEDULE

Within fifteen (15) days after the District's issuance of a Notice to Proceed with Construction Services pursuant to Article 5 hereof, Corporation shall furnish District with a schedule setting forth the expected dates for commencement and completion of each of the various stages of construction to be performed by Corporation pursuant to the terms hereof (the "Progress Schedule"). The Progress Schedule shall utilize the Completion Date and shall be updated by Corporation as necessary and revisions in said schedule shall be furnished to District. Up to ten calendar days shall be allotted for in the Progress Schedule for weather days. The weather days shall be shown on the Progress Schedule and if used will extend the Project Substantial Completion date. It is specifically understood that District will utilize the Progress Schedule as it is revised from time to time to determine final dates upon which to make decisions it must make with respect to the Project.

11. LIQUIDATED DAMAGES

IF THE PROJECT IS NOT COMPLETED BY JUNE 19, 2015 IT IS UNDERSTOOD THAT THE DISTRICT WILL SUFFER DAMAGE. IT BEING IMPRACTICAL AND UNFEASIBLE TO DETERMINE THE AMOUNT OF ACTUAL DAMAGE, IT IS AGREED THAT THE CORPORATION SHALL PAY TO DISTRICT, AS FIXED AND LIQUIDATED DAMAGES, AND NOT AS A PENALTY, ONE THOUSAND DOLLARS (\$1,000) FOR EACH CALENDAR DAY OF DELAY IN SUBSTANTIAL COMPLETION OF THE PROJECT.

Section 11 "Liquidated Damages," is expressly understood and agreed to by the parties hereto:

\_\_\_\_\_ Corporation's Initials

\_\_\_\_\_ District's Initials

In the event that the performance and/or completion of the Project is delayed at any time by any act or omission of District or by any employee or agent of District, by strikes, by lockouts, by fire, by embargoes, by flood, by weather, by earthquake, by acts of war or God, or by any other cause beyond the reasonable control of Corporation, the aforesaid date for completion of the Project shall be extended for a reasonable period as a consequence of such delay.

12. PROGRESS PAYMENTS FOR CONSTRUCTION SERVICES

Subject to the provisions set forth in the Facilities Lease, each month while Corporation is providing Construction Services, District shall pay to Corporation a sum equal to ninety five percent (95%) of value of the construction service work performed up to the last day of the previous month, less the aggregate of previous payments (the "Progress Payments"). District's obligation to make progress payments is contingent on Corporation providing information and documentation relating to such payments (e.g., waivers, affidavits, etc.) in a form reasonably acceptable to the District. If all of the necessary information is submitted and accurate (including the schedule of values), District shall approve the Progress Payments within five (5) days after District's receipt of the periodic estimate for partial payment and District shall pay such Progress Payments within thirty (30) days after the District's approval of the periodic estimate for partial payment. The District shall return any Progress Payment application that it asserts does not conform with the contract requirements within five (5) days of receipt, with a written explanation of each item that the District contends is nonconforming. Progress Payments shall be made on the basis of monthly estimates which shall be prepared by Corporation on a form approved by District and certified by Architect and Project Inspector, or the approved representative of the District, and filed before the fifth day of the month during which payment is to be made. Work completed as estimated shall be an estimate only and no inaccuracy or error in said estimate shall release Corporation or any bondsman from such work or from enforcing each and every provision of this Construction Provisions and District shall have the right subsequently to correct any error made in any estimate for payment. Corporation shall not be entitled to have any payment estimates processed or be entitled to have any payment made for work performed so long as any lawful or proper direction concerning non-complying work or any portion thereof given by the District lacks correction by Corporation. District shall withhold from the Progress Payments 150% of the estimated value of non-complying work unless satisfactorily corrected or remedied.

In no event shall the cumulative total of the Progress Payments for Construction Services, along with the balance of the Contingency Fund and any anticipated retention ever exceed the Guaranteed Maximum Price as defined herein, unless modified pursuant to Article 8 of these Construction Provisions.

Title to new materials and/or equipment for the work of this contract, on a continuous basis while the Project is being completed, shall vest in the District. However, responsibility for such new material and/or work of this contract shall remain with the Corporation until incorporated into the work and accepted by District pursuant to Section 14 herein; no part of said materials and/or equipment shall be removed from its place of storage except for immediate installation in the work of this contract; and Corporation shall keep an accurate inventory of all said materials and/or equipment in a manner satisfactory to the owner or its authorized representative.

13. PAYMENTS WITHHELD

a. District may withhold from the Progress Payments a sufficient amount or amounts (a maximum of 150%) as in its judgment may be necessary to cover:

(1) Payments which may be past due and payable for just claims against Corporation or any subcontractors for labor/materials furnished in and about the performance of work on the Project.

(2) Defective work not remedied.

(3) Failure of Corporation to make proper payments to its subcontractor(s) for material or labor.

(4) Completion of contract if there exists a reasonable doubt that contract can be substantially completed for balance then unpaid.

(5) Damage to another contractor.

(6) Site clean-up.

When the above grounds are removed or corrected, payment shall be made for amounts withheld because of them.

b. District may apply such withheld amount or amounts to payment of such claims or obligations at its reasonable discretion. In so doing, District shall be deemed the agent of Corporation and any payment so made by District shall be considered as a payment made under contract by District to Corporation and District shall not be liable to Corporation for such payments made in good faith. Such payments may be made without prior judicial determination of claim or obligations. District will render Corporation a proper accounting of such funds disbursed on behalf of Corporation.

#### 14. ACCEPTANCE OF COMPLETION; RELEASE OF RETENTION; SUBSTITUTION OF SECURITIES

The Project shall only be considered complete after District accepts completion of the Project and records the Notice of Completion for the Project. District shall have no obligation to accept completion of the Project until the entire work has been completed to the satisfaction of the District, except for minor corrective items, as distinguished from incomplete items. Architect and Project Inspector, or any other approved representative of the District, shall determine when the work is complete. Subject to these Construction Provisions, District will release any retention within thirty-five (35) days of recordation of the Notice of Completion, provided, however, that District's obligation to release the retention shall be contingent on Corporation providing information and documentation (e.g., affidavits and waivers) in a form reasonably satisfactory to the District. The release of the retention hereunder shall constitute the final Lease Payment, as provided for in the Facilities Lease. Furthermore, District shall make said final Lease Payment within 35 days from recordation of the Notice of Completion, or upon the date of occupancy of the Project by District, whichever comes first.

The District will permit the substitution of securities in accordance with the provisions of Public Contract Code Section 22300.

15. PAYMENTS BY CORPORATION

Corporation shall make all payments to subcontractors and suppliers as expeditiously and timely as possible, consistent with the subcontract agreement so as to prevent any stop payment notices, liens or claims from being filed against the District or the Site. Corporation shall subject to the owners' objection to pay indemnify, defend and hold District harmless from any claims or actions which allege that any subcontractor or supplier failed to be paid with respect to the Project.

16. CORPORATION'S SUPERVISION

Corporation shall supervise and direct the construction and completion of the Project using the Corporation's best skill and attention. Corporation shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Project. Specific duties of the Corporation shall be in accordance with all applicable sections of Title 24 of the California Code of Regulations, which relate to the duties of a contractor. Corporation shall construct the Project in accordance with the approved Construction Documents. Corporation shall correct any deficiencies, which are the cause of Corporation noted by Inspector, DSA, or other applicable agencies before or during construction, so that the Project upon completion shall be fit for occupancy for any and all school purposes.

Corporation shall be responsible to the District for acts and omissions of the Corporation's employees, subcontractors, material and equipment suppliers, employees, and other persons performing or completing portions of the Project under direct or indirect contract with the Corporation of any of its subcontractors.

Corporation shall not be relieved of obligations to perform the Project in accordance with the Construction Documents by tests, inspections, or approvals required or performed by persons other than the Corporation.

Corporation shall provide a competent superintendent and assistants as necessary that shall be in attendance at the Project site during construction of the Project.

Corporation and each subcontractor shall furnish a competent and adequate staff as necessary for the proper administration, coordination, supervision, and superintendence of its portion of the Project, organize the procurement of all materials and equipment so that they will be available at the time they are needed for the Project, and keep an adequate force of skilled and fit workers on the job to complete the Project in accordance with all requirements of the Construction Documents.

District shall have the right, but not the obligation, to require the removal from the Project of any superintendent, staff member, agent, or employee of Corporation, subcontractor, material or equipment supplier, etc., for cause.

Corporation shall enforce strict discipline and good order among the Corporation's employees and other persons carrying out the Contract. Corporation shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

17. DOCUMENTS ON SITE

Corporation shall keep one copy of all Construction Documents (as well as these Construction Provisions) including addenda, change orders and Titles 21 and 24 of the California Code of Regulations on the job site at all times. Said documents shall be kept in good order and available to District and representatives. Corporation shall be acquainted with and comply with the provisions of said Titles 21 and 24 as they relate to the Project. (See particularly the Duties of Contractor, Title 21, California Code of Regulations, Section 43.)

18. PROVISION OF TEMPORARY UTILITIES

All temporary utilities, including, but not limited to, gas and telephone used, shall be provided and paid for by Corporation. Corporation shall furnish and install necessary temporary distribution systems, including meters, if necessary, from distribution points to points on site where any utility is necessary to carry on the work. Upon completion of work on the Project, Corporation shall remove all temporary distribution systems. District will pay monthly usage charges for gas, water and electric.

19. TEMPORARY SANITARY FACILITIES

Corporation shall provide a sanitary temporary toilet building as directed by the District's Inspector for use of all workmen. The building shall be maintained in a sanitary condition at all times and shall be left at the site until removal is directed by the Inspector. Use of toilet facilities in the work under construction shall not be permitted except by approval of the Inspector.

20. PROTECTION OF WORK AND PROPERTY

a. Corporation shall be responsible for all damages to persons or property that occur as a result of its fault or negligence in connection with the prosecution of the Project and shall be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance by District. All work with respect to the Project shall be solely at the Corporation's risk. Corporation shall adequately protect adjacent property from settlement or loss of lateral support as provided by law and the Construction Documents. Corporation shall take all necessary precautions for safety of employees on the work site and shall comply with all applicable safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to premises where work is being performed. Corporation shall erect and properly maintain at all times, as required by conditions and progress of work, all necessary safeguards, signs, barriers,

light, for protection of workmen and the public and shall post danger signs warning against hazards created by such features in the course of construction shall designate a responsible member of its organization on the worksite, whose duty shall be prevention of accidents. Name and position of person so designated shall be reported to the District by Corporation.

b. In an emergency affecting safety of life or of work or of adjoining property, Corporation, without special instruction or authorization from District, is hereby permitted to act, at its discretion, to prevent such threatened loss or injury and it shall so act, without appeal. If so authorized or instructed by District, any compensation claimed by Corporation on account of emergency work shall be determined by the Construction Provisions.

c. Corporation shall take adequate precautions to protect existing sidewalks, curbs, pavements, utilities, adjoining property, and structures, and to avoid damage thereof, and repair any damage thereto caused by construction operations.

d. Corporation shall:

(1) When directed by District, take preventive measures to eliminate objectionable dust.

(2) Confine any apparatus, the storage of materials, and the operations of workers to limits indicated by law, ordinances, permits, or directions of District and shall not unreasonably encumber premises with its materials, and enforce all instructions of District regarding signs, advertising, fires, danger signals, barricades, and smoking and require that all persons employed on work comply with all regulations while on the Project site.

(3) Take care to prevent disturbing or covering any survey markers, monuments, or other devices marking property boundaries or corners. If such markers are disturbed by accident, they shall be replaced by an approved civil engineer at no cost to the District.

## 21. CLEAN UP

a. Corporation at all times shall keep premises reasonably free from debris such as waste, rubbish, and excess materials and equipment caused by work on the Project. Corporation shall not leave debris under, in or about the premises at the end of any day. Upon completion of work, Corporation shall clean interior and exterior of building, including fixtures, equipment, walls, floors, ceilings, roofs, window sills and ledges, horizontal projections, and any areas where debris has collected so surfaces are free from foreign material or discoloration. Corporation shall also clean and polish all glass, plumbing fixtures, and finish hardware and similar surfaces and equipment. Upon completion of work, Corporation shall remove temporary fencing, barricades, planking and construction toilet and similar temporary facilities from site.



- b. If Corporation fails to clean up at the completion of the work, District may do so and the cost of such clean up shall be charged back to the Corporation.

22. CORRECTION OF WORK BEFORE ACCEPTANCE

a. Corporation shall promptly remove from premises all work identified by District as failing to conform to Construction Document requirements selected for completion by the Construction Documents. Corporation shall promptly replace and re-execute its own work to comply with the Construction Documents without additional expense to District and shall bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement.

b. If Corporation does not remove such identified work within a reasonable time, fixed by written notice, District may remove it and may store the material at Corporation's expense. If Corporation does not pay expenses of such removal within ten (10) days time thereafter, District may, upon ten (10) days written notice, sell such materials at auction or at private sale and shall account for net proceeds thereof, after deducting all costs and expenses that should have been borne by Corporation.

c. If Corporation fails to correct any damaged work, items of poor quality, or improperly performed work within a reasonable period of time, in no case exceeding ten (10) days after written notice by District, District may deem it inexpedient to correct such work and at the District's sole discretion, the value of such work shall be deducted from any payments due the Corporation and the District shall not be responsible for the payment of such amount.

23. CONTRACT CLOSE-OUT

a. Utility Connections. All buildings shall be connected to water, gas, sewer, and electric services, complete and ready for use. Service connections shall be made and existing services reconnected.

b. Record Drawings.

(1) Corporation shall keep one complete set of blue line prints of all drawings in good order on the job. Drawings shall be kept up to date as the work progresses and shall be available at all times for inspection.

(2) In addition to keeping the set of blue line prints discussed above, Corporation shall prepare and review an exact "as built" record of the work throughout the duration of the Project and provide a final set of "as built" drawings upon completion of the Project. The following information shall be carefully and correctly drawn on the prints and all items shall be accurately located and dimensioned from finished surfaces of building walls on all record drawings.

(A) Any work not installed as indicated on drawings.

(B) The exact location and elevations of all covered utilities, including valves, cleanouts, etc.

(3) Upon completion of the Project and as a condition precedent to approval of the Project by the District, Corporation shall obtain the District's inspector of records approval of the corrected prints and employ a competent draftsman to transfer the "as-built" information to a complete set of reproducible drawings. Corporation shall submit the complete set of drawings to District.

(4) Corporation shall deliver to District one (1) complete set of operating manuals, repair parts lists, service instructions for all electrical and mechanical equipment, and equipment warranties.

c. Maintenance Manuals. At least ten (10) days prior to final inspection, three (3) copies of complete operations and maintenance manuals shall be submitted for review. All installation, operating, and maintenance information and drawings shall be bound in 8-1/2" X 11" binders. Corporation shall provide a table of contents and all items shall be indexed with tabs. Each manual shall also contain a list of subcontractors, with their addresses and the names of persons to contact in case of emergencies. Identifying labels shall provide names of manufacturers, their addresses, ratings, and capacities of equipment and machinery.

d. Inspection Requirements.

(1) Before calling for final inspection, Corporation shall determine that the following work has been performed:

- A. General construction has been completed.
- B. Mechanical and electrical work complete, fixtures, in place, connected and ready for tryout and test.
- C. Electrical circuits scheduled in panels and disconnect switches labeled.
- D. Painting and special finishes complete.
- E. Door complete with hardware, cleaned of protective film and relieved of sticking or binding and in working order.
- F. Tops and bottoms of doors sealed, if needed.
- G. Floors waxed and polished as specified.
- H. Broken glass replaced and glass cleaned.

I. Grounds cleared of Corporation's equipment, raked clean of debris, and trash removed from site.

J. Work cleaned, free of stains, scratches, and other foreign matter, replacement of damaged and broken material.

K. Finish and decorative work shall have marks, dirt and superfluous labels removed.

(2) Final inspection will be made upon written notification from Corporation to District that work has been completed. Corporation shall receive a list (punch list) of items found unacceptable and shall promptly correct them. Upon written notification from Corporation that all items have been corrected, re-inspection for final acceptance of the Project will be made. Failure of Corporation to complete punch list items will necessitate further re-inspection. Costs of re-inspection will be deducted from contract amount.

(3) Coordinate and schedule training sessions for District personnel and verify that any subcontractor's obligations to train District personnel is satisfied. Corporation shall furnish a letter to District stating that responsible representatives of District (i.e. Director of Facilities and his designees) have been instructed in working characteristics of mechanical and electrical equipment.

e. Reporting Requirements. Corporation shall prepare and submit the final Project accounting and close-out report including all DSA forms to the Architect.

f. Post Construction Follow-up Requirements. Corporation shall provide the District with post construction follow-up for contractor warranty and guarantee items. Architect shall follow-up approximately one year from that date which is the later of: 1) eleven months from the occupancy by District of a substantially completed Project, or 2) eleven months from the date of the filing of the Notice of Completion of the Project; in order to fully assess and identify any pertinent warranty issues associated with the Project.

## 24. ACCESS TO WORK

District and its representatives shall at all times have access to work. Corporation shall provide safe and proper facilities for such access. District and its representative shall check in with the Project Superintendent and observe all safety requirements of Corporation.

## 25. OCCUPANCY

District reserves the right to occupy portions of the Project before completion of the Project, and such occupancy shall not constitute final acceptance of any part of work covered by this contract pursuant to Public Contract Code Section 7107 without interfering with the construction of the

Project. In the event the District occupies the Project upon substantial completion, District shall make the final Lease Payment pursuant to Section 14 herein. Corporation shall schedule, coordinate, and assist the District in occupancy of the completed project or portions thereof.

26. CITY INSPECTOR

Corporation understands and agrees that this project will be subject to inspection by building inspectors employed by the City of Redwood City. Corporation will cooperate with City building inspectors in connection with their inspection of the project.

27. INSPECTOR'S FIELD OFFICE

Not used.

28. PERFORMANCE/PAYMENT BONDS

Prior to commencement of any construction services, Corporation shall furnish a performance bond in an amount equal to the Guaranteed Maximum Price and a payment bond acceptable to the District in an amount equal to the Guaranteed Maximum Price. All bonds shall be provided by a California admitted surety as defined in Code of Civil Procedure Section 995.120. Personal sureties and unregistered sureties are unacceptable. Corporation shall keep the performance bond in effect until expiration of the guarantee/warranty period referenced herein. Corporation shall keep the payment bond in effect for an additional six (6) months after the period in which stop payment notices may be filed as set forth in Civil Code Section 9356.

29. PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE; DAMAGE TO WORK

a. Corporation shall take out and maintain at its sole cost and expense during the term of work performed hereunder public liability and property damage insurance in the following amounts:

(1) Comprehensive general liability insurance including Corporation's risk, blanket contractual, broad form property damage, completed operations and independent contractor's liability all applicable to personal injury, bodily injury, and property damage to a limit of \$5,000,000 each occurrence and \$5,000,000 aggregate. Policy shall include a standard waiver of rights of subrogation against District by the insurance company issuing the policy.

(2) Comprehensive automobile liability insurance including owned, hired, and non-owned automobiles, for bodily injury and property damage to a combined single limit of \$1,000,000 each occurrence.

b. Corporation shall require its subcontractors, if any, to take out and maintain similar public liability and property damage insurance and comprehensive

automobile liability insurance in an amount of \$1,000,000 each occurrence and \$2,000,000 aggregate.

c. All insurance policies must be issued by California admitted insurers. Alternatively, a non-California admitted insurer may be accepted at the sole discretion of the District.

d. General liability limits can be met using umbrella or excess coverage.

30. ALL RISK INSURANCE

District shall take out and maintain All Risk (Corporation's Risk) insurance on all work of improvement required by the Contract documents subject to loss or damage in an amount equal to the Guaranteed Maximum Price or the replacement construction cost, whichever is greater. Corporation and its subcontractors will be named as additionally insured and a waiver of subrogation will be included on the policy. Corporation is responsible for the deductible.

31. PROOF OF CARRIAGE OF INSURANCE

Concurrent with the execution of the Facilities Lease, Corporation shall have obtained all insurance and endorsements for such insurance which have been delivered in duplicate and approved by District.

a. Endorsements and insurance policies shall include this following clause:  
"This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to District stating date of cancellation or reduction may not be less than thirty (30) days after date of receipt of notice."

b. Endorsements shall state in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date and cancellation and reduction notice.

c. Endorsements shall clearly state that the District is named as additional insured under the policy described and that such insurance policy shall be primary to any insurance or self-insurance maintained by the District. Said endorsements must be provided in a commercially available form deemed suitable to the District, in its sole and absolute discretion.

32. PERMITS AND LICENSES

Permits and licenses necessary for prosecution of work shall be secured and paid for by District, unless otherwise specified. Business licenses shall be secured and paid for by Corporation and subcontractors.

33. EXCISE TAXES. Not used.

34. PATENTS AND ROYALTIES

Corporation shall indemnify, defend and hold harmless the District, its officers, agents and employees harmless from liability of any nature or kind, including cost and expense, for or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of this contract, including its use by the District, unless otherwise specifically stipulated in the contract documents.

35. INDEMNITY

a. Indemnification of District.

(1) Corporation agrees to and does hereby indemnify, defend and hold harmless District, its officers, and their employees from every claim or demand made, and every liability, loss, damage, or expense of any nature whatsoever, which may arise out of Corporation's acts and/or construction of the Project including without limitation the following:

(A) Liability for damages for death or bodily injury to persons, injury to, loss or theft of property, or any other loss, damage or expense arising from the above, sustained by any person or entity, including without limitation, District, the Corporation or any person, firm, or corporation employed by either District or Corporation upon or in connection with the Project, except for liability resulting from the active and primary negligence or willful misconduct of District, its officers, employees, agents, design professionals or independent contractors who are directly employed by the District, or resulting from defects in designs furnished by the District; and

(B) Any injury to or death of persons or damage to property caused by any act, neglect, default or omission of the Corporation, or any person, firm, or corporation employed by Corporation, either directly or by independent contract, including all damages due to loss or theft, sustained by any person, firm or corporation, including District, arising out of, or in any way connected with Corporation's performance, whether said injury or damage occurs either on or off District property, or if the liability arose from the negligence or willful misconduct of anyone employed by Corporation, either directly or by independent contract.

(C) Any dispute between Corporation and Corporation's subcontractors/suppliers/sureties, including, but not limited to, any stop payment notice actions.

Corporation, at its own expense, cost and risk, shall defend any and all actions, suits, claims, demands or other proceedings to the extent of the above-described indemnification that may be brought or instituted against District, its officers, agents, or employees, and shall pay or satisfy any judgment that may be rendered against District, its officers, agents, or employees in any action suit or other proceedings as a result thereof.

(2) Corporation shall require that indemnitee language in substantially the same form as set forth above be inserted in any agreements with its subcontractors.

(3) Where approval by the District or representative of the District is indicated, it is understood to be conceptual approval only and does not relieve Corporation of responsibility for complying with all laws, codes, industry standards and liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of Corporation or its subcontractors.

### 36. TESTS AND INSPECTIONS

With respect to any work which is required to be specially tested or approved, Corporation shall give notice in accordance with such authority of its readiness for observation or inspection at least two (2) working days prior to being tested or covered up. If inspection is by authority other than District, Corporation shall inform District of date fixed for such inspection. Required certificates of inspection shall be secured by Corporation. Observations by District shall be promptly made, and where practicable at source of supply. If any work should be covered up without approval or consent of District, it must, if required by District, be uncovered for examination and satisfactorily reconstructed at Corporation's expense in compliance with contract. Costs of tests of any materials found to be not in compliance with contract shall be paid for by Corporation. Other costs for tests and inspections of materials shall be paid by District.

Where such inspection and testing are to be conducted by an independent laboratory or agency, such materials or samples of materials to be tested shall be selected by such laboratory or agency, or District's representative, and not by Corporation.

Corporation shall notify District a sufficient time in advance of manufacture of materials to be supplied by him under contract, which must by terms of contract be tested in order that District may arrange for testing of same at source of supply. Any materials shipped by Corporation from source of supply prior to having satisfactorily passed such testing and inspection, or prior to receipt of notice from said representative that such testing and inspection will not be required, shall not be incorporated in work without prior approval of District and subsequent testing and inspection.

Re-examination of questioned work may be ordered by District and, if so ordered, work must be uncovered by Corporation. If such work is found in accordance with contract documents, District shall pay costs of re-examination and replacement. If such work is not found to be in accordance with contract documents, Corporation shall pay such costs from the Contingency Fund.

### 37. MATERIALS

a. Except as otherwise specifically stated in this contract, Corporation shall provide and pay for all materials, labor, tools, equipment, water, light, power,

transportation, superintendence, temporary constructions of every nature, and all other services and facilities of every nature whatsoever necessary to complete the Project contract within specified time.

b. Unless otherwise specified, all materials shall be new and meet or exceed industry standard for school construction and all workmanship shall be of good quality.

c. Materials shall be furnished in ample quantities and at such times as to ensure uninterrupted progress of work and shall be stored properly and protected as required.

d. No materials, supplies, or equipment for work under this contract shall be purchased subject to any chattel mortgage, or under a conditional sale or other agreement by which any interest therein, or in any part thereof, is retained by seller or supplier. Corporation warrants good title to all material, supplies and equipment installed or incorporated in work and agrees upon completion of all work to deliver premises, together with all improvements and appurtenances constructed or placed thereon by him, to District free from any claim, liens or charges. Corporation further agrees that neither it nor any person, firm or corporation furnishing any materials or labor from any work covered by the Construction Provisions shall have any right to lien upon premises or any improvement of appurtenances thereon, except that Corporation may install metering devices or other equipment of utility companies or of political subdivisions, title to which is commonly retained by utility company or political subdivision. In event of installation of any such metering device or equipment, Corporation shall advise District as to owner thereof.

e. Nothing contained in this Article, however, shall defeat or impair the rights of persons furnishing material or labor under any bond given by Corporation for their protection or any rights under any law permitting such persons to look to funds due Corporation in hands of District, and this provision shall be inserted in all subcontracts and material contracts and notice of its provisions shall be given to all persons furnishing material for work when no formal contract is entered into for such material.

f. Materials shall be stored on the premises in such manner so as not to interfere with the work and so that no portion of the structure shall be overloaded.

g. Materials or work required or necessary to be tested shall be tested under supervision of, as directed by, and at such places as may be convenient to the District. The required testing of all structural materials shall be done by an approved testing laboratory.

