

**BOARD OF EDUCATION**  
Stockton Unified School District  
701 North Madison Street  
Stockton, California 95202

August 1, 2017

**CLOSED SESSION**

Board Chambers

**PUBLIC SESSION**

Boardroom

5: 30 p.m. Call Meeting to Order
A. Roll Call
B. Announcement: Board will consider in Closed Session items listed on the Closed Session agenda.
C. Oral Suggestions and Comments From the Community <sup>1</sup>
D. Adjourn to Closed Session
7:00 p.m. Reconvene to Public Session

PUBLIC COMMENTS ARE LIMITED TO THREE MINUTES  
TO ENSURE AN ORDERLY AND EFFICIENT BOARD MEETING  
(Board Bylaw 9325)

**AGENDA**

		Page
	<b>1.0 Closed Session</b>	
<b>A</b>	<b>1.1</b>	
Public Employee Appointment - <b>Certificated</b> (§54957)		281
<i>Leave of Absence</i> (Teacher, Elementary)		
<i>Resignation</i> (Teacher, Elementary; Teacher, Secondary; Teacher, Special Education; Elementary Music Teacher; School Nurse; Preschool Teacher; Principal II)		
<i>Retirement</i> (Teacher, Special Education; Teacher, Elementary; Teacher, Adult Ed; Teacher, Preschool; Substitute Teacher; Principal II)		
<i>Deceased</i> (Teacher, Special Education)		
<i>Ratification</i> (Teacher, Elementary; Teacher, Secondary; Teacher, Special Education; Inclusion Specialist, Special Education; Speech Language Pathologist; Administrator, Child Welfare and Attendance; Assistant Principal II; Assistant Principal IV)		

<sup>1</sup> "Individual speakers shall be allowed three minutes to address the Board on each agenda or non-agenda item. The Board shall limit the total time for public input on each item to 20 minutes. With Board consent, the president may increase or decrease the time allowed for public presentation, depending on the topic and the number of persons wishing to be heard. The president may take a poll of speakers for or against a particular issue and may ask that additional persons speak only if they have something new to add."

## Page

A	1.2	<b>Public Employee Appointment - Classified (§54957)</b>  <i>Resignation</i> (After School Site Program Facilitator, Special Education Assistant-Learning Communicatively Handicapped, Special Education Assistant-Severely Mentally Handicapped, Food Service Assistant I, Research Specialist)  <i>Retirement</i> (Food Service Assistant I)  <i>Rescind Employment Offer</i> (Special Education Assistant-Learning Communicatively Handicapped)  <i>Ratification</i> (Guidance Technician, HVAC & Refrigeration Technician, Landscape Specialist, Community Assistant, School Bus Driver, Head Custodian I, Head Custodian III, Plumber, School Administrative Assistant, Library Media Assistant, Custodian, Substitutes, Coaches)	286
A	1.3	<b>Public Employee Employment</b> <i>Certificated:</i> Superintendent <i>Classified:</i>	289
A	1.4	<b>Conference with Labor Negotiator (§54957.6)</b> <i>Agency Negotiator:</i> Dr. E. Davalos, C. Wells, L. Grant-Dawson, M. Nakamura <i>Employee Organization:</i> STA, CSEA 821, CSEA 318, CSEA 885, SUSU, SPPA, OE3 Police, USA, non-represented employees	289
A	1.5	<b>Public Employee Discipline, Dismissal, Release, Non-reelection, Compulsory Leave, Reassignment</b> <i>Certificated:</i> Teacher <i>Classified:</i> <b>Case No. 1</b> - Mechanic <b>Case No. 2</b> - Police Dispatcher/Telecommunicator <b>Case No. 3</b> - Mechanic <b>Case No.4</b> - Custodian	289
A	1.6	<b>Conference with Labor Negotiator (§54957.6)</b> <i>Agency Negotiator:</i> A. Phillips, M. Mendez, M. Nakamura <i>Employee Organization:</i> non-represented employee – Superintendent	289
A	1.7	<b>Conference with Legal Counsel-Existing Litigation (§54956.9)</b> <i>Name of Case:</i> <b>Case No. C083649</b> <i>Name of Case Unspecified:</i>	289

	1.8	Conference with Legal Counsel - Anticipated Litigation (§54956.69) <i>Significant Exposure to Litigation Pursuant to Subdivision (b) of Section 54956.9:</i> <i>Initiation of Litigation Pursuant to Subdivision (c) of Section 54956.9:</i>	
	1.9	Liability Claims (§5495.95) <i>Claimant:</i> <i>Agency Claimed Against:</i>	
	1.10	In district Expulsion Cases:	
	1.11	In district Expulsion Cases Held in Suspension:	
	1.12	Out of district Expulsion Cases:	
	1.13	Out of district Expulsion Cases Held in Suspension:	
A	1.14	Approval of Closed Session Minutes: July 11, 2017 Regular Board Meeting July 19, 2017 Special Board Meeting	290

## Open Session – 7:00 p.m.

### 2.0 Organization

- 2.1 Welcome to Members of the Community/Announcements
- 2.2 Roll Call
- 2.3 Pledge of Allegiance to the Flag- *led by Ms. Yvette Cisneros, Executive Assistant, Superintendent's Office*
- 2.4 Announcement of Action Taken in Closed Session
- 2.5 Recognitions/Presentations
  - Student Recognition as the First Place Winner at the 2<sup>nd</sup> Annual SUSD Science and Engineering Expo, Sophia Lee**
  - California Accountability: Local Performance Indicator – Dr. Mong Thi Nguyen, Director of Research and Accountability**
- 2.6 Student Board Representative Report
  - Introduction of Student Honoree
  - School:
  - Principal:
- I 2.7 Board of Education Subcommittee Reports/AD HOC Committee Reports
- A 2.8 Approval of Order of Agenda  
*Any changes in the order of the agenda must be presented at this time, including changes concerning the consent calendar.*

<b>A</b>	2.9	Approval of Consent Items *C/A	
<b>A</b>	2.10	<div style="border: 1px solid black; padding: 5px;">           Approval of Public Minutes:            July 8, 2017 Special Board Meeting            July 11, 2017 Regular Board Meeting            July 19, 2017 Special Board Meeting         </div>	301
	<b>3.0</b>	<b>Communications</b>	
	3.1	Oral Suggestions and Comments From Members of the Community <i>(At the beginning of the meeting persons wishing to speak will complete a card available at the door and submit to the Board secretary)</i>	
	<b>4.0</b>	<b>Staff Reports/Discussion</b>	
	<b>5.0</b>	<b>Public Hearing</b>	
	<b>6.0</b>	<b>Governing Board</b>	
	6.1	Oral Suggestions and Comments from Members of the Governing Board	
<b>D</b>	6.2	Discussion of a Governance Handbook for Stockton Unified School District	315
	<b>7.0</b>	<b>Superintendent</b>	
	7.1	Superintendent's Report	
<b>A</b>	7.2	Approve Declaration of Resolution No. 17-04 for Provisional Internship Permits for the 2017-2018 School Year	316
<b>A</b>	7.3	Adoption of Resolution No. 17-07 Proclaiming September 15, 2017 to October 15, 2017 as National Hispanic Heritage Month	319
<b>C/A</b>	7.4	Acceptance of Donations to the Stockton Unified School District	321
	<b>8.0</b>	<b>Education</b>	
<b>A</b>	8.1	Approval of a School Climate Control Student Success Program Contract between Student Support Services and the Sow A Seed Community Foundation for the 2017-2018 School Year	322
<b>C/A</b>	8.2	Approval of Williams Uniform Complaints Quarterly Report Dated July 15, 2017	346
<b>C/A</b>	8.3	Approval of an Out-of-State Conference Attendance Request (CAR) for Nine (9) Employees from Student Support Services and Project Prevent Grant Schools to Attend the Integrated Multi-Tiered Framework for Educational Success National PBIS Leadership Forum in Chicago, Illinois, on September 28-29, 2017	348



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C/A	8.4	Approval of an Agreement to Furnish Consultant Services between Spanos Elementary School and Mr. Jonathan McPherson  Mr. Jonathan McPherson 2725 Christina Ave. Stockton, California	350
C/A	8.5	Approval of an Agreement to Furnish Consultant Services between Spanos Elementary School and Impact Literacy Consulting  Impact Literacy Consulting P.O. Box 717 Brookings, OR 97415	353
C/A	8.6	Approval of an Agreement to Furnish Consultant Services between Student Support Services and the YMCA of San Joaquin County  YMCA of San Joaquin County 2105 W. March Lane, Suite #1 Stockton, CA 95207 Phone: (209) 472-9622	357
C/A	8.7	Approval of an Agreement to Furnish Consultant Services between Student Support Services and Point Break Adolescent Resources  Point Break Adolescent Resources P. O. Box 8841 Stockton, CA 95208 (209) 466-0359	358
C/A	8.8	Approval of an Agreement to Furnish Consultant Services between Student Support Services and Community Medical Centers (CMC)  Community Medical Centers (CMC) 7210 Murray Drive Stockton, CA 95210 Phone: (209) 373-2889; Fax: (209) 373-2804	363
C/A	8.9	Approval to Purchase Telephone Notification Services from School Messenger for all SUSD K-12 School Sites for the 2017-2018 School Year  School Messenger 100 Enterprise Way, Suite #A-300 Scotts Valley, CA 95066 (916) 812-6209	368

**Page****9.0 Business and Finance**

<b>A</b>	<b>9.1</b>	Purchase of Land located at 2561 N. Wilson Way, Stockton, CA 95205 for District Facility, Transportation, and Warehouse Expansion	370
<b>A</b>	<b>9.2</b>	District Update and Recommendation regarding the Purchase of Lakeview Assembly Church and School, 2111 Quail Lakes Drive, Stockton, CA	405
<b>A</b>	<b>9.3</b>	Lease and Future Purchase of Property Located at 1541 East March Lane, Stockton, CA 95210 for Young Adult Education Program and Office Space	408
<b>C/A</b>	<b>9.4</b>	Approval of an Out-of-State Conference Attendance Request (CAR) for Four (4) Employees from Business Services and Accounting (Chief Business Official Lisa Grant-Dawson, Executive Director Susanne Montoya, Accounting Manager Guillermo Gutierrez and Accounting Supervisor Sofima Ibarra) to Attend the Annual Sungard National Users Group Conference on Education in Alexandria, Virginia, on October 9, 2017 through October 12, 2017	440
<b>C/A</b>	<b>9.5</b>	Awarding Contracts; Approving Change Orders, Rejecting All Bids and Authorizing the Filing of Notice of Completions	442
<b>C/A</b>	<b>9.6</b>	Approval of an Out-of-State Conference Attendance Request (CAR) for One (1) Graphic Artist from Reprographics (Gibran Soto) to Attend the Print 2017 Annual Conference in Chicago, Illinois, on September 10, 2017 through September 14, 2017	444
<b>C/A</b>	<b>9.7</b>	Awarding Contracts	445

**10.0 Student Discipline**

- 10.1 In district Expulsion Cases:
- 10.2 In district Expulsion Cases Held in Suspension:
- 10.3 Out of district Expulsion Cases:
- 10.4 Out of district Expulsion Cases Held in Suspension:

**11.0 Public Employee/Open Session (§54957)**

**12.0 Recess to Closed Session** (if necessary)

**13.0 Adjournment**

Dated: July 28, 2017

Posted 4:30 p.m.  
Stockton, California

- A** Indicates Action Item
- C/A** Indicates Consent Action Item (see reverse for details)
- I** Indicates Information Item
- D** Indicates Discussion Item

## **PROCEDURES TO BE USED IN THE CONDUCT OF BOARD OF EDUCATION MEETINGS**

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### **CONSENT ITEMS**

After a motion has been made and seconded, any of the Board (or any member of the public, through a Board member) may request to withdraw any items designated as consent items prior to the consideration of the approval of the consent agenda.

### **ACTION ITEMS**

Any member of the audience may address action items once there has been a proper motion and second.

### **INFORMATION ITEMS**

Information items will be presented by those persons responsible for preparing the items.

*ALL ITEMS ON THE AGENDA MAY BE ADDRESSED BY ANY MEMBER OF THE AUDIENCE.*

### **COMMENTS AND SUGGESTIONS FROM THE COMMUNITY**

There is a section of each Board agenda, "Comments and Suggestions from the Community," at which time any member of the community may make suggestions, comments or express concerns about any item, whether on the agenda or not. *Time allowed for each individual is three minutes.* It is requested that persons wishing to speak will complete a card available at the door and submit to the Board secretary prior to the beginning of the meeting.

### **SPECIAL ACCOMMODATION**

Individuals who require special accommodation, including but not limited to an American sign language interpreter, accessible seating or documentation in accessible formats, should contact the Superintendent or designee at least two days before the meeting date.

### **BOARD BYLAW 9323**

The Stockton Unified School District Board of Trustees has adopted Board Bylaw 9323 which prescribes the rules governing public participation at board meetings and public hearings. The three-minute limitation prescribed by Board Bylaw 9323 is responsible because it accords members of the public an equal opportunity to present their views while insuring that the hearings are conducted in an orderly and efficient manner.

*"Individual speakers shall be allowed three minutes to address the Board on each agenda or non-agenda item. The Board shall limit the total time for public input on each item to 20 minutes. With Board consent, the president may increase or decrease the time allowed for public presentation, depending on the topic and the number of persons wishing to be heard. The president may take a poll of speakers for or against a particular issue and may ask that additional persons speak only if they have something new to add."*

### **TAPING**

Board of Education meetings are taped and subject to being videotaped.

*THE GOVERNING BOARD IS THE UNIT OF AUTHORITY. APART FROM THE NORMAL FUNCTION AS PART OF THE UNIT, THE BOARD MEMBERS HAVE NO INDIVIDUAL AUTHORITY.*

Board comments should be clear and concise. We want people to understand what we are saying; therefore, we should convey our ideas in a brief and simple manner. We should remember that whenever a choice is to be made between a simple solution and a complex one, the tendency is to choose the one that is less complex. Therefore, the best rule is to speak sparingly and simply during Board discussions.

**CA Education Code 32210.** Any person who willfully disturbs any public school or any public school meeting is guilty of a misdemeanor, and shall be punished by a fine of not more than five hundred dollars (\$500).

### **TRUSTEES OF THE BOARD OF EDUCATION**

Ms. Cecilia Mendez, Clerk	Area One
Ms. Andrea L. Burrise	Area Two
Ms. Kathleen Garcia	Area Three
Mr. Lange P. Luntao	Area Four
Ms. Maria Mendez, President	Area Five
Ms. Angela Phillips, Vice President	Area Six
Mr. Steve Smith	Area Seven
Eliseo Dávalos, Ph. D.	Superintendent

## 1.0 Closed Session

## 2.0 Organization

Stockton Unified School District  
BOARD OF EDUCATION  
701 North Madison Street  
Stockton, California 95202  
(209) 933-7070

Date: July 8, 2017  
Public Session: 9:00 a.m. – 4:00 p.m.

Location: Professional Development Center  
1503 St. Mark's Plaza  
Stockton, CA 95207  
Room: C-1

PUBLIC COMMENTS ARE LIMITED TO THREE MINUTES  
TO ENSURE AN ORDERLY AND EFFICIENT BOARD MEETING  
(Board Bylaw 9325)

# NOTICE OF SPECIAL MEETING

## PUBLIC MINUTES

Action Authorized by the Board

### 1.0 Organization

- 9:08 a.m. 1.1 Welcome to Members of the Community/Announcements
- 1.2 Roll Call: **Present** – Maria Mendez, Kathleen Garcia, Angela Phillips,  
Lange Luntao, Cecilia Mendez,  
**Arrived Late:** (9:32 a.m.) Andrea Burrise  
**Absent:** Steve Smith
- 1.3 Pledge of Allegiance to the Flag
- 1.4 Oral Suggestions and Comments from the Community – *No public comments.*

### 2.0 Governing Board Training

- D 2.1 Board Governance Training for the Board of Education Retreat - Ms. Debra Dudley, Governance Consultant/Educator, California School Boards Association

President Maria Mendez introduced Ms. Debra Dudley to the Board of Education.

Issues Discussed:  
Board Self-Evaluations  
Governance Handbook  
Norms and Processes

*Discussion only.*

- 11:49 p.m. Adjourned to Recess
- 12:17 p.m. Reconvened to Public Session

### 3.0 Adjournment

Meeting adjourned at 2:14 p.m.

Ms. Cecilia Mendez, Clerk of the Governing Board of Education  
Stockton Unified School District

**BOARD OF EDUCATION**  
Stockton Unified School District  
701 North Madison Street  
Stockton, California 95202

July 11, 2017

**CLOSED SESSION**  
Board Chambers

**PUBLIC SESSION**  
Boardroom

6: 00 p.m. Call Meeting to Order  
**Present:** A. Roll Call – *Cecilia Mendez, Kathleen Garcia, Maria Mendez, Angela Phillips, Steve Smith*  
**Arrived Late:** *Dr. Andrea Burrise (6:10 p.m.)*  
**Absent:** *Lange P. Luntao*  
B. Announcement: Board will consider in Closed Session items listed on the Closed Session agenda.  
C. Oral Suggestions and Comments From the Community<sup>1</sup> - Ms. Silvia Cantu, Teacher, shared her thoughts about the Principal assignments. Lillaana Fortier, Teacher, Valarie Walker, Teacher, Katherine Kline Preeo, Teacher, Dawn Callum, Teacher, Rosa Luna, Parent – All asked the Board of Education to reinstate Kathryn Byers, Principal, at Hazelton Elementary School.  
6:15 p.m. D. Adjourn to Closed Session  
7:18 p.m. Reconvene to Public Session

PUBLIC COMMENTS ARE LIMITED TO THREE MINUTES  
TO ENSURE AN ORDERLY AND EFFICIENT BOARD MEETING  
(Board Bylaw 9325)

## PUBLIC MINUTES

Action Authorized by the Board

			Action Authorized by the Board
	<b>1.0</b>	<b>Closed Session</b>	
A	1.1	<b>Public Employee Appointment - Certificated (§54957)</b> <i>Resignation</i> (Teacher, Elementary; Teacher, Secondary; Principal IV) <i>Retirement</i> (Administrator of Health Services) <i>Ratification</i> (Teacher, Elementary; Teacher, Secondary; Assistant Principal IV; Principal I; Principal II; Principal IV; Director of Comprehensive Health Services; Interim Assistant Superintendent Educational Services)	Approved Certificated Public Employee appointment by a vote of 5-1 ( <i>C. Mendez</i> )-1 ( <i>L. Luntao absent</i> )  Principal Transfer 4-2 ( <i>C. Mendez and M. Mendez</i> ) (attached.)

<sup>1</sup> "Individual speakers shall be allowed three minutes to address the Board on each agenda or non-agenda item. The Board shall limit the total time for public input on each item to 20 minutes. With Board consent, the president may increase or decrease the time allowed for public presentation, depending on the topic and the number of persons wishing to be heard. The president may take a poll of speakers for or against a particular issue and may ask that additional persons speak only if they have something new to add."



PUBLIC MINUTES  
PUBLIC MEETING OF THE BOARD OF EDUCATION  
STOCKTON UNIFIED SCHOOL DISTRICT

July 11, 2017

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Action Authorized by the Board

A	1.2	<b>Public Employee Appointment - Classified (§54957)</b> <i>Resignation:</i> (Office Assistant) <i>Retirement:</i> (Bilingual Assistant-Spanish) <i>Rescind Employment Offer:</i> (Special Education Assistant-Severely Mentally Handicapped) <i>Ratification:</i> (Police Officer I, Maintenance Custodian II, Senior Office Assistant, Student Data Technician, Registrar, Police Chief, Substitutes)	Approved Classified Public Employee appointment by a vote of 5-1 ( <i>C. Mendez</i> )-1 ( <i>L. Luntao absent</i> ) (attached.)
	1.3	Public Employee Employment <i>Certificated:</i> <i>Classified:</i>	
	1.4	Conference with Labor Negotiator (§54957.6) <i>Agency Negotiator:</i> Dr. E. Davalos, C. Wells, L. Grant-Dawson, M. Nakamura <i>Employee Organization:</i> STA, CSEA 821, CSEA 318, CSEA 885, SUSU, SPPA, OE3 Police, USA, non-represented employees	
A	1.5	Public Employee Discipline, Dismissal, Release, Non-re-election, Compulsory Leave, Reassignment <i>Certificated:</i> Teacher, Elementary <i>Classified:</i>	Agenda Item Pulled.
	1.6	Conference with Legal Counsel-Existing Litigation (§54956.9) <i>Name of Case:</i> <i>Name of Case Unspecified:</i>	
A	1.7	Conference with Legal Counsel - Anticipated Litigation (§54956.69) <i>Significant Exposure to Litigation Pursuant to Subdivision (b) of Section 54956.9:</i> <i>Initiation of Litigation Pursuant to Subdivision (c) of Section 54956.9:</i> <b>One Potential Case</b>	Discussion only.
	1.8	Liability Claims (§5495.95) <i>Claimant:</i> <i>Agency Claimed Against:</i>	
	1.9	In district Expulsion Cases:	
	1.10	In district Expulsion Cases Held in Suspension:	
	1.11	Out of district Expulsion Cases:	
	1.12	Out of district Expulsion Cases Held in Suspension:	
A	1.13	Approval of Closed Session Minutes: June 27, 2017 Board Meeting	Approved the Closed Session Minutes for June 27, 2017

## Open Session – 7:00 p.m.

### 2.0 Organization

2.1 Welcome to Members of the Community/Announcements

2.2 Roll Call - *Cecilia Mendez, Dr. Andrea Burrise, Kathleen Garcia, Maria Mendez, Angela Phillips, Steve Smith*

**Absent:** *Lange P. Luntao*

2.3 Pledge of Allegiance to the Flag- *led by Ms. Christina Alejo, Executive Assistant, Superintendent's Office*

2.4 Announcement of Action Taken in Closed Session

2.5 Recognitions/Presentations

2.6 Student Board Representative Report

Introduction of Student Honoree

School:

Principal:

**I** 2.7 Board of Education Subcommittee Reports/AD HOC Committee Reports

Trustee Steve Smith – No report.

Trustee Kathleen Garcia – No report.

Trustee Andrea Burrise – No report.

Trustee Cecilia Mendez – No report.

President Maria Mendez – No report.

Vice President Angela Phillips – Ms. Phillips invited everyone to attend the Equity/Diversity Committee Meeting on Wednesday, July 12, 2017

**A** 2.8 Approval of Order of Agenda  
*Any changes in the order of the agenda must be presented at this time, including changes concerning the consent calendar.*

Information only.

Approved Order of Agenda [with the exception of agenda item 8.9, which was moved to Action] by a vote of 6-0-1 (*L. Luntao absent*).

**M/S** *Kathleen Garcia/Steve Smith*  
**Ayes** *Maria Mendez, Angela Phillips, Andrea Burrise, Kathleen Garcia, Cecilia Mendez, Steve Smith*

**Absent** *Lange Luntao*

**MOTION CARRIED.**

PUBLIC MINUTES  
PUBLIC MEETING OF THE BOARD OF EDUCATION  
STOCKTON UNIFIED SCHOOL DISTRICT

July 11, 2017  
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Action Authorized by the Board

<b>A</b>	<b>2.9</b>	<b>Approval of Consent Items *C/A</b>	<b>Approved Consent Items by a vote of 6-0-1 (L. Luntao absent).</b>
<b>M/S</b>		<i>Kathleen Garcia/Steve Smith</i>	
<b>Ayes</b>		<i>Maria Mendez, Angela Phillips, Andrea Burrise, Kathleen Garcia, Cecilia Mendez, Steve Smith</i>	
<b>Absent</b>		<i>Lange Luntao</i>	
		<b>MOTION CARRIED.</b>	
<b>A</b>	<b>2.10</b>	<b>Approval of Public Minutes: June 27, 2017 Board Meeting</b>	<b>Approved Public Minutes by a vote of 6-0-1 (L. Luntao absent).</b>
<b>M/S</b>		<i>Kathleen Garcia/Angela Phillips</i>	
<b>Ayes</b>		<i>Maria Mendez, Angela Phillips, Andrea Burrise, Kathleen Garcia, Cecilia Mendez, Steve Smith</i>	
<b>Absent</b>		<i>Lange Luntao</i>	
		<b>MOTION CARRIED.</b>	

**3.0 Communications**

**3.1 Oral Suggestions and Comments From Members of the Community** *(At the beginning of the meeting persons wishing to speak will complete a card available at the door and submit to the Board secretary)*

Silvia Cantu, Teacher, Washington Elementary School – Ms. Cantu spoke about the LCAP report and referred to page 38 of 144. Ms. Cantu also encouraged the Board to attend the CLSBA and CSBA Annual Conferences. Ms. Cantu advocated for CSEA 821 and asked the Board to give the kitchen staff what they are asking for.

Bonnie Dixon, SPPA Chair – Ms. Dixon thanked the District negotiation team for agreeing to a Tentative Agreement.

Miffon Smith, Ynna Lecitana, Student, Michelle Bethea, Parent, Armida Manabat, Parent, Sarah Bethea, Student, Bill Jones, IB Teacher, Erika Mendez, Student, Andrea Bravo – They expressed their concerns regarding the Franklin IB Program Test Score Results which have not been provided to parents or students.

Darren Sem, Youth Correction Officer, Jessica Wagner, Brandon Wagner, SUSD Employee, Rev. Paul A. Stanley, Ciarra Gaston, Student – All spoke in support of Mr. Brandon Wagner, SUSD Teacher, who feels he is being forced to resign from Stockton Unified School District.

Mr. Valente Aguilar, Assistant Principal, Edison H.S. – Mr. Aguilar spoke in support of board agenda item 8.9 (Dr. Luis F. Cruz, Consultant, Solution Tree Inc.)

Melissa Powers, Sherrill Fuller, SUSD Employee, Lydia Cerna, SUSD Employee – CSEA 821 members asked the Board of Education to work with CSEA 821 employees to help settle a fair contract and lower the cost of health insurance for employees.

#### **4.0 Staff Reports/Discussion**

#### **5.0 Public Hearing**

#### **6.0 Governing Board**

##### **6.1 Oral Suggestions and Comments from Members of the Governing Board**

Cecilia Mendez, Clerk/Trustee – Ms. Mendez encouraged District staff and community members to talk to Board members regarding any concerns or issues they may be experiencing. She also stated the District will do their best to help resolve the issues.

Andrea Burrise, Trustee – Dr. Burrise thanked the staff and community for attending the Board meeting and for speaking openly and honestly about the issues they feel the Board needs to consider. She assured everyone that their concerns are not falling on deaf ears and will make sure there will be follow-up. Dr. Burrise apologized on behalf of SUSD to the Franklin High School IB students for the inconvenience and stress. She stated there will be follow-up on this situation to ensure it does not happen again. Dr. Burrise applauded Franklin IB students for attending the Board meeting to advocate for themselves. Dr. Burrise stated CSEA 821 is the backbone of the District and all SUSD staff are the backbone of the District. She added that the Board understands their concerns and their voices are being heard. Dr. Burrise had the opportunity to visit the Bilingual Summer School Program at Stagg High School.

Angela Phillips, Vice President – Ms. Phillips thanked everyone for attending the Board meeting. She gave kudos to the staff who helped compile the EL Masterplan for Board approval. Ms. Phillips informed the community that SUSD leadership have been informed of the situation regarding the Franklin IB Test Score Results and they will ensure the situation gets resolved soon. Ms. Phillips spoke positively about the changes being made within the District and has faith in our leadership that the changes being made are what is best for SUSD overall and we will work very hard for the benefit of our students.

Kathleen Garcia, Trustee – Ms. Garcia publicly thanked Jeff for providing impeccable service to students and community members at the Franklin High School Summer Pool Program. Ms. Garcia also applauded CSEA 821 members for their hard work.

Steve Smith, Trustee – Mr. Smith thanked CSEA 821 members along with every employee in SUSD for their hard work. Mr. Smith spoke about the Franklin IB Program Test Score Results and assured the community that the situation will be resolved.

Maria Mendez, President – Ms. Mendez thanked everyone for attending the Board meeting. She stated it is a bitter-sweet moment and she appreciates everyone reaching out to the Board regarding issues and concerns. Ms. Mendez informed everyone that the health insurance rates will go up due to the government. She was very sympathetic with CSEA 821 members and shares their frustration. Ms. Mendez stated there is always room for improvement in every situation. Ms. Mendez is hopeful that the District will continue to work hard to better serve employees as long as funds are available. She also

PUBLIC MINUTES  
PUBLIC MEETING OF THE BOARD OF EDUCATION  
STOCKTON UNIFIED SCHOOL DISTRICT

July 11, 2017

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Action Authorized by the Board

encouraged staff and community to reach out to Board members via email to voice their concerns.

Lange P. Luntao, Trustee - Absent

- A**        6.2        Approval of Expenditure for Stockton Unified School District Board Members to Attend the California Latino School Boards Association (CLSBA) Unity Conference in San Diego, California: October 5-8, 2017

**M/S**        *Kathleen Garcia/Steve Smith*

**Ayes**        *Maria Mendez, Angela Phillips, Andrea Burrise, Kathleen Garcia, Cecilia Mendez, Steve Smith*

**Absent**        *Lange Luntao*

**MOTION CARRIED.**

Approved.

- A**        6.3        Approval of Expenditure for Stockton Unified School District Board Members to Attend the California School Boards Association (CSBA) Conference in San Diego, California on November 29, 2017 to December 2, 2017

**M/S**        *Kathleen Garcia/Steve Smith*

**Ayes**        *Maria Mendez, Angela Phillips, Andrea Burrise, Kathleen Garcia, Cecilia Mendez, Steve Smith*

**Absent**        *Lange Luntao*

**MOTION CARRIED.**

Approved.

**7.0        Superintendent**

**7.1        Superintendent's Report**

Dr. Eliseo Dávalos, Superintendent, was thankful for the acknowledgment of the preparation of the EL Masterplan. He thanked Mr. Robert Sahli and SUSD staff for their exceptional work in compiling and preparing the EL Masterplan. Dr. Dávalos thank Dr. Burrise for visiting the Bilingual Summer School Program at Stagg High School. He also had an opportunity to visit the program and was amazed of all the activity taking place at Stagg High School. Dr. Dávalos mentioned that District staff is working on a presentation proposal for the CABA Conference being held in Sacramento, CA. Dr. Dávalos informed Trustee Phillips that the demographic groups will receive the same precision of attention with the achievement gap that does plague our District. We will be looking at it very critically and have very detailed plans for the Board to support via policy and expenditures to close the gap. Dr. Dávalos provided a response to staff and the community regarding the Franklin IB Program Test Results. He assured everyone that the situation will be resolved soon. He apologized for the situation and took full responsibility for the actions that did not occur and will make sure this issue does not happen again.

- A**        7.2        Approve Declaration of Resolution No. 17-01 for Provisional Internship Permits for the 2017-2018 School Year

**M/S**        *Kathleen Garcia/Angela Phillips*

**Ayes**        *Maria Mendez, Angela Phillips, Andrea Burrise, Kathleen Garcia, Cecilia Mendez, Steve Smith*

**Absent**        *Lange Luntao*

Approved Resolution  
No. 17-01.

