Las Lomitas Elementary School District
Inclusive. Engaging. Inspiring.

District Office

1011 Altschul Avenue
Menlo Park, CA 94025

(650) 854-6311

www.llesd.org

Re: PLN2000-00352

June 12, 2024

Dear Chair Ketcham and Members of the Planning Commission,

We are writing again on behalf of the Las Lomitas Elementary School District to offer further detail in regard to our letter dated June 9, 2024.

We would like to reiterate our request that the Commission only approve conditions of a use permit that are **consistent with the MOU** signed between the Ladera Community Association (LCA) and Woodland School. For example, we respectfully request that the Commission:

1. Withdraws permission for Woodland to construct a new **parking lot** and permits additional parking accommodations;
2. Limits **summer enrollment** to 125 students; and
3. Conditions the **weekend use of the leased areas**.

The district will review any proposal by Woodland School to add or change fencing on the property, including the placement of any doors, gates, or other lockable mechanisms.

As previously mentioned in our June 9 letter, we respectfully request that the Planning Department helps **ensure compliance** with the permit, including by promptly advising us of any complaints of nonadherence so we may address any such issues with our tenant.

Thank you for your consideration.

Sincerely,

Heather Hopkins
Board President

Dr. Beth Polito
Superintendent

June 11, 2024

Chair Lisa Ketcham
Members of the San Mateo County Planning Commission
455 County Center,
2nd Floor Redwood City, CA 94028

Re: Item #3 on the June 12, 2024 Agenda: Use Permit Renewal and Amendment and Fence Height Exception for continued operation of a private elementary school, expansion of operating hours, retention of three existing tents, and construction of a new 6-foot tall fence along the perimeter of the property.

Owner: Las Lomitas Elementary School District,
Applicant: Woodland School, File Number PLN2000-00352;
Location: 360 La Cuesta Drive, Portola Valley (unincorporated Ladera)

Dear Chair Ketcham and Commissioners,

I write in opposition to Woodland's application for renewal of its Conditional Use Permit ("CUP").

There are numerous and significant issues underlying Woodland's current use of the Ladera School Site, which form the basis of a pending litigation. [1] Attached hereto as Exhibits 1, 2, and 3 are relevant, publicly filed documents from that case.[2] These documents demonstrate that, since the County last approved Woodland's CUP, the public's legal, valid, and enforceable rights to use the recreation portions of the Ladera School Site have been grossly impacted, without first informing the public, rendering the public with little recourse. Because of this conduct, Woodland's legal rights to operate on the Ladera School Site as presented here are uncertain

[1] *See Ladera Taxpayers for Integrity in Governance v. Las Lomitas Elementary School District et. al*, Case No. 24-cv-2412-WHO.

The underlying Lease agreement giving Woodland rights to the Ladera School Site clearly and unequivocally limit's Woodland's CUP to only the leased portions of the Ladera School Site, which no one currently disputes. An issue before the Court is whether Woodland is allowed to operate over the recreation (or un-leased, in-use District property, which LLESD reserved for District and community use) portions of the Ladera School Site. This issue directly implicates the scope of this CUP and Woodland's legal permissions to implement the permissions/restrictions contained in any issued CUP. Tandem state court actions will likely also be filed, including a petition for writ of mandate to order LLESD to enforce binding, ministerial Board Policies and state law regarding how it treats the public's recreation areas on the Ladera School Site. Until this dispute is finally settled, then Woodland's CUP should reflect its contractual rights (Woodland may obtain a CUP over the property it leases). Additionally any issued CUP should be short-term.

[2] Exhibit 1 is the legally operative Complaint. Exhibit 2 is Plaintiff's reply to Defendants' opposition to Plaintiff's TRO/OSC. Exhibit 3 is Plaintiff's opposition to Defendants' motion to dismiss, filed June 11, 2024.

and, until such rights are resolved finally by a court of law, this CUP as-proposed should not issue.

Instead, this CUP should issue only on a temporary or short-term basis, subject to yearly renewal and review, until the underlying dispute regarding rights to the recreation portions of the Ladera School Site is settled. Woodland and Dr. Warren are named defendants in this pending, active litigation and their disputed claims to the recreation portions of the Ladera School Site should be settled before this County authorizes Woodland's proposed application, which suggests that Woodland possesses a fundamental (willful) misunderstanding of its rights to the Ladera School Site, presenting greater rights than it has.

Woodland's CUP application proposes several new additions since I last submitted comments on PLN2000-00352 in November 2023. Woodland now seeks new weekend hours, to retaining outside tents (previously described by Woodland to the County as "classrooms"), to build a new tall fence, and expansion of weekday operating hours. These increased operations tax the Ladera School Site; Woodland has not first negotiated with its landlord, LLESD, to amend its Lease to allow for these changes to its rights to the Ladera School Site. Woodland pays nothing more to the school for this increased use. Instead, Woodland bypasses the public school, which answers to its constituents, and takes its desire for greater use and control directly to the County. In doing so, Woodland omits the contractual bases for its rights to use the Ladera School Site, which are more limited than what Woodland presents here. By allowing this conduct, the County (knowingly) inserts itself into a land use dispute and (knowingly) assists a private entity with taking public taxpayer property.

For example, Woodland's proposed fence design crosses existing and recorded easements. *See* Court Documents *and* Exhibit 2. providing recorded easement. Woodland's proposed fence also destroys the public's contractual rights given by LLESD to access the Ladera School Site. *Id.* Woodland omits these facts from its CUP application. Woodland made no attempt to clarify its v. the public's contractual rights to the Ladera School Site with LLESD before submitting its fence request to the County. Woodland also failed to report known, existing easements *that Woodland itself signed*, which would be terminated by Woodland's proposed fence.

This is classic putting the cart before the horse and must not be permitted. Woodland cannot, by intentionally failing to disclose, use a County permitting process to terminate a public easement or the public's rights to public property. Such a result will end in (additional) legal action. More review, diligence, and research is thus necessary before the County authorizes Woodland's proposed changes to its CUP, or any CUP longer than one year.

To be clear, Woodland needs a CUP to operate and one must issue. This letter does not intend to prevent that. This letter instead opposes issuing a 10-year CUP unless and until the underlying property dispute is resolved. Until the public's and Woodland's rights to the Ladera School Site are clarified and settled, yearly CUP renewals are necessary and proper here.

Additionally, since 2012, Woodland added over 15,000 sq ft of enclosed classroom and auditorium space (Woodland uses the gym as an auditorium) to the Ladera School Site. Woodland was never subject to CEQA review for these significant construction projects. I respectfully request full CEQA review of all of Woodland's proposed changes to its current operations, including the outdoor classrooms, retaining the portables on the blacktop (they are temporary structures, never intended to be permanent, and thus may be removed/modified as originally required at any time), building a parking lot, constructing a fence (the fence will necessarily affect mature, established oak trees which are located where Woodland's proposed fence will be). CEQA review is necessary because Woodland previously should not have qualified for the "school" CEQA exception because ultimately its construction project exceeded the 25% capacity threshold for the exception. A parking lot on the publics' recreation areas (instead of on Woodland's leased property), which has not yet been built, is precisely the type of project CEQA was developed to address.

Finally, I attach emails from the husband of Lennie Roberts sent on June 10, 2024 after the LCA's MOU process resolved. *See* Exhibit 3. These emails reflect the strong bias and dedication that the Roberts' have towards protecting Woodland's interests, even at the expense of neighbors and children having access to their local public recreation area, which still remains in-use, un-leased, public property, subject to significant restraints on exclusive private use.

Sincerely,

/s/Susanna Chenette
Susanna Chenette
130 Lucero Way
Portola Valley, CA 94028

EXHIBIT 1

Susanna L. Chenette (SBN 257914)
130 Lucero Way
Portola Valley, CA 94028
Phone: (773) 680-3892
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Attorney for Plaintiff
LADERA TAXPAYERS FOR INTEGRITY IN GOVERNANCE

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

LADERA TAXPAYERS FOR INTEGRITY IN GOVERNANCE,
Plaintiff,

v.

LAS LOMITAS ELEMENTARY SCHOOL DISTRICT, in its capacity as a property owner; LAS LOMITAS ELEMENTARY SCHOOL DISTRICT GOVERNING BOARD, in its capacity as a property manager; DR. BETH POLITO, in her official capacity as Superintendent of the Las Lomitas Elementary School District; HEATHER HOPKINS, in her official capacity as President of the Las Lomitas Elementary School District Governing Board; WOODLAND SCHOOL; and DR. JENNIFER WARREN, in her official capacity as Head of Woodland.

Defendants.

Case No. 3:24-cv-02412-WHO

FIRST AMENDED COMPLAINT PER 42 U.S.C. § 1983 FOR VIOLATIONS OF THE FIRST AND FOURTEENTH AMENDMENTS OF THE US CONSTITUTION; ATTORNEY'S FEES UNDER 42 U.S.C. § 1988; FAILURE TO DISCHARGE A MANDATORY DUTY; AND TAXPAYER ACTION TO ENJOIN THE WASTE OF PUBLIC PROPERTY PER CCP § 526a; ATTORNEY'S FEES PER CCP § 1021.5.

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INTRODUCTION

1. This case relates to public-school property (the "Ladera School Site") that Las Lomitas Elementary School District ("LLESD," "District") and its Governing Board ("Board") divided into two sections: (1) the buildings/parking lot (the "Property") and (2) the recreation areas (the "Play Areas").

2. After dividing the Ladera School Site, the "Governing Board … determined that the Property [portion of the Ladera School Site] is surplus[.]" *See, infra*, Ex. B.

3. The Governing Board then clarified that "the Property does not include playgrounds or playing fields as contemplated by the 'Naylor Act'" so "[t]he Naylor Act does not apply to the Property because it does not include playgrounds or playing fields." *Id.*

4. The Governing Board then explained that "[it] desires to continue to control the use of the playing fields [i.e., the Play Areas] so that they may be made available to the District and the community[.]" *Id.*

5. In other words, the Play Areas remained in-use (not surplus) District property.

6. These in-use, and not-surplus, Play Areas are the focus of this action.

7. The Play Areas are the focus here because they continue to be in-use District property, but the District insists on using them, and treating them, as surplus property. They are not.

8. And, apart from "in-use" and "surplus," there is not some magical third bucket of public-school property that remains "in-use," but that a school can treat as if it is "surplus." Public school property with these attributes and permissions does not exist.

9. According to the District's own documents, policies, and actions, the in-use Play Areas are a limited public forum. And yet, Plaintiff and its members have been (and continue to be) prevented from hosting meetings, speaking, gathering, posting signs, and otherwise using the Play Areas as a civic center.

10. But Woodland School, lessee of the Property, is allowed to do (and does) any and all of these things on the Play Areas, all day long, M-F, 7:30am-5pm.

11. Such differential treatment constitutes a viewpoint-based restriction on speech and rights to assemble that in effect deprives *the District's own students and constituents* (including Plaintiff and its members) of their constitutional rights *on their own public school property* in favor of the interests of a private school. A private school that competed with another private school to lease the Property *without any use of the Play Areas*.

12. Defendants seem frustrated that Plaintiff seeks to remedy this deprivation of constitutional freedoms on the limited public forum Play Areas. Defendants, for whatever reason, are refusing to honor their legally binding guarantee that the Play Areas be "available to the District and the community." *See* Ex. B. Plaintiff fails to comprehend the bases for these refusals, especially when the District receives no remuneration for Woodland's Play Area use.

13. Unfortunately for Defendants, the treatment of in-use District property is heavily constrained by federal, state, and local policies, statutes, and laws. Defendants cannot simply do whatever they want with the in-use public-school Play Areas. Numerous laws apply to the Play Areas to protect public recreation, gathering, and speech.

14. The District/Board could have converted (and may convert) the in-use Play Areas to surplus property. A clear statutory framework exists to achieve this. Previously, the District/Board successfully converted other in-use property to surplus property. Such surplus properties could be leased entirely, *e.g.*, to Woodland.

15. But Defendants have not designated them surplus (to avoid the Naylor Act).

16. Instead, Defendants treat the Play Areas like surplus property, when they are still in-use property. This violates numerous laws.

17. This action seeks to remedy those violations.

18. To remedy them, this action requests (1) a declaration that Plaintiff has been deprived of certain federal rights on the limited public forum Play Areas and damages for the same (2) to enjoin certain Defendants' unlawful gifting of the Play Areas and (3) to remedy certain Defendants' failures to follow binding, ministerial Board Policies re the Play Areas.

PARTIES

19. Ladera Taxpayers for Integrity in Governance is a group of District taxpayers who reside in close proximity to the Play Areas in unincorporated San Mateo County in the neighborhood of Ladera and within LLESD. All members have been assessed and paid a tax, including property taxes with bond measures specifically for LLESD, within the past year. All members possess the same harm of being deprived of their constitutional freedoms on the Play Areas by certain Defendants, who act under color of law to cause such deprivation.

20. Las Lomitas Elementary School District ("District" and/or "LLESD") is a public school district located at 1011 Altschul Avenue, Menlo Park, California 94025, named in its limited capacity as a property owner. LLESD has an operating budget of roughly $38 million/year for roughly 1088 children. LLESD is a Basic Aid district not subject to any "maximum expenditure" requirements that receives between 90-95% of its funding from non-state sources. LLESD has absolute discretion to manage its property and grounds without State interference, oversight, or control. Plaintiff confirmed repeatedly whether there were any administrative actions, oversight, or remedies available to address LLESD's land management, and California State agencies confirmed, repeatedly, that LLESD is exclusively responsible for managing its property and that the State is unable to intervene in such local control matters. No administrative adjudicatory or oversight process exists here. The State exercises no oversight and enjoys no authority over how LLESD manages its real property.

21. Defendant Las Lomitas Elementary School Governing Board ("Governing Board" or "Board") is the elected governing board of the District, named in its limited capacity as a property manager.

22. Defendant Dr. Beth Polito is the Superintendent of the District.

23. Defendant Heather Hopkins is the President of the Board and currently resides in Menlo Park, CA.

24. Woodland School is a private school, which leases a portion of the Ladera School Site located at 360 La Cuesta Drive, Portola Valley, CA 94028.

25. Defendant Jennifer Warren is the Head of Woodland School.

JURISDICTION, VENUE, AND DIVISION

26. This Court has subject matter jurisdiction per 28 U.S.C. §§ 1331 over Plaintiff's claims under 42 U.S.C § 1983 for violations of the First and Fourteenth Amendments of the United States Constitution.

27. This Court has subject matter jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367 because the claims form part of the same case or controversy under Article III of the United States Constitution.

28. This Court has personal jurisdiction over Defendants because Defendants reside in California and are doing business in California.

29. The Northern District of California is a proper venue pursuant to 28 USC § 1391(b)(2) because all or a substantial part of the acts or omissions giving rise to Plaintiff's claims occurred in this District.

30. San Francisco is the proper Division for Plaintiff's claims because all or a substantial part of the acts or omissions giving rise to Plaintiff's claims occurred in San Mateo County pursuant to Civil L.R. 3-2(c).

IMMUNITY

31. Qualified immunity does not apply here to Heather Hopkins' or Beth Polito's actions because the alleged acts are not discretionary nor do they involve any exercise of judgment; all acts described herein constitute failures to follow binding, ministerial policy and laws. *See Caldwell v. Montoya*, 10 Cal. 4th 972, 985 (1995) (interpreting California's limited public liability statutes (Cal. Govn't Code § 815 *et seq.*) and reiterating that qualified government immunity only exists for *discretionary* acts).

32. Eleventh Amendment immunity does not apply here for LLESD and LLESD Board because, according to the *Mitchell* factors: (1) no money judgment would be satisfied out of state funds because this suit seeks declaratory relief and to replenish taxpayer property, and LLESD is a Basic Aid district with a "minimum" or uncapped expenditure, receiving

roughly 5-10% of funds from State sources, thus requiring no damages be paid from State funds (2) in their respective capacities as property owner and manager, LLESD/the Board do not perform central government functions (and all relevant State agencies responsible for overseeing the District repeatedly confirmed on numerous occasions to Plaintiff that it had no ability to oversee and/or intervene in LLESD/Board's managing of property because that is a local function subject only to local control); (3) LLESD/the Board may sue and be sued (4) LLESD/the Board have the power to take property in LLESD's own name and (5) school districts have the corporate status of State agents for purposes of school administration, but as corporate or municipal actors for purposes of property management, ownership, and development. *See Mitchell v. Los Angeles Community College District*, 861 F.2d 198 (9th Cir. 1988) (establishing five factors for evaluating Eleventh Amendment immunity); *Belanger v. Madera Unified Sch. Dist.*, 963 F.2d 248, 249 (9th Cir. 1992) (applying the *Mitchell* factors to conclude that factor (1) dispositively establishes 11th Amendment immunity because, as a "maximum per-pupil funding" district with capped spending and 75% of funds from the State, damages necessarily came out of State funds, and also holding that factor (2) weighed in favor of immunity because the acts at-issue involved the State function of educating children (*c.f.* here, where the issues do not involve education and there is no State function of local land management)).

33. Regarding the first *Mitchell* factor, this Court is bound by Ninth Circuit precedent distinguishing between school districts that are "maximum per-pupil funding," such as in *Belanger*, versus schools that are "Basic Aid/Support/Need" or "*minimum* per-pupil funding" (LLESD is a "Basic Aid" district), explaining that:

> "[I]n states that set a minimum, rather than a maximum, per-pupil funding amount, we have found that the first *Mitchell* factor disfavors immunity for school districts. *See, e.g.*, *Holz*, 347 F.3d at 1184 (Alaska); *Savage*, 343 F.3d at 1044 (Arizona); *Eason*, 303 F.3d at 1143 (Nevada). In Alaska and Nevada, for example, the state guarantees minimum funding for school districts—called the 'basic support guarantee' in Nevada and the 'basic need' in Alaska—and school districts are free to raise additional revenue beyond that amount. *Holz*, 347 F.3d at 1183-84; *Eason*, 303 F.3d

> at 1142-43. Because per-pupil spending need not be equalized across districts, we held it was 'not necessarily true that an amount withdrawn from a school district's account in order to pay a judgment will be replaced with state money.' *Holz*, 348 F.3d at 1184 (quoting *Eason*, 303 F.3d at 1143). Similarly, in *Savage*, we held the state of Arizona would not be liable for judgments against school districts, as districts' funds 'are not subject to state control, are not subject to a *Belanger*-style spending-cap, and will not be replenished with money out of the state treasury.' 343 F.3d at 1044."

Sato v. Orange Cty. Dep't of Educ., 861 F.3d 923, 930 (9th Cir. 2017)

34. LLESD is a "basic need/support/aid" district, meaning that there is no maximum expenditure per student and there is no spending cap, and the funds are not subject to state control. Applying *Sato* here, the first *Mitchell* factor (as well as the other four factors) fail to support a finding of Eleventh Amendment immunity. Regardless, Eleventh Amendment immunity does not apply to Beth Polito and Heather Hopkins, even in their official capacity, both of who are critical actors here.

FACTS

A. The Ladera School Site Is The Heart Of Ladera.

35. The Ladera Community is a community of roughly 529 homes in unincorporated San Mateo County. Conceived by a Stanford professor to become a self-sustaining community, where all houses were built on one of three footprints and services (grocery, hardware, school, recreation center) were within walking distance, it is now known as "the best educated small town in America." With its own public community pool, a grocery store, coffee shop, and a system of footpaths providing shortcuts throughout the neighborhood, and, with only two entrances/exits to the entire neighborhood, Ladera is centered around the concept of community. Ladera is somewhat isolated, surrounded by foothills and creeks, being neither close to Menlo Park nor Portola Valley and requiring a 10-20 minute car ride to access basketball hoops, play structures, and soccer fields in either town.

36. LLESD purchased the Ladera School Site in 1951 for $35,000 and built a new school on the 9.8 acre property. This new school allowed children to be educated and socialized in walkable distance to their relatively isolated Ladera homes. Around 1979,

LLESD closed the Ladera School and consolidated students on its Las Lomitas and La Entrada campuses.

37. Currently, there are roughly 180 children ages 4-13 in Ladera who would be eligible to attend this school were it a public school. For the past 44 years, these children have been assigned to a public school several miles away. A bus picks-up Ladera kids age 4-9 beginning at 7:00 a.m. (for an 8:15 a.m. start) and takes them to their LLESD public school.

38. The Ladera School Site sits in the heart of Ladera. It is in the middle of the community, easily accessible to all of Ladera. People of all ages and backgrounds have used the Ladera School Site since early 1950s. Adults played organized soccer games on the weekends, dog owners gathered during the week, children rode bikes on the blacktop, played basketball, volley ball, and tetherball right after school, played AYSO on the weekends, and ran around the field after school. For the past 70 years it has been a vibrant, well-used recreational facility: an integral part of daily life in Ladera for adults and children. The public used the multi-purpose room to host neighborhood family movie nights or other events. The community holds parades and community events throughout the Ladera School Site. The entire Ladera School Site has always been a limited public forum.

39. After closing the Ladera School site in 1979, LLESD leased the school first to Armstrong and then to Woodland. *See* Old LLESD/Woodland Lease, attached hereto as **Exhibit A** (providing Woodland with a lease to the Ladera School).

B. <u>In 2011, LLESD/the Board Divided the Ladera School Site In Two ((1) the Buildings/Parking Lot and (2) the Play Areas) and "continue[d] to control the use of the playing fields so that they may be made available to the District and the community."</u>

40. In or around 2010-11, when Woodland's lease finally expired, instead of simply renewing it, LLESD took a different direction.

41. In 2011, LLESD convened a 7-11 committee per California Education Code §§ 17466, *et seq*. and decided to divide the Ladera School Site into two sections: the

buildings/parking lot ("the Property") v. the recreation areas (the "Play Areas"). Then, LLESD identified the Property as "surplus" district property; LLESD retained the Play Areas as "in-use" district property.

42. The designation of "surplus" v. "in-use" property is critical here because California and Federal law constrains school districts differently depending on whether a public-school property is "surplus" v. "in-use" as follows:

Available Actions	**In-Use Property (*e.g.*, the "Play Areas")**	**Surplus Property (*e.g.*, the "Property")**
Lease?	NO	YES, unless the property contains recreation areas. If recreation areas, then the District must first offer the recreation areas to a government entity to lease/buy at a roughly 75% discount per the Naylor Act.
Sell?	NO	YES, unless the property contains recreation areas. If recreation areas, then the District must first offer the recreation areas to a government entity to lease/buy at a roughly 75% discount, per the Naylor Act.
Exclusively License?	NO	YES, unless the property contains recreation areas. If recreation areas, then the District must first offer the recreation areas to a government entity to lease/buy at a roughly 75% discount, per the

Available Actions	In-Use Property (*e.g.*, the "Play Areas")	Surplus Property (*e.g.*, the "Property")
		Naylor Act.
Rent?	YES – but only for short periods of time, and only in accordance with the Civic Center Act, which specifies in what order various parties may rent public property (private entities are last)	Yes, unless the property contains recreation areas. If recreation areas, then the District must first offer the recreation areas to a government entity to lease/buy at a roughly 75% discount, per the Naylor Act.
Lease for free?	NO	NO
Sell for free?	NO	NO
Exclusively License for free?	NO	NO
Rent for free?	NO	NO
License to a private school?	NO	YES, if publicly bid and private school is highest-bidder and no Naylor Act issues
Sell to a private school?	NO	YES, if publicly bid and private school is highest-bidder and no Naylor Act issues
Allow only private school children to use?	NO	YES
Develop for housing?	NO	Depends
Civic Center Use?	YES	Unclear

Available Actions	In-Use Property (*e.g.*, the "Play Areas")	Surplus Property (*e.g.*, the "Property")
Naylor Act Applies?	YES	Only if recreation spaces
Board Policies Apply?	YES	NO
Subject to First Amendment Constitutional Protections?	YES, but only if designated a public forum or limited public forum	NO, at least not against the public school because it's not a forum.
Subject to Equal Protection Constitutional Protections?	YES	NO, at least not as-used and not against the public school.

43. LLESD/the Board could change the Play Areas' designation from "in-use" to "surplus" District property, but it would first have to comply with the statutory schemes to make that change (including the Naylor Act).

44. Because LLESD did not identify the Play Areas as surplus property, LLESD is not allowed to lease, sell, or license them. The Play Areas remain in-use LLESD property, subject to LLESD Board Policies. *See* attached Resolution of Intention to Lease Certain School District Property and Notice Inviting Bids, a true and correct copy of which is attached hereto as **Exhibit B** ("Notice Inviting Bids").[1]

[1] Exhibit B demonstrates the LLESD's/the Board's intent to keep the Play Areas as in-use, not-surplus, District property:

- "an Advisory Committee … recommended to the Governing Board that the Ladera School site, consisting of classrooms and related improvements but not the playing fields as shown in Exhibit A attached hereto (the "Property") be long-term leased as surplus school property;"
- "the Governing Board desires to continue to control the use of the playing fields so that they may be made available to the District and the community;"
- "the Property does not include playgrounds or playing fields as contemplated by the "Naylor Act" (Education Code Sections 17485, et seq.);" and

45. LLESD kept the Play Areas as "in-use" property to avoid the Naylor Act. *Id.*

46. The Naylor Act codifies California's recognition of the importance of public recreation areas to the public and the intent that, when a public school must close, that the public does not lose access to, and use of, the public recreation areas that are part of the closed public school.

47. In other words, California cares so deeply about protecting public access to public school recreation areas that schools are prevented from closing such spaces to the public, without first jumping through specific hoops and potentially incurring a financial loss.

48. The Naylor Act benefits public schools, too, because if the community knew that by closing a public school, the community would lose its local community center and park, the community would fight harder to prevent the closure, which at times is necessary for school districts to function.

49. Had LLESD designated the Play Areas as "surplus" property, the Naylor Act would have required LLESD first to offer to sell/lease them to the Ladera Recreation District (a community services district per Cal. Gov. Code §§ 61000-61250), San Mateo County, and/or neighboring cities/towns for roughly 25% fair market value. *See* Cal. Ed. Code §§ 17485-500 (containing the Naylor Act); *see also City of Moorpark v. Moorpark Unified School Dist.*, 54 Cal.3d 921 (1991) (construing the Naylor Act and confirming its validity).

50. LLESD did not want to sell the Play Areas to a local government entity. *See* Ex. B, ¶ 3.

51. LLESD therefore retained the Play Areas as in-use District property. *Id.* As in-use District school grounds and facilities, the Play Areas are governed by Board Policies.

C. <u>After Dividing the Ladera School Site in Two, LLESD/the Board Leased The Buildings And Parking Lot Portion To Woodland School for $710,000.</u>

- "[t]he Naylor Act does not apply to the Property because it does not include playgrounds or playing fields[;]").

See Ex. B (incorporated in its entirety into Exhibit C).

52. On or around December 2011, LLESD opened the bidding process for the Property to the public. *See* Ex. B. LLESD received bids from two different private schools: Woodland and the German American School. The bids were equivalent, so LLESD requested the parties submit bids in a different format. Woodland was the high bid by $10,000 or less.

53. Woodland's bid was $710,000 per year. Because it was the high bid, LLESD agreed to lease the buildings/parking lot (the "Property") to Woodland for $710,000 per year.

54. Next, on March 12, 2012, LLESD and Woodland agreed to the option to lease the Property on the Ladera School Site ("Option to Lease"). Attached hereto as **Exhibit C** is a true and correct copy of LLESD's Option to Lease Agreement to Woodland.

55. This Option to Lease incorporates Exhibit B in its entirety and itself explains:

> "[T]he word 'Property' used within this Option to Lease Agreement ***does not include the playing fields and blacktop hardscape***. The word 'Property' shall mean only that portion of the Property which is being leased to Optionee as shown within the dotted line on Exhibit 'A.'"

See Ex. C (emphasis added).

56. Critically, there is no mention of any rights to access/use the Play Areas in any of the public bidding documents or in LLESD's option to Woodland to lease the Property. *See* Exs. A, B, and C.

57. The Play Areas are never offered for public use.

58. There was no public bidding on any exclusive use of the Play Areas.

59. No other entities were offered the ability to obtain a license such as Woodland's to the Play Areas.

60. The only time the Play Areas are mentioned in the public bidding documents is to ***exclude them*** from the Leased/surplus property. *Id.*

61. Use of the Play Areas is thus divorced from the Lease of the Property. *Id.*

62. LLESD never publicly offered any use of, or a license to, the Play Areas. *See* Exs. A, B, and C.

63. LLESD retained ownership and control of the Play Areas. *Id.*

64. In other words, Woodland did not publicly bid on any rights to, or use of, the Play Areas. Woodland's Lease to the Property does not include the Play Areas.

65. The money Woodland offered for the Lease does not cover any use of the Play Areas whatsoever.

D. LLESD Then Gifted Woodland a License to Use the Play Areas for Free.

66. Inexplicably, after winning the bid, LLESD's/Woodland's resulting Lease included a 25-year exclusive license to use the District's in-use public property Monday-Friday until 3:30pm all year long, except public school holidays.

67. This exclusive use license to the Play Areas was never offered for public bid.

68. After winning the lease for the buildings at $710,000, Woodland still paid $710,000 even after getting this expansive and exclusive license to the Play Areas.

69. In other words, LLESD gifted an extremely valuable license to in-use District property to Woodland, for free. This offer was not made to other entities. It was not provided publicly. It was not disclosed publicly. And it resulted in viewpoint- and content-based access restrictions on a limited public forum that were not reasonable given the forum's purpose (to "be made available to the District and the community" Ex. B).

70. Per LLESD's own Board Policies, all in-use, non-surplus school facilities and grounds, such as the Play Areas, are limited public forums. *See* Board Policy 1330[2] ("It is the

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[2] Board Policy 1330 provides:

> "The Governing Board believes that school facilities and grounds are a vital community resource which should be used to foster community involvement and development. It is the policy of the Governing Board to make school facilities available for civic center and community use when the activity does not interfere with the instructional program of the district. No use will be permitted which conflicts with the policies of the district."

See BP 1330 (*available at* simbli.eboardsolutions.com/Policy/PolicyListing.aspx?S=36030292) (*last visited* May 20, 2024).

policy … to make school facilities available for civic center and community use. … No use will be permitted which conflicts with the policies of the district."); Bylaw 9310 ("Board policies are binding on the district."); *see also Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 47 (1983) (in examining a school's policies to determine if the school created a public forum, concluding that "[i]f by policy or by practice the [school district] opened its [grounds] for indiscriminate use by the general public, then [Plaintiff] could justifiably argue a public forum has been created"); *see also, e.g.*, 20 U.S.C § 7905 ("an elementary school or secondary school has a limited public forum whenever the school involved grants an offering to, or opportunity for, one or more outside youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory.")

71. For LLESD's other properties, private groups must pay to use the District's property, and then may only rent portions of the properties for limited periods of time per Board Policy 1330 and Administrative Regulation 1330. LLESD, LLESD Board, and Beth Polito have never before or since allowed any private (or public) group to use in-use District property for 25 years, nor have they ever allowed any exclusive use of an entire in-use public school property.

72. Moreover, even when private groups use and/or rent the District's in-use property, the public is not excluded; no exclusive private use of LLESD's other school facilities and grounds is permitted.

73. This gift of a license to the Play Areas violates the law, Plaintiff's rights to free speech, the equal protection clause (by distinguishing between classes of speech, Woodland's v. Plaintiff's, creating content- and viewpoint-based restrictions, and restricting Plaintiff's and the public's rights of access to the limited public forum but leaving other limited public forums open) and is an illegal waste of public property. It is also inconsistent

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All LLESD Board Policies and Bylaws are available at the above website.

with how the Board Policies dictate that LLESD, LLESD Board, Beth Polito, and Heather Hopkins may use in-use District property.

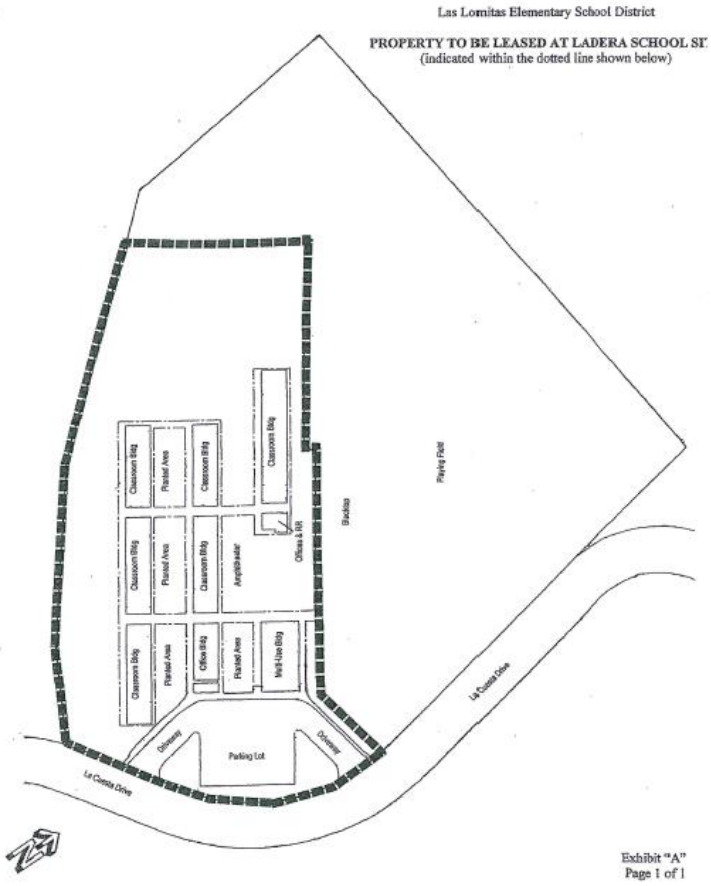
74. By gifting exclusive use of the Play Areas to Woodland, LLESD forgoes other rental revenue it could obtain by letting local groups (like AYSO, the boy/girl scouts, or after-care operations) rent the Play Areas, thereby wasting taxpayer property.

E. <u>In Addition to the Free License, the District/Board Gave Woodland Additional Leased Property Without Receiving Any New Benefit/Payment from Woodland.</u>

75. Since 2012, the footprint of the Property that Woodland leases has grown.

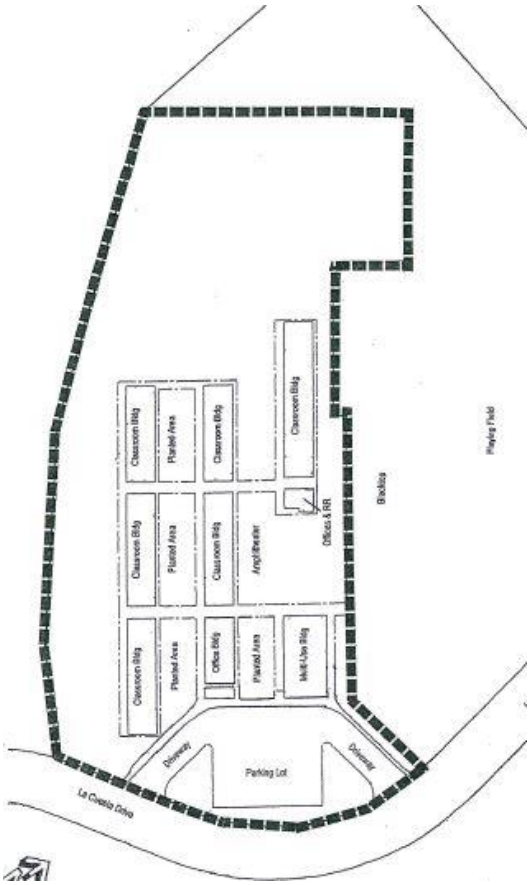
76. But the base rate Woodland pays LLESD to lease the Property has remained static: $710,000/year (adjusted only for inflation). In other words, Woodland leases more Property than it did in 2012 but Woodland paid no additional money.

77. In 2012, after Woodland and another private school bid to lease the property, LLESD/Woodland's formal executed offer to lease had this footprint (for $710,000):



See Ex. C.

78. Then on June 14, 2012, LLESD/Woodland's resulting Lease Agreement has this footprint (still for $710,000):



See Lease Agreement, a true and correct copy of which is attached hereto as **Exhibit D**.