### 38. CLAIMS

If the Corporation shall claim compensation for any damage sustained by reason of the acts of the District or its agents, Corporation shall, within fourteen (14) days after Corporation becomes aware that it has sustained damage, make to the District a written statement of the damage



sustained. On or before the fifteenth (15<sup>th</sup>) day of the month succeeding that in which such damage shall have been sustained, the Corporation shall file with the District an itemized statement of the details and amount of such damage and unless such statement shall be made as required.

39. WORKERS

a. Corporation shall at all times enforce strict discipline and good order among Corporation's employees and shall not employ on work any unfit person or anyone not skilled in work assigned to Corporation.

b. Corporation shall remove from the work site any person in the employ of the Corporation whom District may deem incompetent or unfit and such worker shall not again participate in the work and shall not again be employed on it except with written consent of District.

c. Corporation shall take all reasonable steps necessary to ensure that any employees of Corporation or any of its subcontractors' employees report for work in a manner fit to do their job. Such employees: (i) shall not utilize tobacco on the Project site, and (ii) shall not be under the influence of or in possession of any alcoholic beverage or of any controlled substance (except a controlled substance as prescribed by a physician so long as the performance or safety at the Project Site is not affected thereby). Corporation shall advise its employees of these requirements before they enter on the site and shall immediately remove from the site any employee in violation of these requirements as determined by Corporation or by the District. Corporation shall impose these requirements on its subcontractors.

d. Unless exempted, Corporation shall comply with the applicable requirements of Education Code Sections 45125.1 and 45125.2 with respect to fingerprinting of employees who may have contact with the District's pupils. Corporation shall also ensure that its subcontractors on the Project also comply with the requirements of Education Code Sections 45125.1 and 45125.2.

40. WAGE RATES

a. Pursuant to the provisions of Article 2 (commencing at Section 1770), Chapter 1, Part 7, Division 2 of the Labor Code of California, the governing body of District has ascertained the general prevailing rate of per diem wages in the locality in which this public work is to be performed for each craft, classification, or type of workmen needed to execute the contract.

Per diem wages shall be deemed to include employer payments for health and welfare, pension, vacation, travel time and subsistence pay as provided in Labor Code Section 1773.1 apprenticeship or other training programs authorized by Labor Code Section 3093, and similar purposes when the term "per diem wages" is used herein.

b. Each worker needed to execute the work must be paid travel and subsistence payments as defined in the applicable collective bargaining agreements filed in accordance with Labor Code Section 1773.8.

c. Holiday and overtime work when permitted by law shall be paid for at a rate of at least one and one-half times the above specified rate of per diem wages, unless otherwise specified.

d. There shall be paid each worker of the Corporation or any of its subcontractors engaged in work on the project not less than the prevailing wage rate, regardless of any contractual relationship which may be alleged to exist between the Corporation or any subcontractors and such workers.

e. Corporation shall, as a penalty to the District, forfeit an amount as determined by the Labor Commissioner pursuant to Labor Code Section 1775 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the director for such work or draft in which such worker is employed for any public work done under the contract by him or by any subcontractor under him. The difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by Corporation.

f. Copies of the determined prevailing wage rates are on file and available upon request at the District's office. District shall provide Corporation with current prevailing wage rates, in writing. Corporation shall post, at appropriate conspicuous points on the site of the Project, a schedule showing all determined general prevailing wage rates. Corporation will promptly provide the District with certified copies of its payroll records for the project upon request of the District.

g. Any worker employed to perform work on the Project which is not covered by any classification available in the District office, shall be paid not less than the minimum rate of wages specified for the classification which most nearly corresponds with work to be performed by him, and that minimum wage rate shall be retroactive to the time of initial employment of the person in the classification.

#### 41. RECORD OF WAGES PAID: INSPECTION

Pursuant to Labor Code Section 1776, Corporation stipulates to the following:

a. Corporation and each subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public under the Construction Provisions. Such records shall be recorded as mandated by the Division of Labor Standards Enforcement or shall contain the same information of such forms. Prior to beginning work pursuant to these

Construction Provisions, Corporation and all subcontractors shall register and meet all requirements using the California Department of Industrial Relations' online application as required pursuant to the public works contractor registration program set forth in California Senate Bill 854.

b. The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal, or project office of the Corporation, or the appropriate subcontractor, on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employees or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (A) shall be made available for inspection or furnished upon request to a representative of the District, the Division of Labor Standards Enforcement and Division of Apprenticeship Standards of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (A) shall be made available upon request by the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the District, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the Corporation, subcontractors, and the entity through which the request was made. The public shall not be given access to such records at the principal office of the Corporation.

c. Corporation shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested such records within ten (10) days after receipt of the written request.

d. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency, the District, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Corporation awarded the contract or performing the contract shall not be marked or obliterated.

e. Corporation shall inform the District of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five (5) working days, provide a notice of a change of location and address.

f. In the event of noncompliance with the requirements of this Article, the Corporation shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects the Corporation must comply with this Article. Should

noncompliance still be evident after such 10-day period, the Corporation shall pay a penalty of twenty-five Dollars (\$25.00) to the District for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payment then due.

g. The responsibility for compliance with this Article shall rest upon Corporation.

#### 42. HOURS OF WORK

a. As provided in Article 3 (commencing at Section 1810), Chapter 1, Part 7, Division 2 of the Labor Code, Corporation stipulates that eight (8) hours of labor shall constitute a legal day's work. The time of service of any worker employed at any time by the Corporation or by the work or upon any part of the work contemplated by this contract is limited and restricted to eight hours during any one calendar day and forty (40) hours during any one calendar week, except as hereinafter provided. Notwithstanding the provisions hereinabove set forth, work performed by employees of contractors in excess of eight (8) hours per day and forty (40) hours during any one week upon this public work shall be permitted compensation of all hours worked in excess of eight (8) hours per day at not less than one and one-half times the basic rate of pay.

b. Corporation shall pay to the District at a penalty of twenty-five dollars (\$25.00) for each worker employed in the execution of this contract by the Corporation or by any subcontractor for each calendar day during which such workman is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week in violation of the provisions of Article 3 (commencing at Section 1810), Chapter 1, Part 7, Division 2 of the Labor Code, unless compensation to the worker so employed by the Corporation is not less than one and one-half (1-1/2) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

c. Any work necessary to be performed after regular working hours or on Sundays or other holidays shall be performed without additional expense to District, unless otherwise agreed to by the parties.

d. Construction work under the Construction Provisions shall be accomplished on a schedule consistent with the normal and reasonable practices of the Corporation and in compliance with applicable ordinances.

#### 43. APPRENTICES

a. All apprentices employed by Corporation to perform services under the contract shall be paid the standard wage paid to apprentices under the regulation of the craft or trade at which that apprentice is employed, and shall be employed only at the work of the craft or trade in which that apprentice is registered. Only apprentices, as defined in Labor Code Section 3077, who are in training under apprenticeship standards

and written apprenticeship agreements under Chapter 4 (commencing at Section 3070), Division 3 of the Labor Code, are eligible to be employed under this contract. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprenticeship agreements under which that apprentice is training.

b. When the Corporation to whom the contract is awarded by the District or any subcontractor under the Corporation, in performing any of the work under the contract or subcontract, employs workers in any apprenticeable craft or trade, the Corporation and subcontractor shall apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the site of the public work, for a certificate approving the Corporation or subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, approval as established by the joint apprenticeship committee or committees shall be subject to the approval of the Administrator of Apprenticeship. Corporations or subcontractors shall not be required to submit individual applications for approval to local joint apprenticeship committees provided they are already covered by the local apprenticeship standards. The ratio of work performed by apprentices to journeymen, who shall be employed in the craft or trade on the public work, may be the ratio stipulated in the apprenticeship standards under which the joint apprenticeship committee operates, but in no case shall the ratio be less than one hour of apprentices work for each five hours of labor performed by a journeyman, except as otherwise provided in Section 1777.5, of the Labor Code. However, the minimum ratio for the land surveyor classification shall not be less than one apprentice for each five journeymen.

c. "Apprenticeable craft or trade" as used in Labor Code Section 1777.5 and this Article, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the Apprenticeship Council.

d. Corporation, or any subcontractor under Corporation, who, in performing any of the work under this contract, employs journeymen or apprentices in any apprenticeable craft or trade and who is not contributing to a fund or funds to administer and conduct the apprenticeship programming any craft or trade in the area of the site of the public work, to which fund or funds other contractors in that they are at the site of the public work are contributing, shall contribute to the fund or funds in each craft or trade in which that Corporation employs journeymen or apprentices on the public work in the same amount or upon the same basis and in the same manner as other contractors do, but where the trust fund administrators are unable to accept the funds, contractors not signatory to the trust agreement shall pay like amount to the California Apprenticeship Council. Corporation or subcontractor may add the amount of such contributions in computing their bid for the contract. The Division of Labor Standards Enforcement is authorized to enforce the payment of the contributions to the fund or funds as set forth in Labor Code Section 227.

e. The responsibility of compliance with Labor Code Section 1777.5 and this Article for all apprenticeable occupations is with the Corporation.

f. The interpretation and enforcement of Sections 1777.5 and 1777.7 of the Labor Code shall be in accordance with the rules and procedures of the California Apprenticeship Council.

44. WORKERS' COMPENSATION INSURANCE

Corporation shall provide, at all times in which it is providing or performing any work on the Project, at its sole cost and expense, workers' compensation insurance for all of the employees engaged in work under the terms hereof. In case any of Corporation's work is sublet, Corporation shall require the subcontractor similarly to provide workers' compensation insurance for all the latter's employees. Any class of employee or employees not covered by a subcontractor's insurance shall be covered by the Corporation's insurance. In case any class of employees engaged in work under this contract, on or at the site of the Project is not protected under Workers' Compensation laws, Corporation shall provide or shall cause a subcontractor to provide, adequate insurance coverage for the protection of such employee, not otherwise protected. Corporation shall file with the District certificates of its insurance protecting workmen. Corporation is required to secure payment of compensation to its employees in accordance with the provisions of Section 3700 of the Labor Code.

45. CERTIFICATE OF CORPORATION PURSUANT TO SECTION 1861 OF THE LABOR CODE

An authorized officer of Corporation shall sign under penalty of perjury, date and notarize a certificate which states the following: "I am aware of the provisions of Section 3700 of the Labor Code which requires 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 the performance of the work of the Construction Provisions."

46. ASSIGNMENT

Corporation shall not assign the Corporation's obligations set forth in these Construction Provisions or any part thereof.

47. CHANGE IN NAME AND NATURE OF CORPORATION'S LEGAL ENTITY

Should a change be contemplated in the name or nature of the Corporation's legal entity, the Corporation shall first notify the District in order that proper steps may be taken to have the change reflected in all corresponding legal documents.

48. WARRANTY/GUARANTEE

a. Neither final payment nor any provision in the Construction Documents shall relieve Corporation of responsibility for faulty materials or workmanship incorporated in the Project. Corporation warrants that all work done and facilities constructed pursuant to these Construction Provisions will be free of faulty materials or workmanship and hereby agrees, immediately upon receiving notification from District, to remedy, repair or replace, without cost to District, all defects which may appear as a result of faulty materials or workmanship in the Project, at any time, or from time to time, during a period beginning with commencement of the Project and ending one year after the Notice of substantial completion. The foregoing warranty of Corporation applies to the remedy, repair or replacement of defects which may appear as a result of faulty designs prepared by Corporation and/or any party retained by, through or under Corporation in connection with the Project, but the foregoing warranty of Corporation does not guarantee against damage to the Project sustained by lack of normal maintenance or as a result of changes or additions to the Project made or done by parties not directly responsible to Corporation, except where such changes or additions to the Project are made in accordance with Corporation's directions. No guarantee furnished by a party other than Corporation with respect to equipment manufactured or supplied by such party shall relieve Corporation from the foregoing warranty obligation of Corporation. The warranty period set forth hereinabove shall not apply to latent defects appearing in the Project, and with respect to such defects, the applicable statute of limitations shall apply.

b. In the event of failure of Corporation to comply with above mentioned conditions within one week after being notified in writing, District is hereby authorized to proceed to have defects repaired and made good at expense of Corporation who hereby agrees to pay reasonable costs and charges therefore immediately on demand.

c. If, in the reasonable opinion of the District, defective work creates a dangerous condition or requires immediate correction or attention to prevent further loss to the District, the District will attempt to give the notice required by this article. If Corporation cannot be contacted or does not comply with the District's requirements for correction within a reasonable time as determined by the District, the District may, notwithstanding the provisions of this article, proceed to make such correction and the reasonable cost shall be charged against Corporation. Such action by the District will not relieve the Corporation of the guarantee provided in this article or elsewhere in this contract.

d. This Article does not in any way limit the guarantee on any items for which a longer guarantee is specified or on any items for which a manufacturer gives a guarantee for a longer period. Corporation shall furnish District all appropriate guarantee and warranty certificates upon completion of the Project.

#### 49. SUBCONTRACTING

Corporation agrees to bind every subcontractor by terms of the contract as far as such terms are applicable to subcontractor's work. If Corporation shall subcontract any part of this contract,

Corporation shall be as fully responsible to District for acts and omissions of each subcontractor and of persons either directly or indirectly employed by subcontractor, as Corporation is for acts and omissions of persons directly employed by it. Nothing contained herein shall create any contractual relation between any subcontractor and District.

50. ASSIGNMENT OF ANTITRUST CLAIMS

Pursuant to Section 7103.5 of the Public Contract Code, in entering into a public work contract or a subcontract to supply goods, services or materials pursuant to a public works contract Corporation and its subcontractors offer and agree to assign to the District all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 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 District tenders final payment to Corporation, without further acknowledgment by the parties.

51. COST BREAKDOWN AND PERIODICAL ESTIMATES

Corporation shall furnish on forms approved by District:

- a. As soon as practical, a detailed estimate giving complete breakdown (including a schedule of values) of the Guaranteed Maximum Price; and,
- b. A monthly application for payment with estimated percentages of completion for each bid package shall be submitted for the purposes of making Progress Payments for the Project pursuant to Article 11 of these provisions. The monthly application shall include a schedule of values for each bid package.
- c. Within ten (10) days of request by District, a schedule of estimated time for Progress Payments that shall be due to Corporation under the Construction Provisions.

52. LAYOUT AND FIELD ENGINEERING

All field engineering and surveying required for laying out the Project and establishing grades for earthwork operations shall be furnished by Corporation. Such work shall be done by a qualified engineer. Any required "As-built" drawings of site development shall be prepared by a qualified engineer. The District shall confirm the location of the corners of the Site and benchmarks. Costs for layout and field engineering shall be included in the GMP.

53. CUTTING AND PATCHING

Corporation shall do all cutting, fitting, or patching of work as required to make its several parts come together properly.



54. SOILS INVESTIGATION REPORT

Upon completion of the Geotechnical Report and the demolition work, Corporation acknowledges that it will make a visual examination of the Site. Corporation will review the report for the Project site. No claims for allowances or damages because of Corporation's failure to adequately acquaint itself with the known conditions of the Site will be recognized provided the Geotechnical Report is completed prior to the establishment of a Guaranteed Maximum Price.

55. TRENCH EXCAVATION

Corporation shall submit an excavation plan, prior to start of the excavation. The plan shall be in compliance with CAL-OSHA and prepared and signed by a California registered civil or structural engineer.

All shoring submittals shall include surcharge loads from adjacent embankments, construction loads and spoil bank. Submittal shall indicate minimum horizontal distance from top of trench to edge of all surcharge loads for all cases of shoring and side slopes.

Nothing in this Article shall relieve Corporation of the full responsibility for providing shoring, bracing, sloping, or other provisions adequate for worker protection.

56. REGIONAL NOTIFICATION CENTER

Corporation, except in an emergency, shall contact the appropriate regional notification center at least two working days prior to commencing any excavation if the excavation will be conducted in an area or in a private easement which is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the District, and obtain an inquiry identification number from that notification center. No excavation shall be commenced and carried out by Corporation unless such an inquiry identification number has been assigned to the Corporation or any subcontractor of the Corporation and the District has been given the identification number by Corporation.

Emergency shall be defined as a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage (Government Code Section 4216).

57. UTILITIES - REMOVAL AND RESTORATION

No excavations were made to verify the locations of any underground utilities. Since the Project is being constructed pursuant to Education Code Section 17406, Corporation shall be responsible for the investigation of the Site with respect to any underground utilities including, without limitation, trunk, mainline and service utilities. It shall be the responsibility of Corporation to determine, within reason, the exact location of all utilities. Corporation shall make its own

reasonable investigations, including exploratory excavations, to determine the locations and type of service connections, prior to commencing work which could result in damage to such utilities. District shall provide Corporation with all available information regarding the location of utilities.

58. LAWS AND REGULATIONS

Corporation shall give all notices and comply with all laws, ordinances, rules and regulations bearing on conduct of work as indicated and specified. If Corporation performs any work which is contrary to any law, ordinance, rule or regulation, Corporation shall bear all costs and expenses arising there from.

59. NOTICE AND SERVICE

a. Any notice from one party to the other under the Construction Provisions shall be in writing and shall be dated and signed by party giving such notice or by duly authorized representative of such party. The District's representative is the District's Superintendent or any other party, as designated by the District's Superintendent in writing to the Corporation. Any such notice shall not be effective for any purpose whatsoever unless serviced in one of the following manners:

(1) If notice is given to District, by personal delivery thereof to District or by depositing same in United States mail, enclosed in a sealed envelope addressed to District, postage prepaid and registered.

(2) If notice is given to Corporation, by personal delivery thereof to said Corporation or to its foreman at site of project, or by depositing same in United States mails, enclosed in a sealed envelope, addressed to said Corporation at its regular place of business or at such other address as may have been established for the conduct of work under this contract, postage prepaid and registered.

60. DISTRICT'S RIGHT TO ASSIGN THE CORPORATION'S OBLIGATIONS

a. If Corporation refuses or fails to prosecute the work or any separable part thereof with such diligence as will insure its completion within the time specified or any extension thereof, or fails to complete said work within such time, or if Corporation should be adjudged as bankrupt, or file for bankruptcy or if it should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of its insolvency, or if Corporation should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials to complete the Project in the specified time, or if Corporation should fail to make prompt payments to subcontractors or for material or labor, or persistently disregards laws, ordinances or instruction of the District, or otherwise be guilty of a substantial violation of the Construction Provisions, or if Corporation or its subcontractors should violate any other provisions of the Construction Provisions, then the District may, without prejudice or any other right or remedy, serve

written notice of default reserving the right to assign ("Notice of Assignment") upon Corporation and its surety of District's intention to require the Corporation to assign the Corporation's obligations pursuant to these Construction Provisions (the "Obligations") to a party as designated by the District due to Corporation's default. Such notice shall contain the reasons for the default and Notice of Assignment and unless within twenty (20) calendar days after the service of such notice, such violation shall cease and satisfactory arrangements for the correction thereof be made by the Corporation or in the event that Corporation fails to cease such violation and make, in the District's reasonable discretion, satisfactory arrangements for the correction thereof, upon written notice from District, Corporation shall not be entitled to receive any further payment as set forth in these Construction Provisions, except as provided for in Article 60(b) of these Construction Provisions, and District shall have the absolute right to designate an assignment of the Obligations from Corporation to another party and Corporation hereby consents to such assignment.

In the event of any such written notice thereof upon surety and Corporation, surety shall have the right to take over and complete the Project by giving the District written notice of such within fifteen (15) days after service upon it of the Notice of Assignment. If the surety fails to commence performance thereof within thirty (30) days from date of serving such notice, the District may require that the Corporation and/or the surety assign the Obligations to a party designated by the District. The District may, without liability for doing so, take possession of and utilize in completing the work such materials, appliances, plants, and other property belonging to the Corporation as may be on the site of the work and necessary herefore.

b. If the unpaid balance of the Guaranteed Maximum Price shall exceed the expenses of finishing the work including compensation for additional managerial and administrative services, such excess shall be paid to Corporation. If such expenses shall exceed such unpaid balance, Corporation shall pay difference to District within sixty (60) days of recordation of the Notice of Completion for the Project. Any expense incurred by District as herein provided, and damage incurred through Corporation's default shall be certified by the Architect.

c. The foregoing provisions are in addition to and not in limitation of any other rights or remedies available to the District.

#### 61. ASSIGNMENT FOR CONVENIENCE

The Obligations may be assigned to a party designated by the District without cause by District upon fourteen (14) days written notice to the Corporation. In the event of such assignment without cause, the District shall pay Corporation for all services performed and all expenses incurred under these Construction Provisions supported by documentary evidence, including payroll records, and expense reports up until the date of notice of assignment plus any sums due the Corporation for Board approved extra services. In ascertaining the services actually rendered hereunder up to the date of assignment, consideration shall be given to both completed work and work in process of completion whether delivered to the District or in the possession of the

Corporation. In addition, Corporation will be reimbursed for reasonable assignment costs in the amount of 10% beyond the sum due the Corporation under this paragraph as assignment costs. This 10% payment is agreed to compensate the Corporation for the actual level of completion reached on the date of assignment and is consideration for entry into this assignment for convenience clause. In the event that the District requires Corporation to assign the Obligations pursuant to this Article, the Site Lease and Facilities Lease shall be terminated as of the date of the 10% payment by District and Corporation shall not be entitled to any further compensation except as provided for in this Article.

62. CONTINUANCE OF WORK

In the event of a dispute between the parties as to performance of the work or the interpretation of the Construction Provisions, or payment or nonpayment for work performed or not performed, the parties shall attempt to resolve the dispute. Pending resolution of this dispute, Corporation agrees to continue the work diligently to completion. If the dispute is not resolved, Corporation agrees it will neither rescind the Facilities Lease, nor stop the progress of the work on the Project, so long as District is not in material breach of this agreement.

63. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon application of either party the contract shall forthwith be physically amended to make such insertion or correction.

64. NON-DISCRIMINATION

Pursuant to the provisions of Labor Code Section 1735, Corporation and its subcontractors shall not unlawfully discriminate in the employment of persons on this project because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, and sex.

65. INDEPENDENT CONTRACTOR

Corporation is retained as an independent contractor and is not employed by the District. No employee or agent of Corporation shall become an employee of the District.

66. LIEN RELEASES

a. If a lien or stop payment notice of any nature should at any time be filed against the Project, the Site or any District property, or both of them, by an entity which has supplied material or services at the request of Corporation or subcontractor or supplier to Corporation, Corporation shall promptly, on demand by District and at Corporation's own expense, take any and all action necessary to cause any such lien or stop payment notice to be released or discharged immediately there from, or secure and

file a security bond covering one hundred twenty-five percent (125%) of the amount of such lien or stop payment notice.

b. If Corporation fails to furnish satisfactory evidence to the District within ten (10) calendar days after demand by the District that a lien or stop payment notice has been so released, discharged, or secured, then District may discharge such indebtedness and deduct the amount required therefore, together with any and all losses, costs, damages, and attorney's fees and expenses incurred or suffered by District from any sum payable to Corporation.

c. Corporation shall, at its own cost, defend, indemnify and hold harmless the District, its officers, agents, employees, assigns, and successors in interest, from and against any and all liability, damages, losses, claims, demands, actions, causes of action, and costs including attorney's fees and expenses, arising from or attributable to a lien or stop payment notice filed and/or served in connection with the Project.

67. MEDIATION

The parties shall make their best efforts to informally resolve any controversy or claim arising out of or relating to the Site Lease or Facilities Lease. If informal attempts at resolution are unsuccessful, the parties shall equally share all costs of Mediation. Each side shall bear its own attorneys fees. If the parties are unsuccessful at Mediation, by mutual agreement, they may submit the matter for non-binding arbitration, in accordance with the AAA Construction Rules. At any time, either party reserves the right to bring an action in Superior Court of San Mateo County.

68. LABOR/EMPLOYMENT SAFETY

Corporation shall maintain emergency first aid treatment for its employees which complies with the State Occupational Safety and Health Act of 1970 (29 USC, section 651 et seq.).

69. NOTICE OF TAXABLE POSSESSORY INTEREST

The terms of this document may result in the creation of a possessory interest. If such a possessory interest is vested in a private party to this document, the private party may be subjected to the payment of personal property taxes levied on such interest.

70. COMPLIANCE WITH STATE STORM WATER PERMIT FOR CONSTRUCTION

a. Corporation shall comply with all conditions of the State Water Resources Control Board (State Water Board) National Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity (the "Permit") for all construction activity which results in the disturbance of in excess of five acres of total land area or which is part of a larger common area of development or sale. District shall be responsible for filing the Notice of Intent and for obtaining the Permit. A copy of the Permit and

supporting rules and orders by the State Water Board is on file with the District. District shall provide a draft of the Storm Water Pollution Prevention Program (SWPPP) for the project to Corporation at least two weeks prior to the opening of bids. It shall be Corporation's responsibility to evaluate the cost of compliance with the SWPPP in bidding on this contract. Corporation shall comply with all requirements of the State Water Resources Control Board. Corporation shall include all costs of compliance with specified requirements in the contract amount.

b. Corporation shall be responsible for implementing and complying with the provisions of the Permit and the SWPPP, including the standard provisions, monitoring and reporting requirements as required by Permit. Corporation shall provide copies of all reports and monitoring information to District.

c. Corporation shall comply with the lawful requirements of any applicable municipality, the County, drainage district, and other local agencies regarding discharges of storm water to separate storm drain system or other watercourses under their jurisdiction, including applicable requirements in municipal storm water management programs.

d. Failure to comply with the Permit is a violation of federal and state law. Corporation hereby agrees to indemnify and hold harmless District, its officers, agents, and employees from and against any and all claims, demands, losses or liabilities of any kind or nature which District, its officers, agents, and employees may sustain or incur for noncompliance with the Permit arising out of or in connection with the project, except for liability resulting from the negligence or willful misconduct of District, its officers, agents or employees. District may seek damages from Corporation for delay in completing the contract in accordance with Article 6 hereof, caused by Corporation's failure to comply with Permit.