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Action Authorized by the Board

**MOTION CARRIED.**

<b>A</b>	7.3	Approval of the Tentative Agreement with Stockton Unified School District and the Stockton Pupil Personnel Association, Inc. (SPPA, Inc.)	Approved.
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<b>M/S</b>	<i>Kathleen Garcia/Angela Phillips</i>
<b>Ayes</b>	<i>Maria Mendez, Angela Phillips, Andrea Burrise, Kathleen Garcia, Cecilia Mendez, Steve Smith</i>

<b>Absent</b>	<i>Lange Luntao</i>
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**MOTION CARRIED.**

<b>A</b>	7.4	Approval of the Revised Reorganization of the Special Education Department's Administrative Assistant, Range 36 to Senior Administrative Assistant, Range 40 on the CSEA #821 Salary Schedule	Approved.
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<b>M/S</b>	<i>Steve Smith/Kathleen Garcia</i>
<b>Ayes</b>	<i>Maria Mendez, Angela Phillips, Kathleen Garcia, Cecilia Mendez, Steve Smith</i>

<b>Absent</b>	<i>Andrea Burrise, Lange Luntao</i>
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**MOTION CARRIED.**

<b>C/A</b>	7.5	Acceptance of Donations to the Stockton Unified School District	Approved donations.
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**8.0 Education**

<b>C/A</b>	8.1	Approval of the Adoption of the SUSD Master Plan for English Learners for 2017-2018	Approved.
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<b>C/A</b>	8.2	Approval of Appointment of High School Representatives to the California Interscholastic Federation (CIF) San Joaquin Section Athletic Association for the 2017-2018 School Year	Approved.
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<b>C/A</b>	8.3	Approval of an Agreement to Furnish Consultant Services between SUSD Early Childhood Education/School Readiness and Houghton Mifflin Harcourt Publishing Company for the 2017-2018 School Year	Approved agreement not to exceed: \$25,350.00
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Houghton Mifflin Harcourt Publishing Company  
Northern California Office  
Sacramento, California  
(916) 884-1116

<b>C/A</b>	8.4	Approval of an Out-of-State Conference Attendance Request (CAR) for Eleven (11) Employees from Franklin High School to Attend the Integrated Multi-Tiered Framework for Educational Success National PBIS Leadership Forum in Chicago, Illinois, on September 28-29, 2017	Approved.
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C/A	8.5	Approval of an Agreement to Furnish Consultant Services between Special Education and California Educational Consultants - Mr. Joe Billingslea  California Educational Consultants Mr. Joe Billingslea 6010 Tugboat Lane Stockton, CA 95219 (209) 981-1697	Approved agreement not to exceed: \$40,000.00
C/A	8.6	Approval of an Agreement to Furnish Consulting Services between Educational Services/ Curriculum & Instruction and Ms. Angela Beyer  Ms. Angela Beyer 3624 Five Forks Drive Stockton, CA 95219	Approved agreement not to exceed: \$1,000.00
C/A	8.7	Approval of a Memorandum of Understanding (MOU) between Stockton Unified School District (SUSD) and Lincoln Unified School District (LUSD) to Provide Title I Services to Students Attending Presentation School Who Live within the SUSD Attendance Area for the 2017-2018 School Year	Approved MOU.
C/A	8.8	Approval of a Memorandum of Understanding (MOU) between Stockton Unified School District (SUSD) and Lincoln Unified School District (LUSD) to Provide Title I Services to Students Attending St. Luke School Who Live within the LUSD Attendance Area for the 2017-2018 School Year	Approved MOU.
C/A	8.9	Approval of an Agreement to Furnish Consultant Services between Edison High School and Solution Tree, Inc.  Solution Tree, Inc. 555 N. Morton St. Bloomington, IN 47404	Not approved.
M/S Ayes Noes		<i>Kathleen Garcia/Steve Smith</i> <i>Maria Mendez, Kathleen Garcia</i> <i>Angela Phillips, Cecilia Mendez, Steve Smith, Andrea Burrise</i> <b>MOTION FAILED.</b>	
C/A	8.10	Approval of Stagg High School's Request to Increase Minutes in the School Day through the Contract Waiver Process and Article 27 Contract Exception for Article 6.1.1.1 of the SUSD/STA Agreement, for the 2017-2018 School Year	Approved.

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C/A	8.11	Approval of Cesar Chavez High School's Request to Increase Minutes in the School Day through the Contract Waiver Process and Article 27 Contract Exception for Article 6.1.1.1, 6.4 and 6.5 of the SUSD/STA Agreement, for the 2017-2018 School Year	Approved.
C/A	8.12	Approval of Franklin High School's Request to Increase Minutes in the School Day through the Contract Waiver Process and Article 27 Contract Exception for Article 6.1.1.1 of the SUSD/STA Agreement, for the 2017-2018 School Year	Approved.
I	8.13	Information Regarding the Revised TK-6 Report Cards	Information only.
	<b>9.0</b>	<b>Business and Finance</b>	
A	9.1	Resolution No. 17-02 Adopting the Initial Study/Negative Declaration for the Proposed Quail Lakes K-12 School	
M/S		<i>Angela Phillips/Steve Smith</i>	
Ayes		<i>Maria Mendez, Angela Phillips, Andrea Burrise, Kathleen Garcia, Steve Smith</i>	
Noes		<i>Cecilia Mendez</i>	
Absent		<i>Lange Luntao</i>	
		<b>MOTION CARRIED.</b>	
A	9.2	Approval of the Purchase of a New School Bus	
M/S		<i>Kathleen Garcia/Steve Smith</i>	
Ayes		<i>Maria Mendez, Angela Phillips, Andrea Burrise, Kathleen Garcia, Cecilia Mendez, Steve Smith</i>	
Absent		<i>Lange Luntao</i>	
		<b>MOTION CARRIED.</b>	
A	9.3	Awarding Contracts; Approving Change Orders, Rejecting All Bids and Authorizing the Filing of Notice of Completions	
M/S		<i>Kathleen Garcia/Steve Smith</i>	
Ayes		<i>Maria Mendez, Angela Phillips, Andrea Burrise, Kathleen Garcia, Cecilia Mendez, Steve Smith</i>	
Absent		<i>Lange Luntao</i>	
		<b>MOTION CARRIED.</b>	
C/A	9.4	Approval of an Out-of-State Conference Attendance Request (CAR) for Graphic Artist Assistant, Emilia Rivera Lopez, to attend the 2017 AIGA Annual Design Conference in Minneapolis, Minnesota October 12 – October 14, 2017	Approved.
I	9.5	Vendor Warrants Issued for the Month of June 2017	Information only.
I	9.6	Purchase Order Board Report for the Month of June 2017	Information only.



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**10.0 Student Discipline**

- 10.1 In district Expulsion Cases:
- 10.2 In district Expulsion Cases Held in Suspension:
- 10.3 Out of district Expulsion Cases:
- 10.4 Out of district Expulsion Cases Held in Suspension:

**11.0 Public Employee/Open Session (§54957)**

**12.0 Recess to Closed Session** (if necessary)

**13.0 Adjournment**

Meeting adjourned at 9:00 p.m.

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Ms. Cecilia Mendez, Clerk of the Governing Board of Education  
Stockton Unified School District

- A** Indicates Action Item
- C/A** Indicates Consent Action Item (see reverse for details)
- I** Indicates Information Item
- D** Indicates Discussion Item

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Action Authorized by the Board

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The Governing Board accepted the following donations and directed the superintendent to write letters of acknowledgement.

<b>Donor</b>	<b>School/Program</b>	<b>Donation</b>	<b>Designation</b>
Premier Credit Union 3255 W. Benjamin Holt Drive Stockton, CA. 95207	Language Development Department (May Principal's Meeting)	Bagels, Cream Cheese, Coffee, and Fruit <b>Valued at: \$500.00</b>	May Principal's Meeting
Junior League Claudia Young 17621 Milford Drive Ladeford, CA. 95237	Language Development Department	Books to give to parents at the DELPIC/DELAC Meetings <b>Valued at: \$1,200.00</b>	Language Development Department
Tuleburg Press 1007 W. Vernal Way Stockton, CA. 95203	Taft Elementary School	\$150.00 Cash To purchase books for Taft's Library	Taft Elementary School

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**BOARD AGENDA – July 11, 2017**

**ATTACHMENT A**

**45 DAY CONSULTANTS**

**STA RETURNING**

4th Year

Denise Rico

**Closed Session Agenda  
July 11, 2017 Board Meeting**

**Attachment B**

**Substitute Teachers**

<b>NAME</b>	<b>EFFECTIVE DATE</b>
Kareem Ali	07/12/17
Joey Lagarbo	07/12/17
Teddy Southern	07/12/17
Seng Thao	07/12/17
Minh Trinh	07/12/17

BOARD OF EDUCATION  
Stockton Unified School District  
701 North Madison Street  
Stockton, California 95202

Participating by Teleconference call from  
100 Taylor Ave N, Seattle, WA 98109  
Phone: (209) 565-0341

July 19, 2017

**CLOSED SESSION**

**6:00 p.m.** - Conference Room #1

**PUBLIC SESSION**

Board Room

6:25 p.m. Call Meeting to Order

**Present:** A. Roll Call: *Andrea Burrise, Kathleen Garcia, Angela Phillips, Steve Smith*

**Teleconference Call:** *Lange Luntao*

**Absent:** *Cecilia Mendez, Maria Mendez*

B. Announcement: Board will consider in Closed Session items listed on the Closed Session agenda.

C. Oral Suggestions and Comments From the Community- Ms. Cindy Baiocchi and Mr. Randy San Nicolas, CSEA 821 President, asked the Board of Education to provide CSEA 821 members with a raise & retro pay and to settle a satisfactory contract with a soft cap on health insurance.

6:30 p.m. D. Adjourn to Closed Session

7:29 p.m. Reconvene to Public Session

## NOTICE OF SPECIAL MEETING (CLOSED SESSION)

PUBLIC COMMENTS ARE LIMITED TO THREE MINUTES  
TO ENSURE AN ORDERLY AND EFFICIENT BOARD MEETING  
(Board Bylaw 9325)

### Minutes

Action Authorized by the Board

	<b>1.0</b>	<b>Closed Session</b>	
A	1.1	Public Employee Employment <i>Certificated: Superintendent</i> <i>Classified:</i>	Information received.
A	1.2	Conference with Labor Negotiator (§54957.6) <i>Agency Negotiator: A. Phillips, M. Mendez, M. Nakamura</i> <i>Employee Organization: non-represented employee – Superintendent</i>	Information received.
	<b>2.0</b>	<b>Open Session</b>	
	2.1	Announcement of Action Taken in Closed Session	
	<b>3.0</b>	<b>Adjournment</b>	
		Board meeting adjourned 7:30 p.m.	

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## 3.0 Communications

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## 4.0 Reports/Discussion

## 5.0 Public Hearing

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## 6.0 Governing Board



SUBJECT: Discussion of a Governance Handbook for Stockton Unified School District

### INTRODUCTION

On July 8, 2017, a Board Governance workshop was held on Board Leadership and Governance wherein protocols for effective governance were developed to enable the governance team to continue to perform its responsibilities in a way that best benefits all children.

### ANALYSIS

The Board's effectiveness is enhanced through the establishment of structure and protocols that define how board members and the superintendent will operate within the team. Protocols explicitly define governance principals, mutually agreed upon expectations, and specific processes under which the team will operate and assist its effectiveness. There are general protocols and those that are specific for the Board and the Superintendent.

In a school district, the Board and Superintendent work together as a governance team. For a governance team to work together effectively, members need to: Maintain a unity of purpose; agree on and govern within appropriate roles; create and sustain a positive governance culture and; create a supportive structure for effective governance.

### RECOMMENDATION

It is hereby recommended that the Governing Board discuss the Governance Handbook for Stockton Unified School District showing the unity of purpose, roles and responsibilities, norms and agreements.

Prepared by: Ms. Maria Mendez, President  
Stockton Unified School District Governing Board

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7.0 Superintendent

SUBJECT: Approve Declaration of Resolution No. 17-04 for Provisional Internship Permits for the 2017-2018 School Year

### INTRODUCTION

In response to the phasing out of emergency permits, the California Commission on Teacher Credentialing has instituted the use of the Provisional Internship Permit (PIP) effective July 1, 2005. It allows an employing agency to fill immediate staffing needs by hiring an individual who has not yet met the subject matter compliance requirement for an internship program. This permit can only be requested by the employing agency. The permits are issued for one (1) year and service is restricted to that employing agency.

### ANALYSIS

The Provisional Internship Permit allows the employing agency to fill immediate staffing needs by hiring an individual who has not yet met the subject matter competence requirement for an internship program.

### FUNDING SOURCE

General and/or Categorical Fund

### RECOMMENDATION

It is recommended that the Governing Board of Education approve the attached Resolution No. 17-01 and direct the Superintendent or his designee to take all appropriate action needed, including the sending of the appropriate paperwork to the San Joaquin County Office of Education and the California Commission on Teacher Credentialing.

Prepared by: Craig R. Wells, Assistant Superintendent, Human Resources

Reviewed by: Eliseo Dávalos, Ph. D., Superintendent

STOCKTON UNIFIED SCHOOL DISTRICT  
RESOLUTION NO. 17-04

RESOLUTION REGARDING THE PROVISIONAL INTERNSHIP PERMIT

WHEREAS, the Superintendent and Governing Board of Education of a school district may pursuant to State law choose to hire teachers on a Provisional Internship Permit when fully credentialed teachers are unavailable;

WHEREAS, pursuant to Title 5, California Code of Regulations Section 80021.1, each employee holding a position requiring a credential may be employed in a certificated position for one (1) year. Provisional Internship Permits are issued to individuals who have not yet satisfied the subject matter competence requirement necessary for entry into an internship program and to meet the No Child Left Behind (NCLB) highly-qualified teacher status; and

NOW, THEREFORE, BE IT RESOLVED THAT the Governing Board of Education of the Stockton Unified School District hereby determines that the teachers whose names and potential positions are listed in Exhibit A, a copy of which is attached hereto and incorporated herein, may be hired in the District effective August 2, 2017;

AND BE IT FURTHER RESOLVED THAT the Superintendent or his designee be directed to take all appropriate action needed, including the sending of the appropriate paperwork to the San Joaquin County Office of Education and the California Commission on Teacher Credentialing to apply for the necessary Provisional Internship Permits for those teachers listed on Exhibit A.

ADOPTED by the Governing Board of Education of the Stockton Unified School District on August 1, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

School District,

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Eliseo Dávalos, Ph. D., Superintendent  
Governing Board of Education, Stockton Unified

San Joaquin County, State of California

**EXHIBIT A**  
**Provisional Internship Permit (PIP) Teachers**  
**2017-18**

<b>LAST NAME</b>	<b>FIRST NAME</b>	<b>POSITION</b>	<b>SUBJECT(S)</b>	<b>GRADE(S)</b>	<b>SITE(S)</b>
Gorman	Claire	Teacher Secondary	English	9-12	Chavez High School
Kooyman	Tory	Teacher Secondary	Math	9-12	Edison High School
Lee	Alyssa	Teacher Elementary		Intermediate	Pittman School
Williams	Cory	Teacher Elementary		Intermediate	McKinley School

SUBJECT: Adoption of Resolution No. 17-07 Proclaiming September 15, 2017 to October 15, 2017 as National Hispanic Heritage Month

### INTRODUCTION

The challenge of educating our children for responsible citizenship is explicit in the *History-Social Science Framework for California Public Schools, Kindergarten through Grade Twelve*. The framework, designed to guide local curriculum planners, stresses at each grade level the importance of teaching all students that the history of community, state, region, nation, and world reflects "the experiences of men and women and of different racial, religious, and ethnic groups." The framework embodies the understanding that our national identity, heritage, and creed are pluralistic.

### ANALYSIS

The State Board of Education has called for the observance of September 15, 2017 to October 15, 2017 as National Hispanic Heritage Month. School districts are encouraged to develop special instructional activities and celebrations to support this resolution. Although these studies should be incorporated into the curriculum throughout the school year, it is appropriate to give special attention to their importance during the designated celebration month.

### RECOMMENDATION

It is recommended that the Governing Board adopt Resolution No. 17-07 proclaiming September 15, 2017 to October 15, 2017 as National Hispanic Heritage Month.

Prepared by: Dr. Eliseo Dávalos, Superintendent

STOCKTON UNIFIED SCHOOL DISTRICT

**Resolution No. 17-07**

**Proclaiming September 15, 2016 to October 15, 2016  
As NATIONAL HISPANIC HERITAGE MONTH**

WHEREAS, approximately 22,456 Hispanic students attend schools in the Stockton Unified School District; and

WHEREAS, the State of California is home for more than 3,197,490 Hispanic students from kindergarten through grade twelve; and

WHEREAS, the diversity of this group includes people who have their origins in Spain, Mexico, Central and South America, and the Spanish speaking Caribbean islands; and

WHEREAS, since the inception of European contact with our continent, Hispanics have always been an integral part of this nation's early exploration and California's discovery and early settlement; and

WHEREAS, each student needs an opportunity to understand the common humanity underlying all people; and

WHEREAS, today Hispanic Americans continue to make important contributions to our society in American government, business, agriculture, commerce, Armed Forces, education, the arts, science, and sports; and

WHEREAS, the *History-Social Science Framework for California Schools, Kindergarten through Grade Twelve* states that the history curriculum of state, community, region, nation, and world must reflect the experiences of women and men, and of different racial, religious, and ethnic groups which is integrated at every grade level; and

NOW, THEREFORE, BE IT RESOLVED the Stockton Unified School District Governing Board proclaims September 15, 2017 through October 15, 2017 as National Hispanic Heritage Month and encourages all schools to commemorate this occasion with appropriate instructional activities;

BE IT FURTHER RESOLVED that the Governing Board directs that suitably prepared copies of this resolution be distributed to all schools in the Stockton Unified School District.

PASSED AND ADOPTED by the following vote of the members of the Governing Board of Stockton Unified School District, San Joaquin County, State of California, this 1st day of August, 2017.

AYES:

NOES:

ABSENT:

ABSTAIN:

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Dr. Eliseo Dávalos, Superintendent/Secretary  
Governing Board, Stockton Unified School District  
San Joaquin County, State of California

SUBJECT: Acceptance of Donations to the Stockton Unified School District

INTRODUCTIONS:

The Stockton Unified School District received the following donations:

ANALYSIS:

Donor	School/Program	Donation	Designation
Lt. Steve Zanini, Public Information Officer California Health Care Facility 7707 Austin Rd. Stockton, CA. 95215	McKinley School Student Body	24 iPads (Valued at \$3,701)	Classrooms and Library

RECOMMENDATION:

It is recommended that the Governing Board accept these donations and direct the superintendent to write letters of acknowledgement.

Prepared by: Dr. Eliseo Davalos, Superintendent



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## 8.0 Education

**SUBJECT:** Approval of a School Climate Control Student Success Program Contract between Student Support Services and the Sow A Seed Community Foundation for the 2017-2018 School Year

### INTRODUCTION

**Name:** Sow A Seed Community Foundation (Sow A Seed)  
35 East 10th Street, Suite D1, Tracy, CA 95376  
Phone: (209) 229-4559; Fax: (209) 645-2012  
E-Mail: [director@sowaseedcf.org](mailto:director@sowaseedcf.org); Website: [www.sowaseedcf.org](http://www.sowaseedcf.org)

Sow A Seed will provide the School Climate Control Student Success Program that consists of Tier 2 and Tier 3 school-based mental health services to students at Franklin, Jane Frederick, Kennedy, and Montezuma Schools under the Project Prevent Grant.

### ANALYSIS

**Date of Service:** August 2, 2017 to June 30, 2018

**Recipient of Service:** Students at Franklin, Jane Frederick, Kennedy, and Montezuma Schools

**Location of Service:** Franklin, Jane Frederick, Kennedy, and Montezuma Schools

#### Brief Description of Services to be Provided:

Sow A Seed will provide a Coordinator to work with the Project Prevent Counselors four days a week to integrate and case manage services for students and families. The Student Assistance Program will identify student referrals and the Coordinator will connect students and families with services, including mentoring and facilitating evidence-based culture responsive, gender responsive, and cognitive behavioral therapy programs. The program will also include site-based services provided by Certified Facilitators Trained in Multiple Evidence-Based Programs, Experienced Youth Development Professionals and Licensed and Trainee Therapists. Students and families may also receive services in the community via this partnership. Services will be supervised by the school administrator and the Project Prevent school counselor.

**Amount of Contract:** \$200,000 (based on five Program Coordinators at \$40,000 each)

**Term of Contract:** August 2, 2017 to June 30, 2018

**Funding Source:** Project Prevent Grant

### RECOMMENDATION

It is recommended that the Governing Board approve a School Climate Control Student Success Program Contract between Student Support Services and the Sow A Seed Community Foundation for the 2017-2018 school year, not to exceed \$200,000.

**Prepared by:** Ms. Jennifer Robles, Student Assistance Program (SAP) Chairperson  
Student Support Services

**Reviewed by:** Ms. Karen Coleman, Administrator, School Based Mental Health Services  
Dr. Reyes Gauna, Assistant Superintendent, Student Support Services

**CONTRACT REGARDING  
THE SCHOOL CLIMATE CONTROL STUDENT SUCCESS PROGRAM  
FOR THE PROJECT PREVENT GRANT**

THIS CONTRACT is made effective August 2, 2017, between the Stockton Unified School District ("District"), and Sow A Seed Community Foundation ("Sow A Seed").

**RECITALS**

District and Sow A Seed have a mutual interest in providing the School Climate Control Student Success Program that consists of Tier 2 and Tier 3 school-based mental health services to students at Franklin High school under the Project Prevent grant.

Through this Contract, District and Sow A Seed, with the assistance of other community providers (collectively, "the partners"), will be able to offer school-based mental health services as well as a broad array of additional support services to reinforce and complement the District's Student Services program.

NOW, THEREFORE, the parties agree as follows:

**I. SCOPE OF SERVICES:**

A. Sow A Seed shall perform all work, attend all meetings, produce all reports and carry out all activities necessary to completion of the services described in the Work Program, attached hereto and incorporated herein by this reference as Exhibit "A." The District will assist in implementing the Work Program as outlined in the District's Responsibilities, attached hereto and incorporated herein by this reference as Exhibit "B."

B. Sow A Seed and its agents for purposes of this Contract are independent contractors and not employees of the District. All employees, agents, contractors or subcontractors hired or retained by Sow A Seed are employees, agents, contractors or subcontractors of Sow A Seed and not of the District. Sow A Seed shall be the primary provider of training and technical assistance for its members. The District shall not be obligated in any way to pay any wage claims or other claims made against Sow A Seed by any such employees, agents, contractors or subcontractors, or any other person resulting from performance of this Contract. Sow A Seed is exempt from ensuring that all its members utilized at a school site have the appropriate skills for such a placement and meet the District's qualifications for a paraprofessional (See Exhibit "G"). Sow A Seed shall also ensure that fingerprinting and TB skin tests have been completed for its members, employees and agents prior to performing any work under this Contract. Additional specific requirements regarding fingerprinting are set forth in Section XIII.

## II. TIME OF PERFORMANCE:

This Contract is to begin upon execution of this Contract by the District and, unless terminated earlier as provided herein, shall end on June 30, 2018.

## III. COMPENSATION:

A. Sow A Seed shall be paid the amount indicated in the approved grant application of the Project Prevent grant with the US Department of Education, less the District's indirect cost and any reductions that may occur from fiscal action(s) by the District. The contract amount shall not exceed \$40,000.00 per Program Coordinator with one (1) Program Coordinator per site for Jane Frederick High School and two (2) Program Coordinators per site for Franklin High School and Kennedy School.

B. Payment shall be made monthly upon submittal of an invoice by Sow A Seed detailing the services with the associated cost per school site as described in the per site budget furnished by Sow A Seed, included in Exhibit "A", for the month and shall indicate the amount due.

C. If this Contract is terminated at the request of the District, compensation shall be based upon the proportion that the work performed bears to the total work required by this Contract.

D. Invoices shall include the US Department of Education, Project Prevent PR/Award Number: S184M140116 for expenses directly associated with the School Climate Control Student Success Program project.

## IV. TERMINATION:

This Contract may be terminated, without cause, at any time by the District or Sow A Seed upon thirty (30) days' written notice. In the event of any such termination, Sow A Seed shall be compensated as provided in III.C. above.

Notwithstanding any provisions of this Contract, Sow A Seed shall not be relieved of liability to the District for damages sustained by the District by virtue of any breach of this Contract, whether intentional or negligent, and the District may withhold any payments due to Sow A Seed until such time as the exact amount of damages, if any, due the District from Sow A Seed is determined.

## V. CHANGES:

The District may, from time to time, request changes in the scope of the services of Sow A Seed to be performed. Such changes, including any increase or decrease in the amount of compensation, must be authorized in advance by the District in writing and agreed to by both parties. Mutually agreed changes shall be incorporated in written amendments to this Contract including the Exhibits.

#### VI. COMPLIANCE WITH LOCAL LAW:

Sow A Seed shall comply with all applicable laws, regulations, ordinances, and codes of federal, state and local governments and shall commit no trespass on any public or private property in performing any of the work authorized by this Contract.

#### VII. WARRANTY:

Sow A Seed is qualified to properly provide the services set forth in Exhibits "A" and "B" in a manner which is consistent with the generally accepted standards of the profession that provides these services. Sow A Seed will perform the services in a legally adequate manner in conformance with applicable federal, state and local laws and guidelines.

#### VIII. ASSIGNABILITY:

Sow A Seed shall not assign or transfer any interest in this Contract whether by assignment or novation, without the prior written consent of the District, which consent will not be unreasonably withheld.

#### IX. INDEMNITY AND LITIGATION COSTS:

Sow A Seed shall indemnify, defend, and hold harmless the District, its officers, officials, agents, and employees from and against any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation court costs and reasonable attorney's fees arising out of or in connection with its own or its agents' negligent performance of work, except such loss or damage which was caused by the sole negligence, or willful misconduct of the District.

The District shall indemnify, defend, and hold harmless the Sow A Seed, its officers, officials, agents, and employees from and against any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation court costs and reasonable attorney's fees arising out of or in connection with its own or the partners' negligent performance or willful misconduct of work, except such loss or damage which was caused by the sole negligence, or willful misconduct of the Sow A Seed.

#### X. INSURANCE:

A. Sow A Seed shall not commence any work before obtaining, and shall maintain in force at all times during the duration and performance of this Contract, the policies of insurance specified in this Section. Such insurance must have the approval of the District as to limit, form, and amount, and shall be placed with insurers with a current A.M. Best's rating of no less than A: XI.

B. Prior to execution of this agreement and prior to commencement of any work, Sow A Seed shall furnish the District with original endorsements effecting coverage for all policies required by the Contract. The endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. As an alternative to the District's forms, Sow A Seed's insurer may, subject to the approval of the District, provide complete, certified copies of all

required insurance policies, including endorsements affecting the coverage required by this Section. Sow A Seed furnish one copy of each required policy to the District, and additional copies as requested in writing, certified by an authorized representative of the insurer. Approval of the insurance by the District shall not relieve or decrease any liability of Sow A Seed.

C. In addition to any other remedy the District may have, if Sow A Seed fails to maintain the insurance coverage as required in this Section, the District may obtain such insurance coverage as is not being maintained, in form and amount substantially the same as is required herein, and the District may deduct the cost of such insurance from any amounts due or which may become due Sow A Seed under this Contract.

D. Each insurance policy required by this Contract shall be endorsed to state that coverage shall not be suspended, voided, canceled, terminated by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District.

E. Any deductibles must be declared to, and approved by, the District.

F. The requirement as to types, limits, and the District's approval of insurance coverage to be maintained by Sow A Seed are not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by Sow A Seed under the Contract.

G. Sow A Seed shall, at their expense, maintain in effect at all times during the performance or work under the Contract not less than \$1,000,000 per occurrence of comprehensive general liability insurance coverage and limits of insurance, which shall be maintained with insurers and under forms of policy satisfactory to the District. The maintenance by the Sow A Seed of the following coverage and limits of insurance is a material element of this Contract. The failure of the Sow A Seed to maintain or renew coverage or to provide evidence of renewal may be treated by the District as a material breach of this Contract.

1. Workers' Compensation and Employer's Liability Insurance.

a. Workers' Compensation - Sow A Seed shall obtain insurance to protect Sow A Seed from all claims under Workers' Compensation and Employer's Liability Acts, including Longshoremen's and Harbor Worker's Act ("Acts"), if applicable. Such coverage shall be maintained, in type and amount, in strict compliance with all applicable state and Federal statutes and regulations. Sow A Seed shall execute a certificate in compliance with Labor Code Section 1861, on the form provided in the Contract Documents as Exhibit "D."

b. Claims Against District - If an injury occurs to any employee of Sow A Seed for which the employee or the employee's dependents, in the event of the employee's death, may be entitled to compensation from the District under the provisions of said Acts, for which compensation is claimed from the District, there will be retained out of the sums due Sow A Seed under this Contract, an amount sufficient to cover such compensation as fixed by said Acts, until such compensation is paid or it is determined that no compensation is due. If the District is required to pay such compensation, the amount so paid will be deducted and retained from such sums due, or to become due to Sow A Seed.

2. Comprehensive General and Automobile Liability Insurance.

The insurance shall include, but shall not be limited to, protection against claims arising from death, bodily or personal injury, or damage to property resulting from actions, failures to act, or operations of the insured, or by its employees or agents, or by anyone directly or indirectly employed by the insured. The amount of insurance coverage shall not be less than \$1,000,000.00 per occurrence.

The comprehensive general and automobile liability insurance coverage shall also include, or be endorsed to include, the following:

a. Provision or endorsement naming the District and each of its officers, employees, and agents, as additional insureds in regards to: liability arising out of the performance of any work under the Contract; liability arising out of activities performed by or on behalf of Sow A Seed; premises owned, occupied or used by Sow A Seed; or automobiles owned, leased, hired or borrowed by Sow A Seed. The coverage shall contain no special limitations on the scope of protection afforded to the District, its officers, officials, employees or volunteers.

b. Provision or endorsement stating that for any claims related to this project, Sow A Seed's insurance coverage shall be primary insurance as respects the District, its officers, officials, employees and volunteers to the extent the District is an additional insured. Any insurance or self-insurance maintained by the District, its officers, officials, employees or volunteers shall be in excess of Sow A Seed's insurance and shall not contribute with it.

c. Provision or endorsement stating that any failure to comply with reporting or other provisions of the policies including breaches of representations shall not affect coverage provided to the District, its officers, officials, employees, or volunteers.

d. Provision or endorsement stating that Sow A Seed's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

e. Provision or endorsement stating that such insurance, subject to all of its other terms and conditions, applies to the liability assumed by Sow A Seed under the Contract, including, without limitation, that set forth in the section "Indemnity and Litigation Costs."

XI. MISCELLANEOUS PROVISIONS:

A. Sow A Seed shall keep itself fully informed of, shall observe and comply with, and shall cause any and all persons, firms or corporations employed by it or under its control to observe and comply with, applicable federal, state, county and municipal laws, ordinances, regulations, orders and decrees which in any manner affect those engaged or employed on the work described by this Contract or the materials used or which in any way affect the conduct of the work.

B. Sow A Seed shall not engage in unlawful employment discrimination. Such unlawful employment discrimination includes, but is not limited to, employment discrimination based upon a person's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship or sexual orientation.

C. Sow A Seed shall maintain and make available for inspection by the District and its auditors accurate records of all of its costs, disbursements and receipts with respect to any work under this Contract. Such inspections may be made during regular office hours at any time until six (6) months after the conclusion of the grant and final payments under this Contract are made to Sow A Seed.

D. Sow A Seed shall submit to the District a Quarterly Progress Report in the format designated by the District on or before:

- November 15
- January 15
- April 15
- July 15

Failure to provide a timely Quarterly Progress Reports, or a determination by the District that the Sow A Seed cannot meet its programmatic/financial obligations as related to the Project Prevent grant program are sufficient reasons for the District to exercise Section IV, Termination of this agreement.

E. Sow A Seed is not required to submit to the District a Certificate of Compliance with NCLB based on the services identified in Exhibit "A".

F. Sow A Seed shall submit to the District a Certificate of Fingerprinting (see Exhibit F) with a list of the names of employees or independent contractors who may come in contact with pupils on or before August 2, 2017 and a renewal no later than 15 calendar days upon change of key personnel. Such certification shall include the names of all employees certified for the grant project. Failure to provide a timely Certificate of Fingerprinting, or a determination by the District that the Sow A Seed has not met its obligations as related to fingerprinting of employees are sufficient reasons for the District to exercise Section IV, Termination of this agreement.

G. Sow A Seed shall submit to the District verification of completion Mandated Reporter Training on or before August 2, 2017 and a renewal no later than 15 calendar days upon change of key personnel. Such verification may include the names of all employees assigned for the grant project or a copy of their certificate of completion from a Mandated Reporter Training course that meets the requirement identified in California Penal Code 11165.7. Failure to provide a timely verification of completion, or a determination by the District that the Sow A Seed has not met its obligations as related to training of employees are sufficient reasons for the District to exercise Section IV, Termination of this agreement.

H. This Contract constitutes the entire agreement between the parties relative to the services specified herein and no modification hereof shall be effective unless and until such



modification is evidenced by a writing signed by both parties to this Contract. There are no understandings, agreements, conditions, representations, warranties or promises, with respect to this Contract, except those contained in or referred to in the writing.