79. In 2013, LLESD amended the Lease Agreement. *See* 2013 Amendment, a true and correct copy of which is attached hereto as **Exhibit E.**[3]

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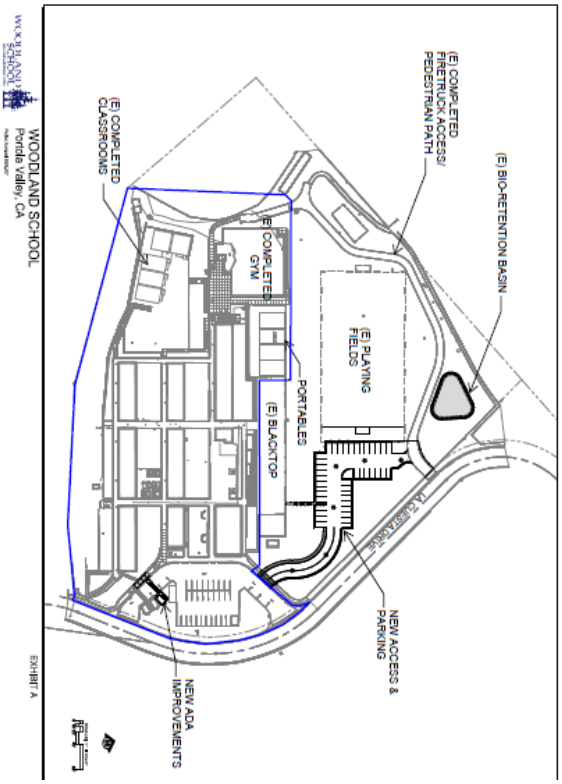
[3] This amendment granted Woodland's request to assume the maintenance of the Play Areas presumably because Woodland was dissatisfied with the level of maintenance provided by the public school. By assuming the maintenance, Woodland could water the grass more (ultimately overwatering and killing a protected mature native oak tree on the Play Areas) and refresh the playground. Woodland's request to assume maintenance conferred a benefit to Woodland: Woodland could water and mow in accordance with its students' and parents' wishes, and let the Play Areas go in the summer. Yet again, the benefit here was to Woodland. LLESD received only a minimal reduction in water/mowing costs. On later reflection, Woodland's move to assume maintenance may have been a calculated initial step in its journey to gain control of, and exclude the public from, the Play Areas, but this is uncertain.

80. Then in December, 2017, LLESD and Woodland executed a second amendment, which expands Woodland's leased footprint as follows (still for $710,000):



See 2017 Amendment, a true and correct copy of which is attached hereto as **Exhibit F**.

81. Accordingly, despite adding more and more Leased Property to its Lease Agreement (collectively, Exs. D, E, and F comprise the "Lease Agreement"), Woodland never paid more for its lease. Woodland's payments to LLESD increased over the years according to the Lease (providing for yearly increases between 3%-6% per year), but Woodland never increased the underlying amount it paid to rent the property ($710,000).

82. There were also no additional rounds of public bidding for the property added to the Lease. No other parties were alerted that they could also get some District property (for free). Additionally, LLESD never declared the newly added property "surplus."

83. In other words, LLESD gave Woodland in-use (not surplus) property belonging to the District in exchange for nothing, and outside the District's own policies for how it must treat in-use District school facilities and grounds.

84. This free gift of public property constitutes a waste of public resources and violates the California Constitution, Art. XVI, § 6. The public received no benefit whatsoever from this gift. The public only experienced detriment by being excluded from recreation spaces that were publicly accessible for the last 70 years.

85. LLESD also received no benefit from this gift. There was no money or other benefit exchanged.

86. To the extent LLESD claims that any changes or improvements Woodland makes to the Property or Play Areas constitutes a benefit to LLESD in exchange for the gift, such improvements cannot constitute a benefit because, per the express terms of the Lease, Woodland's improvements already revert to LLESD's ownership upon termination of the Lease. There is no benefit to LLESD by obtaining something it already has rights to possess.

87. Indeed, if LLESD were to terminate the Lease early for Woodland's breach (Woodland is actively breaching the Lease in at least 15 different ways), LLESD gets to retain any and all improvements with ***no compensation*** to Woodland. *See* Ex. D. The improvements immediately become the property of LLESD. *Id.*

88. Additionally, any improvements Woodland has made will be as much as 20-45 years old by the time the Lease expires. By then, such improvements will be fully depreciated and likely in need of replacement/repairs.

89. Further, some of Woodland's recent "improvements" constitute temporary classrooms, which are not designed to last and were built only for Woodland's use and benefit. In addition to temporary classrooms, Woodland added some additional semi-permanent classrooms, but Woodland decided not to use permanent brick-and-mortar construction to build these (despite the County requiring brick-and-mortar construction) and but instead used temporary construction.

90. Woodland built a large gym on the Play Areas, but this gym is also not open to the public. Woodland supposedly has a way to allow non-Woodland entities to use the gym, but currently restricts the access completely, despite promising access after fingerprinting and

training, which many spent hundreds of dollars collectively doing, only to be denied by Woodland.

91. All Woodland's other changes (solar panels, sun covers, new play structures) were done explicitly for Woodland's benefit, use, and enjoyment. There is no benefit to LLESD by Woodland's changes. Woodland undertakes these changes for itself. Regardless, LLESD gets all of these changes upon any termination of the Lease for any reason, including breach.

92. LLESD cannot even lease the property to other entities during the summer or after Woodland's school is out, thereby benefiting from Woodland's changes. Instead, Woodland subleases the space during the summer and reaps the financial benefits.

F. In Addition to the Free Land and Free License, LLESD/the Board Increased Woodland's Exclusive Use License by 50%, Again for Free.

93. In December, 2017, Woodland demanded that LLESD extend Woodland's exclusive use of the Play Areas from 8:30 am-3:00 pm to 7:30 am-5:00pm. LLESD complied.

94. Again, Woodland paid no money, made no promises, guaranteed no performance, and offered nothing of value in exchange for this significant increase in use.

95. The resulting agreement increased Woodland's exclusive-use license by roughly 50% for no additional payment. The District and Plaintiff received no additional benefit for Woodland's additional use.

G. LLESD Subsidizes Woodland's After School Sports Programs By Not Charging Any Rent To Use The Field, Which Constitutes Another Gift.

96. Woodland repeatedly and continually hosts other private schools for sporting events on the Play Areas after school. Woodland does not pay LLESD any fees for Woodland's use of District property for hosting sporting events. LLED Board Policy 1330 and AR 1330 require the collection of fees for using public school property by private groups. LLESD collects no fees associated with Woodland's use. AR 1330 is referenced by the Lease as applying to the Play Areas. LLESD, the LLESD Board, Beth Polito, and Heather Hopkins

do not enforce this regulation.

97. LLESD is thus subsidizing Woodland's use of the Play Areas, which constitutes a gift to Woodland and a waste of public resources.

H. The Ladera School Site Is Subject to the Civic Center Act and, Because LLESD Does Not Require Woodland to Provide Civic Center Access, this Constitutes Yet Another Illegal Gift And Waste Of Taxpayer Property.

98. The Civic Center Act "clearly indicates a legislative intent to provide a state-wide method whereby school property may be made available to the public for certain specified purposes, and to leave the details thereof to further legislation by each local school board." *Am. Civil Liberties Union v. Bd. of Educ.* 59 Cal.2d 203, 222 (1963); *see also* Cal. Ed. Code § 38134. While "the Civic Center Act did not preempt the field[,]" school boards must not enact policies that violate the intent of the act. *See Id.*; *see also Ellis v. Bd. of Educ.* 27 Cal.2d 322, 329 (1945). The Civic Center Act embodies the "purpose of the Legislature to make school buildings centers of free public assembly insofar as such assembly does not encroach upon the educational activities, which constitute the primary purpose of the schools." *Ellis v. Bd. of Educ.*, 27 Cal. 2d at 329 (holding that, for petitioners' request to use school facilities, "[t]he purpose of the Legislature would be frustrated if petitioners' right to the free use of the school auditorium were nullified by the requirement that they furnish public liability insurance"); *see also Grossman v. Santa Monica-Malibu Unified Sch. Dist.* 33 Cal.App.5th 458, 465 (2019) ("Under the Civic Center Act, 'each and every public school facility and grounds' is designated 'a civic center.' (§ 38131, subd. (a).) Pursuant to section 38134, subdivision (a)(1), a school district must allow nonprofit organizations 'organized to promote youth and school activities' to use school facilities and grounds under its control.") *and Howard Jarvis Taxpayers Ass'n v. Whittier Union High Sch. Dist.*, 15 Cal.App.4th 730, 735 (1993) ("The legislative purpose of the Civic Center Act (Ed. Code, § 40040, *et seq.*) is 'to make school buildings centers of free public assembly insofar as such assembly does not encroach upon the educational activities, which constitute the primary purpose of the

schools.'" (*quoting Ellis v. Board of Ed.*, 27 Cal.2d at 329)).

99. The LLESD/Woodland License to the Play Areas violates the Civic Center Act because it restricts all public and community use of the Play Areas from 7:30 am-5:00 pm, M-F, for 25 years, which prevents the Play Areas from being a civic center.

100. The LLESD/Woodland Lease to the surplus property violates the Civic Center Act by preventing the public from using any building on the leased portion of the property for Civic Center purposes per the Act. Defendants cannot escape legal restrictions on use of public property by renting the property; such legal restrictions run with the land and cannot be escaped with contract law.

101. Heather Hopkins and Beth Polito refuse to enforce Board Policy 1330, which contains ministerial "shall" language and embodies the Civic Center Act. "A ministerial officer may not, however, under the guise of a rule or regulation vary or enlarge the terms of a legislative enactment or compel that to be done which lies without the scope of the statute and which cannot be said to be reasonably necessary or appropriate to subserving or promoting the interests and purposes of the statute." *Boone v. Kingsbury*, 206 Cal. 148, 161 (1928); *Whitcomb Hotel, Inc. v. California Emp. Com.*, 24 Cal.2d 753, 757 (1944); *First Indus. Loan Co. v. Daugherty*, 26 Cal.2d 545, 550 (1945).

102. Applied here, California Supreme Court precedent dictates that the Heather Hopkins, Beth Polito, LLESD, and the LLESD Board may not, by refusing to apply Board Policy or exempting the Play Areas from Board Policy, contravene the Civic Center Act.

103. Failure to provide a carve-out in Woodland's Lease for Civic Center use for the taxpayers constitutes a gift of public resources.

104. As part of the prior LLESD/Woodland lease (Ex. A), LLESD and Woodland expressly preserved the public's ability to use the multipurpose room and the recreation areas in accordance with the Civic Center Act:

> "15. CIVIC CENTER ACT: TENANT agrees to make available for use the multipurpose room and playing fields in accordance with the Civic Center Act. Authorization for such use shall be

> solely the LANDLORD's and shall be given only after conferring with TENANT. Permission to use the facilities shall not be unreasonably withheld."

See Ex. A.

105. LLESD, the LLESD Board, Heather Hopkins, and Beth Polito no longer provide this Civic Center Act access to any portion of the Leased Property. By restricting public access to this limited public forum (in violation of the Civic Center Act, Board Policy 1330, other Board Policies, the California Constitution, and the US Constitution), LLESD, the LLESD Board, Heather Hopkins, and Beth Polito provide a free gift to Woodland and waste public resources because Woodland receives a public asset free of required public access. In other words, by restricting the public's access, Woodland is receiving additional benefits from LLESD, for free.

I. Woodland's Exclusive Use of the Play Areas Deprives Plaintiff of its Free Speech and Equal Protection Rights under the U.S. Constitution.

106. Preventing Plaintiff from speaking, gathering, assembling, meeting, renting, using, posting signs, and/or communicating on the limited-public-forum Play Areas, but allowing Woodland to do so, constitutes a viewpoint- and content-based restriction on speech that is not narrowly tailored to achieve a significant government function and that is not reasonable in light of the forum's purpose, which is to provide the public with a civic center and recreation. *See Cornelius v. NAACP Legal Defense & Ed. Fund, Inc.*, 473 U. S. 788, 806 (1985); *see also* Ex. B ("the Governing Board desires to continue to control the use of the playing fields so that they may be made available to the District and the community"). Serving the needs of a private school and out-of-district private school children is not a significant government interest; a public school has no interest, let alone a significant one, in serving the needs of a private school or promoting/enabling the speech of out-of-district private school children *on public school property*.

107. Nor is closing a limited public forum to Plaintiff and its members, but allowing Woodland to use it exclusively, a valid time, place, and manner restriction because

it is content-based; it is not narrowly tailored to achieve a significant government interest; there are no other, let alone ample, other alternative channels for communicating the speaker's message; it does not apply to all groups equally nor is there any rational basis for it; it violates equal protection because it is a restriction on speech that applies to different classes of speech differently because it restricts everyone but Woodland's speech on a limited public forum, without any substantial, rational, legitimate, valid government interest in doing so; nor is it reasonable in light of the Play Areas' purpose to be a recreation and civic center for the community, including Plaintiff and its members.

108. Jennifer Warren complained to Shannon Potts and/or Beth Polito that the public was not respecting Woodland's (illegal) exclusive license to the Play Areas. Shannon Potts and/or Beth Polito, and/or Shannon Potts acting at the direction of and behalf of Beth Polito, instructed Jennifer Warren that she and Woodland may use "whatever means necessary" to prevent community use of the Play Areas and endowed Jennifer Warren and Woodland with permission to act on behalf of LLESD, the LLESD Board as relates to the Play Areas.

109. Beth Polito and Heather Hopkins have deprived Plaintiff of the right to use the limited public forum of the Play Areas for First Amendment purposes. Acting jointly and severally, and in collaboration with Jennifer Warren, Beth Polito, and Heather Hopkins allow Woodland to post signs, hold meetings, host events, gather, and express viewpoints at the Play Areas. Acting jointly and severally, and in collaboration with Jennifer Warren, Beth Polito, and Heather Hopkins prevented and restricted (and continue to prevent and restrict) Plaintiff from posting signs, holding meetings, hosting events, gathering, and expressing viewpoints at the Play Areas. In so restricting Plaintiff's and its members' rights to the Play Areas, Beth Polito and Heather Hopkins, in their official and individual capacity, and Jennifer Warren acted (and continue to act) under the color of LLESD District policies, procedures, contracts, Lease/License agreements, and the Education Code (allowing Districts to control their property and to exercise local control).

110. Upon Plaintiff's continued requests to speak and gather at the Play Areas, Beth

Polito, and Heather Hopkins, in their official and individual capacity, and Jennifer Warren continuously and repeatedly explained that the Play Areas were only available to Woodland because of legally binding state and local laws, and contract law and that they were entitled to restrict Plaintiff's access. Through these actions, Beth Polito and Heather Hopkins, in their official and individual capacity, and Jennifer Warren act under color of law violating (and continuing to violate) Plaintiff's First Amendment rights to free speech and rights to assemble

111. By letting only one private entity use the Play Areas, which are limited public forums, Heather Hopkins, Beth Polito, Woodland School, and Jennifer Warren allow only one viewpoint to be expressed on its limited public forum. Heather Hopkins, Beth Polito, Woodland School, and Jennifer Warren's acts are performed under the color of LLESD's Board Policies and Bylaws and contracts of letting only Woodland speak, gather, and use the Play Areas.

112. When the public and user groups request to use LLESD's Ladera School Site to hold gatherings, conduct activities, or have meetings, Heather Hopkins and Beth Polito direct such groups to seek approval from Woodland. On information and belief, Woodland receives numerous requests to use the Ladera School Site by user groups and individuals. Woodland has rejected all requests for all user groups and individuals to use any and all portions of the Ladera School Site. Woodland acts under the color of District policy, state law (the Education Code), the authority given by LLESD, LLESD's Board, Beth Polito, and Heather Hopkins, and the terms of a contract in acting to prevent Plaintiff from exercising its First Amendment rights of free speech and rights to assemble on the limited public forum of the Play Areas.

113. Allowing only Woodland's free speech and free association on the Play Areas reflects a content- and viewpoint-based restriction on using a limited public forum that is not reasonable in light of the forum's purpose, which, according to the District/Board itself, is "to be available to the District and the community." *See* Ex. B. Such content- and viewpoint-based restrictions are not narrowly tailored to achieve a compelling government interest

because there is no government interest in facilitating the operations of a private school, when that private school bid to lease the adjoining property without ***any*** use of, or access to, the Play Areas and a second bidder would have accepted the same terms for only a few thousand less. Nor is supporting private-school sporting events or protecting access to recreation areas for private school children who reside outside the District a compelling government interest.

114. Allowing only Woodland's free speech and free association on the Play Areas is not a valid time, place, and manner restriction because it does not apply to all speech and assembling and there is no rational basis for allowing one private entity only to use a limited public forum when the public seeks simultaneous use and the private entity agreed to lease the adjoining school without any use of the Play Areas whatsoever.

115. LLESD and the School Board perform all the same acts as Heather Hopkins, Beth Polito, Jennifer Warren, and Woodland deprive Plaintiff of its federal rights to free speech and rights to assemble on the Play Areas and, in so doing, just as alleged against Heather Hopkins, Beth Polito, Jennifer Warren, and Woodland, LLESD and the School Board act under the color of law.

116. LLESD, the Board, Heather Hopkins, and Beth Polito also violate the Fourteenth Amendment's equal protection clause of the US Constitution by arbitrarily closing the Play Areas of the Ladera School Site and exempting them from LLESD's Board Policies governing use of District Property, thereby treating the District's various in-use facilities and grounds – and the constituents who live in proximity to such in-use District land – unequally.

117. All of LLESD's other in-use (not-surplus) properties in the District with large recreation spaces are open for public use as soon as school is out (between 2:20pm and 3:30pm) every school day, and are open on the weekends, holidays, and summer when LLESD is not in session. The only in-use District property LLESD closes until 5pm is the Play Areas of the Ladera School Site. LLESD's decision to keep this property closed more than its other properties is arbitrary and for the express benefit of a private entity against the wishes of the public.

118. As a result of the arbitrary treatment of the in-use Play Areas, Plaintiff does not have access to local public school recreation facilities in the same manner as other persons in the District. Ladera is comparatively isolated from LLESD's other properties (it can take as much as 25+ minutes to drive to Las Lomitas from Ladera in the morning, and roughly 5-10 minutes from other places in the District). LLESD closed Ladera's local school. Beth Polito, Heather Hopkins, LLESD, and the LLESD Board allows Menlo Park residents free access to their local public-school property after school is out, but restricts Plaintiff from accessing its local public school property until 5pm, when it is already dark in the winter.

119. Beth Polito, Heather Hopkins, LLESD, and the LLESD Board are arbitrarily treating LLESD's properties and constituents unequally, violating their rights to equal protection. In so doing, Beth Polito, Heather Hopkins, LLESD, and the LLESD Board act under the color of state law (the Education Code allowing for property management and local control), Board Policies, and a contract in a manner that deprives Plaintiff equal protection under federal law.

J. Woodland's Gifted Use of the Play Areas Violates the California Constitution, the Education Code, the Naylor Act, the Civic Center Act, and Binding, Ministerial Board Policies.

120. LLESD's gifts, and Beth Polito's, Heather Hopkins', and the LLESD Board's actions of defending those gifts and allowing them to stand violate the California Constitution's prohibition against gifting public property. *See* Cal. Const., Art. XVI, § 6.

121. LLESD's additions to Woodland's leased property, and Beth Polito's, Heather Hopkins', and the LLESD Board's defense of those additions, were not in exchange for any value, monetary or otherwise and thus do not fall under exemptions under the Naylor Act for violations of the Naylor Act (*see* Cal. Ed. Code §§ 17485, *et seq.*) nor do they fall under the exemptions to the requirements for identifying surplus property and inviting notices to bid (*see* Cal. Ed. Code §§ 17466, *et seq.*).

122. The California Education Code states that "[f]ailure by the school district to

comply with the provisions of this article shall not invalidate the transfer or conveyance of real property to a purchaser or encumbrancer ***for value***." §§ 17483 and 17496 (emphasis added).

123. Here, Woodland is not a "purchaser or encumbrancer ***for value***" as contemplated by the Education Code because it paid nothing for converting Play Areas into surplus property. LLESD's, and Beth Polito's, Heather Hopkins', and the LLESD Board's continued failures to obtain any value for the converted portions of the Play Areas means that LLESD's transfer is in violation of the Naylor Act and Sections 17466, *et seq.* of the California Education Code. *See* Naylor Act and Cal. Ed. Code §§ 17466, *et seq.* (requiring a 7-11 committee and community involvement before identifying surplus property for lease).

124. LLESD's gifts, and Beth Polito's, Heather Hopkins', and the LLESD Board's refusals to stop the gifts, violate Cal. Public Contract Code §§ 20116, 22033 (requiring competitive bidding).

125. LLESD's gifts, and Beth Polito's, Heather Hopkins', and the LLESD Board's refusals to stop the gifts, violate the Civic Center Act because they prevent the public from accessing and using the public property for civic center purposes and prioritize the use of a private entity ahead of (and to the exclusion of) public use.

126. LLESD's gifts, and Beth Polito's, Heather Hopkins', and the LLESD Board's refusals to stop the gifts, violate LLESD's own binding, ministerial Board Policies, including Board Policy 1330 (enacting the Civic Center Act at the District level); Board Policy 3280 (specifying a required protocol to follow when leasing District property); Board Policy 1250 (mandating procedures for allowing persons other than District students or staff to access in-use District property during the school day); Board Policy 3000 (mandating that non-instructional operations are responsive to the needs of the community); Board Policy 3311 (requiring public bidding and lawful contracts that deliver the most value to the District); Board Policy 3312 (requiring all contracts be ratified by the Board and that public bidding laws be followed); Bylaw 9000 (mandating that the Board be responsive to the community's beliefs, values, and priorities of the community (not Woodland), that the Board adhere to

governance standards, and that the Board follow Board Policies).

127. The District is bound by these Board Policies, which both contain ministerial, binding language. *See* Bylaw 9310 ("Board policies are binding on the district.").

128. The Board and District have no discretion with how they must be acting here.

129. Accordingly, the Ladera Taxpayers seek the following relief:

FIRST CLAIM

42 U.S.C. § 1983

Declaratory Relief for Deprivation of Rights under the First Amendment of the U.S. Constitution

(Against Beth Polito, Heather Hopkins, LLESD, and LLESD Board)

130. Plaintiff refers to and incorporates the allegations in all the above paragraphs as though set forth in full herein.

131. Beth Polito, Heather Hopkins, LLESD, and LLESD Board establish that the Play Areas are a limited public forum. *See Good News Club v. Milford Central School* (2001) 533 U.S. 98 (providing that if a school provides its grounds as a public forum, it cannot discriminate or unnecessarily restrict speech or rights of assembly).

132. As a limited public forum, the public has rights of speech and assembly under Article 1 of the California Constitution and the First Amendment of the United States Constitution. Defendants Beth Polito, Heather Hopkins, LLESD, and LLESD Board deprived, and continue to deprive, Plaintiff of its First Amendment rights of speech and assembly on the Play Areas. Defendants Beth Polito, Heather Hopkins, LLESD, LLESD Board act under the color of state law, Board Policies, custom, and existing contractual rights/duties to deprive Plaintiff of its federal rights.

133. An actual controversy has arisen and now exists between Plaintiff and Beth Polito, Heather Hopkins, LLESD, and LLESD Board relating to their respective rights and duties.

134. Allowing only Woodland and private school students to gather, speak,

assemble, post signs, and perform, while restricting Plaintiff's opportunities to do the same, constitutes a viewpoint- and content-based restriction on speech and rights to assembly, and an irrational illegitimate time, place, and manner restriction on speech and rights to assemble that is neither narrowly tailored nor serving a compelling government interest in violation of the US Constitutions' First Amendment protections for freedom of speech and rights of assembly.

135. Defendants contend that they may exclude the public from in-use District property selectively and in favor of private use. Defendants further contend that the public has no rights to access or to use public school property. Defendants additionally contend that federal, state, and Board policies do not apply on public school property.

136. Plaintiff respectfully requests order declaring Beth Polito, Heather Hopkins, LLESD, and LLESD Board deprive Plaintiff of its First Amendment rights by restricting access to the Play Areas to one viewpoint/speaker only (Woodland).

137. Plaintiff requests a declaratory judgment that Beth Polito, Heather Hopkins, LLESD, LLESD Board, Jennifer Warren, and Woodland School's deprivation of Plaintiff's right to speak and to assemble on the Play Areas violates the US Constitution. A judicial determination is necessary and appropriate at this time.

SECOND CLAIM

42 U.S.C. § 1983

Declaratory Relief for Deprivation of Rights under the Fourteenth Amendment's Equal Protection Clause of the U.S. Constitution

(Against Beth Polito, Heather Hopkins, LLESD, and LLESD Board)

138. Plaintiff refers to and incorporates the allegations in all the above paragraphs as though set forth in full herein.

139. Beth Polito, Heather Hopkins, LLESD, and LLESD Board, acting under the color of state law, Board Policies, a contractual agreement, and regular practices, violate Plaintiff's rights to equal protection in two ways: (1) by differentially and unequally

restricting Plaintiff's access to its local public school recreation areas but granting similarly-situated constituents access to LLESD's other local public school recreation areas without justification and (2) by distinguishing between classes of speech allowed at the limited public forum Play Areas and allowing Woodland rights to access and speak at the Play Areas but denying Plaintiff's their constitutional right of access to the limited public forum, without a compelling government reason for distinguishing between classes of speech. *Perry Educ. Ass'n v. Perry Educators' Ass'n*, 460 U.S. 37, 47 (1983) ("In a public forum, by definition, all parties have a constitutional right of access, and the State must demonstrate compelling reasons for restricting access to a single class of speakers, a single viewpoint, or a single subject.")

140. Beth Polito, Heather Hopkins, LLESD, and LLESD Board establish that the Play Areas are a limited public forum. *See Good News Club v. Milford Central School* (2001) 533 U.S. 98 (providing that if a school provides its grounds as a public forum, it cannot discriminate or unnecessarily restrict speech or rights of assembly).

141. An actual controversy has arisen and now exists between Plaintiff and Beth Polito, Heather Hopkins, LLESD, and LLESD Board relating to their respective rights and duties.

142. Beth Polito, Heather Hopkins, LLESD, and LLESD Board claims that this unequal treatment of Plaintiff is acceptable because they can do whatever they want with in-use District property, selectively enforce ministerial Board Policies and law, and discriminate between classes/viewpoints/subjects of speakers.

143. Plaintiff's respectfully request a declaratory judgment that Beth Polito's, Heather Hopkins', LLESD Board's and LLESD's failure to provide equal access to, and to discriminate between speech on, the limited public forum Play Areas violates the constitutional right of equal protection guaranteed by the US Constitution.

144. A judicial determination is necessary and appropriate at this time so that Plaintiff and certain Defendants may ascertain their respective rights and duties.

THIRD CLAIM

42 U.S.C. § 1983

Damages for Deprivation of Rights under the First and Fourteenth Amendments of the U.S. Constitution

(Against Jennifer Warren and Woodland School)

145. Plaintiff refers to and incorporates the allegations in all the above paragraphs as though set forth fully herein.

146. Beth Polito, Heather Hopkins, LLESD, and LLESD Board establish that the Play Areas are a limited public forum. *See Good News Club v. Milford Central School* (2001) 533 U.S. 98 (providing that if a school provides its grounds as a public forum, it cannot discriminate or unnecessarily restrict speech or rights of assembly).

147. As a limited public forum, the public has rights of speech and assembly under Article 1 of the California Constitution and the First Amendment of the United States Constitution. Defendants Jennifer Warren, and Woodland School deprived, and continue to deprive, Plaintiff of its First Amendment rights of speech and assembly on the Play Areas. Defendants Jennifer Warren and Woodland School act under the color of state law, Board Policies, custom, permission from Beth Polito, Heather Hopkins, LLESD Board, and/or LLESD, and existing contractual language to deprive Plaintiff of its federal rights.

148. Preventing Plaintiff, and allowing only Woodland and its students, staff, teachers, administrators, and members, to gather, speak, assemble, post signs, and perform, while restricting Plaintiff's opportunities to do the same, constitutes a viewpoint- and content-based restriction on speech and rights to assembly, and an irrational illegitimate time, place, and manner restriction on speech and rights to assemble in violation of the US and California Constitutions' protections for freedom of speech and rights of assembly.

149. Woodland and Jennifer Warren, acting under the color of state law, Board Policies, a contractual agreement, permission from Beth Polito, Heather Hopkins, LLESD, and/or LLESD Board, and regular practices, violate Plaintiff's rights to equal protection by

distinguishing and discriminating between classes of speech allowed at the limited public forum Play Areas and allowing Woodland (and its members, affiliates, staff, students, administrators, and teachers) rights to access and speak at the Play Areas but denying Plaintiff's their constitutional right of access to the limited public forum, without a compelling government reason for distinguishing between classes of speech. *Perry Educ. Ass'n v. Perry Educators' Ass'n*, 460 U.S. 37, 47 (1983) ("In a public forum, by definition, all parties have a constitutional right of access, and the State must demonstrate compelling reasons for restricting access to a single class of speakers, a single viewpoint, or a single subject.")

150. Woodland's and Jennifer Warren's actions are willful and malicious because they are sophisticated actors who know, or should have known, having been duly informed by sophisticated legal counsel, that Woodland and Jennifer Warren cannot restrict Plaintiff's and public access to limited public forums, which Woodland and Jennifer Warren neither lease nor pay to use. Woodland and Jennifer Warren's make unfounded and untrue statements to tarnish the reputations of Plaintiff to LLESD, Beth Polito, Heather Hopkins, and LLESD Board, maliciously, willfully, knowingly, and wantonly to tarnish the reputations of Plaintiff with the objective of violating Plaintiff's constitutional freedoms.

151. Plaintiff requests damages and compensatory relief to make Plaintiff whole for Jennifer Warren and Woodland School's intentional, wanton, knowing, and malicious past and continued deprivations of Plaintiff's federal rights, as described above.

FOURTH CLAIM

Declaratory Relief

Violations of California Constitution, Art. XVI, § 6; Cal. Ed. Code §§ 17388 *et seq*.; the Naylor Act; the Civic Center Act; Cal. Pub. Contract Code §§ 20116 and 22033; Board Policy 1250; Board Policy 1330; Board Policy 3000; Board Policy 3280; Board Policy 3311; Board Policy 3312; and Board Bylaw 9000.

(Against Beth Polito, Heather Hopkins, LLESD, and LLESD Board)

152. Plaintiff refers to and incorporates the allegations of all of the above paragraphs as though set forth in full herein.

153. Beth Polito, Heather Hopkins, LLESD, and LLESD Board are currently gifting Woodland in-use public school property and treating the Play Areas like surplus property in violation of Violation of California Constitution, Art. XVI, § 6; Cal. Ed. Code §§ 17388 et seq.; the Naylor Act; the Civic Center Act; Cal. Pub. Contract Code §§ 20116 and 22033; Board Policy 1250; Board Policy 1330; Board Policy 3000; Board Policy 3280; Board Policy 3311; Board Policy 3312; and Board Bylaw 9000.

154. Defendants Beth Polito, Heather Hopkins, LLESD, and LLESD Board fail to follow ministerial, binding Board Policy 1250 (mandating procedures for allowing persons other than District students or staff to access in-use District property during the school day); Board Policy 3000 (mandating that non-instructional operations are responsive to the needs of the community); Board Policy 3311 (requiring public bidding and lawful contracts that deliver the most value to the District); Board Policy 3312 (requiring all contracts be ratified by the Board and that public bidding laws be followed); Cal. Public Contract Code §§ 20116, 22033 (requiring competitive bidding); Bylaw 9000 (mandating that the Board be responsive to the community's beliefs, values, and priorities of the community (not Woodland), that the Board adhere to governance standards, and that the Board follow Board Policies); Cal. Ed. Code § 17388 (requiring a 7-11 committee to identify surplus property); the Naylor Act (requiring recreation areas in surplus property first be offered for sale/lease to government agencies); California Constitution, Art 16, Sec. 6 (prohibiting gifts of public property); and US Const., 1st Amendment (guaranteeing rights to free speech and rights to assemble); US Const., 14th Amendment (guaranteeing equal protection).

155. Defendants Beth Polito, Heather Hopkins, LLESD, and LLESD Board disagree and believe their treatment of the Play Areas is acceptable.

156. Plaintiff seeks a judgment declaring that Defendants Beth Polito, Heather Hopkins, LLESD, and LLESD Board fail to follow these laws and policies as they relate to

the Play Areas.

157. A judicial determination is necessary and appropriate at this time so that Plaintiff and certain Defendants may ascertain their respective rights and duties.

FIFTH CLAIM

For A Judgment, Restraining and Preventing the Illegal Expenditure of, Waste of, and Injury to LLESD Property

Cal. Code Civ. Proc. § 526a

(Against Defendants Beth Polito, Heather Hopkins, LLESD, and LLESD Board)

158. Plaintiff refers to and incorporates the allegations of all of the above paragraphs as though set forth in full herein.

159. Plaintiff seeks a declaratory judgment that Defendants Beth Polito, Heather Hopkins, LLESD, and LLESD Board are illegally expending, wasting, and injuring public property and taxpayer resources and funds by exclusively licensing and gifting portions of the Play Areas to Woodland for free.

160. Plaintiff desires a judicial determination regarding the respective rights and duties of Defendants Beth Polito, Heather Hopkins, LLESD, and LLESD Board and Plaintiff. Specifically, Plaintiff seeks a judicial determination that Defendants Beth Polito, Heather Hopkins, LLESD, and LLESD Board have no right to allow private entities to use public property for free, outside the public bidding process, without compensation or consideration, and without receiving any benefit in return.

161. Defendants contend their conduct is permissible. Plaintiff disagrees. A judicial determination is necessary and appropriate at this time so that Plaintiff and Defendants may ascertain their respective rights and duties.

SIXTH CLAIM

Preliminary and Permanent Injunction per CCP § 526a

(Against Defendants Beth Polito, Heather Hopkins, LLESD, and LLESD Board)

162. Plaintiff refers to and incorporates the allegations of all of the above

paragraphs as though set forth in full herein.

163. Plaintiff seeks preliminary and permanent injunctive relief preventing LLESD from wasting public property and taxpayer resources by allowing Woodland to use, exclusively, the District's property for free.

164. The purported exclusive use granted by LLESD disregards preemptive state law and poses an ongoing threat to the rights of Plaintiff. Plaintiff does not have a plain, speedy and adequate remedy in the ordinary course of law. Even if there were an adequate and speedy remedy at law or administratively a series of such actions each giving partial or incomplete relief is not an adequate remedy for the entire wrong.

165. There are no administrative remedies available for this misuse of land according to the California education department, school board, and other public school administrative bodies and agencies, whom Plaintiff contacted repeatedly and consistently to request assistance and insight on this issue. Plaintiff was repeatedly informed that this was a matter of local concern for the locally controlled school district and that no state administrative agency could or would have authority to intervene.

166. In the instant case the Defendants are imposing illegal restrictions use of the Play Areas and wrongfully violating Plaintiff's constitutional, statutory and common law rights. Accordingly, Plaintiff seeks injunctive relief.

167. Plaintiff seeks preliminary and permanent injunctive relief in the form of an order enjoining Beth Polito, Heather Hopkins, LLESD, and the LLESD Board from gifting any use, operations, or control of the Play Areas to Woodland.

168. Per California Code of Civil Procedure Section 526a, Plaintiff respectfully requests that this Court order the disgorgement of any previously gifted portions of the Play Areas (the portions that were converted for free into Leased Property, including the land under the gym and the land under the "portables") so that it may return to being publicly accessible in-use District property per the terms originally offered for public bid in 2011.

169. Because LLESD's gifts to Woodland of public property violate the US and

California Constitutions, state law, and Board Policies, such gifts are illegal and a waste of taxpayer funds so there is no statute of limitations on their disgorgement and return to the public nor can there be any reliance on an illegal gift.

170. Plaintiff first discovered these illegally gifted public funds and property in 2023 and 2024 through a series of public records requests. Such gifts were otherwise not disclosed publicly, known, or knowable to the public, nor were they properly noticed and/or disclosed at LLESD Board meetings.

171. Plaintiff requests an injunction against all the activities that violate the declaratory judgments.

SEVENTH CLAIM

Failure to Discharge a Mandatory Duty

Cal. Gov. Code, § 815.6

(Against Defendants Beth Polito and Heather Hopkins)

172. Plaintiff refers to and incorporates the allegations of all of the above paragraphs as though set forth in full herein.