71. COMPLIANCE WITH DTSC GUIDELINES - IMPORTED SOILS

If the Project requires the use of imported soils, the Corporation shall be responsible to use and shall certify that the imported material it uses is free of any hazardous and/or toxic substance or material of any nature or type as defined in accordance with California Law and the California Health and Safety Code. The District reserves the right to reject any imported material that has come from agricultural or commercial land issues. Corporation must notify the District of the source of material and comply with all local applicable regulations, and when applicable, with the guidelines of the Department of Toxic Substances Control (DTSC).

72. NO ASBESTOS

a. The Corporation shall execute and submit a Certificate Regarding Non-asbestos Containing Materials.

b. Should asbestos containing materials be installed by the Corporation in violation of this certification, or if removal of asbestos containing materials is part of the Project, decontaminations and removals will be performed in accordance with the requirements of all applicable laws and will meet the following criteria:

1. Decontamination and removal of work found to contain asbestos or work installed with asbestos containing equipment shall be done only under the supervision of a qualified consultant, knowledgeable in the field of asbestos abatement and accredited by the Environmental Protection Agency (EPA).

2. The asbestos removal Corporation shall be an EPA accredited Corporation qualified in the removal of asbestos and shall be chosen and approved by the asbestos consultant who shall have sole discretion and final determination in this matter.

3. The asbestos consultant shall be chosen and approved by the District which shall have sole discretion and final determination in this matter.

4. The work will not be accepted until asbestos contamination is reduced to levels deemed acceptable by the asbestos consultant.

c. If removal of asbestos containing materials is part of the project, the costs of all asbestos removal, including, but not necessarily limited to the cost of the asbestos removal Corporation, the costs of the asbestos consultant, analytical and laboratory fees, time delays and additional costs that may be incurred by the District shall be borne entirely by the District.

73. Disabled Veteran Business Enterprises. Corporation acknowledges that, pursuant to section 17076.11 of the California Education Code, the District has established a participation goal for Disabled Veteran Business Enterprises (DVBEs) of three percent (3%) of the overall dollar amount of funds allocated to the District by the California State Allocation Board and expended by the District for construction and modernization projects. The parties agree that the DVBE goal for this project is three percent (3%) of the GMP. In furtherance of the District's goal, Corporation will make reasonable efforts to obtain DVBE services for performance of all or some of the Work and will ensure that DVBEs are afforded full opportunity to submit bids in response to all subcontracts entered into in connection with the Project. Corporation will require that DVBE firms are included in and are made a part of the Contract Documents for the subcontracts for the Project. After the subcontractors have been selected in accordance with the Contract Documents, the Developer must complete, execute and submit to the District a certification regarding DVBE compliance in a form to be determined by the District.

74. Time is of the essence.

**CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS IF A COMPLAINT REGARDING A PATENT ACT OR OMISSION IS FILED WITHIN FOUR YEARS OF**

THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN 10 YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD, P.O. BOX 26000, SACRAMENTO, CALIFORNIA 95826.

IN WITNESS WHEREOF, the parties hereto have caused these Construction Provisions to be executed by their respective officers thereunto duly authorized, as of the Effective Date.

**SEQUOIA UNION HIGH SCHOOL DISTRICT**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**ALTEN CONSTRUCTION INC.**

By: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_

John D. Nibbelin, Chief Deputy, Office of the San  
Mateo County Counsel, Counsel for District

By: \_\_\_\_\_



**ATTACHMENT NO. 1**  
**CONSTRUCTION DOCUMENTS**

Vandalism Repairs Plans dated March 21, 2014

Mills Renovation Plans dated July 1, 2014

## ATTACHMENT #2

### SUPPLEMENTAL/FISCAL PROVISIONS AND QUALIFICATIONS

#### SUPPLEMENTAL/FISCAL PROVISIONS:

1. Corporation's fee is a fixed amount of two million eight hundred and sixty eight thousand eight hundred and twenty four dollars (\$2,868,824.00), based on the scope of work identified in the construction documents. The general intent of this Agreement is to build the **Mills Way Corporate Yard Renovation Project** described by the construction documents and minor changes initiated by the District within the scope of this Agreement shall not incur any additional fee.
2. The District Construction Contingency is included as a line item in the GMP in the amount of seventy five thousand dollars (\$75,000). Use of the Construction Contingency shall be at the discretion of the District as set forth in Section 4.a. of the Construction Provisions.
3. The Owner Allowance for Unforeseen Vandalism Repairs is included as a line item in the GMP in the amount of two hundred thousand dollars (\$200,000). Use of this allowance shall be at the discretion of the District as set forth in Section 4.b. of the Construction Provisions.
4. As this Agreement is a Guaranteed Maximum Price any savings realized during the execution of the Agreement will be shared between the Corporation (25%) and the District (75%). The District's share of the savings shall be returned in the form of a credit to the GMP.
5. Notwithstanding the foregoing, all unspent District Construction Contingency and Vandalism Repair Allowance shall be dispersed 100% to the District. The District's share of the savings shall be returned in the form of a credit to the GMP.
6. Self-performed work:
  - a. The Corporation may self-perform various scopes of work, including, but not limited to direct construction work, general conditions and general requirements work as identified in the GMP, see Attachment No. 3.
  - b. Materials, consumables, equipment rental or purchase, shall be reimbursed at actual costs to the Corporation.
  - c. Management staff and labor rates shall be reimbursable at the rates indicated in Attachment No. 4. Rates shall be adjusted annually in the month of March.

#### QUALIFICATIONS:

1. The GMP is based on the plans, specifications and addenda issued on March 21, 2014 and July 1, 2014.
2. Corporation will provide assistance to the District's Commissioning Agent.

**ATTACHMENT #3**

**BREAKDOWN AND DEFINITION OF GUARANTEED MAXIMUM PRICE**

10/31/2014

6:48 AM

<b>Transportation &amp; Maintenance Phase 2</b>			
General Conditions	Alten	Richmond	258,240
Survey	Ridgeline	Stockton	3,700
Abatement/Demolition	Allied Environmental	Hayward	67,450
Hard Demolition	Break Away Concrete	Coyote	23,680
Board Up Wall Openings	Alten	Richmond	8,500
Security Cameras	Alten	Richmond	7,000
Rebar Scannin for Wall Cutting	Alten	Richmond	10,010
Grading/Paving/Utilities	Kingdom Pipelines	San Bruno	86,050
Pavement Marking	Compass	Hayward	3,500
Chain Link Fences & Gates	Golden Bay	Stockton	29,704
Rebar	Alten	Richmond	8,200
Site Concrete	Alten	Richmond	24,362
Concrete	Alten	Richmond	38,422
Structural Steel & Metal Fab	National Metal	Hayward	66,000
Misc. Steel Install	Alten	Richmond	10,840
Rough Carpentry	Alten	Richmond	216,485
Finish Carpentry	Alten	Richmond	2,842
Arch Woodwork	BK Mill	Newark	4,640
Vapor Ctrl/Conc Sealer	STS	Rancho Cordova	20,812
Roof Patching Allowance			15,000
Thermal Insulation	Alcal	Fremont	6,890
Joint Sealants	Alten	Richmond	6,500
Door hardware Supply	Design hardware	FOB	27,374

10/31/2014

6:48 AM

<b>DOOR HARDWARE INSTALL</b>	Alten	Richmond	7,500
<b>Access Doors</b>	Alten	Richmond	2,300
<b>Overhead Coiling Doors</b>	Nor Cal Overhead Door	Brentwood	49,488
<b>Glass &amp; Glazing</b>	Cline Glass	Fremont	14,940
<b>Acrylic PC Plaster</b>	Harrison Drywall	SF	8,500
<b>Gypsum Board</b>	Harrison Drywall	SF	78,868
<b>Acoustical Ceilings</b>	Acoustics By the Bay	Oakland	4,984
<b>Resilient Flooring</b>	BT Mancini	Milpitas	12,554
<b>FRP Panels</b>	Miller Paneling	Woodland	1,800
<b>Painting</b>	Brite Painting	Oakland	24,000
<b>Signage</b>	Specialized Graphics	Concord	2,238
<b>Toilet Accessories</b>	JD Specialties	Stockton	2,390
<b>Fire Extinguishers</b>	Alten	Richmond	1,450
<b>Lockers</b>	Alten	Richmond	12,000
<b>Horizontal Louver Blinds</b>	Fashion Drapery	SF	3,040
<b>Fire Protection</b>	Ingram Fire	San Amteo	23,018
<b>Plumbing</b>	Cal Pacific Plumbing	SF	232,800
<b>HVAC &amp; Sheet Metal</b>	Monarch Mechanical	Rio Vista	244,990
<b>Electrical &amp; Telcomm</b>	Atlas Pelizzari (\$670,750)	Redwood City	324,600
<b>Misc Electrical Install</b>	Alten	Richmond	21,744
<b>Electrical Vandalism</b>	Atlas Pelizzari	Redwood City	215,000
<b>Generator</b>	Atlas Pelizzari	Redwood City	131,150
<b>Misc Generator Install</b>	Alten	Richmond	7,761
<b>Overhead &amp; Profit</b>			142,399

10/31/2014

6:48 AM

Bonds & Insurance			50,314
Paint Ext Bldg - Alt #1			27,795
Unforeseen Vandalism Allow			200,000
District Allow			75,000
Total Bid			2,868,824

**ATTACHMENT #4**

**MANAGEMENT STAFF AND LABOR RATES**

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

SEQUOIA UNION HIGH SCHOOL DISTRICT  
480 James Street  
Redwood City, CA 94062

Attention: Enrique Navas, Associate Superintendent

This document is recorded for the benefit of the Sequoia  
Union High School District, and recording is fee exempt under  
Section 6103 of the Government Code.

---

**SITE LEASE**

Mills Way Corporate Yard Renovation Project  
1090 Mills Way, Redwood City, CA 94063

by and between

ALTEN CONSTRUCTION, INC.  
720 12<sup>th</sup> Street  
Richmond, CA 94801  
and

SEQUOIA UNION HIGH SCHOOL DISTRICT  
480 James Street  
Redwood City, CA 94062

Dated as of November 5, 2014



## **SITE LEASE**

THIS SITE LEASE (this "Lease") dated as of November 5, 2014 ("Effective Date"), is made and entered into by and between the Sequoia Union High School District (the "District"), a school district duly organized and validly existing under the laws of the State of California, as lessor, and Alten Construction, Inc. ("Corporation") a California company duly organized and existing under the laws of the State of California, as lessee.

## **RECITALS**

WHEREAS, the District currently owns a parcel of land located at 1090 Mills Way, Redwood City, CA 94063, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Site"), which Site contains the District's Corporate Yard and Bus Yard;

WHEREAS, the District desires to undertake a project to renovate the improvements at the Site, as more particularly described in Exhibit "A" to the Facilities Lease (defined below) and incorporated herein by this reference (the "Project");

WHEREAS, the Governing Board of the District (the "Board") has determined that it is in the best interests of the District and for the common benefit of the citizens residing in the District to construct the Project by leasing the Site to the Corporation and by immediately entering into the Facilities Lease (defined below) under which the District will sublease the Site and lease the Project from the Corporation;

WHEREAS, the District is authorized under Section 17406 of the Education Code of the State of California to lease the Site to the Corporation and to have the Corporation construct the Project on the Site and to lease to the District the Site and the Project, and has duly authorized the execution and delivery of this Lease;

WHEREAS, the Corporation is authorized to lease the Site as lessee and to construct the Project on the Site, and has duly authorized the execution and delivery of this Lease; and

WHEREAS, District has performed all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into this Lease do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Lease;

**NOW, THEREFORE**, in consideration of the promises and of the mutual agreements and covenants contained herein, the sum of One Dollar (\$1.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

Section 1.1. Unless the context clearly otherwise requires, all words and phrases defined in Section 1.1 of the Facilities Lease dated November 5, 2014 by and between the District and the Corporation (the "Facilities Lease") shall have the same meaning in this Lease.

## **ARTICLE II**

### **DEMISING CLAUSES**

Section 2.1. Lease of the Site. The District hereby leases to the Corporation, and the Corporation hereby leases from the District the Site, subject only to Permitted Encumbrances, in accordance with the provisions of this Lease, to have and to hold for the term of this Lease. This Lease shall only take effect if the Facilities Lease is executed by the District and Corporation within three (3) days of execution of this Lease.

Section 2.2. Rental. In consideration for the lease of the Site by the District to the Corporation and for other good and valuable consideration, the Corporation shall pay One Dollar (\$1.00) to the District.

Section 2.3. No Merger. The leasing of the Site by the Corporation to the District pursuant to the Facilities Lease shall not effect or result in a merger of the estates of the District in the Site, and the Corporation shall continue to have a leasehold estate in the Site pursuant to this Lease throughout the term hereof.

## **ARTICLE III**

### **QUIET ENJOYMENT**

Section 3.1. The parties intend that the Site will be leased back to the District pursuant to the Facilities Lease for the term thereof. It is further intended that, to the extent provided herein and in the Facilities Lease, if an Event of Default, as defined in the Facilities Lease dated November 5, 2014, occurs under the Facilities Lease, the Corporation, or its assignee, will have the right, for the then remaining term of this Lease, to: (a) take possession of the Site; (b) if it deems it appropriate, cause appraisal of the Site and a study of the then reasonable use thereof to be undertaken; and (c) relet the Site. Subject to any rights the District may have under the Facilities Lease (in the absence of an Event of Default) to possession and enjoyment of the Site, the District hereby covenants and agrees that it will not take any action to prevent the Corporation from having quiet and peaceable possession and enjoyment of the Site during the term hereof and will, at the request of the Corporation, to the extent that it may lawfully do so, join in any legal action in which the Corporation asserts its right to such

possession

and

enjoyment.

## ARTICLE IV

### SPECIAL COVENANTS AND PROVISIONS

Section 4.1. Waste. The Corporation 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 that it will not willfully or knowingly use or permit the use of the Site for any illegal purpose or act.

Section 4.2. Further Assurances and Corrective Instruments. The District and the Corporation agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Site hereby leased or intended so to be or for carrying out the expressed intention of this Lease and the Facilities Lease.

Section 4.3. Right of Entry. The District reserves the right for any of its duly authorized representatives to enter upon the Site at any reasonable time to inspect the same, provided the District follow all safety precautions required by the Corporation.

Section 4.4. Representations of the District. The District represents, covenants and warrants to the Corporation as follows:

(a) Due Organization and Existence. The District is a school district, duly organized and existing under the Constitution and laws of the State of California.

(b) Authorization. The District has the full power and authority to enter into, to execute and to deliver this Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution of this Lease.

(c) No Violations. Neither the execution and delivery of this Lease nor the Facilities Lease, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the District is now a party or by which the District is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the District, or upon the Site, except Permitted Encumbrances.

(d) CEQA Compliance. The District has complied with all requirements imposed upon it by the California Environmental Quality Act (Public Resource Code Section 21000 *et seq.* ("CEQA")) in connection with the Project, and no further environmental review of the project is necessary pursuant to CEQA before the construction of the Project may commence.

(e) No Litigation. There is no action, suit, proceeding, inquiry or investigation pending before or by any court or federal, state, municipal or other governmental authority or, to the knowledge of the District after reasonable investigation, threatened against or affecting the District or the assets, properties or operations of the District which, if determined adversely to the District or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Facilities Lease or upon the financial condition, assets, properties or operations of the District, and the District is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummations of the transactions contemplated by this Facilities Lease and the Site Lease or the financial conditions, assets, properties or operations of the District.

(f) Regarding Condemnation Proceedings. The District hereby covenants and agrees, to the extent it may lawfully do so, that as long as the Facilities Lease and Site Lease remain in effect, the District will not exercise the power of condemnation or eminent domain with respect to the Project. The District further covenants and agrees, to the extent it may lawfully do so, that if for any reason the foregoing covenant is determined to be unenforceable or if the District should fail or refuse to abide by such covenant and condemns or takes the Project by eminent domain, then District agrees that the appraised value of the Project shall not be less than the aggregate total of all Lease Payments provided for under this Facilities Lease, less any Lease Payment previously made; provided however, that if the taking occurs prior to the completion of the Project, Corporation shall be entitled to the value of construction completed, less the value of any Tenant Improvement Payments or Lease Payments made by District.

(g) Use and Zoning. Site is properly zoned for its intended purpose and the use or activities contemplated by this Lease will not conflict with local, state or federal law.

(h) Taxes. All taxes and assessments are paid current and such taxes and assessments will continue to be paid to the extent that the District is not exempt.

(i) Hazardous Materials. District is not currently aware of any contamination to the Site by Hazardous Materials. If District becomes aware of any act or circumstance, which would change or render this representation incorrect, in whole or in part, District will give immediate written notice of such changed fact or circumstance to Corporation.

Section 4.5. Representations of the Corporation. The Corporation represents, covenants and warrants to the District as follows:

(a) Due Organization and Existence. The Corporation is a California company duly organized and existing under the laws of the State of California, has power to enter into this Lease and the Facilities Lease; is possessed of full power to own and hold real and personal property, and to lease and sell the same; and has duly authorized the execution and delivery of all of the aforesaid agreements.

(b) Authorization. The Corporation has the full power and authority to enter into, to execute and to deliver this Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution of this Lease.

(c) No Violations. Neither the execution and delivery of this Lease or the Facilities Lease, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Corporation is now a party or by which the Corporation is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Corporation, or upon the Site, except Permitted Encumbrances.

## **ARTICLE V**

### **ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING**

Section 5.1. Assignment and Subleasing. This Lease may be assigned and the Site subleased, as a whole or in part, by the Corporation only upon the prior written consent of the District to such sublease, which shall not be unreasonably withheld.

Section 5.2. Restrictions on District. The District agrees that it will not mortgage, sell, encumber, assign, transfer or convey the Site or any portion thereof during the term of this Lease.

Section 5.3. Liens. Corporation agrees to keep the Site and every part thereof free and clear of any and all liens, including without limitation, pledges, charges, encumbrances, claims, materialmen liens, mechanic liens and other liens for or arising out of or in connection with work or labor done, services performed, or materials or appliances used or furnished for or in connection with the Site or the Project. Pursuant to Section 66 of the Construction Provisions dated November 5, 2014, Corporation further agrees to pay promptly and fully and discharge any and all claims on which any such lien may or could be based, and to save and hold District and all of the free and harmless from any and all such liens, mortgages, including without limitation, and claims of liens and suits or other proceedings pertaining thereto.

## **ARTICLE VI**

### **IMPROVEMENTS**

Section 6.1. Title to all improvements made on the Site during the term hereof shall vest subject to the terms of the Facilities Lease.

## **ARTICLE VII**

### **TERM AND TERMINATION**

Section 7.1. Term. The term of this Lease shall commence as of the Effective Date and shall terminate on the last day of the Term of the Facilities Lease, provided the District has paid to the Corporation, or its assignee, all Lease Payments and other payments which may be due under the Facilities Lease, and provided this Lease has not terminated pursuant to Sections 4.3(a) of the Facilities Lease.

## **ARTICLE VIII**

### **MISCELLANEOUS**

Section 8.1. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed to have been received forty-eight (48) hours after deposit in the United States mail in registered or certified form with postage fully prepaid:

If to the Corporation:                      Alten Construction  
720 12th Street  
Richmond, CA 94801  
Attn: Bob Alten

WITH A COPY TO-

If to District:                      Sequoia Union High School District  
480 James Avenue  
Redwood City, CA 94062  
  
Attention: Enrique Navas, Associate Superintendent  
Fax: 650-306-8870  
enavas@seq.org

-WITH A COPY TO-  
Office of the San Mateo County Counsel  
Hall of Justice and Records  
400 County Center, 6<sup>th</sup> Floor  
Redwood City, CA 94063  
Attn: John Nibbelin, Chief Deputy  
Fax: 650-363-4034  
jnibbelin@smcgov.org

The Corporation and the District, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

Section 8.2. Binding Effect. This Site Lease shall inure to the benefit of and shall be binding upon the Corporation and the District and their respective successors and assigns.

Section 8.3. Severability. In the event any provision of this Site Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 8.4. Amendments, Changes and Modifications. This Site Lease may not be effectively amended, changed, modified, altered or terminated without the written agreement of both parties hereto.

Section 8.5. Obligations Absolute. The Corporation agrees that the obligations of the Corporation are absolute and unconditional and not subject to any charges or setoffs against the District whatsoever.

Section 8.6. Execution in Counterparts. This Site Lease may be executed in several counterparts, each of which shall be original and all of which shall constitute but one and the same instrument.

Section 8.7. Applicable Law. This Site Lease shall be governed by and construed in accordance with the laws of the State of California, County of San Mateo.

Section 8.8. Corporation and District Representatives. Whenever under the provisions of this Site Lease the approval of the Corporation or the District is required, or the Corporation or the District is required to take some action at the request of the other, such approval or such request shall be given for the Corporation by the Corporation Representative and for the District by the District Representative, and any party hereto shall be authorized to rely upon any such approval or request.

Section 8.9. Captions. 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 or sections of this Site Lease.

Section 8.10 Prior Agreements. This Site Lease and the corresponding Facilities Lease collectively contain all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Site Lease and no prior agreements or understanding pertaining to any such matter shall be effective for any purpose. No provision of this Site Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors-in-interest.

Section 8.11 Attorney's Fees. If either party brings an action or proceeding involving the Property to enforce the terms of this Site Lease or to declare rights hereunder, each party shall bear the costs of its own attorneys' fees.

Section 8.12 Further Assurances. Parties shall promptly execute and deliver all documents and instruments reasonably requested to give effect to the provisions of this Site Lease.

Section 8.13 Effect of Recitals. The Recitals above are deemed true and correct, are hereby incorporated into this Section as though fully set forth herein, and Parties acknowledge and agree that they are each bound by the same.

Section 8.14 Time of the Essence. Time is of the essence with respect to each of the terms, covenants, and conditions of this Site Lease.

Section 8.15 Interpretation. None of the Parties hereto, nor their respective counsel, shall be deemed the drafters of this Site Lease for purposes of construing the provisions thereof. The language in all parts of this Site Lease shall in all cases be construed according to its fair meaning, not strictly for or against any of the Parties hereto.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK – SIGNATURES ON NEXT  
PAGE]



**IN WITNESS WHEREOF**, the parties hereto have caused this Site Lease to be executed by their respective officers thereunto duly authorized, as of the Effective Date.

**SEQUOIA UNION HIGH SCHOOL DISTRICT**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**ALTEN CONSTRUCTION, INC.**

By: \_\_\_\_\_  
Bob Alten, President

Approved as to form:

\_\_\_\_\_  
John D. Nibbelin, Chief Deputy County Counsel  
Counsel for District

\_\_\_\_\_

[illegible]

On \_\_\_\_\_, <Year>, before me, the undersigned notary public, personally appeared \_\_\_\_\_, [ ] personally known to me OR [ ] proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary

[illegible]

On \_\_\_\_\_, <Year>, before me, the undersigned notary public, personally appeared \_\_\_\_\_, [ ] personally known to me OR [ ] proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary

**EXHIBIT "A"**

**DESCRIPTION OF SITE**

**The following pages are the Site Legal Description and map of the Mills Way Corporate  
Yard Renovation Project**

**and**

**A map of the Site Lease, dated November 5, 2014**

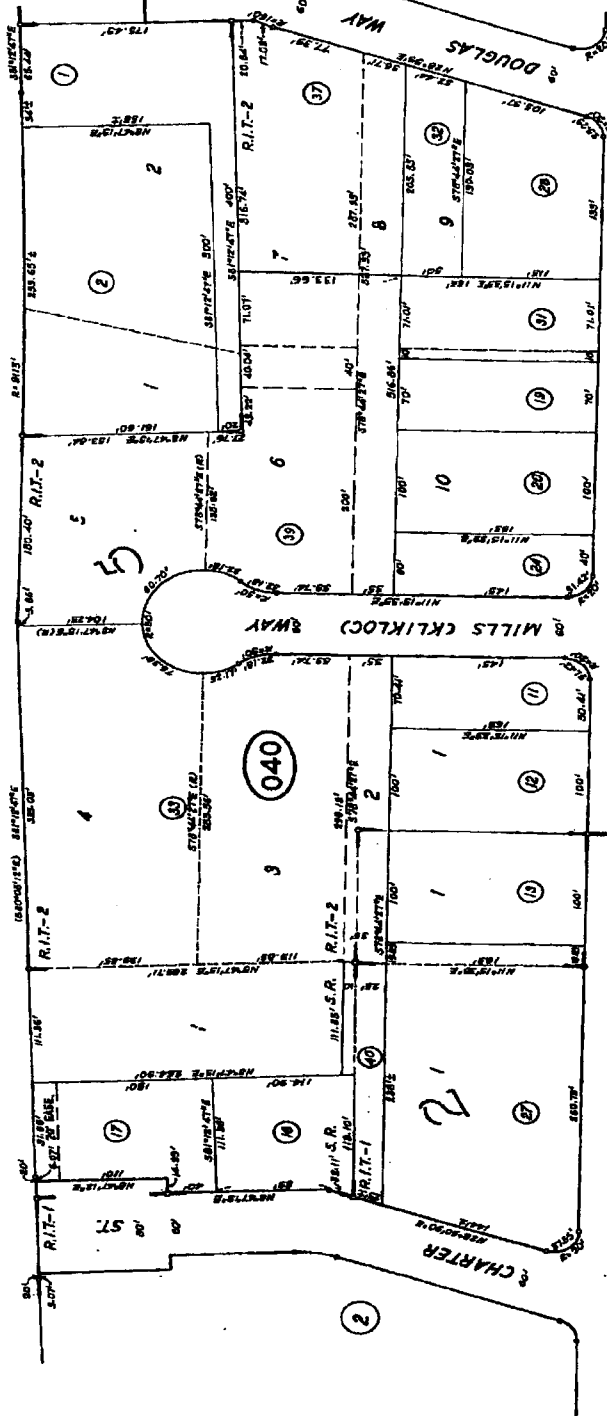
54-4

TAX CODE AREA

BAYSHORE

FREEWAY

BROADWAY



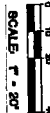
- △ SWEENEY RANCH PTN. OF- RSM 2/97
- △ REDWOOD INDUSTRIAL TRACT NO.1 PTN. OF- RSM 27/39
- △ REDWOOD INDUSTRIAL TRACT NO.2 PTN. OF- RSM 35/04

1	_____	MODERN LINE
2	_____	PREMIUM LINE
3	_____	ONLINE TV OVERSOLD LINE
4	_____	TELEPHONE/COAXIAL TV OVERSOLD LINE
5	_____	PHONE LINE
6	_____	DATA LINE (PER USA WIRELESS)
7	_____	HIGH VOLUME ELECTRICAL LINE (PER USA WIRELESS)
8	_____	SAFETY/SECURITY LINE
9	_____	TELEPHONE/COAXIAL TV OVERSOLD LINE
10	_____	TELEPHONE/COAXIAL TV OVERSOLD LINE
11	_____	WATER LINE (PER USA WIRELESS)
12	_____	1.44 MB
13	_____	5000 MB

UNDERGROUND UTILITY LOCATION IS BASED ON SURFACE EVIDENCE.  
BUILDING FOOTPRINTS ARE SHOWN AT GRADED LEVEL.  
FRESH FLOOR ELEVATIONS ARE TAKEN AT DOOR THRESHOLD (EXTENSION)

CITY OF REDWOOD CITY BENCHMARE  
BENCH MARK BASED LOCATION IS BROUGHTWAY AT  
DOUGLAS AVE. SET BEARS DNO STAPLED "CITY OF  
REDWOOD CITY BENCHMARK" ON CURB.  
ON DOUGLAS AVE., NORTH OF INTERSECTION, EAST  
SIDE OF STREET, 2' FROM FIRE HYDRANT.  
ELEVATION = 8.07'  
RECORDING INFO = 25-115-00, 01, 02

SOCKET CONCRETE, 10" DI.  
AND BOWER SET IN ASPHALT  
ELEVATION = 8.45'



APN: 054-040-380

**LEA & BRAZE ENGINEERING, INC.**  
CIVIL ENGINEERS • LAND SURVEYORS

<b>BAY AREA REGION</b> 3482 INDUSTRIAL PKWY WEST HAYWARD, CALIFORNIA 94543 (P) (610) 887-4098 (F) (510) 887-3018	<b>SACRAMENTO REGION</b> 3067 DOUGLAS BLVD. # 300 ROSEVILLE, CA 95661 (P) (916) 986-1336 (F) (916) 787-7383
--	---

[WWW.LEABRAZE.COM](http://WWW.LEABRAZE.COM)

## SCHEDULE A

### *First American Title Insurance Company*

Name and Address of the issuing Title Insurance Company:  
First American Title Insurance Company  
1737 North First Street, Suite 500  
San Jose, CA 95112

File No.: **NCS-538325-SC**

Policy No.: **538325**

Address Reference: 1090 Mills Way, Redwood City, CA 94063

Amount of Insurance: \$4,000,000.00

Date of Policy: August 02, 2012 at 8:00 A.M.