I. Under Education Code section 45125.1, specified entities seeking to contract with school districts must certify the following:

1. Services will not be provided to the District nor shall any employee or independent contractors be permitted to come in contact with pupils until the Department of Justice has ascertained that the person has not been convicted of a serious or violent felony as defined in the Penal Code sections 1192.7(c) and 667.5(c) and any other applicable laws regarding sex and controlled substances offenses.

2. Results of the fingerprinting information ascertained by the Department of Justice have been reviewed and no employees or independent contractors may come in contact with pupils who have been convicted of a felony as noted in paragraph 1, above.

3. A list of the names of the employees or independent contractors who may come in contact with pupils is provided to the District.

A form certifying the above is attached to this Agreement as Exhibit "F" ("certification"). This Agreement is contingent upon the receipt of a signed certification in the form provided which declares Sow A Seed and the partners have complied with all of the above requirements. Sow A Seed cannot commence providing services to the District unless and until such a certification has been received by the District. Sow A Seed will provide the District with such certification within 30 days after execution of this Agreement. The District may extend the timeline within its sole discretion.

If a signed certification is not provided to the District in the form provided within the timeline stated above, then the District may terminate the Agreement by providing written notice to Sow A Seed within 10 days after the timeline has passed. If the District terminates the contract because Sow A Seed did not follow the timeline described above, the District will not be liable for any costs, expenses or fees incurred by Sow A Seed prior to termination.

J. Sow A Seed shall also indemnify, hold harmless and defend the District and its elected representatives, officers, agents and employees against all liability, claims, losses, demands or actions for injury to or death of a person or persons or damage to property arising out of, alleged to arise out of or in consequence of the Sow A Seed's failure to comply with these certification requirements.

K. At all times hereafter, the District and Sow A Seed will keep in confidence and trust all Confidential Information (as defined below) that the District and Sow A Seed learns of or receives during the term of this Contract, and will not use, reproduce, or disclose to others any Confidential Information without Sow A Seed's advance written consent, except (i) as may be directly necessary in the ordinary course of performance of the Services under this Contract, or (ii) in accordance with a judicial or other governmental order, provided, however, that, to the extent reasonably possible, the District and Sow A Seed shall give Sow A Seed reasonable notice prior to making any such disclosure in sufficient time so Sow A Seed may object to such

disclosure if it so chooses, and provided, further, that the District and Sow A Seed shall disclose only that portion of the Confidential Information that it is legally required to disclose.

“Confidential Information” shall mean any and all proprietary information of Sow A Seed, including, without limitation, information on Sow A Seed's finances, employees, students, or alumni, and information relating to any current, future, or proposed program, project, business practice, method(s) of operation, funder, or marketing plan.

L. If the District provides Sow A Seed with access to any “personally identifiable information” from student education records as defined by the Family Educational Rights and Privacy Act and its implementing regulations (collectively, “FERPA Protected Information”), Sow A Seed hereby certifies that access to FERPA Protected Information is necessary for the performance of the Services and Sow A Seed's duties and responsibilities under this Contract, and agrees that Sow A Seed shall be subject to, and shall comply with, the same conditions and restrictions on the use and re-disclosure of FERPA Protected Information as apply to the District pursuant to applicable law.

Student records are any items of information (in handwriting, print, tape, film, computer, or other medium) gathered within or outside the District that are directly related to an identifiable student and maintained by the District, required to be maintained by an employee in the performance of his/her duties, or maintained by a party acting for the District. Any information maintained for the purpose of second-party review is considered a student record. Student records include the student's health record. (Ed. Code 49061, 49062; 5 CCR 430; 34 CFR 99.3.)

Sow A Seed's failure to comply with this provision, or Sow A Seed's failure to abide by legally applicable security measures and disclosure and re-disclosure restrictions with regard to FERPA Protected Information, shall constitute a material breach of this Agreement.

M. HIPAA COMPLIANCE: The parties agree that all aspects of this partnership shall be in compliance with all of the aspects of the Health Insurance Portability and Accountability Act of 1996 and the Administrative Simplification section, Title II, Subtitle F, regarding standards for privacy and security of Protected Health Information (PHI) as outlined in the Act. For the purpose of this partnership, it is recommended that the two systems declare themselves an “Organized Healthcare Delivery System under HIPAA.

(a) APPROPRIATE USES AND DISCLOSURES OF PHI: Any joint clinics described in this project may use or disclose information for:

- the proper management and administration of its business;
- purposes of treatment, payment (if allowed by law) or healthcare operations;
- providing data aggregation services relating to the health care operations of the joint clinics (data aggregation means combining protected health information related or received by the providers to permit data analyses that relate to the health care operations of the covered entity); or purposes set forth in policies required by law.

Any joint clinics will not use or further disclose the information other than as permitted or required by this Agreement, or as required by law. Any other use or disclosure of protected health information must be made pursuant to a properly executed Release of Information.

Both agrees to insure that any agents, including any subcontractors, to whom it provides protected health information received from, or created or received by the clinic on behalf of either party, agrees to the same restrictions and conditions that apply to the parties with respect to such information.

(b) CONSUMER REQUESTS TO REVIEW RECORD: The holder of the record will respond to any consumer request to review their record. The holder of the joint record will be determined in the business model selected for the clinic.

(c) COOPERATION WITH THE SECRETARY OF HEALTH AND HUMAN SERVICES: The clinics will make their internal practices, books and records relating to the use and disclosures of protected health information received from, or created or received by the clinics available to the Secretary of Health and Human Services, or its designee, for the purpose of determining compliance with the Health Insurance Portability and Accountability Act of 1996.

(d) AGREEMENT TERMINATION: At the termination of this agreement, protected health information received from, or created or received by one party on behalf of the other party shall be returned and shall not be maintained in any form and the other party shall not retain copies of such information. If such return is not feasible, all parties must extend the protections of the Agreement to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information feasible.

(e) BREACHES OF CONFIDENTIALITY: If any party becomes aware of a material breach or any violation of its obligation to protect the confidentiality and security of consumers' protected health information, the party must immediately take reasonable steps to cure the breach or end the violation, and must report the breach or violation to its respective privacy officer. The alleged breach or violation will be investigated and an appropriate action issued.

N. Dispute Resolution:

(a) Meet and Confer. In the event of any dispute, controversy, claim, or disagreement arising out of or related to this Contract or the acts or omissions of the Parties with respect to this Contract (each, a "Dispute"), the Parties shall, as soon as reasonably practicable after one party gives written notice of a Dispute to the other party (the "Dispute Notice"), meet and confer in good faith regarding such Dispute at such time and place as mutually agreed upon by the Parties. If any Dispute is not resolved to the mutual satisfaction of the Parties within ten (10) business days after delivery of the Dispute Notice (or such other period as may be mutually agreed upon by the Parties in writing), the Parties shall settle such Dispute as otherwise set forth in this Section.

(b) Other Proceedings. In the event a Dispute is not resolved by the meet and confer provisions under subsection (a) above, the Parties may choose any other available legal

means to settle the Dispute. Each party agrees that a violation or threatened violation of this Agreement may cause irreparable injury to the other party, entitling the other party to seek injunctive relief in addition to all legal remedies.

(c) Forum for Legal Action. Any and all legal action that is initiated to enforce any provision of this Agreement or arising out of or related to this Agreement must be brought or filed in either the state (San Joaquin County, California) or applicable federal court of California.

O. Both Parties agree that they shall not use the each other's name, logo or insignia, or otherwise identify the other in any form of publicity or disclosure without the prior written permission of the other party.

P. Special Conditions for Disclosing Federal Funding in Public Announcements. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, U.S. Department of Education grantees shall clearly state –

1) the percentage of the total costs of the program or project which will be financed with Federal money;

2) the dollar amount of Federal funds for the project or program; and

3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

Recipients must comply with these conditions under Division H, Title V, Section 505 of Public Law 113-76, Consolidated Appropriations Act, 2014.

Q. Prohibition of Text Messaging and Emailing While Driving During Official Federal Grant Business.

Federal grant recipients, sub recipients and their grant personnel are prohibited from text messaging while driving a government owned vehicle or while driving their own privately owned vehicle during official grant business, or from using government supplied electronic equipment to text message or email when driving.

Recipients must comply with these conditions under Executive Order 13513, "Federal Leadership On Reducing Text Messaging While Driving," October 1, 2009.

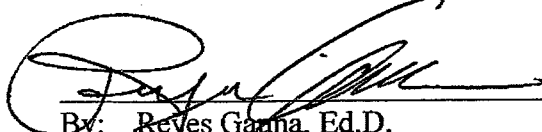
R. All notices that are required to be given by one party to the other under this Contract shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail addressed to the parties at the following addresses:

District: Reyes Gauna, Ed.D.  
Assistant Superintendent  
Educational Support Services  
Stockton Unified School District  
701 N. Madison Street  
Stockton, CA 95202  
Phone: 209-933-7115, Ext. 2747

Consultant: Rhodesia Ransom  
Executive Director  
Sow A Seed Community Foundation  
35 East 10<sup>th</sup> Street, Suite D1  
Tracy, CA 95376  
Phone: 209-229-4559  
Email: director@sowaseedcf.org

Executed the day and year first above written, by the parties as follows.

**STOCKTON UNIFIED SCHOOL DISTRICT**

  
By: Reyes Gauna, Ed.D.  
Title: Assistant Superintendent  
Educational Support Services

**SOW A SEED COMMUNITY FOUNDATION**

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By: Rhodesia Ransom  
Title: Executive Director

**EXHIBIT "A"**  
**SCOPE OF WORK**

**SOW A SEED**  
**Project Prevent: School Climate Control Student Success Program**

Please see attached.

**EXHIBIT "B"**

**SOW A SEED'S SUPPORTING DOCUMENTATION**

## SAMPLE INVOICE

**[YOUR COMPANY]**

[Select Date]

**INVOICE #1234**

**REFERENCE – PROJECT PREVENT GRANT #S184M140116**

Bill To		Ship To	
Customer	[Customer Name] [Company]	Recipient	[Recipient Name] [Company]
Customer ID#	[Customer ID]	Address	[Address] [City, ST ZIP Code]
Address	[Address] [City, ST ZIP Code]	Phone	[Telephone]
Phone	[Telephone]		
Payment Due	[Select Date]	Delivery Date	[Select Date]
Salesperson	[Salesperson Name]	Shipping Method	[Ship Method]
Payment Terms	[Terms]	Shipping Terms	[Terms]

Qty	Term	Description	Unit Price	Discount	Line Total
		School Climate Control Student Success Program –Daily rate of \$200.00			
8	Days	Franklin High School – August See attached service summary	200.00 per day		1200.00
22	Days	Franklin High School – September See attached service summary	200.00 per day		4400.00
Total Discount					
Subtotal					3600.00
Sales Tax					
Total					3600.00

Thank you for your business!

August Service Summary – Franklin High School

[Your Company]

[Address, City, ST ZIP Code] | [Web Address]

p. [Telephone] | f.[Fax] | [Email]



**6 days of service – see attached sign in sheet**

**# referrals received**

**# students participating in Girls Circle**

**# students participating in Boys Council**

**# students participating in Fresh Start Thinking**

**# of students receiving case management**

**Parent activities – list**

**Other activities – list**

**September Service Summary – Franklin High School**

**6 days of service – see attached sign in sheet**

**# referrals received**

**# students participating in Girls Circle**

**# students participating in Boys Council**

**# students participating in Fresh Start Thinking**

**# of students receiving case management**

**Parent activities – list**

**Other activities - list**

### Verification of Services

Agency Name:

**School Site:**

**Position:**

Consultant Name:

Consultant Signature:

**Site Administrator Name:**

Site Administrator Signature:

[illegible]

### Invoice Procedures:

- Vendor staff must check-in at the front office, following procedures as appropriate for the school site and requirements of the grant.
- Vendor staff must check-out at the front office returning any keys or equipment provided upon check in.

This check-in/check-out process, described above, is the record that your school site's Principal will use to verify the services have taken place.

- Vendor staff will complete the “Verification of Services” form – included.
- Vendor staff must coordinate with the school site’s Principal for signature to verify activities occurred.
- Vendor staff, upon Principal’s signature, will submit “Verification of Services” form to Vendor staff’s organization.
- Vendor will prepare the invoice and attached the “Verification of Services” form.
- Vendor will forward the complete invoice to SUSDC point of contact.

## SAMPLE CONSENT FORM

Dear Parent/Guardian:

Franklin High School now offers Bright Futures Youth Mentoring programs on campus. The program is offered by Sow A Seed Community Foundation is designed to help students in the areas of school and personal success. Bright Futures Youth Mentoring is targeted towards students who need guidance and would like to improve in the following areas:

- Academic Achievement
- Behavior and Attendance
- Ability to communicate and/or manage stress
- Goal Setting
- Healthy Relationships
- Mental Health
- Overall School Experience

As part of your child's success plan we are recommending he/she join the Bright Future Youth Mentoring Program. Sow A Seed's team will provide mentors, case managers and in some cases a counselor and/ or counseling intern to help our students and families identify and access necessary resources.

Because counseling, case management, and mentoring are all based on a trusting relationship some information shared by the student will be kept confidential except in certain situations in which an ethical responsibility limits confidentiality. You will be notified under the following circumstances:

- The student reveals information about hurting himself/herself or another person.
- The student or another person may be in physical danger.

\_\_\_\_ I give permission for \_\_\_\_\_ to participate in the Bright Futures Youth Mentoring Program.

\_\_\_\_ I give permission for the program staff to review my child's school data in order to assist my child and monitor his/her progress.

\_\_\_\_ Student's Name \_\_\_\_\_ Grade \_\_\_\_\_ Date of Birth \_\_\_\_\_

\_\_\_\_ Parent/Guardian's Name (Please print) \_\_\_\_\_

\_\_\_\_ Home Address \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_

\_\_\_\_ Home Phone \_\_\_\_\_ Work Phone \_\_\_\_\_ Cell Phone \_\_\_\_\_

Date \_\_\_\_\_ Parent/Guardian Signature \_\_\_\_\_

## SAMPLE REFERRAL FORM



Parklin High School

### YOUTH REFERRAL FORM

Youth's Name: \_\_\_\_\_ Grade: \_\_\_\_\_

#### Parent/Guardian Contact Information

Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Referred By: \_\_\_\_\_ Title: \_\_\_\_\_

This youth is being referred for assistance in the following areas (check all that apply):

- |  |  |   |   |
|--|--|---|---|
| <input type="checkbox"/> Behavioral Issues | <input type="checkbox"/> Social Skills | <input type="checkbox"/> Communication Concerns | <input type="checkbox"/> Peer Relationships |
| <input type="checkbox"/> Self-Esteem       | <input type="checkbox"/> Attitude      | <input type="checkbox"/> Goal Exploration       | <input type="checkbox"/> Truancy            |
| <input type="checkbox"/> Family Issues     | <input type="checkbox"/> Delinquency   | <input type="checkbox"/> Academic Issues        | <input type="checkbox"/> Mentoring          |
| <input type="checkbox"/> Other _____       |  |   |   |

Why do you feel this youth might benefit from the program? \_\_\_\_\_

What particular interest, either in school or out, do you know that the child has? \_\_\_\_\_

What learning models/strategies, if you are aware of any, might be effective with this youth? \_\_\_\_\_

On a Scale of 1-10 (10 being highest) rate the youth's level of:

_____ Self-Control	_____ Family Support	_____ Peer Relations
_____ Self-Esteem	_____ Communication Skills	_____ Academic Performance
_____ Social Skills	_____ Attitude	

Additional Comments or Concerns: \_\_\_\_\_

FOR ADMINISTRATION USE ONLY: REFERRAL DATE: \_\_\_\_\_ SAS RECEIVED DATE: \_\_\_\_\_ RECEIVED BY: \_\_\_\_\_

Please submit to on-site Sow A Seed Staff. All communication methods are secure and confidential  
Email: [director@sowaseedcf.org](mailto:director@sowaseedcf.org)

## SAMPLE REFERRAL PROCESS & PROCEDURES

Bright Futures  
Youth Mentoring

### Student Referral Process & Procedure

The steps below are used by Sow A Seed staff when you refer a student to the campus mentoring program.

#### **A. Referral**

**When submitting a completed student/Youth Referral Form please include:**

- o Background- concern or reason for referral
- o Copy of any associated behavior plan
- o Any suggested or established goals
- o Print out of student data
  - Discipline
  - Grades
  - Attendance
  - Student Schedule

#### **B. Introduction to student/Family**

**Student will meet with a mentor and the following will occur:**

- o Student will have an initial introductory discussion and interview
- o A permission slip will be sent home for cases that require continued services
  - The mentor will call the family to confirm receipt of permission slip
  - The mentor will ensure the family that "we are here to help"
- o No permission slip will be required for "one-time" support meetings

#### **Additional Information**

**Sow A Seed maintains a log of each student meeting**

**For Additional Information**

**See Assigned Team**

**or contact**

**209-229-4559**

Sow A Seed Community Foundation • 35 E. 10<sup>th</sup> Street, Tracy CA, 95376 • 209-229-4559  
[WWW.SOWASEEDCF.ORG](http://WWW.SOWASEEDCF.ORG)

## EXHIBIT "C"

### STOCKTON UNIFIED SCHOOL DISTRICT RESPONSIBILITIES

The District shall:

1. Meet regularly with Sow A Seed to discuss program effectiveness and the staff performance.
2. Assist Sow A Seed with the coordination and resolution to issues at a school site.
3. Include representatives of Sow A Seed, when appropriate, in in-service training.
4. Provide an orientation to representatives of the Sow A Seed in order to introduce them to school personnel and to explain school policies.
5. Assist in completion and verification of Progress Reports provided by Sow A Seed.
6. Share data and data reports relative to the Sow A Seed.

The school staff shall be responsible to:

1. Assist with orientation of members, specific to the site.
2. Assist in the collection of evaluation data.
3. Allow members time to attend required in-service training and required Sow A Seed meetings.
4. Assist in finding necessary school site facilities and workspace for the program and staff. These workspaces should include standard office furnishings including desks, chairs, internet (Wi-Fi extended) access (required for access to Sow A Seed's server and appropriate Sow A Seed data management systems), and phones.

**EXHIBIT "D"**

**CERTIFICATE OF COMPLIANCE WITH LABOR CODE SECTION 3700**

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

**SOW A SEED COMMUNITY FOUNDATION**

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By: Rhodesia Ransom  
Title: Executive Director

EXHIBIT "F"

**CERTIFICATION OF FINGERPRINTING**

To the Governing Board and the District Administrator in charge of the following services:

I. Identification of Parties

I, Rhodesia Ransom, am an individual contractor and/or vendor or I am an authorized representative of Sow A Seed. My entity seeks to contract with the District, which may cause my entity and its employees, agents or independent contractors to come in contact with pupils, and I am aware of the requirements of Education Code section 45125 et. seq.

II. Certifications

I make the following certifications, under penalty of perjury:

- A. I shall not begin to provide services to the District nor shall I permit any of my employees, agents or independent contractors to come in contact with pupils until the Department of Justice has ascertained that the person has not been convicted of a serious or violent felony as defined in Penal Code sections 1192.7(c) and 667.5(c) or of a sex or controlled substance offense. (Education Code § 45125.1(e).)
- B. I certify that I have reviewed the results of the fingerprinting information ascertained by the Department of Justice, and I certify that none of my employees, agents or independent contractors, including myself, who may come in contact with pupils have been convicted of a felony as noted in Paragraph A, above. (Education Code § 45125.1(f).)
- C. I have attached a list of the names of my employees or independent contractors who may come in contact with pupils to this certification form. (Education Code § 45125.1(f).)

I declare under penalty of perjury under the laws of the State of California that the information provided above is true and correct. Executed this \_\_\_\_\_ day of \_\_\_\_\_ at Stockton, California.

---

By: Rhodesia Ransom  
Title: Executive Director



EXHIBIT "G"

**CERTIFICATE OF COMPLIANCE WITH NO CHILD LEFT BEHIND (NCLB) IS NOT APPLICABLE TO SOW A SEED ON THE SERVICES IDENTIFIED IN EXHIBIT "A".**

SUBJECT: Approval of Williams Uniform Complaints Quarterly Report Dated July 15, 2017

INTRODUCTION

Each classroom in Stockton Unified School District has posted the Williams Uniform Complaint Procedures notice. This notice describes the procedures used to file a complaint at a school site pertaining to an insufficiency of textbooks or instructional materials, a teacher vacancy or mis-assignment and/or a facility area that is unsafe or not clean.

Pursuant to California Education Code §35186, a summary of any complaint filed shall be publicly reported on a quarterly basis to the Board and the County Superintendent of Schools. The attached report complies with this quarterly requirement.

ANALYSIS

Ten Facilities Conditions complaints were filed and resolved during the quarter ending July 15, 2017. No previous complaints remain unresolved.

RECOMMENDATION

It is recommended that the Governing Board approve the Williams Uniform Complaints Quarterly Report dated July 15, 2017.

Prepared by: Mr. Sergio Betancourt, Compliance Analyst  
Compliance Services

Reviewed by: Dr. Reyes Gauna, Assistant Superintendent  
Educational Support Services

**San Joaquin County Office of Education**  
**Quarterly Report on *Williams* Uniform Complaints**  
 [Education Code § 35186(d)]

District: Stockton Unified School District

Person completing this form: Sergio Betancourt Title: Compliance Analyst

Quarterly Report Submission Date: ☐ January 15, 2017  
 (check one) ☐ April 15, 2017  
☒ July 15, 2017  
☐ October 15, 2017

**Date for information to be reported publicly at governing board meeting:** August 1, 2017

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.

General Subject Area	Total # of Complaints	# Resolved	# Unresolved
Textbooks and Instructional Materials			
Teacher Vacancy or Misassignment			
Facilities Conditions	10	10	
<b>TOTALS</b>	10	10	

Dr. Eliseo Dávalos, Superintendent

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

\_\_\_\_\_  
 Date

SUBJECT: Approval of an Out-of-State Conference Attendance Request (CAR) for Nine (9) Employees from Student Support Services and Project Prevent Grant Schools to Attend the Integrated Multi-Tiered Framework for Educational Success National PBIS Leadership Forum in Chicago, Illinois, on September 28-29, 2017

### INTRODUCTION

SUSD was awarded nearly \$5 Million in the Project Prevent Grant from the Federal Department of Education for the terms of 2014 to 2019. SUSD was one of twenty districts in the country selected to participate in this grant. Project Prevent aims to break the cycle of violence, reduce violent and aggressive behavior, and increase student mental and emotional supports at four schools: Kennedy, Montezuma, Franklin High and Jane Frederick High.

### ANALYSIS

This conference is required by the grant. The conference will provide guidance to district and school staff on the implementation and reporting requirements for the Project Prevent Grant, and best practices and current research on Multi-Tiered Supports for the District's Positive Behavior Intervention and Supports (PBIS) and Student Assistance Program (SAP) initiatives.

Cost: \$15,000

Funding Source: Project Prevent Grant

### RECOMMENDATION

It is recommended that the Governing Board approve the Out-of-State Conference Attendance Request (CAR) for nine (9) employees from Student Support Services and Project Prevent Grant Schools to attend the Integrated Multi-Tiered Framework for Educational Success National PBIS Leadership Forum in Chicago, Illinois, on September 28-29, 2017, not to exceed \$15,000.

Prepared by: Ms. Jennifer Robles, Student Assistance Program (SAP) Chairperson  
Student Support Services

Reviewed by: Dr. Reyes Gauna, Assistant Superintendent, Educational Support Services

**ATTENDEES**

INTEGRATED MULTI-TIERED FRAMEWORK FOR  
EDUCATIONAL SUCCESS NATIONAL PBIS LEADERSHIP FORUM  
CHICAGO, ILLINOIS  
SEPTEMBER 28-29, 2017

- Jennifer Robles  
Student Assistance Program (SAP) Chairperson and Project Prevent Grant Coordinator
- Traci Miller  
Director, Student Support Services
- Sharon Barnes  
Director, Educational Equity, Student Support Services
- Chris Anderson  
Principal, Jane Frederick High School (Project Prevent School)
- Theresa Catalano  
Project Prevent Counselor, Jane Frederick High School (Project Prevent School)
- Joni Jiminez  
Assistant Principal, Montezuma Elementary (Project Prevent School)
- Thavone Vongphakham  
Project Prevent Counselor, Montezuma Elementary (Project Prevent School)
- Chris Goodwin  
Principal, Kennedy Elementary (Project Prevent School)
- Celeste Palacio  
Project Prevent Counselor, Kennedy Elementary (Project Prevent School)

SUBJECT: Approval of an Agreement to Furnish Consultant Services between Spanos Elementary School and Mr. Jonathan McPherson

### INTRODUCTION

Name: Mr. Jonathan McPherson  
2725 Christina Ave.  
Stockton, California

Mr. McPherson, an artist, has been a lead teacher of arts and crafts to elementary campers at Hume Lake. He has also taught chalk art to children in the Canary Islands. His educational background includes foundational and advanced drawing techniques and art history.

### ANALYSIS

The artist will work for one, six-week session in the fall. Each week, the artist will work 12 hours, visiting classrooms. The visits will consist of 5-7 minutes of the art appreciation, followed by a 5-10 minutes mini lesson, ending with 20-30 minutes of directed drawing with the students. There will be a showcase to display what the students learned.

Date of Service: August 21, 2017 – November 17, 2017

Recipient of Service: K-8 Students

Location of Service: Spanos Elementary School

#### Brief Description of Services to be Provided:

Mr. McPherson will educate students on basic art techniques as well as give students art history information based on art lessons given.

Amount of Contract: \$2,880

Term of Contract: August 21, 2017 – November 17, 2017

Funding Source: Donations (A.G. Spanos Corporation)

### RECOMMENDATION

It is recommended that the Governing Board approve the agreement to furnish consultant services between Spanos Elementary School and Mr. Jonathan McPherson, not to exceed \$2,880.

Prepared by: Ms. Danielle Valtierra, Principal  
Spanos Elementary School

Reviewed by: Dr. Reyes Gauna, Assistant Superintendent, Educational Support Services



**Business and Noninstructional Operations  
Consultants**

**CONSULTANT UTILIZATION FORM**

The following form is to be utilized by all non-instructional Consultants. The form is divided into two sections. Section #1 is to be utilized by the Consultant, and Section #2 by the District designees.

**Section #1**

To provide consultant services to the Stockton Unified School District, all potential non-instructional Consultants must first provide the District's \_\_\_\_\_ Office with the following information. The information may be provided below or attached hereto.

1. Name of Consultant and all individuals employed by Consultant.

Jonathan McPherson

2. Were you or any employee of or independent contractor affiliated with your organization ever an employee of the District? If so, when and in what capacity?

No.

3. Describe the purpose and goal of the services to be provided.

Educate students on basic art techniques as well as giving students art history information based on art lessons given.

4. Provide documentation and references of similar work.

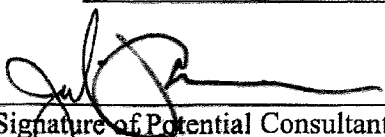
Lead teacher of arts and crafts to elementary school campers at Hume Lake.

Taught chalk art to children in Canary Islands.

Portfolio of personal art work available upon request.

5. Describe how the quality of services to be provided are to be measured.

Beginning assessment of art techniques followed with and an end of session assessment after 6 weeks. Students will also showcase their work to parents and community at family event.

  
Signature of Potential Consultant

04 JUL 17  
Date




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**Business and Noninstructional Operations  
Consultants**

**Section #2**

The following information must be provided to ensure that the potential Consultant's services comport with District needs.

1. Identify the source and amount of District funds to be utilized to pay for the services.  
Donations (A.G. Spanos Corporation) \$2880.

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2. Identify the term of the contract and what, if any, internal or less expensive options are available.

The term of the contract is 6 weeks. The visiting artist will work with 4 classes per day, 4 days per week, for 45 minute sessions. At this time there is no internal or less expensive option.

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3. Identify what, if any, enduring skills and knowledge are to be gained and how services will be measured.

Students will learn foundational drawing skills and brief art history. Students will showcase their work at the end of the 6 week session. Teachers will incorporate students' drawings into their writing lessons.

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4. Identify the impact of the Consultant on the District.

None.

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5. Identify the stakeholders, if any, who provided input with regard to the Consultant and identify who from the District reviewed and recommended the Consultant.

Our visiting artist program was presented and supported by our School Site Council and Parent Teacher Association. Jeff Keller reviewed and supported our proposal.

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Danielle Valtierra

Digitally signed by Danielle Valtierra  
Date: 2017.06.27 11:18:48 -07'00'

Signature of District Reviewer

Date



SUBJECT: Approval of an Agreement to Furnish Consultant Services between Spanos Elementary School and Impact Literacy Consulting

### INTRODUCTION

Name: Impact Literacy Consulting  
P.O. Box 717  
Brookings, OR 97415

Our plan to successfully have all students reading at grade level greatly depends on our ability to properly train and support teachers with researched-based literacy strategies for struggling readers. The best way to support our teachers is to provide them with ongoing professional development that is job-embedded. This would mean using experienced coaches, such as Impact Literacy Consulting, who are able to model these strategies, are able to observe them being used, are able to provide immediate and specific feedback to teachers, and are able to design trainings and practice sessions for all staff.

Once the staff at Spanos has the literacy expertise to effectively support all students in reading, they will be in a position to provide coaching and guidance to each other through the PLC process.

### ANALYSIS

More effective schools have more classrooms that provide a balance of whole class, small group, and one-on-one instruction (Pressley, 2006; Taylor, Pearson, Clark, and Walpole, 2000). Richard Allington in Response to Intervention – Research-Based Designs states that, “The proportion of the school day allotted to whole class instruction is a predictor of a school’s academic achievement. The more whole-class teaching offered, the lower the academic achievement in that school.”

Our teachers will be trained in planning and designing reading strategies and intervention for struggling students in reading. In order to further support our targeted classroom instruction, our paraprofessionals and support staff will also participate in this training,

Dates of Service: September 1, 2017 to June 1, 2018

Recipient of Service: Teachers and Support Staff in Grades K-3

Location of Service: Spanos Elementary School

### Brief Description of Services to be Provided:

Services will include explicit training in literacy instructional strategies within the common core framework for delivering targeted and differentiated instruction, and establishing other systems of learning in order to promote continued support and implementation of reading instruction.

Amount of Contract: \$4,000

Term of Contract: September 1, 2017 to June 1, 2018

Funding Source: SPSA - LCFF (Approved by 2017-2018 Preliminary Common Pages and Budgets)

RECOMMENDATION

It is recommended that the Governing Board approve the agreement to furnish consultant services between Spanos Elementary School and Impact Literacy Consulting, not to exceed \$4,000.

Prepared by: Ms. Danielle Valtierra, Principal  
Spanos Elementary School

Reviewed by: Dr. Reyes Gauna, Assistant Superintendent, Educational Support Services

**Business and Noninstructional Operations  
Consultants****CONSULTANT UTILIZATION FORM**

The following form is to be utilized by all non-instructional Consultants. The form is divided into two sections. Section #1 is to be utilized by the Consultant, and Section #2 by the District designees.

**Section #1**

To provide consultant services to the Stockton Unified School District, all potential non-instructional Consultants must first provide the District's \_\_\_\_\_ Office with the following information. The information may be provided below or attached hereto.

1. Name of Consultant and all individuals employed by Consultant.

Impact Literacy Consulting- Ann Leon, M.A., owner/consultant

2. Were you or any employee of or independent contractor affiliated with your organization ever an employee of the District? If so, when and in what capacity?  
No.

3. Describe the purpose and goal of the services to be provided.

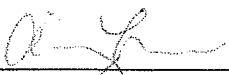
Professional development for K-3 teachers in understanding the Literacy Framework with application for instruction and intervention.

4. Provide documentation and references of similar work.

Consulting work in schools and districts across California and beyond. See resume for references.

5. Describe how the quality of services to be provided are to be measured.

Principal and teacher will provide feedback. Student reading data will be examined in follow-up sessions.

  
Signature of Potential Consultant

05/11/2017  
Date



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**Business and Noninstructional Operations  
Consultants**

Section #2

The following information must be provided to ensure that the potential Consultant's services comport with District needs.