173. Beth Polito and Heather Hopkins are public actors subject to qualified immunity, but only for discretionary acts of judgment. *See Caldwell v. Montoya*, 10 Cal. 4th 972, 985 (1995) (interpreting California's limited public liability statutes Cal. Govn't Code § 815 *et seq.* and holding that government immunity only exists for *discretionary* acts, not ministerial acts or failures to perform ministerial duties). Beth Polito and Heather Hopkins do not enjoy qualified immunity for failures to follow binding, ministerial Board Policies and other state and federal laws because, once a Board Policy or state/federal law is ministerial, neither Beth Polito nor Heather Hopkins may exercise judgment or discretion about whether to follow it.

174. On the Play Areas, Defendants Beth Polito and Heather Hopkins fail to follow the following binding, ministerial policies and law: Board Policy 1250 (mandating procedures for allowing persons other than District students or staff to access in-use District property

during the school day); Board Policy 3000 (mandating that non-instructional operations are responsive to the needs of the community); Board Policy 3311 (requiring public bidding and lawful contracts that deliver the most value to the District); Board Policy 3312 (requiring all contracts be ratified by the Board and that public bidding laws be followed); Cal. Pub. Contract Code §§ 20116, 22033 (requiring competitive bidding); Bylaw 9000 (mandating that the Board be responsive to the community's beliefs, values, and priorities of the community (not Woodland), that the Board adhere to governance standards, and that the Board follow Board Policies); Cal. Ed. Code § 17388 (requiring a 7-11 committee to identify surplus property); the Naylor Act (requiring recreation areas in surplus property first be offered for sale/lease to government agencies); Cal. Const., Art 16, Sec. 6 (prohibiting gifts of public property); and US Const., 1st Amendment (guaranteeing rights to free speech and rights to assemble); US Const., 14th Amendment (guaranteeing equal protection).

175. Plaintiff has been harmed by Defendants Heather Hopkins' and Beth Polito's breaches of their duties to follow binding ministerial Board Policies and state and federal law in several ways, including but not limited to Plaintiff has been unable to use the Play Areas for years which caused Plaintiff and its members to incur additional costs in driving further to access other recreation areas, inability to recreate, inability to meet and to gather, inability to form a civic center, community disruption, erosion of feelings of community, emotional distress, physical and mental health declines and distress, extensive time spent requesting Board Policies and laws be followed, consulting with experts for help, and other harm, including affecting their ability to be at peace in their own neighborhood.

176. Given the intense community engagement on this topic, and the continuous emails and requests to provide access to the Play Areas and to place constituents' wishes above Woodland's interests, such failures to discharge their duties are intentional, willful, and/or reckless.

177. Defendants Heather Hopkins' and Beth Polito's failures to follow binding ministerial Board Policies and state and federal law caused Plaintiff's harm.

178. Plaintiff seeks damages for these negligent and intentional failures to discharge mandatory duties in accordance with the law in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court award:

1. Any and all injunctive and declaratory relief as set forth above;
2. Costs of suit herein;
3. General, compensatory, special, and incidental damages against Defendants Woodland, Jennifer Warren, Heather Hopkins, and Beth Polito for 42 U.S.C. § 1983 violations;
4. Punitive damages per Cal. Civ. Code § 3294;
5. Reasonable attorney's fees per 42 U.S.C. § 1988;
6. Reasonable attorney's fees per CCP § 1021.5;
7. Interest at the legal rate on all sums awarded; and
8. Such other and further relief as the Court deems just and proper.

Dated: May 22, 2024

By: */s/Susanna Chenette*

Susanna Chenette
Attorney for Plaintiff
LADERA TAXPAYERS FOR INTEGRITY IN GOVERNANCE

VERIFICATION

I, Trevor Oliver, declare:

I have read the **COMPLAINT PER 42 U.S.C. § 1983 FOR VIOLATIONS OF THE FIRST AND FOURTEENTH AMENDMENTS OF THE US CONSTITUTION; ATTORNEY'S FEES UNDER 42 U.S.C. § 1988; FAILURE TO DISCHARGE A MANDATORY DUTY; AND TAXPAYER ACTION TO ENJOIN THE WASTE OF PUBLIC PROPERTY PER CCP § 526a; ATTORNEY'S FEES PER CCP § 1021.5** and know its contents.

I am a member of Plaintiff in this Action and I make this verification for that reason. I have read the foregoing document and know its contents. The matters stated in it are true of my own knowledge and, as stated on information and belief, I believe them to be true.

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

Executed this 22th day of May, 2024 at San Mateo, California.

/s/Trevor Oliver
Trevor Oliver

EXHIBIT A

AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE LAS LOMITAS SCHOOL DISTRICT AND WOODLAND SCHOOL

THIS AMENDMENT TO THE LEASE AGREEMENT, entered into this 8th day of July, 2009, by and between the LAS LOMITAS SCHOOL DISTRICT, hereinafter called "LANDLORD," and WOODLAND SCHOOL, hereinafter called "TENANT";

W I T N E S S E T H:

WHEREAS, on October 15, 1997, the parties entered into a Lease Agreement for a certain parcel of school property located at 360 La Cuesta Drive, Portola Valley, California, consisting of land and buildings commonly known as the Ladera school site, with a term of August 1, 1998 to July 31, 2005; and

WHEREAS, pursuant to Section 3 of the Lease Agreement, Tenant exercised its first renewal option for the period of August 1, 2005 to July 31, 2008 and its second renewal option for the period of August 1, 2008 to July 31, 2011; and

WHEREAS, the parties wish to amend the Lease Agreement to extend the second renewal option through July 31, 2012 and to provide for a third renewal option for the period of August 1, 2012 to July 31, 2013; and

WHEREAS, the parties wish to further amend the Lease Agreement to provide LANDLORD an opportunity to notify TENANT prior to September 30, 2010 if it does not intend to terminate the Lease Agreement, in which case TENANT must notify LANDLORD within 30 days if it intends to exercise the third renewal option.

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

Section 3: RENEWAL OPTIONS is hereby amended to read as follows:

> 3. RENEWAL OPTIONS: Provided that TENANT is not in default of the lease and provided LANDLORD has not given TENANT notice of termination, LANDLORD hereby grants TENANT three (3) renewal options (respectively the "first option" covers the period August 1, 2005 to July 31, 2008, the "second option" August 1, 2008 to July 31, 2012, and the "third option" covers the period August 1, 2012 to July 31, 2013.)
>
> If LANDLORD has not previously elected to terminate the lease as set forth below, TENANT shall have the right to exercise its options by giving written notice of its election to LANDLORD as follows:

(i) with respect to the first option, TENANT shall give such notice no earlier than July 2, 2003, and no later than July 31, 2003; and (ii) with respect to the second option, TENANT shall give such notice no earlier than July 2, 2006, and no later than July 31, 2006; and (iii) with respect to the third option, TENANT shall give notice no earlier than October 3, 2010 and no later than October 31, 2010.

LANDLORD shall have the right to terminate the lease at the end of the initial term and any subsequent renewal options (and thus nullify any remaining option to extend) as follows: (i) with respect to the first termination right, LANDLORD shall give such notice no later than July 1, 2003; (ii) with respect to the second termination right, LANDLORD shall give such notice no later than July 1, 2006; (iii) with respect to the third termination right, LANDLORD shall give such notice no later than September 30, 2010.

Notwithstanding the termination and renewal option notice provisions set forth above, LANDLORD may give TENANT notice that it does not intend to exercise its right to terminate the lease prior to September 30, 2010. Within 30 days of receipt of such notice, TENANT shall inform LANDLORD if it intends to exercise its right to the third renewal option by giving written notice of its election to LANDLORD.

All other terms and conditions of the Lease Agreement dated October 15, 1997 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

LAS LOMITAS SCHOOL DISTRICT, LANDLORD

By: _____
Mr. Eric Hartwig
Its: Superintendent

WOODLAND SCHOOL, TENANT

By: _____
Mr. John Ora
Its: Head of School

LEASE

This LEASE, made and entered into as of the 15th day of October, 1997, by and between THE GOVERNING BOARD OF THE LAS LOMITAS SCHOOL DISTRICT, hereinafter referred to as "LANDLORD" or "District", and WOODLAND SCHOOL, hereinafter referred to as "TENANT".

WITNESSETH:

WHEREAS, LANDLORD is the owner of a certain parcel of school property located at 360 La Cuesta Drive, Menlo Park, California, consisting of land and buildings commonly known as the Ladera school site which is not, and, at the time of delivery of title or possession to any part thereof, will not be needed for district purposes within the time limit set forth herein, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereto do hereby agree as follows:

1. **PURPOSE**: LANDLORD hereby leases to the TENANT, and the TENANT hires from the LANDLORD, for purposes compatible with the character of the neighborhood, a portion of the premises and appurtenances contained therein situated in the Las Lomitas School District, commonly known as the Ladera School, located at 360 La Cuesta Drive, Menlo Park, California, described as all classrooms and administration area and grounds appurtenant thereto, as depicted in Exhibit A hereto (the "premises").

The premises are to be used for the purpose of operating a preschool through eighth grade private school, from 7:30 AM to 5:30 PM.

The premises shall not be used or permitted to be used in whole or in part during the said term of this lease for any purpose or use in violation of any of the laws or ordinances applicable thereto and TENANT shall at all times during the term of this lease comply with any requirements for use permits and all federal, state or municipal regulations or ordinances now or hereinafter enacted concerning the premises.

Unusual use of property, i.e. fairs, carnivals, etc. shall be with the approval of LANDLORD. Request for such approval shall be submitted in writing 30 days prior to events occurrence. For purposes of this section "unusual use" of property means any event not consistent with TENANT'S operations. LANDLORD shall not unreasonably withhold or delay its consent.

The serving and/or sale of alcoholic beverages shall not be permitted on the premises.

TENANT shall not, in any endeavor or activity conducted upon the leased premises or in any other manner, discriminate against any person on the grounds of race, color, religion, sex, or national origin. Failure by the TENANT to comply with this provision shall be deemed noncompliance with the terms and conditions of this lease.

2. TERM OF LEASE: The term of the lease will be for seven consecutive years commencing on the first day of August, 1998, and terminating on July 31, 2005.

3. RENEWAL OPTIONS: Provided TENANT is not in default of the lease and provided LANDLORD has not given TENANT notice of termination, LANDLORD hereby grants TENANT two (2) renewal options (respectively the "first option" covers the period of August 1, 2005 to July 31, 2008, the "second option" August 1, 2008 to July 31, 2011.)

If LANDLORD has not previously elected to terminate the lease as set forth below, TENANT shall have the right to exercise its options by giving written notice of its election to LANDLORD as follows: (i) with respect to the first option, TENANT shall give such notice no earlier than July 2, 2003, and no later than July 31, 2003; and (ii) with respect to the second option TENANT shall give such notice no earlier than July 2, 2006, and no later than July 31, 2006.

LANDLORD shall have the right to terminate the lease at the end of the initial term and any subsequent renewal options (and thus nullify any remaining option to extend) as follows: (i) with respect to the first termination right, LANDLORD shall give such notice no later than July 1, 2003; (ii) with respect to the second termination right, LANDLORD shall give such notice no later than July 1, 2006.

3a. With respect to the first year of each renewal option period, if LANDLORD determines that adjusted rent appears to be below market, LANDLORD will select a California registered appraiser to render an appraisal of the market rental value of the premises at that point in time. Should TENANT dispute the appraisal, TENANT shall select a California registered appraiser to render an appraisal of the market rental value of the premises at that same point in time used for the LANDLORD'S appraisal. Should the two appraisals differ, the market rental value will be determined by the average of the two appraisals. Should the average of the two appraisals differ by more than 10% from each other, at the landlord's option and cost the tenant and landlord will then mutually select a third appraisal firm whose appraisal will be averaged with the other 2 to determine the base for the current market rate of rent for the succeeding three year option period. In no event, will the appraisal process to determine market rate for any year cause the rent for any year to be lower than it would otherwise be, as described in 6(b).

4. SURRENDER OF PREMISES: TENANT shall, at the expiration of the term of this lease or upon the earlier termination thereof for any reason, quit and surrender said premises to LANDLORD in as good state

and condition as said premises were in when possession thereof was given to TENANT, reasonable wear and tear and damage by the elements or an act of God excepted, and hazardous materials the presence of which TENANT did not cause excepted. For purposes of this lease, the term "hazardous materials" shall include but is not limited to (i) petroleum, (ii) asbestos, (iii) urea formaldehyde, (iv) polychlorinated biphenyls, (v) radioactive materials, (vi) radon gas, or (vii) any chemical, material or substance defined as or included in the definition of "hazardous substances", "hazardous waste", or "toxic substances" or words of similar impact under any applicable federal, state or local statutes, ordinances, orders, rules and regulations.

5. DUTY TO INSPECT: TENANT acknowledges that the LANDLORD makes no representations or warranties as to the repair or condition of the facilities which TENANT is entitled to use hereunder, and TENANT takes such property and facilities as is. It shall be TENANT'S obligation, not LANDLORD'S, to assure that the property and facilities are in a proper and safe condition to be used for the purpose anticipated herein; that it shall be TENANT'S obligation and duty, and not LANDLORD'S, to inspect such property and facilities before they are used and to take affirmative steps to repair, or where necessary, warn, in order to prevent injury to person or property; and that in the event such injury does occur, any claim arising therefrom shall trigger TENANT'S indemnity and defense obligations as provided in paragraph 22.

6. RENT: As and for the use of the above described premises TENANT agrees to pay LANDLORD the following rent, in monthly installments:

a. August 1, 1998 to July 31, 1999 - $36,740.40 per month ($1.36 per square foot per month).
August 1, 1999 to July 31, 2000 - $38,901.60 per month ($1.44 per square foot per month).
August 1, 2000 to July 31, 2001 - $40,252.35 per month ($1.49 per square foot per month).
August 1, 2001 to July 31, 2002 - $41,603.10 per month ($1.54 per square foot per month).
August 1, 2002 to July 31, 2003 - $42,953.85 per month ($1.59 per square foot per month).
August 1, 2003 to July 31, 2004 - $44,304.60 per month ($1.64 per square foot per month).
August 1, 2004 to July 31, 2005 - $45,655.35 per month ($1.69 per square foot per month).

b. Each subsequent year (twelve payments beginning August 1, 2005) the monthly rent shall be increased over the prior year's monthly rent by the same percentage that the San Francisco-Oakland CPI (July to June - All Urban Consumer) has increased. If an adjustment is made under provisions of Paragraph 3a, a CPI adjustment is not applied to the year an appraisal adjustment is made.

Rent is due on the first day of each month, beginning August 1, 1998.

Deposit: Upon execution of this lease, TENANT shall pay to LANDLORD rent for the first month of the lease term. Additionally, TENANT shall render to LANDLORD a deposit in the amount of one month's rent, adjusted

to give tenant credit for the amount of the deposit paid at the time of the original lease and currently held by LANDLORD. It is understood that this fulfills the surrender obligations stated in the lease.

Financial Statement: TENANT shall provide LANDLORD with a current verifiable financial statement or tax return.

Late Payment of Rent: TENANT hereby acknowledges that the late payment of rent or any other sums due hereunder shall cause LANDLORD to incur costs not contemplated by this lease, the exact amount of which shall be extremely difficult to ascertain. Such costs include but are not limited to administrative processing of delinquent notices, increased accounts costs, etc.

Accordingly, if any payment of rent as specified above or of any other sum due LANDLORD from TENANT under this lease is not received by LANDLORD or postmarked within ten (10) days after the due date, a late charge of one percent (1%) of the payment due shall be added to the payment, and the total sum shall become due and payable immediately to LANDLORD. A charge of one percent (1%) of said payment due, shall be added for each
month or part thereof that said payment remains unpaid.

The Parties hereto agree that such late charges represent a fair and reasonable estimate of the costs that LANDLORD shall incur by reason of TENANT'S late payment. Acceptance of such late charges (and/or any portion of the overdue payment) by LANDLORD shall in no event constitute a waiver of TENANT'S default with respect to such overdue payment, nor prevent LANDLORD from exercising any of the other rights and remedies granted hereunder by any provision of law.

7. ALTERATIONS: No structures, improvements, alterations or facilities shall be constructed, erected, altered, or made on the premises without the prior written consent of LANDLORD which shall not be unreasonably withheld or delayed. TENANT shall obtain any other required approvals, such as the Department of State Architect approval, and obtain any and all necessary permits which may be required by statue, law, ordinance or regulation of any agency having legal jurisdiction, prior to any consented to construction improvement or construction of said structures, and/or improvements.

All buildings, improvements, and facilities, exclusive of trade fixtures, constructed or placed on the premises by TENANT must, upon completion, be free and clear of all liens, claims, or liability for labor or material.

All improvements constructed by TENANT within the premises shall be constructed in strict compliance with detailed plans and specifications approved by LANDLORD. Such approval shall not be unreasonably withheld or delayed.

All improvements of any kind which may be erected or installed by TENANT shall be at the expense of the TENANT and must be maintained in good condition and substantial repair by TENANT to the satisfaction of the LANDLORD.

All structural improvements constructed or placed within premises by TENANT shall become the property of LANDLORD at the expiration of this lease or upon earlier termination thereof unless otherwise agreed to in writing at the time of approval. Notwithstanding the foregoing, TENANT shall have the right to remove all portable buildings installed on the premises at any time, including, without limitation, upon the expiration or sooner termination of the lease. LANDLORD retains the right to require TENANT, at TENANT'S cost, to remove all TENANT improvements located on the premises at the expiration or termination of the lease and to restore the premises to the reasonable satisfaction of the LANDLORD.

Indemnification - Mechanic's Liens: TENANT shall at all times indemnify and save LANDLORD harmless for all claims for labor or materials in connection with construction, repair, alteration, or installation of structures, improvements, equipment, or facilities within the premises by TENANT, and from the cost of defending against such claims, including attorney's fees. TENANT shall provide LANDLORD with at least ten (10) days written notice prior to commencement of any work which could give rise to a mechanic's lien or stop notice.

LANDLORD has the right to enter upon the premises for the purpose of posting Notices of Non-Responsibility.

In the event a lien is imposed upon the premises as a result of such construction, repair, alteration, or installation, then, promptly upon TENANT'S receipt of actual notice of the imposition of such lien, TENANT shall either:

(a) Record a valid Release of Lien, or

(b) Deposit sufficient cash with LANDLORD to cover the amount of the claim on the lien in question and authorize payment to the extent of said deposit to any subsequent judgment holder that may arise as a matter of public record for litigation with regard to lien holder's claim, or

(c) Procure and record a bond in accordance with Section 3143 of the Civil Code, which frees the demised premises from the claim of the lien from any action brought to foreclose the lien.

Should TENANT fail to accomplish one of the three optional actions within fifteen (15) days after the filing of such a lien, the lease shall be in default and shall be subject to immediate termination.

8. CUSTODIAL SERVICE AND REPAIRS:

Custodial Services: TENANT shall provide for its own custodial supplies and services. It is understood that custodial services shall include, among other things, keeping the immediate walkways and blacktop areas swept, the lavatories in a state of cleanliness and replacement of burnt out light bulbs/lamps.

TENANT shall provide approved containers for trash and shall keep the premises free and clear of rubbish and litter and shall not store any

dangerous materials on the premises. LANDLORD shall have the right to enter upon and inspect the premises at any time for cleanliness and safety.

Repairs: TENANT acknowledges that the premises are in good order and repair unless otherwise indicated herein.

LANDLORD shall be responsible for major maintenance of the building, but not limited to roof, furnaces, electrical wiring, doors, windows, ceiling tiles, plumbing, sewers, parking areas, walkways and exterior landscaping, unless state of disrepair is due to the willful or negligent actions of TENANT, its agents or clients, in which event TENANT shall have the right to make necessary repairs or replacement but if made by LANDLORD the cost of such repair or replacement shall be charged to TENANT, its agents, or clients, on time and materials basis plus fifteen percent (15%) overhead costs.

TENANT shall, to the reasonable satisfaction of LANDLORD, take all steps necessary or appropriate to maintain the non structural elements of the interior of the buildings, including but not necessarily limited to: all carpeting and paint.

TENANT shall designate in writing to LANDLORD an on-site representative who shall be responsible for the day-to-day operations and level of maintenance, cleanliness and general order of the premises. If TENANT fails to maintain or make repairs as required herein, LANDLORD may notify TENANT in writing of said failure. Should TENANT fail to correct the situation within a reasonable time thereafter, as established by LANDLORD, LANDLORD may make necessary corrections and the cost thereof, including cost of labor, materials and equipment and a fifteen percent (15%) overhead fee, shall be paid by the TENANT within ten (10) days of receipt of statement. Failure to correct the situation may also be grounds for termination of this lease.

9. GROUNDS MAINTENANCE: LANDLORD shall maintain the grounds and turf area in a manner consistent with prior levels of maintenance.

LANDLORD agrees to replace existing playground equipment not meeting year 2000 requirements with like playground equipment meeting year 2000 guidelines for an amount not to exceed $40,000.

10. ASSIGNMENT AND SUBLETTING: Any assignment of this lease, without obtaining the prior written consent of LANDLORD shall be void and, at the option of LANDLORD, shall terminate this lease.

LANDLORD'S consent to any such assignment or sublease shall not be unreasonably withheld or delayed. No consent to any assignment of this lease, voluntarily or by operation of law, or a subletting of the premises, shall be deemed to be a consent to any subsequent assignment of this lease voluntarily or by operation of law, or to any subletting of the premises, except as to the specific instance covered thereby.

Any rent received, (less expenses incurred by TENANT) from summer school

or after-school sublet, shall be shared equally between the TENANT and the LANDLORD.

11. PARTIAL OR TOTAL DESTRUCTION OF PREMISES DURING TERM:

(a) **Natural Disaster:** In the event that school operations carried on by either LANDLORD or TENANT are disrupted due to a natural disaster or other event that interferes with LANDLORD'S use of its school facilities other than the premises or with TENANT'S use of the premises, the parties will use reasonable efforts to cooperate with each other to minimize the impact of such disruption by sharing facilities to the extent practical and feasible.

(b) **Total Destruction of Premises:** If the buildings or appurtenant structures or service facilities on the premises are damaged or destroyed more than thirty-three and one-third percent (33-1/3%) and LANDLORD elects not to repair the damage, such damage shall be considered a total destruction of the leased premises. Such total destruction of the buildings or appurtenant structures or service facilities shall terminate this lease as of the date of such destruction and neither party hereto shall have any further rights or be under any further obligations on account of this lease, except TENANT for rent accrued and, if not then in default in the performance of any of the obligations under this lease, LANDLORD shall refund to TENANT any unearned rents paid in advance by TENANT. Provided, however, that TENANT can elect to prevent such termination and continue use of the premises or alternative adjacent land by giving notice to LANDLORD that TENANT will at its own expense install portable buildings so that it can continue to use the premises, in which case the rental shall be abated by a percentage equal to the proportion of space not usable less a fee for lease of land.

If LANDLORD does not elect to repair such damage, then LANDLORD shall so notify TENANT in writing within thirty (30) days following the date of such destruction. If the LANDLORD elects to repair such damage then such damage shall be treated as if it were damage described in (c) below.

(c) **Partial Damage or Destruction:** If the buildings or other improvements situated on the premises shall be partially damaged or destroyed, LANDLORD may elect not to make repairs and restorations. TENANT may thereupon elect to terminate the lease. If TENANT does not so terminate, there shall be abatement of the payment required in paragraph 6 above.

If LANDLORD elects to make repairs, it shall do so with reasonable promptness and dispatch, and providing the same can be repaired and rebuilt under state and municipal laws and regulations within sixty (60) working days, TENANT shall pay rent during such period of repair or rebuilding in the proportion that the portion of the premises occupied by TENANT bears to the entire leased premises. For purpose hereof, damage or injury which does not amount to thirty-three and one-third percent (33-13/%) of the value of the premises leased shall be considered as a partial destruction.

12. UTILITIES: TENANT shall, during the term hereof, pay all charges for gas and electricity, light, heat, power, water (prorated), telephone, other communication services, security systems service or any other services or facilities used in connection with the premises, including, but not limited to, the removal of rubbish therefrom, sewage and the like, before they shall become delinquent and shall hold LANDLORD harmless from any liability in connection therewith. TENANT shall also, at its sole cost and expense, procure any and all necessary permits, licenses, or other authorization required for the lawful and proper installation and maintenance of any wires, pipes, conduits, tubes and other equipment or appliances used to service the premises and shall promptly pay for all such required repairs or installations made in connection with the use of the premises.

13. LIMITS OF PARKING: Parking of cars shall be confined to the facility parking area or as specified in use permit. Unless specified in the use permit, on street parking during the day will be limited to the school side of La Cuesta.

14. EVENING USE: TENANT shall stagger night use of the facility by itself and any and all Lessees, if any.

15. CIVIC CENTER ACT: TENANT agrees to make available for use the multipurpose room and playing fields in accordance with the Civic Center Act. Authorization for such use shall be solely the LANDLORD's and shall be given only after conferring with TENANT. Permission to use the facilities shall not be unreasonably withheld.

16. PUBLIC USE OF GROUNDS: At such times when TENANT is not occupying the grounds appurtenant to the leased premises, TENANT agrees that the same shall be kept open and available for public use as a playground or park. It is understood that TENANT shall be deemed to be occupying said grounds from 7:30 AM to 4:00 PM, Mondays through Fridays. However, the grounds and turf area shall be accessible to the public for any and all hours Saturdays, Sundays, and legal holidays, and between June 20 and beginning of TENANT'S school year in August(no earlier than August 15).

17. NON-DISCRIMINATION: TENANT shall not in any activity conducted on the leased premises or in any other manner discriminate against any person on the grounds of race, color, religion, sex or national origin. Failure by TENANT to comply with this condition shall be deemed non-compliant with the terms and provision of this agreement and shall serve as the basis for termination of this lease.

18. PROCURING ZONING OR USE PERMITS: The District specifically does not warrant, represent or guarantee any particular zoning or permissible use of the property to be leased. TENANT must procure on its own behalf any necessary change of zoning or use permit or other entitlement to use from the respective governmental agencies involved in the regulation of the use of said real property. The District will, however, cooperate with and reasonably assist the TENANT in obtaining any necessary rezoning and/or use permit to the extent permitted by law. The TENANT may not, however, cancel or otherwise avoid obligations under the lease, including the obligation to pay rent upon its inability to procure any particular rezoning or use permit.

19. INSURANCE: TENANT shall, at all times during the term hereof, and at its own cost and expense, procure and continue public liability insurance for a minimum amount of $2,000,000.00 per occurrence; also TENANT shall procure and continue personal property damage insurance with limits of at least $250,000.00. Said policies shall (1) specifically cover the indemnity provisions of this lease; (2) name LANDLORD as an additional insured; (3) not be cancelled or coverage reduced without forty-five (45) days prior notice to LANDLORD; (4) be primary over any other insurance carried by the LANDLORD. The above conditions shall be set forth on an endorsement to the TENANT'S insurance policy and shall be provided to LANDLORD prior to occupancy by TENANT.

LANDLORD shall retain the right at any time to review the coverage, form and amount of insurance required hereby. If in the opinion of District's Business Manager, the insurance provisions of this lease do not provide adequate protection for the District, District may require TENANT to obtain insurance sufficient in coverage, form and amount to provide adequate protection. LANDLORD requirements shall be reasonable but shall be designed to assure protection from and against the kind of extent of the risk which exists at the time a change in insurance is required.

LANDLORD shall notify TENANT in writing of changes in the insurance requirements and if TENANT does not deposit copies of acceptable insurance policies with LANDLORD incorporating such changes within sixty (60) days of receipt of such notice, or in the event TENANT fails to maintain in effect any required insurance coverage, this lease shall be in default without further notice to TENANT. Such failure shall constitute a substantial breach and shall be grounds for termination of this lease at the option of the LANDLORD.

The procuring of such required policy or policies of insurance shall not be construed to limit TENANT'S liability hereunder nor to fulfill the indemnification provision and requirements of this lease. Notwithstanding said policy or policies of insurance, TENANT shall be obligated for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with this lease or with use or occupancy of the Premises, except with respect to fire as to which TENANT'S liability due to negligence or neglect shall be limited to the LANDLORD'S deductible under its fire insurance policy as described in the following paragraph.

Fire Insurance: LANDLORD shall be solely responsible for providing standard fire insurance with extended coverage for the District owned property on leased premises.

TENANT shall be responsible for insuring contents (personal property) represented by the TENANT'S interests.

20. POSSESSORY INTEREST: In the event a possessory interest tax accrues to TENANT'S interest in the property, it is understood that the TENANT shall pay all such tax in its entirety, on or before its due date as and for additional rent.

21. SIGNS: TENANT may place or permit to be placed in, upon, about or outside the premises or any part of the building in which the premises are located any sign visible from the street only with the prior written consent of LANDLORD (which shall not be unreasonably withheld or delayed) and provided TENANT pays all permit and license fees which may be required to be paid for the erection and maintenance of any and all such signs, and provided such signs are legally permitted to be installed.

22. HOLD HARMLESS: TENANT shall defend, hold harmless and indemnify LANDLORD, its officers, and employees from any and all claims, for injuries and/or damages to persons and/or property which arise out of the terms and conditions of this lease and which result from the negligent acts or omissions of TENANT, its officers and/or employees.

It is further agreed that to the extent permitted by law, LANDLORD shall defend, hold harmless, and indemnify TENANT, its officers and employees from any and all claims for injuries or damages to persons and/or property, which arise out of the terms and conditions of this lease and which result from the negligent acts or omissions of LANDLORD, its officers, and/or employees.

In the event of concurrent negligence of LANDLORD, its officers and/or employees, and TENANT, its officers, and/or employees, then the liability for any and all claims for injuries or damages to persons and/or property which arise out of terms and conditions of this lease shall be apportioned according to the California theory of comparative negligence.

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

23. NOTICES: All notices or reports required or desired to be given regarding this lease shall be in writing and may be given by personal delivery, facsimile, courier service or by mail. A notice or report addressed to TENANT at the premises or to LANDLORD at the address below, as appropriate, shall be deemed to have been given (i) on the third business day after mailing if such notice or report was deposited in the United States mail, certified or registered, postage prepaid; (ii) when delivered if given by personal delivery; (iii) on the business day following deposit, cost prepaid with Federal Express or similar private carrier; (iv) instantaneously upon confirmation of receipt of facsimile, and (v) in all other cases when actually received. Either party may change its address by giving notice of the same in accordance with this paragraph. For purposes of this paragraph, the term "business day" shall mean a day on which the carrier used (Federal Express or other private carrier, or the U.S. Postal Service, as applicable) delivers, in the ordinary course of operations.

All notices pursuant to this lease shall be addressed as set forth below or as party may designate hereafter by written notice:

To LANDLORD
(Name) Las Lomitas School District

(Address) Business Office
1011 Altschul Avenue
Menlo Park, CA 94025

To TENANT
(Name) Woodland School
360 La Cuesta Drive
Portola Valley, CA 94028

24. EVENTS OF DEFAULT: Any of the following shall constitute Events of Default under this lease:

(a) Any failure of TENANT to maintain any insurance coverage required hereunder; or

(b) Any default made by TENANT in the payment of rent or in the performance of any of the terms, covenants or conditions herein contained to be performed by TENANT which default shall continue for a period of ten (10) days after TENANT'S receipt of notice from LANDLORD, or, in the case of a default which cannot be cured within ten (10) days, shall continue for an unreasonable period; or

(c) TENANT'S abandonment of the premises.

In the event TENANT commits an act of default and abandons the premises, LANDLORD may elect to continue this lease in full force and effect and not terminate TENANT'S right to possession of the premises, in which event LANDLORD shall have the right to enforce any rights and remedies granted by the lease or by law against TENANT. LANDLORD shall not be deemed to have elected to terminate unless LANDLORD gives TENANT written notice of such election to terminate. In no event shall LANDLORD'S acts of maintenance or preservation of the premises, efforts to relet, or obtaining the appointment of a receiver to protect the interest of LANDLORD under the lease be deemed to constitute such a termination.

LANDLORD may elect by written notice to TENANT to terminate this lease at any time after the occurrence of an act of default, and in such event LANDLORD may, at its option, declare this lease terminated and remove TENANT'S property from the premises and store it for TENANT'S account and at TENANT'S expense, eject all persons from the premises, and recover damages from TENANT as hereinafter provided. Any such re-entry shall be permitted by TENANT without hindrance, and LANDLORD shall not be liable thereby in damages for such re-entry or be guilty of trespass or forcible entry.

In the event LANDLORD elects to so terminate this lease and TENANT'S right to possession, or termination occurs by operation of law, such termination shall cancel all TENANT'S options, if any, to extend the term.

In the event LANDLORD elects to terminate this lease and TENANT'S right to possession in accordance with the foregoing, or the same are terminated by operation of law, LANDLORD may recover as damages from

TENANT the unpaid rental and other sums due hereunder which had been earned at the time of termination of the lease plus rental and other sums due hereunder which would have been earned after the date of termination of the lease. LANDLORD shall also be entitled to any amount, including attorney's fees and court costs, necessary to compensate LANDLORD for all detriment proximately caused by TENANT'S act of default or which in the ordinary course of things would be likely to result therefrom.

25. ENTRY INSPECTION OF PREMISES: LANDLORD shall be entitled, at all reasonable times, upon reasonable notice, to go upon and into the premises for the purpose of (a) inspecting the same, (b) inspecting the performance by TENANT of the terms, covenants, agreements and conditions of this lease, or (c) posting and keeping posted thereon notices of non-responsibility for any construction, alteration or repair thereof, as required or permitted by any law or ordinance.

26. TERMINATION: It is the intent of the parties that TENANT shall enjoy the full benefit of the initial lease term (August 1, 1998 through July 31, 2005).

This lease, at the option of the LANDLORD, shall immediately cease and terminate upon the happening of any of the following events:

(a) The filing of a petition for any proceedings under the Bankruptcy Act or any amendment hereto by TENANT or any person against TENANT.

(b) A finding or judgment of insolvency of TENANT.

(c) An assignment for the benefit of creditors by TENANT.

(d) The levying of a writ of execution on the business of TENANT or on the assets of TENANT located on the premises, which is not discharged within five (5) days after the date of said levy.

(e) The appointment of a receiver to take possession of the premises or the assets of the TENANT.

(f) The failure of the TENANT to obtain insurance coverage in the amounts specified herein and/or the cancellation of the TENANT'S insurance coverage.

In the event of a sale or conveyance by LANDLORD of said real property, the same shall be made subject to this lease and shall operate to release the LANDLORD from any future liability on any of the covenants or conditions, expressed or implied, herein contained in favor of the TENANT and in such event the TENANT agrees to look solely to the responsibility of the successor in interest of the LANDLORD expressly to assume said future liability. Nothing herein contained shall relieve the LANDLORD from a liability which has accrued under this lease against it to and at the time of said sale or conveyance.

27. DISPUTE RESOLUTION: The parties intend that this contract will be implemented in a spirit of cooperation. In the event any difference or dispute occurs regarding performance under the contract, the parties

will seek to resolve it through good-faith negotiation between them. If that is not successful, the parties agree to engage in mediation with a mutually acceptable person or persons prior to the initiation of litigation.

28. ENTIRE AGREEMENT: This contract constitutes the entire agreement between the LANDLORD and the TENANT relative to the premises, and this agreement may be altered, amended, or revoked only by an instrument in writing signed by both LANDLORD and TENANT. LANDLORD and TENANT agree hereby that all prior or contemporaneous oral agreements between and among themselves and their agents or representatives relative to providing services on the premises are merged in or revoked by this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this lease as of the day and year first above written.