1. Name of Insured:

Sequoia Union High School District, a governmental agency

2. The estate or interest in the Land that is insured by this policy is:

A Fee.

3. Title is vested in:

Sequoia Union High School District, a governmental agency

4. The Land referred to in this policy is described as follows:

Real property in the City of Redwood City, County of San Mateo, State of California, described as follows:

LOT 5 AND 6, TOGETHER WITH THOSE PORTIONS OF LOTS 7 AND 8 LYING WESTERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE NORTHWEST CORNER OF LOT 7, AND RUNNING THENCE SOUTH 81° 12' 47" EAST, ALONG THE NORTHERLY LINE OF SAID LOT 7, 71.07 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 11° 15' 33" WEST, 133.66 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 8, ALL IN BLOCK 5, AS SHOWN ON THAT CERTAIN MAP ENTITLED "REDWOOD INDUSTRIAL TRACT NO. 2, REDWOOD CITY, CALIFORNIA", AS FILED IN THE OFFICE OF THE COUNTY OF RECORDER OF SAID COUNTY, IN BOOK 35 OF MAPS, AT PAGES 3, 4, 5 AND 6.

EXCEPTING THEREFROM THAT PORTION OF LOT 5 DESCRIBED IN PARCEL TWO OF THE DEED FROM CALIFORNIA PACIFIC TITLE INSURANCE COMPANY, A CORPORATION, TO THE STATE OF CALIFORNIA, RECORDED IN BOOK 3063 OF OFFICIAL RECORDS AT PAGE 258, (FILE NO. 72395-N) RECORDS OF SAN MATEO COUNTY.

ALSO EXCEPTING THEREFROM, THE TITLE AND EXCLUSIVE RIGHT TO ALL OF THE MINERALS AND MINERAL ORES OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED UPON, WITHIN OR UNDERLYING SAID LAND, OR THAT MAY BE PRODUCED THEREFROM, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ALL PETROLEUM, OIL, NATURAL GAS AND OTHER HYDROCARBON SUBSTANCES AND PRODUCTS DERIVED THEREFROM, TOGETHER WITH THE EXCLUSIVE AND PERPETUAL RIGHT THERETO, WITHOUT, HOWEVER, THE RIGHT TO USE OR PENETRATE THE SURFACE OF, OR TO ENTER UPON, SAID LAND, WITHIN 500 FEET OF THE SURFACE THEREOF, TO EXTRICATE OR REMOVE THE SAME.

SAID EXCEPTION WAS CREATED BY THE DEED FROM SOUTHERN PACIFIC COMPANY TO KLIKLOK CORPORATION, RECORDED MAY 16, 1968, IN BOOK 5474 OF OFFICIAL RECORDS, AT PAGE 130 (FILE NO. 43362-AB).

SAID LANDS BEING SECONDLY DESCRIBED IN EXHIBIT "A" OF THAT CERTAIN LOT LINE ADJUSTMENT EXECUTED BY THE CITY OF REDWOOD CITY ON JULY 31, 1986, AND RECORDED ON OCTOBER 1, 1986, AS DOCUMENT NO. 86121097, RECORDS OF SAN MATEO COUNTY, CALIFORNIA.

APN: 054-040-390

JPN(S): 054-004-040-03A, 054-004-040-08A, 054-004-040-25A, 054-004-040-26A, 054-004-040-34A





# Sequoia Union High School District

## Job Description

<b>JOB TITLE:</b>	<b>Mental Health Services Caseworker</b>
<b>ADMINISTRATIVE RELATIONSHIP:</b>	Reports to the Coordinator of Special Education
<b>CLASSIFICATION:</b>	Classified Management
<b>REQUIREMENTS</b>	Requires a Masters Degree from an accredited university and/or college in social work, psychology, counseling or closely related field. At least one year of full-time experience in providing mental health services, social services, case management, or counseling with children or adolescents under the supervision of an approved supervisor. Must hold a valid license as a Marriage Family Therapist (MFT) or a Marriage, Family and Child Counselor (MFCC) or a valid Licensed Clinical Social Worker (LCSW) and/or a Credential in School Psychology or Social Work.
<b>SALARY SCHEDULE:</b>	Management, Range VIII
<b>WORK - YEAR / HOURS:</b>	222 days
<b>LOCATION:</b>	Various
<b>BOARD APPROVAL:</b>	(pending approval)

### BRIEF DESCRIPTION OF POSITION

Under supervision and direction of the Director of Special Education, provides counseling and support of mental health special education services for students with Individual Education Plans (IEPs) in the Sequoia Union High School District, to include individual counseling, group counseling, positive behavior support interventions; parent education; staff training; and family support.

### DUTIES AND RESPONSIBILITIES

#### Mental Health Services

- Provide direct mental health services including counseling, consultation, treatment coordination, individual/group therapy; and case management for individuals and families.
- Provide consultative support as a mental health expert to teachers, administrators, and parents regarding mental health or behavioral issues, cultural and disability awareness, and adolescent development.
- Provide information and support to teachers and administrators regarding classroom environment and school climate responsive to the needs of students.
- Act as a resource to Local Education Agency (LEA) staff members regarding mental health services and the transition process for students requiring other services.
- Review referrals of students who need intensive mental health services to ensure that Least Restrictive Education (LRE) options have been considered and SELPA criteria has been met.

- Provide outreach, case management and support services including home visits, and individual and family intervention.
- Participate in IEP meetings of students receiving or recommended for mental health supports and provide case management services for IEP-driven placements.
- Maintain and facilitate communication with and between families and school staff.
- Develop transition plans for returning students and assists with implementation and monitoring.
- Collect data and prepare a variety of reports, including detailed case histories, assessment and intervention records, and treatment plans.

#### Training and Professional Development

- Assess training needs of parents and members of the IEP team.
- Collaborate with Special Education administrators to design, coordinate and deliver professional development related to mental health issues and services to members of the educational team.
- Attend and participate in a variety of meetings, workshops, and conferences.

#### Other Duties

- Operate a computer and assigned software.
- Provide supervision of unlicensed therapists and interns.
- Work with Site staff and Coordinator of Special Education to transition students into the high school setting.

#### Knowledge of:

- California Master Plan for Special Education and the federal Individuals with Disabilities Education Act (IDEA)
- Mental health related community and state resources
- Behavioral change theories and practices including early intervention positive behavior supports, tiered intervention practices, and cognitive therapies
- Effective staff development methods
- Special education programs and the IEP process
- Special needs students and their behaviorally or educationally based mental health needs.

#### Skill and Ability to:

- Establish and maintain effective working relationships with individuals and groups
- Conduct effective meetings and conferences
- Communicate concepts and information accurately, both orally and in writing, including the preparation of formal reports, case histories, assessment, and intervention records
- Demonstrate effective liaison relationships with parents, schools, and agencies
- Coordinate activities from many sources for the benefit of an individual student
- Organize work and provide effective services within a limited timeframe
- Develop, coordinate, and deliver relevant training to parents and professional development to staff and assist with program development.

#### Other Characteristics

Possession of a valid California driver's license and/or be able to provide own transportation in conduct of work assignments (mileage reimbursed); willingness to travel as needed.

**Sequoia Union High School District**  
**Redwood City, California**  
**Instructional / 2015 - 2016 Calendar**

	Month	M	T	W	Th	F	
0	August	3	4	5	6	7	
0		10	11	12	13	14	Aug. 13 & 17 Pre-School Days; Aug. 14 Professional Development Day
4		17	18	19	20	21	August 18 First Day of School
5		24	25	26	27	28	
1		31					
4	September		1	2	3	4	
4		7	8	9	10	11	Sept. 7 Labor Day Observed
5		14	15	16	17	18	First Quarter <i>Progress Report</i> Period Ends
5		21	22	23	24	25	
3		28	29	30			
2	October				1	2	
5		5	6	7	8	9	Oct. 12 Professional Development Day
4		12	13	14	15	16	First Quarter Report Period Ends
5		19	20	21	22	23	
5		26	27	28	29	30	
5	November	2	3	4	5	6	
4		9	10	11	12	13	Nov. 11 Veterans' Day Observed / Nov. 13 Second Quarter <i>Progress Report</i> Period Ends
5		16	17	18	19	20	
2		23	24	25	26	27	Nov. 26 & 27 Thanksgiving Holidays/ Nov. 25 No School & Non-work Day for Certificated Staff
1		30					
4	December		1	2	3	4	
5		7	8	9	10	11	Dec. 17 First Semester Report Period Ends
4		14	15	16	17	18	Dec. 18 Semester Break Begins/ Certificated Work Day
0		21	22	23	24	25	Winter Break
0		28	29	30	31		Winter Break
82							END OF FIRST SEMESTER
0	January					1	Winter Break
4		4	5	6	7	8	Jan. 4 Professional Development Day
5		11	12	13	14	15	
4		18	19	20	21	22	Jan. 18 Martin Luther King Holiday Observed
5		25	26	27	28	29	
5	February	1	2	3	4	5	
4		8	9	10	11	12	Feb. 12 Lincoln's Birthday Observed / Feb. 11 Third Quarter <i>Progress Report</i> Period Ends
4		15	16	17	18	19	Feb. 15 Presidents' Holiday Observed
5		22	23	24	25	26	
1		29					
4	March		1	2	3	4	
5		7	8	9	10	11	
5		14	15	16	17	18	Third Quarter Report Period Ends
5		21	22	23	24	25	
4		28	29	30	31		
0	April					1	April 1 - Cesar Chavez Day Observed; Non-work Day for Certificated Staff
0		4	5	6	7	8	Spring Break
5		11	12	13	14	15	
5		18	19	20	21	22	
5		25	26	27	28	29	Fourth Quarter <i>Progress Report</i> Period Ends
5	May	2	3	4	5	6	
5		9	10	11	12	13	
5		16	17	18	19	20	
5		23	24	25	26	27	
1		30	31				May 30 Memorial Day Observed
2	June			1	2	3	June 2 SECOND SEMESTER REPORT PERIOD ENDS
0		6	7	8	9	10	June 3 Graduation Day/ Last Certificated Work Day
98		13	14	15	16	17	END OF SECOND SEMESTER
		20	21	22	23	24	
		27	28	29	30		

*Revised 10/29/14*

1st Report Period	42
2nd Report Period	40
	82
3rd Report Period	51
4th Report Period	47
	98

180	Instruction Days
2	Pre-School Days
2	Teacher Work Days
3	Professional Development Days
187	Certificated Work Days

**AGREEMENT BETWEEN CLIENT AND PROJECT MANAGER  
FOR PROJECT MANAGEMENT SERVICES**

This AGREEMENT is made: **October 31, 2014**

BETWEEN the Client: **Sequoia Union High School District  
480 James Avenue  
Redwood City, CA 94062**

and the Project Manager: **Derivi Construction & Architecture, Inc.  
DBA: DERIVI CASTELLANOS ARCHITECTS (DCA)  
45 E. Julian Street  
San Jose, CA 95112**

For the following Project: **Proposition 39 Project Planning  
Energy Expenditure Plan: Yrs 3-5  
REVISION # 1**

THE CLIENT AND PROJECT MANAGER AGREE AS SET FORTH BELOW

Project Manager agrees to provide the following services as required to accomplish project goals:

- Under this Proposal, Project Manager will provide the following services for Years 3-5: additional surveying (if necessary), preliminary engineering to define the scope of potential projects, cost estimating related to the proposed projects, energy savings calculations, Savings to Investment Ratio (SIR) calculations, iterative review with District of potential prioritization strategies, submission of EEP to the California Energy Commission (CEC), respond to comments/questions from CEC to achieve approval of EEP.
- Years 3-5 projects will consist of lighting and mechanical projects as identified in previous meetings with the District (See attachment "A") plus up to 3 new projects based on District's direction
- Project Manager will continue working on the District's Prop 39 Energy Expenditure Plan (EEP) for Year 2 (under a previous contract), and will combine Year 2 and Years 3-5 into one Energy Expenditure Plan
- Provide recommendations to facilitate compliance with Prop 39 guidelines
- Perform services consistent with CEC Guidelines adopted December 19, 2013
- Services under this contract will be substantially complete when the Energy Expenditure Plan as described above is submitted to CEC

The following items are excluded from Project Manager's scope of work:

- Management of District's energy efficiency vendors
- Management of District's overall energy efficiency program
- Services associated with implementation/construction of specific projects (can be provided as additional service upon request)
- Services associated with additional funding requests or appeals (can be provided as additional service upon request)
- Services associated with Division of State Architect approvals (need is not anticipated)

- Special Inspection services (typically contracted directly by client, if required)
- ASHRAE Level 2 audit (need is not anticipated)
- Any other services not specifically included above
- Guarantee of approval by CEC

Additional services shall be provided only if authorized or confirmed in writing by the Client.

#### TIMELINE

It is anticipated that the services described above will be completed 60 days after the date of execution of this agreement.

#### THE CLIENT SHALL COMPENSATE THE PROJECT MANAGER AS FOLLOWS

Basis of Project Manager's compensation:      ***Not to exceed Thirty Thousand Dollars (\$30,000.00).***

Method of payment to the Project Manager:      ***Client to be billed monthly on Time & Material basis, payable within thirty (30) days of receipt of invoice. Reimbursables and additional services will be billed per attached DCA Fee Schedule dated January 1, 2014.***

This agreement may be terminated by either party upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination, or by the following procedure: *in writing.*

#### PROJECT MANAGER'S AUTHORIZED REPRESENTATIVE:

Juan G. Barroso  
Managing Partner  
jbarroso@dcaaia.com  
(408) 314-6601

#### ACCEPTANCE OF THIS AGREEMENT

CLIENT

PROJECT MANAGER

\_\_\_\_\_  
(Signature of Client or Authorized Representative)

\_\_\_\_\_  
(Signature of Authorized Representative)

\_\_\_\_\_  
(Print Name and Title)

\_\_\_\_\_  
(Print Name and Title)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)

**FEE SCHEDULE**

**Effective January 1, 2014**

The following is our professional hourly rate schedule which is used as a basis for establishing compensation:

Partner/Principal	\$200.00
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**ARCHITECTURAL SERVICES**

Sr. Architect	\$170.00
Architect	\$150.00
Project Coordinator	\$110.00
Sustainability/LEED Coordinator	\$100.00
BIM/VDC Coordinator	\$100.00
Designer II	\$100.00
Designer I	\$90.00
Drafter	\$80.00
Design Intern	\$70.00
Clerical	\$55.00

**PROJECT MANAGEMENT/CONSULTING SERVICES:**

Funding Advisor	\$200.00
Sr. Project Manager	\$170.00
Project Manager	\$150.00
Energy Project Manager	\$150.00
Cost Estimator	\$150.00
Project Coordinator	\$110.00
Energy Project Coordinator	\$110.00
BIM Coordinator	\$100.00
Clerical Assistant	\$55.00

Reimbursable costs shall be billed at actual cost plus 10% and include reproduction, office consumables, mileage, shipping, telephone, software services, meeting costs, travel time greater than 30 mins from home office, lodging, other miscellaneous services and expenses required to accomplish the work. Mileage will be reimbursed at the IRS standard mileage rate. These expenses shall not be considered a part of the overall maximum fee. All invoices are due and payable within 15 days of invoice date. All invoices for which payment is not received within 30 days will be assessed a 1.5% per month late charge (18% Annual Percentage Rate). This Fee Schedule is subject to adjustment every year on January 1<sup>st</sup>.



**Sequoia Union High School District**  
**Prop 39**  
**Potential Years 3-5 Projects**  
**Oct. 16, 2014**

## **ATTACHMENT "A"**

### POTENTIAL YEAR 3-5 PROJECT LIST

1. WOODSIDE HS: Upgrade lighting at new Gym from existing compact fluorescent, 70-90 fixtures, to either LED or T5 or Metal Halide (EE will recommend)
2. MENLO ATHERTON HS: Upgrade lighting at new Gym from existing compact fluorescent, +/- 30 fixtures, to either LED or T5 or Metal Halide (EE will recommend)
3. CARLMONT HS: Upgrade lighting at upper hallways from existing 8-foot fixtures and replace with high-efficiency 4-foot fixtures or LED
4. CARLMONT HS: Upgrade lighting at exterior breezeway soffits from incandescent and metal halide to LED or other high-efficiency fixtures
5. ALL 4 HIGH SCHOOLS: Upgrade all exterior decorative lighting, currently metal halide or high pressure sodium, go to LED or other high-efficiency fixture
6. ALL 4 HIGH SCHOOLS: Upgrade all exterior wall packs with LED or other high-efficiency fixture
7. CARLMONT HS – Boilers (Library, B-South, C-North, C-South, D & E): replace (6) 85% efficiency boilers with new 96% efficiency boilers to provide hot water for space heating
8. SEQUOIA HS – Split Systems (200 Wing): replace (12) split systems with central chiller/boiler plant to serve classrooms and kitchen
9. Up to 3 new projects based on District's direction



# Sequoia Union High School District

## Job Description

<b>JOB TITLE:</b>	<b>Chief Facilities Officer</b>
<b>ADMINISTRATIVE RELATIONSHIP:</b>	This Position reports to the Superintendent
<b>CLASSIFICATION:</b>	Classified
<b>REQUIREMENTS</b>	Minimum Degrees/Credentials/Experience Required for Position <ul style="list-style-type: none"><li>• A bachelor's degree, master's degree preferred,</li><li>• Minimum of five years in a management position that includes responsibility for facilities management</li><li>• At least five years of administrative or project management experience preferably within a public school system</li></ul>
<b>SALARY SCHEDULE:</b>	Management Salary - Assistant Superintendent
<b>WORK – YEAR / HOURS:</b>	12 Months
<b>LOCATION:</b>	District
<b>BOARD APPROVAL:</b>	Pending

### BRIEF DESCRIPTION OF POSITION

Under policy direction of the Superintendent, the Chief Facilities Officer (CFO) is a cabinet-level position with responsibility for planning, developing, and overseeing all functions of the Facilities Design and Construction and Real Estate. This CFO position represents the Superintendent and the District for facility planning and management of building and facility construction including supervision and coordination of consultants, communications with parents and the general community, facilitation of staff planning, and leadership of District committees.

### DUTIES AND RESPONSIBILITIES

- Plans, coordinates and supervises facilities improvements and construction of all District facility assets,
- Develops and implements department goals and policies, including the short-term and long-range strategic and project plans,
- Establishes departmental goals and objectives, along with work standards as a means for evaluating the progress of all construction projects
- Assists in the coordination and preparation of the Board Agenda and provides regular reports to the Board and communication to the public,
- Assists in the initiation and administration of new District-wide facility programs, conducting special studies as authorized,
- Responds to public records requests and any litigation regarding the development of facilities and land acquisition,
- Responsible for District facility planning (District's Facility Master Plan) for both comprehensive and alternative school sites,
- Manages District budgets related to capital improvement projects including bond projects



(expenditure reports, development of purchase orders and tracking of projects) and coordinating management with the District Assistant Superintendent of Administrative Services,

- Acts as chief District representative to the District Citizens Bond Oversight Committee providing necessary reports on facility development, budget and auditing,
- Resolves conflicts among contractors, consultants, neighbors, staff and others as applicable,
- Facilitates decision making about planning and construction activities and maintaining District calendar including the phasing of projects related to school operations,
- Facilitates site design committees coordinating consultants' work with committees and staff
- Makes regular periodic reports to the Board of Trustees on progress of facility planning and/o construction.
- Develops informational communications to public, parents and staff,
- Represents District in supervision of consultants and contractors, coordinating activities, ensuring adherence to project timelines, and reviewing project invoices and payments,
- Acts as the District representative to State and Regulatory Agencies related to facilities projects (CDE, DSA, OPSC, and DTSC)
- Facilitates the environmental impact studies and development of reports for facility projects,
- Oversee pre-qualification, bidding and selection process of contractors for District facility projects,
- Ensures proper housing of District students and use of school facilities,
- Develops and issues Notices to Proceed, Stop Orders, and Final Acceptance and other directions to contractors,
- Monitors "Requests for Information" and reviews and processes decisions for change orders,
- Develops and facilitates interim District and school operations during construction,
- Plans and facilitates interim housing at sites
- Responsible for record keeping of operational costs in conformity with District and State policies, rules and regulations
- Other tasks and duties that arise from the facility planning and construction process

**Knowledge and Abilities:**

Knowledge of laws and regulations pertaining to the construction; knowledge of principles and techniques of supervision and training; ability to analyze and make accurate estimates of costs; ability to prepare and present oral and written reports; ability to plan and organize departmental procedures; ability to work cooperatively with others.

**Physical Requirements:**

The physical abilities required of this classification may include the following:

- Vision sufficient to inspect conditions of facilities, equipment and systems, and prepare and review diagrams and paperwork.
- Walking, bending, stooping, kneeling and climbing to inspect work.
- Speech and hearing sufficient to provide information, discuss needed work, and provide instructions and training.
- Motor skills to operate District vehicles.
- Work in exposure to noise, fumes, weather, moving equipment and machinery in the course of inspecting and supervising work.

**Other Requirements:**

Must possess a valid California driver's license and have a satisfactory driving record; must be willing to remain on 24 hour call for emergencies



## **Wellness Advisory Council Final Report for 2013–2014 School-Year**

To: Sequoia Union High School District Administrators and Board of Trustees

The SUHSD Wellness Advisory Council (WAC) met every two months during the 2013-2014 school year. WAC membership includes District Nurses, Director of Food Services, Director of Sequoia Hospital Health & Wellness Services, Director of the Sequoia Healthcare District Healthy Schools Initiative, Sequoia Teen Resource Center staff, mental health counselors, teachers, students, parents and community members.

WAC's mission is guided by the district's Wellness Policy, which is focused on ensuring students are "Fit, Healthy, and Ready to Learn". The WAC executive committee met monthly between the full council meetings to support the work of the council.

Highlights of WAC's efforts to promote student and staff wellness this past year include:

- Participating in on-site TUPE hosted Health Fairs at Redwood, Carlmont, Sequoia, Woodside, and Menlo Atherton that reached over 2500 students
- Distributing over 900 reusable water bottles to students who completed a food services survey for use in district capacity planning at the request of Board Trustee Alan Sarver
- Increasing awareness of the health benefits of drinking water and use of on-site filtered water bottle filling stations for district students
- Collaborating with community partners and school staff, the Food Advisory Council Executive Committee (FACE) began exploring the possibility of a "Breakfast in the Classroom" program for Redwood High
- Participating in the Redwood City School Districts "Make Time for Fitness" event for fourth grade students, with student involvement from Carlmont's SOS, Sequoia's Health Careers Academy, and Woodside's SOS and Safe School Ambassadors
- Providing ongoing support for parent education programs provided by Charlene Margot, Parent Education Series, Program Director, and Carmina Chavez, District Parent Coordinator.
- Aligning WAC activities to best support the District Dashboard priorities
- Expanding the diversity of wellness advocates involved in WAC and school site wellness projects
- Providing an opportunity for state legislators to interact with wellness advocates regarding the health priorities in our district
- Attending the San Mateo County's RESPECT 24/7 "Positive School Climate" conference and bringing back ideas for discussion and problem solving

- Continuing to meet in working groups including the Mental Health Advisory Committee (MAC), FACE, and the Staff Wellness Committee
- Distributing and compiling data on Staff Wellness priorities through a district-wide survey that generated 350 responses
- Publishing two Wellness Newsletters for all district staff (see attached) with expanded content in the Spring edition that addressed information requests made by staff on the survey conducted in the fall

The WAC goals for the 2014-15 academic term include: evaluation of the student survey data regarding Food Services; participation in campus health fairs; provision of wellness information and stakeholder collaboration at WAC meetings, producing two Wellness Newsletters for staff; and continuing the working sub-committees to further the District Dashboard and Coordinated School Health model goals. Meetings will once again be held every two months, with executive committee meetings on the alternate months.