1. Identify the source and amount of District funds to be utilized to pay for the services.  
Local Control Funding Formula- SCE: \$4,000  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. Identify the term of the contract and what, if any, internal or less expensive options are available.  
The contract will run September 1, 2017 to June 1, 2018.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. Identify what, if any, enduring skills and knowledge are to be gained and how services will be measured.  
The goal is to increase our teachers' expertise in teaching reading, which result in our students' academic achievement increasing in language arts. This will be measure by Measure of Academic Progress (MAP) and Developmental Reading Assessment (DRA).  
\_\_\_\_\_  
\_\_\_\_\_
4. Identify the impact of the Consultant on the District.  
The impact will be an increase in student achievement on district assessments, MAP, DRA and SBAC.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. Identify the stakeholders, if any, who provided input with regard to the Consultant and identify who from the District reviewed and recommended the Consultant.  
Spanos' K-3 teachers and School Site Council reviewed and recommended the services of Impact Literacy Consulting.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Danielle Valtierra

Digitally signed by Danielle Valtierra  
Date: 2017.05.10 10:30:32 -0700

Signature of District Reviewer

\_\_\_\_\_  
Date

**SUBJECT:** Approval of an Agreement to Furnish Consultant Services between Student Support Services and the YMCA of San Joaquin County

**Name:** YMCA of San Joaquin County  
2105 W. March Lane, Suite #1  
Stockton, CA 95207  
Phone: (209) 472-9622

### INTRODUCTION

YMCA of San Joaquin County was founded in 1885 and provides programs in Stockton, Linden, Tracy, Modesto, and Lodi. YMCA has five full-time professional level employees with another 75 to 100 part-time and/or seasonal employees. This contract is for the provision of noon-time sports activities for the students of Kennedy and Montezuma Elementary Schools under the Project Prevent Grant.

### ANALYSIS

**Date of Service:** August 2, 2017 to June 30, 2018

**Recipient of Service:** Students at Kennedy and Montezuma Elementary Schools

**Location of Service:** Kennedy and Montezuma Elementary Schools

#### **Brief Description of Services to be Provided:**

The Project Prevent Grant aims to break the cycle of violence by increasing school connectedness and resiliency, protective factors. YMCA will provide a staff member to operate noon-time sports to provide positive involvement activities that foster school connectedness. The activities will be designed to enhance students' health, development, and encourage social responsibility and positive personal behavior. The coaches will teach sportsmanship, honesty, caring, respect, and responsibility. Students will be taught to practice skills and peacefully resolve conflicts within real life situations in order to reduce violence at school as well as in the community.

**Amount of Contract:** \$24,000 (\$12,000 per school site)

**Term of Contract:** August 2, 2017 to June 30, 2018

**Funding Source:** Project Prevent Grant

### RECOMMENDATION

It is recommended that the Governing Board approve the agreement to furnish consultant services between Student Support Services and the YMCA of San Joaquin County, not to exceed \$24,000.

**Prepared by:** Ms. Jennifer Robles, Student Assistance Program (SAP) Chairperson  
Student Support Services

**Reviewed by:** Dr. Reyes Gauna, Assistant Superintendent, Educational Support Services

**SUBJECT:** Approval of an Agreement to Furnish Consultant Services between Student Support Services and Point Break Adolescent Resources

### INTRODUCTION

**Name:** Point Break Adolescent Resources  
P. O. Box 8841  
Stockton, CA 95208  
(209) 466-0359

### ANALYSIS

Under the Project Prevent Grant, a Point Break Substance Abuse Prevention Educator will provide brief intervention counseling for students at Franklin and Jane Frederick High Schools.

**Date of Service:** August 2, 2017 to June 30, 2018

**Recipient of Service:** Franklin and Jane Frederick High Schools' students and staff

**Location of Service:** Franklin and Jane Frederick High Schools

#### Brief Description of Services to be Provided:

The Point Break Substance Abuse Prevention Educator will work two days a week to provide brief intervention motivational interviewing and ongoing support to students at risk for substance abuse or involved in high risk behaviors such as fights, aggression, and other behavior problems.

Point Break will also assist in the tracking and evaluation component of the Project Prevent Grant.

**Amount of Contract:** \$20,000

**Term of Contract:** August 2, 2017 to June 30, 2018

**Funding Source:** Project Prevent Grant

### RECOMMENDATION

It is recommended that the Governing Board approve the agreement to furnish consultant services between Student Support Services and Point Break Adolescent Resources, not to exceed \$20,000.

**Prepared by:** Ms. Jennifer Robles, Student Assistance Program (SAP) Chairperson  
Student Support Services

**Reviewed by:** Dr. Reyes Gauna, Assistant Superintendent, Educational Support Services

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**Students**

**Programs**

**PROGRAM UTILIZATION FORM**

The following form is to be utilized by all Programs. The form is divided into two sections. Section #1 is to be utilized by the Program, and Section #2 by the District designees.

**Section #1**

To provide additional planned, and coordinated services to the Stockton Unified School District, all potential Programs must first provide the District with the following information. The information may be provided below or attached hereto.

1. Name of Consultant and all individuals employed by Consultant?

Point Break Adolescent Resources  
Joel Wurgler, Director  
Vicky Trigerous, Prevention Educator

2. Were you or any employee of or independent contractor affiliated with your organization ever an employee of the District? If so, when and in what capacity?

No

3. Describe the purpose and goal of the services to be provided.

The goal of the Project Prevent grant is to break the cycle of violence and provide social and emotional supports to students affected by violence. Point Break will provide a Substance Abuse Prevention Educator to work 2 days a week with students who are at risk for substance abuse or involved in high risk behaviors such as fights, aggression, and other problem behaviors at Franklin and Jane Frederick High Schools. The Substance Abuse Prevention Educator will provide "Brief Intervention" motivational interviewing and on going support to students identified by the Student Assistance Program referral process. Point Break will also assist in the tracking and evaluation components of the Project Prevent grant.

## Students

## Programs

### Section #1 (continued)

4. Provide documentation and references of similar work.

Point Break has provided anger management, gang prevention, and substance abuse intervention support groups for SUSD schools for more than ten years. Our partnership with Point Break began more than 17 years ago with "Point Break Violence Prevention Workshops" at our high schools. These workshops provide a day long experience for students to meet peers across all groups and promote understanding of common experiences shared by all youth, bring light to the pain caused by violence and bullying, and promote tolerance. These experiential workshops are very emotional for students and very powerful at helping build a caring and supportive school environment. Point Break is a leader in the community offering substance abuse prevention education and intervention services for adolescents and families. They have several certified Substance Abuse Counselors on staff and are well established in the substance abuse treatment community.

5. Describe how the quality of services to be provided are to be measured.

As a requirement of the grant, ongoing pre and post program surveys are administered to students receiving intervention. Franklin and Jane Frederick High Schools will also administer the California Healthy Kids Survey (CHKS) every year to all students and report progress in student attitudes toward gangs, violence, and other health and protective factors..

  
Signature of Potential Consultant

6-7-17  
Date



**Section #2**

The following information must be provided to ensure that the potential Consultant's services comport with District needs.

1. Identify the source and amount of District funds to be utilized to pay for the services.

No general funds will be utilized for the consultant. The funds for the Program will come directly from the Project Prevent grant for Franklin Students in Grades 6-12 and Jane Frederick students in grades 9-12.

2. Identify the term of the contract and what, if any, internal or less expensive options are available.

The term of the contract will be from August 2, 2017 to June 30, 2018. The District's Project Prevent Coordinator has reviewed other options but has found contracting with Point Break to be the least expensive option. The grant stipulates finding partnerships with Community Based Organizations to provide these prevention and intervention services.

3. Identify what, if any, enduring skills and knowledge are to be gained and how services will be measured.

The Substance Use Prevention Educator will consult with staff, provide parent meetings, and other education to staff to develop enduring knowledge and skills for working with high risk youth. The youth will receive Brief Intervention motivational interviewing and on going support from the Educator who has similar life experiences and can present a point of view the students may be more open to considering than that of their teachers, counselors or school administrators due to life experience. As a requirement of the grant, ongoing pre and post program surveys are administered. The surveys are designed to measure changes in student behavior and attitudes toward gangs, violence, and protective factors. Franklin and Jane Frederick High Schools will also administer the California Healthy Kids Survey (CHKS) every year during the grant. The CHKS requests each student to report his/her attitude and use of alcohol, tobacco, and other drugs, and gangs, violence, and school climate allowing the Prevention Coordinator to better allocate prevention resources.

## Students

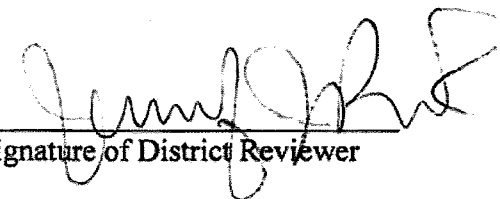
## Programs

4. Identify the impact of the Program on the District.

The consultant provides the district with prevention and alternatives to suspension when students are at risk for substance abuse, fighting, and other problem behaviors. The district should experience reductions in suspension for fighting and student aggression and increases in student performance as the student gains a better understanding of how to maintain his/her health.

5. Identify the stakeholders, if any, who provided input with regard to the Program and identify who from the District reviewed and recommended the Program.

The stakeholders are the respective referring parties within the schools that utilize the services. These would include the high school Student Assistance Program (SAP) coordinators, counselors, assistant principals, school resource officers and health education teachers. Focus groups of parents and students also provided input that was considered in the design of program activities. The Student Assistance Program Chairpersons and the Assistant Superintendent of Student Support reviewed and recommended the Program.

  
\_\_\_\_\_  
Signature of District Reviewer

6/7/17  
\_\_\_\_\_  
Date

**SUBJECT:** Approval of an Agreement to Furnish Consultant Services between Student Support Services and Community Medical Centers (CMC)

### INTRODUCTION

**Name:** Community Medical Centers (CMC)  
7210 Murray Drive  
Stockton, CA 95210  
Phone: (209) 373-2889; Fax: (209) 373-2804

For the past two years a CMC Tobacco Health Educator has provided the Tobacco Use Cessation program to more than 176 students. This program is very effective with 47% of students quitting tobacco use completely and 53% reporting reduced tobacco use.

For this school year, under the Tobacco Use Prevention Education (TUPE) 6-12 Grant, a CMC Tobacco Health Educator will again provide prevention and intervention services at the four comprehensive high schools (Chavez, Edison, Franklin and Stagg) and Jane Frederick High School.

### ANALYSIS

**Date of Service:** August 2, 2017 to June 30, 2018

**Recipient of Service:** Students at the four comprehensive high schools and Jane Frederick High School

**Location of Service:** Student Support Services' Office  
Four comprehensive high schools and Jane Frederick High School

### **Brief Description of Services to be Provided:**

The CMC Tobacco Health Educator will work with the district and site coordinators at the four comprehensive high schools and Jane Frederick High School. The Tobacco Health Educator will conduct Cessation and Readiness for Cessation groups for students, and assist in completing the evaluation component of the 6-12 Tobacco Use Prevention Education Grant.

**Amount of Contract:** \$65,000

**Term of Contract:** August 2, 2017 to June 30, 2018

**Funding Source:** 6-12 Tobacco Use Prevention Education (TUPE) Grant

### RECOMMENDATION

It is recommended that the Governing Board approve the agreement to furnish consultant services between Student Support Services and Community Medical Centers (CMC), not to exceed \$65,000.

**Prepared by:** Ms. Jennifer Robles, Student Assistance Program (SAP) Chairperson  
Student Support Services

**Reviewed by:** Dr. Reyes Gauna, Assistant Superintendent, Educational Support Services

## Students

## Programs

### PROGRAM UTILIZATION FORM

The following form is to be utilized by all Programs. The form is divided into two sections. Section #1 is to be utilized by the Program, and Section #2 by the District designees.

#### Section #1

To provide additional planned, and coordinated services to the Stockton Unified School District, all potential Programs must first provide the District with the following information. The information may be provided below or attached hereto.

1. Name of Consultant and all individuals employed by Consultant?

Community Medical Centers, Health Educator: Denise Whitsett

2. Were you or any employee of or independent contractor affiliated with your organization ever an employee of the District? If so, when and in what capacity?

No

3. Describe the purpose and goal of the services to be provided.

The goal of the TUPE grant is to provide tobacco prevention and intervention and is one piece of the District's comprehensive alcohol, tobacco, and other drugs (ATOD) prevention program. We are beginning year three of this three year grant, although Stockton Unified has received the TUPE grant for more than 19 years. The Health Educator will continue to work closely with the district and site tobacco prevention coordinators to provide ongoing tobacco prevention, intervention and support services to students at the 4 comprehensive high schools (Chavez, Edison, Franklin, and Stagg) and Jane Frederick Continuation High School. Such services include conducting health education presentations with students regarding tobacco prevention and providing school resources for cessation. The Health Educator will also provide Brief Intervention and Tobacco Intervention groups as an alternative to suspension for students who are caught with tobacco or smoking paraphernalia. The Health Educator will conduct cessation and readiness for cessation groups during and after school, coordinate outside speakers, and assist in the tracking and evaluation components of the Tobacco Prevention grant.

**Students**

**Programs**

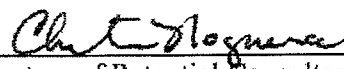
Section #1 (continued)

4. Provide documentation and references of similar work.

Denise Whitsett has provided prevention and intervention services for the past year to Stockton Unified high school students. Community Medical Centers has provided health education services for this grant for more than 20 years. The Health Educator has conducted education groups for students caught using tobacco products on campus and cessation support for those students that, on their own, volunteer to quit using tobacco products. Ms. Whitsett also provides tobacco cessation groups for pregnant or parenting teens. In the past 2 years, The CMC Health Educator has provided the Tobacco Use Cessation program to more than 176 students. This program is very effective with 47% of students quitting tobacco use completely and 53% reporting reduced tobacco use. Another 1,766 students participated in prevention presentations that would not have been available without the TUPE 6-12 grant consultant.

5. Describe how the quality of services to be provided are to be measured.

As a requirement of the grant, ongoing pre and post program surveys are administered to students in awareness and cessation groups. The Surveys are designed to measure changes in student behavior and attitude toward tobacco use. The district will also administer the California Healthy Kids Survey (CHKS) every two years to all students and report progress in student attitudes toward alcohol, tobacco, and other drugs.

  
\_\_\_\_\_  
Signature of Potential Consultant  
CME, CEO

6/8/2017  
\_\_\_\_\_  
Date

Section #2

The following information must be provided to ensure that the potential Consultant's services comport with District needs.

1. Identify the source and amount of District funds to be utilized to pay for the services.

No general funds will be utilized for the consultant. The funds for the Program will come directly from the Tobacco Use Prevention Education (TUPE) Grant for Grades 6-12.

2. Identify the term of the contract and what, if any, internal or less expensive options are available.

The term of the contract will be from August 2, 2017 to June 30, 2018. The District's Tobacco Use Prevention Education Coordinator has reviewed other options but has found contracting with Community Medical to be the least expensive option. The grant stipulates finding a partnership with Community Based Organizations to provide these prevention and intervention services.

3. Identify what, if any, enduring skills and knowledge are to be gained and how services will be measured.

Students will learn the deleterious effects associated with tobacco use as well as those of abusing other substances. They will have the opportunity to practice resistance skills empowering them to reduce and stop using tobacco products and enjoy the benefits of living a balanced and healthy lifestyle. As a requirement of the grant, ongoing pre and post program surveys are administered. The surveys are designed to measure changes in student behavior and attitudes toward tobacco use. The district will also administer the California Healthy Kids Survey (CHKS) every two years. The CHKS requests each student to report his/her attitude and use of alcohol, tobacco, and other drugs allowing the Prevention Coordinator to better allocate prevention resources.



## BOARD POLICY

E 3601

Adopted:

Page 4 of 4

### Students


### Programs

4. Identify the impact of the Program on the District.

The consultant provides the district with alternatives to suspension when students are caught with tobacco or smoking paraphernalia. The district should experience reductions in suspension for tobacco and other drug use and increases in student performance as the student gains a better understanding of how to maintain his/her health. Students will learn the deleterious effects associated with tobacco use and from abusing other substances. They will have the opportunity to practice resistance skills, empowering them to reduce and stop using tobacco products and enjoy the benefits of living a balanced and healthy lifestyle.

5. Identify the stakeholders, if any, who provided input with regard to the Program and identify who from the District reviewed and recommended the Program.

The stakeholders are the respective referring parties within the schools that utilize the services. These would include the high school Student Assistance Program (SAP) coordinators, counselors, assistant principals, school resource officers and health education teachers. The Student Assistance Program Chairpersons and the Assistant Superintendent of Student Support reviewed and recommended the Program.

  
Signature of District Reviewer

\_\_\_\_\_  
Date

**SUBJECT:** Approval to Purchase Telephone Notification Services from School Messenger for all SUSD K-12 School Sites for the 2017-2018 School Year

### INTRODUCTION

Name: School Messenger  
100 Enterprise Way, Suite #A-300  
Scotts Valley, CA 95066  
(916) 812-6209

The district desires to provide parents with an online notification system whose capabilities represent the best and most advanced features available. As a result, staff has identified School Messenger for recommendation of contract award.

### ANALYSIS

School Messenger will provide automated phone calling services to all K-12 school sites. The district has used School Messenger in the past and is familiar with its features and capabilities.

Recipient of Services: K-12 School Sites

Location of Services: K-12 School Sites

#### Brief Description of Services:

All K-12 school sites will utilize this service for parent notification of any situation that might arise within the school day. Messages may include, but are not limited to: upcoming events, parent meetings, emergency situations, attendance, and messages from district administration to all parents district-wide. Messages will be sent to parents of enrolled students, administrators, staff and board members.

Amount of Contract: \$49,486.25

Term of Contract: 2017-2018 School Year

Funding Sources: State and Federal Funds – Title I Parent Component

### RECOMMENDATION

It is recommended that the Governing Board approve the purchase of telephone notification services from School Messenger for all SUSD K-12 school sites for the 2017-2018 school year, not to exceed \$49,486.25

**Prepared by:** Ms. Janet Yarbrough, Director, Educational Services

**Reviewed by:** Dr. Reyes Gauna, Assistant Superintendent, Educational Support Services





## SchoolMessenger®

West Interactive Services Corporation  
100 Enterprise Way, Suite A-300  
Scotts Valley, CA 95066  
Phone: 888-527-5225 | Fax: 800-360-7732

### PLEASE REMIT PAYMENT TO:

West Interactive Services Corporation  
PO Box 561484  
Denver CO 80256-1484

### Bill To

Accounts Payable  
Stockton Unif School Dist  
701 N Madison St  
Stockton CA 95202-1634  
United States

### Ship To

Stockton Unif School Dist  
701 N Madison St  
Stockton CA 95202-1634  
United States

## Invoice

Date 3/3/2017  
Invoice # 75977  
Terms Net 30  
Due Date 4/2/2017  
PO # Quote #95406  
Representative AM Heather Wilson

Item	Quantity	Description	Unit Price	Amount
R-SM Complete	39,589	Renewal SchoolMessenger Complete – 12-month Unlimited Notification Service	1.25	49,486.25

Thank you for your order! Please make checks payable to: West Interactive Services Corporation.

Total 49,486.25  
Amount Due \$49,486.25

The terms and conditions available at <https://www.west.com/legal-privacy/webterms/> apply to this invoice, unless the parties have entered into a separate mutually executed agreement



SUBJECT: Purchase of Land located at 2561 N. Wilson Way, Stockton, CA 95205 for District Facility, Transportation, and Warehouse Expansion

### INTRODUCTION

The District has several facilities, programs, and departments that have been identified as needing permanent housing or additional square footage due to the expansion of current programs, departments and support services. Therefore, the District has recently investigated a possible purchase of property adjacent to the current Bus and Corporation Yard located at 2561 N Wilson Way, Stockton, CA 95205.

### ANALYSIS

The District's vehicle/bus maintenance facility is obsolete and severely inadequate to service the on-going needs of our "yellow" and "white" fleets. Over the past 30 years, the District has entertained the need to construct an actual vehicle/bus maintenance facility that adequately services the needs of our District. Within the last five years, we reviewed the feasibility of constructing such a facility within the existing corporation yard, however the existing acreage is insufficient to accommodate the required square footage for the facility.

In March 2017, the N. Wilson Way property was listed for sale and the District has successfully negotiated a purchase price of \$693,888 for the 3.06 acre lot, with utilities included. The seller's offer was \$740,000. As this property backs up to the District's current corporation property, it is a premier opportunity to expand the Corporation Yard to meet the aforementioned needs.

Our current vehicle/bus maintenance facility can only accommodate two busses/vehicles at once for maintenance. The purchase of this parcel would allow the District to expand the corporation yard in order to build a facility that will allow the efficient maintenance of our fleet of over 66 school busses and 260+ vehicles in the "white fleet", which includes cars, trucks, and vans. This facility could also house the Transportation and Purchasing departments which are currently housed in recycled portables, at the end of their life cycle, with inadequate space and restroom facilities.

District staff presented and discussed this purchase option to the Resources and Infrastructure Committee on June 22, 2017. The District has assessed the property during the due diligence period and determined that there are no issue preventing the district from acquiring this property.


Funding Source: Fund 40 Special Reserve Fund

## RECOMMENDATION

It is recommended that the Governing Board approve the contract to purchase the parcel located at 2561 N. Wilson Way, Stockton, CA for the future expansion for the Corporation Yard. No schedule or architectural plan for this expansion has not been determined at this time; however, the purchase of this property and its adjacent nature will provide a premier opportunity for the District to include it in future facility project plans.

Prepared by: Mr. Steve L. Breakfield, Director, Facilities & Planning

Reviewed by: Ms. Lisa Grant-Dawson, Chief Business Official



# Resources and Infrastructure Committee Meeting

372

June 22, 2017



# Lakeview Assembly Building Update

2

- The District has been engaged in conversation/analysis regarding the viability and purchase of this property
  - Elementary School Site
  - Tyler – Portable Replacement Project impacted by new Flood Control Requirements (1/2016)
  - The District is transporting ~ 200 students Tyler from the Quail Lakes residence area
  - The District is experiencing capacity constraints in Zones G and I
  - Possible location for Primary Years Academy
  - Possible home for SPED Pre-School at St. Bernadette's

# Lakeview Assembly Building Update

3

- **Due Diligence Status**
  - Initial Study/Negative Declaration
    - 30 day comment period ends June 30
  - Environmental Hazards Assessment
    - nearing completion
  - Phase I Geologic Hazards Assessment - nearing completion
    - Once complete will need to be reviewed and approved by Department of Toxic Substances Control
  - Geotechnical and Liquefaction Assessment
    - in progress
  - California Department of Education
    - site visit complete and approval process in progress
  - Building Inspection Report
    - complete
  - Wood Destroying Organism (Termite) Report
    - complete
  - Architectural/Engineer assessment of Division of the State's code upgrade requirements
    - In progress

# Options for Young Adults Program

4

- **Young Adult Program – Currently at Stagg**
- **The District has reviewed several properties**
  - **Temple Israel**
  - **Lighthouse Assembly**
    - **Considered Lease or purchase of a section of their property**
    - **Purchase price was not appealing**
  - **1541 E. March Lane**
    - **Considering purchase or lease to own type arrangement**



# Stagg High Portables

5

- P-Wing will be scheduled for demolition as soon as Young Adults Program has been relocated
- The Measure E portable replacement project should be funded out of the next increment of Bond sales, once we have bonding capacity to do so
- At that time, we'll have to decide the best use of the classrooms to be replace (i.e. general education, PLA, PSA, other program)

# District Administration Building

6

- **At the March 30, 2017 meeting, staff came away with the following options:**
  - 135 W. Fremont Street
    - Demolish and Build – Original Recommendation
    - Modernize the existing building to relocate specific departments
  - 349 E. Vine Street – Stockton Early College Academy Site
    - Explore options to construct building and parking
  - Arch-Airport Road vicinity
    - Staff was asked to search for existing buildings or vacant land
    - 349 E. Vine Street – Stockton Early College Academy Site

# District Administration Building

7

- **Next Step**
- Staff has scheduled a meeting with the City of Stockton's Economic Review Committee (ERC) on June 28, 2017
- City Departments to be represented at the meeting include Economic Development, Community Development, Municipal Utilities, Public Works, Traffic Engineering, Police, & Fire
- The purpose of this all-inclusive meeting is to obtain feedback from multiple City Departments regarding the capacity of and/or impacts to support systems, etc., within each of these geographical areas

# Water Fountains at Schools

8

- Replace or Other Options ?

# Other Business

9

- The District's vehicle/bus maintenance facility is obsolete and severely inadequate to service our yellow and white fleets
- The District has developed a couple different of plans for replacement dating back as far as 30 years ago, and as recent as 3 years ago
- Staff recently inquired about the recently vacated property contiguous to the Corporation Yard located 2461 N. Wilson Way, consisting of a 3.03 acre asphalt lot with utilities
- Developing a single structure in this location could house purchasing & transportation on one side with employee and public access from Wilson Way, and the vehicle maintenance garage on the back side accessible from our current Bus Parking and Corporation Yard.

# Questions?

10



## COUNTER OFFER - BUYER

### AIR Commercial Real Estate Association

Dated: May 25, 2017

By and Between (Seller): Restomod Properties, LLC

(Buyer): Stockton Unified School District

Address of Property 2461 N. Wilson Way

Stockton CA 95205

(APN: 3.03 Acres of APN 117-07-052 )

Buyer executed and presented to Seller the "Standard Offer and Agreement for Purchase of Real Estate" dated May 17, 2017, regarding the above-referenced Property and Parties (hereinafter the "Offer"). Thereafter, Seller executed and delivered to Buyer the "Counter Offer - Seller" dated May 23, 2017. ~~Full and complete copies of both the Offer and Seller's Counter Offer are attached hereto and incorporated herein by reference.~~

1. Buyer hereby accepts Seller's Counter Offer provided the Seller agrees to the following changes in said Counter Offer:

(Please check the appropriate box or boxes)

- ☐ Initialed pen and ink changes have been made to the Offer.
- ☐ Seller shall be deemed to have initialed paragraph 21 regarding liquidated damages and paragraph 22 regarding arbitration of disputes
- ☐ The changes are detailed in the addendum attached hereto consisting of paragraphs \_\_\_\_\_ through \_\_\_\_\_.
- ☒ The changes are set forth below.

A. Item 3.1 Purchase Price shall be \$675,000

B. \_\_\_\_\_

C. \_\_\_\_\_

D. \_\_\_\_\_

NOTE: PARAGRAPHS IN THE OFFER WHICH REQUIRE INITIALS BY ALL PARTIES, BUT ARE NOT INITIALED BY ALL PARTIES, ARE EXCLUDED FROM THE FINAL AGREEMENT UNLESS SPECIFICALLY REFERENCED FOR INCLUSION IN THIS COUNTER OFFER.

2. **REMAINING TERMS:** All of the terms and conditions contained in the Seller's Counter Offer which have not been specifically modified or deleted by this Counter Offer are hereby approved by Buyer.

\_\_\_\_\_  
INITIALS

PAGE 1 OF 3

LGD  
INITIALS

3. **EXPIRATION:** This Counter Offer shall expire and be revoked, without further notice, at 5:00 pm on May 31, 2017, unless it is accepted and signed by Seller and a fully executed copy is actually received by Buyer's agent Kevin Dougherty, CCIM prior to said time. Upon expiration, Buyer's Deposit, if any, shall be promptly returned. This Counter Offer may be executed in counterparts.

4. **TIME:** Time is of the essence.

5. **BINDING EFFECT:** This Counter Offer, when fully executed by both Buyer and Seller, and delivered and received as specified above, shall be a binding contract. NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AIR COMMERCIAL REAL ESTATE ASSOCIATION OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS AGREEMENT OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE ADVISED TO SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS AGREEMENT.

NOTE:

1. THIS FORM IS NOT FOR USE IN CONNECTION WITH THE SALE OF RESIDENTIAL PROPERTY.
2. IF EITHER PARTY IS A CORPORATION, IT IS RECOMMENDED THAT THIS AGREEMENT BE SIGNED BY TWO OF ITS CORPORATE OFFICERS.

6. The undersigned Buyer agrees to purchase the Property on the terms and conditions stated herein.

**BROKER:**

NAI Benchmark First Commercial

Attn: Kevin Dougherty, CCIM

Title: Managing Broker, Stockton

Address: 2920 Pacific Avenue  
Stockton CA 95204

Telephone: (209) 461-6400

Facsimile: ( )

Email: kdougherty@naibenchmark.com

Federal ID No.: \_\_\_\_\_

Broker/Agent BRE License #: \_\_\_\_\_

**BUYER:**

Stockton Unified School District

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

Date: May 25, 2017

Name Printed: Lisa Grant-Dawson

Title: Chief Business Officer

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

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

Name Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Address: 701 N. Madison Avenue  
Stockton CA 95202

Telephone: ( )

Facsimile: ( )

Federal ID No.: \_\_\_\_\_

7. **ACCEPTANCE:** Seller accepts the foregoing Counter Offer and agrees to sell the Property on the terms and conditions specified, and authorizes Brokers to deliver a signed copy to Buyer.

**BROKER**

Attn: \_\_\_\_\_

Title: \_\_\_\_\_

**SELLER**

Restomod Properties, LLC

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

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

Name Printed: Glen Bramlett

PAGE 2 OF 3

INITIALS

INITIALS



Address: \_\_\_\_\_ Title: Managing Member  
\_\_\_\_\_  
Telephone: (\_\_\_\_) \_\_\_\_\_  
Facsimile: (\_\_\_\_) \_\_\_\_\_ By: \_\_\_\_\_  
Email: \_\_\_\_\_ Date: \_\_\_\_\_  
Federal ID No.: \_\_\_\_\_ Name Printed: \_\_\_\_\_  
Broker/Agent BRE License #: \_\_\_\_\_ Title: \_\_\_\_\_

Address: 2353 N. Wilson Way  
Stockton CA 95205  
Telephone: (\_\_\_\_) \_\_\_\_\_  
Facsimile: (\_\_\_\_) \_\_\_\_\_  
Federal ID No.: \_\_\_\_\_

8. **ACKNOWLEDGMENT OF RECEIPT:** Buyer's agent hereby acknowledges that a copy of the Counter Offer executed by Seller was received  
on \_\_\_\_\_ at \_\_\_\_\_ am/pm.

By: Kevin Dougherty, CCIM

**NOTICE:** These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are  
utilizing the most current form: AIR Commercial Real Estate Association, 500 N Brand Blvd, Suite 900, Glendale, CA 91203.

Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

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## PRELIMINARY REPORT

In response to the application for a policy of title insurance referenced herein, **Chicago Title Company** hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of title insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations or Conditions of said policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Attachment One. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Attachment One. Copies of the policy forms should be read. They are available from the office which issued this report.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

The policy(ies) of title insurance to be issued hereunder will be policy(ies) of Chicago Title Insurance Company, a Florida corporation.

**Please read the exceptions shown or referred to herein and the exceptions and exclusions set forth in Attachment One of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.**

**It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.**

Chicago Title Insurance Company

By:

President

Attest:

Secretary

Countersigned By:

Authorized Officer or Agent



Visit Us on our Website: [www.ctic.com](http://www.ctic.com)



**ISSUING OFFICE:** 2540 W. Shaw Lane, Suite 112, Fresno, CA 93711

**FOR SETTLEMENT INQUIRIES, CONTACT:**

Chicago Title Company  
2021 W March Lane, Suite 1 • Stockton, CA 95207  
(209)952-5500 • FAX (209)478-4063

***Another Prompt Delivery From Chicago Title Company Title Department  
Where Local Experience And Expertise Make A Difference***

**PRELIMINARY REPORT**

**Amendment A**

Title Officer: Ritch Boyatt  
Email: [ritch.boyatt@fnf.com](mailto:ritch.boyatt@fnf.com)  
Title No.: FSST-5351701346

Escrow Officer: Lisa Westfall  
Email: [lwestfall@ctt.com](mailto:lwestfall@ctt.com)  
Escrow No.: FSST-5351701346 -LW

TO: NAI Benchmark First Commercial  
2920 Pacific Ave.  
Stockton, CA 95204  
Attn: Kevin Dougherty  
Your Ref No.:

**PROPERTY ADDRESS(ES):** 2461 N. Wilson Way, Stockton, CA

**EFFECTIVE DATE:** May 30, 2017 at 07:30 AM

The form of policy or policies of title insurance contemplated by this report is:

CLTA Standard Coverage Policy 1990 (04-08-14)

1. THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS REPORT IS:

A Fee

2. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

Restomod Properties, LLC, a California limited liability company

3. THE LAND REFERRED TO IN THIS REPORT IS DESCRIBED AS FOLLOWS:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

**EXHIBIT "A"**  
Legal Description

**For APN/Parcel ID(s): 117-070-52**

---

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF STOCKTON, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

**PARCEL ONE:**

Lots 533, 534, 535, 536, 537, 538, 553, 554, 555, 556, 557 and 558 of "Tract No. 82, of West Jackson Subdivision No. 5", in the County of San Joaquin, State of California, as per map recorded February 21, 1945 in Book 11 of Maps and Pats, at Page 86.