Dated: 10/16/97

LAS LOMITAS SCHOOL DISTRICT, LANDLORD

(Signature) (Title)

(Signature) (Title)

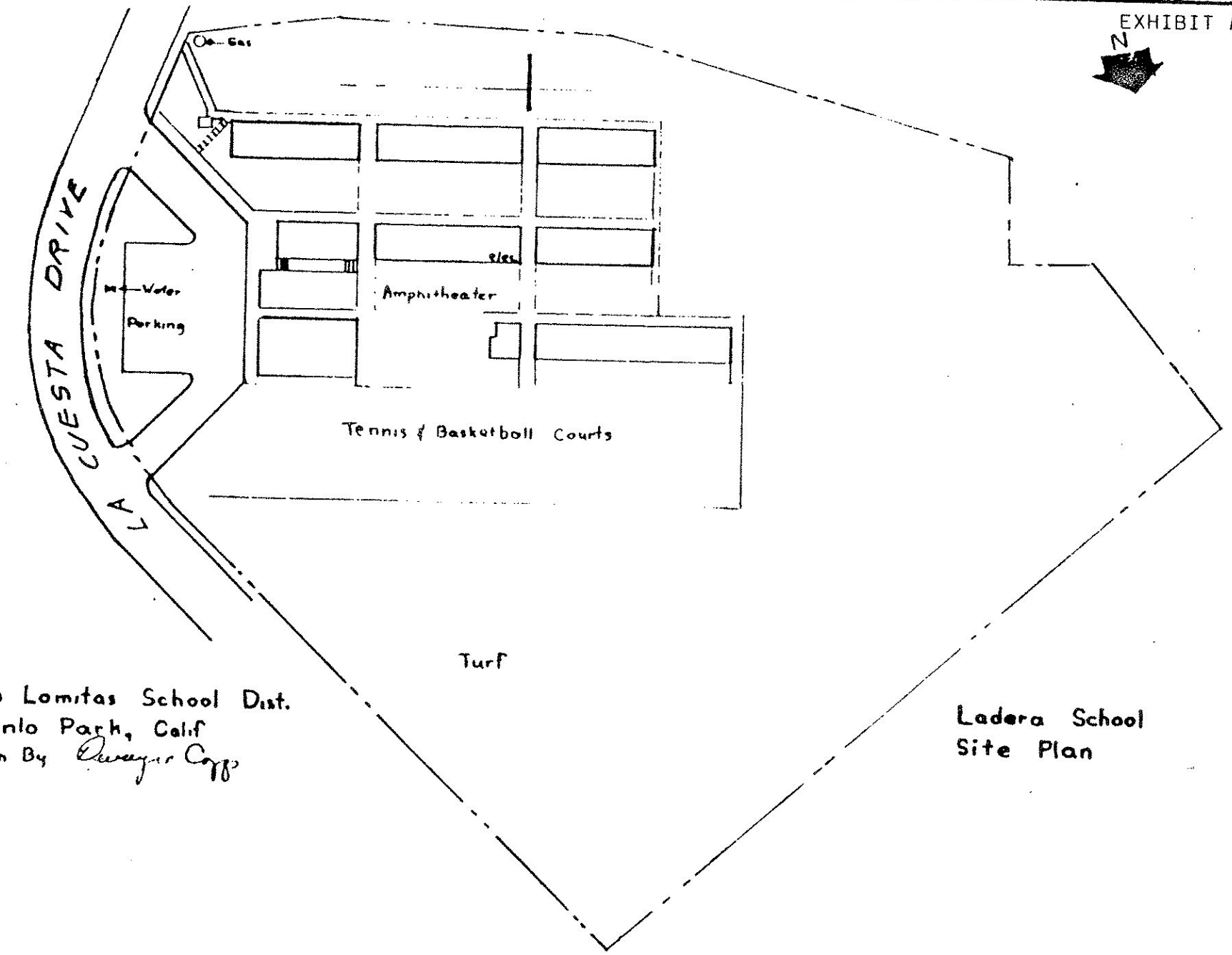
WOODLAND SCHOOL, TENANT

(Signature) CEO (Title)

(Signature) (Title)

wp\dir\contract\woodlnd2

EXHIBIT A



Las Lomitas School Dist.
Menlo Park, Calif
Dwn By Dwayne Cobb

Ladera School
Site Plan

EXHIBIT B

GOVERNING BOARD

LAS LOMITAS ELEMENTARY SCHOOL DISTRICT

DATE: 11/12/14
AGENDA NUMBER: 10.a.
AGENDA CATEGORY: Action

TOPIC: **Resolution No. 11-12-14: Intention to Lease Certain School District Property & Notice Inviting Bids**

Over the past several months, the Governing Board has been holding discussions concerning District-owned real property, leased sites, and a new lease for the property located at 360 La Cuesta Drive, Portola Valley, CA 94028, known as the Ladera School site.

Discussions have included consideration of the reports by the EEE Committee and the 7-11 Committee; communications received from the Ladera Community Association; communications from the Administrators of Woodland School, the current tenant at the Ladera School site; and input from families living in Ladera.

In addition, the Board has received input during Governing Board Meetings where the topic was agendized; input from parents, community members, and prior Board Members; and advice from the District's Legal Counsel and Real Estate Advisor.

The Board has considered in detail the merits of the Bid Process versus the Request for Proposal (RFP) Process as it relates to the Ladera Property.

On September 12, 2011, the Board gave direction to the Superintendent to proceed with a traditional Bid Process for the lease of the Ladera Property.

On November 9, 2011 a Resolution that set forth the intention of the Las Lomitas Elementary School District to offer for lease the Ladera School site and to invite bids for the lease was presented for Board approval. On that date, questions and comments from the public led to the Board's tabling the Resolution without action, until the Board could consult further with counsel.

The resulting revised Resolution returns for Board approval tonight. A copy of the Resolution is attached.

Superintendent's Recommendation:

Adopt Resolution No. 11-12-14

Las Lomitas Elementary School District

RESOLUTION NO. 11-12-14
RESOLUTION OF INTENTION TO LEASE CERTAIN SCHOOL DISTRICT PROPERTY AND NOTICE INVITING BIDS

Ladera School Site

Pursuant to Sections 17455 and 17465 et seq. of the Education Code of the State of California.

WHEREAS, the Las Lomitas Elementary School District of San Mateo County, State of California, (the "District"), is the owner of that real property known as the Ladera School site located at 360 La Cuesta Drive, Portola Valley, CA 94028; and

WHEREAS, the Governing Board convened an Advisory Committee pursuant to Education Code Section 17387 which recommended to the Governing Board that the Ladera School site, consisting of classrooms and related improvements but not the playing fields as shown in "Exhibit "A" attached hereto (the "Property"), be long-term leased as surplus school property; and

WHEREAS, the Governing Board has determined that the Property is surplus to the educational needs of the District and will not at the time of delivery of possession be needed for District classroom buildings or for any other District purposes; and

WHEREAS, the Governing Board desires to continue to control the use of the playing fields so that they may be made available to the District and the community; and

WHEREAS, the Property does not include playgrounds or playing fields as contemplated by the "Naylor Act" (Education Code Sections 17485 et seq.): and

WHEREAS, the Governing Board has determined that it is in the best interest of the District that said Property be leased to the highest responsible bidder, pursuant to Sections 17455 and 17465 et seq. of the Education Code of the State of California;

NOW, THEREFORE IT IS HEREBY RESOLVED that the Governing Board of the Las Lomitas Elementary School District does hereby declare its intention to offer for lease the Property.

BE IT FURTHER RESOLVED that the Governing Board hereby authorizes the Superintendent to notice those public districts, public authorities, public agencies and other political subdivisions or public corporations in this state, as required by the Government and Education Codes of the State of California, and

BE IT FURTHER RESOLVED that the Property shall be leased subject to the terms and conditions set forth herein.

1. It is the intention of the Governing Board to lease the Property, which consists of classrooms, library, administrative areas, and adjacent outdoor areas to the highest

responsible bidder(s) in accordance with Sections 17455 and 17465 et seq. of the Education Code.

2. The Naylor Act does not apply to the Property because it does not include playgrounds or playing fields.

3. The Governing Board requires that the highest responsible bidder utilize the site for a kindergarten through eighth grade school which may include day care and preschool activities which are compatible with the goals and objectives of the District. The Governing Board specifically precludes the site from being used as a high school educational facility.

4. The initial term of the lease shall be for 25 years with the District having the option, in its sole discretion, to extend the lease up to an additional 25 years beyond the initial term on mutually agreed upon terms and conditions.

5. The lease shall commence on or about August 1, 2013, and shall terminate on July 31, 2038 unless the District, in its sole discretion, elects to modify the commencement date or extend the term.

Item 6 revised at the meeting of 12/14/11: see new copy which follows

6. The minimum acceptable bid shall be Six Hundred Twenty Five Thousand Dollars ($625,000) per year absolute net to the District. Bids for less than the minimum shall be disqualified.

7. The rent shall remain fixed at the high bid amount for the first two years of the lease term. Thereafter, the annual rent will be increased annually, effective on August 1 for each succeeding lease year beyond the second year through the twenty-fifth (25th) year by an amount equal to the annual change in the Consumer Price Index, however the minimum annual increase shall be three percent (3%) and the maximum annual increase shall be six percent (6%). The indexes for computing the increase shall be the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index, San Francisco-Oakland-San Jose All Urban Consumers (CPI-U) as published for April of the current and previous year. The increase shall be calculated by multiplying the rent by a fraction, the numerator of which is the April index for the current year and the denominator of which is the index for April of the previous year. The first increase utilizing this calculation shall be effective August 1, 2015. Subsequent annual increases shall be effective on August 1 for each succeeding year of the lease through the twenty-fifth (25th) year. In no case shall the rent for the current year be less than the rent paid in the previous year.

8. For any additional extension of the lease term if granted by the District, in its sole discretion, the rent and escalations shall be negotiated and mutually agreed upon between the District and the lessee during a six (6) month period commencing upon District delivering to lessee in writing a notice stating that the District will grant an extension of the lease term for a specific number of years not to exceed 25. District agrees to deliver a written notice to extend or terminate the lease no later than 3 years prior to the expiration of the initial term. If the notice is to extend the lease, the negotiations of the terms of such extension must be completed no later than thirty (30) months prior to the termination of the initial lease term. In no case shall the rent for the extended lease term be less than the rent paid in the last year of the initial lease term. If

the Tenant and District are unable to reach agreement on the terms for the extension, the lease shall terminate on July 31, 2038.

9. All written bids for the lease of the Property must be accompanied by a cashier's check in the amount of One Hundred Thousand Dollars ($100,000) made payable to: "Las Lomitas Elementary School District." Said bids will be received up to but not later than 10:30 a.m. on Tuesday, March 27, 2012 at the La Entrada School Multi-Use Room (MUR), 2200 Sharon Road, Menlo Park, CA 94025. Those bidders who do not submit a written bid but who desire to participate in the oral bidding must submit a cashier's check in the amount of One Hundred Fifty Thousand Dollars ($150,000) payable to "Las Lomitas Elementary School District" prior to 10:30 a.m. on Tuesday, March 27, 2012. Bidders who submit a written bid are eligible to participate in the oral bidding without making any additional deposit.

10. Oral bids will be solicited by the District's representative immediately following the declaration of the written bids at approximately 10:50 a.m. on Tuesday, March 27, 2012. The opening oral bid must exceed the highest written bid by at least five percent (5%). No oral bid shall be finally accepted until the oral bid is reduced to writing and signed by the bidder.

11. Unsuccessful bidders' cashier checks shall be returned immediately after the oral bidding session.

12. Immediately after the conclusion of the oral bidding on March 27, 2012, the high bidder must execute the "Option to Lease Agreement" which shall document the high bid, grant the high bidder an option to lease the Property, provide for the manner in which the option is to be exercised and define the term of the option to be 60 days (hereafter referred to as the "Option to Lease Period") commencing upon the Governing Board's approval of the highest responsible bidder and expiring 60 days subsequent to the Governing Board's approval date.

13. Each written and oral bid for lease of the Property shall remain valid and bind the bidder for 60 days following the March 27, 2012 meeting, or until a bidder with a higher bid enters into an agreement with the District for the lease of the Property, whichever occurs first. After expiration of such period, however, the District still may offer to lease the Property to the other bidders who submitted a bid at the March 27, 2012 meeting, in the event any bidder with a higher bid fails to enter into a lease agreement. Within three business days of a written request from the District, a bidder must confirm in writing that it intends to honor its bid as considered at the March 27, 2012 meeting. Oral bidders must provide the District with identifying and contact information at the March 27, 2012 meeting in order for such bids to be considered in the event of default of bidders with higher bids. If a bidder fails to confirm its bid within three business days of a written request from the District, or if an oral bidder fails to provide adequate identifying and contact information, the District may reject that bidder's bid and offer to lease the Property to another responsive bidder.

14. The cashier's check submitted with the successful high bid shall be retained by the District as a nonrefundable option payment which will be credited against the security deposit due per the lease agreement.

15. The Governing Board, at the March 27, 2012 meeting or at any adjourned session of the same meeting held within 10 days, shall accept the bid for lease of the Property that offers the District the highest price and that otherwise conforms to all terms and conditions set by the District. The Governing Board reserves the right to reject any and all bids, to waive any irregularities in the bidding process, and to withdraw any and all of the Property from lease. The Governing Board further reserves the right to reject any bid that proposes any use deemed inconsistent with or inappropriate for the Property or other properties in the vicinity of the Property.

16. During the Option to Lease Period, the bidder must enter into a lease agreement with the District, which shall specify the bid price and otherwise include terms and conditions consistent with the requirements of this Resolution and applicable law. The Superintendent, or his designee, may negotiate and include in an applicable lease agreement such other terms and conditions as he determines, in consultation with the District's advisors, reasonable and in the District's best interests.

17. If the successful bidder fails to exercise its option rights on or before the expiration of the Option to Lease Period, the Option to Lease Agreement shall be null and void unless the District and lessee agree in writing to extend the Option to Lease Period prior to its expiration. The Option to Lease Agreement shall specify that the successful bidder can exercise the option by delivering to the District, on or before the expiration of the Option to Lease Period, two completed and executed (by successful bidder) copies of the lease agreement which is to be finalized during the Option to Lease Period along with an additional nonrefundable deposit of $50,000 which will be credited towards the security deposit or rent as stipulated in the lease agreement. If a lease agreement is not agreed upon and executed by the successful bidder prior to the expiration of the Option to Lease Period, the Option to Lease Agreement will terminate. Any studies undertaken by the successful bidder during the Option to Lease Period will be at the successful bidder's expense.

18. The lease of the Property shall be on an "as is" and "with all faults" basis, with no express or implied warranties whatsoever. The lessee of the Property shall be solely responsible for any and all planning, design, permits, approvals, construction, utilities, taxes, costs and other things of any nature required or convenient to permit the use of the Property contemplated by the lessee, including, in connection therewith, compliance with the California Environmental Quality Act. Bidders are hereby notified that private use of the public property may result in the assessment of a possessory-interest or similar tax, and the lessee shall be solely responsible for the payment of any such tax.

19. No real estate commission shall be paid by the District to outside real estate brokers. If a bidder desires to use the services of a real estate broker, the bidder shall be responsible for all fees and commissions due to said broker. The District has entered into a Special Services Contract with Enshallah Inc., a California licensed real estate brokerage firm and property consultant, dated September 12, 2011, to provide consulting services in connection with the lease of the Property. Fees paid to Enshallah Inc. shall be in accordance with the terms specified in the Special Services Contract.

20. In the event that any legal action or litigation is undertaken by the District to enforce the provisions of the bid offer or any subsequent written agreement, the successful bidder shall pay reasonable attorneys' fees incurred by the District.

21. The Clerk of the Board is hereby directed to cause to be posted copies of this Resolution, at three public places in the District, not less than fifteen (15) days prior to the date set for receiving of bids, and cause to be published notice of same no less than once a week for three consecutive weeks before said date in a newspaper of general circulation in the County of San Mateo, State of California.

22. This Resolution shall take effect immediately upon approval by a two-thirds majority of the Governing Board.

PASSED AND ADOPTED by the Governing Board of the Las Lomitas Elementary School District of San Mateo County, State of California, this December 14, 2011, by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTION:

Approved as to form: _____
County Counsel

_____
President Governing Board
Las Lomitas Elementary School District

Attest:

_____
Secretary, Governing Board

Las Lomitas Elementary School District

PROPERTY TO BE LEASED AT LADERA SCHOOL SITE
(indicated within the dotted line shown below)

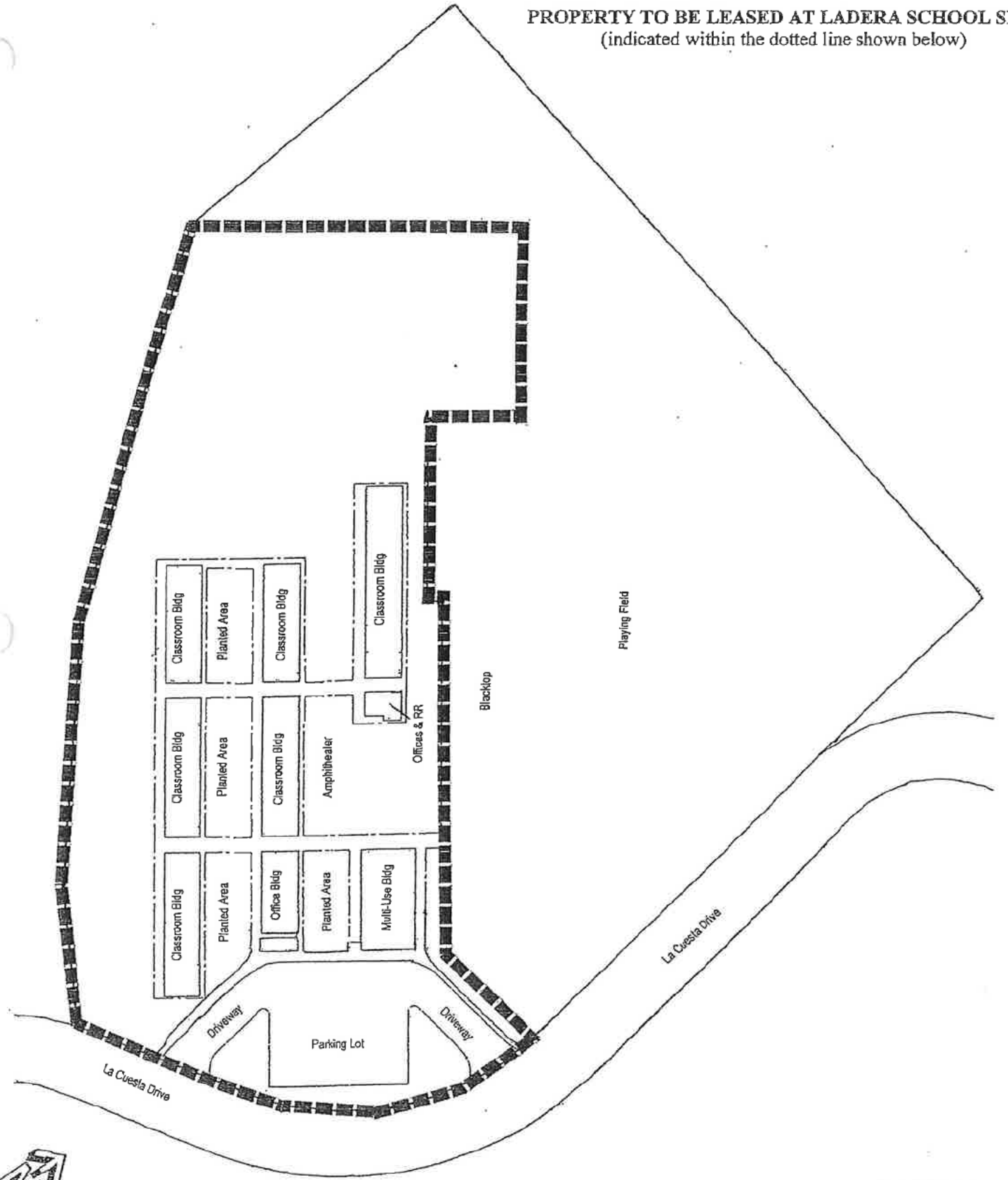


Exhibit "A"
Page 1 of 1

Las Lomitas Elementary School District

RESOLUTION NO. 11-12-14
RESOLUTION OF INTENTION TO LEASE CERTAIN SCHOOL DISTRICT PROPERTY AND NOTICE INVITING BIDS

Ladera School Site

Pursuant to Sections 17455 and 17465 et seq. of the Education Code of the State of California.

WHEREAS, the Las Lomitas Elementary School District of San Mateo County, State of California, (the "District"), is the owner of that real property known as the Ladera School site located at 360 La Cuesta Drive, Portola Valley, CA 94028; and

WHEREAS, the Governing Board convened an Advisory Committee pursuant to Education Code Section 17387 which recommended to the Governing Board that the Ladera School site, consisting of classrooms and related improvements but not the playing fields as shown in "Exhibit "A" attached hereto (the "Property"), be long-term leased as surplus school property; and

WHEREAS, the Governing Board has determined that the Property is surplus to the educational needs of the District and will not at the time of delivery of possession be needed for District classroom buildings or for any other District purposes; and

WHEREAS, the Governing Board desires to continue to control the use of the playing fields so that they may be made available to the District and the community; and

WHEREAS, the Property does not include playgrounds or playing fields as contemplated by the "Naylor Act" (Education Code Sections 17485 et seq.): and

WHEREAS, the Governing Board has determined that it is in the best interest of the District that said Property be leased to the highest responsible bidder, pursuant to Sections 17455 and 17465 et seq. of the Education Code of the State of California;

NOW, THEREFORE IT IS HEREBY RESOLVED that the Governing Board of the Las Lomitas Elementary School District does hereby declare its intention to offer for lease the Property.

BE IT FURTHER RESOLVED that the Governing Board hereby authorizes the Superintendent to notice those public districts, public authorities, public agencies and other political subdivisions or public corporations in this state, as required by the Government and Education Codes of the State of California, and

BE IT FURTHER RESOLVED that the Property shall be leased subject to the terms and conditions set forth herein.

1. It is the intention of the Governing Board to lease the Property, which consists of classrooms, library, administrative areas, and adjacent outdoor areas to the highest

responsible bidder(s) in accordance with Sections 17455 and 17465 et seq. of the Education Code.

2. The Naylor Act does not apply to the Property because it does not include playgrounds or playing fields.

3. The Governing Board requires that the highest responsible bidder utilize the site for a kindergarten through eighth grade school which may include day care and preschool activities which are compatible with the goals and objectives of the District. The Governing Board specifically precludes the site from being used as a high school educational facility.

4. The initial term of the lease shall be for 25 years with the District having the option, in its sole discretion, to extend the lease up to an additional 25 years beyond the initial term on mutually agreed upon terms and conditions.

5. The lease shall commence on or about August 1, 2013, and shall terminate on July 31, 2038 unless the District, in its sole discretion, elects to modify the commencement date or extend the term.

6. The minimum acceptable bid shall be Six Hundred Fifty Thousand Dollars ($650,000) per year absolute net to the District. Bids for less than the minimum shall be disqualified.

7. The rent shall remain fixed at the high bid amount for the first two years of the lease term. Thereafter, the annual rent will be increased annually, effective on August 1 for each succeeding lease year beyond the second year through the twenty-fifth (25^{th}) year by an amount equal to the annual change in the Consumer Price Index, however the minimum annual increase shall be three percent (3%) and the maximum annual increase shall be six percent (6%). The indexes for computing the increase shall be the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index, San Francisco-Oakland-San Jose All Urban Consumers (CPI-U) as published for April of the current and previous year. The increase shall be calculated by multiplying the rent by a fraction, the numerator of which is the April index for the current year and the denominator of which is the index for April of the previous year. The first increase utilizing this calculation shall be effective August 1, 2015. Subsequent annual increases shall be effective on August 1 for each succeeding year of the lease through the twenty-fifth (25^{th}) year. In no case shall the rent for the current year be less than the rent paid in the previous year.

8. For any additional extension of the lease term if granted by the District, in its sole discretion, the rent and escalations shall be negotiated and mutually agreed upon between the District and the lessee during a six (6) month period commencing upon District delivering to lessee in writing a notice stating that the District will grant an extension of the lease term for a specific number of years not to exceed 25. District agrees to deliver a written notice to extend or terminate the lease no later than 3 years prior to the expiration of the initial term. If the notice is to extend the lease, the negotiations of the terms of such extension must be completed no later than thirty (30) months prior to the termination of the initial lease term. In no case shall the rent for the extended lease term be less than the rent paid in the last year of the initial lease term. If

the Tenant and District are unable to reach agreement on the terms for the extension, the lease shall terminate on July 31, 2038.

9. All written bids for the lease of the Property must be accompanied by a cashier's check in the amount of One Hundred Thousand Dollars ($100,000) made payable to: "Las Lomitas Elementary School District." Said bids will be received up to but not later than 10:30 a.m. on Tuesday, March 27, 2012 at the La Entrada School Multi-Use Room (MUR), 2200 Sharon Road, Menlo Park, CA 94025. Those bidders who do not submit a written bid but who desire to participate in the oral bidding must submit a cashier's check in the amount of One Hundred Fifty Thousand Dollars ($150,000) payable to "Las Lomitas Elementary School District" prior to 10:30 a.m. on Tuesday, March 27, 2012. Bidders who submit a written bid are eligible to participate in the oral bidding without making any additional deposit.

10. Oral bids will be solicited by the District's representative immediately following the declaration of the written bids at approximately 10:50 a.m. on Tuesday, March 27, 2012. The opening oral bid must exceed the highest written bid by at least five percent (5%). No oral bid shall be finally accepted until the oral bid is reduced to writing and signed by the bidder.

11. Unsuccessful bidders' cashier checks shall be returned immediately after the oral bidding session.

12. Immediately after the conclusion of the oral bidding on March 27, 2012, the high bidder must execute the "Option to Lease Agreement" which shall document the high bid, grant the high bidder an option to lease the Property, provide for the manner in which the option is to be exercised and define the term of the option to be 60 days (hereafter referred to as the "Option to Lease Period") commencing upon the Governing Board's approval of the highest responsible bidder and expiring 60 days subsequent to the Governing Board's approval date.

13. Each written and oral bid for lease of the Property shall remain valid and bind the bidder for 60 days following the March 27, 2012 meeting, or until a bidder with a higher bid enters into an agreement with the District for the lease of the Property, whichever occurs first. After expiration of such period, however, the District still may offer to lease the Property to the other bidders who submitted a bid at the March 27, 2012 meeting, in the event any bidder with a higher bid fails to enter into a lease agreement. Within three business days of a written request from the District, a bidder must confirm in writing that it intends to honor its bid as considered at the March 27, 2012 meeting. Oral bidders must provide the District with identifying and contact information at the March 27, 2012 meeting in order for such bids to be considered in the event of default of bidders with higher bids. If a bidder fails to confirm its bid within three business days of a written request from the District, or if an oral bidder fails to provide adequate identifying and contact information, the District may reject that bidder's bid and offer to lease the Property to another responsive bidder.

14. The cashier's check submitted with the successful high bid shall be retained by the District as a nonrefundable option payment which will be credited against the security deposit due per the lease agreement.

15. The Governing Board, at the March 27, 2012 meeting or at any adjourned session of the same meeting held within 10 days, shall accept the bid for lease of the Property that offers the District the highest price and that otherwise conforms to all terms and conditions set by the District. The Governing Board reserves the right to reject any and all bids, to waive any irregularities in the bidding process, and to withdraw any and all of the Property from lease. The Governing Board further reserves the right to reject any bid that proposes any use deemed inconsistent with or inappropriate for the Property or other properties in the vicinity of the Property.

16. During the Option to Lease Period, the bidder must enter into a lease agreement with the District, which shall specify the bid price and otherwise include terms and conditions consistent with the requirements of this Resolution and applicable law. The Superintendent, or his designee, may negotiate and include in an applicable lease agreement such other terms and conditions as he determines, in consultation with the District's advisors, reasonable and in the District's best interests.

17. If the successful bidder fails to exercise its option rights on or before the expiration of the Option to Lease Period, the Option to Lease Agreement shall be null and void unless the District and lessee agree in writing to extend the Option to Lease Period prior to its expiration. The Option to Lease Agreement shall specify that the successful bidder can exercise the option by delivering to the District, on or before the expiration of the Option to Lease Period, two completed and executed (by successful bidder) copies of the lease agreement which is to be finalized during the Option to Lease Period along with an additional nonrefundable deposit of $50,000 which will be credited towards the security deposit or rent as stipulated in the lease agreement. If a lease agreement is not agreed upon and executed by the successful bidder prior to the expiration of the Option to Lease Period, the Option to Lease Agreement will terminate. Any studies undertaken by the successful bidder during the Option to Lease Period will be at the successful bidder's expense.

18. The lease of the Property shall be on an "as is" and "with all faults" basis, with no express or implied warranties whatsoever. The lessee of the Property shall be solely responsible for any and all planning, design, permits, approvals, construction, utilities, taxes, costs and other things of any nature required or convenient to permit the use of the Property contemplated by the lessee, including, in connection therewith, compliance with the California Environmental Quality Act. Bidders are hereby notified that private use of the public property may result in the assessment of a possessory-interest or similar tax, and the lessee shall be solely responsible for the payment of any such tax.

19. No real estate commission shall be paid by the District to outside real estate brokers. If a bidder desires to use the services of a real estate broker, the bidder shall be responsible for all fees and commissions due to said broker. The District has entered into a Special Services Contract with Enshallah Inc., a California licensed real estate brokerage firm and property consultant, dated September 12, 2011, to provide consulting services in connection with the lease of the Property. Fees paid to Enshallah Inc. shall be in accordance with the terms specified in the Special Services Contract.

20. In the event that any legal action or litigation is undertaken by the District to enforce the provisions of the bid offer or any subsequent written agreement, the successful bidder shall pay reasonable attorneys' fees incurred by the District.

21. The Clerk of the Board is hereby directed to cause to be posted copies of this Resolution, at three public places in the District, not less than fifteen (15) days prior to the date set for receiving of bids, and cause to be published notice of same no less than once a week for three consecutive weeks before said date in a newspaper of general circulation in the County of San Mateo, State of California.

22. This Resolution shall take effect immediately upon approval by a two-thirds majority of the Governing Board.

PASSED AND ADOPTED by the Governing Board of the Las Lomitas Elementary School District of San Mateo County, State of California, this December 14, 2011, by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTION:

Approved as to form: _____
County Counsel

President Governing Board
Las Lomitas Elementary School District

Attest:

Secretary, Governing Board

Las Lomitas Elementary School District

PROPERTY TO BE LEASED AT LADERA SCHOOL SITE
(indicated within the dotted line shown below)

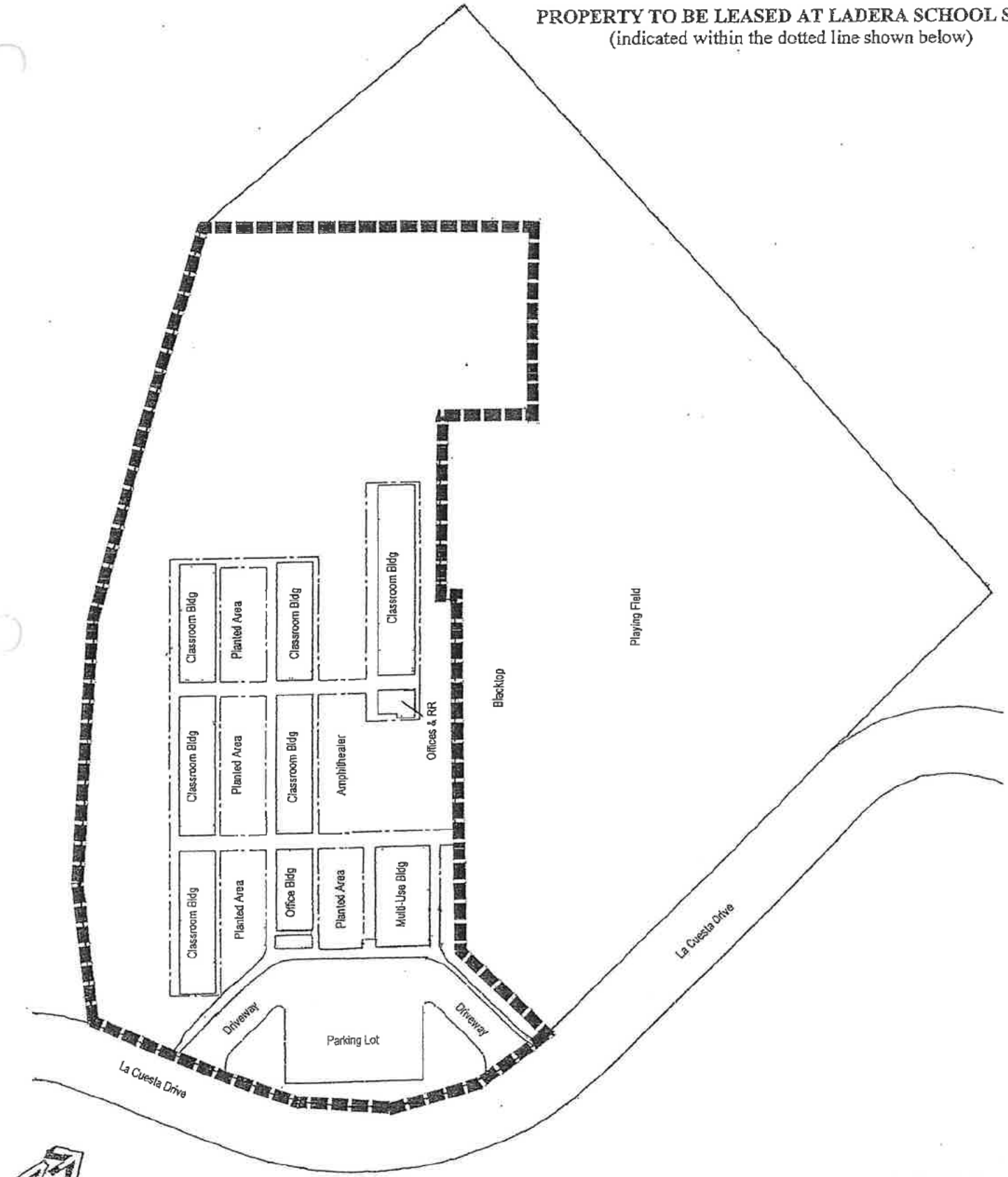


Exhibit "A"
Page 1 of 1

Las Lomitas Elementary School District

RESOLUTION NO. 11-12-14
RESOLUTION OF INTENTION TO LEASE CERTAIN SCHOOL DISTRICT PROPERTY AND NOTICE INVITING BIDS

Ladera School Site

Pursuant to Sections 17455 and 17465 et seq. of the Education Code of the State of California.

WHEREAS, the Las Lomitas Elementary School District of San Mateo County, State of California, (the "District"), is the owner of that real property known as the Ladera School site located at 360 La Cuesta Drive, Portola Valley, CA 94028; and

WHEREAS, the Governing Board convened an Advisory Committee pursuant to Education Code Section 17387 which recommended to the Governing Board that the Ladera School site, consisting of classrooms and related improvements but not the playing fields as shown in "Exhibit "A" attached hereto (the "Property"), be long-term leased as surplus school property; and

WHEREAS, the Governing Board has determined that the Property is surplus to the educational needs of the District and will not at the time of delivery of possession be needed for District classroom buildings or for any other District purposes; and

WHEREAS, the Governing Board desires to continue to control the use of the playing fields so that they may be made available to the District and the community; and

WHEREAS, the Property does not include playgrounds or playing fields as contemplated by the "Naylor Act" (Education Code Sections 17485 et seq.): and

WHEREAS, the Governing Board has determined that it is in the best interest of the District that said Property be leased to the highest responsible bidder, pursuant to Sections 17455 and 17465 et seq. of the Education Code of the State of California;

NOW, THEREFORE IT IS HEREBY RESOLVED that the Governing Board of the Las Lomitas Elementary School District does hereby declare its intention to offer for lease the Property.

BE IT FURTHER RESOLVED that the Governing Board hereby authorizes the Superintendent to notice those public districts, public authorities, public agencies and other political subdivisions or public corporations in this state, as required by the Government and Education Codes of the State of California, and

BE IT FURTHER RESOLVED that the Property shall be leased subject to the terms and conditions set forth herein.

1. It is the intention of the Governing Board to lease the Property, which consists of classrooms, library, administrative areas, and adjacent outdoor areas to the highest

This is the revised Resolution

responsible bidder(s) in accordance with Sections 17455 and 17465 et seq. of the Education Code.

2. The Naylor Act does not apply to the Property because it does not include playgrounds or playing fields.

3. The Governing Board requires that the highest responsible bidder utilize the site for a kindergarten through eighth grade school which may include day care and preschool activities which are compatible with the goals and objectives of the District. The Governing Board specifically precludes the site from being used as a high school educational facility.

4. The initial term of the lease shall be for 25 years with the District having the option, in its sole discretion, to extend the lease up to an additional 25 years beyond the initial term on mutually agreed upon terms and conditions.

5. The lease shall commence on or about August 1, 2013, and shall terminate on July 31, 2038 unless the District, in its sole discretion, elects to modify the commencement date or extend the term.