Attachments:

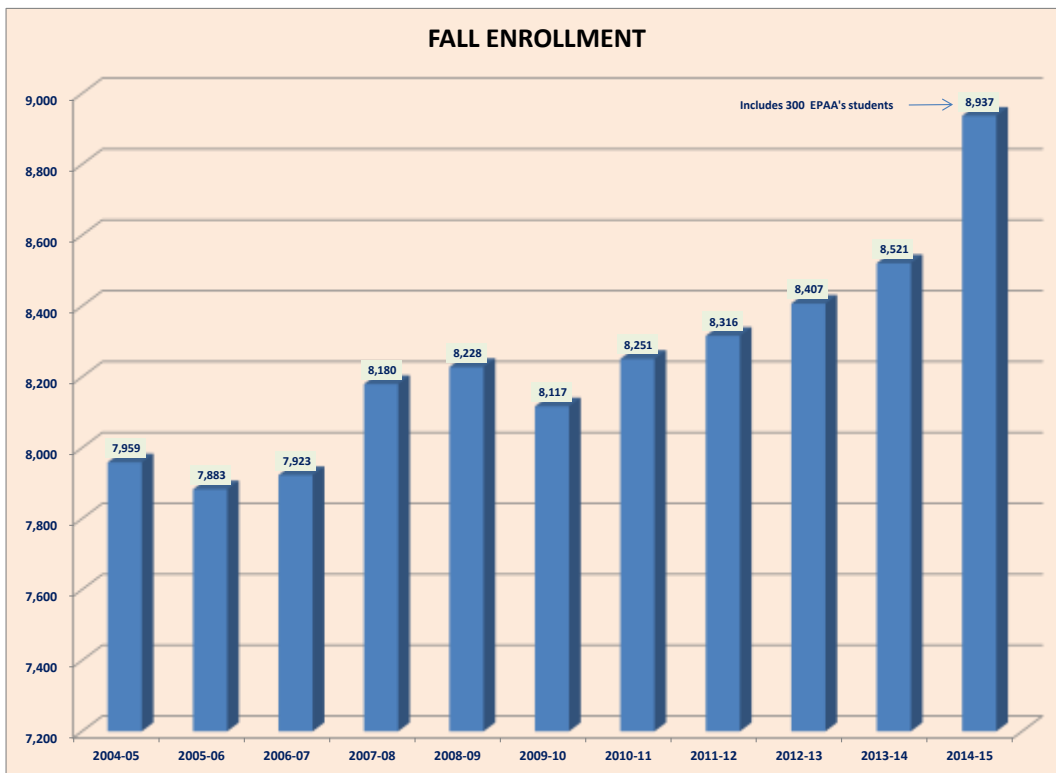
2013-14 Wellness Advisory Council Newsletters (2)

Sequoia Union High School District  
OFFICIAL ENROLLMENT REPORT  
**October 1, 2014**

There were **8,937** students enrolled in the Sequoia District on October 1, 2014,, the official date for compiling enrollment data for the 2014-2015 school year. This is **416** more students, an increase of 4.88%, compared to school year 2013-14. It should be noted that included in the district is the enrollment for the East Palo Alto Academy (EPAA) of 300 students. This is the first year that EPAA's enrollment is included in the district total as a district dependent charter school. The rest of the charter school student enrollment is shown separately on page 7.

**FALL ENROLLMENT INCREASE / (DECREASE)**

SCHOOL YEAR	FALL ENROLLMENT	INCREASE / (DECLINE)	% CHANGE	% CHANGE SINCE 2004-05
2004-05	7,959			
2005-06	7,883	(76)	-0.95%	
2006-07	7,923	40	0.51%	
2007-08	8,180	257	3.24%	
2008-09	8,228	48	0.59%	
2009-10	8,117	(111)	-1.35%	
2010-11	8,251	134	1.65%	
2011-12	8,316	65	0.79%	
2012-13	8,407	91	1.09%	
2013-14	8,521	114	1.36%	
<b>2014-15</b>	<b>8,937</b>	<b>416</b>	<b>4.88%</b>	<b>12.29%</b>



### TWO-YEAR ENROLLMENT COMPARISON

SCHOOL/PROGRAM	SEPT. 2013	SEPT. 2014	INCREASE / (DECREASE)	% CHANGE
Carlmont HS	2,171	2,140	(31)	-1.4%
Menlo-Atherton HS	2,062	2,133	71	3.4%
Sequoia HS	2,004	2,095	91	4.5%
Woodside HS	1,766	1,776	10	0.6%
<b>Comprehensive High School Total</b>	<b>8,003</b>	<b>8,144</b>	<b>141</b>	<b>1.8%</b>

East Palo Alto Academy Charter School (*)	-	300	300	0.0%
Independent Study	40	58	18	45.0%
Middle College	85	102	17	20.0%
Non-Public School	39	40	1	2.6%
Our Common Ground	17	-	(17)	-100.0%
Redwood/TAPP	311	293	(18)	-5.8%
SUHSD Community Day School	26	-	(26)	-100.0%
<b>Special Program Total</b>	<b>518</b>	<b>793</b>	<b>275</b>	<b>53.1%</b>

<b>District Total</b>	<b>8,521</b>	<b>8,937</b>	<b>416</b>	<b>4.88%</b>
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(\*) EPAA is included as part of the district enrollment as a dependent charter school.

EPAA's enrollment in 2013-14 was 204 students.

**SEQUOIA UNION HIGH SCHOOL DISTRICT  
ENROLLMENT DETAIL BY GRADE LEVEL**

COMPREHENSIVE HIGH SCHOOL	9TH GR	10TH GR	11TH GR	12TH GR	TOTAL
Carlmont High School	571	561	515	493	<b>2,140</b>
Menlo-Atherton High School	584	582	500	467	<b>2,133</b>
Sequoia High School	536	550	473	536	<b>2,095</b>
Woodside High School	465	453	446	412	<b>1,776</b>
<b>COMPREHENSIVE HIGH SCHOOL TOTAL</b>	<b>2,156</b>	<b>2,146</b>	<b>1,934</b>	<b>1,908</b>	<b>8,144</b>

ALTERNATIVE PROGRAMS	9TH GR	10TH GR	11TH GR	12TH GR	TOTAL
East Palo Alto Academy Charter School	84	87	75	54	<b>300</b>
Independent Study	1	9	18	30	<b>58</b>
Middle College	-	-	52	50	<b>102</b>
Non-Public School	8	9	9	14	<b>40</b>
Redwood/TAPP	-	6	66	221	<b>293</b>
<b>ALTERNATIVE PROGRAMS TOTAL</b>	<b>93</b>	<b>111</b>	<b>220</b>	<b>369</b>	<b>793</b>

<b>DISTRICT TOTAL</b>	<b>2,249</b>	<b>2,257</b>	<b>2,154</b>	<b>2,277</b>	<b>8,937</b>
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## ENROLLMENT BY ETHNICITY

The chart below shows a historical breakdown of the racial and ethnic student populations for the four comprehensive high schools combined.

SCHOOL YEAR	African American	American Indian	Asian	Filipino	Latino	Pacific Islander	White	Multi Ethnic
1990-91	12.0%	0.3%	5.5%	1.3%	29.7%	2.4%	48.8%	
1991-92	11.6%	0.4%	5.0%	1.1%	32.1%	2.6%	47.2%	
1992-93	11.6%	0.4%	5.6%	0.9%	34.4%	3.2%	44.0%	
1993-94	11.8%	0.4%	6.0%	0.9%	34.7%	3.2%	43.0%	
1994-95	11.5%	0.3%	6.2%	0.9%	36.2%	3.2%	41.4%	
1995-96	11.4%	0.3%	6.4%	1.0%	37.6%	3.4%	39.9%	
1996-97	10.4%	0.2%	6.1%	1.0%	39.0%	3.4%	39.9%	
1997-98	8.8%	0.2%	5.6%	1.1%	40.6%	3.4%	40.5%	
1998-99	8.3%	0.2%	5.1%	0.9%	42.4%	3.5%	39.6%	
1999-00	7.7%	0.2%	4.9%	0.8%	41.9%	4.1%	40.4%	
2000-01	7.1%	0.3%	4.4%	0.8%	40.8%	4.2%	42.2%	0.2%
2001-02	6.1%	0.2%	4.8%	1.0%	41.8%	4.0%	42.1%	0.3%
2002-03	6.1%	2.0%	4.9%	1.2%	41.3%	3.8%	42.1%	0.4%
2003-04	5.7%	0.4%	4.9%	1.1%	40.8%	3.8%	41.7%	1.6%
2004-05	5.6%	0.6%	5.2%	1.2%	40.3%	3.6%	41.1%	2.4%
2005-06	5.2%	0.7%	5.4%	1.3%	39.8%	3.7%	41.5%	2.4%
2006-07	5.1%	0.6%	5.4%	1.4%	40.2%	3.7%	41.4%	2.2%
2007-08	5.0%	0.5%	5.3%	1.5%	41.6%	3.6%	40.5%	2.0%
2008-09	5.1%	0.3%	5.4%	1.6%	42.8%	3.9%	39.3%	1.6%
2009-10	4.9%	0.3%	6.0%	1.7%	42.8%	3.8%	39.1%	1.4%
2010-11	4.2%	0.5%	6.7%	1.7%	43.7%	3.5%	38.5%	1.2%
2011-12	4.0%	0.7%	7.0%	1.7%	42.2%	3.1%	40.4%	0.9%
2012-13	3.5%	0.7%	7.4%	2.1%	41.4%	2.9%	41.7%	0.3%

SCHOOL YEAR	African American	American Indian or Alaska Native	Asian		Hispanic or Latino	Hawaiian or Pacific Islander	White	Multi Ethnic
2013-14	2.8%	0.3%	6.5%		46.5%	2.5%	34.9%	6.5%
2014-15	2.8%	0.3%	7.1%		46.5%	2.7%	35.0%	5.6%



## RACIAL & ETHNIC DISTRIBUTION OF STUDENTS

	Carlmont HS	Menlo-Atherton HS	Sequoia HS	Woodside HS	COMPREHENSIVE HIGH SCHOOL TOTAL <sup>(1)</sup>
African American	54 2.5%	64 3.0%	32 1.5%	48 2.7%	198 2.4%
American Indian	13 0.6%	4 0.2%	3 0.1%	6 0.3%	26 0.3%
Asian	381 17.8%	112 5.3%	81 3.9%	46 2.6%	620 7.6%
Latino	431 20.1%	919 43.1%	1,247 59.5%	997 56.1%	3,594 44.1%
Hawaiian/Pacific Islander	46 2.1%	61 2.9%	48 2.3%	48 2.7%	203 2.5%
White	1,002 46.8%	869 40.7%	583 27.8%	567 31.9%	3,021 37.1%
Multi-Ethnic	213 10.0%	104 4.9%	101 4.8%	64 3.6%	482 5.9%
<b>Grand Total</b>	<b>2,140</b>	<b>2,133</b>	<b>2,095</b>	<b>1,776</b>	<b>8,144</b>

## EPAA & ALTERNATIVE PROGRAM RACIAL & ETHNIC DISTRIBUTION OF STUDENTS

	East Palo Alto Academy	Independent Study	Middle College	Non-Public School	Redwood HS/TAPP	ALTERNATIVE PROGRAM TOTAL
African American	26 1.2%	2 0.1%	0 0.0%	3 0.1%	17 1.0%	48 0.6%
American Indian	4 0.2%	1 0.0%	0 0.0%	0 0.0%	0 0.0%	5 0.1%
Asian	4 0.2%	2 0.1%	6 0.3%	1 0.0%	4 0.2%	17 0.2%
Latino	242 11.3%	29 1.4%	30 1.4%	21 1.0%	240 13.5%	562 6.9%
Hawaiian/Pacific Islander	21 1.0%	0 0.0%	0 0.0%	0 0.0%	19 1.1%	40 0.5%
White	2 0.1%	22 1.0%	57 2.7%	14 0.7%	11 0.6%	106 1.3%
Multi-Ethnic	1 0.0%	2 0.1%	9 0.4%	1 0.0%	6 0.3%	19 0.2%
<b>Grand Total</b>	<b>300</b>	<b>58</b>	<b>102</b>	<b>40</b>	<b>297</b>	<b>797</b>

## DISTRICT TOTAL RACIAL & ETHNIC DISTRIBUTION OF STUDENTS

	African American	American Indian or Alaska Native	Asian	Hispanic or Latino	Hawaiian or Pacific Islander	White	Multi Ethnic	TOTAL
<b>DISTRICT TOTAL</b>	<b>246</b> 2.8%	<b>31</b> 0.3%	<b>637</b> 7.1%	<b>4,156</b> 46.5%	<b>243</b> 2.7%	<b>3,127</b> 35.0%	<b>501</b> 5.6%	<b>8,941</b>

## **ENGLISH LANGUAGE LEARNER ENROLLMENT**

The table below shows the number of English Language Learners by school and grade level.

<b>Grade</b>	<b>Carlmont HS</b>	<b>Menlo- Atherton HS</b>	<b>Redwood HS</b>	<b>Sequoia HS</b>	<b>Woodside HS</b>	<b>TOTAL</b>
9TH GR	31	136		127	93	<b>387</b>
10TH GR	48	120	5	121	88	<b>382</b>
11TH GR	28	85	26	94	77	<b>310</b>
12TH GR	28	87	113	119	63	<b>410</b>
<b>TOTAL</b>	<b>135</b>	<b>428</b>	<b>144</b>	<b>461</b>	<b>321</b>	<b>1,489</b>

## CHARTER SCHOOL ENROLLMENT

### SUMMIT PREP HIGH SCHOOL

School Year	9TH GR	10TH GR	11TH GR	12TH GR	TOTAL
2003-04	82	-	-	-	82
2004-05	100	76	-	-	176
2005-06	100	102	74	-	276
2006-07	103	96	91	70	360
2007-08	108	98	100	95	401
2008-09	108	107	99	97	411
2009-10	105	109	102	94	410
2010-11	110	104	106	102	422
2011-12	110	108	103	104	425
2012-13	113	101	103	86	403
2013-14	118	102	91	89	400
<b>2014-15</b>	<b>98</b>	<b>120</b>	<b>95</b>	<b>84</b>	<b>397</b>

### EVEREST HIGH SCHOOL

School Year	9TH GR	10TH GR	11TH GR	12TH GR	TOTAL
2009-10	102	-	-	-	102
2010-11	110	94	-	-	204
2011-12	115	104	80	-	299
2012-13	112	104	96	70	382
2013-14	118	93	103	92	406
<b>2013-14</b>	<b>97</b>	<b>110</b>	<b>84</b>	<b>100</b>	<b>391</b>

## CHARTER HIGH SCHOOL ENROLLMENT BY ETHNICITY FOR 2014-15

### SUMMIT PREPARATORY HIGH SCHOOL

	African American	American Indian or Alaska Native	Asian	Hispanic or Latino	Hawaiian or Pacific Islander	White	Multi Ethnic	TOTAL
<b>Summit Prep</b>	<b>9</b>		<b>29</b>	<b>218</b>	<b>4</b>	<b>126</b>	<b>11</b>	<b>397</b>
	2.3%	0.0%	7.3%	54.9%	1.0%	31.7%	2.8%	

### EVEREST HIGH SCHOOL

	African American	American Indian or Alaska Native	Asian	Hispanic or Latino	Hawaiian or Pacific Islander	White	Multi Ethnic	TOTAL
<b>Everest</b>	<b>10</b>	<b>2</b>	<b>20</b>	<b>232</b>	<b>7</b>	<b>107</b>	<b>13</b>	<b>391</b>
	2.6%	0.5%	5.1%	59.3%	1.8%	27.4%	3.3%	

## HISTORICAL COMPARISON OF PROJECTED & ACTUAL ENROLLMENTS

School Year	Projected Enrollment	Actual	Difference	% Difference
1992	6,453	6,472	19	0.3%
1993	6,534	6,520	(14)	-0.2%
1994	6,506	6,668	162	2.5%
1995	6,741	6,766	25	0.4%
1996	6,925	6,981	56	0.8%
1997	7,194	7,139	(55)	-0.8%
1998	7,179	7,339	160	2.2%
1999	7,423	7,311	(112)	-1.5%
2000	7,359	7,447	88	1.2%
2001	7,511	7,462	(49)	-0.7%
2002	7,451	7,759	308	4.1%
2003	7,963	7,858	(105)	-1.3%
2004	7,954	7,959	5	0.1%
2005	7,846	7,883	37	0.5%
2006	7,936	7,923	(13)	-0.2%
2007	7,841	8,180	339	4.3%
2008	8,097	8,228	131	1.6%
2009	8,118	8,122	4	0.0%
2010	8,085	8,278	193	2.4%
2011	8,212	8,316	104	1.3%
2012	8,305	8,407	102	1.2%
2013	8,546	8,521	(25)	-0.3%
<b>2014 <sup>(*)</sup></b>	<b>8,794</b>	<b>8,937</b>	<b>143</b>	<b>1.6%</b>

<sup>(\*)</sup> It includes 300 EPAA students (first year reporting as a district dependent charter school)

# Sequoia Union HSD

## Board Policy

Agenda Item: 12a(1b)  
Date: 11/05/14

**REVISED FOR DISCUSSION**  
(11/05/14)

### BP 1312.3 Community Relations Uniform Complaint Procedures

The Board of Trustees recognizes that the District has primary responsibility for insuring that it complies with state and federal laws and regulations governing educational programs. The District shall investigate complaints alleging failure to comply with such laws and/or alleging discrimination and shall seek to resolve those complaints in accordance with the district's uniform complaint procedures. (5 CCR 4620)

The District shall follow uniform complaint procedures when addressing written complaints alleging unlawful discrimination, harassment, intimidation, or bullying in district programs and activities based on actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Penal Code 422.55, or Government Code 11135, or based on association with a person or group with one or more of these actual or perceived characteristics. (5 CCR 4610)

Uniform complaint procedures shall also be used when addressing written complaints alleging District's failure to comply with the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities, the requirements for the development and adoption of a school safety plan, and state and/or federal law in adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and career technical and technical training programs, child care and development programs, child nutrition programs and special education programs. (5 CCR 4610)

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.2 - Complaints Concerning Instructional Materials)

(cf. 3260 - Fees and Charges)

(cf. 3320 - Claims and Actions Against the District)

(cf. 3553 - Free and Reduced Price Meals)

(cf. 4031 - Complaints Concerning Discrimination in Employment)

(cf. 5131.2 - Bullying)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

(cf. 6159 - Individualized Education Program)

(cf. 6171 - Title I Programs)

(cf. 6174 - Education for English Language Learners)

(cf. 6175 - Migrant Education Program)

(cf. 6178 - Career Technical Education)

(cf. 6200 - Adult Education)

Complaints related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, and teacher vacancies and misassignments shall be investigated pursuant to the district's Williams uniform complaint procedure (AR 1312.4).

(cf. 1312.4 - Williams Uniform Complaint Procedures)

The Board encourages the early, informal resolution of complaints at the site level whenever possible.

The Board acknowledges and respects student and employee rights to privacy. Discrimination complaints shall be investigated in a manner that protects the confidentiality of the parties and the integrity of the process. This may include keeping the identity of the complainant confidential as appropriate and except to the extent necessary to carry out the investigation or proceedings, as determined by the Superintendent or designee on a case-by-case basis.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/ Privileged Information)

(cf. 5125 - Student Records)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

The Board prohibits any form of retaliation against any complainant in the complaint process, including but not limited to a complainant's filing of a complaint or the reporting

of instances of discrimination. Such participation shall not in any way affect the status, grades, or work assignments of the complainant.

The Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Such employees may have access to legal counsel as determined by the Superintendent or designee.

(cf. 9124 - Attorney)

The Board recognizes that a neutral mediator can often suggest an early compromise that is agreeable to all parties in a dispute. In accordance with uniform complaint procedures, whenever all parties to a complaint agree to try resolving their problem through mediation, the Superintendent or designee may initiate the process. The Superintendent or designee shall ensure that mediation results are consistent with state and federal laws and regulations.

Legal Reference:

#### EDUCATION CODE

200-262.4 Prohibition of discrimination

8200-8498 Child care and development programs

8500-8538 Adult basic education

18100-18203 School libraries

32289 School safety plan, uniform complaint procedure

35186 Williams uniform complaint procedure

41500-41513 Categorical education block grants

48985 Notices in language other than English

49060-49079 Student records

49490-49590 Child nutrition programs

52160-52178 Bilingual education programs

52300-52490 Career-technical education

52500-52616.24 Adult schools



52800-52870 School-based coordinated programs

54000-54028 Economic impact aid programs

54100-54145 Miller-Unruh Basic Reading Act

54400-54425 Compensatory education programs

54440-54445 Migrant education

54460-54529 Compensatory education programs

56000-56867 Special education programs

59000-59300 Special schools and centers

64000-64001 Consolidated application process

#### PENAL CODE

422.6 Interference with constitutional right or privilege

#### CODE OF REGULATIONS, TITLE 5

3080 Application of section

4600-4687 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

#### UNITED STATES CODE, TITLE 20

6301-6577 Title I basic programs

6601-6777 Title II preparing and recruiting high quality teachers and principals

6801-6871 Title III language instruction for limited English proficient and immigrant students

7101-7184 Safe and Drug-Free Schools and Communities Act

7201-7283g Title V promoting informed parental choice and innovative programs

7301-7372 Title V rural and low-income school programs

Management Resources:

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights:  
<http://www.ed.gov/about/offices/list/ocr/index.html>

Policy SEQUOIA UNION HIGH SCHOOL DISTRICT

adopted: September 17, 1997 Redwood City, California

revised: January 12, 2005

revised: June 23, 2010

revised: August 31, 2011

revised:

# Sequoia Union HSD

## Administrative Regulation

Agenda Item: 12a(2b)  
Date: 11/05/14

**REVISED FOR DISCUSSION**  
(11/05/14)

### AR 1312.3 Community Relations Uniform Complaint Procedures

Except as the Governing Board may otherwise specifically provide in other Board policies, the uniform complaint procedures shall be used only to investigate and resolve complaints alleging violations of federal or state laws or regulations governing specific educational programs, the prohibition against requiring students to pay fees, deposits, or other charges for participating in educational activities, and unlawful discrimination, harassment, intimidation, or bullying, as specified in accompanying Board policy.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.2 - Complaints Concerning Instructional Materials)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

The district's uniform complaint procedures policy and administrative regulation shall be posted in all district schools and offices, including staff lounges and student government meeting rooms. If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's policy, regulation, forms, and notices concerning uniform complaint procedures shall be translated into that language. (Education Code 234.1, 48985)

(cf. 5145.6 - Parental Notifications)

### Compliance Officers

The Board of Trustees designates the following compliance officer to receive and investigate complaints and ensure district compliance with law:

Superintendent

480 James Avenue

Redwood City, CA 94062

(650) 369-1411 Ext. 2212

The Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are

responsible. Designated employees may have access to legal counsel as determined by the Superintendent or designee.

(cf. 9124 - Attorney)

#### Notifications

The Superintendent or designee shall annually provide written notification of the district's uniform complaint procedures to students, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. (Education Code 262.3, 49013; 5 CCR 4622)

The Superintendent or designee shall make available copies of the district's uniform complaint procedures free of charge. (5 CCR 4622)

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints
2. Advise the complainant of any civil law remedies that may be available to him/her under state or federal discrimination laws, if applicable
3. Advise the complainant of the appeal process including, if applicable, the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies
4. Include statements that:
  - a. The district is primarily responsible for compliance with state and federal laws and regulations
  - b. The complaint review shall be completed within 60 calendar days from the date of receipt of the complaint unless the complainant agrees in writing to an extension of the timeline
  - c. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying must be filed not later than six months from the date it occurred, or six months from the date the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation, or bullying
  - d. The complainant has a right to appeal the district's decision to the CDE by filing a written appeal within 15 calendar days of receiving the district's decision
  - e. The appeal to the CDE must include a copy of the complaint filed with the district and a copy of the district's decision

(cf. 5145.6 - Parental Notifications)

## Procedures

All complaints shall be investigated and resolved within 60 calendar days of the district's receipt of the complaint. (5 CCR 4631)

Compliance officers shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with 5 CCR 4631 and 4633.

All parties involved in allegations shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made.

### Step 1: Filing of Complaint

Any individual, public agency, or organization may file a written complaint of alleged noncompliance by the district. (5 CCR 4630)

A complaint concerning unlawful discrimination, harassment, intimidation, or bullying may be filed only by a person who alleges that he/she personally suffered unlawful discrimination, harassment, intimidation, or bullying or by a person who believes that an individual or any specific class of individuals has been subjected to it. The complaint shall be initiated no later than six months from the date when the alleged discrimination, harassment, intimidation, or bullying occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation, or bullying. However, upon written request by the complainant, the Superintendent or designee may extend the filing period for up to 90 calendar days. (5 CCR 4630)

A complaint alleging noncompliance with the law regarding the prohibition against requiring students to pay student fees, deposits, and charges may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance. (Education Code 49013)

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp.