**PARCEL TWO:**

Lots 559, 560, 561, 562, 563, 564, 568 and 569 of "Tract No. 82, of West Jackson Subdivision No. 5", in the County of San Joaquin, State of California, as per map recorded February 21, 1945 in Book 11 of Maps and Pats, at Page 86.

EXCEPTING THEREFROM all that portion of said land granted to Stockton Unified School District of San Joaquin County, by Grant Deed recorded June 23, 1981, as Instrument No. 40346, of Official Records.

**PARCEL THREE:**

All that portion of abandoned Sierra Nevada Street, 60 feet wide, as abandoned by Resolution No. 35.528 and recorded August 31, 1978 in Book 4444 of Official Records, at Page 263, San Joaquin County Records, lying Southerly of the Easterly production of the Southerly line of 60 foot wide Robindale Avenue to the Northerly line of that portion of that certain vacated and abandoned pedestrian path lying between Lots 532 and 533 and between Lots 552 and 553 and a portion of vacated and abandoned Sierra Nevada Street, all as shown on map of "Tract No. 82, of West Jackson Subdivision No. 5", in the County of San Joaquin, State of California, as per map recorded February 21, 1945 in Book 11 of Maps and Pats, at Page 86, said land now abandoned and excluded from said Tract No. 82, by Judgment and Decree recorded April 29, 1954 in Volume 1629 of Official Records, at Page 58, of San Joaquin County Records.

**PARCEL FOUR:**

Lots 539 and 540 of "Tract No. 82, of West Jackson Subdivision No. 5", in the County of San Joaquin, State of California, as per map recorded February 21, 1945 in Book 11 of Maps and Pats, at Page 86.

**PARCEL FIVE:**

A portion of that certain vacated and abandoned pedestrian path lying between Lots 532 and 533 and between Lots 552 and 553 and a portion of vacated and abandoned Sierra Nevada Street, all as shown on map of "Tract No. 82, of West Jackson Subdivision No. 5", in the County of San Joaquin, State of California, as per map recorded February 21, 1945 in Book 11 of Maps and Pats, at Page 86, said land now abandoned and excluded from said Tract No. 82, by Judgment and Decree recorded April 29, 1954 in Volume 1629 of Official Records, at Page 58, of San Joaquin County Records. Said property more particularly described as follows:

Beginning at the Southeast corner of said Lot 533 of said Tract No. 82 and being the Southeast corner of the land described as Parcel One in Deed to Robert M. Reeder, et ux recorded February 5, 1979 in Volume 4505 of Official Records, at Page 493; thence South 23°45' West along the Westerly line of Wilson Way a distance of 5.00 feet to the centerline of said pedestrian path; thence North 66°15' West along said centerline and its Westerly projection 360.00 feet to the Westerly line of said abandoned Sierra Nevada Street; thence North 23°45' East, along said Westerly line a distance of 5.00 feet to the Westerly projection of the Northerly line of said 10.00 foot pedestrian

**EXHIBIT "A"**  
Legal Description  
(continued)

path; thence South 66°15' East along said Northerly line and its Westerly projection, being also the Southerly lie of said Reeder property, 360.00 feet to the point of beginning.

**AT THE DATE HEREOF, EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN SAID POLICY FORM WOULD BE AS FOLLOWS:**

1. Property taxes, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2017-2018.
2. The lien of supplemental or escaped assessments of property taxes, if any, made pursuant to the provisions of Chapter 3.5 (commencing with Section 75) or Part 2, Chapter 3, Articles 3 and 4, respectively, of the Revenue and Taxation Code of the State of California as a result of the transfer of title to the vestee named in Schedule A or as a result of changes in ownership or new construction occurring prior to Date of Policy.
3. Water rights, claims or title to water, whether or not disclosed by the public records.
4. Easement(s) for the purpose(s) shown below and rights incidental thereto as delineated or as offered for dedication, on the map of said tract/plat;

Purpose: Easement for public utilities  
Affects: As shown and delineated on said map  
Recording No.: Volume 11 of Maps and Plats, at Page 86

5. Covenants, conditions and restrictions but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording Date: September 1, 1945  
Recording No.: Volume 915, at Page 349

An Amendment to the Restrictions recorded January 22, 1946 in Volume 961, at Page 114, of Official Records.

Said covenants, conditions and restrictions provide that a violation thereof shall not defeat the lien of any mortgage or deed of trust made in good faith and for value.

6. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: The Pacific Telephone & Telegraph Company, a corporation  
Purpose: Communication facilities  
Recording Date: October 13, 1967  
Recording No.: Instrument No. 41269, in Book 3159, at Page 224

Limitations on the use, by the owners of said Land, of the easement area as set forth in the easement document shown hereinabove.

Reference is hereby made to said document for full particulars.

**EXCEPTIONS**  
(continued)

7. Easement(s) for the purpose(s) shown below and rights incidental thereto as reserved in a document;

Purpose: 25 foot wide public utilities easement  
Recording Date: August 31, 1978  
Recording No.: Instrument No. 62298, in Book 4444, at Page 263

Reference is hereby made to said document for full particulars.

8. A deed of trust to secure an indebtedness in the amount shown below,

Amount: \$1,050,000.00  
Dated: June 1, 2005  
Trustor/Grantor Restomod Properties, LLC, a California limited liability company  
Trustee: Alliance Title Company, a California corporation  
Beneficiary: Robert M. Reeder and Marcella A. Reeder, as trustees of The Reeder Family Living Trust dated February 7, 1992  
Loan No.: None shown  
Recording Date: June 2, 2005  
Recording No.: 2005-132565

9. Matters which may be disclosed by an inspection and/or by a correct ALTA/NSPS Land Title Survey of said Land that is satisfactory to the Company, and/or by inquiry of the parties in possession thereof.

10. Any rights of the parties in possession of a portion of, or all of, said Land, which rights are not disclosed by the public records.

The Company will require, for review, a full and complete copy of any unrecorded agreement, contract, license and/or lease, together with all supplements, assignments and amendments thereto, before issuing any policy of title insurance without excepting this item from coverage.

The Company reserves the right to except additional items and/or make additional requirements after reviewing said documents.

**EXCEPTIONS**  
(continued)

11. The Company will require the following documents for review prior to the issuance of any title insurance predicated upon a conveyance or encumbrance from the entity named below.

Limited Liability Company: Restomod Properties, LLC, a California limited liability company

- a. A copy of its operating agreement, if any, and any and all amendments, supplements and/or modifications thereto, certified by the appropriate manager or member.
- b. If a domestic Limited Liability Company, a copy of its Articles of Organization and all amendment thereto with the appropriate filing stamps.
- c. If the Limited Liability Company is member-managed a full and complete current list of members certified by the appropriate manager or member.
- d. A current dated certificate of good standing from the proper governmental authority of the state in which the entity was created
- e. If less than all members, or managers, as appropriate, will be executing the closing documents, furnish evidence of the authority of those signing.

The Company reserves the right to add additional items or make further requirements after review of the requested documentation.

**END OF EXCEPTIONS**



## NOTES

- Note 1.** If a county recorder, title insurance company, escrow company, real estate broker, real estate agent or association provides a copy of a declaration, governing document or deed to any person, California law requires that the document provided shall include a statement regarding any unlawful restrictions. Said statement is to be in at least 14-point bold face type and may be stamped on the first page of any document provided or included as a cover page attached to the requested document. Should a party to this transaction request a copy of any document reported herein that fits this category, the statement is to be included in the manner described.
- Note 2.** Note: Any documents being executed in conjunction with this transaction must be signed in the presence of an authorized Company employee, an authorized employee of an agent, an authorized employee of the insured lender, or by using Bancserv or other approved third-party service. If the above requirement cannot be met, please call the Company at the number provided in this report.
- Note 3.** Your application for title insurance was placed by reference to only a street address or tax identification number. Based on our records, we believe that the legal description in this report covers the parcel(s) of Land that you requested. If the legal description is incorrect, the seller/borrower must notify the Company and/or the settlement company in order to prevent errors and to be certain that the correct parcel(s) of Land will appear on any documents to be recorded in connection with this transaction and on the policy of title insurance.
- Note 4.** Note: Property taxes for the fiscal year shown below are PAID. For proration purposes the amounts were:
- |                    |                 |
|--------------------|-----------------|
| Tax ID No.:        | 117-070-52      |
| Fiscal Year:       | 2016-2017       |
| 1st Installment:   | \$8,639.16      |
| 2nd Installment:   | \$8,639.16      |
| Exemption:         | \$0.00          |
| Land:              | \$575,000.00    |
| Improvements:      | \$700,000.00    |
| Personal Property: | \$0.00          |
| Code Area:         | 118-137         |
| Bill No.:          | 117-070-52-0000 |
- Prior to close of escrow, please contact the Tax Collector's Office to confirm all amounts owing, including current fiscal year taxes, supplemental taxes, escaped assessments and any delinquencies.
- Note 5.** Note: There are NO conveyances affecting said Land recorded within 24 months of the date of this report.
- Note 6.** Note: The name(s) of the proposed insured(s) furnished with this application for title insurance is/are:
- Name(s) furnished: Stockton Unified School District
- If these name(s) are incorrect, incomplete or misspelled, please notify the Company.
- Note 7.** Note: The charge for a policy of title insurance, when issued through this title order, will be based on the Basic Title Insurance Rate.

## END OF NOTES

**FIDELITY NATIONAL FINANCIAL  
PRIVACY NOTICE**  
**Effective: May 1, 2015; Last Updated: March 1, 2017**

At Fidelity National Financial, Inc., we respect and believe it is important to protect the privacy of consumers and our customers. This Privacy Notice explains how we collect, use, and protect any information that we collect from you, when and to whom we disclose such information, and the choices you have about the use of that information. A summary of the Privacy Notice is below, and we encourage you to review the entirety of the Privacy Notice following this summary. You can opt-out of certain disclosures by following our opt-out procedure set forth at the end of this Privacy Notice.

<p><b><u>Types of Information Collected.</u></b> You may provide us with certain personal information about you, like your contact information, address demographic information, social security number (SSN), driver's license, passport, other government ID numbers and/or financial information.</p> <p>We may also receive browsing information from your Internet browser, computer and/or mobile device if you visit or use our websites or applications.</p>	<p><b><u>How Information is Collected.</u></b> We may collect personal information from you via applications, forms, and correspondence we receive from you and others related to our transactions with you. When you visit our websites from your computer or mobile device, we automatically collect and store certain information available to us through your Internet browser or computer equipment to optimize your website experience.</p>
<p><b><u>Use of Collected Information.</u></b> We request and use your personal information to provide products and services to you, to improve our products and services, and to communicate with you about these products and services. We may also share your contact information with our affiliates for marketing purposes.</p>	<p><b><u>When Information Is Disclosed.</u></b> We may disclose your information to our affiliates and/or nonaffiliated parties providing services for you or us, to law enforcement agencies or governmental authorities, as required by law, and to parties whose interest in title must be determined.</p>
<p><b><u>Choices With Your Information.</u></b> Your decision to submit information to us is entirely up to you. You can opt-out of certain disclosure or use of your information or choose to not provide any personal information to us.</p>	<p><b><u>Information From Children.</u></b> We do not knowingly collect information from children who are under the age of 13, and our website is not intended to attract children.</p>
<p><b><u>Privacy Outside the Website.</u></b> We are not responsible for the privacy practices of third parties, even if our website links to those parties' websites.</p>	<p><b><u>International Users.</u></b> By providing us with you information, you consent to its transfer, processing and storage outside of your country of residence, as well as the fact that we will handle such information consistent with this Privacy Notice.</p>
<p><b><u>The California Online Privacy Protection Act.</u></b> Some FNF companies provide services to mortgage loan servicers and, in some cases, their websites collect information on behalf of mortgage loan servicers. The mortgage loan servicer is responsible for taking action or making changes to any consumer information submitted through those websites.</p>	
<p><b><u>Your Consent To This Privacy Notice.</u></b> By submitting information to us or by using our website, you are accepting and agreeing to the terms of this Privacy Notice.</p>	<p><b><u>Access and Correction; Contact Us.</u></b> If you desire to contact us regarding this notice or your information, please contact us at <a href="mailto:privacy@fnf.com">privacy@fnf.com</a> or as directed at the end of this Privacy Notice.</p>

**FIDELITY NATIONAL FINANCIAL  
PRIVACY NOTICE**

**Effective: May 1, 2015; Last Updated: March 1, 2017**

Fidelity National Financial, Inc. and its majority-owned subsidiary companies providing title insurance, real estate- and loan-related services (collectively, "FNF", "our" or "we") respect and are committed to protecting your privacy. We will take reasonable steps to ensure that your Personal Information and Browsing Information will only be used in compliance with this Privacy Notice and applicable laws. This Privacy Notice is only in effect for Personal Information and Browsing Information collected and/or owned by or on behalf of FNF, including Personal Information and Browsing Information collected through any FNF website, online service or application (collectively, the "Website").

**Types of Information Collected**

We may collect two types of information from you: Personal Information and Browsing Information.

**Personal Information.** FNF may collect the following categories of Personal Information:

- contact information (e.g., name, address, phone number, email address);
- demographic information (e.g., date of birth, gender, marital status);
- social security number (SSN), driver's license, passport, and other government ID numbers;
- financial account information; and
- other personal information needed from you to provide title insurance, real estate- and loan-related services to you.

**Browsing Information.** FNF may collect the following categories of Browsing Information:

- Internet Protocol (or IP) address or device ID/UDID, protocol and sequence information;
- browser language and type;
- domain name system requests;
- browsing history, such as time spent at a domain, time and date of your visit and number of clicks;
- http headers, application client and server banners; and
- operating system and fingerprinting data.

**How Information is Collected**

In the course of our business, we may collect *Personal Information* about you from the following sources:

- applications or other forms we receive from you or your authorized representative;
- the correspondence you and others send to us;
- information we receive through the Website;
- information about your transactions with, or services performed by, us, our affiliates or nonaffiliated third parties; and
- information from consumer or other reporting agencies and public records maintained by governmental entities that we obtain directly from those entities, our affiliates or others.

If you visit or use our Website, we may collect *Browsing Information* from you as follows:

- **Browser Log Files.** Our servers automatically log each visitor to the Website and collect and record certain browsing information about each visitor. The Browsing Information includes generic information and reveals nothing personal about the user.
- **Cookies.** When you visit our Website, a "cookie" may be sent to your computer. A cookie is a small piece of data that is sent to your Internet browser from a web server and stored on your computer's hard drive. When you visit a website again, the cookie allows the website to recognize your computer. Cookies may store user preferences and other information. You can choose whether or not to accept cookies by changing your Internet browser settings, which may impair or limit some functionality of the Website.

**Use of Collected Information**

Information collected by FNF is used for three main purposes:

- To provide products and services to you or any affiliate or third party who is obtaining services on your behalf or in connection with a transaction involving you.
- To improve our products and services.
- To communicate with you and to inform you about our, our affiliates' and third parties' products and services, jointly or independently.

### **When Information Is Disclosed**

We may provide your Personal Information (excluding information we receive from consumer or other credit reporting agencies) and Browsing Information to various individuals and companies, as permitted by law, without obtaining your prior authorization. Such laws do not allow consumers to restrict these disclosures. Please see the section "Choices With Your Personal Information" to learn how to limit the discretionary disclosure of your Personal Information and Browsing Information.

Disclosures of your Personal Information may be made to the following categories of affiliates and nonaffiliated third parties:

- to third parties to provide you with services you have requested, and to enable us to detect or prevent criminal activity, fraud, material misrepresentation, or nondisclosure;
- to our affiliate financial service providers for their use to market their products or services to you;
- to nonaffiliated third party service providers who provide or perform services on our behalf and use the disclosed information only in connection with such services;
- to nonaffiliated third party service providers with whom we perform joint marketing, pursuant to an agreement with them to market financial products or services to you;
- to law enforcement or other governmental authority in connection with an investigation, or civil or criminal subpoena or court order;
- to lenders, lien holders, judgment creditors, or other parties claiming an interest in title whose claim or interest must be determined, settled, paid, or released prior to closing; and
- other third parties for whom you have given us written authorization to disclose your Personal Information.

We may disclose Personal Information and/or Browsing Information when required by law or in the good-faith belief that such disclosure is necessary to:

- comply with a legal process or applicable laws;
- enforce this Privacy Notice;
- investigate or respond to claims that any material, document, image, graphic, logo, design, audio, video or any other information provided by you violates the rights of a third party; or
- protect the rights, property or personal safety of FNF, its users or the public.

We maintain reasonable safeguards to keep your Personal Information secure. When we provide Personal Information to our affiliates or third party service providers as discussed in this Privacy Notice, we expect that these parties process such information in compliance with our Privacy Notice or in a manner that is in compliance with applicable privacy laws. The use of your information by a business partner may be subject to that party's own Privacy Notice. Unless permitted by law, we do not disclose information we collect from consumer or credit reporting agencies with our affiliates or others without your consent.

We reserve the right to transfer your Personal Information, Browsing Information, and any other information, in connection with the sale or other disposition of all or part of the FNF business and/or assets, or in the event of our bankruptcy, reorganization, insolvency, receivership or an assignment for the benefit of creditors. You expressly agree and consent to the use and/or transfer of the foregoing information in connection with any of the above described proceedings. We cannot and will not be responsible for any breach of security by a third party or for any actions of any third party that receives any of the information that is disclosed to us.

### **Choices With Your Information**

Whether you submit Personal Information or Browsing Information to FNF is entirely up to you. If you decide not to submit Personal Information or Browsing Information, FNF may not be able to provide certain services or products to you. The uses of your Personal Information and/or Browsing Information that, by law, you cannot limit, include:

- for our everyday business purposes – to process your transactions, maintain your account(s), to respond to law enforcement or other governmental authority in connection with an investigation, or civil or criminal subpoenas or court orders, or report to credit bureaus;
- for our own marketing purposes;
- for joint marketing with financial companies; and
- for our affiliates' everyday business purposes – information about your transactions and experiences.

You may choose to prevent FNF from disclosing or using your Personal Information and/or Browsing Information under the following circumstances ("opt-out"):

- for our affiliates' everyday business purposes – information about your creditworthiness; and
- for our affiliates to market to you.

To the extent permitted above, you may opt-out of disclosure or use of your Personal Information and Browsing Information by notifying us by one of the methods at the end of this Privacy Notice. We do not share your personal information with non-affiliates for their direct marketing purposes.

**For California Residents:** We will not share your Personal Information and Browsing Information with nonaffiliated third parties, except as permitted by California law. Currently, our policy is that we do not recognize "do not track" requests from Internet browsers and similar devices.

**For Nevada Residents:** You may be placed on our internal Do Not Call List by calling (888) 934-3354 or by contacting us via the information set forth at the end of this Privacy Notice. Nevada law requires that we also provide you with the following contact information: Bureau of Consumer Protection, Office of the Nevada Attorney General, 555 E. Washington St., Suite 3900, Las Vegas, NV 89101; Phone number: (702) 486-3132; email: BCPINFO@ag.state.nv.us.

**For Oregon Residents:** We will not share your Personal Information and Browsing Information with nonaffiliated third parties for marketing purposes, except after you have been informed by us of such sharing and had an opportunity to indicate that you do not want a disclosure made for marketing purposes.

**For Vermont Residents:** We will not share your Personal Information and Browsing Information with nonaffiliated third parties, except as permitted by Vermont law, such as to process your transactions or to maintain your account. In addition, we will not share information about your creditworthiness with our affiliates except with your authorization. For joint marketing in Vermont, we will only disclose your name, contact information and information about your transactions.

#### **Information From Children**

The Website is meant for adults and is not intended or designed to attract children under the age of thirteen (13). We do not collect Personal Information from any person that we know to be under the age of thirteen (13) without permission from a parent or guardian. By using the Website, you affirm that you are over the age of 13 and will abide by the terms of this Privacy Notice.

#### **Privacy Outside the Website**

The Website may contain links to other websites. FNF is not and cannot be responsible for the privacy practices or the content of any of those other websites.

#### **International Users**

FNF's headquarters is located within the United States. If you reside outside the United States or are a citizen of the European Union, please note that we may transfer your Personal Information and/or Browsing Information outside of your country of residence or the European Union for any of the purposes described in this Privacy Notice. By providing FNF with your Personal Information and/or Browsing Information, you consent to our collection and transfer of such information in accordance with this Privacy Notice.

#### **The California Online Privacy Protection Act**

For some FNF websites, such as the Customer CareNet ("CCN"), FNF is acting as a third party service provider to a mortgage loan servicer. In those instances, we may collect certain information on behalf of that mortgage loan servicer via the website. The information which we may collect on behalf of the mortgage loan servicer is as follows:

- first and last name;
- property address;
- user name and password;
- loan number;
- social security number - masked upon entry;
- email address;
- three security questions and answers; and
- IP address.

The information you submit through the website is then transferred to your mortgage loan servicer by way of CCN.

**The mortgage loan servicer is responsible for taking action or making changes to any consumer information submitted through this website. For example, if you believe that your payment or user information is incorrect, you must contact your mortgage loan servicer.**

CCN does not share consumer information with third parties, other than (1) those with which the mortgage loan servicer has contracted to interface with the CCN application, or (2) law enforcement or other governmental authority in connection with an investigation, or civil or criminal subpoenas or court orders. All sections of this Privacy Notice apply to your interaction with CCN, except for the sections titled "Choices with Your Information" and "Access and Correction." If you have questions regarding the choices you have with regard to your personal information or how to access or correct your personal information, you should contact your mortgage loan servicer.

#### **Your Consent To This Privacy Notice**

By submitting Personal Information and/or Browsing Information to FNF, you consent to the collection and use of the information by us in compliance with this Privacy Notice. Amendments to the Privacy Notice will be posted on the Website. Each time you provide information to us, or we receive information about you, following any amendment of this Privacy Notice will signify your assent to and acceptance of its revised terms for all previously collected information and information collected from you in the future. We may use comments, information or feedback that you submit to us in any manner that we may choose without notice or compensation to you.

#### **Accessing and Correcting Information; Contact Us**

If you have questions, would like to access or correct your Personal Information, or want to opt-out of information sharing with our affiliates for their marketing purposes, please send your requests to [privacy@fnf.com](mailto:privacy@fnf.com) or by mail or phone to:

Fidelity National Financial, Inc.  
601 Riverside Avenue  
Jacksonville, Florida 32204  
Attn: Chief Privacy Officer  
(888) 934-3354

## ATTACHMENT ONE

### CALIFORNIA LAND TITLE ASSOCIATION STANDARD COVERAGE POLICY - 1990

#### EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building or zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien, or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

#### EXCEPTIONS FROM COVERAGE - SCHEDULE B, PART I

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.  
Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

## ATTACHMENT ONE (CONTINUED)

### CLTA HOMEOWNER'S POLICY OF TITLE INSURANCE (12-02-13) ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE

#### EXCLUSIONS

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of those portions of any law or government regulation concerning:

- a. building;
- b. zoning;
- c. land use;
- d. improvements on the Land;
- e. land division; and
- f. environmental protection.

This Exclusion does not limit the coverage described in Covered Risk 8.a., 14, 15, 16, 18, 19, 20, 23 or 27.

2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not limit the coverage described in Covered Risk 14 or 15.

3. The right to take the Land by condemning it. This Exclusion does not limit the coverage described in Covered Risk 17.

4. Risks:

- a. that are created, allowed, or agreed to by You, whether or not they are recorded in the Public Records;
- b. that are Known to You at the Policy Date, but not to Us, unless they are recorded in the Public Records at the Policy Date;
- c. that result in no loss to You; or
- d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.e., 25, 26, 27 or 28.

5. Failure to pay value for Your Title.

6. Lack of a right:

- a. to any land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
- b. in streets, alleys, or waterways that touch the Land.

This Exclusion does not limit the coverage described in Covered Risk 11 or 21.

7. The transfer of the Title to You is invalid as a preferential transfer or as a fraudulent transfer or conveyance under federal bankruptcy, state insolvency, or similar creditors' rights laws.
8. Contamination, explosion, fire, flooding, vibration, fracturing, earthquake or subsidence.
9. Negligence by a person or an Entity exercising a right to extract or develop minerals, water, or any other substances.

#### LIMITATIONS ON COVERED RISKS

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

- For Covered Risk 16, 18, 19 and 21, Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

	<u>Your Deductible Amount</u>	<u>Our Maximum Dollar Limit of Liability</u>
Covered Risk 16:	1.00% of Policy Amount Shown in Schedule A or \$2,500.00 (whichever is less)	\$ 10,000.00
Covered Risk 18:	1.00% of Policy Amount Shown in Schedule A or \$5,000.00 (whichever is less)	\$ 25,000.00
Covered Risk 19:	1.00% of Policy Amount Shown in Schedule A or \$5,000.00 (whichever is less)	\$ 25,000.00
Covered Risk 21:	1.00% of Policy Amount Shown in Schedule A or \$2,500.00 (whichever is less)	\$ 5,000.00



## ATTACHMENT ONE (CONTINUED)

### 2006 ALTA LOAN POLICY (06-17-06)

#### EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
  - (a) a fraudulent conveyance or fraudulent transfer, or
  - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

#### EXCEPTIONS FROM COVERAGE

[Except as provided in Schedule B - Part II, [ t[or T]his policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

##### [PART I

[The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the Public Records.]

##### PART II

In addition to the matters set forth in Part I of this Schedule, the Title is subject to the following matters, and the Company insures against loss or damage sustained in the event that they are not subordinate to the lien of the Insured Mortgage:]

## **ATTACHMENT ONE (CONTINUED)**

### **2006 ALTA OWNER'S POLICY (06-17-06)**

#### **EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
  - (a) a fraudulent conveyance or fraudulent transfer; or
  - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

#### **EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

[The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the Public Records.]
7. [Variable exceptions such as taxes, easements, CC&R's, etc., shown here.]

## **ATTACHMENT ONE (CONTINUED)**

### **ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY - ASSESSMENTS PRIORITY (04-02-15)**

#### **EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27 or 28); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury, or any consumer credit protection or truth-in-lending law. This Exclusion does not modify or limit the coverage provided in Covered Risk 26.
6. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to Advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching subsequent to Date of Policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11(b) or 25.
8. The failure of the residential structure, or any portion of it, to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This Exclusion does not modify or limit the coverage provided in Covered Risk 5 or 6.
9. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
  - (a) a fraudulent conveyance or fraudulent transfer, or
  - (b) a preferential transfer for any reason not stated in Covered Risk 27(b) of this policy.
10. Contamination, explosion, fire, flooding, vibration, fracturing, earthquake, or subsidence.
11. Negligence by a person or an Entity exercising a right to extract or develop minerals, water, or any other substances.

## Notice of Available Discounts

Pursuant to Section 2355.3 in Title 10 of the California Code of Regulations Fidelity National Financial, Inc. and its subsidiaries ("FNF") must deliver a notice of each discount available under our current rate filing along with the delivery of escrow instructions, a preliminary report or commitment. Please be aware that the provision of this notice does not constitute a waiver of the consumer's right to be charged the filed rate. As such, your transaction may not qualify for the below discounts.

You are encouraged to discuss the applicability of one or more of the below discounts with a Company representative. These discounts are generally described below; consult the rate manual for a full description of the terms, conditions and requirements for such discount. These discounts only apply to transactions involving services rendered by the FNF Family of Companies. This notice only applies to transactions involving property improved with a one-to-four family residential dwelling.

Not all discounts are offered by every FNF Company. The discount will only be applicable to the FNF Company as indicated by the named discount.

### **FNF Underwritten Title Companies**

CTC – Chicago Title Company  
CLTC – Commonwealth Land Title Company  
FNTC – Fidelity National Title Company  
FNTCCA – Fidelity National Title Company of California  
TICOR – Ticor Title Company of California  
LTC – Lawyer's Title Company

### **Underwritten by FNF Underwriters**

CTIC – Chicago Title Insurance Company  
CLTIC – Commonwealth Land Title Insurance Company  
FNTIC – Fidelity National Title Insurance Company  
FNTIC – Fidelity National Title Insurance Company  
CTIC – Chicago Title Insurance Company  
CLTIC – Commonwealth Land Title Insurance Company

### **Available Discounts**

#### **CREDIT FOR PRELIMINARY TITLE REPORTS AND/OR COMMITMENTS ON SUBSEQUENT POLICIES (CTIC, FNTIC)**

Where no major change in the title has occurred since the issuance of the original report or commitment, the order may be reopened within twelve (12) to thirty-six (36) months and all or a portion of the charge previously paid for the report or commitment may be credited on a subsequent policy charge.

#### **DISASTER LOANS (CTIC, CLTIC, FNTIC)**

The charge for a Lender's Policy (Standard or Extended coverage) covering the financing or refinancing by an owner of record, within twenty-four (24) months of the date of a declaration of a disaster area by the government of the United States or the State of California on any land located in said area, which was partially or totally destroyed in the disaster, will be fifty percent (50%) of the appropriate title insurance rate.

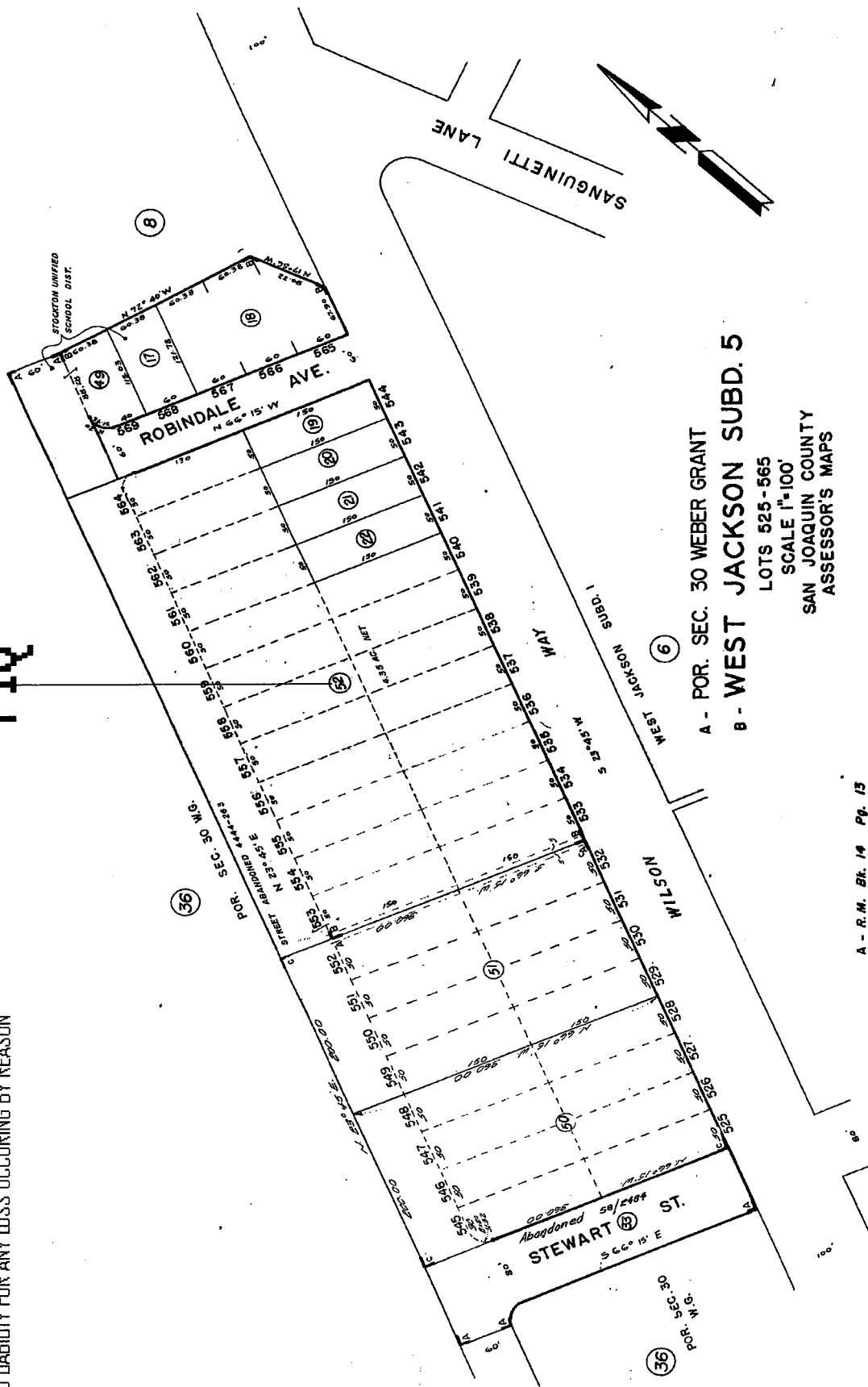
#### **CHURCHES OR CHARITABLE NON-PROFIT ORGANIZATIONS (CTIC, FNTIC)**

On properties used as a church or for charitable purposes within the scope of the normal activities of such entities, provided said charge is normally the church's obligation the charge for an owner's policy shall be fifty percent (50%) to seventy percent (70%) of the appropriate title insurance rate, depending on the type of coverage selected. The charge for a lender's policy shall be thirty-two percent (32%) to fifty percent (50%) of the appropriate title insurance rate, depending on the type of coverage selected.