6. The minimum acceptable bid shall be Six Hundred Twenty Five Thousand Dollars ($625,000) per year absolute net to the District. Bids for less than the minimum shall be disqualified.

7. The rent shall remain fixed at the high bid amount for the first two years of the lease term. Thereafter, the annual rent will be increased annually, effective on August 1 for each succeeding lease year beyond the second year through the twenty-fifth (25th) year by an amount equal to the annual change in the Consumer Price Index, however the minimum annual increase shall be three percent (3%) and the maximum annual increase shall be six percent (6%). The indexes for computing the increase shall be the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index, San Francisco-Oakland-San Jose All Urban Consumers (CPI-U) as published for April of the current and previous year. The increase shall be calculated by multiplying the rent by a fraction, the numerator of which is the April index for the current year and the denominator of which is the index for April of the previous year. The first increase utilizing this calculation shall be effective August 1, 2015. Subsequent annual increases shall be effective on August 1 for each succeeding year of the lease through the twenty-fifth (25th) year. In no case shall the rent for the current year be less than the rent paid in the previous year.

8. For any additional extension of the lease term if granted by the District, in its sole discretion, the rent and escalations shall be negotiated and mutually agreed upon between the District and the lessee during a six (6) month period commencing upon District delivering to lessee in writing a notice stating that the District will grant an extension of the lease term for a specific number of years not to exceed 25. District agrees to deliver a written notice to extend or terminate the lease no later than 3 years prior to the expiration of the initial term. If the notice is to extend the lease, the negotiations of the terms of such extension must be completed no later than thirty (30) months prior to the termination of the initial lease term. In no case shall the rent for the extended lease term be less than the rent paid in the last year of the initial lease term. If

the Tenant and District are unable to reach agreement on the terms for the extension, the lease shall terminate on July 31, 2038.

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12. Immediately after the conclusion of the oral bidding on March 27, 2012, the high bidder must execute the "Option to Lease Agreement" which shall document the high bid, grant the high bidder an option to lease the Property, provide for the manner in which the option is to be exercised and define the term of the option to be 60 days (hereafter referred to as the "Option to Lease Period") commencing upon the Governing Board's approval of the highest responsible bidder and expiring 60 days subsequent to the Governing Board's approval date.

13. Each written and oral bid for lease of the Property shall remain valid and bind the bidder for 60 days following the March 27, 2012 meeting, or until a bidder with a higher bid enters into an agreement with the District for the lease of the Property, whichever occurs first. After expiration of such period, however, the District still may offer to lease the Property to the other bidders who submitted a bid at the March 27, 2012 meeting, in the event any bidder with a higher bid fails to enter into a lease agreement. Within three business days of a written request from the District, a bidder must confirm in writing that it intends to honor its bid as considered at the March 27, 2012 meeting. Oral bidders must provide the District with identifying and contact information at the March 27, 2012 meeting in order for such bids to be considered in the event of default of bidders with higher bids. If a bidder fails to confirm its bid within three business days of a written request from the District, or if an oral bidder fails to provide adequate identifying and contact information, the District may reject that bidder's bid and offer to lease the Property to another responsive bidder.

14. The cashier's check submitted with the successful high bid shall be retained by the District as a nonrefundable option payment which will be credited against the security deposit due per the lease agreement.

15. The Governing Board, at the March 27, 2012 meeting or at any adjourned session of the same meeting held within 10 days, shall accept the bid for lease of the Property that offers the District the highest price and that otherwise conforms to all terms and conditions set by the District. The Governing Board reserves the right to reject any and all bids, to waive any irregularities in the bidding process, and to withdraw any and all of the Property from lease. The Governing Board further reserves the right to reject any bid that proposes any use deemed inconsistent with or inappropriate for the Property or other properties in the vicinity of the Property.

16. During the Option to Lease Period, the bidder must enter into a lease agreement with the District, which shall specify the bid price and otherwise include terms and conditions consistent with the requirements of this Resolution and applicable law. The Superintendent, or his designee, may negotiate and include in an applicable lease agreement such other terms and conditions as he determines, in consultation with the District's advisors, reasonable and in the District's best interests.

17. If the successful bidder fails to exercise its option rights on or before the expiration of the Option to Lease Period, the Option to Lease Agreement shall be null and void unless the District and lessee agree in writing to extend the Option to Lease Period prior to its expiration. The Option to Lease Agreement shall specify that the successful bidder can exercise the option by delivering to the District, on or before the expiration of the Option to Lease Period, two completed and executed (by successful bidder) copies of the lease agreement which is to be finalized during the Option to Lease Period along with an additional nonrefundable deposit of $50,000 which will be credited towards the security deposit or rent as stipulated in the lease agreement. If a lease agreement is not agreed upon and executed by the successful bidder prior to the expiration of the Option to Lease Period, the Option to Lease Agreement will terminate. Any studies undertaken by the successful bidder during the Option to Lease Period will be at the successful bidder's expense.

18. The lease of the Property shall be on an "as is" and "with all faults" basis, with no express or implied warranties whatsoever. The lessee of the Property shall be solely responsible for any and all planning, design, permits, approvals, construction, utilities, taxes, costs and other things of any nature required or convenient to permit the use of the Property contemplated by the lessee, including, in connection therewith, compliance with the California Environmental Quality Act. Bidders are hereby notified that private use of the public property may result in the assessment of a possessory-interest or similar tax, and the lessee shall be solely responsible for the payment of any such tax.

19. No real estate commission shall be paid by the District to outside real estate brokers. If a bidder desires to use the services of a real estate broker, the bidder shall be responsible for all fees and commissions due to said broker. The District has entered into a Special Services Contract with Enshallah Inc., a California licensed real estate brokerage firm and property consultant, dated September 12, 2011, to provide consulting services in connection with the lease of the Property. Fees paid to Enshallah Inc. shall be in accordance with the terms specified in the Special Services Contract.

20. In the event that any legal action or litigation is undertaken by the District to enforce the provisions of the bid offer or any subsequent written agreement, the successful bidder shall pay reasonable attorneys' fees incurred by the District.

Las Lomitas Elementary School District

PROPERTY TO BE LEASED AT LADERA SCHOOL SITE
(indicated within the dotted line shown below)

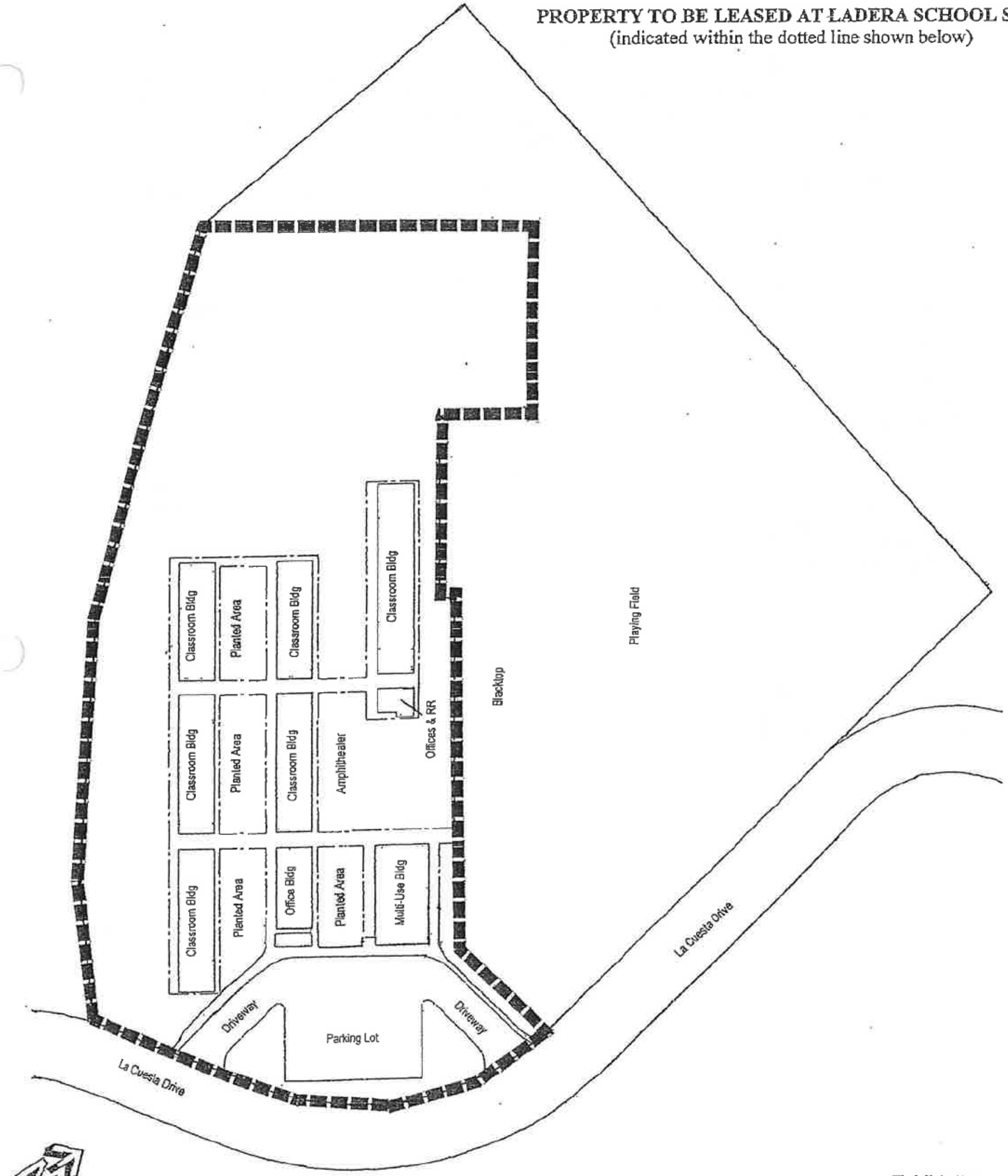

Exhibit "A"
Page 1 of 1

21. The Clerk of the Board is hereby directed to cause to be posted copies of this Resolution, at three public places in the District, not less than fifteen (15) days prior to the date set for receiving of bids, and cause to be published notice of same no less than once a week for three consecutive weeks before said date in a newspaper of general circulation in the County of San Mateo, State of California.

22. This Resolution shall take effect immediately upon approval by a two-thirds majority of the Governing Board.

PASSED AND ADOPTED by the Governing Board of the Las Lomitas Elementary School District of San Mateo County, State of California, this December 14, 2011, by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTION:

Approved as to form: _____
County Counsel

President Governing Board
Las Lomitas Elementary School District

Attest:

Secretary, Governing Board

EXHIBIT C

OPTION TO LEASE AGREEMENT
LADERA SCHOOL SITE

This Option to Lease Agreement is made on March 27, 2012, between **Las Lomitas Elementary School District** ("Optionor"), a political subdivision of the State of California, and Woodland School ("Optionee"), a California Corporation.

1. Grant of Option: Optionor grants to Optionee an option to lease a portion of the real property which is described as the Ladera School site located at 360 La Cuesta Drive, Portola Valley, CA 94028 including those permanent improvements shown as the "Property to be Leased at Ladera School Site" as shown in Exhibit "A" (the "Property") and incorporated herein by reference, on the terms and conditions set forth in this Option to Lease Agreement, the Optionee's Bid Form incorporated herein in Exhibit "B", and Las Lomitas Elementary School District's Resolution No. 11-12-14 in Exhibit "C." For clarification, the word "Property" used within this Option to Lease Agreement does not include the playing fields and blacktop hardscape. The word "Property" shall mean only that portion of the Property which is being leased to Optionee as shown within the dotted line on Exhibit "A."

2. Option Consideration: Optionee has paid to Optionor the sum of One Hundred Thousand Dollars ($100,000) with a written bid or One Hundred Fifty Thousand Dollars ($150,000) with an oral bid as consideration for the option ("Option Consideration"). This Option Consideration shall be nonrefundable and shall be retained by Optionor. Optionor shall be entitled to all interest on the Option Consideration. In the event the option is exercised, the Option Consideration shall be applied to the security deposit stipulated by the lease agreement.

3. Option Period: The "Option Period" shall commence on the date of this Option Agreement and expire at 5:00 p.m. sixty calendar days from the date of this Option Agreement unless Optionee and Optionor mutually agree to extend said date. The lease agreement is to be finalized during the Option Period.

4. Manner of Exercising the Option: Provided Optionee is not in default under any term or provision of this Option to Lease Agreement, the option may be exercised by Optionee's delivering to Optionor, on or before the expiration of the Option Period, two completed copies of the lease agreement executed by Optionee along with an additional nonrefundable deposit of Fifty Thousand Dollars ($50,000). Optionor shall be entitled to all interest on the additional deposit money. The original deposit as specified in Paragraph 2 and this additional deposit of Fifty Thousand Dollars ($50,000) shall equal a minimum of One Hundred Fifty Thousand Dollars ($150,000) and shall be applied to the security deposit as stipulated in the lease agreement. If a lease agreement is not agreed upon and executed by Optionee prior to the expiration date of the Option Period and if the parties have not mutually agreed in writing to extend the Option Period, this Option to Lease Agreement will terminate and the option consideration shall be retained by Optionor. In the event this Option to Lease Agreement is terminated, Optionee acknowledges and agrees that Optionor may elect to record a Quitclaim Deed in accordance with Paragraph 9.

5. Representations and Warranties:

A. Property to be Leased: There are no representations or warranties, express or implied, between the parties. Optionee agrees that the Property is to be leased in its existing condition, "as is" with all faults and defects.

B. Encumbrances: Optionor agrees that during the Option Period and through the commencement of the Lease, Optionor will not further encumber the Property in any way nor grant any property or contract right relating to the Property without the prior written consent of Optionee. Optionee acknowledges that the Property is subject to a lease with the Woodland School that will expire on July 31, 2013.

6. Right of Entry on Property: During the Option Period, Optionee and its designated agents and independent contractors shall have the right to enter on the Property to the extent necessary for the purpose of conducting tests, engineering studies, etc. Optionee agrees to notify Optionor 48 hours in advance of the date which Optionee desires to enter the Property and may only gain entry onto the Property upon receipt of consent from Optionor. Optionee agrees to repair any damages it or its agents or independent contractors shall cause to the Property, keep the Property free and clear of any liens, and indemnify and hold Optionor and its agents harmless from any and all costs, expenses, losses, damage to persons or property, attorney's fees and liabilities (including, but not limited to, claims of mechanics' liens) incurred or sustained by Optionor as a result of any acts of Optionee, its agents, or independent contractors pursuant to the right granted by this Paragraph. Prior to entering the Property, Optionee and Optionor shall agree on the form of insurance required hereunder and Optionee agrees to submit evidence of a minimum of two million dollars ($2,000,000) general liability insurance coverage to Optionor wherein Optionor is included as an additional insured. Optionee shall not allow any third party or entity not covered by said insurance to enter upon the Property unless said third party or entity is either made an additional insured on Optionee's insurance or said third party or entity provides Optionee and Optionor with evidence of comparable insurance.

7. Optionee's Use and Compliance with Conditional Use Permit: Optionor agrees to execute all documents that are required for Optionee to operate its school under the existing conditional use permit PLN 2000-00352 (CUP). Optionee agrees to execute any and all documents necessary for the approval of improvement plans as required from any municipal or other agency having jurisdiction. Optionee shall pay all expenses associated with the approval process. Optionee agrees to hold Optionor harmless from any costs and expenses arising in connection with gaining approval of the Optionee's applications. Optionee's use shall be consistent with the existing CUP and the mission of the Las Lomitas Elementary School District. Optionee acknowledges that the current CUP stipulates a maximum enrollment of 325 students.

8. Time of Essence; Failure to Exercise Option: Time is of the essence of this Option to Lease Agreement. If the option is not exercised in the manner provided in Paragraph 4 before the expiration of the Option Period, Optionee shall have no interest whatsoever in the Property, the option may not be revived by any subsequent payment or further action by Optionee and Optionee agrees to deliver to Optionor, at no cost to Optionor, all building inspections, engineering and marketing studies, and the like respecting the Property and Property to be Leased which are in Optionee's possession or under Optionee's control.

9. Recording Quitclaim Deed on Termination of Option: If this option is terminated, Optionee agrees, if requested by Optionor, to execute, acknowledge, and deliver a quitclaim deed to Optionor within seven (7) days after request and to execute, acknowledge, and deliver any other documents required by any title company to remove any cloud on title caused by this option or Optionee.

10. Notices: All notices, demands, requests, and exercises under this option by either party shall be hand-delivered or sent by United States mail, registered or certified, postage prepaid, addressed to the other party as follows:

Optionor: Las Lomitas Elementary School District
1011 Altschul Avenue
Menlo Park, CA 94025
Attn: Eric Hartwig, Superintendent

Optionee: Woodlands School
360 La Cuesta Drive
Portola Valley, CA 94028
ATTN: John Ora

All notices, demands, requests, and exercises served in the above manner shall be considered sufficiently given or served for all purposes under this option at the time the notice, demand, or request is hand-delivered or postmarked to the addresses shown above.

11. Assignment of Option: Optionee may assign this Option if Optionee obtains the prior written consent of the District. Such consent shall be at the District's sole and absolute discretion.

12. Attorney's Fees: If it becomes necessary for either party to take any action to enforce this option, or any of its terms, the prevailing party shall be entitled to reasonable attorney's fees and all costs.

13. Entire Agreement: This Option to Lease Agreement and all exhibits referenced herein contain the entire agreement between the parties respecting the matters set forth, and supersedes all prior agreements between the parties respecting such matters.

EXECUTED on the day and year written at the beginning of this Option to Lease Agreement.

OPTIONOR: LAS LOMITAS ELEMENTARY SCHOOL DISTRICT

By: Eric Hartwig

OPTIONEE: Woodlands School

By: JPJ

Las Lomitas Elementary School District

PROPERTY TO BE LEASED AT LADERA SCHOOL SI
(indicated within the dotted line shown below)

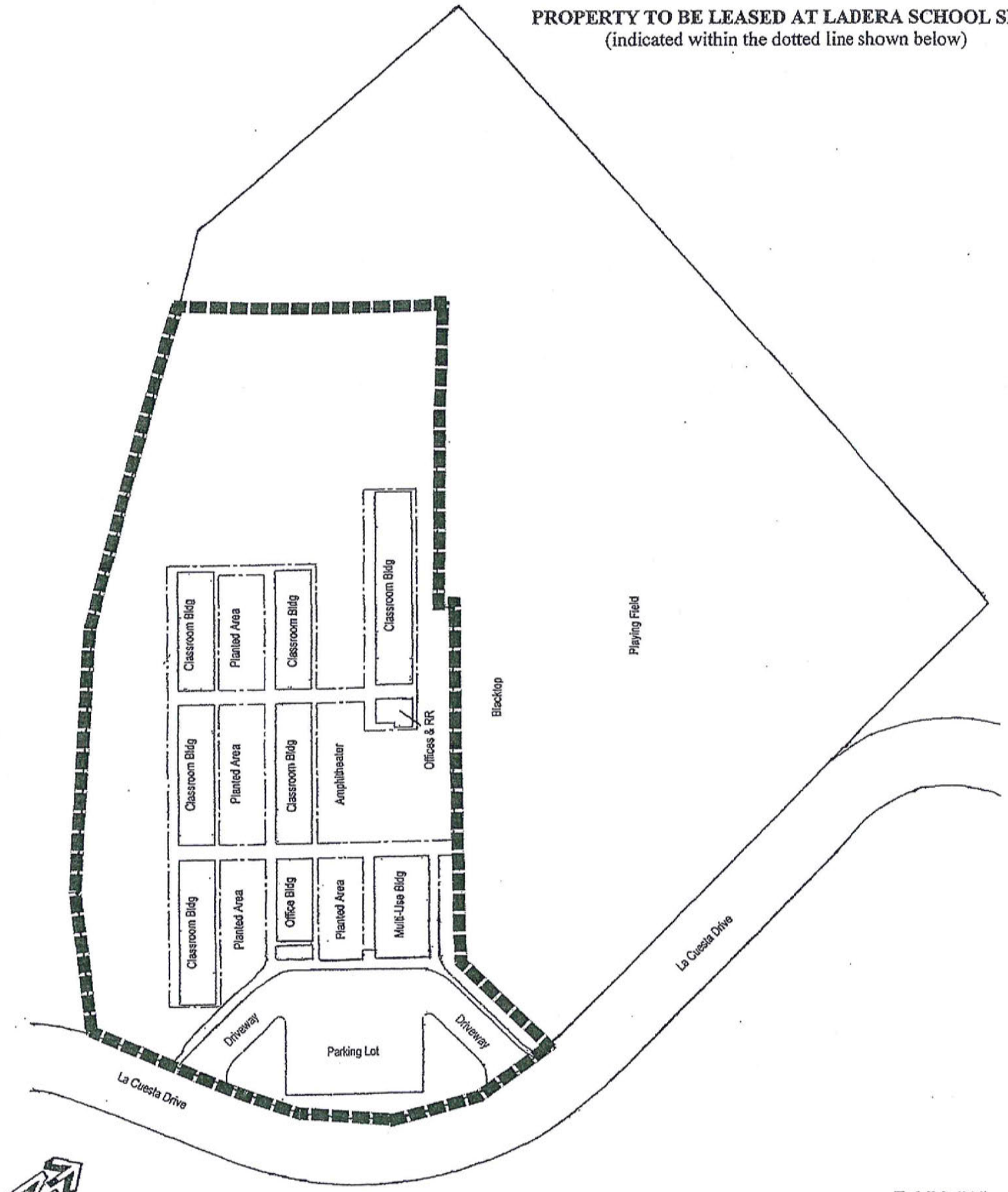

Exhibit "A"
Page 1 of 1

CONFIRMATION OF HIGH ORAL BID
LADERA SCHOOL

TO: Governing Board
Las Lomitas Elementary School District
1011 Altschul Avenue
Menlo Park, CA 94025

The undersigned bidder hereby proposes and offers to lease the Ladera School, located at 360 La Cuesta Drive, Portola Valley, California, as described in *Resolution No. 11-12-14* under the following terms and conditions.

1. Bid: I, the undersigned, hereby place a rent bid of $ 710,000 / year, net to the District, for the Ladera School buildings totaling approximately 28,300 square feet as shown in Exhibit A of the Option to Lease Agreement and marked "Property to be Leased." Rent will be paid in monthly installments on the first day of each month.

2. Rent: For the first year two years of the lease, the rent shall be the high bid accepted by the Governing Board. Rent after the second year shall increase annually by a minimum of three percent (3%) and a maximum of (6%) based upon the annual change in the Consumer Price Index from April of the previous year as compared to April of the current year. These yearly adjustments shall be effective on August 1 for each succeeding year of the lease through the 25th year.

3. Term: The term of the Lease shall be for 25 years beginning on or about August 1, 2013.

4. "AS-IS" Condition and Costs: The Property shall be leased on an "as is" and "with all faults" basis, with no express or implied representations or warranties whatsoever. The tenant shall be solely responsible for any and all planning, design, permits, approvals, construction, utilities, taxes, costs and other things of any nature required or convenient to permit the use of the Property contemplated by the tenant, including, in connection therewith, compliance with the California Environmental Quality Act. Bidders are hereby notified that private use of the public property may result in the assessment of a possessory-interest or similar tax, and the tenant shall be solely responsible for the payment of any such tax.

5. Subordination: The Lease shall not be subordinated.

6. Subleasing: The tenant shall be permitted to sublease the Property upon the prior written approval of the District. All subleases must comply with the terms of the master lease. The subleasing terms and the District's participation in sublet revenues shall be defined in the final lease agreement.

7. Conditional Use Permit (CUP): The tenant shall comply with all the terms and conditions of Use Permit PLN 2000 – 00352 including the stipulation that the enrollment shall not exceed 325 students. The tenant's use shall be in compliance with all applicable laws and not be in conflict with the mission of the Las Lomitas Elementary School District. The tenant shall use the property as a pre-K to 8th grade school.

Confirmation of High Oral Bid (continued)
LADERA SCHOOL

OPTION PAYMENT:

Enclosed is a cashier's check for $ 100,000.00 **made payable to Las Lomitas Elementary School District.**

Cashier Check # 6585400115 from WELLS FARGO Bank.

This check is submitted as an option payment. The undersigned bidder understands if he is the high bidder approved by the Governing Board, this option payment is nonrefundable. Said option payment will be applied against the security deposit if the successful bidder executes a lease agreement.

THIS BID IS MADE BY:

Name (Principal): JOHN ORA

Company Name: WOODLAND SCHOOL

Address: 360 LA CUESTA DRIVE

City, State, Zip Code PORTOLA VALLEY, CA 94028

Telephone number: 650.854.9065 FAX: 650.854.6006

If requested from the Governing Board, Bidder shall provide a statement of experience, banking references and a written confirmation affirming that Bidder intends to use the property as a pre-K to 8th grade school and shall abide by the terms and conditions of Conditional Use Permit PLN 2000-00352 including the stipulation that the school's enrollment shall not exceed 325 students.

The undersigned represent that they have the authority to sign this bid and hereby submit said bid subject to all the terms and conditions of the *Resolution No. 11-12-14: Resolution of Intention to Lease Certain School District Properties and Notice Inviting Bids.*

Signature: JPO.C Signature:

Title: HEAD OF SCHOOL Title: BOARD OF TRUSTEES, CHAIRMAN

Las Lomitas Elementary School District

RESOLUTION NO. 11-12-14
RESOLUTION OF INTENTION TO LEASE CERTAIN SCHOOL DISTRICT PROPERTY AND NOTICE INVITING BIDS

Ladera School Site

Pursuant to Sections 17455 and 17465 et seq. of the Education Code of the State of California.

WHEREAS, the Las Lomitas Elementary School District of San Mateo County, State of California, (the "District"), is the owner of that real property known as the Ladera School site located at 360 La Cuesta Drive, Portola Valley, CA 94028; and

WHEREAS, the Governing Board convened an Advisory Committee pursuant to Education Code Section 17387 which recommended to the Governing Board that the Ladera School site, consisting of classrooms and related improvements but not the playing fields as shown in "Exhibit "A" attached hereto (the "Property"), be long-term leased as surplus school property; and

WHEREAS, the Governing Board has determined that the Property is surplus to the educational needs of the District and will not at the time of delivery of possession be needed for District classroom buildings or for any other District purposes; and

WHEREAS, the Governing Board desires to continue to control the use of the playing fields so that they may be made available to the District and the community; and

WHEREAS, the Property does not include playgrounds or playing fields as contemplated by the "Naylor Act" (Education Code Sections 17485 et seq.): and

WHEREAS, the Governing Board has determined that it is in the best interest of the District that said Property be leased to the highest responsible bidder, pursuant to Sections 17455 and 17465 et seq. of the Education Code of the State of California;

NOW, THEREFORE IT IS HEREBY RESOLVED that the Governing Board of the Las Lomitas Elementary School District does hereby declare its intention to offer for lease the Property.

BE IT FURTHER RESOLVED that the Governing Board hereby authorizes the Superintendent to notice those public districts, public authorities, public agencies and other political subdivisions or public corporations in this state, as required by the Government and Education Codes of the State of California, and

BE IT FURTHER RESOLVED that the Property shall be leased subject to the terms and conditions set forth herein.

1. It is the intention of the Governing Board to lease the Property, which consists of classrooms, library, administrative areas, and adjacent outdoor areas to the highest responsible bidder(s) in accordance with Sections 17455 and 17465 et seq. of the Education Code.

2. The Naylor Act does not apply to the Property because it does not include playgrounds or playing fields.

3. The Governing Board requires that the highest responsible bidder utilize the site for a kindergarten through eighth grade school which may include day care and preschool activities which are compatible with the goals and objectives of the District. The Governing Board specifically precludes the site from being used as a high school educational facility.

4. The initial term of the lease shall be for 25 years with the District having the option, in its sole discretion, to extend the lease up to an additional 25 years beyond the initial term on mutually agreed upon terms and conditions.

5. The lease shall commence on or about August 1, 2013, and shall terminate on July 31, 2038 unless the District, in its sole discretion, elects to modify the commencement date or extend the term.

6. The minimum acceptable bid shall be Six Hundred Fifty Thousand Dollars ($650,000) per year absolute net to the District. Bids for less than the minimum shall be disqualified.

7. The rent shall remain fixed at the high bid amount for the first two years of the lease term. Thereafter, the annual rent will be increased annually, effective on August 1 for each succeeding lease year beyond the second year through the twenty-fifth (25th) year by an amount equal to the annual change in the Consumer Price Index, however the minimum annual increase shall be three percent (3%) and the maximum annual increase shall be six percent (6%). The indexes for computing the increase shall be the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index, San Francisco-Oakland-San Jose All Urban Consumers (CPI-U) as published for April of the current and previous year. The increase shall be calculated by multiplying the rent by a fraction, the numerator of which is the April index for the current year and the denominator of which is the index for April of the previous year. The first increase utilizing this calculation shall be effective August 1, 2015. Subsequent annual increases shall be effective on August 1 for each succeeding year of the lease through the twenty-fifth (25th) year. In no case shall the rent for the current year be less than the rent paid in the previous year.

8. For any additional extension of the lease term if granted by the District, in its sole discretion, the rent and escalations shall be negotiated and mutually agreed upon between the District and the lessee during a six (6) month period commencing upon District delivering to lessee in writing a notice stating that the District will grant an extension of the lease term for a specific number of years not to exceed 25. District agrees to deliver a written notice to extend or terminate the lease no later than 3 years prior to the expiration of the initial term. If the notice is to extend the lease, the negotiations of the terms of such extension must be completed no later than thirty (30) months prior to the termination of the initial lease term. In no case shall the rent for the extended lease term be less than the rent paid in the last year of the initial lease term. If the Tenant and District are unable to reach agreement on the terms for the extension, the lease shall terminate on July 31, 2038.

9. All written bids for the lease of the Property must be accompanied by a cashier's check in the amount of One Hundred Thousand Dollars ($100,000) made payable to: "Las Lomitas Elementary School District." Said bids will be received up to but not later than 10:30 a.m. on Tuesday, March 27, 2012 at the La Entrada School Multi-Use Room (MUR), 2200 Sharon Road, Menlo Park, CA 94025. Those bidders who do not submit a written bid but who desire to participate in the oral bidding must submit a cashier's check in the amount of One Hundred Fifty Thousand Dollars ($150,000) payable to "Las Lomitas Elementary School District" prior to 10:30 a.m. on Tuesday, March 27, 2012. Bidders who submit a written bid are eligible to participate in the oral bidding without making any additional deposit.

10. Oral bids will be solicited by the District's representative immediately following the declaration of the written bids at approximately 10:50 a.m. on Tuesday, March 27, 2012. The opening oral bid must exceed the highest written bid by at least five percent (5%). No oral bid shall be finally accepted until the oral bid is reduced to writing and signed by the bidder.

11. Unsuccessful bidders' cashier checks shall be returned immediately after the oral bidding session.

12. Immediately after the conclusion of the oral bidding on March 27, 2012, the high bidder must execute the "Option to Lease Agreement" which shall document the high bid, grant the high bidder an option to lease the Property, provide for the manner in which the option is to be exercised and define the term of the option to be 60 days (hereafter referred to as the "Option to Lease Period") commencing upon the Governing Board's approval of the highest responsible bidder and expiring 60 days subsequent to the Governing Board's approval date.

13. Each written and oral bid for lease of the Property shall remain valid and bind the bidder for 60 days following the March 27, 2012 meeting, or until a bidder with a higher bid enters into an agreement with the District for the lease of the Property, whichever occurs first. After expiration of such period, however, the District still may offer to lease the Property to the other bidders who submitted a bid at the March 27, 2012 meeting, in the event any bidder with a higher bid fails to enter into a lease agreement. Within three business days of a written request from the District, a bidder must confirm in writing that it intends to honor its bid as considered at the March 27, 2012 meeting. Oral bidders must provide the District with identifying and contact information at the March 27, 2012 meeting in order for such bids to be considered in the event of default of bidders with higher bids. If a bidder fails to confirm its bid within three business days of a written request from the District, or if an oral bidder fails to provide adequate identifying and contact information, the District may reject that bidder's bid and offer to lease the Property to another responsive bidder.

14. The cashier's check submitted with the successful high bid shall be retained by the District as a nonrefundable option payment which will be credited against the security deposit due per the lease agreement.

15. The Governing Board, at the March 27, 2012 meeting or at any adjourned session of the same meeting held within 10 days, shall accept the bid for lease of the Property that offers the District the highest price and that otherwise conforms to all terms and conditions set by the District. The Governing Board reserves the right to reject any and all bids, to waive any irregularities in the bidding process, and to withdraw any and all of

the Property from lease. The Governing Board further reserves the right to reject any bid that proposes any use deemed inconsistent with or inappropriate for the Property or other properties in the vicinity of the Property.

16. During the Option to Lease Period, the bidder must enter into a lease agreement with the District, which shall specify the bid price and otherwise include terms and conditions consistent with the requirements of this Resolution and applicable law. The Superintendent, or his designee, may negotiate and include in an applicable lease agreement such other terms and conditions as he determines, in consultation with the District's advisors, reasonable and in the District's best interests.

17. If the successful bidder fails to exercise its option rights on or before the expiration of the Option to Lease Period, the Option to Lease Agreement shall be null and void unless the District and lessee agree in writing to extend the Option to Lease Period prior to its expiration. The Option to Lease Agreement shall specify that the successful bidder can exercise the option by delivering to the District, on or before the expiration of the Option to Lease Period, two completed and executed (by successful bidder) copies of the lease agreement which is to be finalized during the Option to Lease Period along with an additional nonrefundable deposit of $50,000 which will be credited towards the security deposit or rent as stipulated in the lease agreement. If a lease agreement is not agreed upon and executed by the successful bidder prior to the expiration of the Option to Lease Period, the Option to Lease Agreement will terminate. Any studies undertaken by the successful bidder during the Option to Lease Period will be at the successful bidder's expense.

18. The lease of the Property shall be on an "as is" and "with all faults" basis, with no express or implied warranties whatsoever. The lessee of the Property shall be solely responsible for any and all planning, design, permits, approvals, construction, utilities, taxes, costs and other things of any nature required or convenient to permit the use of the Property contemplated by the lessee, including, in connection therewith, compliance with the California Environmental Quality Act. Bidders are hereby notified that private use of the public property may result in the assessment of a possessory-interest or similar tax, and the lessee shall be solely responsible for the payment of any such tax.

19. No real estate commission shall be paid by the District to outside real estate brokers. If a bidder desires to use the services of a real estate broker, the bidder shall be responsible for all fees and commissions due to said broker. The District has entered into a Special Services Contract with Enshallah Inc., a California licensed real estate brokerage firm and property consultant, dated September 12, 2011, to provide consulting services in connection with the lease of the Property. Fees paid to Enshallah Inc. shall be in accordance with the terms specified in the Special Services Contract.

20. In the event that any legal action or litigation is undertaken by the District to enforce the provisions of the bid offer or any subsequent written agreement, the successful bidder shall pay reasonable attorneys' fees incurred by the District.

21. The Clerk of the Board is hereby directed to cause to be posted copies of this Resolution, at three public places in the District, not less than fifteen (15) days prior to the date set for receiving of bids, and cause to be published notice of same no less than once a week for three consecutive weeks before said date in a newspaper of general circulation in the County of San Mateo, State of California.