If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint. (5 CCR 4600)

### Step 2: Mediation

Within three business days of receiving the complaint, the compliance officer may informally discuss with all the parties the possibility of using mediation. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging discrimination, harassment, intimidation, or bullying, the compliance officer shall ensure that all parties agree to make the mediator a party to related confidential information.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with his/her investigation of the complaint.

The use of mediation shall not extend the district's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. (5 CCR 4631)

### Step 3: Investigation of Complaint

The compliance officer is encouraged to hold an investigative meeting within five calendar days of receiving the complaint or an unsuccessful attempt to mediate the complaint. This meeting shall provide an opportunity for the complainant and/or his/her representative to repeat the complaint orally.

The complainant and/or his/her representative shall have an opportunity to present the complaint and evidence or information leading to evidence to support the allegations in the complaint. (5 CCR 4631)

To ensure that all pertinent facts are made available, the compliance officer and the complainant may ask other individuals to attend this meeting and provide additional information.

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, or his/her failure or refusal to cooperate in the investigation or his/her engagement in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegation. (5 CCR 4631)

The district's refusal to provide the investigator with access to records and/or other information related to the allegation in the complaint, or its failure or refusal to cooperate in the investigation or its engagement in any other obstruction of the investigation, may result in a finding, based on evidence collected, that a violation has occurred and may result in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

### Step 4: Response

Within 30 calendar days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report of the district's investigation and decision, as described in Step #5 below. If the complainant is dissatisfied with the compliance officer's decision, he/she may, within five business days, file his/her complaint in writing with the Board.

The Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the district's initial receipt the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)

#### Step 5: Final Written Decision

The district's decision shall be in writing and sent to the complainant. (5 CCR 4631)

The report of the District's decision shall be in written in English and in the language of the complainant whenever feasible or required by law.

The district's decision shall be written in English and, when required by Education Code 48985, in the complainant's primary language.

The decision shall include:

1. The findings of fact based on the evidence gathered (5 CCR 4631)
2. The conclusion(s) of law (5 CCR 4631)
3. Disposition of the complaint (5 CCR 4631)
4. Rationale for such disposition (5 CCR 4631)
5. Corrective actions, if any are warranted (5 CCR 4631)
6. Notice of the complainant's right to appeal the district's decision within 15 calendar days to the CDE and procedures to be followed for initiating such an appeal (5 CCR 4631)
7. For any decision concerning discrimination harassment, intimidation, or bullying complaint based on state law shall include a notice that the complainant must wait until 60 calendar days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies (Education Code 262.3)

If investigation of a complaint results in discipline to a student or an employee, the decision shall simply state that effective action was taken and that the student or employee was informed of district expectations. The report shall not give any further information as to the nature of the disciplinary action.

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges is found to have merit, the district shall provide a remedy to all affected students and parents/guardians, which, where applicable, shall include reasonable efforts to ensure full reimbursement to them. (Education Code 49013)

#### Appeals to the California Department of Education

If dissatisfied with the district's decision, the complainant may appeal in writing to the California Department of Education (CDE) within 15 calendar days of receiving the district's decision. When appealing to the CDE, the complainant must specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of the district's decision. (5 CCR 4632)

Upon notification by the CDE that the complainant has appealed the district's decision, the Superintendent or designee shall forward the following documents to the CDE: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the decision
3. A summary of the nature and extent of the investigation conducted by the district, if not covered by the decision
4. A copy of the investigation file, including but not limited to all notes, interviews, and documents submitted by the parties and gathered by the investigator
5. A report of any action taken to resolve the complaint
6. A copy of the district's complaint procedures
7. Other relevant information requested by the CDE

The CDE may directly intervene in the complaint without waiting for action by the district when one of the conditions listed in 5 CCR 4650 exists, including cases in which the district has not taken action within 60 calendar days of the date the complaint was filed with the district.

#### Civil Law Remedies

A complainant may pursue available civil law remedies outside of the district's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders.



If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges is found to have merit, the district shall provide a remedy to all affected students and parents/guardians, which, where applicable, shall include reasonable efforts to ensure full reimbursement to them. (Education Code 49013)

Regulation SEQUOIA UNION HIGH SCHOOL DISTRICT

approved: September 17, 1997 Redwood City, California

revised: June 23, 2010

revised: August 31, 2011

revised:

# Sequoia Union HSD

## Administrative Regulation

Agenda Item: 12a(3b)  
Date: 11/05/4

**REVISED FOR DISCUSSION**  
(11/05/14)

### AR 5117.1 Students Interdistrict Attendance Agreements

The Superintendent or designee may approve interdistrict agreements for the following reasons after considering the effect of such decisions on the District's resources and total enrollment.

1. To meet a child's special mental or physical health needs, as certified by a physician, school psychologist or other appropriate school personnel which could not be met at the school district of residency.
2. When the student has a sibling(s) attending school in a receiving district to avoid dividing the family.
3. To complete a school year when parents/guardians have moved out of the District during that year.
4. To permit seniors attend the same school they attended as juniors, even if their families moved out of the District during the junior year.
5. When recommended by the School Attendance Review Board or by county child welfare, probation or social service agency staff in documented cases of serious home or community problems which make it inadvisable for the student to attend the school of residence.
6. When there is valid interest in a particular educational program not offered in the district of residency. "Program" is defined as meaning a series of courses, not a single course, critical to the well-being of the individual, because of special circumstances, not based on student preference.
7. When a program (other than special education) not offered in the district of residency is offered in the Sequoia Union High School District and is critical to the well being of the student because of special circumstances.
8. To accommodate students of district employees and employees of partner districts living outside the SUHSD boundaries.
9. When the student has been determined by staff of either the district of residence or district of proposed attendance to be a victim of an act of bullying as defined in

Education Code 48900(r). Such a student shall be given priority for interdistrict attendance under any existing interdistrict attendance agreement or, in the absence of an agreement, shall be given consideration for the creation of a new permit. (Education Code 46600)

Interdistrict attendance agreements or applications shall not be required for students enrolling in an ROC or ROP program. (Education Code 52317)

The Board of Trustees reserves the right to revoke any interdistrict attendance permit at any time should the reason for granting the permit cease to exist. Nonresident students who pose significant discipline or truancy problems may have their permits revoked immediately, as permitted by law.

#### Transportation

With the approval of the Superintendent or designee, transportation normally provided for students living in the District may be provided for students attending on an interdistrict attendance agreement when space is available.

#### Denial of Interdistrict Transfer Agreement

The parent/guardian of a student who is denied a transfer requested pursuant to Education Code 46600-46611 shall receive timely notice, in accordance with law, regarding the process for appeal to the County Board of Education. This notice shall be provided by the district denying the request, or, in the absence of an agreement between the districts, by the district of residence.

Students who are under consideration for expulsion or who have been expelled may not appeal interdistrict attendance denials or decisions while expulsion proceedings are pending, or during the term of the expulsion. (Education Code 46601)

(cf. 5119 - Students Expelled from Other Districts)

Once a student is admitted to a school on the basis of an interdistrict attendance permit, he/she shall not be required to reapply for an interdistrict transfer and shall be allowed to continue to attend the school in which he/she is enrolled, unless reapplication standards are otherwise specified in the interdistrict attendance agreement. Existing interdistrict attendance permits shall not be rescinded for students entering grade 11 or 12 in the subsequent school year. (Education Code 46600)

#### Regulation SEQUOIA UNION HIGH SCHOOL DISTRICT

approved: December 10, 1997 Redwood City, California

revised: April 2, 2003

revised: August 24, 2005

revised:

# Sequoia Union HSD

## Board Policy

Agenda Item: 12a(4b)  
Date: 11/05/14

**REVISED FOR DISCUSSION**  
(11/05/14)

### BP 5131.2 Students Anti-Bullying/Anti-Harassment

The Sequoia Union High School District Board of Education prohibits bullying, harassment, discrimination, intimidation, or cyberbullying of any student or school personnel by a student or group of students. Prohibited behavior includes physical, verbal, nonverbal, or written conduct.

(cf. 5131.2 - Freedom of Speech/Expression)

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6145.2 - Athletic Competition)

(cf. 6164.2 - Guidance Services)

The Board affirms the right of all students and staff to be free from harassment or any activity that degrades the unique actual or perceived qualities of an individual, such as race, gender, gender identity, gender expression, physical appearance, ethnic group identification, national origin, age, sex, color, sexual orientation, physical/mental/intellectual disability, or religion, or association with a person or group with one or more of those actual or perceived characteristics. Such verbal or physical acts are abusive and will not be tolerated in any manner related to school activity or school attendance occurring within a school under the jurisdiction of the Superintendent of the District.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 6164.6 - Multicultural/Human Relations Education)

The Board encourages the Superintendent and staff to develop programs on campus and/or through the use of technology that enhance self-esteem, raise awareness and sensitivity, and foster respect for individuals and their unique qualities. The Board recognizes that bullying, harassment, discrimination, and intimidation are inflammatory to those victimized by such acts and jeopardizes the safety and well being of students and staff.

(cf. 4119.21, 4219.21, 4319.21 - Professional Standards/Codes of Ethics)

(cf. 5131 - Bus Conduct)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process for Students with Disabilities)

School personnel who witness an act of discrimination, harassment, intimidation, or bullying, shall take immediate steps to intervene when safe to do so. (Education Code 234.1)

Students may submit to a teacher or administrator a verbal or written complaint of conduct they consider to be in violation of this policy. Complaints of bullying shall be investigated and resolved in accordance with the District's uniform complaint procedures specified in AR 1312.3 - Uniform Complaint Procedures.

Notice of this policy shall be posted in all schools and offices, including staff lounges and pupil government meeting rooms. (Education Code 234.1)

Documentation of complaints and their resolution shall be maintained by the District for a minimum of one review cycle. (Education Code 234.1)

All individuals making a complaint under this policy shall be protected from retaliation, and their identity shall remain confidential, as appropriate. (Education Code 234.1)

Any student who engages in bullying on school premises, or off campus in a manner that causes or is likely to cause a substantial disruption of a school activity or school attendance, shall be subject to discipline, which may include suspension or expulsion, in accordance with district policies and regulations.

The Assistant Superintendent Human Resources shall be responsible for overseeing District compliance with this Policy.

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

48900.3 Suspension or expulsion for act of hate violence

48900.4 Suspension or expulsion for threats or harassment

48904 Liability of parent/guardian for willful student misconduct

48907 Student exercise of free expression

48950 Freedom of speech

48985 Translation of notices

49020-49023 Athletic programs

51500 Prohibited instruction or activity

51501 Prohibited means of instruction

60044 Prohibited instructional materials

#### CIVIL CODE

1714.1 Liability of parents/guardians for willful misconduct of minor

#### PENAL CODE

422.55 Definition of hate crime

422.6 Crimes, harassment

#### CODE OF REGULATIONS, TITLE 5

4600-4687 Uniform Complaint Procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

#### UNITED STATES CODE, TITLE 20

1681-1688 Title IX of the Education Amendments of 1972

#### UNITED STATES CODE, TITLE 42

2000d-2000e-17 Title VI and Title VII Civil Rights Act of 1964, as amended

2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964

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100.3 Prohibition of discrimination on basis of race, color or national origin

104.7 Designation of responsible employee for Section 504

106.8 Designation of responsible employee for Title IX

106.9 Notification of nondiscrimination on basis of sex

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<http://www.ed.gov/about/offices/list/ocr>

Policy SEQUOIA UNION HIGH SCHOOL DISTRICT

adopted: May 2, 2012 Redwood City, California

revised:



# Sequoia Union HSD

## Administrative Regulation

Agenda Item: 12a(5b)  
Date: 11/05/14

**REVISED FOR DISCUSSION**  
(11/05/14)

AR 5131.2 Students  
Anti-Bullying/Anti-Harassment

Definition of Terms:

Bullying, harassment, cyberbullying and related terms are defined as follows:

1. Bullying means inflicting physical hurt or psychological distress on one or more students or employees. The term "bullying" is further defined as follows:

Unwanted purposeful written verbal, nonverbal, or physical behavior, including but not limited to any threatening, insulting, or dehumanizing gesture that causes an intimidating, hostile, or offensive educational environment or causes long term damage; causes discomfort or humiliation; or unreasonably interfere with the individual's school performance or participation, and is often characterized by an imbalance of power.

Bullying may involve, but is not limited to these non-verbal and verbal behaviors:

- a. Unwanted teasing
- b. Threatening
- c. Intimidating
- d. Stalking
- e. Cyberstalking
- f. Cyberbullying
- g. Disseminating inappropriate images
- h. Physical violence
- i. Theft
- j. Sexual, religious, or racial harassment
- k. Public humiliation

l. Destruction of school or personal property

m. Social exclusion, including incitement and/or coercion

n. Rumor or spreading of falsehoods

2. Harassment means any threatening, insulting, or dehumanizing gesture or written, verbal or physical conduct directed against a student that does the following:

a. Places a student in reasonable fear of harm to his or her person or damage to his or her property;

b. Has the effect of substantially interfering with a student's educational performance, or either's opportunities, or benefits;

c. Has the effect of substantially negatively impacting a student's emotional or mental well-being; or

d. Has the effect of substantially disrupting the orderly operation of a school and/or school district work environment.

3. Cyberbullying is defined as the willful bullying, harassment, discrimination, or intimidation of a person through the use of digital technologies, including, but not limited to these: email, blogs, texting on cell phones, social websites (e.g., MySpace, Facebook, Twitter, etc.), chat rooms, sexting, images, instant messaging, or video voyeurism.

4. Cyberstalking means to engage in a course of conduct to communicate or to cause to be communicated the following: words, images, or language by or through the use of electronic communication, directed at or about a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.

5. Bullying, Harassment and/or Cyberbullying also encompass:

a. Retaliation against a student by another student or school employee for asserting or alleging an act of bullying, harassment, discrimination or intimidation.

b. Retaliation also includes reporting a baseless act of bullying, harassment, discrimination or intimidation that is not made in good faith.

c. Perpetuation of conduct listed in the definition of bullying, harassment, discrimination and/or intimidation by an individual or group with intent to demean, dehumanize, embarrass, or cause emotional or physical harm to a student by:

(1) incitement or coercion;

(2) accessing or reading other users mail or files or attempting to interfere with other users' ability to send or receive electronic mail; or

(3) acting in a manner that has an effect substantially similar to the effect of bullying, harassment, or discrimination.

6. Bullying, Harassment, Cyberbullying, Discrimination, and Intimidation also encompass, but are not limited to, unwanted harm towards a student or employee in regard to their actual or perceived: sex, race, color, religion, national origin, age, disability (physical, mental, or educational), marital status, socio-economic background, physical appearance, ancestry, ethnicity, gender, gender identity or expression, linguistic preference, political beliefs, sexual orientation, or social/family background or being viewed as different in its education programs or admissions to education programs.

7. Accused is defined as any student who is reported to have committed an act of discrimination, harassment, intimidation, or bullying.

8. Complainant is defined as any district employee, student, or other person who formally or informally makes a report of bullying or harassment, whether orally or in writing.

9. Victim is defined as any district employee or student who is reported to have been the target of an act of discrimination, harassment, intimidation, or bullying.

The Sequoia Union High School District prohibits bullying, harassment, discrimination, intimidation, cyberbullying, and cyberstalking of or toward any student or employee by any student or group of students.

BP 5131.2 and this administrative regulation constitute a focused, coordinated effort designed to support school staff in their efforts to provide awareness, training, and intervention steps when bullying and harassment incidents are reported and/or occur.

Because acts of bullying, harassment, discrimination, intimidation or cyberbullying are not tolerated on any SUHSD school campus or related to school activity or attendance, students and/or staff are expected to immediately report incidents to the principal or designee. Each complaint will be promptly investigated.

The Principal or administrative designee will respond and intervene to reports of bullying, harassment, discrimination, intimidation, and cyberbullying and follow procedures established at each school site.

The District's prohibition of bullying, harassment, discrimination, intimidation, and cyberbullying applies to incidents related to school activity or school attendance occurring within a school under the jurisdiction of the Superintendent of the District. This includes activity on school grounds, on transportation provided by the district, during lunch period, during a school-sponsored activity on or off campus, and to all activity likely to cause a substantial disruption of a school activity or school attendance

(including electronic activity). The consequences of bullying, harassing, discriminatory, intimidating, or cyberbullying activity may include a broad range of disciplinary measures, but can include student suspension and recommendation for expulsion in accordance with District policy.

#### Initial Response and Reporting Expectations

The District requires all employees, if they observe or become aware of an act of bullying, harassment, discrimination, or intimidation to take immediate, appropriate steps to intervene when safe to do so.

The situation must be reported to an administrator for further investigation in writing within (2) two working days.

#### Investigation and Response

Investigations of discrimination complaints shall follow Uniform Complaint Procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

Any incident reported to administration, which may constitute an act of bullying, harassment, discrimination, intimidation or any other behavior under BP 5131.2 and this regulation, shall be thoroughly investigated.

As part of the investigation process the parent/guardians of all students involved in any incident shall be contacted and may be asked to attend a conference with school officials. Staff will develop a supervision plan with the parents as appropriate. If a parent/guardian does not attend the conference, the site administrator shall send a letter informing the parent/guardian of the action under consideration and notifying parent/guardian of all data pertinent to the action.

The process and timeline for investigation shall be as set forth under the District's Uniform Complaint Procedures, and if the complainant or victim is dissatisfied with the conclusion of the investigation they may appeal following the established procedure.

Consequences for the accused shall be commensurate with the results of the investigation. This may include, but is not limited to, counseling, parent conference, detention, the involvement of law enforcement, involuntary transfer, a formal suspension and/or expulsion. Students may also be required to attend a site program designed to teach anti-bullying behavior or other appropriate intervention.

If the act of bullying, harassment, discrimination, or intimidation is deemed serious enough to warrant a suspension, expulsion, or involuntary transfer to another school, then the matter will be processed in accordance with Education Code 48900, et.seq.

Depending on the severity of the incident, the administrator shall take appropriate steps to ensure campus safety.

The Board prohibits any form of retaliation against any complainant or victim in the complaint process.

The Principal's office or designee will maintain documentation of complaints and their resolution for a minimum of one year.

The school site administration will ensure that appropriate resources will be offered to the victim and victim's family who have been subjected to bullying, harassment discrimination, intimidation, cyberbullying and cyberstalking . These resources may include but are not limited to on-site counseling or therapeutic services if available, peer mediation and referrals to San Mateo County Victim's Service.

#### Education and Prevention

To ensure harassment and bullying behavior does not occur the District and school sites shall offer training and intervention programs for students and staff, which will enhance self-esteem, raise student awareness and sensitivity, and foster respect for individuals and their unique qualities. These programs reinforce the school's capacity to maintain a safe and healthy learning environment.

Teachers should discuss this BP 5131.2 and this regulation with their students and should assure them that they need not endure any form of harassment.

Each school will adhere to the anti -bullying/anti-harassment procedures to be followed by every student and staff member.

#### Notification

BP 5131.2 and this administrative regulation shall be posted in English and Spanish in all schools and offices, including staff lounges and pupil government meeting rooms.

At the beginning of each school year, all students and their parents will be notified of BP 5131.2 and this administrative regulation through the school site student handbook.

#### Regulation SEQUOIA UNION HIGH SCHOOL DISTRICT

approved: May 2, 2012 Redwood City, California

revised:

# Sequoia Union HSD

## Board Policy

Agenda Item: 12a(6b)  
Date: 11/05/14

**REVISED FOR DISCUSSION**  
(11/05/14)

BP 5137 Students  
Positive School Climate

The Board of Trustees desires to provide an orderly, caring and nondiscriminatory learning environment in which all students can feel comfortable and take pride in their school and their achievements.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 5132 - Dress and Grooming)

(cf. 5144 - Discipline)

(cf. 5145.2 - Freedom of Speech/Expression: Publications Code)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

All staff are expected to serve as role models for students by demonstrating positive, professional attitudes and respect toward each student and other staff members. Teachers shall use effective classroom management techniques based on clear expectations for student behavior.

(cf. 4119.21/4219.21/4319.21 - Professional Standards)

Staff shall consistently enforce Board policies and regulations which establish rules for appropriate student conduct, including prohibitions against bullying, cyberbullying, harassment of students, hazing, other violence or threats of violence against students and staff, and drug, alcohol, and tobacco use.

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3513.3 - Tobacco-Free Schools)

(cf. 4020 - Drug and Alcohol-Free Workplace)

(cf. 5131 - Conduct)

(cf. 5131.1 - Bus Conduct)

(cf. 5131.6 - Alcohol and Drugs)

(cf. 5131.7 - Weapons and Dangerous Instruments)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

(cf. 5145.2 - Freedom of Speech/Expression)

(cf. 5145.7 - Sexual Harassment)

The Board encourages staff to teach students the meaning of equality, human dignity, and mutual respect, and to employ cooperative learning strategies that foster positive interactions in the classroom among students from diverse backgrounds. The district shall provide instruction and counseling designed to promote positive racial and ethnic identity, help students understand diverse cultures, teach them to think critically about racial bias, and show them how to deal with discriminatory behavior in appropriate ways.

(cf. 6141 - Curriculum Development and Evaluation)

(cf. 6141.6 - Multicultural Education)

(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

Students shall have opportunities to voice their concerns about school policies and practices and to share responsibility for solving problems that affect their school. Thus, the Board encourages student participation in district and school committees and councils. The Superintendent or designee may initiate student courts, campus beautification projects, buddy systems, vandalism prevention campaigns, and other similar programs. Staff shall encourage and reward success and achievement, participation in community projects, and positive student conduct.

(cf. 5131.4 - Campus Disturbances)

(cf. 6142.4 - Learning through Community Service)

Legal Reference:

EDUCATION CODE

233.5 Duty concerning instruction of students

35160 Authority of governing boards

35160.1 Broad authority of school districts

Policy SEQUOIA UNION HIGH SCHOOL DISTRICT

adopted: December 10, 1997 Redwood City, California

revised:



# Sequoia Union HSD

## Administrative Regulation

Agenda Item: 12a(7b)  
Date: 11/05/14

**REVISED FOR DISCUSSION**  
(11/05/14)

AR 5144.1 Students  
Suspension And Expulsion/Due Process

### Definitions

Suspension from school means removal of a student from ongoing instruction for adjustment purposes. However, "suspension" does not mean any of the following: (Education Code 48925)

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Board of Trustees for students of the same grade level
2. Referral to a certificated employee designated by the principal to advise students
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910. Removal from a particular class shall not occur more than once every five school days.

Expulsion means removal of a student from the immediate supervision and control, or the general supervision, of school personnel. (Education Code 48925)

Day means a calendar day unless otherwise specifically provided. (Education Code 48925)

School day means a day upon which the schools of the District are in session or weekdays during the summer recess. (Education Code 48925)

Student includes a student's parent/guardian or legal counsel. (Education Code 48925)

Principal's designee means one or more administrators or, if there is not a second administrator at one school site, a certificated person specifically designated by the principal, in writing, to assist with disciplinary procedures. Only one such person may be designated at any time as the principal's primary designee and only one such person may be designated as secondary designee for the school year. The names of such persons shall be on file in the principal's office. (Education Code 48911)

School property, for the purposes described in Education Code 48900, includes, but is not limited to, electronic files and databases. (Education Code 48900(u))

#### Notice of Regulations

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, suspension and expulsion. Transfer students and their parents/guardians shall be notified at the time of enrollment. (Education Code 35291, 48900.1, 48980)

(cf. 5144 - Discipline)

Notification shall include information about the availability of individual school rules and all District policies and regulations pertaining to student discipline. (Education Code 35291)

(cf. 5145.6 - Parental Notifications)

#### Grounds for Suspension and Expulsion

Any student, including a student with disabilities, may be subject to suspension or expulsion when it is determined that he/she:

1. Caused, attempted to cause, or threatened to cause physical injury to another person, or willfully used force or violence upon another person, except in self-defense (Education Code 48900(a))

A student who aids or abets the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31, may be suspended, but not expelled. However, such a student may be suspended or expelled pursuant to Education Code 48900(a) when he/she has been adjudged by a juvenile court to have committed, as an aider or abettor, a crime of physical violence in which the victim suffered great or serious bodily injury. (Education Code 48900(t))

2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence (Education Code 48900(b))

(cf. 5131 - Conduct)

(cf. 5131.7 - Weapons and Dangerous Instruments)

3. Unlawfully possessed, used, sold, or otherwise furnished, or was under the influence of, any controlled substance as defined in the Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind (Education Code 48900(c))

(cf. 5131.6 - Alcohol and Other Drugs)

4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance or material and represented same as controlled substance, alcohol beverage or intoxicant (Education Code 48900(d))

5. Committed or attempted to commit robbery or extortion (Education Code 48900(e))

6. Caused or attempted to cause damage to school property or private property (Education Code 48900(f))

7. Stole or attempted to steal school property or private property (Education Code 48900(g))

9. Possessed or used tobacco or any products containing tobacco or nicotine products, including but not limited to cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets and betel. This restriction shall not prohibit a student from using or possessing his/her own prescription products. (Education Code 48900(h))

(cf. 5131.62 - Tobacco)

9. Committed an obscene act or engaged in habitual profanity or vulgarity (Education Code 48900(i))

10. Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code (Education Code 48900(j))

11. Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties (Education Code 48900(k))

No student may be expelled solely for engaging in such disruptive or willfully defiant conduct. This prohibition on expulsion shall not prohibit expulsions for conduct that is subject to expulsion on other grounds.

(cf. 5131.4 Student Disturbances)

12. Knowingly received stolen school property or private property (Education Code 48900(l))

13. Possessed an imitation firearm, i.e. a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm (Education Code 48900(m))

14. Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code (Education Code 48900(n))

15. Harassed, threatened or intimidated a student who is a complaining witness or a witness in a school disciplinary proceeding for the purpose of either preventing that student from being a witness or retaliating against that student for being a witness, or both (Education Code 48900(o))

16. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma. (Education Code 48900(p))

17. Engaged in, or attempted to engage in, hazing. (Education Code 48900(q))

Hazing means a method of initiation or preinitiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. Hazing does not include athletic events or school-sanctioned events. (Education Code 48900(q))

18. Engaged in an act of bullying. (Education Code 48900(r))

Bullying means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, directed toward one or more students that has or can reasonably be predicted to have the effect of one or more of the following: (1) placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property; (2) causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health; (3) causing a reasonable pupil to experience substantial interferences with his or her academic performance; or (4) causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.