THIS PLAT IS FOR YOUR AID IN LOCATING YOUR LAND WITH REFERENCE TO STREET AND OTHER PARCELS. WHILE THIS PLAT IS BELIEVED TO BE CORRECT, THE COMPANY ASSUMES NO LIABILITY FOR ANY LOSS OCCURRING BY REASON OF RELIANCE THEREON.

PIQ

THIS MAP FOR  
ASSESSMENT USE ONLY 117-07



A - POR. SEC. 30 WEBER GRANT  
B - WEST JACKSON SUBD. 5  
LOTS 525-565  
SCALE 1"=100'  
SAN JOAQUIN COUNTY  
ASSESSOR'S MAPS

A - R.M. Bk. 14 Pg. 13  
B - R.M. Bk. 11 Pg. 11  
C - P.M. Bk. 12 Pg. 195

WEST JACKSON NO. 5

SUBJECT: District Update and Recommendation regarding the Purchase of Lakeview Assembly Church and School, 2111 Quail Lakes Drive, Stockton, CA

## INTRODUCTION

On the May 9, 2017 Governing Board Agenda, the District presented and the Board approved agenda item 9.1 recommending that the District enter into contract with the Lakeview Assembly Church to consider the purchase of the facility. As the focus of Staff's recommendation was to purchase as a K-8 public school, the contract included a 60-day due diligence period which allows the District to evaluate the property from a feasibility and cost perspective to bring it into compliance for use as a public school facility prior to the final decision to purchase.

In order to complete the required assessments, studies and meet with the agencies having jurisdiction over K-8 public school facilities, more time was required. The Lakeview Assembly Church agreed to extend our due diligence period to August 2, 2017, with a condition that if we purchase the property that escrow would close by August 9, 2017.

Staff's recommendation to consider this property was in response to the District having several facilities, programs, and projects that have been identified as needing permanent and temporary housing. Staff has simultaneously focused on assessing property and capacity needs District-wide. Additionally, the District has current and future Bond projects which have also been reassessed in consideration of site and total District facility needs. This purchase was focused on three facility needs: Tyler Elementary (replace aging portables), Special Education Pre-School Program (housed in leased facility), and Primary Years Academy (to develop permanent home).

The District's Measure Q bond included portable replacement projects at many elementary schools. Effective April 2016, the Division of the State Architect implemented a regulation that required all school construction in flood zones to comply with the applicable community ordinance which resulted in the need to elevate the finished floor of any new building at Tyler five to ten feet above the existing grade. This caused the District to re-assess this portable replacement project from the perspective of construction requirements, campus aesthetics, and the additional cost and time required for construction.

During this analysis period, in the fall of 2016, the District reconsidered a site that previously been placed on the commercial market for sale. The Lakeview Assembly Church and School (Lakeview Assembly), located at 2111 Quail Lakes Drive in Stockton, is currently listed for sale and is viable option to meet the District's needs. In light of the challenge the District has with the Tyler Elementary project, staff has proposed Lakeview Assembly as a future home for all or part of the Tyler students. The District analyzed its demographic and transportation data and determined that nearly half of the Tyler students either lived in the Quail Lakes community or required transportation to Tyler from the Quail Lakes or surrounding areas. The current enrollment at Tyler is 547 students. There are 200 students who also live in the Quail Lakes area that attend Madison and Hoover.

Action Item No. 9.2

At the July 12, 2016 Board meeting, the District presented and the Board approved a five-year lease agreement with St. Bernadette's Church for the District's Autism Pre-School program. This program was previously housed at Marshall Elementary. The District's goal, while finding a temporary location for the program due to capacity constraints at Marshall, was to concurrently search for a permanent home within the lease period. The Lakeview Assembly property has a section of the campus that is designed to house and support a pre-school program and offices. It is the District's intent to move the Autism Pre-School program to the Lakeview Assembly site with this purchase.

The final program that the District projects this purchase will support is Primary Years Academy (PYA). PYA is currently located on the El Dorado Elementary School campus and has a current enrollment of 325 students. Primary Years Academy is a K-5 grade International Baccalaureate (IB) program and designed to be the feeder program for the 6-12 grade IB program at Franklin High. At the time of program inception, it was anticipated that the El Dorado students would become students of the PYA and retain the campus as its permanent home. The District has in reality, seen growth and retention in both programs, which is a positive component of hosting schools of choice in our District. Hosting both programs on one campus presented a capacity challenge at El Dorado school, with an enrollment of 664 students, that combined with PYA was not designed to house a 1,000 student campus. The relocation of Tyler Elementary to Lakeview Assembly would provide a permanent location for PYA as, it is intended that Tyler's permanent buildings alone could house PYA, thus allowing the District to eliminate the existing aging portables.

### ANALYSIS

During the due diligence period, the District investigated the Lakeview property from several perspectives requesting the following reports and inspections: Building Inspection, Wood Destroying Organism (termite), California Environmental Quality Act Requirements (CEQA), Environmental Hazards Assessment (Phase I), Toxic Substances review from DTSC, and Geological Hazards Assessment. Additionally, the District met with the California Department of Education (CDE), and the Division of the State Architect (DSA).

On June 29, The District presented one of the comprehensive reports at the July 11, 2017 meeting under item 9.1, Resolution No. 17-02 Adopting the Initial Study/Negative Declaration (CEQA compliance) for the Proposed Quail Lakes K-12 School. On July 5, 2017, the District met with the Division of the State Architect (DSA) who determined the project would be designated as an Adaptive Use of a Building. In addition to the structural retrofit required to meet Field Act compliance, the District would also have to upgrade the entire facility to current State Building Code Standards to ensure that the building will meet DSA certification. This information significantly changed the scope of the project as the District initially presumed an estimated \$2.5 million dollars to retrofit the property and potentially up to \$5 million dollars in modernization, improvements, and furniture acquisition. This project cost to upgrade the building is currently \$21 million in construction costs, which is outside the scope of what was presented for this project.

The District was aware that the building was not DSA Certified when it was originally constructed; however, due to changes in regulations and DSA authority, new and more stringent Field Act requirements have been adopted and implemented for buildings used for public education.

The District retains its belief that property is located in a valuable location for District use as a neighborhood school; however, the cost of upgrading this building for the use of a public K-12 school is outside of the scope of the District's original proposal. The benefit of this process is that the District now has more information about the property that will be useful for future consideration. If the property is not sold and remains available, the District can consider an alternative program use and present a revised proposal.

Funding Source: Fund 40 Special Reserve Fund

### RECOMMENDATION

Due to the reasons outlined herein, it is recommended that the Governing Board decline the contract to purchase the Lakeview Assembly Church and School. This recommendation does not preclude the District from considering this property at another time pending an alternative use option.

Prepared by: Mr. Steve L. Breakfield, Director, Facilities & Planning

Reviewed by: Ms. Lisa Grant-Dawson, Chief Business Official



SUBJECT: Lease and Future Purchase of property located at 1541 East March Lane, Stockton, CA 95210 for Young Adult Education Program and Office Space

### INTRODUCTION

The District has several facilities, programs, and departments that have been identified as needing permanent, temporary housing, and expansion. One of the programs is the Young Adult Program (YAP). The District has been seeking a permanent home for this program, which has been moved several times in the last 10 years, and is currently at Stagg High School. The portables in which the program is housed were designated to be demolished and removed in 2011 by the District's facilities department. Due to a need to relocate the program from the Special Education Department located at the former Grant Elementary School, the program was temporarily placed in the portables at Stagg High School. The District has toured several properties during 2016-17 fiscal year and is proposing that 1541 East March Lane, Stockton, CA 95210 be the long term location for this program.

### ANALYSIS

The District Facilities Planning and Business Services departments have been working very closely with the Special Education department regarding the needs of this program, which include the number of classrooms, adequate space, and close proximity to the business district in which the young adult students acquire work skills to support their independence and transition into adulthood. The Young Adult Program (YAP) is a classroom and community based program for students ages 18-22 with a current Individualized Education Program (IEP) as they transition from public school to adult life, as mandated by the Individuals with Disabilities Education Act (IDEA). YAP is designed to be a results oriented process focusing on improving the academic and functional achievement for a students with a disability to facilitate the individuals' movement from school to post school activities. The program stresses on the following: Post-Secondary Education, Vocational Education and Training, Integrated Employment, Continuing Education/Adult Ed., Adult Services, Independent Living, and Community Participation.

The property of March Lane was previously the location for Heald Business College, which includes the classroom, work, and meeting spaces to support the program in addition to the close proximity to neighboring businesses. It was imperative that the District find a location to support the permanency of this program in the desire to purchase a property, rather than enter a long term lease agreement was a premier consideration.

The property was listed as For Sale/Lease in March 2017 and The District was successful in negotiating with the owners, SSM Properties, an agreement to lease the property for five years beginning August 1, 2017 and ending July 31, 2022. The monthly rent will be \$9,650.80. The most significant component of this contract is the Option to Purchase the property, Item 55. The parties have agreed that between the 18<sup>th</sup> and 36<sup>th</sup> month of the agreement or January of 2019 to August 2020, the District can purchase the property for \$2,350,000.

This agreement addresses the immediate need to find a new and viable location for the Young Adult Program that can be available upon the start of the 2017-18 fiscal year and the option within two years to purchase the property; therefore, securing a permanent home for the program. The sellers have recently entered a rental agreement with another party on the property. Pending the District's purchase of the property within the designated purchase period, the District will have the opportunity to occupy the additional leased space and/or secure the lease income from the current lessors.

Prior to the end of the 18<sup>th</sup> month of the lease period, the District will return to the Governing Board to provide a recommendation regarding the purchase of the property. Due to the nature of this agreement, the District will specifically reserve \$3,000,000 from Fund 40 for the potential purchase of this property in the 2017-18 fiscal year and maintain the reserve until the recommendation and approval has been secured.

Funding Source: General Fund for the lease expense and Fund 40 Special Reserve Fund to reserve and purchase the property within the 2018-19 fiscal year.

#### RECOMMENDATION

It is recommended that the Governing Board approve the contract to lease 1541 East March Lane, Stockton, CA 95210 which includes the option to purchase the property in future years.

Prepared by: Mr. Steve L. Breakfield, Director, Facilities & Planning

Reviewed by: Ms. Lisa Grant-Dawson, Chief Business Official

# For Lease or Sale

1541 E. March Ln, Stockton, California



## Class "A" Office Space



Space: 13,474± SF (divisible to 4,065± SF)  
Zoning: CO (Commercial Office)  
Parking: 5 spaces per 1000± square feet  
(can accomodate medical)

Beautiful office building (formerly occupied by Heald College) located in master planned Weber Ranch Professional Park. Built in 2008, this property offers a contemporary design and functional layout, creating great opportunity for users and investors!

**Lease Rate: \$1.25/ SF per month, NNN**  
**Sale Price: Call for terms**

**LEE & ASSOCIATES**

COMMERCIAL REAL ESTATE SERVICES

**Wendy Coddington**

BRE # 00592566

Direct: 209-983-6830

Office: 209-983-1111

[wcoddington@lee-associates.com](mailto:wcoddington@lee-associates.com)

**Christopher W. Sill**

BRE # 01188616

Direct: 209-983-6837

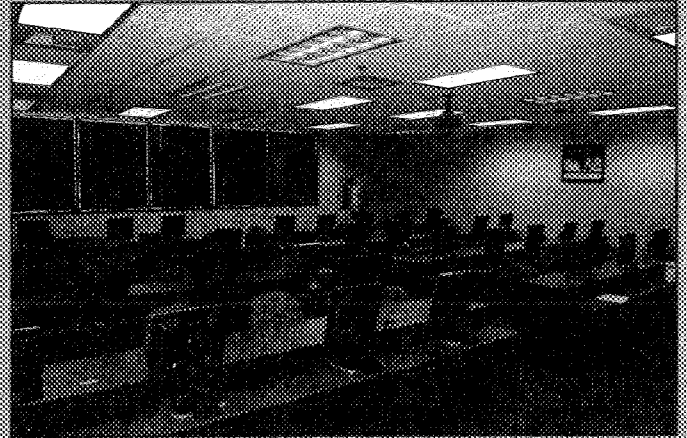
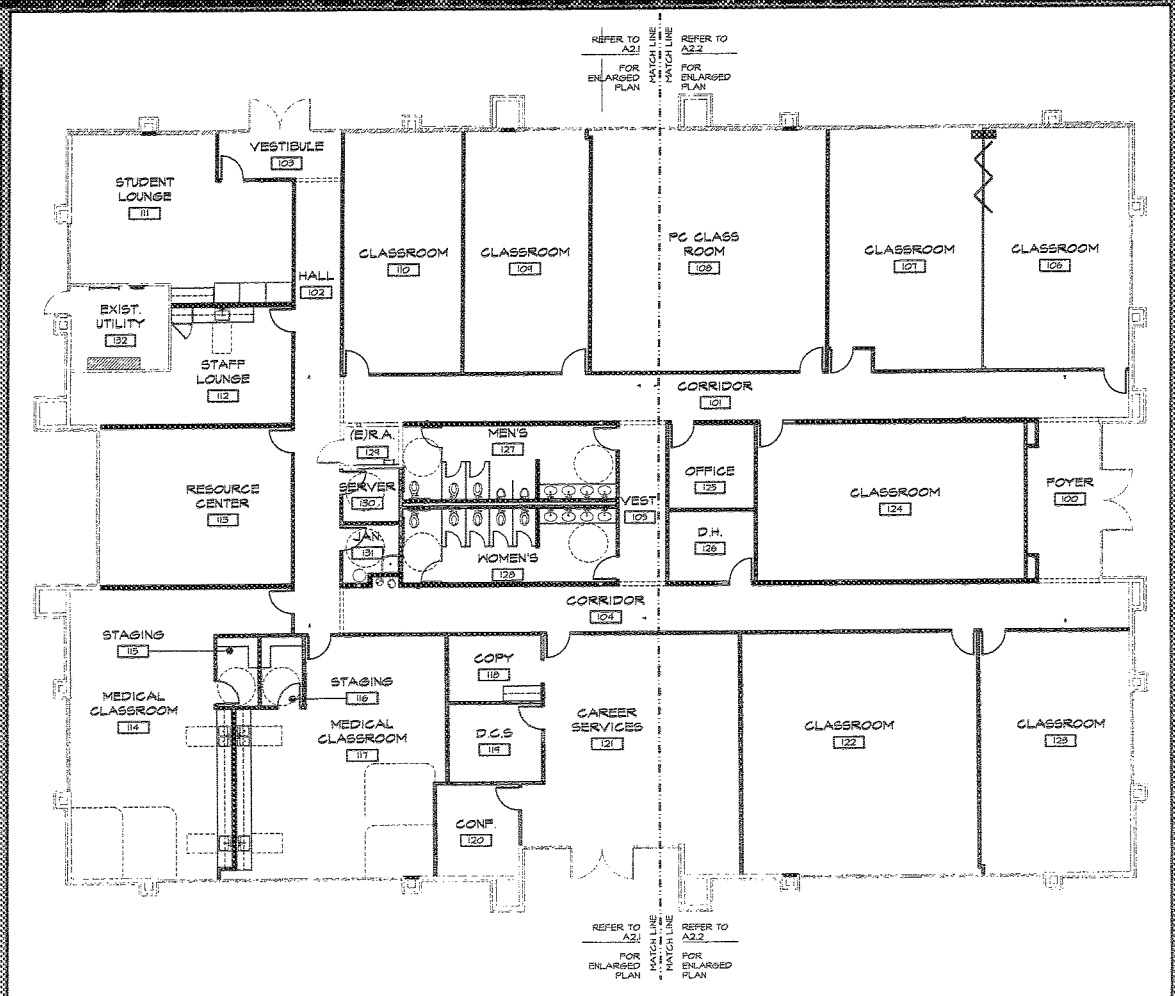
Office: 209-983-1111

[csill@lee-associates.com](mailto:csill@lee-associates.com)

[www.lee-associates.com/centralvalley](http://www.lee-associates.com/centralvalley)

1541 E. March Ln, Stockton, California

# FLOOR PLAN



**LEE & ASSOCIATES**  
COMMERCIAL REAL ESTATE SERVICES

**Wendy Coddington**

BRE # 00592566

Direct: 209-983-6830

Office: 209-983-1111

wcoddington@lee-associates.com

**Christopher W. Sill**

BRE # 01188616

Direct: 209-983-6837

Office: 209-983-1111

csill@lee-associates.com

[www.lee-associates.com/centralvalley](http://www.lee-associates.com/centralvalley)



# 1541 E. March Ln, Stockton, California



**LEE ASSOCIATES**

COMMERCIAL REAL ESTATE SERVICES

**Wendy Coddington**

BRE # 00592566

Direct: 209-983-6830

Office: 209-983-1111

[wcoddington@lee-associates.com](mailto:wcoddington@lee-associates.com)

**Christopher W. Sill**

BRE # 01188616

Direct: 209-983-6837

Office: 209-983-1111

[csill@lee-associates.com](mailto:csill@lee-associates.com)

[www.lee-associates.com/centralvalley](http://www.lee-associates.com/centralvalley)

AIR CRE

STANDARD MULTI-TENANT OFFICE LEASE - NET

1. Basic Provisions ("Basic Provisions").

1.1 Parties. This Lease ("Lease"), dated for reference purposes only July 18, 2017, is made by and between SSM Properties LLC ("Lessor") and Stockton Unified School District ("Lessee"), (collectively the "Parties", or individually a "Party").

1.2(a) Premises: That certain portion of the Project (as defined below), commonly known as (street address, suite, city, state): 1541 East March Lane, Stockton, CA ("Premises"). The Premises are located in the County of San Joaquin County, and consist of approximately 8,392 rentable square feet and approximately 8,182 useable square feet. In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to the Common Areas (as defined in Paragraph 2.7 below) as hereinafter specified, but shall not have any rights to the roof, the exterior walls, the area above the dropped ceilings, or the utility raceways of the building containing the Premises ("Building") or to any other buildings in the Project. The Premises, the Building, the Common Areas, the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "Project." The Project consists of approximately 13,484 rentable square feet. (See also Paragraph 2)

1.2(b) Parking: 40 unreserved and N/A reserved vehicle parking spaces at a monthly cost of \$0.00 per unreserved space and N/A per reserved space. (See Paragraph 2.6)

1.3 Term: Five (5) years and One (1) months ("Original Term") commencing August 1, 2017 ("Commencement Date") and ending August 31, 2022 ("Expiration Date"). (See also Paragraph 3)

1.4 Early Possession: If the Premises are available Lessee may have non-exclusive possession of the Premises commencing N/A ("Early Possession Date"). (See also Paragraphs 3.2 and 3.3)

1.5 Base Rent: \$9,650.80 per month ("Base Rent"), payable on the 1st day of each month commencing Thirty (30) days from Term Commencement. (See also Paragraph 4)

☐ If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph 51.

1.6 Lessee's Share of Operating Expenses: Sixty Two and 24/100 percent (62.24%) ("Lessee's Share"). In the event that that size of the Premises and/or the Project are modified during the term of this Lease, Lessor shall recalculate Lessee's Share to reflect such modification.

1.7 Base Rent and Other Monies Paid Upon Execution:

(a) Base Rent: \$9,650.80 for the period First Month's Minimum Rent.

(b) Operating Expenses: \$2,517.60 for the period First Month's Estimated Expenses.

(c) Security Deposit: \$9,650.60 ("Security Deposit"). (See also Paragraph 5)

(d) Parking: \$0.00 for the period \$0.00.

(e) Other: \$0.00 for \_\_\_\_\_.

(f) Total Due Upon Execution of this Lease: \$21,818.80.

1.8 Agreed Use: Administrative/operational support services and instructional facility. (See also Paragraph 6)

1.9 Insuring Party. Lessor is the "Insuring Party". (See also Paragraph 8)

1.10 Real Estate Brokers. (See also Paragraph 15 and 25)

(a) Representation: The following real estate brokers (the "Brokers") and brokerage relationships exist in this transaction (check applicable boxes):

☒ Lee & Associates - Central Valley, Inc. represents Lessor exclusively ("Lessor's Broker");

☒ NAI Benchmark First Commercial represents Lessee exclusively ("Lessee's Broker"); or

☐ \_\_\_\_\_ represents both Lessor and Lessee ("Dual Agency").

(b) Payment to Brokers. Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement (or if there is no such agreement, the sum of \_\_\_\_\_ or \_\_\_\_\_ % of the total Base Rent) for the brokerage services rendered by the Brokers.

1.11 Guarantor. The obligations of the Lessee under this Lease shall be guaranteed by \_\_\_\_\_ ("Guarantor"). (See also Paragraph 37)

1.12 Business Hours for the Building: \_\_\_\_\_ a.m. to \_\_\_\_\_ p.m., Mondays through Fridays (except Building Holidays) and \_\_\_\_\_ a.m. to \_\_\_\_\_ p.m. on Saturdays (except Building Holidays). "Building Holidays" shall mean the dates of observation of New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and \_\_\_\_\_.

1.13 Lessor Supplied Services. Notwithstanding the provisions of Paragraph 11.1, Lessor is NOT obligated to provide the following within the Premises:

☒ Janitorial services

☒ Electricity

☒ Other (specify): \_\_\_\_\_

1.14 Attachments. Attached hereto are the following, all of which constitute a part of this Lease:

☒ an Addendum consisting of Paragraphs 51 through 56;

☒ a plot plan depicting the Premises;


☒ a current set of the Rules and Regulations;

☒ a Work Letter;

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Last Edited: 7/20/2017 11:28 AM

  
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MTON-20.00, Revised 01-03-2017

a janitorial schedule;

other (specify): \_\_\_\_\_.

## 2. Premises.

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be different. **NOTE: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 **Condition.** Lessor shall deliver the Premises to Lessee in a clean condition on the Commencement Date or the Early Possession Date, whichever first occurs ("Start Date"), and warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("HVAC"), and all other items which the Lessor is obligated to construct pursuant to the Work Letter attached hereto, if any, other than those constructed by Lessee, shall be in good operating condition on said date, other than those claims contained the lawsuit (San Joaquin County Superior Court Case No. STK-CV-UCD-2017-1206) that the structural elements of the roof, bearing walls and foundation of the Unit shall be free of material defects, and that the Premises do not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law. Lessor also warrants, that unless otherwise specified in writing, Lessor is unaware of (i) any recorded Notices of Default affecting the Premise; (ii) any delinquent amounts due under any loan secured by the Premises; and (iii) any bankruptcy proceeding affecting the Premises. The warranty period shall be as follows: (i) 6 months as to the HVAC systems and (ii) 30 days as to the reaming systems and other clements in the unit. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense (except for the repairs to the fire sprinkler systems, roof, foundations and/or bearing walls). See Paragraph 7.

2.3 **Compliance.** Lessor warrants that to the best of its knowledge the improvements on the Premises and the Common Areas comply with the building codes, applicable laws, covenants or restrictions of record, regulations, and ordinances ("Applicable Requirements") that were in effect at the time that each improvement, or portion thereof, was constructed. Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 49), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the zoning and other Applicable Requirements are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Premises, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Premises ("Capital Expenditure"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however, that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and the amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date that on which the Base Rent is due, an amount equal to 1/144th of the portion of such costs reasonably attributable to the Premises. Lessee shall pay interest on the balance but may prepay its obligation at any time. If, however, such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not have any right to terminate this Lease.

2.4 **Acknowledgements.** Lessee acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises, (b) Lessee has been advised by Lessor and/or Brokers to satisfy itself with respect to the size and condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements), and their suitability for Lessee's intended use, (c) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, (d) it is not relying on any representation as to the size of the Premises made by Brokers or Lessor, (e) the square footage of the Premises was not material to Lessee's decision to lease the Premises and pay the Rent stated herein, and (f) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 **Lessee as Prior Owner/Occupant.** The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date, Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

2.6 **Vehicle Parking.** So long as Lessee is not in default, and subject to the Rules and Regulations attached hereto, and as established by Lessor from time to time, Lessee shall be entitled to rent and use the number of parking spaces specified in Paragraph 1.2(b) at the rental rate applicable from time to time for monthly parking as set by Lessor and/or its licensee.

(a) If Lessee commits, permits or allows any of the prohibited activities described in the Lease or the rules then in effect, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost to Lessee, which cost

shall be immediately payable upon demand by Lessor.

(b) The monthly rent per parking space specified in Paragraph 1.2(b) is subject to change upon 30 days prior written notice to Lessee. The rent for the parking is payable one month in advance prior to the first day of each calendar month.

**2.7 Common Areas - Definition.** The term "Common Areas" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility raceways and installations within the Premises that are provided and designated by the Lessor from time to time for the general nonexclusive use of Lessor, Lessee and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors and invitees, including, but not limited to, common entrances, lobbies, corridors, stairwells, public restrooms, elevators, parking areas, loading and unloading areas, trash areas, roadways, walkways, driveways and landscaped areas.

**2.8 Common Areas - Lessee's Rights.** Lessor grants to Lessee, for the benefit of Lessee and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Lessor under the terms hereof or under the terms of any rules and regulations or restrictions governing the use of the Project. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently, in the Common Areas. Any such storage shall be permitted only by the prior written consent of Lessor or Lessor's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

**2.9 Common Areas - Rules and Regulations.** Lessor or such other person(s) as Lessor may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to adopt, modify, amend and enforce reasonable rules and regulations ("Rules and Regulations") for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Building and the Project and their invitees. The Lessee agrees to abide by and conform to all such Rules and Regulations, and shall use its best efforts to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessor shall not be responsible to Lessee for the noncompliance with said Rules and Regulations by other tenants of the Project.

**2.10 Common Areas - Changes.** Lessor shall have the right, in Lessor's sole discretion, from time to time:

- (a) To make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of the lobbies, windows, stairways, air shafts, elevators, escalators, restrooms, driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways;
- (b) To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;
- (c) To designate other land outside the boundaries of the Project to be a part of the Common Areas;
- (d) To add additional buildings and improvements to the Common Areas;
- (e) To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project, or any portion thereof; and
- (f) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Project as Lessor may, in the exercise of sound business judgment, deem to be appropriate.

### 3. Term.

**3.1 Term.** The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

**3.2 Early Possession.** Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date. Any grant of Early Possession only conveys a non-exclusive right to occupy the Premises. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such Early Possession. All other terms of this Lease (including but not limited to the obligations to pay Lessee's Share of the Operating Expenses) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.

**3.3 Delay In Possession.** Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, as the same may be extended under the terms of any Work Letter executed by Parties, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

**3.4 Lessee Compliance.** Lessor shall not be required to deliver possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

### 4. Rent.

**4.1 Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("Rent").

**4.2 Operating Expenses.** Lessee shall pay to Lessor during the term hereof, in addition to the Base Rent, Lessee's Share of all Operating Expenses, as hereinafter defined, during each calendar year of the term of this Lease, in accordance with the following provisions:

(a) "Operating Expenses" include all costs relating to the ownership and operation of the Project, calculated as if the Project was at least 95% occupied, including, but not limited to, the following:

(i) The operation, repair, and maintenance in neat, clean, safe, good order and condition, of the following:

(aa) The Common Areas, including their surfaces, coverings, decorative items, carpets, drapes and window coverings, and including parking areas, loading and unloading areas, trash areas, roadways, sidewalks, walkways, stairways, parkways, driveways, landscaped areas, striping, bumpers, irrigation systems, Common Area lighting facilities, building exteriors and roofs, fences and gates;

(bb) All heating, air conditioning, plumbing, electrical systems, life safety equipment, communication systems and other equipment used in common by, or for the benefit of, lessees or occupants of the Project, including elevators and escalators, tenant directories, fire detection systems including sprinkler system maintenance and repair.



- (cc) The Premises and/or any other space occupied by a tenant.
- (ii) The cost of trash disposal, janitorial and security services, pest control services, and the costs of any environmental inspections;
- (iii) The cost of any other service to be provided by Lessor that is elsewhere in this Lease stated to be an "Operating Expense";
- (iv) The cost of the premiums for the insurance policies maintained by Lessor pursuant to paragraph 8 and any deductible portion of an insured loss concerning the Building or the Common Areas;
- (v) The amount of the Real Property Taxes payable by Lessor pursuant to paragraph 10;
- (vi) The cost of water, sewer, gas, electricity, and other publicly mandated services not separately metered;
- (vii) Labor, salaries, and applicable fringe benefits and costs, materials, supplies and tools, used in maintaining and/or cleaning the Project and accounting and management fees attributable to the operation of the Project;
- (viii) The cost to replace equipment or capital components such as the roof, foundations, or exterior walls, the cost to replace a Common Area capital improvement, such as the parking lot paving, elevators or fences, and/or the cost of any capital improvement to the Building or the Project not covered under the provisions of Paragraph 2.3. Provided however, that if such equipment or capital component has a useful life for accounting purposes of 5 years or more that Lessor shall allocate the cost of any such capital improvement over a 12 year period and Lessee shall not be required to pay more than Lessee's Share of 1/144th of the cost of such capital improvement in any given month;
- (ix) The cost to replace equipment or improvements that have a useful life for accounting purposes of 5 years or less.
- (x) Reserves set aside for maintenance, repair and/or replacement of Common Area improvements and equipment.
- (b) Any item of Operating Expense that is specifically attributable to the Premises, the Building or to any other building in the Project or to the operation, repair and maintenance thereof, shall be allocated entirely to such Premises, Building, or other building. However, any such item that is not specifically attributable to the Building or to any other building or to the operation, repair and maintenance thereof, shall be equitably allocated by Lessor to all buildings in the Project.
- (c) The inclusion of the improvements, facilities and services set forth in Subparagraph 4.2(a) shall not be deemed to impose an obligation upon Lessor to either have said improvements or facilities or to provide those services unless the Project already has the same, Lessor already provides the services, or Lessor has agreed elsewhere in this Lease to provide the same or some of them.
- (d) Lessee's Share of Operating Expenses is payable monthly on the same day as the Base Rent is due hereunder. The amount of such payments shall be based on Lessor's estimate of the Operating Expenses. Within 60 days after written request (but not more than once each year) Lessor shall deliver to Lessee a reasonably detailed statement showing Lessee's Share of the actual Operating Expenses for the preceding year. If Lessee's payments during such year exceed Lessee's Share, Lessor shall credit the amount of such over-payment against Lessee's future payments. If Lessee's payments during such year were less than Lessee's Share, Lessee shall pay to Lessor the amount of the deficiency within 10 days after delivery by Lessor to Lessee of the statement.
- (e) Operating Expenses shall not include any expenses paid by any tenant directly to third parties, or as to which Lessor is otherwise reimbursed by any third party, other tenant, or by insurance proceeds.