22. This Resolution shall take effect immediately upon approval by a two-thirds majority of the Governing Board.

PASSED AND ADOPTED by the Governing Board of the Las Lomitas Elementary School District of San Mateo County, State of California, this December 14, 2011, by the following vote:

AYES: 5
NOES: 0
ABSENT: 0
ABSTENTION: 0

Approved as to form:

County Counsel

President Governing Board
Las Lomitas Elementary School District

Attest:

Secretary, Governing Board

Las Lomitas Elementary School District

PROPERTY TO BE LEASED AT LADERA SCHOOL SITE
(indicated within the dotted line shown below)

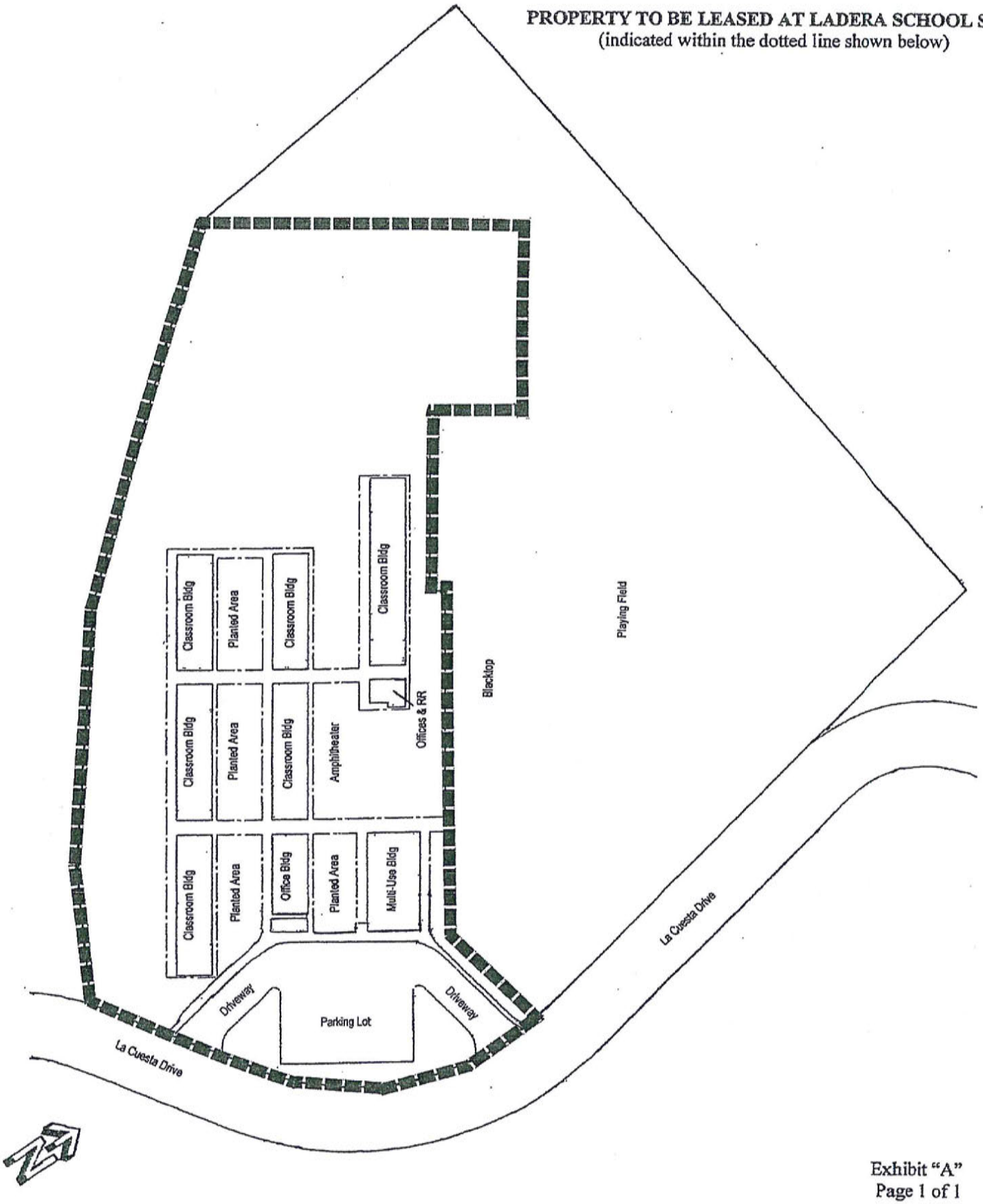

Exhibit "A"
Page 1 of 1

EXHIBIT C

USE PERMIT ISSUED BY THE COUNTY OF SAN MATEO

County of San Mateo
Planning & Building Department
455 County Center, 2nd Floor
Redwood City, California 94063
650/363-4161 Fax: 650/363-4849
Mail Drop PLN122
plngbldg@co.sanmateo.ca.us
www.co.sanmateo.ca.us/planning

REVISED

Please reply to: Tiare Peña
650/363-1850

January 19, 2012

Las Lomitas School District
1011 Altschul Avenue
Menlo Park, CA 94025

Subject: PLN 2000-00352
Location: 360 La Cuesta Drive, Unincorporated Ladera
APN: 077-180-020

On January 19, 2011, the Zoning Hearing Officer considered your request for a Use Permit Renewal for the continued operation of a private elementary school, pursuant to Section 6500 of the County Zoning Regulations, located at 360 La Cuesta Drive in the unincorporated Ladera area of San Mateo County.

The Zoning Hearing Officer made the findings and approved this project subject to the conditions of approval as attached.

Any interested party aggrieved by the determination of the Zoning Hearing Officer may appeal this decision to the Planning Commission within ten (10) working days from such date of determination. The appeal period for this project will end on **February 2, 2012 at 5:00 p.m.**

If you have any questions concerning this item, please contact the Project Planner above.

Very truly yours,

Matthew Seubert
Zoning Hearing Officer
Zhd0119w_4_dr

cc: Assessor's Office
Menlo Park Planning Department
Woodland School
Ladera Community Association
Building Inspection Section
Public Works Department
Lennie Roberts

Attachment A

County of San Mateo
Planning and Building Department

FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2000-00352 Hearing Date: January 19, 2012

Prepared By: Tiare Peña, Project Planner Adopted By: Zoning Hearing Officer

FINDINGS

Regarding the Environmental Review, Found:

1. That the project is exempt from CEQA, Class 1, Section 15301, regarding continued operation of existing facilities with modified conditions of approval. At this time, the applicant is not proposing any physical changes or additions to the development.

Regarding the Use Permit, Found:

2. That the establishment, maintenance and/or conducting of the use will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to property or improvements in said neighborhood. Planning staff has confirmed that the project, as proposed and conditioned, is in substantial compliance with use permit conditions of approval and is in full compliance with applicable County regulations.

CONDITIONS OF APPROVAL[1]

Current Planning Section

1. This use permit shall allow private elementary school operations for a maximum of 325 students, preschool through eighth grade. Hours of operation shall be 8:30 a.m. to 3:00 p.m. weekdays, and 7:30 a.m. to 5:30 p.m. for extended care students.

2. This permit shall be for seven years until **October 6, 2018**, with two administrative reviews **in October 2013 and October 2016. If within this timeframe any operator**

[1] Proposed changes to the original use permit conditions, as proposed by the Woodland School and the LCA, are underlined. Changes proposed by Planning staff are in **"bold"** and are intended to add clarity.

enters into a lease with the property owner which deviates from the conditions of approval for this permit in any way, the operator shall submit to the Planning Department an operations plan for determination by the Community Development Director whether such plan triggers the requirement for the County's Major Development Pre-Application Review Process. Should the applicant desire to continue the use, as conditioned, the applicant shall submit an application to the Planning and Building Department for renewal six (6) months prior to expiration of this permit.

3. The two required administrative reviews by Planning staff shall include a referral to the Ladera Community Association requesting their comments about the operation of the school. The purpose of this referral is to ensure that the traffic and parking issues are being adequately managed by the school to minimize impacts on the surrounding neighborhood.

4. The applicant shall meet the requirements of the Woodside Fire Protection District, the County Environmental Health Division, and the County Building Inspection Section.

5.a. Parking shall only occur off-street (in the school's parking lot) and on the school side of La Cuesta Drive, except for 20 events. **Of these events, four (4) are minor events (in which parking is allowed on the school side of neighboring side streets) and eight (8) are major events (in which parking is allowed on the school side of neighboring side streets and on the other side of La Cuesta Drive).**

Parking Permitted				
Event Type	**Lighter-Parking Events**	**Minor Events**	**Major Events**	
Permitted Parking Locations	School lot and school side of La Cuesta Drive	School side of side streets* (Plus school lot and school side of La Cuesta Drive)	Other side of La Cuesta Drive (Plus school lot, school side of La Cuesta Drive and school side of side streets)	
Total Events	*8*	*4*	*8*	*20*
**Potentially affected side streets include, but are not limited to La Cuesta Drive and East and West Floresta Way. Parking is only allowed on one side due to the narrow width of streets.*				

There will be up to eight (8) additional events (lighter-parking events) during the school year such as the Sports Awards Dinner and science fair in which there will be increased traffic; however, parking for these events will be restricted to locations off-street (in the school's parking lot) and on the school side of La Cuesta Drive. The school will work with community members to continue to monitor parking for these lighter-parking events and develop ways to assure adherence with this provision if parking is out of compliance.

Notification Requirements:

- **Notification at the Start of the School Year: At the start of every school year,** the school shall submit a detailed calendar to the Planning Department, the Ladera Community Association for publication in the *The Ladera Crier*, and property owners within 300 feet of the school boundaries, that highlights all events during the year where heavier traffic and overflow parking may occur.

- **Event Notification:** Notification of all events will be by way of *The Ladera Crier*, the Ladera-Issues List-Serve, and direct notification of neighbors within 300 feet of the school. The school will send a notice via mail drop to neighbors immediately affected by the 12 events in which parking will occur on neighboring side streets and/or both sides of La Cuesta, at least one week prior to the event. The school will also post a message on the Ladera List-Serve reminding neighbors of the 12 events, at least 1-2 days prior to the event.

The school shall make attempts to reduce the impacts to the neighborhood to the greatest extent practicable and at a minimum use four traffic monitors to help with parking and traffic flow through the neighborhood on those 12 events. The school will reduce attendance at morning assemblies such that all parking can be in compliance with use permit restrictions. The school shall encourage the use of the drop-off and pick-up line, except for parents of preschool children who must be walked to class.

5.b. The school shall distribute the traffic plan to all school parents, teachers, staff, the Ladera Community Association and the County of San Mateo Planning Department at the beginning of each school year and each summer session. **This plan: (1) designates a parking lot loading zone where students may be dropped off or picked up; (2) identifies off-street parking and on-street parking, on the school side of La Cuesta Drive; (3) shows one-way traffic circulation entering and exiting the parking lot; (4) establishes a right turn only on La Cuesta Drive when exiting the parking lot; (5) discourages the making of U-turns at the intersection of La Mesa and Floresta; and (6) includes a diagram that illustrates these five elements.**

5.c. The applicant shall prepare a trip reduction program with the goal of reducing the number of car trips into Woodland School. The program shall include: (1) a description of how carpool information is distributed to parents; (2) what efforts occur to assist in carpool formation; and (3) a biannual census enumerating the number of students participating in carpools in relation to the total number of students. While the school will continue to pursue the goal of reducing the number of Woodland School staff cars entering the **school**, staff cars will not be counted as part of the allowable number of cars.

5.d. The school shall designate two adults wearing identifiable attire to direct traffic circulation and parking during peak morning and afternoon periods, and at least four adults during **major and minor** events. On routine (non-event) days, the two adults will monitor the automobile backup line on La Cuesta Drive, such that it does not block the red zone below the school entrance. One of the traffic monitors shall be stationed near the exit from the school and as close to La Cuesta Drive as possible. One monitor shall be stationed near the entrance of the school to better monitor the backup onto La Cuesta Drive. All designated traffic and parking monitors shall wear attire that allows parents and members of the community to recognize them as such.

5.e. The school's designated community liaison will serve as contact person for all public inquiries or complaints regarding compliance with the traffic and parking requirements of the use permit. The community liaison's contact information shall be regularly submitted to the Planning Department and the Ladera Community Association, regularly posted on the Ladera-Issues List-Serve, and published in *The Ladera Crier*.

5.f. The applicant shall prepare an information packet that includes the traffic plan, trip reduction program, name of community liaison and dates of upcoming evening school events. The information packet shall be distributed annually to the Ladera Community Association, all property owners within 300 feet of the school and Planning staff.

6. Students of the Woodland School shall be monitored by a qualified person while on the school grounds.

7. Any expansion, demolition or new construction on the site shall require the applicant to apply for an amended or new use permit. The applicant is encouraged to present such plans to the Ladera Community Association.

Exhibit A to Memorandum of Lease

MEMORANDUM OF LEASE

RECORDATION REQUESTED BY:
AFTER RECORDATION RETURN TO:

Woodland School
360 La Cuesta Drive
Portola Valley, CA 94028
Attn: Head of School

No transfer tax due: term plus options equals less than 35 years

MEMORANDUM OF LEASE

This Memorandum of Lease ("Memorandum") is made as of this 25th day of June, 2012, between **Las Lomitas Elementary School District**, a subdivision of the State of California, ("**Landlord**"); and the **Woodland School**, a California 501 (c) 3 corporation, ("**Tenant**").

For valuable consideration paid by Tenant to Landlord and the mutual covenants contained in that certain Lease between the parties hereto dated on or about June 19. 2012 (the "**Lease**"), Landlord has leased and does hereby lease to Tenant, and Tenant has hired and does hereby hire from Landlord, upon the terms and conditions set forth in the Lease, a portion of the real property described on **EXHIBIT A** to the Lease and attached hereto (the "**Property**").

The term of the Lease is twenty-five (25) years commencing on August 1, 2013.

The purpose of this Memorandum is to give record notice of the Lease and of the terms thereof and the rights created thereby. It is not intended to amend or modify any of the rights and obligations set forth in the Lease. To the extent that any provisions of this Memorandum and the Lease conflict, the provisions of the Lease control.

This Memorandum may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together constitute one and the same instrument.

LAS LOMITAS SCHOOL DISTRICT, a subdivision of the State of California	**WOODLAND SCHOOL,** a California 501 (c) 3 corporation
By: E. Hartwig	By:
Name: Eric Hartwig	Name: John Ora
Title: Superintendent	Title: Head of School

STATE OF California)

COUNTY OF San Mateo) ss.
)

On June 25, 2012 before me, Helen Sutherland, Notary Public, personally appeared Eric Hartwig, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Helen Sutherland
Notary Public (Seal)

OFFICIAL SEAL
HELEN SUTHERLAND
NOTARY PUBLIC - CALIFORNIA
Commission #1859341
County of San Mateo
My Commission expires July 27, 2013

STATE OF CALIFORNIA)
) ss.
COUNTY OF San Mateo)

On June 25, 2012 before me, Helen Sutherland, Notary Public, personally appeared John Org, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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OFFICIAL SEAL
HELEN SUTHERLAND
NOTARY PUBLIC - CALIFORNIA
Commission #1859341
County of San Mateo
My Commission expires July 27, 2013

ORDER NO. : 0377009763-KG

EXHIBIT A

The land referred to is situated in the unincorporated area of the County of San Mateo, State of California, and is described as follows:

Beginning at the most Easterly corner of Lot 169 as said lot is depicted upon that certain map entitled "Tract No. 631 Ladera, Unit No. 2", a copy of which map was filed in the Office of the Recorder of San Mateo County on September 8, 1950 in Book 32 of Maps at Pages 14 and 15; thence running from said point of beginning along the Northeasterly line of said Tract No. 631, North 70° 09' 11" West 233.78 feet and North 57° 48' 50" West 334.12 feet to the most Northerly corner of Lot 164; thence leaving said line and running North 23° 36' 50" West 280.02 feet to the Southeasterly line of the lands of Leland Stanford Junior University; thence running along the last mentioned line North 65° 41' 30" East 663.45 feet to a point distant 166.55 feet Southwesterly along said line from the most Westerly corner of Tract No. 604 Ladera Unit No. 1; thence leaving said line and running South 28° 071 10" East 508.28 feet along a line parallel with and distant 166 feet Southwesterly from the Southwesterly line of said Tract No. 604; thence on the arc of a curve to the right tangent to the preceding course having a radius of 222 feet, a central angle of 67° 07' 10" through an arc distance of 380.63 feet; thence South 39° 00' West 135.18 feet; thence on the arc of a curve to the left tangent to the preceding course having a radius of 228 feet, a central angle of 4° 10' through an arc length of 16.58 feet; thence North 78° 53' 80" West 112.17 feet to the point of beginning. Containing 9.8 acres, more or less.

APN: 077-180-020 JPN: 77-18-180-02

Las Lomitas Elementary School District

PROPERTY TO BE LEASED AT LADERA SCHOOL SITI
(indicated within the dotted line shown below)

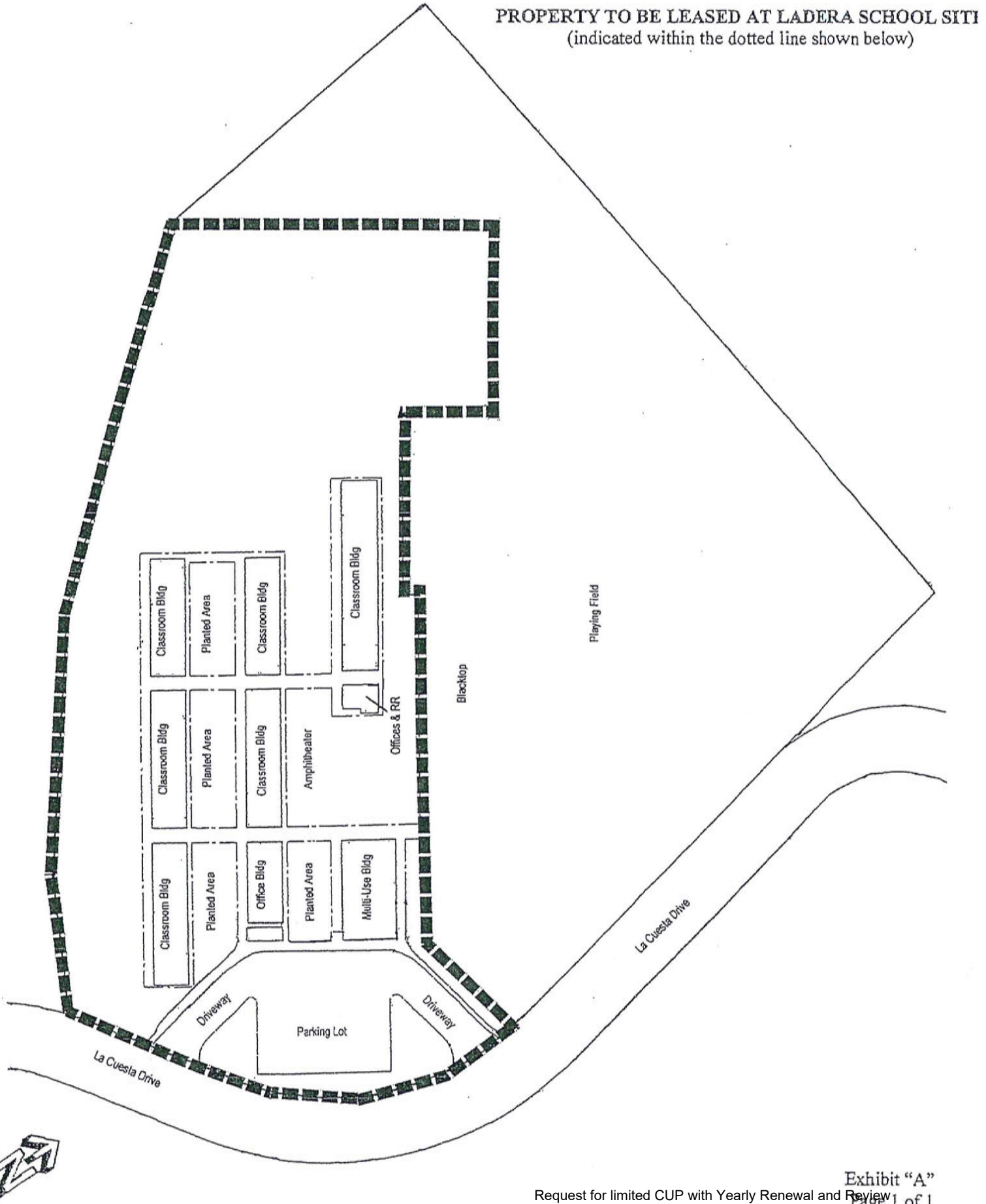

Exhibit "A"
Page 1 of 1

EXHIBIT E

PERMITTED EXCEPTIONS

OLD REPUBLIC TITLE COMPANY

155 Bovet Road, Suite 150
San Mateo, CA 94402
(650) 574-1166 Fax: (650) 574-1065

PRELIMINARY REPORT

Our Order Number 0377009763-KG

LAS LOMITAS ELEMENTARY SCHOOL DISTRICT
1001 ALTSCHUL AVE.
MENLO PARK, CA 94025

When Replying Please Contact:

Kim Gilmore
KGilmore@ortc.com
(650) 574-1166

Property Address:

360 La Cuesta Drive, Portola Valley, CA 94028
[Unincorporated area of San Mateo County]

In response to the above referenced application for a policy of title insurance, OLD REPUBLIC 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 below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations 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 Exhibit A attached. 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 Homeowner's Policy of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Exhibit A. Copies of the Policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A 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.

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.

Dated as of August 24, 2011, at 7:30 AM

OLD REPUBLIC TITLE COMPANY
For Exceptions Shown or Referred to, See Attached

OLD REPUBLIC TITLE COMPANY
ORDER NO. 0377009763-KG

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

CLTA Standard Coverage Policy - 1990. A specific request should be made if another form or additional coverage is desired.

The estate or interest in the land hereinafter described or referred or covered by this Report is:

Fee

Title to said estate or interest at the date hereof is vested in:

Las Lomitas Elementary School District of the County of San Mateo, State of California

The land referred to in this Report is situated in the unincorporated area of the County of San Mateo, State of California, and is described as follows:

Beginning at the most Easterly corner of Lot 169 as said lot is depicted upon that certain map entitled "Tract No. 631 Ladera, Unit No. 2", a copy of which map was filed in the Office of the Recorder of San Mateo County on September 8, 1950 in Book 32 of Maps at Pages 14 and 15; thence running from said point of beginning along the Northeasterly line of said Tract No. 631, North 70° 09' 11" West 233.78 feet and North 57° 48' 50" West 334.12 feet to the most Northerly corner of Lot 164; thence leaving said line and running North 23° 36' 50" West 280.02 feet to the Southeasterly line of the lands of Leland Stanford Junior University; thence running along the last mentioned line North 65° 41' 30" East 663.45 feet to a point distant 166.55 feet Southwesterly along said line from the most Westerly corner of Tract No. 604 Ladera Unit No. 1; thence leaving said line and running South 28° 071 10" East 508.28 feet along a line parallel with and distant 166 feet Southwesterly from the Southwesterly line of said Tract No. 604; thence on the arc of a curve to the right tangent to the preceding course having a radius of 222 feet, a central angle of 67° 07' 10" through an arc distance of 380.63 feet; thence South 39° 00' West 135.18 feet; thence on the arc of a curve to the left tangent to the preceding course having a radius of 228 feet, a central angle of 4° 10' through an arc length of 16.58 feet; thence North 78° 53' 80" West 112.17 feet to the point of beginning. Containing 9.8 acres, more or less.

APN: 077-180-020 JPN: 77-18-180-02

At the date hereof exceptions to coverage in addition to the Exceptions and Exclusions in said policy form would be as follows:

1. Taxes and assessments, general and special, for the fiscal year 2011 - 2012, as follows:

Assessor's Parcel No	:	077-180-020	
Code No.	:	61-014	
1st Installment	:	$2,448.84	Delinquent
Penalty	:	$244.88	
2nd Installment	:	$2,448.84	Delinquent
Penalty	:	$244.88	
Cost	:	$40.00	

2. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Section 75, et seq., of the Revenue and Taxation Code of the State of California.

3. Covenants, Conditions and Restrictions which do not contain express provision for forfeiture or reversion of title in the event of violation, but omitting any covenants or restriction if any, based upon race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Title 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, as provided in an instrument.

Recorded : November 1, 1948 in Book 1650 of Official Records, Page 1

Modification thereof, but omitting any covenants or restrictions if any, based upon race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Title 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons.

Recorded : May 16, 1950 in Book 1858 of Official Records, Page 628

Terms and provisions as contained in an instrument,

Entitled : Deed
Executed By : Peninsula Housing Association, Inc.
Recorded : May 16, 1950 in Book 1858 of Official Records, Page 663

Which, among other things, provides: The grantor covenants and warrants that the real property herey conveyed is not subject to those certain covenants and conditions contained in Declaration, dated October 28, 1948 and recorded November 1, 1948 in Book 1650 of Official Records, Page 1.

4. Liens and charges for upkeep and maintenance as provided in the above mentioned Covenants, Conditions and Restrictions, if any, where no notice thereof appears on record.

5. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following

Instrument : Deed of Dedication
Granted To : County of San Mateo
For : Storm sewer
Recorded : June 6, 1954 in Book 2520 of Official Records, Page 700
Affects : Said property

6. One foot strip situated between said property and La Mesa Court, as shown on San Mateo County Assessor's Map 77-18.

7. Existing Lease in favor of Woodland School, as disclosed by information supplied to this Company.

8. Facts which would be disclosed by a comprehensive survey of the premises herein described.

9. Rights and claims of parties in possession.

10. Any facts, rights, interests or claims which are not shown by the public records, but which could be ascertained by making inquiry of the adjacent land owners and those in possession thereof.

11. The requirement that satisfactory evidence be furnished to this Company of compliance with applicable statutes, ordinances and charters governing the ownership and disposition of the herein described land.

---------- **Informational Notes** ----------

A. The applicable rate(s) for the policy(s) being offered by this report or commitment appears to be section(s) 1.1.

B. The above numbered report (including any supplements or amendments thereto) is hereby modified and/or supplemented to reflect the following additional items relating to the issuance of an American Land Title Association loan form policy:

NONE

NOTE: Our investigation has been completed and there is located on said land a commercial building known as 360 La Cuesta Drive, Portola Valley, CA 94028.

The ALTA loan policy, when issued, will contain the CLTA 100 Endorsement and 116 series Endorsement.

Unless shown elsewhere in the body of this report, there appear of record no transfers or agreements to transfer the land described herein within the last three years prior to the date hereof, except as follows:

NONE

C. NOTE: The last recorded transfer or agreement to transfer the land described herein is as follows:

Instrument Entitled	:	Corporation Grant Deed Individual
By/From	:	Portola Development Company
To	:	Las Lomitas Elementary School District of the County of San Mateo, State of California
Recorded	:	March 6, 1952 in Book 2211 of Official Records, Page 342

SJ/eb

Exhibit A

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 of 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 which may be asserted by persons in possession thereof,

3. Easements, liens or encumbrances, or claims thereof, which are 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.

Old Republic Title Company

Privacy Policy Notice

PURPOSE OF THIS NOTICE

Title V of the Gramm-Leach-Bliley Act (GLBA) generally prohibits any financial institution, directly or through its affiliates, from sharing nonpublic personal information about you with a nonaffiliated third party unless the institution provides you with a notice of its privacy policies and practices, such as the type of information that it collects about you and the categories of persons or entities to whom it may be disclosed. In compliance with the GLBA, we are providing you with this document, which notifies you of the privacy policies and practices of Old Republic Title Company

We may collect nonpublic personal information about you from the following sources:

Information we receive from you such as on applications or other forms.
Information about your transactions we secure from our files, or from [our affiliates or] others.
Information we receive from a consumer reporting agency.
Information that we receive from others involved in your transaction, such as the real estate agent or lender.

Unless it is specifically stated otherwise in an amended Privacy Policy Notice, no additional nonpublic personal information will be collected about you.

We may disclose any of the above information that we collect about our customers or former customers to our affiliates or to nonaffiliated third parties as permitted by law.

We also may disclose this information about our customers or former customers to the following types of nonaffiliated companies that perform marketing services on our behalf or with whom we have joint marketing agreements:

Financial service providers such as companies engaged in banking, consumer finance, securities and insurance.
Non-financial companies such as envelope stuffers and other fulfillment service providers.

WE DO NOT DISCLOSE ANY NONPUBLIC PERSONAL INFORMATION ABOUT YOU WITH ANYONE FOR ANY PURPOSE THAT IS NOT SPECIFICALLY PERMITTED BY LAW.

We restrict access to nonpublic personal information about you to those employees who need to know that information in order to provide products or services to you. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

ORT 287-C 5/07/01

Disclosure to Consumer of Available Discounts

Section 2355.3 in Title 10 of the California Code of Regulation necessitates that Old Republic Title Company provide a disclosure of each discount available under the rates that it, or its underwriter Old Republic National Title Insurance Company, have filed with the California Department of Insurance that are applicable to transactions involving property improved with a one to four family residential dwelling.

You may be entitled to a discount under Old Republic Title Company's escrow charges if you are an employee or retired employee of Old Republic Title Company including its subsidiary or affiliated companies or you are a member in the California Public Employees Retirement System "CalPERS" or the California State Teachers Retirement System "CalSTRS" and you are selling or purchasing your principal residence.

If you are an employee or retired employee of Old Republic National Title Insurance Company, or it's subsidiary or affiliated companies, you may be entitled to a discounted title policy premium.

Please ask your escrow or title officer for the terms and conditions that apply to these discounts.

A complete copy of the Schedule of Escrow Fees and Service Fees for Old Republic Title Company and the Schedule of Fees and Charges for Old Republic National Title Insurance Company are available for your inspection at any Old Republic Title Company office.

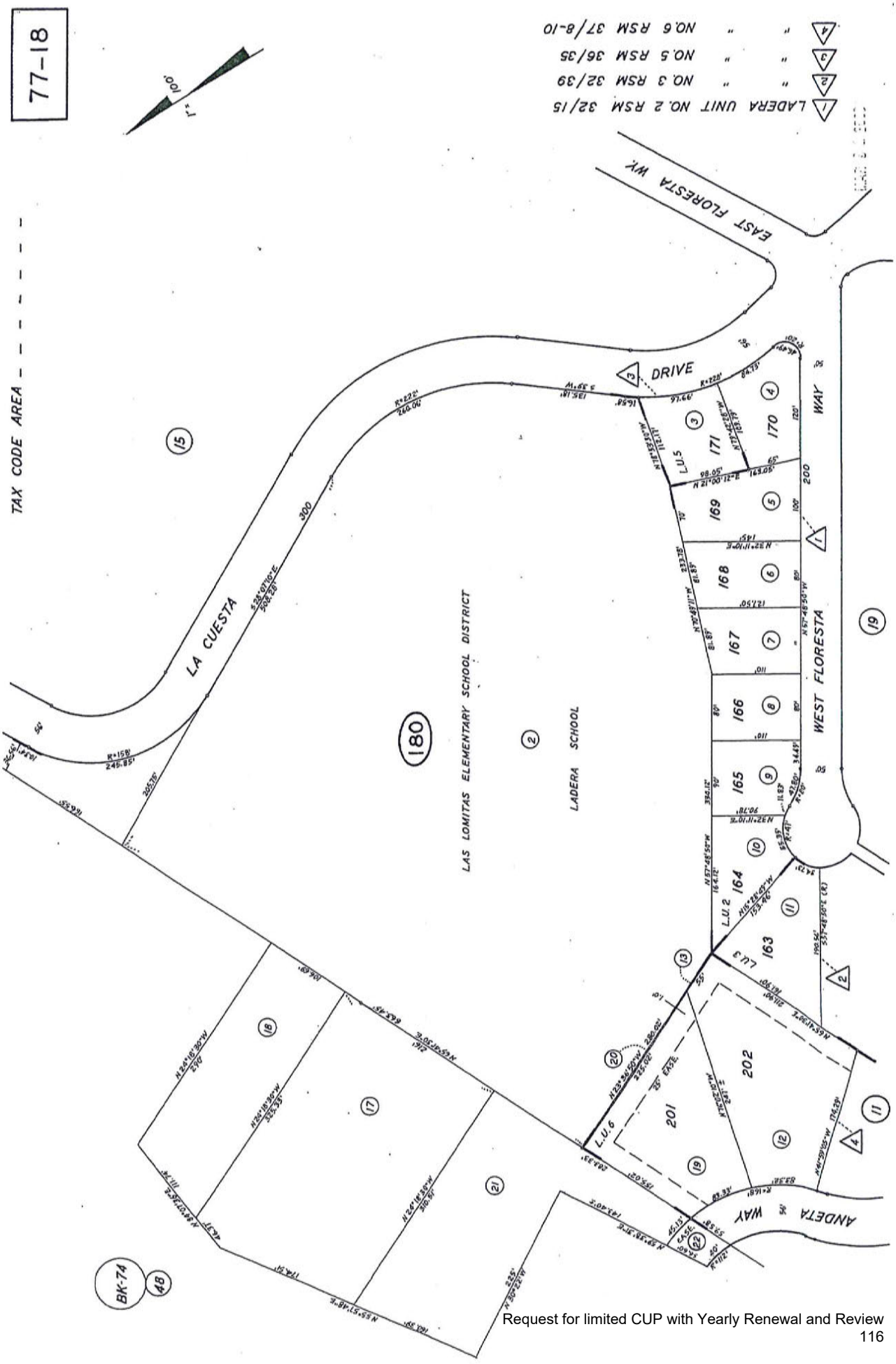

EXHIBIT D

LAS LOMITAS ELEMENTARY SCHOOL DISTRICT

LEASE AGREEMENT

Ladera School

360 La Cuesta Drive

Portola Valley, California

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(continued)

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LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter referred to as "**Lease**") is made on this 19th day of JUNE, 2012 ("**Effective Date**"), by and between **Las Lomitas Elementary School District**, a subdivision of the State of California, (hereinafter referred to as "**Landlord**"); and the **Woodland School**, a California corporation, (hereinafter referred to as "**Tenant**").

RECITALS:

1. Landlord owns the real property located at 360 La Cuesta Drive, Portola Valley, CA, County of San Mateo, California, which is described on **Exhibit A-1** (the **"Ladera School Site").**

2. Tenant desires to lease from Landlord the portion of the Ladera School Site which is defined herein as the Property and depicted as the area within the dashed line on the map on **Exhibit A-2**.

3. Tenant currently leases the Property from Landlord pursuant to that certain Lease dated October 15, 1997 by and between Tenant and Landlord, as amended and extended from time to time (collectively, the "**Prior Lease**")

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1. DESCRIPTION

A. Property. Landlord does hereby lease to Tenant and Tenant does hereby lease from Landlord the Property. The Property is defined to include: (i) all of the existing buildings ("**Buildings**") and adjacent outdoor areas, (ii) the parking lot (the "**Parking Lot**"), and (iii) the driveways, as depicted within the dashed line on the map on **Exhibit A-2**. The Property does **not** include areas outside the dashed line on the map on **Exhibit A-2**, specifically the "Blacktop" and the "Playing Fields" (the "**Play Areas**"). "Play Areas" do not include the "play scapes" which are currently installed in 3 locations on the Property and which were installed by Tenant during the term of the Prior Lease.

B. License to Use Play Areas. Landlord hereby grants to Tenant and its employees, agents, contractors and invitees (collectively, **"Tenant's Agents"**) an irrevocable and exclusive license to use, maintain and repair the Play Areas during School Hours. "**School Hours**" shall mean from the hours of 8:30am through 3:00pm Monday through Friday excepting public school holidays.

2. TERM

A. Initial Term. The term ("**Term**") of this Lease shall be for twenty-five (25) years, commencing on August 1, 2013 (the "**Commencement Date**") and expiring on July 31,

2038(the "**Expiration Date**"), or such earlier date on which this Lease terminates pursuant to its terms, unless extended pursuant to subsection B below. The date upon which this Lease actually terminates, whether by expiration or earlier termination pursuant to the terms of this Lease, is sometimes referred to in this Lease as the **"Termination Date"**.

B. Term Extension. Landlord, in its sole discretion, shall have the option to extend this lease in increments of time up to a total of twenty five (25) additional years ("**Extended Term**") beyond the current Term. All references to "Expiration Date" shall be deemed to refer to the last day of the Extended Term, and all references to "Term" shall be deemed to include the Extended Term(s). Landlord agrees to deliver a written notice to extend or terminate the Lease no later than 3 years prior to the expiration of the current Term or Extended Term, as applicable. Commencing upon Landlord delivering to Tenant a written notice stating that the Landlord desires to grant an extension of the Lease, Landlord and Tenant shall enter into good faith negotiations to agree upon the terms and conditions for an Extended Term for a period of time not to exceed six (6) months. **In no case shall the Annual Rent (as hereinafter defined) for the Extended Term be less than the Annual Rent paid in the last year of the Initial Term or last year of the Extended Term, as applicable.**

3. RENT

A. Rent. Commencing upon the Commencement Date, and thereafter during the Term subject to the Rent Adjustment set forth below, Tenant shall pay to Landlord the annual rent in the amount of Seven Hundred Ten Thousand Dollars ($710,000) ("**Annual Rent**") in twelve (12) monthly installments of Fifty Nine Thousand One Hundred Sixty-seven Dollars ($59,167) on or before the first day of each month, except as otherwise set forth herein, such payments shall be made by Tenant, in advance, without deduction, setoff, prior notice or demand ("**Monthly Rent**"). If the Commencement Date occurs on a day other than the first day of a calendar month, or the Termination Date occurs on a day other than the last day of a calendar month, then the Monthly Rent for such fractional month will be prorated on the basis of the actual number of days in such month.