Additionally, any student or group of students in high school who engage in any severe or pervasive physical or verbal act or conduct that constitutes one or more acts as defined in Education Code 48900.2, 48900.3, or 48900.4 (see items #20-22 below), which also has one or more of the forgoing effects on a reasonable pupil has also committed an act of bullying. (Education Code 48900(r))

“Electronic act” means the creation and transmission, originated on or off the schoolsite, of a communication, including, but not limited to, a message, text, sound, image, or post

on a social network Internet web site, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager. A post on a social network Internet web site shall include, but is not limited to, the posting or creation of a burn page or the creation of a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above. (Education Code 48900(r))

“Reasonable student” means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of his/her age, or for a person of his/her age with his/her disability. (Education Code 48900(r))

(cf. 5131.2 - Bullying)

19. Made written or oral terrorist threats against school officials and/or school property. (Education Code 48900.7)

A terrorist threat includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, or property damage in excess of \$1,000, with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out. (Education Code 48900.7)

A high school student is also subject to suspension or recommendation for expulsion when it is determined that he/she:

20. Committed sexual harassment as defined in Education Code 212.5 (Education Code 48900.2)

Sexual harassment means that conduct, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment. (Education Code 212.5, 48900.2)

(cf. 5145.7 - Sexual Harassment)

21. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233 (Education Code 48900.3)

Hate violence means any act punishable under Penal Code 422.6, 422.7, or 422.75. Such acts include injuring or intimidating another person, interfering with the exercise of a person's civil rights, or damaging a person's property because of the person's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the

victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code 233; Penal Code 422.55)

22. Intentionally engaged in harassment, threat, or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment (Education Code 48900.4)

A student may be suspended or expelled for any of the acts listed above if the act is related to school activity or school attendance occurring at any district school or within any other school district, at any time, including, but not limited to, the following: (Education Code 48900(s))

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus
4. During, going to, or coming from a school-sponsored activity

Administrators may take appropriate action when information becomes available about student misconduct that originates away from school grounds or school activities that has a direct and detrimental effect on or seriously threatens the discipline, educational environment, safety or general welfare of students, faculty, staff and/or administrators of the District. When assessing the impact of conduct or behavior originating away from school grounds on a District school, staff, students, and/or the educational environment, District administrators will take into consideration the seriousness of the alleged student conduct and the protection of students, faculty, staff and administrators from the effects of violence, drugs, disruption of the educational environment, or other relevant factors. District administrators should evaluate each situation relating to conduct originating away from school grounds on a case-by-case basis. Student conduct originating away from school grounds, which may be subject to discipline as provided herein includes but is not limited to electronic acts that result in a substantial disruption to the educational environment, or for which a substantial disruption to the educational environment is reasonably foreseeable under the circumstances.

In addition, students are subject to disciplinary action for the following offenses: being abusive to others; presenting unacceptable appearance (as defined in Section III); participating in gambling on school grounds, hazing, forgery, or sit-ins; refusing to attend class while on campus; loitering in the rest rooms; violating or inciting others to violate school laws and regulations on any campus within the District; possession or use of laser emitting devices such as laser pointers; possession or use of any electronic signaling device, including paging equipment, except as deemed essential by a licensed physician for the health of a student; interfering with school activities; and any other rules and

procedures developed by school sites consistent with the provisions of Education Code 35291.5.

As provided by law, policy, and regulation, the Superintendent or principal may use his/her discretion to provide alternatives to suspension or expulsion for a student subject to discipline under this administrative regulation, including, but not limited to, counseling and an anger management program. (Education Code 48900(v))

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. 6164.2 - Guidance/Counseling Services)

#### Suspension from Class by a Teacher/Parental Attendance

A teacher may suspend any student from his/her class for the day of the suspension and the next day for any act listed in "Grounds for Suspension and Expulsion" above. (Education Code 48910)

A teacher also may refer a student to the principal or designee for consideration of suspension from school. (Education Code 48910)

When suspending a student from his/her class, the teacher shall immediately report this action to the principal and send the student to the principal for appropriate action. The student shall be appropriately supervised during the class periods from which he/she has been suspended. (Education Code 48910)

As soon as possible, the teacher shall ask the student's parent/guardian to attend a parent-teacher conference regarding the suspension. A counselor or psychologist should attend the conference if it is practicable, and a school administrator shall attend if either the parent/guardian or teacher so requests. (Education Code 48910)

A suspended student shall not be returned to class during the period of suspension without the approval of the teacher of the class and the principal. (Education Code 48910)

A student suspended from class shall not be placed in another regular class during the period of suspension. However, if a student is assigned to more than one class per day, he/she may be placed in any other regular classes except those held at the same time as the class from which the student was suspended. (Education Code 48910)

The teacher of any class from which a student is suspended may require the suspended student to complete any assignments and tests missed during the suspension. (Education Code 48913)

Pursuant to board policy, a teacher may require the parent/guardian of a student whom the teacher has suspended to attend a portion of a school day in his/her child's classroom.

When a teacher makes this requirement, the principal shall send the parent/guardian a written notice that the parent/guardian's attendance is required pursuant to law. (Education Code 48900.1)

The notice shall specify that the attendance may be on either the date the student is scheduled to return to class or within one week thereafter.

This notice shall also:

1. Inform the parent/guardian when his/her presence is expected and by what means he/she may arrange an alternate date
2. Ask the parent/guardian to meet with the principal after the visit and before leaving school, as required by Education Code 48900.1

#### Suspension by Superintendent, Principal, or Principal's Designee

The Superintendent, principal, or designee may suspend a student for any of the acts listed in "Grounds for Suspension and Expulsion" above. A student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct in the student. (Education Code 48900.5)

However, the Superintendent, principal, or designee may impose a suspension upon a first offense if he/she determines that the student violated any of items #1-5 listed in "Grounds for Suspension and Expulsion" above or if the student's presence causes a danger to persons. (Education Code 48900.5)

When other means of correcting a student's behavior are implemented prior to imposing suspension upon the student, including supervised suspension, the Superintendent, principal, or designee shall document the other means of correction used and retain them in the student's record. (Education Code 48900.5)

(cf. 5125 - Student Records)

In addition, the Superintendent, principal, or designee shall immediately suspend any student found at school or at a school activity to be: (Education Code 48915)

1. Possessing, as verified by a District employee, or selling or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence
2. Brandishing a knife, as defined in Education Code 48915(g), at another person
3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058



4. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4

5. Possession of an explosive as defined in 18 USC 921

Explosive means a destructive device and includes, but is not limited to, any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device. A destructive device includes any other type of weapon (except a shotgun or shotgun shell recognized by the United States Attorney General as suitable for sporting purposes) which might be converted to project an explosive. (18 USC 921)

The Superintendent, principal, or designee may suspend a student from school for not more than five consecutive school days unless the suspension is extended pending expulsion. (Education Code 48911)

A student may be suspended from school for not more than 20 school days in any school year, unless for purposes of adjustment a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class, in which case suspension shall not exceed 30 days in any school year. However, this restriction on the number of days of suspension does not apply when the suspension is extended pending an expulsion. (Education Code 48903, 48911, 48912)

The district may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code 48903)

Suspensions shall be initiated according to the following procedures:

#### 1. Informal Conference

Suspension shall be preceded by an informal conference conducted by the principal, designee or the Superintendent with the student and, whenever practicable, the teacher, supervisor or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, presented with the evidence against him/her, and given the opportunity to present his/her version and evidence in support of his/her defense. (Education Code 48911)

This conference may be omitted if the principal, designee or the Superintendent determines that an emergency situation exists. An "emergency situation" involves a clear and present danger to the lives, safety or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of a conference. The conference shall be held within two school days, unless the student waives his/her right to

it or is physically unable to attend for any reason. In such case, the conference will be held as soon as the student is physically able to return to school. (Education Code 48911)

## 2. Administrative Actions

All requests for student suspension are to be processed by the principal or designee of the school in which the student is enrolled at the time of the misbehavior.

A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code 48911)

## 3. Notice to Parents/Guardians

At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Within one school day of the beginning of a suspension, a school employee shall mail a notice to the parent/guardian of the suspended student. The notice shall be, insofar as is practicable, in the primary language of the student's parent/guardian.

This notice shall state the specific offense committed by the student. (Education Code 48900.8) In addition, the notice may state the date and time when the student may return to school. If school officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may also add that state law requires the parent/guardian to respond to such requests without delay.

## 4. Parent/Guardian Conference

Whenever a student is suspended, school officials may meet with the parent/guardian to discuss the causes and duration of the suspension, the school policy involved, and any other pertinent matters. (Education Code 48914)

While the parent/guardian is required to respond without delay to a request for a conference about a student's behavior, no penalties may be imposed on the student for the failure of the parent/guardian to attend such conference. The student may not be denied readmission solely because the parent/guardian failed to attend. (Education Code 48911)

## 5. Extension of Suspension

If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision. (Education Code 48911)

Any extension of the original period of suspension shall be preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting

requested by the student or parent/guardian to challenge the original suspension. Extension of the suspension may be made only if the Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. (Education Code 48911)

If the student involved is a foster youth, the Superintendent or designee shall notify the district liaison for foster youth of the need to invite the student's attorney and a representative of the appropriate county child welfare agency to attend the meeting.

(Education Code 48853.5, 48911, 48918.1)

In addition to suspending a student, the Superintendent, principal, or designee may provide services or require the student to participate in an alternative disciplinary program designed to correct his/her behavior and keep him/her in school.

#### Suspension by the Board

The Board may suspend a student for any of the acts listed in "Grounds for Suspension and Expulsion" above and within the limits specified in "Suspension by Superintendent, Principal, or Principal's Designee" above. (Education Code 48912)

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester if any of the acts enumerated in "Grounds for Suspension and Expulsion" occurred. The suspension shall meet the requirements of Education Code 48915. (Education Code 48912.5)

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold a closed session if a public hearing would lead to disclosure of information which would violate a student's right to privacy under Education Code 49073-49079. (Education Code 35146, 48912)

The Board shall provide the student and his/her parent/guardian with written notice of the closed session by registered or certified mail. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code 35146, 48912)

(cf. 9321 - Closed Session Purposes and Agendas)

#### Authority to Expel

A student may be expelled only by the Board. The Board shall expel, as required by law, any student found to have committed certain offenses listed below under "Mandatory Recommendation and Mandatory Expulsion." (Education Code 48915)

For all other grounds listed above under "Grounds for Suspension and Expulsion," the Board shall order a student expelled upon the recommendation of the Superintendent, principal, or designee, only if the Board makes a finding of either or both of the following: (Education Code 48915 (b) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct
2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

(cf. 5144.2 - Suspension and Expulsion/Due Process (Individuals with Exceptional Needs))

#### Mandatory Recommendation for Expulsion

Unless the Superintendent, principal, or designee determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct, he/she shall recommend a student's expulsion for any of the following acts: (Education Code 48915(a))

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife as defined in Education Code 48915(g), explosive or other dangerous object of no reasonable use to the student

(cf. 5131.7 - Weapons and Dangerous Instruments)

3. Unlawful possession of any controlled substance, as listed in Health and Safety Code 11053-11058, except for (a) the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis, or (b) the student's possession of over-the-counter medication for his/her use or other medication prescribed for him/her by a physician

4. Robbery or extortion

5. Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee

In determining whether or not to recommend the expulsion of a student, the Superintendent, principal, or designee shall act as quickly as possible to ensure that the student does not lose instructional time. (Education Code 48915)

## Mandatory Recommendation and Mandatory Expulsion

The principal, Superintendent or designee shall recommend that the Board expel any student found at school or at a school activity to be: (Education Code 48915(c))

1. Possessing, as verified by a district employee, or selling or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence

However, possession of an imitation firearm, as defined in Education Code 48900(m), shall not be regarded as an offense requiring a mandatory recommendation for expulsion and mandatory expulsion.

2. Brandishing a knife as defined in Education Code 48915(g) at another person

3. Unlawfully selling a controlled substance listed in Health and Safety Code 110530-11058

4. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4

5. Possessing an explosive as defined in 18 USC 921

Upon finding that the student committed any of these acts, the Board shall expel the student.

## Student's Right to Expulsion Hearing

The student is entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within 30 school days after the principal or Superintendent or designee determines that one of the acts listed under "Grounds for Suspension and Expulsion" has occurred. (Education Code 48918(a))

The student is entitled to one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. (Education Code 48918(a))

If the Board finds it impracticable to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code 48918(a))

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code 48925. Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year. (Education Code 48918(a))

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code 48918(a))

### Rights of Complaining Witness

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness. (Education Code 48918.5)

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, he/she shall give the complaining witness a copy of the district's suspension and expulsion policy and regulation and shall advise the witness of his/her right to: (Education Code 48918.5)

1. Receive five days' notice of his/her scheduled testimony at the hearing
2. Have up to two adult support persons of his/her choosing present at the hearing at the time he/she testifies
3. Have a closed hearing during the time he/she testifies

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code 48918.5)

### Written Notice of the Expulsion Hearing

Written notice of the hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code 48900.8, 48918(b))

1. The date and place of the hearing
2. A statement of the specific facts and charges upon which the proposed expulsion is based
3. A copy of district disciplinary rules which relate to the alleged violation

4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code 48915.1, to provide information about the student's status in the District to any other district in which the student seeks enrollment. This obligation applies when a student is expelled for acts other than those described in Education Code 48915(a) or (c).

(cf. 5119 - Students Expelled from Other Districts)

5. The opportunity for the student or the student's parent/guardian to appear in person or to employ and be represented by legal counsel or by a nonattorney advisor.

Legal counsel means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

Nonattorney advisor means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's parent/guardian to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing

7. The opportunity to confront and question all witnesses who testify at the hearing

8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses

#### Additional Notice of Expulsion Hearing for Foster Youth

At least 10 days prior to a hearing to determine if a student who is a foster youth as defined under Education Code 48853.5 should be expelled for an offense not requiring a mandatory recommendation for expulsion, the Superintendent or designee shall notify the student's attorney and a representative of an appropriate county child welfare agency. If the hearing is pursuant to an offense requiring a mandatory expulsion recommendation, the Superintendent or designee may provide the same notification. The notice shall be provided by the most cost-effective method possible, including by email or a telephone call. (Education Code 48918.1)

#### Conduct of Expulsion Hearing

1. Closed Session: Notwithstanding the provisions of Government Code 54953 and Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such request is made, the meeting shall be public unless another student's privacy rights would be violated. (Education Code 48918(c))

Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether or not the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student shall also be allowed to attend the closed session. (Education Code 48918(c))

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to have his/her testimony heard in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including, but not limited to, videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television. (Education Code 48918(c))

2. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate written and complete transcription of the proceedings can be made. (Education Code 48918(g))

3. Subpoenas: Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the Superintendent or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Board or the hearing officer or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with the Code of Civil Procedure 1985-1985.2 and enforced in accordance with Government Code 11455.20. (Education Code 48918(i))

Any objection raised by the student or the Superintendent or designee to the issuance of subpoenas may be considered by the Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding. (Education Code 48918(i))

If the Board determines, or if the hearing officer or administrative panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in item #4 below. (Education Code 48918(i))

4. Presentation of Evidence: While technical rules of evidence do not apply to expulsion hearings, evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel must be supported by substantial evidence that the student committed any of the acts pursuant to Education Code 48900 and listed in "Grounds for Suspension and Expulsion." (Education Code 48918(h))



Findings of fact shall be based solely on the evidence at the hearing. While no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at a hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code 48918 (f) and (h))

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

5. Testimony by Complaining Witnesses: The following procedures shall be observed when hearings involve allegations of sexual assault or sexual battery by a student: (Education Code 48918, 48918.5)

a. Any complaining witness shall be given five days' notice before being called to testify.

b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during his/her testimony.

c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.

d. The person presiding over the hearing may remove a support person whom he/she finds is disrupting the hearing.

e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code 868.5.

f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.

g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the district shall provide a nonthreatening environment.

(1) The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.

(2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which he/she may leave the hearing room.

(3) The person conducting the hearing may:

(a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness

(b) Limit the time for taking the testimony of a complaining witness to the hours he/she is normally in school, if there is no good cause to take the testimony during other hours

(c) Permit one of the support persons to accompany the complaining witness to the witness stand

6. Decision Within 10 Days: The Board's decision on whether to expel a student shall be made within 10 school days after the conclusion of the hearing, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

7. Decision Within 40 Days: If the Board does not meet on a weekly basis, its decision on whether to expel a student shall be made within 40 school days after the student is removed from his/her school of attendance, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

#### Alternative Expulsion Hearing: Hearing Officer or Administrative Panel

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. Alternatively, the Board may appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code 48918(d))

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures as apply to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing." (Education Code 48918 (a) and (d))

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated. The Superintendent or designee shall place the student in a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs after consulting with district staff, including the student's teachers, and with the student's parent/guardian. The decision to not recommend expulsion shall be final. (Education Code 48918(e))

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board of Trustees. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code 48918(f))

The hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion for a period of one year. (See "Suspension of Enforcement of the Expulsion below.") (Education Code 48917, 48918)

#### Final Action by the Board

Whether the expulsion hearing is conducted in closed or public session by the Board, a hearing officer, or an administrative panel, the final action to expel must be taken by the Board at a public meeting. (Education Code 48918(j))

If the Board conducts the hearing and reaches a decision not to expel, this decision shall be final and the student shall be reinstated immediately.

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the District. For a student expelled for an act listed under "Mandatory Recommendation and Mandatory Expulsion" above, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during the summer session or the intersession period of a year-round program, the Board shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred. (Education Code 48916)

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include: (Education Code 48916)

1. Periodic review as well as assessment of the student at the time of review for readmission
2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service and/or other rehabilitative programs

#### Written Notice to Expel

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion" (Education Code 48900.8)
2. The fact that a description of readmission procedures will be made available to the student and his/her parent/guardian (Education Code 48916)
3. Notice of the right to appeal the expulsion to the County Board of Education (Education Code 48918)
4. Notice of the student's or parent/guardian's obligation to inform any new District in which the student seeks to enroll of the student's status with the expelling District, pursuant to Education Code 48915.1 (Education Code 48918)
5. Notice of the alternative educational placements available to the student during the time of expulsion (Education Code 48918)

#### Suspension of Enforcement of the Expulsion

The Board, upon voting to expel a student, may suspend the enforcement of the expulsion order for not more than one calendar year.

When deciding whether to suspend the enforcement of an expulsion, the Board shall take into account the following criteria:

1. The student's pattern of behavior
2. The seriousness of the misconduct
3. The student's attitude toward the misconduct and his/her willingness to follow a rehabilitation program

In cases of mandatory expulsion, the enforcement of an expulsion order shall not be suspended.

The suspension of the enforcement of an expulsion shall be governed by the following: (Education Code 48917)

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code 48917)

2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code 48917)
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion" above or violates any of the District's rules and regulations governing student conduct. (Education Code 48917)
4. When the suspension of the enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code 48917)
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code 48917)
6. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board of Education.
7. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall also inform the parent/guardian of the right to appeal the expulsion to the County Board of Education, the alternative educational placement to be provided to the student during the time of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1(b). (Education Code 48918(j))

### Right to Appeal

The student or parent/guardian is entitled to file an appeal of the Board's decision to the County Board of Education. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion action is suspended and the student is placed on probation. (Education Code 48919)

The student shall submit a written request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the County Board. The district shall provide the student with these documents within 10 school days following the student's written request. (Education Code 48919)

### Post-Expulsion Placements

The Board shall refer expelled students to a program of study that meets all the following conditions: (Education Code 48915, 48915.01)

1. Is appropriately prepared to accommodate students who exhibit discipline problems
2. Is not provided at a comprehensive middle, junior or senior high school or at any elementary school, unless the program is offered at a community day school established at such a site
3. Is not housed at the school site attended by the student at the time of suspension

(cf. 6185 - Community Day School)

When the placement described above is not available, and when the County Superintendent of Schools so certifies, students expelled for acts described in items #6-13 and #20-22 under "Grounds for Suspension and Expulsion" may be instead referred to a program of study that is provided at another comprehensive senior high school. (Education Code 48915)

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code 48916.1)

Students expelled from grades 7-12 may be offered independent study as a voluntary alternative to available classroom instruction; however, the student's parent/guardian must first provide written consent for this option. (Education Code 48916.1)

(cf. 6158 - Independent Study)

#### Readmission After Expulsion

Readmission procedures shall be as follows:

1. On the date set by the Board when it ordered the expulsion, the District shall consider readmission of the student. (Education Code 48916)
2. The parents/guardians must present to the Superintendent evidence of the student's readiness to return, which shall be demonstrated by evidence of the student's satisfactory compliance with the requirements of the expulsion order (for example, written reports from required treatment, or a record of adherence to behavioral requirements during the period of expulsion).
3. The Superintendent or designee shall hold a readmission committee meeting with the parent/guardian and the student. At the conference the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.

4. The Superintendent or designee shall transmit his/her recommendation regarding readmission to the Board. The Board shall consider this recommendation in closed session if information would be disclosed in violation of Education Code 49073-49079. If a written request for open session is received from the parent/guardian or adult student, it shall be honored.

5. If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.

6. The Board may deny readmission if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other District students or employees. (Education Code 48916)

7. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school. (Education Code 48916)

8. The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code 48916)

No student shall be denied readmission into the district based solely on the student's arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile school, or other such contact with the juvenile justice system. (Education Code 48645.5)

#### Maintenance of Records

The District shall maintain a record of each suspension and expulsion, including its specific cause(s). (Education Code 48900.8)

Expulsion records of any student shall be maintained in the student's mandatory interim record, and sent to any school in which the student subsequently enrolls upon written request by that school. (Education Code 48918(k))

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this District. (Education Code 48915.1)

(cf. 5119 - Students Expelled from Other Districts)

(cf. 5125 - Student Records)

#### Outcome Data

The Superintendent or designee shall maintain the following data: (Education Code 48900.8, 48916.1)

1. The number of students recommended for expulsion
2. The specific grounds for each recommended expulsion
3. Whether the student was subsequently expelled
4. Whether the expulsion order was suspended
5. The type of referral made after the expulsion
6. The disposition of the student after the end of the expulsion period

#### Notifications to Law Enforcement Authorities

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245. (Education Code 48902)

The principal or designee also shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance. In addition, law enforcement authorities shall be notified regarding any acts by students or nonstudents regarding the possession, sale, or furnishment of firearms, explosives, or other dangerous weapons in violation of Education Code 48915(c)(1) or (5) or Penal Code 626.9 and 626.10. (Education Code 48902)

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code 48902)

#### Regulation SEQUOIA UNION HIGH SCHOOL DISTRICT

approved: December 10, 1997 Redwood City, California

revised: January 18, 2012

revised:



# Sequoia Union HSD

## Board Policy

Agenda Item: 12a(8b)  
Date: 11/05/15

**REVISED FOR DISCUSSION**  
(11/05/14)

### BP 5145.3 Students Nondiscrimination/Harassment

District programs and activities shall be free from discrimination, including harassment, intimidation, and bullying of any student based on the student's actual race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, or gender expression; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

Prohibited discrimination, harassment, intimidation, or bullying includes physical, verbal, nonverbal, or written conduct based on one of the categories listed above that is so severe or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity; creates an intimidating, threatening, hostile, or offensive educational environment; has the effect of substantially or unreasonably interfering with a student's academic performance; or otherwise adversely affects a student's educational opportunities.

The Board also prohibits any form of retaliation against any student who files a complaint or report regarding an incident of discrimination, harassment, intimidation, or bullying.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 6164.6 - Identification and Education under Section 504)

The Board of Trustees shall ensure equal opportunities for all students in admission and access to the educational program, guidance and counseling programs, athletic programs, testing procedures, and other activities. School staff and volunteers shall carefully guard against segregation, bias and stereotyping in instruction, guidance and supervision.

(cf. 1240 - Volunteer Assistance)

(cf. 6145.2 - Athletic Competition)

(cf. 6162.5 - Student Assessment)

The Board prohibits intimidation or harassment of any student by any employee, student or other person in the District. Staff shall be alert and immediately responsive to student conduct which may interfere with another student's ability to participate in or benefit from school services, activities or privileges.

(cf. 5145.2 - Freedom of Speech/Expression: Publications Code)

(cf. 5145.7 - Sexual Harassment)

The principal or designee shall develop a plan to provide students with appropriate accommodations when necessary for their protection from threatened or potentially harassing or discriminatory behavior.

Students who engage in discrimination, harassment, intimidation, bullying, or retaliation in violation of law, Board policy, or administrative regulation shall be subject to appropriate counseling and discipline, up to and including suspension and/or expulsion. An employee who permits or engages prohibited discrimination, harassment, intimidation, bullying, or retaliation shall be subject to disciplinary action, up to and including dismissal.

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

The following position is designated Coordinator for Nondiscrimination to handle complaints regarding discrimination, harassment, intimidation, or bullying, and to answer inquiries regarding the district's nondiscrimination policies: Assistant Superintendent Human Resources.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.3 - Uniform Complaint Procedures)

Any student who feels that he/she has been subjected to discrimination, harassment, intimidation, or bullying should immediately contact the Coordinator, the principal or designee, or any other staff member. In addition, any student who observes any such incident should report the incident to the Coordinator or principal, whether or not the victim files a complaint.

Any school employee who observes an incident of discrimination, harassment, intimidation, or bullying or to whom such an incident is reported shall report the incident to the Coordinator or principal, whether or not the victim files a complaint.

In addition, the employee shall immediately intervene when safe to do so. (Education Code 234.1)

Upon receiving a complaint of discrimination, harassment, intimidation, or bullying, the Coordinator shall immediately investigate the complaint in accordance with the district's uniform complaint procedures specified in AR 1312.3 - Uniform Complaint Procedures.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.3 - Uniform Complaint Procedures)

The Superintendent or designee shall ensure that the student handbook clearly describes the district's nondiscrimination policy, procedures for filing a complaint regarding discrimination, harassment, intimidation, or bullying, and the resources that are available to students who feel that they have been the victim of any such behavior. The district's policy shall also be posted on the district web site or any other location that is easily accessible to students.