**4.3 Payment.** Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. All monetary amounts shall be rounded to the nearest whole dollar. In the event that any invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of \$25 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Operating Expenses, and any remaining amount to any other outstanding charges or costs.

**5. Security Deposit.** Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, for Rents which will be due in the future, and/or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. Lessor shall upon written request provide Lessee with an accounting showing how that portion of the Security Deposit that was not returned was applied. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease. THE SECURITY DEPOSIT SHALL NOT BE USED BY LESSEE IN LIEU OF PAYMENT OF THE LAST MONTH'S RENT.

## 6. Use.

**6.1 Use.** Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the improvements of the Building, will not adversely affect the mechanical, electrical, HVAC, and other systems of the Building, and/or will not affect the exterior appearance of the Building. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

### 6.2 Hazardous Substances.

(a) **Reportable Uses Require Consent.** The term "Hazardous Substance" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis

for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, byproducts or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "Reportable Use" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use such as ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from areas outside of the Project not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.

(e) **Lessor Indemnification.** Except as otherwise provided in paragraph 8.7, Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which result from Hazardous Substances which existed on the Premises prior to Lessee's occupancy or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to Lessee's occupancy, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or \$100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or \$100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 **Lessee's Compliance with Applicable Requirements.** Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises, without regard to whether said Applicable Requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises.

6.4 **Inspection; Compliance.** Lessor and Lessor's "Lender" (as defined in Paragraph 30) and consultants authorized by Lessor shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times, after reasonable notice, for the purpose of inspecting and/or testing the condition of the Premises and/or for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see Paragraph 9.1) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (MSDS) to Lessor within 10 days of the receipt of written request therefor. Lessee acknowledges that any failure on its part to allow such inspections or testing will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to allow such inspections

and/or testing in a timely fashion the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for the remainder to the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to allow such inspection and/or testing. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to such failure nor prevent the exercise of any of the other rights and remedies granted hereunder.

6.5 Access to Premises During Existing Lawsuit/Reconstruction by or on Behalf of Lessor. Lessee understands and acknowledges that there is pending litigation relating to certain alleged construction defects at the Premises more fully described in Exhibit A. Lessee further understands and acknowledges that inspections, testing and repairs/reconstruction may occur during the pendency of or at the conclusion of the lawsuit. Lessor reserves the right to inspect the Premises and repair and/or construct improvements to the Premises, and to make alterations, expansions or additions to the Premises upon reasonable notice to Lessee. Lessor will use best efforts not to disrupt the Lessee's use of the Subject Property.

**7. Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations.**

7.1 **Lessee's Obligations.** Notwithstanding Lessor's obligation to keep the Premises in good condition and repair, Lessee shall be responsible for the cost of painting, repairing or replacing wall coverings, and to repair or replace any improvements within the Premises.

7.2 **Lessor's Obligations.** Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 4.2 (Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement pursuant to Paragraph 4.2, shall keep in good order, condition and repair the Premises, the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler system, fire alarm and/or smoke detection systems, fire hydrants, and the Common Areas.

**7.3 Utility Installations; Trade Fixtures; Alterations.**

(a) **Definitions.** The term "Utility Installations" refers to all floor and window coverings, air lines, vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, and plumbing in or on the Premises. The term "Trade Fixtures" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "Lessee Owned Alterations and/or Utility Installations" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Alterations or Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof, ceilings, floors or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, do not trigger the requirement for additional modifications and/or improvements to the Premises resulting from Applicable Requirements, such as compliance with Title 24, and the cumulative cost thereof during this Lease as extended does not exceed \$2000. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

(c) **Liens; Bonds.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

**7.4 Ownership; Removal; Surrender; and Restoration.**

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if the Lessee occupies the Premises for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Project) to the level specified in Applicable Requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

**8. Insurance; Indemnity.**

8.1 **Insurance Premiums.** The cost of the premiums for the insurance policies maintained by Lessor pursuant to paragraph 8 are included as Operating Expenses (see paragraph 4.2 (a)(iv)). Said costs shall include increases in the premiums resulting from additional coverage related to requirements of the holder of a mortgage or deed of trust covering the Premises, Building and/or Project, increased valuation of the Premises, Building and/or Project, and/or a general premium rate

increase. Said costs shall not, however, include any premium increases resulting from the nature of the occupancy of any other tenant of the Building. In no event, however, shall Lessee be responsible for any portion of the premium cost attributable to liability insurance coverage in excess of \$2,000,000 procured under Paragraph 8.2(b).

## **8.2 Liability Insurance.**

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$2,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

## **8.3 Property Insurance - Building, Improvements and Rental Value.**

(a) **Building and Improvements.** Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Building and/or Project. The amount of such insurance shall be equal to the full insurable replacement cost of the Building and/or Project, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$5,000 per occurrence.

(b) **Rental Value.** Lessor shall also obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value insurance"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period.

(c) **Adjacent Premises.** Lessee shall pay for any increase in the premiums for the property Insurance of the Building and for the Common Areas or other buildings in the Project if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

(d) **Lessee's Improvements.** Since Lessor is the Insuring Party, Lessor shall not be required to insure Lessee Owned Alterations and Utility Installations unless the item in question has become the property of Lessor under the terms of this Lease.

## **8.4 Lessee's Property; Business Interruption Insurance; Worker's Compensation Insurance.**

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations.

(b) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(c) **Worker's Compensation Insurance.** Lessee shall obtain and maintain Worker's Compensation Insurance in such amount as may be required by Applicable Requirements. Such policy shall include a 'Waiver of Subrogation' endorsement. Lessee shall provide Lessor with a copy of such endorsement along with the certificate of insurance or copy of the policy required by paragraph 8.5.

(d) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

**8.5 Insurance Policies.** Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, at least 10 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may increase his liability insurance coverage and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

**8.6 Waiver of Subrogation.** Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

**8.7 Indemnity.** Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

**8.8 Exemption of Lessor and its Agents from Liability.** Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees,

contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

**8.9 Failure to Provide Insurance.** Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

## **9. Damage or Destruction.**

### **9.1 Definitions.**

(a) **"Premises Partial Damage"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 3 months or less from the date of the damage or destruction, and the cost thereof does not exceed a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) **"Premises Total Destruction"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 3 months or less from the date of the damage or destruction and/or the cost thereof exceeds a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) **"Insured Loss"** shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), Irrespective of any deductible amounts or coverage limits involved.

(d) **"Replacement Cost"** shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

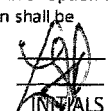
(e) **"Hazardous Substance Condition"** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance, in, on, or under the Premises which requires restoration.

**9.2 Partial Damage - Insured Loss.** If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is \$5,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

**9.3 Partial Damage - Uninsured Loss.** If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense (subject to reimbursement pursuant to Paragraph 4.2), in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

**9.4 Total Destruction.** Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.6.

**9.5 Damage Near End of Term.** If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be

  
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extinguished.

**9.6 Abatement of Rent; Lessee's Remedies.**

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor shall be obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

**9.7 Termination; Advance Payments.** Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

**10. Real Property Taxes.**

**10.1 Definitions.** As used herein, the term "Real Property Taxes" shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Project address. "Real Property Taxes" shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Project, (ii) a change in the improvements thereon, and/or (iii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease.

**10.2 Payment of Taxes.** Except as otherwise provided in Paragraph 10.3, Lessor shall pay the Real Property Taxes applicable to the Project, and said payments shall be included in the calculation of Operating Expenses in accordance with the provisions of Paragraph 4.2.

**10.3 Additional Improvements.** Operating Expenses shall not include Real Property Taxes specified in the tax assessor's records and work sheets as being caused by additional improvements placed upon the Project by other lessees or by Lessor for the exclusive enjoyment of such other lessees. Notwithstanding Paragraph 10.2 hereof, Lessee shall, however, pay to Lessor at the time Operating Expenses are payable under Paragraph 4.2, the entirety of any increase in Real Property Taxes if assessed solely by reason of Alterations, Trade Fixtures or Utility Installations placed upon the Premises by Lessee or at Lessee's request or by reason of any alterations or improvements to the Premises made by Lessor subsequent to the execution of this Lease by the Parties.

**10.4 Joint Assessment.** If the Building is not separately assessed, Real Property Taxes allocated to the Building shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. Lessor's reasonable determination thereof, in good faith, shall be conclusive.

**10.5 Personal Property Taxes.** Lessee shall pay prior to delinquency all taxes assessed against and levied upon Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee contained in the Premises. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

**11. Utilities and Services.**

**11.1 Services Provided by Lessor.** Lessor shall provide heating, ventilation, air conditioning, reasonable amounts of electricity for normal lighting and office machines, water for reasonable and normal drinking and lavatory use in connection with an office, and replacement light bulbs and/or fluorescent tubes and ballasts for standard overhead fixtures. Lessor shall also provide janitorial services to the Premises and Common Areas 5 times per week, excluding Building Holidays, or pursuant to the attached janitorial schedule, if any. Lessor shall not, however, be required to provide janitorial services to kitchens or storage areas included within the Premises.

**11.2 Services Exclusive to Lessee.** Notwithstanding the provision of paragraph 11.1, Lessee shall pay for all water, gas, heat, light, power, telephone and other utilities and services specially or exclusively supplied and/or metered exclusively to the Premises or to Lessee, together with any taxes thereon. If a service is deleted by Paragraph 1.13 and such service is not separately metered to the Premises, Lessee shall pay at Lessor's option, either Lessee's Share or a reasonable proportion to be determined by Lessor of all charges for such jointly metered service.

**11.3 Hours of Service.** Said services and utilities shall be provided during times set forth in Paragraph 1.12. Utilities and services required at other times shall be subject to advance request and reimbursement by Lessee to Lessor of the cost thereof.

**11.4 Excess Usage by Lessee.** Lessee shall not make connection to the utilities except by or through existing outlets and shall not install or use machinery or equipment in or about the Premises that uses excess water, lighting or power, or suffer or permit any act that causes extra burden upon the utilities or services, including but not limited to security and trash services, over standard office usage for the Project. Lessor shall require Lessee to reimburse Lessor for any excess expenses or costs that may arise out of a breach of this subparagraph by Lessee. Lessor may, in its sole discretion, install at Lessee's expense supplemental equipment and/or separate metering applicable to Lessee's excess usage or loading.

**11.5 Interruptions.** There shall be no abatement of rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

**12. Assignment and Subletting.**

**12.1 Lessor's Consent Required.**

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "assign or assignment") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buyout or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the



Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. "Net Worth of Lessee" shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(d), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

(f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

(g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, ie. 20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.

#### 12.2 Terms and Conditions Applicable to Assignment and Subletting.

(a) Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefor to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of \$500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 Additional Terms and Conditions Applicable to Subletting. The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then outstanding obligations any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

#### 13. Default; Breach; Remedies.

13.1 Default; Breach. A "Default" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "Breach" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee. THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR'S RIGHTS, INCLUDING LESSOR'S RIGHT TO RECOVER POSSESSION OF THE PREMISES.

(c) The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee. In the event that Lessee commits waste, a nuisance or an illegal activity a second time then, the Lessor may elect to treat such conduct as a non-curable Breach rather than a

Default.

(d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 41, (viii) material safety data sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 2.9 hereof, other than those described in subparagraphs 13.1(a), (b), (c) or (d), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(f) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "debtor" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph (e) is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(h) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

**13.2 Remedies.** If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover any damages to which Lessor is otherwise entitled. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

**13.3 Inducement Recapture.** Any agreement for free or abated rent or other charges, the cost of tenant improvements for Lessee paid for or performed by Lessor, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "Inducement Provisions," shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

**13.4 Late Charges.** Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to 10% of each such overdue amount or \$100, whichever is greater. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

**13.5 Interest.** Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due shall bear interest from the 31st day



after it was due. The interest ("Interest") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

#### 13.6 Breach by Lessor.

(a) **Notice of Breach.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished to Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor.** In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided, however, that such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessee's right to seek reimbursement from Lessor for any such expense in excess of such offset. Lessee shall document the cost of said cure and supply said documentation to Lessor.

**14. Condemnation.** If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "Condemnation"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the rentable floor area of the Premises, or more than 25% of Lessee's Reserved Parking Spaces, if any, are taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation paid by the condemnor for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

#### 15. Brokerage Fees.

**15.1 Additional Commission.** In addition to the payments owed pursuant to Paragraph 1.10 above, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee or anyone affiliated with Lessee acquires from Lessor any rights to the Premises or other premises owned by Lessor and located within the Project, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the fee schedule of the Brokers in effect at the time the Lease was executed.

**15.2 Assumption of Obligations.** Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.10, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.

**15.3 Representations and Indemnities of Broker Relationships.** Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no one other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

#### 16. Estoppel Certificates.

(a) Each Party (as "Responding Party") shall within 10 days after written notice from the other Party (the "Requesting Party") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "Estoppel Certificate" form published BY AIR CRE, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate. In addition, Lessee acknowledges that any failure on its part to provide such an Estoppel Certificate will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to execute and/or deliver a requested Estoppel Certificate in a timely fashion the monthly Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for remainder of the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to provide the Estoppel Certificate. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to provide the Estoppel Certificate nor prevent the exercise of any of the other rights and remedies granted hereunder.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

**17. Definition of Lessor.** The term "Lessor" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor.

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Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

**18. Severability.** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

**19. Days.** Unless otherwise specifically indicated to the contrary, the word "days" as used in this Lease shall mean and refer to calendar days.

**20. Limitation on Liability.** The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor, or its partners, members, directors, officers or shareholders, and Lessee shall look to the Project, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

**21. Time of Essence.** Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

**22. No Prior or Other Agreements; Broker Disclaimer.** This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

**23. Notices.**

**23.1 Notice Requirements.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, or by email, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

**23.2 Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices delivered by hand, or transmitted by facsimile transmission or by email shall be deemed delivered upon actual receipt. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

**24. Waivers.**

(a) No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of monies or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

**25. Disclosures Regarding The Nature of a Real Estate Agency Relationship.**

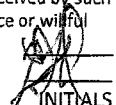
(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) Lessor's Agent. A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: To the Lessor: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. To the Lessee and the Lessor: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) Lessee's Agent. An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. To the Lessee: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. To the Lessee and the Lessor: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) Agent Representing Both Lessor and Lessee. A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. (b) Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not without the express permission of the respective Party, disclose to the other Party that the Lessor will accept rent in an amount less than that indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful

  
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misconduct of such Broker.

(c) Lessor and Lessee agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

**26. No Right To Holdover.** Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration or termination. Holdover Base Rent shall be calculated on a monthly basis. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

**27. Cumulative Remedies.** No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

**28. Covenants and Conditions; Construction of Agreement.** All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

**29. Binding Effect; Choice of Law.** This Lease shall be binding upon the parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

**30. Subordination; Attornment; Non-Disturbance.**

**30.1 Subordination.** This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "Security Device"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "Lender") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

**30.2 Attornment.** In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor.

**30.3 Non-Disturbance.** With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "Non-Disturbance Agreement") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall, if requested by Lessee, use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

**30.4 Self-Executing.** The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

**31. Attorneys' Fees.** If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "Prevailing Party" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum per occurrence for such services and consultation).

**32. Lessor's Access; Showing Premises; Repairs.** Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect to Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee. In addition, Lessor shall have the right to retain keys to the Premises and to unlock all doors in or upon the Premises other than to files, vaults and safes, and in the case of emergency to enter the Premises by any reasonably appropriate means, and any such entry shall not be deemed a forcible or unlawful entry or detainer of the Premises or an eviction. Lessee waives any charges for damages or injuries or interference with Lessee's property or business in connection therewith.

**33. Auctions.** Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

**34. Signs.** Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Lessor may not place any sign on the exterior of the Building that covers any of the windows of the Premises. Except for ordinary "For Sublease" signs which may be placed only on the Premises, Lessee shall not place any sign upon the Project without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

**35. Termination; Merger.** Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided,

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however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

**36. Consents.** All requests for consent shall be in writing. Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

**37. Guarantor.**

**37.1 Execution.** The Guarantors, if any, shall each execute a guaranty in the form most recently published BY AIR CRE.

**37.2 Default.** It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

**38. Quiet Possession.** Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

**39. Options.** If Lessee is granted any option, as defined below, then the following provisions shall apply.

**39.1 Definition.** "Option" shall mean: (a) the right to extend or reduce the term of or renew this Lease or to extend or reduce the term of or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase, the right of first offer to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

**39.2 Options Personal To Original Lessee.** Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

**39.3 Multiple Options.** In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

**39.4 Effect of Default on Options.**

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.

**40. Security Measures.** Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties. In the event, however, that Lessor should elect to provide security services, then the cost thereof shall be an Operating Expense.

**41. Reservations.**

(a) Lessor reserves the right: (i) to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, (ii) to cause the recordation of parcel maps and restrictions, (iii) to create and/or install new utility raceways, so long as such easements, rights, dedications, maps, restrictions, and utility raceways do not unreasonably interfere with the use of the Premises by Lessee. Lessor may also: change the name, address or title of the Building or Project upon at least 90 days prior written notice; provide and install, at Lessee's expense, Building standard graphics on the door of the Premises and such portions of the Common Areas as Lessor shall reasonably deem appropriate; grant to any lessee the exclusive right to conduct any business as long as such exclusive right does not conflict with any rights expressly given herein; and to place such signs, notices or displays as Lessor reasonably deems necessary or advisable upon the roof, exterior of the Building or the Project or on pole signs in the Common Areas. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate such rights. The obstruction of Lessee's view, air, or light by any structure erected in the vicinity of the Building, whether by Lessor or third parties, shall in no way affect this Lease or impose any liability upon Lessor.

(b) Lessor also reserves the right to move Lessee to other space of comparable size in the Building or Project. Lessor must provide at least 45 days prior written notice of such move, and the new space must contain improvements of comparable quality to those contained within the Premises. Lessor shall pay the reasonable out of pocket costs that Lessee incurs with regard to such relocation, including the expenses of moving and necessary stationary revision costs. In no event, however, shall Lessor be required to pay an amount in excess of two months Base Rent. Lessee may not be relocated more than once during the term of this Lease.

(c) Lessee shall not: (i) use a representation (photographic or otherwise) of the Building or Project or their name(s) in connection with Lessee's business; or (ii) suffer or permit anyone, except in emergency, to go upon the roof of the Building.

**42. Performance Under Protest.** If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not

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legally required to pay. A Party who does not initiate suit for the recovery of sums paid "under protest" within 6 months shall be deemed to have waived its right to protest such payment.

**43. Authority; Multiple Parties; Execution.**

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each Party shall, within 30 days after request, deliver to the other Party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

**44. Conflict.** Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

**45. Offer.** Preparation of this Lease by either party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

**46. Amendments.** This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

**47. Waiver of Jury Trial.** THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.

**48. Arbitration of Disputes.** An Addendum requiring the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease is is not attached to this Lease.

**49. Accessibility; Americans with Disabilities Act.**

(a) The Premises:

have not undergone an inspection by a Certified Access Specialist (CASp). Note: A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential.

have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential except as necessary to complete repairs and corrections of violations of construction related accessibility standards.

In the event that the Premises have been issued an inspection report by a CASp the Lessor shall provide a copy of the disability access inspection certificate to Lessee within 7 days of the execution of this Lease.

(b) Since compliance with the Americans with Disabilities Act (ADA) and other state and local accessibility statutes are dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in compliance with ADA or other accessibility statutes, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY AIR CRE OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.

2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING AND SIZE OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

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MTON-20.00, Revised 01-03-2017

Executed at: \_\_\_\_\_

On: \_\_\_\_\_

**By LESSOR:**

SSM Properties LLC

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

Name Printed: Mahesh Khatwani

Title: \_\_\_\_\_

Phone: 650-344-4767

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

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

Name Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Address: 433 Airport Boulevard, Suite 224,  
Burlingame, CA 94010

Federal ID No.: \_\_\_\_\_

**BROKER**

Lee & Associates - Central Valley, Inc.

Attn: Christopher Sill / Wendy Coddington

Title: \_\_\_\_\_

Address: 241 Frank West Circle, Suite 300,  
Stockton, CA

Phone: 209-983-1111

Fax: 209-982-0167

Email: csill@lee-associates.com

Federal ID No.: \_\_\_\_\_

Broker/Agent BRE License #: 01166901

Executed at: \_\_\_\_\_

On: \_\_\_\_\_

**By LESSEE:**

Stockton Unified School District

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

Name Printed: Lisa Grant-Dawson

Title: Chief Business Official

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

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

Name Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Address: 701 North Madison, Stockton, CA  
95202

Federal ID No.: \_\_\_\_\_

**BROKER**

NAI Benchmark First Commercial

Attn: Kevin Dougherty

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: 209 461-6400

Fax: \_\_\_\_\_

Email: kdougherty@naibenchmark.com

Federal ID No.: \_\_\_\_\_

Broker/Agent BRE License #: 01258350

AIR CRE. 500 North Brand Blvd, Suite 900, Glendale, CA 91203, Tel 213-687-8777, Email [contracts@aircre.com](mailto:contracts@aircre.com)

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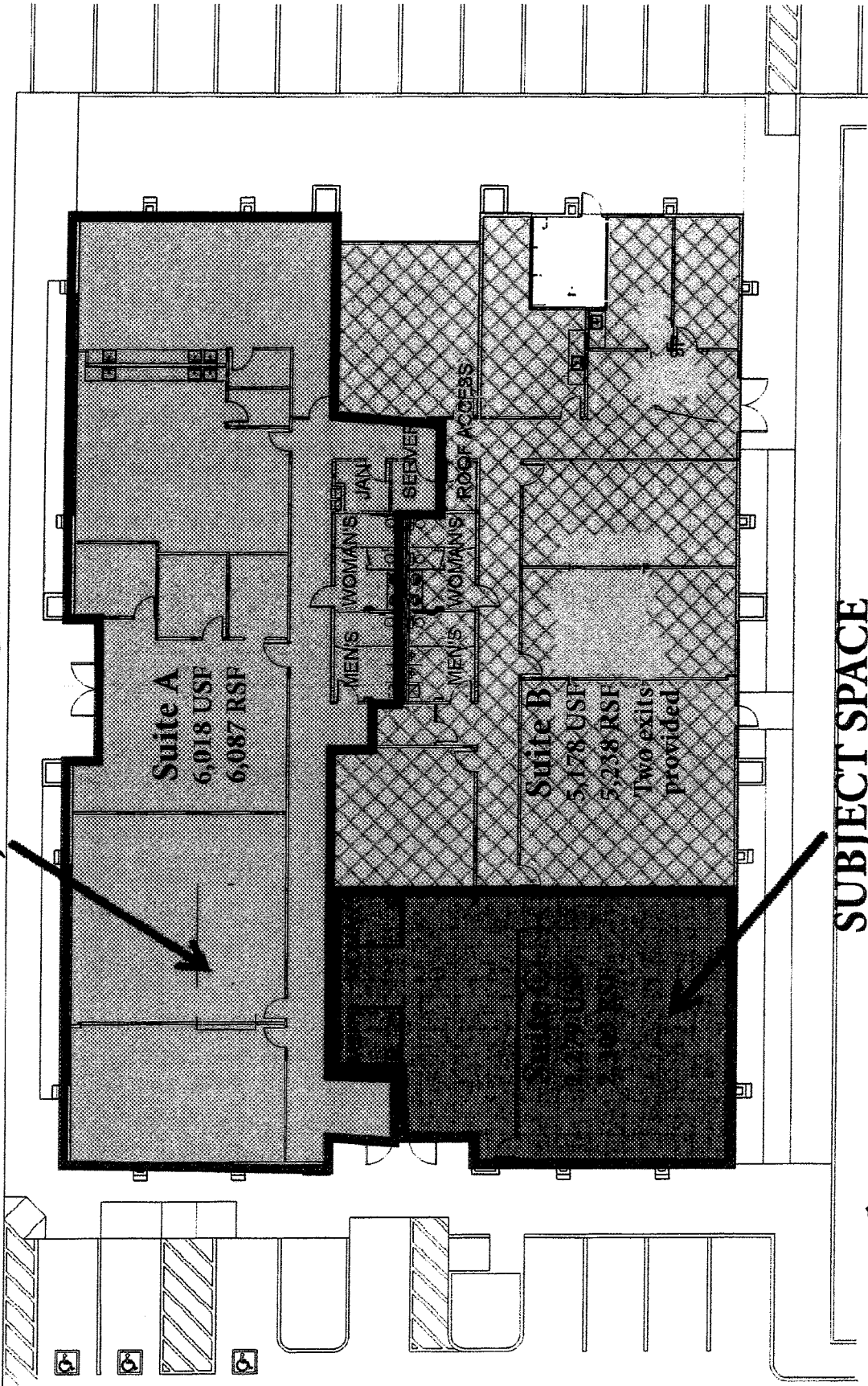
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# Exhibit A

MK Capital

SUBJECT SPACE



1 LARGE SUITE LEASE PLAN

SCALE : 1" = 20'

LEASE PLAN A 01

May 10, 2017 1541 E March Ln, Stockton, CA



**Addendum to Lease**

**Dated: July 20, 2017**

**By and Between:**

**SSM Properties LLC (Lessor)**

**And**

**Stockton Unified School District  
(Lessee)**

**51. Rent Escalations:** The Base Rent as described in Section 1.5, shall increase annually by three (3%) percent.

**52. Delivery Condition; Lessee/Lessor Work:** The Premises shall be delivered to Tenant in broom clean condition with existing HVAC, electrical panel and restroom in good working order. Landlord shall have no further improvement obligation of any kind.

**53. Option to Extend:** Provided Lessee is not in a state of default of the Lease, Lessee shall have one (1) Option to Extend this lease for additional five (5) year period at the same increase as initial lease term. Lessee must give written notice to Lessor no later than one hundred and twenty (120) days prior to the expiration of the initial lease term of Lessee's intent to exercise this Option to Extend.

**54. Rent Commencement Date:** The base rent and estimated NNN expenses shall commence thirty (30) days from the Lease Commencement Date.

**55. Option to Purchase:** Lessee shall be granted the option to purchase the Premises at any time during the 18<sup>th</sup> Month through the 36<sup>th</sup> Month of the lease term at a price of \$2,350,000. Tenant shall utilize the lease term to perform its due diligence and upon exercising said option Escrow shall close within thirty (30) days. In the event, the pending litigation is not settled by the 18<sup>th</sup> month of the term, this Option to Purchase shall extend until the litigation is resolved. If Lessee exercises the purchase option contained in this section, Lessor/Seller will make a full disclosure of the status of the lawsuit, nature of settlement if any, and the nature, extent, and location of contemplated or completed repairs.

**56. Brokers:** It is understood and agreed by both Landlord and Tenant that Lee & Associates - Central Valley, Inc. exclusively represents the Landlord and NAI Benchmark First Commercial represents the Tenant in this transaction. No other Brokers are involved in this transaction. Landlord shall be responsible for the payment of a leasing commission at lease execution to brokers pursuant to the existing listing agreement with Lee & Associates. In the event Tenant purchases the Property then a five (5%) percent sales commission, less any unamortized leasing commissions, shall be paid upon close of escrow. Both parties hereby acknowledge that they understand that they have been advised and understand the agency relationship disclosed herein.

*Signatures on the following page:*



***Agreed and Accepted:***

**Lessor: SSM Properties LLC**

By: \_\_\_\_\_  
Mahesh Khatwani

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

**Lessee: Stockton Unified School District**

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

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

Date: 7/21/17

**LEE & ASSOCIATES-CENTRAL VALLEY, INC.**  
**COMPREHENSIVE BROKERAGE DISCLOSURE/DISCLAIMER FORM**

**Seller/Landlord:**   **SSM Properties LLC**

**Buyer/Tenant:**     **Stockton Unified School District**

**Property:**         **1541 E. March Lane, Stockton, CA**

**Broker**             **Lee & Associates Commercial Real Estate Services, Inc. - Central Valley**

**BROKER REPRESENTATION / REAL ESTATE AGENCY RELATIONSHIP**

Lee & Associates-Central Valley, Inc. represents a variety of clients. Depending upon the circumstances, Lee & Associates-Central Valley, Inc. may represent both the Seller/landlord and the Buyer/Tenant in a transaction or you may be interested in a property that may be of interest to other Lee & Associates Central Valley Inc. clients. If Lee & Associates Central Valley Inc. represents more than one party with respect to a property, Lee & Associates-Central Valley will not disclose the confidential information of one principal to the other.

In this transaction, Lee & Associates-Central Valley Inc. represents:

- ☒ the Seller/Landlord ("Seller/Landlord's Broker")  
☐ the Buyer/Tenant ("Buyer/Tenant's Broker")  
☐ both Seller /Landlord and Buyer/Tenant in a Dual Agency capacity ("Dual Broker").

Seller/Landlord and Buyer/Tenant hereby confirm that they were timely advised of the dual agency representation and that they consent to the same, and that they do not expect said Broker to disclose to either of them the confidential information of the other party.

I/We acknowledge receipt of a copy of this disclosure and the attached Real Estate Agency Relationship Form and the Disclosure Regarding Real Estate Agency Relationship Form.

**NOTIFICATION RE: NATIONAL FLOOD INSURANCE PROGRAM**

This property is or may be located in a Special Flood Hazard Area on United States Department of Housing and Urban Development (HUD) "Special Flood Zone Area Maps". Federal law requires that as a condition of obtaining federally related financing on most properties located in "flood zones", banks, savings and loan associations, and some insurance lenders require flood insurance to be carried where the property, real or personal, is security for a loan. This requirement is mandated by the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973. The purpose of the program is to provide flood insurance to property owners at a reasonable cost. Cities or counties participating in the National Flood Insurance Program may have adopted building or zoning restrictions, or other measures, as part of their participation in the program. The extent of coverage available in your area and the cost of this coverage may vary, and for further information, you should consult your lender or insurance carrier. Whether or not located in a flood zone, properties can be subject to flooding and moisture problems, especially properties on a slope in low-lying areas or in a dam inundation zone (California Government Code Section 8589.5). Buyers and Tenant should have their experts confirm whether the Property is in a flood zone and otherwise investigate and evaluate these matters

**HAZARDOUS WASTES OR SUBSTANCES AND UNDERGROUND STORAGE TANKS**

Comprehensive federal and state laws and regulations have been enacted in the past several years in an effort to control the use, storage, handling, clean-up, removal and disposal of hazardous wastes or substances. Some of these laws and regulations (such as, for example, the Comprehensive Environmental Response Compensation and Liability Act [CERCLA]) provide for broad liability on the part of owners, Tenants, or other users of property for clean-up costs and damages, regardless of fault. Other laws and regulations set standards for the handling of asbestos, and establish requirements for the use, modification, abandonment, and closure of underground storage tanks.

It is not practical or possible to list all such laws and regulations in this Notice. Therefore, Sellers/Landlords and Purchasers/Tenants are urged to consult legal counsel to determine their respective rights and liabilities with respect to the issues described in this Notice, as well as all other aspects of the proposed transaction. If hazardous wastes or substances have been or are going to be used, stored, handled or disposed on the Property, or if the Property has been or may have underground storage tanks, it is essential that legal and technical advice be obtained to determine, among other things, the nature of permits and approvals which have been obtained or may be required; the estimated costs and expenses associated with the use, storage, handling, clean-up, disposal or removal of hazardous wastes or substances; and the nature and extent of contractual provisions necessary or desirable in this transaction. Broker recommends expert assistance and site investigation to determine past uses of the property, which may provide valuable information as to the likelihood of hazardous wastes or substances, or underground storage tanks, being on the Property.

Seller/Landlord agrees to disclose to Broker and to Purchaser/Tenant any and all known information which he/she/it has regarding present and future zoning and environmental matters affecting the Property and regarding the condition of the Property, including, but not limited to structural, mechanical and soils conditions, the presence and location of asbestos, PCB transformers, other toxic, hazardous or contaminated substances, and underground storage tanks, in, on, or about the Property.

Broker has conducted no investigation regarding the subject matter hereof, except as may be contained in a separate written document signed by Broker. Broker makes no representations concerning the existence or nonexistence of hazardous wastes or substances, or underground storage tanks, in, on, or about the Property. Purchaser/Tenant should contact a professional, such as a civil engineer, industrial hygienist or other persons with experience in these matters, to advise on these matters.