B. Rent Adjustment. The Annual Rent shall remain fixed at $710,000 for the first two years of the Lease. Thereafter, the Annual Rent will increase annually, effective on August 1 for each succeeding year of the Lease (each, an **"Adjustment Date"**), beginning on August 1, 2015, by an amount equal to the annual change in the Consumer Price Index, however the minimum annual increase shall be three percent (3%) and the maximum annual increase shall be six percent (6%). The indexes for computing the increase shall be the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index, San Francisco-Oakland-San Jose All Urban Consumers (CPI-U) as published for April of the current and previous year. The increase shall be calculated by multiplying the Annual Rent by a fraction, the numerator of which is the April index for the current year and the denominator of which is the index for April of the previous year. **In no event shall the Annual Rent payable as of any such Adjustment Date be less than that applicable to the 12-month period immediately preceding such Adjustment Date.** If the CPI index is no longer published, a successor or substitute index, published by a governmental agency and reflecting changes in consumer prices in the San Francisco Bay Area will be designated by Landlord.

C. Late Payment. Tenant acknowledges that late payment by Tenant to Landlord of the Monthly Rent and other sums due (including, but not limited to, Sublet Rent and Additional Rent, as such terms are hereinafter defined) hereunder will cause Landlord 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. Accordingly, if any installment of rent or any other sum due from Tenant shall not be received by Landlord by 4:00 p.m. within ten (10) calendar days after such amount shall be due, Tenant shall pay to Landlord, as Additional Rent, a late charge equal to two percent (2.0%) of such overdue amount. The parties hereby agree that such late charges represent a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. Acceptance of such late charge by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of its other rights and remedies granted hereunder.

D. Additional Rent. Except as otherwise set forth herein, taxes, late charges, costs and expenses which Tenant is required to pay hereunder, together with all interest and penalties that may accrue thereon in the event of Tenant's failure to pay such amounts, and all reasonable damages, costs, and attorneys' fees and expenses which Landlord may incur by reason of any default of Tenant or failure on Tenant's part to comply with the terms of this Lease, shall be deemed to be additional rent ("**Additional Rent**") and, in the event of nonpayment by Tenant, Landlord shall have all of the rights and remedies with respect thereto as Landlord has for the nonpayment of the monthly rent.

4. SECURITY DEPOSIT

A. Security Deposit. Upon execution of this Lease, Tenant shall have deposited with Landlord the sum of **One Hundred Fifty Thousand Dollars ($150,000)**. Tenant delivered to Landlord, on March 27, 2012, a check in the amount of **One Hundred Thousand Dollars ($100,000)**. Tenant shall deliver to Landlord an additional **Fifty Thousand Dollars ($50,000)** in the form of a cashier's check within two (2) business days following the execution of this Lease by both parties. Of this **One Hundred Fifty Thousand Dollars ($150,000)**, Landlord shall retain **Sixty Thousand Dollars ($60,000)** (approximately equal to one month's rent) as a security deposit for the Lease (the "**Security Deposit**") and Landlord shall return **Ninety Thousand Dollars ($90,000)** to Tenant within 30 days after the Lease is fully executed.

B. Tenant agrees to pay to Landlord on or before August 1, 2020, the amount necessary to increase the security deposit held by Landlord to an amount equal one month's rent based on the Annual Rent for the year August 1, 2020 – July 31, 2021 as calculated in accordance with Section 3 of this Lease.

C. Tenant agrees to pay to Landlord on or before August 1, 2030, the amount necessary to increase the security deposit held by Landlord to an amount equal one month's rent based on the Annual Rent for the year August 1, 2030 – July 31, 2031 as calculated in accordance with Section 3 of this Lease.

D. Use of Security Deposit. Said security deposits shall secure the timely, full and faithful performance by Tenant of each term, covenant and condition of this Lease. If, at any time, Tenant shall fail to make any payment or fail to keep or perform any term, covenant or condition on its part to be made or performed or kept under this Lease, Landlord may, but shall not be obligated to and without waiving or releasing Tenant from any obligation under this Lease, use, apply or retain the whole or any part of the Security Deposit: (a) to the extent of any sum due to Landlord; (b) to make any required payment on Tenant's behalf; or, (c) to compensate Landlord for any loss, damage, attorneys' fees or expense sustained by Landlord due to Tenant's default. In such event, Tenant shall, within ten(10) days of written demand by Landlord, remit to Landlord sufficient funds to restore the Security Deposit to its amount prior to such deduction. No interest shall accrue on the Security Deposit. Landlord shall not be deemed a trustee of the Security Deposit, and may commingle the Security Deposit with its other funds. Should Tenant comply with all the terms, covenants, and conditions of this Lease and at the end of the term of this Lease leave the Property in the condition required by this Lease, then said Security Deposit, less any sums owing to Landlord pursuant to this Lease, shall be returned to Tenant within thirty (30) days after the Termination Date and vacancy of the Property by Tenant.

5. DELIVERY

A. Tenant is in possession of the Property at the time of execution of this Lease in accordance with the terms of the Prior Lease. Upon execution of this Lease by Landlord and Tenant, Tenant shall continue to have possession of the Property until the Termination Date.

B. Landlord shall not be required to make or construct any alterations including structural changes, additions or improvements to the Property. Except as otherwise set forth herein, by entry and taking possession of the Property on the Commencement Date pursuant to this Lease, Tenant accepts the Property in its "as-is" condition and repair existing as of the Commencement Date. Except as otherwise set forth herein, Tenant acknowledges that neither Landlord nor Landlord's agents have made any representation or warranty as to the suitability of the Property to the conduct of Tenant's business. Any agreements, warranties or representations not expressly contained herein shall in no way bind either Landlord or Tenant, and Landlord and Tenant expressly waive all claims for damages by reason of any statement, representation, warranty, promise or agreement, if any, not contained in this Lease.

6. USE OF PROPERTY, PLAY AREAS & USE PERMIT

A. Use of Property. The Property shall be used by Tenant as a preschool through eighth grade school which may include day care, after school, community and athletic activities which are in compliance with Conditional Use Permit PLN 2000-00352 ("**CUP**") issued by the County of San Mateo ("**County**"), as may be amended from time to time, a copy which is attached hereto in **Exhibit C** and incorporated herein. Tenant shall not use the Property for any use other than that specified in this subsection without the prior written consent of Landlord. Tenant shall require all subtenants, licensees, and invitees, to use the Property only in conformance with this use, and subject to all requirements of all federal, state, county and municipal governments, agencies, courts, commissions, boards, or any other body exercising functions similar to those of any of the foregoing, foreseen or unforeseen, ordinary as well as extraordinary, which may be applicable to the Property ("**Applicable Laws**"). Tenant shall not

commit or permit to be committed, any waste upon the Property, or allow any sale by auction upon the Property, or allow the Property to be used for any unlawful purpose, or place any loads upon the floors, walls or ceilings which endanger the structure, or place any harmful liquids in the drainage system of the building. No waste materials or refuse shall be dumped upon or permitted to remain upon any part of the Property except in containers designed and designated for that purpose. Any uses which involve the serving and/or sale of alcoholic beverages and the conducting of games of chance are prohibited on the Property. Tenant shall comply with Landlord's written policy prohibiting the use of tobacco products on the Property at all times, which shall be made available to Tenant upon Tenant's request. Tenant shall not use or permit the use of the Property or any part thereof for any purposes which are unsuitable for a public educational facility. Tenant agrees to respond within one business day to any concerns expressed by neighbors or Landlord relating to the operation of the Property.

B. Conditional Use Permit. Landlord specifically does not warrant, represent or guarantee any particular zoning or particular use of the Property. Tenant acknowledges and accepts the terms and conditions of the CUP. Tenant and any subtenants, shall abide by the terms and conditions of the CUP and, if required by the County or Applicable Laws, obtain any additional renewals, modifications or amendments to the CUP and all other applicable permits from the County for Tenant's or subtenants' use of the Property throughout the Term of this Lease.

If the County issues written notice to Landlord and/or Tenant that the County will consider amending or revoking the CUP ("**CUP Change Notice**") due to no fault, breach, negligence or willful misconduct of or by Tenant or any subtenant, and such amendment or revocation would cause Tenant to no longer be able to operate its school on the Property in substantially the same manner as Tenant operated the school as of the Commencement Date ("**CUP Change**"), then Landlord or Tenant, as applicable, shall forward such notice to the other Party within 10 business days of receipt. Landlord shall cooperate with and reasonably assist Tenant, and Tenant must use its best efforts, in appealing the CUP Change to obtain a conditional use permit that allows Tenant to operate its school on the Property in substantially the same manner as Tenant operated the school as of the Commencement Date. If after receipt of a CUP Change Notice, provided that Tenant has used its best efforts in appealing the CUP Change, Tenant is unable to obtain a conditional use permit that would permit Tenant to operate its school in substantially the same manner as Tenant operated its school as of the Commencement Date, then Tenant may terminate this Lease, effective as of the date the CUP Change becomes final and cannot be further appealed by Tenant or Landlord to any administrative or judicial body.

C. Use of Play Areas. The Play Areas shall be used cooperatively by Landlord, Tenant, the general public and other user groups ("**User Groups**") during the Term, provided that Tenant may use the Play Areas exclusively during School Hours pursuant to Section 1A. Tenant agrees to allow users of the Play Areas ingress and egress through the Property to the Play Areas during non-School Hours. Tenant will reasonably cooperate with User Groups to allow access to the Play Areas through the Property during School Hours provided such use does not interfere with Tenant's use of the Play Areas during School Hours and User Groups adhere to Tenant's published school rules while on the Property. Landlord shall maintain the Play Areas in accordance with Section 10B.

D. Parking and Traffic. Tenant shall have the exclusive use of the Parking Lot during School Hours. Tenant agrees to permit use of the Parking Lot by users of the Play Areas during non-School Hours. Tenant shall not abandon any inoperative vehicles or equipment on any portion of the Property. Tenant agrees to keep the Parking Lot free and clear of debris. Traffic circulation, car trips and parking by Tenant and Tenant's Agents shall adhere to the terms of the CUP.

7. TAXES AND ASSESSMENTS

Tenant is hereby notified that private use of the public property may result in the assessment of a possessory-interest or similar tax, and Tenant shall be solely responsible for the payment of any such tax pursuant to this Lease. Unless Tenant is exempt pursuant to Applicable Laws, Tenant shall pay before delinquency any and all taxes, assessments, levies, possessory interest taxes, and other charges and governmental fees imposed on the Property including any non-use fees paid by the Landlord ("**Taxes and Assessments**") in excess of $5,000 per year, general and special, ordinary and extraordinary, unforeseen, as well as foreseen, of any kind or nature whatsoever, including, but not limited to assessments for public improvements or benefits, which prior to or during the Term of this Lease are laid, assessed, levied, or imposed upon or become due and payable and a lien upon or represent an escape assessment from (i) the Property and/or any Tenant Improvements situated thereon or any part thereof or any personal property, equipment or other facility used in the operation thereof; or (ii) the rent or income received from subtenants or licensees; or (iii) any use or occupancy of the Property and of any rights, obligations, easements and franchises as may now or hereafter be appurtenant, or appertain to the use thereof. Notwithstanding the foregoing, in the case of any special assessment levied upon the Property or any part thereof during the Term of this Lease, Tenant shall, unless the Property is exempt pursuant to Applicable Laws, be obligated to pay in full at the inception (or provide Landlord sufficient funds which, together with the accrual of investment yield thereon, shall be sufficient to pay to maturity all installments under) the amount of any such special assessment. Notwithstanding the foregoing, Tenant may contest the amount of Taxes and Assessments or seek a reduction in such amount. Landlord shall reasonably cooperate with any proceedings if necessary and allow Tenant to receive any refund in Taxes and Assessments by reason of such contest. If Landlord incurs attorneys' fees in connection with such cooperation, Tenant shall reimburse Landlord for those fees. Nothing in this Section shall limit Landlord's right to recover, as Additional Rent, Taxes and Assessments payable after the Termination Date. The provisions of this Section 7 shall survive the expiration or earlier termination of this Lease; provided, however, that nothing herein shall obligate Tenant to pay Taxes and Assessments which are both (i) imposed upon the Property subsequent to the termination of this Lease and (ii) applicable to a period or periods subsequent to the termination of this Lease.

B. Landlord shall promptly disclose to Tenant any and all applicable or pending taxes and assessments on the Property as of the date of this Lease, and shall, within thirty (30) days following receipt by Landlord of a notice with respect to any new levy, tax or assessment contemplated by Subsection 7A above, notify Tenant in writing of the same. In the event that any levy, tax or assessment for which Tenant may become liable under Subsection 7A above other than possessory interest taxes or taxes assessed on Tenant's tangible or personal property, trade fixtures, and any Tenant Improvements made by Tenant, which shall at any time exceed the sum of **$200,000** in anyone calendar year or **$2,000,000** in total over the term of this Lease, Tenant

shall have the right to terminate this Lease by giving Landlord eighteen (18) month's written notice of such termination; provided, that Landlord may, within thirty (30) days after receipt of such notice of termination from Tenant, elect to pay such levy, tax or assessment in excess of **$200,000** in anyone calendar year or **$2,000,000** in total over the Term of this Lease, in which event this Lease shall remain in full force and effect.

C. Tenant represents that it is a not-for-profit corporation and, at this time, is not by law assessed possessory interest or property taxes. In the event that the law is changed such that Tenant is assessed for possessory interest or property taxes which shall at any time exceed the sum of **$200,000** in anyone calendar year or **$2,000,000** in total over the term of this Lease and Tenant remains a not-for-profit corporation, then Tenant shall have the right to terminate this Lease by giving Landlord eighteen (18) month's written notice of such termination; provided, that Landlord may, within thirty (30) days after receipt of such notice of termination from Tenant, elect to pay such levy, tax or assessment in excess of **$200,000** in anyone calendar year or **$2,000,000** in total over the Term of this Lease, in which event this Lease shall remain in full force and effect.

D. In the event that Tenant or any sub-tenant operates as or becomes a for-profit corporation, Tenant and/or subtenants shall be liable for all taxes and assessments assessed on the Property throughout the term of the Lease and Tenant or subtenants shall not have the right to terminate this Lease in accordance with this Section. Tenant or subtenant shall be obligated to pay all taxes and assessments in accordance with Section 7A above.

8. INDEMNIFICATION AND INSURANCE

A. Tenant's Indemnification. From and after the Commencement Date, Tenant shall indemnify, reimburse, hold harmless, and defend Landlord, its officers, directors, members, employees, agents, invitees and contractors ("**Landlord Parties**") from and against any and all claims, causes of action, judgments, obligations or liabilities, and all reasonable expenses incurred in investigating or resisting the same (including reasonable attorneys' fees) ("**Claims**"), on account of, or arising out of, the operation, condition, use or occupancy of the Property and all areas appurtenant thereto by Tenant or its officers, directors, members, employees, agents, invitees and contractors (except for Landlord's gross negligence or willful misconduct). Tenant further agrees to indemnify, defend, and hold Landlord harmless against any loss, expense, damage, attorneys' fees or liability arising out of failure of Tenant to comply with any Applicable Law. This Lease is made on the express condition that Landlord shall not be liable for, or suffer loss by reason of, injury to person or property, from whatever cause (except for Landlord's gross negligence or willful misconduct), in any way connected with the condition, use or occupancy of the Property or Play Areas by Tenant or its officers, directors, members, employees, agents, invitees and contractors, specifically including, without limitation, any liability for injury to the person or property of the Tenant, Tenant's Agents, officers, employees, licensees and invitees.

B. Comprehensive General Liability Insurance. Tenant shall, at Tenant's expense, obtain and keep in force during the Term of this Lease a policy of comprehensive general liability insurance on an occurrence basis insuring Landlord and Tenant against claims and liabilities arising out of the operation, condition, use, or occupancy of the Property, including the Play Areas and the Parking Lot. Such insurance shall be in an amount of not less than **five**

million dollars ($5,000,000) per occurrence for bodily injury or death and property damage and a **ten million dollar ($10,000,000)** general aggregate limit. The policy shall include a products/completed operations aggregate limit in an amount not less than of **two million dollars ($2,000,000)** and a personal and advertising injury limit in an amount of not less than **one million dollars ($1,000,000)**. The insurance shall be with a carrier approved by Landlord, which approval shall not be unreasonably withheld. Prior to possession, Tenant shall deliver to Landlord a certificate of insurance evidencing the existence of the policy required hereunder and stating that such policy shall:

(1) not be canceled or altered without thirty (30) days prior written notice to Landlord;

(2) insure performance of the indemnity set forth in Subsection 8A above;

(3) state the coverage is primary and any coverage by Landlord is in excess thereto;

(4) contain a cross liability endorsement;

(5) include a separate endorsement naming Landlord as an additional insured; and

(6) waive all rights of subrogation against the Landlord.

At least thirty (30) days prior to the expiration of such certificate, and every such subsequent certificate, Tenant shall deliver to Landlord a new certificate of insurance consistent with all of the terms and conditions required in connection with the original certificate of insurance as described in this Section 8C.

C. Fire and Casualty Insurance.

(1) Landlord's Fire Insurance.

During the Term of this Lease, Landlord shall maintain at its cost a policy of standard fire and casualty insurance for the full replacement cost of the Buildings and improvements located on the Property. In the event of loss or damage to the Buildings or the Property, each of the parties hereto, and all persons claiming under each of the parties, shall look first to any insurance in its favor before making any claim against the other party, and to the extent possible without adding additional costs, each party shall obtain for each policy of such insurance provisions permitting waiver of any claim against the other party for loss or damage within the scope of the insurance and each party, to such extent permitted, for itself and its insurers, waives all such insurance claims against the other party. Any insurance carried by Landlord against such risks shall be primary insurance with respect to any insurance carried by Tenant. Landlord shall not insure against the loss of Tenant's Personalty. Landlord may, at its option, insure Tenant Improvements. .

D. Earthquake Insurance. At lease thirty (30) days prior to the Commencement Date and continuing throughout the Term of this Lease, earthquake insurance shall be maintained on the Property according to the following terms and conditions:

(1) Description of Insurance: The earthquake insurance to be carried shall be for the full replacement cost of the Property, and shall include loss of rental income coverage to Landlord in the minimum amount of two (2) years' Annual Rent for the Property payable hereunder. The initial policy limit shall be **$7,500,000**, which includes replacement costs, code upgrades and **$1,420,000** in loss of rental income coverage; it being the intent of the parties that policy limits shall be raised from time to time during the Term of this Lease to account for (i) increases in Annual Rent for the Property, and (ii) increases in the estimated full replacement cost of the Property. The Landlord shall be an additional Named Insured on the policy and the policy shall name the Landlord as loss payee.. Other terms and conditions of the coverage shall be as reasonably approved by Landlord and Tenant according to insurance industry custom and practice.

(2) Tenant to Secure Coverage: Tenant shall be responsible for obtaining and paying premiums for earthquake insurance both initially and on a renewal basis throughout the Term of this Lease. Coverage shall be obtained from insurance carriers which hold a current policy holder's alphabetic and financial size category rating of not less than AVII, according to the current Best's Key Rating Guide, unless otherwise mutually agreed to between the parties. In the event that Tenant is unable to obtain such coverage because it has become commercially unavailable, the parties agree that Tenant shall use all reasonable efforts to obtain such coverage as and when it again becomes commercially available.

(3) Reimbursement by Landlord: Within thirty (30) days following receipt of an invoice from Tenant evidencing the procuring of and payment made for the earthquake insurance, Landlord shall reimburse Tenant the sum of **Fifteen Thousand Dollars ($15,000)** per year towards the cost of such insurance; provided, that such sum shall be increased during the Term of this Lease in tandem with and in the same percentage as increases in Annual Rent to be paid by Tenant hereunder.

(4) Deductible: The deductible applicable for insurance carried pursuant to this subsection shall be as reasonably approved by Landlord and Tenant from time to time, it being the intent of the parties to obtain the lowest possible deductible amount if such coverage is available at a cost considered commercially reasonable by the parties. The deductible for the initial policy to be obtained hereunder is seven and one-half percent (7.5%) of the total insurable values at risk at time of loss on a per building and per occurrence basis. Landlord and Tenant acknowledge that Landlord's responsibility for said deductible is subject to the limitations set forth in Section 12B.2(a).F.

E. Workers Compensation Insurance. During the Term of this Lease, Tenant shall comply with all provisions of law applicable to Tenant with respect to obtaining and maintaining workers compensation insurance. The policy shall be endorsed to waive all rights of subrogation against Landlord. Tenant shall provide Landlord with certificate of insurance.

F. Subtenant Insurance. During the Term of this Lease, Tenant shall require any subtenant of all or any portion of the Property to maintain in effect during the term of such sublease, insurance coverage equivalent to that required to be maintained by Tenant, however, Tenant and Landlord may, upon mutual agreement, reduce such insurance requirements depending upon subtenant's use.

G. Tenant's Property Insurance. Tenant acknowledges that any insurance to be maintained by Landlord on the Property pursuant to this Section 8 will not insure any of Tenant's property. Accordingly, Tenant shall at its own expense, maintain in full force and effect an insurance policy on all of its fixtures, equipment, improvements and personal property in, about, or on the Property. Said policy shall be for "All Risk" coverage insurance to the extent of at least ninety percent (90%) of the insurable value of Tenant's property.

H. Insurance Limits. It is the intent of the parties that policy limits set herein shall be raised from time to time during the Term of this Lease to account for (i) increases in rent for the Property, (ii) increases in the estimated full replacement cost of the Property, and (iii) increases in the general marketplace insurance limits for tenancies including, but not limited to, liability insurance coverage as defined herein or subtenancies consistent with the provisions of this lease.

I. Insurance Requirements. Unless otherwise agreed by the parties, all policies of insurance required under this Lease shall be issued by insurance companies admitted to do business in California with a general policy holder's rating of not less than "A" and a financial rating of not less than Class "VII", as rated in the most current available "Best's Key Rating guide".

J. Mutual Release. Each party hereby releases the other party, and its partners, officers, agents, employees, and servants, from any and all claims, demands, loss, expense or injury to the Premises or to the furnishings, fixtures, equipment, inventory or other personal property of either party in, about, or upon the Premises, which is caused by perils, events or happenings which are covered by the insurance required by this Lease or which are the subject of insurance carried by either party and in force at the time of such loss. Each party shall procure an appropriate clause in, or an endorsement to, all policies required by this Lease or any other insurance policy maintained by Tenant or Landlord, pursuant to which the insurance company or companies waive subrogation or consent to a waiver of a right of recovery against the other party.

9. UTILITIES

Landlord shall transfer to Tenant and Tenant shall accept and be solely responsible for directly paying (to each applicable utility) in Tenant's name, all water, gas, light, heat, power, electricity, telephone, security service, trash pick-up, sewage fees and all other services supplied to or consumed on the Property and all taxes and surcharges thereon.

10. MAINTENANCE, REPAIRS, PROPERTY LEASED "AS IS"

A. The Property shall be leased on an "as is" and "with all faults" basis, with no express or implied warranties whatsoever. The Tenant shall be solely responsible for any and all planning, design, permits, approvals, construction, utilities, taxes, costs and other

things of any nature required or convenient to permit the use of the Property contemplated by the Tenant, including, in connection therewith, compliance with the California Environmental Quality Act. Tenant, at its cost, shall maintain the Property in a good condition consistent with the condition of the Property existing at the time of delivery. Tenant acknowledges and accepts that the Property in "as is" condition. Tenant shall be responsible for performing all maintenance and repairs including those pertaining to all the structural elements of the buildings. Throughout the Term of this Lease Landlord shall have no maintenance or repair responsibilities for the Property.

B. If Landlord is required to perform any maintenance even though Landlord has no maintenance or repair obligations, Tenant shall reimburse Landlord, as Additional Rent, within fifteen (15) days after receipt of billing, for the cost of such maintenance and repairs.

C. Except as expressly provided in Subsections A & B above, Tenant shall, at its cost, maintain and repair all parts of the Property including but not limited to structural walls, footings, floor slabs, foundations, roof, windows, skylights, doors and all door hardware, the walls and partitions, all surfaces including ceilings and the roof, the electrical, plumbing, lighting, heating and ventilating systems in a condition similar to that which exists at the Commencement Date. The term "maintain and repair" shall be defined as all maintenance and repairs required for Tenant to operate its school and any repair or improvement required by a governmental authority for Tenant to operate its school.

D. Landlord shall have no maintenance or repair obligations with respect to the Property, other than Landlord shall, at its cost, maintain the Play Areas in a condition at least the same as that existing as of the Commencement Date. Tenant hereby expressly waives the provisions of Subsection 1 of Section 1932 and Sections 1941 and 1942 of the Civil Code of California and all rights to make repairs at the expense of Landlord as provided in Section 1942 of said Civil Code. Landlord shall, at its cost, maintain and repair all parts of the Play Areas.

11. ALTERATIONS AND IMPROVEMENTS

A. Exempt Alterations. Provided such changes do not (1) exceed a total project cost of $50,000 and (2) affect the structure or exterior appearance of the Property and all such work is done in compliance with Applicable Laws, Tenant from time to time at its expense and without Landlord's consent may maintain or repair the Buildings or Tenant Improvements, or install in or remove from the Buildings or Tenant Improvements fixtures, furniture, furnishings, equipment, supplies and other articles of movable personal property ("**Personalty**") as Tenant may consider beneficial to the operation of its business..

B. Tenant Improvements. Tenant may, at its sole cost and expense, construct or cause to be constructed on the Property or remove or cause to be removed from the Property those improvements including buildings, roadways, sidewalks, fences, playgrounds, parking areas, utilities, signs, monuments and landscaping Tenant deems beneficial to the operation of its business (collectively, "**Tenant Improvements**") subject to Applicable Laws and provided that Tenant has received Landlord has approved, in writing, all such Tenant Improvements.

C. Landlord Approval.

(1) For Tenant Improvements, Tenant shall submit to Landlord for its written approval such architectural plans and drawings for the proposed Tenant Improvements along with a schedule of completion ("**Tenant's Plans**"), which approval shall not be unreasonably withheld, conditioned or delayed. Landlord shall evidence its approval by signing or initialing two (2) sets of Tenant's Plans. As a condition of approval, Landlord may require in writing at the time of approval (but not thereafter) that Tenant agree to remove certain Tenant Improvements and restore the Property to its original condition existing as of the Commencement Date, reasonable wear and tear excepted, upon the Termination Date, and/or provide Landlord with adequate security for such removal. If Landlord disapproves any aspect of the proposed Tenant's Plans (whether an initial submission or a revision), the disapproval and the reasons for the disapproval, including a statement of changes Landlord requires to grant approval, shall be delivered to Tenant. If Landlord fails to approve or disapprove Tenant's Plans (or any portion thereof) within forty-five (45) days after receipt, Landlord shall be deemed to have approved the Tenant's Plans (or any portion thereof), as submitted or resubmitted, as applicable; provided that, for Tenant's Plans delivered to Landlord after May 15 of any year, Landlord shall have sixty (60) days after receipt to provide its approval or disapproval of Tenant's Plans.

(2) After receiving Landlord's approval of the Tenant's Plans, Tenant shall obtain any and all required approvals for the Tenant Plan's from the County, the DSA, other governmental agencies, or their successors prior to the commencement of any work and deliver copies of such approvals to Landlord within 10 business days after Tenant's receipt of such approvals. Any changes required to be made to the Tenant's Plans as a condition of granting any required approval from the County, the Department of the State Architect ("**DSA**") or any other governmental agency shall not be deemed approved by Landlord and Tenant's Plans must be submitted for approval pursuant to C(1) of this Section.

(3) Not less than thirty (30) calendar days prior to commencing any Tenant Improvements on the Property, Tenant shall:

(a) Provide Landlord with information regarding the contractor's financial condition and evidence to Landlord's reasonable satisfaction that adequate funds to complete the Tenant Improvements are committed and available or that completion has been otherwise adequately assured. Such assurances may include, in Landlord's discretion, a completion bond or guarantee. No construction shall commence until Landlord has given Tenant written acceptance of such assurances.

(b) Provide Landlord written notice of the date the Tenant Improvements will commence so that Landlord may post such notices of non-responsibility with respect thereto as Landlord may deem appropriate.

(c) Provide Landlord with sufficient evidence that it has obtained all required approvals and permits for the Tenant Improvements and that Tenant or Tenant's contractor(s) has in effect, with premiums paid,

commercially reasonable casualty and liability insurance (including builder's risk) coverage and workers compensation.

(4) Upon commencement of construction of any Tenant Improvements, Tenant shall cause the work to be diligently pursued to completion in accordance with the schedule for completion approved by Landlord.

(5) Within ninety (90) days after completion of construction of Tenant Improvements on the Property, Tenant shall deliver to Landlord two (2) full and complete sets of as-built plans for the work so completed.

D. Construction of Tenant Improvements

(1) All work on Tenant Improvements shall be performed in a sound and workmanlike manner, in compliance with the Applicable Laws, in conformance with the Tenant's Plans, or any modifications thereto which have been approved in writing by Landlord if required pursuant to subsection C and, if required, approved by the County and the DSA. If a Tenant Improvement requires the use of DSA approved Inspector services, Tenant shall either pay directly or reimburse Landlord for the costs related to said services.

(2) Landlord or Landlord's agent shall have a right during the period that Tenant Improvements are being constructed on the Property to enter the to inspect the work provided that such entries and inspections do not unreasonably interfere with the progress of the construction or Tenant's business. Tenant shall require its contractors who construct Tenant Improvements on the Property to reasonably cooperate with Landlord or its agent in such inspections. In connection with any entry by Landlord or Landlord's agent pursuant to this subsection, Landlord covenants and agrees to defend (by counsel reasonably acceptable to Tenant), indemnify, and hold harmless Tenant and its officers, directors, and employees, from and against any and all damage, loss, liability or expense, including, without limitation, reasonable attorneys' fees and costs, which arises as a result of damage to property or injury to persons caused by the negligence or willful misconduct of Landlord or its agent.

(3) Landlord shall cooperate with Tenant by executing and recording all such applications, including building, zoning and use permit applications, necessary for the operation of Tenant's business on the Property as may be reasonably required to complete Tenant Improvements, however, no costs shall accrue to or be borne by Landlord.

(4) Upon completion, all Tenant Improvements shall become part of the Property and shall, upon the Termination Date, become Landlord's property unless otherwise required in writing by Landlord as a condition of approval at the time of Landlord's approval pursuant to subsection C above.

E. Landlord will reasonably cooperate with Tenant in governmental agency approvals, consents and permits for Tenant Improvements approved by the Landlord, and will execute all papers and documents proper or reasonably necessary in connection with governmental agency approvals, consents and permits provided Tenant reimburses Landlord for any documented cost in connection therewith.

12. CASUALTY DAMAGE

A. In the event that a material portion of the Property is destroyed by an uninsured peril or significantly damaged by an uninsured peril, Landlord or Tenant may, upon written notice to the other, given within sixty (60) days after the occurrence of such damage or destruction, elect to terminate this Lease; provided, however, that either party may, within sixty (60) days after receipt of such notice, elect to make the required repairs and/or restoration at such party's sole cost and expense, in which event this Lease shall remain in full force and effect, and the party having made such election to restore or repair shall thereafter diligently proceed with such repairs and/or restoration. In the event this Lease is terminated pursuant to the terms of this Subsection, the surrender of the Property shall be in accordance with Section 29.

B. In the event the Property is damaged by any insured peril or destroyed by any insured peril, the following provisions shall apply:

(1) Insured Peril Other Than Earthquake: Unless prohibited by state or local regulatory authorities, in the event the Property is damaged or destroyed from any insured peril other than earthquake, Landlord may, in its sole discretion, promptly rebuild or restore, at Landlord's expense, the Property to its condition prior to the damage or destruction, in which event this Lease shall remain in full force and effect in accordance with Subsection C. If Landlord elects not to rebuild or restore the Property, Landlord may grant permission to Tenant to rebuild or restore the Property, subject to Landlord's oversight and approval as set forth in Section 11. During the restoration period:

(a) Tenant shall have the right to occupy that portion of the Property not affected by the insured peril;

(b) Tenant may, with Landlord's reasonable approval as to placement locations, procure and install temporary portable classrooms on the Property, at Tenant's sole cost, in order to minimize disruption to Tenant's educational programs, subject to Tenant obtaining approval from the County for such portable classrooms. Landlord shall cooperate with and reasonably assist Tenant in obtaining such approval, if necessary, with Tenant paying all out of pocket expenses, including attorneys' fees, of Landlord associated with such cooperation and assistance. Tenant agrees to remove such portable classrooms within sixty (60) days after completion of the restoration work, unless otherwise agreed to between the parties and the County.

(c) Rent payable by Tenant to Landlord hereunder shall be abated in accordance with Subsection E.

(2) Insured Peril – Earthquake: Unless prohibited by state or local regulatory authorities, in the event the Property is damaged or destroyed from an earthquake, Landlord may, in its sole discretion, promptly rebuild or restore the Property to its condition prior to the damage or destruction, in which event this Lease shall remain in full force and effect in accordance with Subsection E, subject to the following provisions:

(a) Landlord's obligation to rebuild or restore shall be limited to the amount of earthquake insurance proceeds and applicable deductible amount designated for

reconstruction excepting that portion of the insurance proceeds applicable to Landlord for rent recovery resulting from the rental income loss provisions applicable under the earthquake insurance policy. If Landlord elects to rebuild or restore the Property, Tenant shall pay to Landlord all insurance proceeds received in connection with the insurance obtained pursuant to 8-D. Landlord shall be responsible for the payment of any deductible under the applicable earthquake insurance policy, up to an amount not to exceed the sum of $200,000. Tenant shall be responsible for the payment of deductible amounts over $200,000 under the applicable earthquake insurance policy.

(b) Tenant shall have the right to make claims for extraordinary expenses or tuition losses, if any, which are available under the earthquake insurance policy; provided, that Tenant shall not recover under this provision unless Landlord has fully recovered its rent losses and replacement costs of the Property (other than deductible amounts).

(c) During the restoration period:

i. Tenant shall have the right to occupy that portion of the Property not affected by the insured peril;

ii. Tenant may, with Landlord's reasonable approval as to placement locations, procure and install temporary portable classrooms on the Property, at Tenant's sole cost, in order to minimize disruption to Tenant's educational programs, subject to Tenant obtaining all necessary approvals, including but not limited to approvals from the County of San Mateo, for such portable classrooms. Landlord shall cooperate with and reasonably assist Tenant in obtaining such approvals, if necessary, with Tenant paying all out of pocket expenses, including attorneys' fees, of Landlord associated with such cooperation and assistance. Tenant agrees to remove such portable classrooms within sixty (60) days after completion of the restoration work, unless otherwise agreed.

iii. Rent payable by Tenant to Landlord hereunder shall be abated in the same manner as the pro rata equitable reduction set forth in 13 (Condemnation) B. Landlord shall be entitled to recover rent losses incurred as a result from the rental income loss provisions applicable under the earthquake insurance policy.

C. In the event that, pursuant to the foregoing provisions, Landlord is to rebuild or restore the Property, Landlord shall, within sixty (60) days after the occurrence of such damage or destruction, provide Tenant with written notice of the time required for such repair or restoration. The period of time for Landlord to complete the repair or restoration shall be extended for delays caused by the fault or neglect of Tenant or because of acts of God, labor disputes, strikes, fires, freight embargoes, rainy or stormy weather, inability to obtain materials, suppliers or fuels, acts of contractors or subcontractors, or delays of contractors or subcontractors due to such causes or other contingencies beyond the control of Landlord. Landlord's obligation

to repair or restore the Property shall not include restoration of Tenant's trade fixtures, equipment, merchandise, or any improvements, alterations, or additions made by Tenant to the Property.

D. If Landlord does not exercise its right to rebuild or restore the Property and Tenant does not rebuild or restore the Property pursuant to this Section, Tenant may terminate the Lease and surrender the Property in accordance with Section 29.

E. Unless this Lease is terminated pursuant to this Section, this Lease shall remain in full force and effect; provided, however, that during any period of repairs or restoration, rent and all other amounts to be paid by Tenant shall be abated in the same manner as the pro rata equitable reduction set forth in 13 (Condemnation) B.