When required pursuant to Education Code 48985, complaint forms shall be translated into the student's primary language.

Legal Reference:

#### EDUCATION CODE

221.7 School-sponsored athletic programs; prohibited sex discrimination

200-262.4 Prohibition of discrimination on the basis of sex

221.5 Prohibited sex discrimination

48900.3 Suspension or expulsion for act of hate violence

48900.4 Suspension or expulsion for threats or harassment

48904 Liability of parent/guardian for willful student misconduct

48907 Student exercise of free expression

48950 Freedom of speech

49020-49023 Athletic programs

51006-51007 Equitable access to technological education programs

51500 Prohibited instruction or activity

51501 Prohibited means of instruction

60044 Prohibited instructional materials

## CIVIL CODE

1714.1 Liability of parents/guardians for willful misconduct of minor

## CODE OF REGULATIONS, TITLE 5

4621 District policies and procedures

4622 Notice requirements

4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance

## UNITED STATES CODE, TITLE 42

2000d & 2000e et seq. Title VI & VII. Civil Rights Act of 1964 as amended

2000h-2 et seq. Title IX, 1972 Education Act Amendments

## CODE OF FEDERAL REGULATIONS, TITLE 34

100.3a Prohibition of discrimination on basis of race, color or national origin

106.8 Designation of responsible employee

106.9 Notification of nondiscrimination on basis of sex

## Policy SEQUOIA UNION HIGH SCHOOL DISTRICT

adopted: December 10, 1997 Redwood City, California

revised:

# Sequoia Union HSD

## Board Policy

Agenda Item: 12a(9a)  
Date: 11/05/14

**FOR DISCUSSION**  
(11/05/14)

### BP 5145.4 Students Transgender and Gender Variant Students

The Board of Trustees is committed to addressing the safety and privacy needs of all students, including those needs related to a student's actual or perceived gender identity. The Board recognizes that a safe and civil environment is necessary for students to have equal access to all school programs and activities, and is integral to student success. The Board acknowledges its role in providing students with an understanding, appreciation of, and respect for the differences of others.

This policy does not anticipate every situation that might occur and, therefore, the needs of each student must be assessed on a case-by-case basis. In all cases, the goal is to ensure the safety, comfort, and healthy development of all students.

(cf. 0200 – Goals for the School District)

(cf. 1312.3 – Uniform Complaint Procedures)

(cf. 5131.2 – Anti-Bullying/Anti-Harassment)

(cf. 5137 – Positive School Climate)

(cf. 5145.3 – Nondiscrimination/Harassment)

(cf. 5145.7 – Sexual Harassment)

The following definitions are not intended to label students, but rather to assist in the general understanding of this policy, the rights of students and the obligations of school/District staff. Although students may or may not use these terms to describe themselves, these definitions are used throughout this policy to provide clarity.

**Transgender:** An umbrella term used to describe an individual whose gender identity is different from their biological sex at birth, and whose gender expression may be different from the stereotypical way in which males or females are expected to act, dress, or present themselves.

**Gender Variant:** An individual who has, or is perceived to have, characteristics or behaviors that do not conform to societal expectations of gender expression. Gender

variant individuals may or may not identify as lesbian, gay, bisexual, transgender or questioning.

**Gender Identity:** An individual's inner understanding, outlook, feelings and sense of being masculine, feminine, both or neither, regardless of one's biological sex. Because gender identity is internal to each person, it is not observable, and is not necessarily exhibited through gender expression or sexual orientation. An individual's gender expression and/or sexual orientation is not determinative of their gender identity.

**Gender Expression:** How individuals express themselves, including characteristics and behaviors such as appearance, dress, grooming, mannerisms, movement, speech patterns, and social interactions that are perceived as masculine or feminine. Gender expression does not necessarily evidence a particular gender identity or sexual orientation.

Title VI of the Civil Rights Act of 1964 requires that all educational programs and activities be conducted without discrimination based on race, color, and national origin. Title IX of the Education Amendments of 1972 requires that all educational programs and activities be conducted without discrimination based on sex or gender. Additional state and/or federal laws and regulations require that all educational programs and activities be conducted without discrimination based on the above factors as well as additional factors, including but not limited to religion, ancestry, sexual orientation, gender identity and expression, marital status, parental status, or because of an association with a person who has or is perceived to have one or more of these characteristics. (Education Code 220; Government Code 11135, 11138; Penal Code 422.55, 422.6) State law also directs that students shall be permitted to participate in sex-segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with his or her gender identity, irrespective of the gender listed on the student's records. (Education Code 221.5(f))

The Superintendent shall adopt appropriate procedures to protect transgender and gender variant students from bullying and harassment. Harassment involves unwelcome comments (written or spoken), or conduct which creates an intimidating, hostile or offensive environment, or which violates an individual's rights.

(cf. 1312.3 – Uniform Complaint Procedures)

(cf. 5131.2 – Anti-Bullying/Anti-Harassment)

(cf. 5145.3 – Nondiscrimination/Harassment)

(cf. 5145.7 – Sexual Harassment)

The District will work with transgender students to provide appropriate protections to them. The Superintendent or his/her designee shall meet with transgender students and the students' parent or guardian to develop appropriate accommodations for the transgender student, including, but not limited to:

- Issues concerning the privacy of the transgender student's transgender status.
- The desired name and pronoun by which the student is addressed by District personnel.
- Restroom and locker room access.
- Participation in sex-segregated school programs and activities.
- Participation in physical education classes and athletics.
- Participation in interscholastic competitive sports teams.

Consistent with state law, it is the policy of the District that transgender students shall be allowed to use restroom and locker room facilities consistent with their gender identity, irrespective of the gender listed on the pupil's records, following consultation with the student and the student's parent or guardian. (Education Code 221.5(f) If a transgender student or the student's parent or guardian provides notice to school officials of a reason or desire for increased privacy and/or safety with regard to restroom or locker room use, regardless of the underlying reason, the student may be provided access to a reasonable alternative restroom or locker room.

The District also recognizes the parental rights, and privacy and religious rights of non-transgender students and their parents. If a student or the student's parent or guardian provides notice to school officials of a reason or desire for increased privacy and/or safety with regard to restroom or locker room use, regardless of the underlying reason, the student may be provided access to a reasonable alternative restroom or locker room.

Consistent with state law, it is the policy of the District that transgender students shall be permitted to participate in sex-segregated school programs and activities in a manner that is consistent with their gender identity. (Education Code 221.5(f) This includes participation in physical education classes, intramural sports, and interscholastic competitive sports teams. Participation in interscholastic athletics will be addressed on a case-by-case basis, consistent with the rules and bylaws governing the interscholastic sports competition, Title IX, and any other applicable laws, rules or bylaws. In any other circumstances where students are separated by gender in school activities (e.g., class discussions, field trips, etc.), students shall be permitted to participate in accordance with their gender identity that is asserted at school. (Education Code 221.5(f) Activities that may involve the need for accommodation to address student privacy concerns will be addressed on a case-by-case basis. In such circumstances, staff shall make a reasonable effort to provide an available and reasonable accommodation for students that can address any such concerns.

(cf. 5022 – Student And Family Privacy Rights)

(cf. 5131.2 – Anti-Bullying/Anti-Harassment)

(cf. 5145.1 – Privacy)

(cf. 5145.3 – Nondiscrimination/Harassment)

All District and school site policies, regulations, and rules shall be applied to transgender students in a manner that does not discriminate against them on the basis of their gender identity.

A complaint of bullying based upon a student's transgender or gender variant status, or a student's sex, gender, sexual orientation or gender identity, may be submitted under the District's Anti-bullying Board Policy and Administrative Regulation 5131.2 and the procedures set forth therein. A student or a student's parent/guardian may also submit a formal written complaint of discrimination, harassment, intimidation or bullying through the District's Uniform Complaint Procedures, which permit complaints for discrimination, harassment, intimidation or bullying when based upon a student's actual or perceived characteristics as set forth in Penal Code section 422.55 and Education Code sections 220 and 234.1, which includes disability; gender; gender identity; gender expression; nationality; race or ethnicity; religion; sexual orientation; or association with a person or group with one or more of these actual or perceived characteristics. (5 CCR 4600-4671)

(cf. 1312.3 – Uniform Complaint Procedures)

(cf. 5131.2 – Anti-Bullying/Anti-Harassment)

(cf. 5145.3 – Nondiscrimination/Harassment)

(cf. 5145.7 – Sexual Harassment)

Legal Reference:

CALIFORNIA CODE OF REGULATIONS, TITLE 5

4600-4687 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

CODE OF CIVIL PROCEDURE

1276 Change of name

CODE OF FEDERAL REGULATIONS, TITLE 34

106.34 Access to classes and schools

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex, especially:

212.5 Sexual harassment

212.6 Sexual harassment policy

221.5 Prohibited sex discrimination

221.7 School sponsored athletic programs; prohibited sex discrimination

230 Particular practices prohibited

231 Toilet, locker room, or living facilities



35160 Authority of governing boards  
35160.1 Broad authority of school districts  
48900 Grounds for suspension or expulsion; bullying  
48907 Student exercise of free expression  
49602 Confidentiality of pupil information

#### GOVERNMENT CODE

11135 Nondiscrimination in programs or activities funded by state  
11138 Rules and regulations

#### HEALTH AND SAFETY CODE

103425 Petition for change of gender

#### PENAL CODE

243.5 Assault or battery on school property  
403-420 Crimes against the public peace, especially:  
415 Fighting; noise; offensive words  
422.55 Definition of hate crime  
422.56 Definitions, hate crimes  
422.6 Interference with constitutional right or privilege

#### UNITED STATES CODE, TITLE 20

1681-1688 Title IX, 1972 Education Act Amendments

#### UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VI Civil Rights Act of 1964 as amended

#### ATTORNEY GENERAL OPINIONS

83 Ops.Cal.Atty.Gen. 136 (2000)

DATE

11/5/14



California School Boards Association

**DEADLINE: Wednesday, January 7, 2015****BOARD ACTION REQUIRED.****Please deliver to all governing board members.**

October 22, 2014

**MEMORANDUM**

TO: All Board Presidents, Superintendents and CSBA Member Boards of Education

FROM: Josephine Lucey, President

RE: Call for Nominations for CSBA Delegate Assembly

Each year, member boards elect representatives from 21 geographic regions to CSBA's Delegate Assembly. The Delegate Assembly is a vital link in the association's governance structure and sets the general policy direction for the association. Working with local districts, county offices, the Board of Directors, and Executive Committee, delegates ensure that the association promotes the interests of school districts and county offices of education throughout the state. There are two required Delegate Assembly meetings each year, one on May 16-17, 2015 in Sacramento and one on December 2-3, 2015 preceding the CSBA Annual Education Conference and Trade show in San Diego.

Nomination and candidate biographical sketch forms for CSBA's Delegate Assembly are now being accepted until **Wednesday, January 7, 2015**. Nomination instructions are listed below:

- Any CSBA member board is eligible to nominate board members within their geographical region or subregion and may nominate as many individuals as it chooses by submitting a nomination form for each nominee.
- All nominees must serve on CSBA member boards and give their approval prior to being nominated.
- All nominees must submit a one-page, single-sided, candidate biographical sketch form. An optional one-page, one-sided résumé may also be submitted but cannot be substituted for the biographical sketch form.
- All nomination materials must be postmarked by the U.S.P.S. or faxed no later than **Wednesday, January 7**. It is the nominee's responsibility to confirm that all nomination materials have been received by the CSBA Leadership Services department by this due date. Late submissions will not be accepted.
- Ballots will be mailed by Monday, February 2, 2015 and are due Monday, March 16, 2015. Elected Delegates serve a two-year term beginning April 1, 2015 through March 31, 2017.

The following nomination materials and information related to the election process is available to download at [www.csba.org/About/Leadership](http://www.csba.org/About/Leadership). For more information about the Delegate Assembly, please contact Charlyn Tuter in the Leadership Services department at [ctuter@csba.org](mailto:ctuter@csba.org) or (800) 266-3382. Thank you.

- Nomination Form
- Candidate Biographical Sketch Form
- Important Dates
- List of all Delegates with expiration terms
- FAQ

## LIST OF ALL DELEGATES WITH EXPIRATION TERMS

Only highlighted Delegates are up for re-election or re-appointment in 2015. Please contact Delegates and confirm if they wish to continue serving on the Delegate Assembly before nominating them. If you have any questions, please contact Charlyn Tuter in Leadership Services at [ctuter@csba.org](mailto:ctuter@csba.org) or (800) 266-3382.

### REGION 1 – 4 Delegates (4 elected)

**Frances Costello (Del Norte County & USD), 2015**  
Susan Johnson (Eureka City SD), 2016

Taja Odom (Kelseyville USD), 2016

**David Browning (Lake COE), 2015**

### REGION 2 – 4 Delegates (4 elected)

**Gregg Gunkel (Siskiyou Union HSD), 2015**

**James Schwerdt (Shasta Union HSD), 2015**

Christopher Russell (Plumas County & USD), 2016

Brenda Duchi (Siskiyou COE), 2016

### REGION 3 – 8 Delegates (8 elected)

**Ron Abler (Forestville Union ESD), 2015**  
Ed Gilardi (Cotati-Rohnert Park USD), 2016

**Indira Lopez (Calistoga Joint USD), 2015**

**David McCallum (Vacaville USD), 2015**  
**Raymond V. Mommsen (Vallejo City USD), 2015**  
Patricia Shamansky (Fairfield-Suisun USD), 2016

Linda M. Jackson (San Rafael City Schools), 2016

**Jennifer Kresge (Napa COE), 2015**

### REGION 4 – 8 Delegates (8 elected)

Barbara McIver (Red Bluff Jt. Union HSD), 2016

**Mary Ellen Garrahy (Oroville City ESD), 2015**

**Sharman Kobayashi (Yuba City USD), 2015**  
Jim Flurry (Marysville Joint USD), 2016

**Trish Gerving (Nevada City SD), 2015**  
**James Brian Vlahos (Roseville City SD), 2015**  
Renee Nash (Eureka Union SD), 2016

Suzanne Jones (Placer COE), 2016

### REGION 5 – 10 Delegates (7 elected/3 appointed)

Matt Haney (San Francisco County & USD), 2016  
**Emily Murase (San Francisco County & USD), 2015**  
**Rachel Norton (San Francisco County & USD), 2015**

**Maria Diaz-Slocum (Redwood City ESD), 2015**  
**Carrie Du Bois (Sequoia Union HSD), 2015**  
**Kevin Martinez (San Bruno Park ESD), 2015**  
Marc Friedman (San Mateo Union HSD), 2016  
Alisa MacAvoy (Redwood City ESD), 2016  
Kalimah Salahuddin (Jefferson Union HSD), 2016

**Beverly Gerard (San Mateo COE), 2015**

### REGION 6 – 19 Delegates (12 elected/7 appointed)

Susan Lovenburg (Davis Joint USD), 2016

**Jeannette Amavisca (Elk Grove USD), 2015**  
**Michael Baker (Twin Rivers USD), 2015**  
**Pam Costa (San Juan USD), 2015**  
**Priscilla Cox (Elk Grove USD), 2015**  
**John Gordon (Galt Joint Union ESD), 2015**  
**Jay Hansen (Sacramento City USD), 2015**  
**Susan Heredia (Natomas USD), 2015**  
**Lisa Kaplan (Natomas USD), 2015**  
**Edward Short (Folsom-Cordova USD), 2015**  
Craig DeLuz (Robla ESD), 2016  
Lucinda E. Luttgen (San Juan USD), 2016  
Bobbie Singh-Allen (Elk Grove USD), 2016  
Teresa Stanley (Folsom-Cordova USD), 2016  
Darrel H. Woo (Sacramento City USD), 2016  
VACANT, 2016

**Suzanna George (Rescue Union ESD), 2015**  
Misty DiVittorio (Placerville Union USD), 2016

Bill Owens (Yolo COE), 2016

### REGION 7 – 19 Delegates (15 elected/4 appointed)

**Teresa Gerringer (Lafayette ESD), 2015**  
**Linda Mayo (Mt. Diablo USD), 2015**  
**Yolanda Pena Mendrek (Liberty Union HSD), 2015**  
**Charles Ramsey (West Contra Costa USD), 2015**  
Laura Canciamilla (Pittsburg USD), 2016  
Kathi McLaughlin (Martinez USD), 2016  
Raymond Valverde (Liberty Union HSD), 2016



Anne E. Campbell • County Superintendent of Schools

October 28, 2014

**To:** District Superintendents;  
Governing Board Representatives (GBR) to the County Committee on School District Organization (CCSDO)

**From:** Nancy Magee, CCSDO Secretary

**Regarding:** Election of Members to the County Committee on School District Organization

The Annual Meeting of the Governing Board Representatives (GBR) to elect five members to the County Committee on School District Organization will be held on **Monday, November 17, 2014**. The meeting will take place at the San Mateo County Office of Education and will begin at 7:00 p.m. At that time, each Governing Board Representative will be asked to submit a completed ballot.

**A quorum of Governing Board Members is required for the election to be accomplished. Please make every effort to attend.** Ballots will be tallied and the results announced during the meeting.

You are asked to take three actions upon receipt of this information:

1. Review the attached materials to better understand the process
2. Return the enclosed Nomination Form by November 13, 2014, if you wish to submit the name of a candidate for nomination
3. RSVP your intention to attend the November 17, 2014, election meeting at the San Mateo County Office of Education

In addition to the election, Deputy County Counsel Tim Fox and CCSDO Member and Redwood City Elementary School Board Trustee Hilary Paulson will present information about the upcoming process the County Committee will follow to redraw the trustee boundary areas for the County Board of Education. All school district board members are invited to attend.

Sincerely,

Nancy Magee, Secretary  
San Mateo County Committee on School District Organization  
650 802-5553  
[nmagee@smcoe.org](mailto:nmagee@smcoe.org)

**County Committee on School District Organization  
Roster of Members - October 2014**

<b>Supervisory District</b>	<b>Name</b>	<b>Term Expires 11/30/14</b>
1	Greg Dannis	Yes
1	Victor James	Yes
2	Vacant (Resignation)	No
2	Melchior Thompson	No
3	Virginia Bamford	Yes
3	Marc Tarpenning	Yes
4	Hilary Paulson	No
4	Laura Rich	Yes
5	Bill Lock	No
5	George Robinson	No
At Large	Robert Stelzer	No

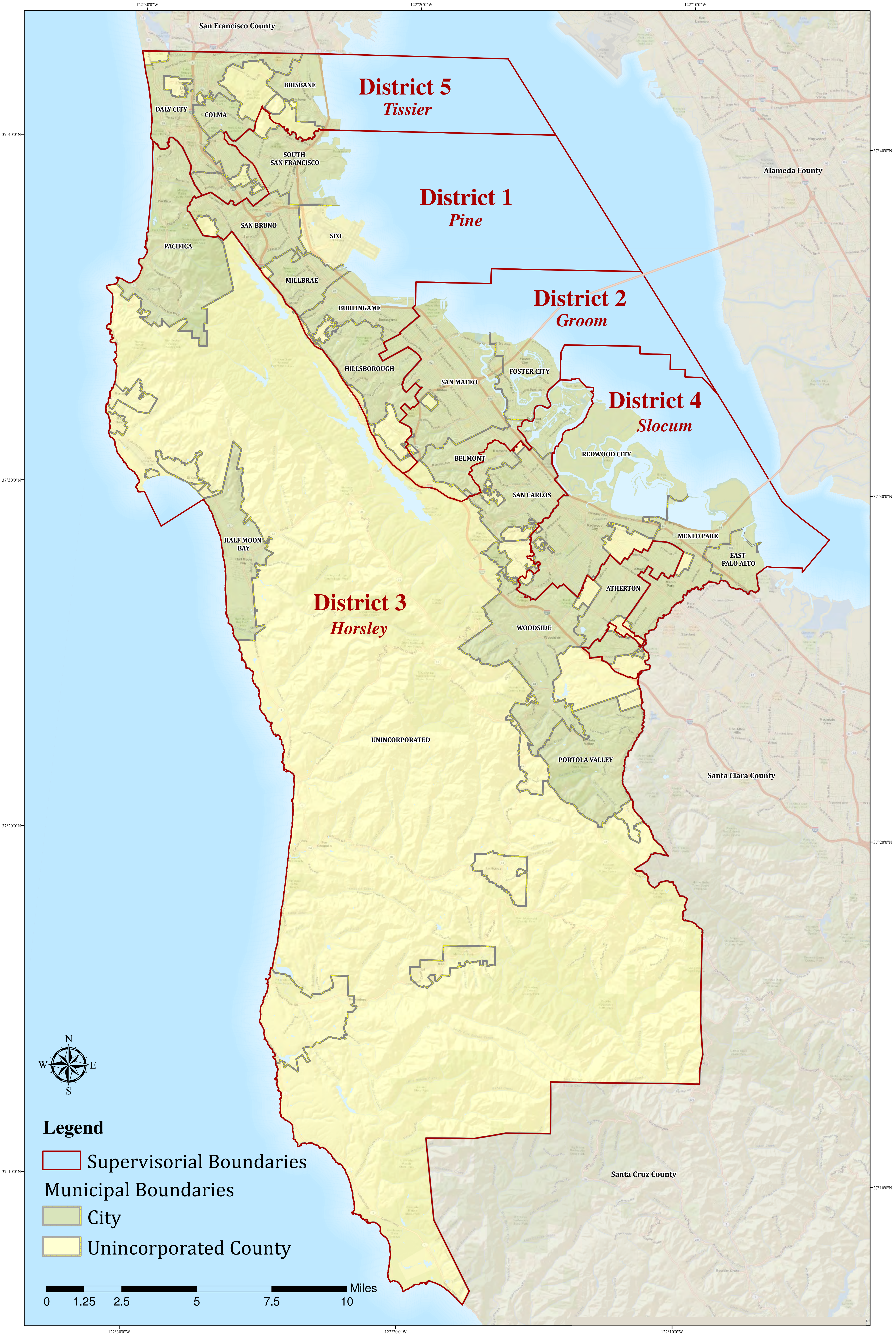
**Timeline for Election of Five New Members to Take Office on December 1, 2014**

October 28, 2014	Call for nominations of candidates for election to the County Committee on School District Organization
November 17, 2014	Election Date: Governing Board Representatives meet to elect five (5) people to fill new terms on the County Committee on School District Organization
December 1, 2014	New terms of office begin and organizational meeting of Newly constituted CCSDO





# Supervisory District Map





**Instructions to Governing Board Representatives (GBR)  
For  
Election of Members to the  
County Committee on School District Organization (CCSDO)**

The Governing Board Representatives (GBR) to the San Mateo County Committee on School District Organization will meet at **7:00 p.m. on Monday, November 17, 2014**, to elect five members to the County Committee on School District Organization. The meeting will be held at the San Mateo County Office of Education, 101 Twin Dolphin Drive, Redwood Shores.

The regulations governing the election are outlined below.

- There must be a quorum of at least 13 GBRs present at the meeting. If a quorum is not present, the Education Code stipulates that the County Superintendent will appoint the new members.
- CCSDO must be registered voters who reside in the Supervisorial District they are seeking to represent.
- Employees of school districts are not eligible to serve.
- Governing Board members may simultaneously serve on the Committee provided they are not employees of another district in the county.
- Each GBR can vote for five candidates - two in District 1, two in District 3, and one in District 4.
- The new term will begin on December 1, 2014, and run for four years, until November 30, 2018.

A Sample Ballot is attached, showing the names of all candidates who have been nominated as of October 28, 2014. **The official ballots will be distributed at the meeting on November 17, and will include the names of any additional candidates nominated by November 13. Prior to the vote, nominations will also be accepted from the floor.**

**Sample Ballot as of October 28, 2014**  
**San Mateo County Governing Board Representatives**  
**Election of the County Committee on School District Organization (CCSDO)**

This SAMPLE ballot is representative of the one that will be used by the designated Governing Board Representatives to the County Committee on School District Organization in order to elect CCSDO members for the term beginning December 1, 2014.

- Member eligibility is determined based on residency in the representative Supervisorial District
- Members are elected countywide and may decide on boundary issues countywide
- The number of candidates indicated for each Supervisorial District equals the number of votes allowed for that District

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**Slate as of October 28, 2014**

**Supervisorial District 1** (Vote for 2)

\_\_\_\_\_ Greg Dannis (Incumbent)

\_\_\_\_\_ Victor James (Incumbent)

\_\_\_\_\_

**Supervisorial District 3** (Vote for 2)

\_\_\_\_\_ Virginia Bamford (Incumbent)

\_\_\_\_\_ Marc Tarpenning (Incumbent)

\_\_\_\_\_

**Supervisorial District 4** (Vote for 1)

\_\_\_\_\_ Laura Rich (Incumbent)

\_\_\_\_\_



# GOVERNING BOARD NOMINATION FORM FOR COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION REPRESENTATIVE

(Use a separate form for each candidate being nominated.)

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## Part I: Information About Candidate Being Nominated

Candidate's Name: \_\_\_\_\_

Candidate's Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Note: You must provide the home address, not a mailing address.

Supervisory District in which Candidate lives (i.e., #1, 3 or 4): \_\_\_\_\_

Candidate's Phone: (Home) \_\_\_\_\_ (Work) \_\_\_\_\_

(Cell) \_\_\_\_\_

Candidate's Email: \_\_\_\_\_

---

## Part II: Information about Person Submitting the Nomination

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**Complete and return this form by November 13, 2014, via mail, fax or email to:**

Nancy Magee  
San Mateo County Office of Education  
101 Twin Dolphin Drive,  
Redwood City 94065-1064  
Fax 650-802-5564  
Email: nmagee@smcoe.org

or

**To make a nomination from the floor, bring this form to the meeting on  
November 17, 2014, at 7:00 p.m. at the County Office of Education**