The term "hazardous wastes or substances" is used herein in its very broadest sense and includes, but is not limited to, petroleum based products, paints and solvents, lead, cyanide, DDT, printing inks, acids, pesticides, ammonium compounds, asbestos, PCBs and other chemical products. Hazardous wastes or substances and underground storage tanks may be present on all types of real property. This Notice is intended to apply to any transaction involving any type of real property, whether improved or unimproved.

#### AMERICANS WITH DISABILITIES ACT (ADA)

Owners or Tenants of real property may be subject to the Americans with Disabilities Act (ADA), a federal law codified at 42 USC Section 12101 et seq. Among other requirements of the ADA that could apply to your property, Title III of the Act requires owners and Tenants of "public accommodations" to remove barriers to access by disabled persons and provide auxiliary aids and services for hearing, vision or speech impaired persons. The regulations under Title III of the ADA are codified at 28 CFR part 36.

Broker recommends that you and your attorney review the ADA and the regulations, and, if appropriate, your proposed lease or purchase and sale agreement, to determine if this law would apply to you and the nature of the requirements. These are legal issues. You are responsible for conducting your own independent investigation of these issues.

#### NOTICE TO BUYERS AND SELLERS REGARDING THE FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA)

Unless an exemption applies, FIRPTA requires that every Buyer of real estate in the United States deduct and withhold from the Seller's proceeds an amount equal to ten percent (10%) of the gross sales price. The primary exemptions are:

1. The Seller furnishes to the Buyer a certificate executed by the Seller stating under penalty of perjury the Seller's United States taxpayer identification number and that the Seller is not a foreign person. (A foreign person is any foreign citizen or entity other than a United States resident.)
2. The property is acquired by the Buyer for use as his or her residence and the amount paid is \$300,000 or less.

If the Buyer fails to deduct and withhold the correct amount of tax on a non-exempt sale, the Buyer will be liable to the Internal Revenue Service (I.R.S.) for that tax. If the initial cash consideration paid by the Buyer prior to the transfer of title is not enough to cover the withholding liability, the Buyer will be liable for the higher amount unless the Buyer and Seller obtain a qualifying statement from the I.R.S. before transfer of title.

Even though the Seller provides the Buyer with a non-foreign person certificate, the Buyer must still withhold the tax if the Buyer has actual knowledge that the certificate is false or if the Buyer receives notice from the Buyer's agent or Seller's agent that the certificate is false.

A Seller who is a foreign person should consult with an attorney or accountant familiar with FIRPTA before entering into any negotiations or contracts for the sale of property. If the Seller acts promptly, depending on the particular circumstances, it may be possible to have the I.R.S. (1) determine the Seller's maximum tax liability, (2) reduce the amount which the Buyer must withhold, (3) issue a qualifying statement, or (4) make an early refund of excess withholding.

#### COMPLIANCE WITH LAWS

The parties hereto agree to comply with all applicable federal, state and local laws, regulations, codes, ordinances and administrative orders having jurisdiction over the parties, property or the subject matter of this Agreement, including, but not limited to, the 1964 Civil Rights Act and all amendments thereto, the Foreign Investment in Real Property Tax Act, the Comprehensive Environmental Response Compensation and Liability Act, and The Americans with Disabilities Act.

#### CERTIFIED ACCESS SPECIALIST

California Civil Code Section 1938 requires that leases for ALL commercial properties entered into on or after July 1, 2012 state whether the subject premises has been inspected by a "Certified Access Specialist" and if so, whether the property has or has not been determined to meet all applicable construction related accessibility standards pursuant to California Civil Code Section 55.53.

California Civil Code Section 55.53, et. seq., addresses the role of the Certified Access Specialist, including the preparation of a written assessment of whether the assessed site meets all applicable construction-related accessibility standards or if corrective actions are required. Such assessment will hopefully curtail construction related accessibility lawsuits (including claims alleging violations of the Americans with Disabilities Act) as such written assessments would serve as evidence of compliance (or non-compliance) with applicable accessibility laws.

#### NONRESIDENTIAL BUILDING ENERGY USE

Effective July 1, 2013, the Nonresidential Building Energy Use requirements set forth in the California Public Resources Code Section 25402.10 which require all owners who are going to sell, lease or finance "Nonresidential Buildings" which are 50,000 square feet or more located in California to disclose the property's energy use data for the most recent 12 months. Similar disclosure requirements will take effect July 1, 2014 for properties between 10,000 and 50,000 square feet, and July 1, 2015 for properties between 5,000 and 10,000 square feet.

#### OWNER COMPLIANCE WITH AB 1103

Owner agrees that if applicable, it will comply with the provisions of AB 1103. AB 1103 provides that the owner provide each prospective buyer, tenant or lender the following (a) Disclosure Summary Sheet, (b) Statement of Energy Performance, (c) Data Checklist, (d) Facility Summary.

These documents were prepared by the EPA Energy Star Program. In order to obtain these documents, Owner agrees to go on-line and open an account with the EPA Energy Star Program at least thirty (30) days before the disclosure is required. Because utility companies have thirty (30) days to supply information, Owner is encouraged to register with the EPA as soon as reasonably possible.

AB 1103 is being phased in. Commencing on July 1, 2013, AB 1103 affects all commercial properties in excess of 50,000 square feet. Commencing July 1, 2014, AB 1103 affects all commercial properties in excess of 10,000 square feet. Commencing July 1, 2015, AB 1103 affects all commercial properties in excess of 5,000 square feet.

#### EARTHQUAKE SAFETY (CALIFORNIA ONLY)

Owners or their agents who are involved in the transfer of a pre-cast concrete or reinforced or unreinforced masonry building with wood frame floors or roof which was built before January 1, 1975 must deliver to the transferee a copy of a state publication entitled "The Commercial Property Owner's Guide to Earthquake Safety" published by the California Seismic Safety Commission. The undersigned Buyer/Tenant of the real property herein described acknowledges that Lee & Associates Commercial Real Estate has delivered to the undersigned a copy thereof in accordance with California Government Code Section 8875.6 and Sections 8893 et seq.

#### ALQUIST-PRIOLO NOTIFICATION; ALQUIST-PRIOLO SPECIAL EARTHQUAKE STUDIES ZONE ACT (CALIFORNIA ONLY)

Earthquakes occur throughout California, the Property described above is or may be situated in a Special Studies Zone as designated under the Alquist-Priolo Special Studies Zone Act, Sections 2621-2630, inclusive, of the California Public Resources Code; and, as such, the construction or development on the Property of any structure for human occupancy may be subject to the findings of a geologic report prepared by a geologist registered in the State of California, unless such report is waived by the city or county under the terms of that Act. No representations on the subject are made by Seller/Landlord or by Lee & Associates or its agents or employees, and the Purchaser/Tenant should make his/her/its own inquiry or investigation.

For further information you may wish to contact appropriate city or county agencies: State of California Department of Conservation Division of Mines and Geology (916) 445-5716

Per Special Publication 42-Revised 1985, Fault-Rupture Hazard Zones in California, Alquist-Priolo Special Studies Zones Act of 1972 with Index to Special Studies Zone Maps, Page 10 Figure 4-6 indicates that the above property is outside a Special Studies Zone.

#### EARTHQUAKES

Earthquakes occur throughout California. According to Fault-Rupture Hazard Zones in California Special Publication 42 [specify source], the Property [ ] is / [ ] may or may not be situated in an Earthquake Fault Zone and/or a Seismic Hazard Zone (Sections 2621 et seq. and Sections 2690 et seq. of the California Public Resources Code, respectively). Property development and construction in such zones generally are subject to the findings of a geologic report prepared by a state-registered geologist. Whether or not located in such a zone, all properties in California are subject to earthquake risks and may be subject to a variety of state and local earthquake-related requirements, including retrofit requirements. Among other items, all new and existing water heaters must be braced, anchored or strapped to resist falling or horizontal displacement, and in sales transactions, Sellers must execute a written certification that the water heaters are so braced, anchored or strapped (California Health and Safety Code Section 19211). Buyers and Tenants should have their experts confirm whether the Property is in any earthquake zone and otherwise investigate and evaluate these matters.

#### TAXES

Sales, leases and other real estate transactions can have federal, state and local tax consequences. In sales transactions, Internal Revenue Code Section 1446 requires Buyers to withhold and pay to the IRS 10% of the gross sales price within 10 days of the date of a sale unless the Buyers can establish that the Sellers are not foreigners, generally by having the Sellers sign a Non-Foreign Seller Affidavit. Depending on the structure of the transaction, the tax withholding liability can exceed the net cash proceeds to be paid to the Sellers at closing. California imposes an additional withholding requirement equal to 3 1/3% of the gross sales price not only on foreign Sellers but also out-of-state Sellers and Sellers leaving the state if the sales price exceeds \$100,000. Withholding generally is required if the last known address of a Seller is outside California, if the proceeds are

disbursed outside of California or if a financial intermediary is used. Have your experts investigate and evaluate these matters.

#### FIRES

California Public Resources Codes Sections 4125 et seq. require Sellers of real property located within state responsibility areas - J.k.J. to advise Buyers that the property is located within such a wildland zone, that the state does not have the responsibility to provide fire -protection services to any structure within such a zone and that such zones may contain substantial forest/wildland fire risks. Government Code Sections 51178 et seq. require Sellers of real property located within certain fire hazard zones to disclose that the property is located in such a zone. Sellers must disclose that a property located in a wildland or fire hazard zone is subject to the fire prevention requirements of Public Resources Code Section 4291 and Government Code Section 51182, respectively. Sellers must make such disclosures if either the Sellers have actual knowledge that a property is in such a zone or a map showing the property to be in such a zone has been provided to the county assessor. Properties, whether or not located in such a zone, are subject to fire/life safety risks and may be subject to state and local fire/life safety-related requirements, including *retrofit* requirements. Have your experts investigate and evaluate these matters.

#### SELLER/LANDLORD DISCLOSURE. DELIVERY OF REPORTS. PEST CONTROL REPORTS AND COMPLIANCE WITH LAWS.

Sellers/landlord are hereby requested to disclose directly to Buyers/Tenants all information known to Sellers/landlords regarding the Property, including but not, limited to, hazardous materials (including toxic mold contamination, zoning, construction, design, engineering, soils, title, survey, fire/life safety, and other matters, and to provide Buyers/Tenants with copies of all reports in the possession of or accessible to Sellers/landlords regarding the Property. Sellers/landlords and Buyers/Tenants must comply with all applicable federal, state and local laws, regulations, codes, ordinances and administrative orders, including, but not limited to, the 1964 Civil Rights Act and all amendments thereto; the Foreign Investment in Real Property Tax Act; the Comprehensive Environmental Response Compensation and liability Act; and the Americans with Disabilities Act. If a pest control report is a condition of the purchase contract, Buyers are entitled to receive a copy of the report and any certification and notice of work completed.

#### PROPERTY INSPECTIONS AND EVALUATIONS

Buyers /Tenants should have the Property thoroughly inspected and all parties should have the transaction thoroughly evaluated by the experts of their choice. Ask your experts what investigations and evaluations may be appropriate as well as the risks of not performing any such investigations or evaluations. Information regarding the Property supplied by the real estate brokers has been received from third party sources and has not been independently verified by the brokers. Have your experts verify all information regarding the Property, including any linear or area measurements and the availability of all utilities. All work should be inspected and evaluated by your experts, as they deem appropriate. Any projections or estimates are for example only, are based on assumptions that may not occur and do not represent the current or future performance of the property. Real estate brokers are not experts concerning nor can they determine if any expert is qualified to provide advice on legal, tax, design, ADA, engineering, construction, soils, title, survey, fire/life safety, insurance, hazardous materials including toxic mold contamination or other such matters. Buyer/Tenant has relied solely on its own investigation of the property. Such areas require special education and, generally, special licenses not possessed by real estate brokers. Consult with the experts of your choice regarding these matters.

#### NO INDEPENDENT INVESTIGATION

Seller/Landlord and Buyer/Tenant acknowledge and understand that any financial statements, information, reports, or written materials of any nature whatsoever, as provided by the parties to Broker, and thereafter submitted by Broker to either Seller/Landlord and/or Buyer/Tenant, are so provided without any independent investigation by Broker, and as such Broker assumes no responsibility or liability for the accuracy or validity of the same. Any verification of such submitted documents is solely and completely the responsibility of the party to whom such documents have been submitted.

#### NO WARRANTY

Landlord and Tenant acknowledge and agree that no warranties, recommendations, or representations are made by the broker as to the accuracy, the legal sufficiency, the legal effect of the tax consequences of any of the documents submitted by Broker to Landlord and/or Tenant referenced in Paragraph 3 above, nor of the legal sufficiency, legal effect, or tax consequences of the transactions contemplated thereby. Furthermore, Landlord and Tenant acknowledge and agree that Broker has made no representations concerning the ability of the Tenant to use the Premises as intended, nor of the sufficiency or adequacy of the Premises for their intended use, and Tenant is relying solely on its own investigation of the Premises in accepting this Proposal to Lease.

#### BROKER DISCLOSURE

The parties hereby expressly acknowledge that Broker has made no independent determination or investigation regarding the following: present or future use or zoning of the property; environmental matters affecting the Property; the conditions of the Property, including, but not limited to structural, mechanical and soils conditions, as well as issues surrounding hazardous wastes or substances as set out above; violations of the Occupational Safety and Health Act or any other federal, state, county or municipal laws, ordinances, or statutes; measurements of land and/or buildings. Purchaser/Landlord agrees to make it own investigation and determination regarding such items.

A real estate broker is qualified to advise on real estate. If you desire legal advice, consult your attorney.

Receipt of a copy of this Notice and Agreement is hereby acknowledged:

**Seller/Landlord:**

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

**SSM Properties LLC**

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

Title \_\_\_\_\_

**Buyer/Tenant:**

Date: 7/21/17

**Stockton Unified School District**

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

Title CBO \_\_\_\_\_

The Parties hereto should consult their advisors. No representation or recommendation is made by Lee & Associates Commercial Real Estate or its agents or employees as to the legal effect, interpretation, or economic consequences of this agreement, the transaction contemplated hereunder, the National Flood Insurance Program and related legislation, nor of other legislation referred to herein. These are questions that you should address with your consultants and advisors.

## DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP

(As required by the Civil Code 2079.16)

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should, from the outset, understand what type of agency relationship or representation you wish to have with the agent in the transaction.

### SELLER'S AGENT ("Seller" includes both a vendor and a lessor)

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller: A Fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Seller. To the Buyer and the Seller:

- a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
- b) A duty of honest and fair dealing and good faith.
- c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties. An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

### BUYER'S AGENT ("Buyer" includes both a purchaser and a lessee)

A selling agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations:

To the Buyer: A Fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Buyer. To the Buyer and the Seller:

- a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
- b) A duty of honest and fair dealing and good faith.
- c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties. An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

### AGENT REPRESENTING BOTH SELLER AND BUYER

A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer. In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

- a) A Fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the seller or the Buyer..
- b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, the agent may not, without the express permission of the respective party, disclose to the other party that the Seller will accept a price less than the listing price or that the Buyer will pay a price greater than the price offered. The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional. Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction.

This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on page 2. Read it carefully. I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE AND THE PORTIONS OF THE CIVIL CODE NOTED ABOVE.

Seller's Broker is the agent of (check one): ☐ the seller exclusively; or ☐ both the buyer and seller

Buyer's Broker is the agent of (check one): ☒ the buyer exclusively; ☐ the seller exclusively; or ☐ both the buyer and seller

SELLER/LESSOR: \_\_\_\_\_

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

Seller's Broker: \_\_\_\_\_

Associate: \_\_\_\_\_ BRE # \_\_\_\_\_  
Printed Name Signature

BUYER/LESSEE: Stockton Unified School District

Signature: Lisa Grant-Dawson, Chief Business Officer Date: \_\_\_\_\_

Buyer's Broker: NAI Benchmark First Commercial

Associate: Kevin Dougherty BRE # 01258350  
Printed Name Kevin Dougherty, CCIM Signature

NOTE: When Seller/Lessor and Buyer/Lessee are represented by different brokerage companies: (i) the Listing Agent shall have one Agency Disclosure form signed by Seller/Lessor and (ii) the Buyer's/Lessee's Agent shall have one Agency Disclosure Form signed by Buyer/Lessee and either that same or a different Agency Disclosure form presented to Seller/Lessee for signature prior to presentation of the offer. If the same form is used, Seller/Lessor may sign here:

SELLER/LESSOR: \_\_\_\_\_ Date: \_\_\_\_\_

## DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP

### CIVIL CODE SECTIONS 2079.24 (2079.16 appears on page 1)

2079.13 As used in Section 2079.14 to 2079.24, inclusive, the following terms have the following meanings:

- (a) "Agent" means a person acting under provisions of Title 9 (commencing with Section 2295) in a real estate transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained.
- (b) "Associate licensee" means a person who is licensed as a real estate broker or salesperson under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and who is either licensed under a broker or has entered into a written contract with a broker to act as the broker's agent in connection with acts requiring a real estate license and to function under the broker's supervision in the capacity of an associate licensee. The agent in the real property transaction bears responsibility for his or her associate licensees who perform as agents of the agent. When an associate licensee owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the associate licensee functions.
- (c) "Buyer" means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. "Buyer" includes vendee or lessee.
- (d) "Dual agent" means an acting agent, either directly or through an associate licensee, as agent for both the seller and the buyer in a real property transaction.
- (e) "Listing agreement" means a contract between an owner of real property and an agent, by which the agent has been authorized to sell the real property or to find or obtain a buyer.
- (f) "Listing agent" means a person who has obtained a listing of real property to act as an agent for compensation.
- (g) "Listing price" is the amount expressed in dollars specified in the listing for which the seller is willing to sell the real property through the listing agent.
- (h) "Offering price" is the amount expressed in dollars specified in an offer to purchase for which the buyer is willing to buy the real property.
- (i) "Offer to purchase" means a written contract executed by a buyer acting through a selling agent which becomes the contract for the sale of the real property upon acceptance by the seller.
- (k) "Real property transaction" means a transaction for this sale of real property in which an agent is employed by one or more of the principals to act in that transaction, and includes a listing or an offer to purchase.
- (l) "Sell", "sale", or "sold" refers to a transfer of real property from the seller to the buyer, and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of Section 2965, and transactions for the creation of a leasehold exceeding one year's duration.
- (m) "Seller" means the transferor in a real property transaction, and includes an owner who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent on behalf of another. "Seller" includes both a vendor and a lessor.
- (n) "Selling agent" means a listing agent who acts alone, or an agent who acts in cooperation with a listing agent, and who sells or finds and obtains a buyer for the real property, or an agent who locates property for a buyer or who finds a buyer for a property for which no listing exists and presents an offer to purchase to the seller.
- (o) "Subagent" means a person to whom an agent delegates agency powers as provided in Article 5 (commencing with Section 2349) of Chapter 1 of Title 9. However, "subagent" does not include an associate licensee who is acting under the supervision of an agent in a real property transaction.

2079.14 Listing agents and selling agents shall provide the seller and buyer in a real property transaction with a copy of the disclosure form specified in Section 2079.16, and, except as provided in subdivision (c) shall obtain a signed acknowledgment of receipt from the seller or buyer, except as provided in this section or Section 2079.15, as follows:

- (a) The listing agent, if any, shall provide the disclosure form to the seller prior to entering into the listing agreement.
- (b) The selling agent shall provide the disclosure form to the seller as soon as practicable prior to presenting the seller with an offer to purchase, unless the selling agent previously provided the seller with a copy of the disclosure form pursuant to subdivision (a).
- (c) Where the selling agent does not deal on a face-to-face basis with the seller, the disclosure form prepared by the selling agent may be furnished to the seller (an acknowledgment of receipt obtained for the selling agent from the seller) by the listing agent, or the selling agent may deliver the disclosure form by certified mail addressed to the seller at his or her last known address, in which case no signed acknowledgment of receipt is required.
- (d) The selling agent shall provide the disclosure form to the buyer as soon as practicable prior to execution of the buyer's offer to purchase, except that if the offer to purchase is not prepared by the selling agent, the selling agent shall present the disclosure form to the buyer no later than the next business day after the selling agent receives the offer to purchase from the buyer.

2079.15 In any circumstance in which the seller or buyer refuses to sign an acknowledgment of receipt pursuant to section 2079.14, the agent or an associate licensee acting for an agent, shall set forth, sign, and date a written declaration of the facts of refusal.

2079.17 (a) As soon as practicable, the selling agent shall disclose to the buyer and seller whether the selling agent is acting in the real property transaction exclusively as the buyer's agent, or as a dual agent representing both the buyer and seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed and acknowledged by the seller, the buyer, and the selling agent prior to or coincident with execution of that contract by the buyer and the seller, respectively.

(b) As soon as practicable, the listing agent shall disclose to the seller whether the listing agent is acting in the real property transaction exclusively as the seller's agent or as a dual agent representing both the buyer and the seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller and the listing agent prior to or coincident with the execution of that contract by the seller.

(c) The confirmation required by the subdivision (a) and (b) shall be in the following form:

(SAMPLE ONLY-DO NOT COMPLETE) Is the agent of (check one); ☐ the seller exclusively; or ☐ the buyer and the seller; ☐ the buyer exclusively

(Name of Listing Agent)

(SAMPLE ONLY-DO NOT COMPLETE) Is the agent of (check one); ☐ the seller exclusively; or ☐ the buyer and the seller; ☐ the buyer exclusively

(Name of Selling Agent, if not the Listing Agent)

2079.18 No selling agent in a real property transaction may act as an agent for the buyer only, when the selling agent is also acting as the listing agent in the transaction.

2079.19 The payment of compensation or the obligation to pay compensation to an agent by the seller or buyer is not necessarily determinative of a particular agency relationship between an agent and the seller or buyer. A listing agent and a selling agent may agree to share any compensation or commission paid, or any right to any compensation or commission for which an obligation arises as the result of a real estate transaction, and the terms of any such agreement shall not necessarily be determinative of a particular relationship.

2079.20 Noting in this article prevents an agent from selecting, as a condition of the agent's employment, a specific form of agency relationship not specifically prohibited by this article if the requirements of Section 2079.14 and Section 2079.17 are complied with.

2079.21 A dual agent shall not disclose to the buyer that the seller is willing to sell the property at a price less than the listing price, without the express written consent of the seller. A dual agent shall not disclose to the seller that the buyer is willing to pay a price greater than the offering price, without the express written consent of the buyer. This section does not alter, in any way, the duty or responsibility of a dual agent to any principal with respect to confidential information other than the price.

2079.22 Nothing in this article precludes a listing agent from also being a selling agent, and the combination of these functions in one agent does not, of itself, make that agent a dual agent.

2079.23 A contract between the principal and agent may be modified or altered to change the agency relationship at any time before the performance of the act which is the object of the agency with the written consent of the parties to the agency relationship.

2079.24 Nothing in this article shall be construed to either diminish the duty of disclosure owed buyers and sellers by agents and their associate licensees, subagents, and employees or to relieve agents and their associate licensees, subagents, and employees from liability for their conduct in connection with the acts governed by this article or any breach of a fiduciary duty or a duty of disclosures.



SUBJECT: Approval of an Out-of-State Conference Attendance Request (CAR) for Four (4) Employees from Business Services and Accounting (Chief Business Official Lisa Grant-Dawson, Executive Director Susanne Montoya, Accounting Manager Guillermo Gutierrez and Accounting Supervisor Sofima Ibarra) to Attend the Annual Sungard National Users Group Conference on Education in Alexandria, Virginia, on October 9, 2017 through October 12, 2017

### INTRODUCTION

The purpose of staff attendance at the Sungard National Users Group (SNUG) Conference is to gain knowledge on the robust products offered by PowerSchool SNUG K-12. The conference was established in 1985 to promote the sharing of information among school districts using PowerSchool software and enable members to achieve optimum use of its flexible software products. Attending the national conference is an energizing, enriching experience that consists of three days of learning and over two hundred educational sessions that will be led by PowerSchool Education trainers, product developers and executives.

### ANALYSIS

Attending the conference will provide District staff with the opportunity to gain knowledge of pertinent software products and collaborate with other SNUG members, PowerSchool staff and district professionals. Through the use of Slack Channels, attendees can also familiarize themselves with how other organizations use the Finance and Student system products to evaluate approaches that may be useful to implement within their school districts.

Funding Source: General Fund - Approximately \$10,000

### RECOMMENDATION

It is recommended that the Governing Board approve the Out-of-State Conference Attendance Request (CAR) for four (4) employees from Business Services and Accounting (Chief Business Official Lisa Grant-Dawson, Executive Director Susanne Montoya, Accounting Manager Guillermo Gutierrez and Accounting Supervisor Sofima Ibarra) to Attend the Annual Sungard National Users Group Conference on Education in Alexandria, Virginia, on October 9, 2017 through October 12, 2017, the cost is approximately \$10,000.

Prepared by: Ms. Lisa Grant-Dawson, Chief Business Officials

Reviewed by: Eliseo Davalos, Ph.D., Superintendent

Conference Registration is Now Open - *More details here.*



Make plans to attend the 2017 SNUG National Conference! Our annual event will take place in Alexandria Virginia, October 9th - 12th, 2017.

[Hotel Information](#) | [Travel Information](#) | [Conference Agenda](#) | [Pre-Conference](#)

The SunGard National Conference will take place in Alexandria Virginia October 9th -12th. Alexandria, VA is nationally recognized for its rich history and beautifully preserved 18th- and 19th-century architecture - an extraordinary backdrop for acclaimed, *chef-driven restaurants*; a *thriving boutique scene*; vibrant *arts and culture*; and a welcoming, walkable lifestyle.

#### CONFERENCE AGENDA

#### PRE-CONFERENCE AGENDA

### SNUG MEMBERS CONFERENCE REGISTRATION

Early Bird Registration April 28th - July 31st	\$590 REGISTER NOW
Early Bird Presenter April 28th - July 31st <small>*Must present at least once class</small>	\$290 REGISTER NOW
One Day Passes April 28th - September 16th	\$345 REGISTER NOW
Complimentary April 28th - September 16th <small>*Must present at least two or more classes</small>	FREE REGISTER NOW

### NON-SNUG MEMBERS CONFERENCE REGISTRATION

Early Bird Registration April 28th - July 31st	\$690 REGISTER NOW
Early Bird Presenter April 28th - July 31st <small>*Must present at least one class</small>	\$345 REGISTER NOW
One Day Passes April 28th - September 16th	\$345 REGISTER NOW
Complimentary April 28th - September 16th <small>*Must present at least two or more classes</small>	FREE REGISTER NOW



Hi if you have any questions about the national conference registration process please let us know.

Reply...



**SUBJECT:** Awarding Contracts; Approving Change Orders, Rejecting All Bids and Authorizing the Filing of Notice of Completions

### INTRODUCTION

The District is providing the current list of all new contracts to be awarded, change orders to be approved, all bids to be rejected and notice of completions to be filed for various projects. Each item has been reviewed by staff and/or legal counsel to ensure compliance. A summary of each project is included in this agenda item. The complete contracts are available for inspection and review in the District's Purchasing or Facilities Department.

<b>Contract Awards - Contract Title</b>	<b>Vendor</b>	<b>Funding Source</b>	<b>Contract Amount</b>
District Wide Video Surveillance, Phase IX*	Ojo Technologies	Reserve Capital Outlay	\$221,871.52
<b>Change Orders - Contract Title</b>	<b>Original Contract Amount</b>	<b>Additive/Deductive Change Order</b>	<b>New Contract Amount</b>
None			
<b>Rejecting All Bids - Contract Title</b>	<b>Vendor</b>	<b>Funding Source</b>	<b>Contract Amount</b>
None			
<b>Notice of Completions - Contract Title</b>	<b>Vendor</b>	<b>Funding Source</b>	<b>Contract Amount</b>
Franklin High School Roof Replacement – Bid No. 882	D7 Roofing Services, Inc.	Emergency Repair Program/Deferred Maintenance/Routine and Restricted Maintenance	\$3,861,658.00**
District Wide Digital Cabling Project, Phase V	AMS.NET	Measure E Technology Bond	\$587,085.49**

\*Piggyback of Ojo Technologies California Multiple Award Schedules (CMAS) Contract Number 3-15-88-0022K and Avigilon Equipment CMAS Contract Number 3-16-84-0022M in accordance with Public Contract Code Section 20118

\*\*Final contract amount may be reduced due to a deductive change order for unused contingency

### RECOMMENDATION

It is recommended that the Governing Board award the contract(s) listed; approve the change orders presented, reject the bids listed and authorize the filing of notice of completions.

Prepared by: Mr. Steve L. Breakfield, Director, Facilities & Planning

Reviewed by: Ms. Lisa Grant-Dawson, Chief Business Official

### **District Wide Video Surveillance, Phase IX**

**PROJECT SCOPE:** This is the ninth phase of the District Wide Video Surveillance Project. The project consists of the installation of all required components for an exterior video surveillance system at August, Grunsky and Peyton Elementary Schools and Walton Special Center.

**SUBJECT:** Approval of an Out-of-State Conference Attendance Request (CAR) for One (1) Graphic Artist from Reprographics (Gibran Soto) to Attend the Print 2017 Annual Conference in Chicago, Illinois, on September 10, 2017 through September 14, 2017

### INTRODUCTION

The Print 2017 is a professional organization for design. Its members practice all forms of communication design, including graphic design, typography, interaction design, branding and identity. The organization's aim is to be the standard bearer for professional ethics and practices for the design profession.

The Print 2017 Conference brings the design community together to engage in workshops led by engaging speakers, local culture, networking receptions, competitions, exhibitions, professional development sessions, and face-to-face roundtables with leaders in the design industry. These five-day workshops are for professionals who want to gain confidence leading collaborations and empower participants to take responsibility for successful outcomes. Attendees will gain resources, strategies, and valuable insight to help them guide people effectively through a collaborative design thinking process.

### ANALYSIS

Attendance at the conference will provide our Graphic Artist with the opportunity to not only network with other districts and businesses, but also gain knowledge on new programs and processes in web design, visual arts and page layout techniques. He will discover new ideas, create meaningful connections, learn new skills, and experience hands-on learning in workshops.

FUNDING SOURCE: General Fund – Approximately \$3,000

### RECOMMENDATION

It is recommended that the Governing Board approve the Out-of-State Conference Attendance Request (CAR) for one (1) Graphic Artist from Reprographics (Gibran Soto) to attend the Print 2017 Annual Conference in Chicago, Illinois, on September 10, 2017 through September 14, 2017, the cost is approximately \$3,000.

Prepared by: Mr. Richard Lovitt, Reprographics Manager

Reviewed by: Mr. Robert Torres, Chief Technology Officer

Approved by: Ms. Lisa Grant-Dawson, Chief Business Official

SUBJECT: Awarding Contracts

### INTRODUCTION

In the interest of streamlining routine board agenda items, the following is submitted. Below is a listing of all contracts to be awarded for various projects. Each item has been reviewed by legal counsel and/or staff to ensure compliance with codes and regulations. Detailed information about these contracts is available upon request.

<u>Contract Title</u>	<u>Vendor</u>	<u>Amount</u>
Commercial Lawn Mowers (8 Each)	Garton Tractor, Inc.	\$181,896

This contract is a piggyback of a contract established by the National Joint Powers Alliance, a nationwide purchasing consortium, in accordance with California Public Contract Code Section 20118. These mowers are needed to replace the District's aging fleet and equip newly added landscaping staff with the implements needed to improve the appearance of all District schools.

This purchase is aligned with the District Facilities Re-Organization Plan that was presented and approved at the March 14, 2017 Governing Board, Agenda Item 7.4 and the April 11, 2017 Board Meeting, Agenda Item 7.3. A portion of this reorganization involved landscape maintenance of which new and additional mowers are needed to actualize the reorganization plan.

Funding Source: General Fund

### RECOMMENDATION

It is recommended that the Governing Board approve the award of the contract noted above.

Prepared by: Mr. Ivan Costa, Purchasing Manager

Reviewed by: Mr. Steve Breakfield, Director, Facilities & Planning

Approved by: Ms. Lisa Grant-Dawson, Chief Business Official

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10.0 Public Employee /Open Session