F. Landlord shall not be obligated to provide alternative space or pay for the renting of any alternative space for Tenant in the event the Property becomes uninhabitable.

13. CONDEMNATION

A. In the event greater than 30% of the useable space in the Buildings shall be taken under any condemnation or eminent domain proceedings, or all reasonable access to the Buildings shall be prevented for a period of time exceeding 90 days by such proceedings, at any time after the Commencement Date and continuing during the Term or are purchased in lieu thereof (collectively a "Taking"), Tenant may, in Tenant's sole discretion, terminate this Lease. Tenant may terminate this Lease by giving Landlord sixty (60) days written notice to such effect, and this Lease shall terminate and be of no further force and effect upon said date. The notice that may be given by Tenant herein to cancel and terminate this Lease shall be given no later than thirty (30) days after the vesting of title in the applicable governmental body, or if immediate possession has been granted to such governmental body, no later than thirty (30) days after actual possession has been taken by such governmental body.

B. Unless Tenant makes the election to terminate the Lease as provided in 13A above, this Lease shall remain in full force and effect as to such remaining portion, except that from and after the date upon which Tenant shall be required to surrender possession of the portion of the Property lost to a Taking, Tenant shall be entitled to a pro rata equitable reduction in the Annual Rent and Additional Rent to be paid hereunder based upon the number of square feet of useable space in the Buildings taken to the number of square feet of land within the useable space in the Buildings prior to the Taking.

C. All compensation or damages awarded or paid for any Taking hereunder shall belong to and be the sole property of Landlord whether such compensation or damages are awarded or paid as compensation for diminution in value of the leasehold, the fee or otherwise. Tenant may make a separate claim against the condemning authority (but not against Landlord) for Tenant's moving and relocation costs, the interruption of or damage to Tenant's business, and Tenant's improvements pertaining to the Property or damage to Tenant's Personalty.

D. Anything in this Lease to the contrary notwithstanding, Landlord and Tenant shall assist and cooperate with each other in such condemnation or eminent domain proceedings.

Neither Landlord nor Tenant will be responsible for the litigation costs or the attorneys' fees of the other in connection with any such proceeding.

E. Notwithstanding anything to the contrary in this Section, if a Taking occurs with respect to the Property for a period of time not in excess of 90 consecutive days, this Lease shall remain in full force and effect, and Tenant shall continue to pay the Monthly Rent. In the event of such a temporary Taking, Tenant shall be entitled to receive that portion of any compensation for the use or occupancy of the Property during the Term up to the total Rent owed by the Tenant for the period of the temporary Taking.

F. Except as provided above, the Lease will not terminate as a result of a Taking and the parties.

G. Tenant and Landlord intend that the provisions of this Section govern fully in the event of a taking and accordingly the Tenant and Landlord hereby waive any right to terminate this Lease in whole or in part under Sections 1265.010 through 1265.160 of the California Code of Civil Procedure or under any similar law now or hereafter in effect.

14. DEFAULT

A. Events of Default. A breach of this Lease shall exist if any of the following events (hereinafter referred to as "Event of Default") shall occur:

(1) Default in the payment when due of any installment of Monthly Rent or other payment required to be made by Tenant hereunder, and such default shall not have been cured within ten (10) days after written notice from Landlord;

(2) Tenant's failure to perform any other term, covenant or condition contained in this Lease and such failure shall have continued for thirty (30) days after written notice of such failure is given to Tenant unless such default is of such a nature that it cannot be cured within such thirty (30) day period, Tenant shall have a reasonable time beyond such thirty day period, not to exceed ninety (90) days unless otherwise agreed in writing between the Parties, to cure such default;

(3) The sequestration of, attachment of, or levy on, any substantial part of the property of Tenant or on any property essential to the conduct of Tenant's business, shall have occurred and Tenant shall have failed to obtain a return or release of such property within thirty (30) days thereafter, or prior to sale pursuant to such sequestration, attachment or levy, whichever is earlier;

(4) Tenant or any guarantor of Tenant's obligations hereunder shall generally not pay its debts as they become due or Tenant admits in writing its inability to pay its debts, or Tenant or any such guarantor shall take any corporate action to authorize any of the actions set forth in this paragraph;

(5) A court of competent jurisdiction enters an order, judgment or decree appointing a receiver of Tenant or of the whole or any substantial part of the Property and such

order, judgment or decree shall not be vacated, set aside or stayed within thirty (30) days after the date of entry of such order, judgment, or decree, or a stay thereof shall be thereafter set aside.

(6) A court of competent jurisdiction enters an order, judgment or decree approving a petition filed against Tenant under any bankruptcy, insolvency, reorganization, dissolution or liquidation law or statute of the federal or state government and such order, judgment or decree (i) shall not be vacated, set aside or stayed within thirty (30) business days after the date of entry of such order, judgment, or decree, or a stay thereof shall be thereafter set aside.

B. Landlord's Remedies. Upon any Event of Default, Landlord shall have the following remedies, in addition to all other rights and remedies provided by law, to which Landlord may resort cumulatively, or in the alternative:

(1) Termination. The right to terminate this Lease at Landlord's option by giving Tenant written notice of termination in which event Tenant shall immediately surrender possession of the Property in accordance with Section 29 and Landlord may re-enter and take possession of the Property and all the remaining Tenant Improvements or property and eject Tenant or any of Tenant's subtenants, assignees or other person or persons claiming any right under or through Tenant or eject some and not others or eject none. This Lease may also be terminated by a judgment specifically providing for termination. Any termination under this subsection shall not release Tenant from the payment of any sum then due Landlord or from any claim for damages or rent previously accrued or then accruing against Tenant. In no event shall any one or more of the following actions by Landlord constitute a termination of this Lease:

a) maintenance and preservation of the Property;

b) efforts to relet the Property;

c) appointment of a receiver in order to protect Landlord's interest hereunder;

d) consent to any subletting of the Property or assignment of this Lease by Tenant, whether pursuant to provisions hereof concerning subletting and assignment or otherwise; or,

e) any other action by Landlord or Landlord's agents intended to mitigate the adverse effects from any breach of this Lease by Tenant.

(2) Recovery of Rent. In the Event of a Default in the payment of money Landlord shall be entitled to keep this Lease in full force and effect (whether or not Tenant shall have abandoned the Property) for the full length of the Lease and to enforce all of its rights and remedies under this Lease, including the right to recover rent and other sums as they become due, plus interest at Bank of America's reference rate plus three (3) percent per annum from the due date of each installment of rent or other sum until paid.

(3) Damages. In the event this Lease is terminated as a result of an Event of Default, Landlord shall be entitled to damages in the following sums:

a) the worth at the time of award of the unpaid rent which has been earned at the time of termination; plus,

b) 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 Tenant proves could have been reasonably avoided; plus,

c) 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 Tenant proves could be reasonably avoided; and,

d) any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform Tenant's obligation under this Lease, or which in the ordinary course of things would be likely to result there from including, without limitation, the following: (i) expenses for cleaning, repairing or restoring the Property; (ii) real estate broker's fees, reasonable advertising costs and other expenses of reletting the Property; (iii) costs of carrying the Property and insurance premiums thereon, utilities and security precautions; (iv) expenses in retaking possession of the Property; (v) reasonable attorneys' fees and court costs; and, (vi) any unamortized real estate brokerage commission paid in connection with this Lease;

e) the "worth at the time of award" of the amounts referred to in subsections (a) and (b) above, is computed by allowing interest at Bank of America's reference rate plus three (3) percent per annum. The "worth at the time of award" of the amounts referred to in subsection (c) above is computed by discounting such amount at the discount rate of the Federal Reserve Board of San Francisco at the time of award plus one percent (1%). The term "rent" as used in this Section shall include all sums required to be paid by Tenant to Landlord pursuant to the terms of this Lease.

15. DISPUTE RESOLUTION

The parties hereto expressly agree that, with regard to any unresolved dispute arising hereunder or having to do with the performance of either party hereto, including any and all alleged events of default (whether or not defined herein), such dispute shall be resolved as follows:

(a) Written notice of the dispute shall be given by the party claiming to be harmed by such dispute to the party alleged to be at fault.

(b) Both parties, either personally or through representatives, shall then attempt to agree upon a professional mediator to be retained to conduct a mediation conference. If the parties cannot agree on the retention of a specific mediator within 30 days of the receipt of written notice of the dispute, then the Parties shall request the Superior Court of the County of San Mateo to appoint a mediator with experience in real estate.

(c) In the event that a settlement is not effected through the mediation process within 90 days after the appointment of, or agreement to, a mediator then either party can initiate a judicial action in the Superior Court of San Mateo County:

(d) The dispute resolution process, or processes, established herein, shall, unless the Parties agree otherwise, shall take place in San Mateo County, California.

(e) This Section shall not prohibit the Parties from filing a judicial action to enable the recording of a notice of pending action for order of attachment, receivership, injunction, or other provisional remedy.

16. MECHANICS LIEN

Tenant shall: (i) pay for all labor and services performed for, materials used by or furnished to Tenant of any contractor employed by Tenant with respect to the Property; and, (ii) indemnify, defend and hold Landlord and the Property harmless and free from the perfection of any liens, claims, demands, encumbrances or judgments created or suffered by reason of any labor or services performed for, materials, used by or furnished to Tenant or any contractor employed by Tenant with respect to the Property; and, (iii) give notice to Landlord in writing fifteen (15) days prior to employing any laborer or contractor to perform services related to, or receiving materials for the use upon the Property; and, (iv) permit Landlord to post a notice of nonresponsibility in accordance with the statutory requirements of California Civil Code Section 3094 or any amendment thereof. In the event Tenant is required to post an improvement bond with a public agency in connection with the above, Tenant agrees to include Landlord as an additional obligee. In the event that any mechanic's or materialman's lien is recorded against the Property, Tenant shall, within ten (10) business days after written demand by Landlord, cause such lien to be released or post a sufficient bond to cause the release of such lien in accordance with Applicable Laws.

17. INSPECTION OF PROPERTY

Tenant agrees to provide Landlord with a set of keys and access codes to be used in the event of an emergency. Landlord and its agents can enter the Property at any reasonable time for the purpose of inspecting the Property or posting a notice of nonresponsibility for alterations, additions, or repairs provided that Landlord shall not have the right to access confidential student and employee records. In addition to the right granted to Landlord under Section 11 to inspect Tenant Improvements under construction on the Property, Landlord and its authorized agents and representatives shall have the right throughout the Term of this Lease, and any extensions thereof, to enter the Property at all reasonable times for the purpose of inspecting the same or of

exhibiting the same to prospective tenants, purchasers or mortgagees, and at any time within three (3) years prior to the expiration of the Term of this Lease, for the purpose of showing the same to prospective tenants, purchasers, bidders or mortgagees and to place upon the Property, ordinary "For Lease" or "For Sale" signs, provided said signs shall not suggest the Tenant's business is for sale.

18. HOLDING OVER

Should Tenant hold over in possession after the expiration of the original Term or any extended term of this Lease, such holding over shall not be deemed to extend the Term or renew the Lease, but the tenancy thereafter shall continue upon the covenants and conditions herein set forth at 150% (one hundred fifty percent) of the monthly rental (Holding Over Rent)of the last expiring term unless a different rental amount is mutually agreed to by the Tenant and Landlord.

19. NOTICES

Any notices which either of the parties hereto is required or may desire to send or deliver to give to the other party, shall be mailed, certified mail, return receipt requested, postage prepaid, or delivered, with all charges prepaid, to such other party at the address listed below, or to such address as either party may designate to the other from time to time in writing.

Landlord: Superintendent

Las Lomitas School District

1011 Altschul Avenue

Menlo Park, CA 94025

Tenant: Head of School

Woodland School

360 La Cuesta Drive

Portola Valley, CA 94028

The date of service of any such notice mailed as aforesaid, shall be deemed to be five (5) days after the date of such mailing, and the date of service of any such notice hand delivered, as aforesaid, shall be deemed to be one (1) day after delivery thereof to the delivery service office. Landlord may provide notice via electronic mail to the Head of School of Tenant for the purposes of the notice required by Section 11 and Section 17.

20. ATTORNEYS' FEES

In the event either party shall bring any action or legal proceeding for damages for any alleged breach of any provision of this Lease, to recover rent or possession of the Property, to terminate this Lease, or to enforce, protect or establish any term or covenant of this Lease or

right or remedy of either party, each party shall be responsible for its own attorneys' fees and court costs, including attorneys' fees and costs for appeal.

21. ASSIGNMENT

The Tenant may not assign this Lease without Landlord's written consent. Notwithstanding the foregoing, Tenant without the consent of Landlord, may sublet the Property or assign this Lease (1) to a parent corporation, subsidiary corporation, or affiliate of Tenant as herein defined; (2) to any partnership, limited liability company, or joint venture, the majority or controlling interest of which is owned by Tenant or any parent, subsidiary, or affiliate corporation of Tenant, provided, however, upon request by Landlord, with respect to any such assignment, such corporation or other entity shall assume and agree in a writing delivered to Landlord to perform the covenants of Tenant contained in this Lease (collectively "Permitted Transfers"). The terms "parent," "subsidiary," or "affiliate corporation" refer to any parent, subsidiary, or affiliate corporation of the Tenant, provided such parent, subsidiary, or affiliate corporation controls or is controlled by Tenant or by persons or entities controlling or controlled by Tenant. The term "control" refers to ownership of at least a majority of the voting stock or voting rights of the corporation or entity controlled.

22. LANDLORD TRANSFERS

Tenant agrees that the Landlord may assign any interest in this Lease, as required or desired at any time. If Landlord's interest in the Property is sold or conveyed, other than pursuant to a mortgage or transfer for security purposes only, Landlord will be relieved of all obligations and liabilities accruing on the part of Landlord after the date the sale is consummated if the following conditions are satisfied at the date the sale is consummated: (1) all obligations of Landlord under the Lease must be expressly assumed in writing by Landlord's successor in interest; and (2) any funds in the hands of Landlord at the time of transfer in which Tenant has an interest must be delivered to the successor of Landlord. Tenant agrees to attorn to the purchaser or assignee, if all of Landlord's obligations under this Lease arising after the effective date of the transfer are assumed in writing by the transferee. Notwithstanding the above, no change in ownership of the Property or assignment of this Lease by Landlord or of the rental provided for herein shall be binding upon Tenant for any purpose whatever until, Tenant has been furnished with written notice thereof by Landlord.

23. SUCCESSORS

This Lease contains all of the covenants, agreements, representations and provisions thereof and shall inure to the benefit of and be binding upon the respective heirs, legal representatives, executors, administrators, successors and assigns of the parties hereto, except as otherwise set forth in this Lease.

24. SURRENDER OF LEASE NOT MERGER

The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not work a merger and shall, at the option of Landlord, terminate all or any existing subleases or subtenants, or operate as an assignment to Landlord of any or all such subleases or subtenants.

25. WAIVER

The waiver of Landlord or Tenant of any breach of any term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained.

26. GENERAL

A. The captions and section headings used in this Lease are for the purposes of convenience only. They shall not be construed to limit or extend the meaning of any part of this Lease.

B. Time is of the essence for the performance of each term, covenant and condition of this Lease.

C. In case any one or more of the provisions contained herein, except for the payment of rent, shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Lease, but this Lease shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein. This Lease shall be construed and enforced in accordance with the laws of the State of California.

D. If Tenant is more than one person or entity, each such person or entity shall be jointly and severally liable for the obligations of Tenant hereunder.

27. SIGNS

Subject to Tenant receiving all required government permits and approvals and complying with all Applicable Laws, Tenant shall at Tenant's cost have the right and entitlement to place Tenant's signs on the exterior walls of the Buildings as well as other interior and exterior signage as Tenant may desire on the Property, and otherwise to advertise its services, provided Tenant obtains the approval and consent of Landlord, such approval and consent not to be unreasonably withheld. In connection with the placement of such signs, Landlord agrees to cooperate with Tenant in obtaining any governmental permits which may be necessary. Throughout the Term of this Lease Tenant shall, at its sole cost and expense, maintain the signage and all appurtenances in good condition and repair. At the termination of this Lease, Tenant shall remove any sign which it has placed on the Buildings, Tenant Improvements or Property, and shall repair any damage caused by the installation or removal of such sign.

28. INTEREST ON PAST DUE OBLIGATIONS

Except as otherwise provided herein, any amount due to Landlord not paid when due shall bear interest at the Bank of America reference rate plus three percent (3%) per annum commencing thirty (30) days after the due date, but not to exceed the maximum rate permitted by law. Payment of such interest shall be in addition to any late charges owing pursuant to Section 3C and shall not excuse or cure any default by Tenant under this Lease.

29. SURRENDER OF THE PROPERTY

On the Termination Date, Tenant shall surrender to Landlord the Property and any then existing Tenant Improvements not otherwise required by Landlord to be removed in accordance with Section 11C, in good order, condition and repair, reasonable wear and tear, casualty and condemnation excepted, free and clear of all liens, claims and encumbrances not in existence as of the Commencement Date. Said condition shall be similar to that existing as of the Commencement Date excepting normal ordinary wear and tear and damage by casualty or condemnation. This Lease shall operate as a conveyance and assignment thereof. Tenant shall remove from the Property all of Tenant's Personalty and any Tenant Improvements made by Tenant which Tenant and Landlord previously agreed, pursuant to Section 11C, would be removed by Tenant. All property not so removed shall be deemed abandoned by Tenant. If the Property is not so surrendered at the termination of this Lease, Tenant shall indemnify Landlord against loss or liability resulting from delay by Tenant in so surrendering the Property including without limitation, any claims made by any succeeding Tenant or losses to Landlord due to lost opportunities to Lease to succeeding Tenants.

30. LANDLORD'S COVENANTS

The Landlord covenants, warrants and represents that it has full right and power to execute and perform this Lease and to grant the estate demised herein and covenants that Tenant on paying rent as herein provided and performing the covenants hereof shall peaceably and quietly have, hold and enjoy the demised Property and all right, easements, appurtenances and privileges belonging or in any way appertaining thereto, during the Term of this Lease and any extension or renewal thereof. Landlord further covenants, warrants and represents that (i) Landlord has a fee simple estate in the Property, subject to the interest held by the State of California; (ii) each individual executing this Lease is duly authorized to execute and deliver this Lease on behalf of Landlord and bind Landlord to the terms of this Lease; (iii) this Lease is binding on Landlord in accordance with its terms; and (iv) Landlord has no actual knowledge of (a) enacted, pending or proposed condemnation proceedings or other governmental action with respect to the Property or (b) pending or threatened litigation concerning the Property. Landlord further covenants, warrants and represents that no additional liens, conditions, covenants, restrictions, rights of way, regulations or other title exceptions other than those that appear and are specified in **Exhibit E** hereto ("**Permitted Exceptions**") shall be recorded against the Property by Landlord prior to the Commencement Date absent the consent of Tenant not to be unreasonably withheld.

31. HAZARDOUS SUBSTANCES

Landlord and Tenant agree as follows with respect to the existence or use of Hazardous Materials on the Property including any Tenant Improvements made by Tenant.

A. Definition. As used herein, the term "**Hazardous Materials**" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California or the United States Government and includes, without limitation, petroleum products, asbestos, PCB's, and any material or substance which is

(i) listed under Article 9 or defined as hazardous or extremely hazardous pursuant to Article 1 of Title 22 of the California Administrative Code, Division 4, Chapter 20, (ii) defined as a "hazardous waste" pursuant to Section (14) of the federal Resource Conservation and Recovery Act, 42 U.S.C. 6901 et. seq. (42 U.S.C. 6903), or (iii) defined as a "hazardous substance" pursuant to Section 10 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et. seq. (42 U.S.C. 9601). As used herein, the term "**Hazardous Materials Laws**" shall mean any statute, law, ordinance, or regulation of any governmental body or agency (including the U.S. Environmental Protection Agency, the California Regional Water Quality Control Board, and the California Department of Health Services) which regulates the use, storage, release or disposal of any Hazardous Material. Landlord has no actual knowledge of Hazardous Materials located in, on or under the Property, except as referenced in Section 31.

B. Hazardous Materials; Compliance with Laws. Tenant acknowledges that with respect to environmental matters, Tenant is accepting the Property on an "as is" basis, and with respect to such matters Tenant agrees that Tenant has concluded that the Property is satisfactory for Tenant's use. Tenant has been afforded the opportunity under previous lease agreements and under the Option to Lease Agreement to access the Property for the purpose of conducting tests, engineering studies, to satisfy itself of the condition of the Property with respect to Hazardous Materials. Tenant shall not cause or permit any Hazardous Material to be generated, brought onto, used, stored, or disposed of in or about the Property and any Tenant Improvements by Tenant or Tenant's Agents, employees, contractors, subtenants, or invitees, except for common household or office substances such as adhesives, lubricants, and cleaning fluids and other common science classroom substances in order to conduct their business on the Property and any Tenant Improvements, provided such chemicals are properly disposed of in accordance Hazardous Materials Laws. It shall be the duty of Tenant to insure that the Property and any Tenant Improvements are at all times in strict compliance with all Hazardous Materials Laws and that all activities conducted in or about the Property and Tenant Improvements comply in every respect with all applicable Hazardous Materials Laws including, but not limited to, all notification, record keeping, and maintenance requirements of such Laws. During the Term of the Lease, any handling, transportation, storage, treatment, disposal or use of Hazardous Materials in or about the Property and any Tenant Improvements by any person or entity, other than Landlord or any party under Landlord's control, shall be the responsibility of Tenant during the Term and shall strictly comply with all applicable Hazardous Materials Laws and the provisions of this Lease.

C. Remediation. If the presence of Hazardous Materials on the Property and any Tenant Improvements results in contamination or deterioration of water or soil resulting in a level of contamination greater than the levels established as acceptable by any governmental agency having jurisdiction over such contamination, then Tenant shall, at its sole cost and expense, promptly take any and all action necessary to investigate and remediate such contamination if required by Applicable Laws or as a condition to the issuance or continuing effectiveness of any governmental approval which relates to the use of the Property and any Tenant Improvements or any part thereof. Notwithstanding the foregoing Tenant shall not be responsible for remediating any Hazardous Materials that were carried onto the Property or otherwise disposed of on or under the Property by any party other than Tenant, Tenant's Agents or a party under Tenant's control. In the event any Hazardous Materials are placed in, on or under the Property by Landlord or any party under Landlord's control, Landlord will be solely

responsible for remediating said Hazardous Materials in accordance with Hazardous Materials Laws.

D. Cooperation. Tenant's obligation to investigate or remediate any Hazardous Materials on or under the Property shall be conditioned on Landlord reasonably cooperating with Tenant to allow such to occur, including without limitation, Landlord's executing any documents, applications, or instruments that need to be signed by the owner of the Property to allow Tenant to so remediate, and allowing Tenant to file suit, including, if necessary, in Landlord's name, to recover such remediation and/or clean up costs from the party or parties responsible for any such contamination. Landlord hereby assigns to Tenant any and all causes of actions, claims, and/or rights to recover damages which may arise as a result of the existence of any Hazardous Materials on or under the Property for which Tenant is required to remediate hereunder, except to the extent that the same was caused by Tenant, Tenant's Agents or any party under Tenant's control.

E. Indemnification. Tenant shall indemnify, defend upon demand with counsel reasonably acceptable to Landlord, and hold harmless Landlord from and against any liabilities, losses, claims, damages, lost profits, consequential damages, interest, penalties, fines, monetary sanctions, reasonable attorneys' fees, experts fees, court costs, remediation costs, investigation costs, and other expenses which result from or arise in any manner whatsoever out of Tenant's use, storage, treatment, remediation, transportation, release, or disposal of Hazardous Materials carried onto the Property by Tenant, Tenant's Agents or parties under Tenant's control.

F. Notice. Landlord and Tenant shall each give written notice to the other as soon as reasonably practicable of (i) any communication received from any governmental authority concerning Hazardous Materials which relates to the Property and any Tenant Improvements, and (ii) any contamination of the Property and any Tenant Improvements by Hazardous Materials which constitutes a violation of any Hazardous Materials Law. Tenant and subtenants may use of common household chemicals such as adhesives, lubricants, and cleaning fluids and other common science classroom chemicals in order to conduct their business on the Property and any Tenant Improvements, provided such chemicals are properly disposed of in accordance Hazardous Materials Laws. Tenant and subtenants may also use other Hazardous Materials as are necessary for the operation of their respective business of which Landlord receives prior notice and to which Landlord consents in writing may be brought onto the Property and any Tenant Improvements. As a condition to its consent, Landlord may require from Tenant or any subtenant additional security and/or indemnification against potential claims or losses resulting from the presence or use of such Hazardous Materials at or on the Property and any Tenant Improvements. At any time during the Term, Tenant shall, within thirty (30) days after written request therefore received from Landlord, disclose in writing all Hazardous Materials that are being used by Tenant or subtenants on the Property and any Tenant Improvements, the nature of such use, and the manner of storage and disposal.

G. Monitoring Wells. In the event that a governmental agency or Landlord has reason to believe that Hazardous Materials may be present on the Property and any Tenant Improvements, Landlord may require that, at Tenant's expense, testing wells be installed on the Property and any Tenant Improvements, at locations determined by Landlord and Tenant, and may cause the ground water to be tested to detect the presence of Hazardous Materials by the use

of such tests as are then customarily used for such purposes. Tenant shall comply promptly with any such request.

H. Survival. The obligations of Tenant under this Section shall survive the expiration or earlier termination of this Lease. The rights and obligations of Landlord and Tenant with respect to issues relating to Hazardous Materials are exclusively established by this Section. In the event of any inconsistency between any part of this Lease and this Section, the terms of this Section shall control.

32. CODE COMPLIANCE

During the Term of this Lease, Tenant, at its sole cost and expense, shall promptly comply with all Applicable Laws. In the event the County, or any other public agency with jurisdiction over the health and safety of the Property, requires testing of the Property, the Tenant shall reasonably cooperate to permit such testing to take place.

33. ASBESTOS AND LEAD PAINT

Landlord represents that the Ladera School facility contains both asbestos and lead paint substances. Tenant acknowledges receipt of the asbestos report dated May 14, 2010 and June 22, 2011 for the Ladera School site. Landlord shall not be responsible for future mitigation, if any, as required by Applicable Laws regarding requirements relating to asbestos and/or lead paint in the Buildings.

34. SUBLEASING

A. Provided Tenant is not then in default under this Lease, Tenant shall have the right, at any time during the Term, with the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed, to sublet all or any portion of the Property, provided that: (a) each such sublease shall be subject to each and all of the covenants, conditions, restrictions and provisions of this Lease, including the early termination clauses (b) Landlord shall have no obligation to accept the attornment of any subtenant except upon termination of this Lease, (c) without Landlord's approval, Tenant shall not accept more than one month's rent from any subtenant, (d) no sublease shall extend beyond the Term of this Lease without Landlord's express consent thereto which may be withheld in Landlord's sole and absolute discretion, (e) a full, true, and complete copy of every sublease and of all amendments or modifications thereto shall be delivered to Landlord not later than ten (10) days after the execution thereof by the parties thereto, and (f) Landlord shall be entitled to participate in Sublet Revenues as provided herein below, as appropriate.

B. Regardless of Landlord's consent, no subletting shall release Tenant of Tenant's obligation or alter the primary liability of Tenant to pay the Rent and to perform all other obligations to be performed by Tenant under the Lease. The acceptance of any rent by Landlord from any person or entity other than Tenant shall not be deemed to be a waiver by Landlord of any provision hereof. Consent to one sublease shall not be deemed consent to any subsequent assignment or sublease. In the event of default by any subtenant of Tenant or any subtenant of

any successor of Tenant, in the performance of any of the terms hereof, Landlord may proceed directly against Tenant without the necessity of exhausting remedies against said subtenant.

C. Landlord's Participation of Sublet Revenues. Tenant shall pay to Landlord an amount ("**Sublet Rent**") equal to fifty percent of all Sublet Revenue, as hereinafter defined, in excess of the Sublet Revenue Base, as hereinafter defined, for each sublet space on the Property. Sublet Rent shall be computed and paid as follows:

(1) As used herein, the term "**Sublet Revenue**" means the gross amount of any rent and/or other consideration paid or payable to Tenant for or in connection with the subletting or other use or occupancy of the Property or any part thereof or interest therein. The term "Sublet Revenues" shall be constructed in its broadest sense to include the gross amount of all things of value given, directly or indirectly, by any person or entity for or in connection with the right of using or occupying the Property or any part thereof or interest therein, and if any charge shall not be assessed or collected at a rate which is less than the then fair market value therefore, the property amount shall nonetheless be included in Sublet Revenue. Sublet Revenue shall not include, however, the gross amount of (i) Taxes and Assessments payable by Tenant pursuant to this Lease which is collected from or paid on Tenant's behalf by another, (ii) insurance proceeds (other than insurance paid for or in connection with lost rents) paid as a result of damage to or destruction of the Tenant Improvements on the Property or as a result of personal injury, (iii) condemnation awards except to the extent that such are paid for or in connection with lost rents, (iv) maintenance expenses, exclusive of mark-ups, which are paid by Tenant to unrelated third party vendors and collected from subtenants, or (v) fees collected for the temporary or occasional use of the Property by organizations providing after school, community, athletic or other school-related activities and services.

(2) The "**Sublet Revenue Base**" shall be calculated by dividing the Annual Rent by 12 months and then dividing that quotient by 28,300 square feet and multiplying that quotient by the total square feet of the sublet space. Fifty percent (50%) of all Sublet Revenue in excess of the Sublet Revenue Base for each sublet space on the Property shall be paid to Landlord as Sublet Rent. Increases in Sublet Revenue received by Tenant shall cause a recalculation of the amount due Landlord, it being the intent of Landlord and Tenant that Landlord shall share in all Sublet Revenue increases over the initial Sublet Revenue payable with respect to each individual sublet space.

(3) As used therein the term "**Lease Year**" means year beginning August 1 and ending July 31.

(4) Sublet Rent due with respect to each sublet space within the Property shall be paid by Tenant to Landlord monthly in arrears beginning on the first (1st) day of the second full calendar month of the Sublet Term. Sublet Rent will be due to Landlord on the first day of the second full calendar month after sublet revenue increases are calculated and levied upon subtenants by Tenant and shall be paid in lawful money of the United States of America, without demand, notice, deduction, offset or abatement, at the address of Landlord stated in Section 17 of this Lease.

(5) Tenant shall keep full, complete and proper books and records with respect to Sublet Revenue, which books and records shall be retained by Tenant for at least seven (7) years after the close of the applicable Lease Year.

(6) For each Lease Year in which subtenants occupy the Property hereinafter referred to as "sublet lease year", Tenant shall furnish a written statement, executed by Tenant's financial officer or accountant, directed to Landlord and certifying that the calculation and payment of the Sublet Rent for such lease year have been made in accordance with the terms of this Lease and that, to the best of his or her knowledge, which shall be based on a detailed review of Tenant's records, all Sublet Revenues have been properly reported and considered. Such statement shall also contain a summary for each subtenant of the Sublet Revenue by month as shown in Tenant's books and records. The statement shall be submitted to Landlord not later than ninety (90) days after the end of each sublet lease year.

(7) Landlord shall have the right, not more than once each Lease Year, to conduct an audit of the books and records of Tenant, provided that such audit shall exclude access to confidential student and employee records. If any such audit discloses that the Sublet Revenues reported to Landlord for any Lease Year are less than the actual Sublet Revenue for such Lease Year, Tenant shall pay to Landlord, on demand, (i) the additional Sublet Rent due, (ii) all of the Landlord's actual costs (including, without limitation, the prorated salary of Landlord's inspector, fringe benefits and an overhead allocation) incurred by Landlord in inspecting such book and records; and (iii) interest on the additional Sublet Rent at the Bank of America reference rate plus three percent (3%) per annum from the due date of each installment of Sublet Rent until paid.

35. NO SUBORDINATION; ATTORNMENT

A. No provision of this Lease shall be construed as an agreement by Landlord to subordinate its fee interest in the Property to any leasehold mortgage or other lien or right. No leasehold mortgage shall impair Landlord from enforcing its rights and remedies herein or by law. Tenant agrees that Landlord's fee interest in the Land shall at all times be and remain unsubordinated to any leasehold mortgage which may be imposed upon Tenant's leasehold interest hereunder or upon Tenant Improvements, and that nothing contained in this Lease shall be construed as an agreement by Landlord to subject its fee interest in the Land or its buildings to any such lien.

B. Landlord agrees at any time and from time to time upon not less than fifteen (15) business days' prior notice by Tenant to execute, acknowledge and deliver to Tenant or such to such other person designated by Tenant, as the case may be, a statement or estoppel certificate in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications or supplemental or contemporaneous agreements that the same is in full force and effect, as modified and stating the modifications and supplemental and contemporaneous agreements) and the dates to which the Rent payable by Tenant hereunder has been paid, and stating (a) whether or not to the best knowledge of the signer of such certificate Tenant is in default in the performance of any covenant, agreement or condition contained in this Lease, and, if so, specifying each such default of which the signer may have knowledge and (b) any other

reasonable requests of Tenant. Tenant shall pay all of Landlord's out of pocket costs, including attorney's fees, in connection with the preparation of such statement or estoppel certificate.

C. In the event that Tenant mortgages its leasehold estate and Tenant or the mortgagee or the holders of indebtedness secured by the leasehold mortgage notifies Landlord of the execution of such mortgage or deed of trust and names the place for service of notice upon such mortgagee or holder of indebtedness, Landlord agrees for the benefit of such mortgagees or holders of indebtedness from time to time:

(1) That such mortgagee or holder of indebtedness shall have the privilege of performing any of Tenant's covenants under this Lease, of curing any default of Tenant or of exercising any election, option or privilege conferred upon Tenant by the terms of this Lease.

(2) That no liability for the payment of rental or the performance of any of Tenant's covenants and agreements shall attach to or be imposed upon any mortgagee, trustee under any trust deed or holder of any indebtedness secured by any mortgage or trust deed upon the leasehold estate, unless such mortgagee, trustee or holder of indebtedness forecloses its interest and becomes the Tenant under this Lease.

D. Landlord agrees to review and discuss with Tenant and any prospective leasehold mortgagee, any amendment to this Lease, or any supplemental agreement or written acknowledgment, reasonably requested by any proposed leasehold mortgagee, for the purposes of (i) including mortgagee protection provisions to comply with prevailing standards, (ii) otherwise providing such prospective leasehold mortgagee with additional reasonable means of protecting and preserving the existence of this Lease and the lien of the leasehold mortgage as an encumbrance on the Tenant's leasehold estate, so long as Landlord continues to be paid Rent owing under this Lease, and (iii) acknowledging that such prospective leasehold mortgagee is recognized by Landlord as a leasehold mortgagee under this Lease and entitled to all of the rights and privileges afforded to leasehold mortgagees under this Lease; provided, however, that no such amendment, agreement or acknowledgment shall contain provisions that would adversely change the Term or Rent under the Lease or materially adversely change the obligations of Landlord or Tenant under this Lease. Tenant agrees to reimburse Landlord for reasonable attorney and consultant fees incurred by Landlord in connection with Tenant obtaining a leasehold mortgage.

36. GOVERNING LAW; VENUE

Any dispute arising out of or related to this Lease shall be governed by the laws of the State of California. Any court actions arising out of this Lease shall be venued in the Superior Court of the County.

37. ENTIRE AGREEMENT

This Lease constitutes the entire understanding between the parties hereto and no addition to, or modification of, any term or provision of this Lease shall be effective until set forth in writing signed by both Landlord and Tenant.

38. MEMORANDUM OF LEASE

For the purpose of giving notice of Tenant's rights to others dealing with any of the real property referred to in this Lease, Landlord will execute, acknowledge, deliver to Tenant in the form attached hereto as **Exhibit D** (or other form reasonably satisfactory to Tenant and Landlord) a "short form" or "memorandum" of this Lease, which shall set forth the provisions of this Lease restricting the use of said real property as well as any other provisions of this Lease requested by Tenant. Landlord shall pay for any transfer taxes resulting from said recordation and Tenant shall pay for all recording fees associated therewith.

39. UNAVOIDABLE DELAY.

If either party shall be prevented or delayed from punctually performing any obligations or satisfying any condition under this Lease by any strike, lockout, labor dispute, unavailability of services (including without limitation from any applicable public utility provider), labor or materials, acts of God, unusually inclement weather, unusual governmental restriction, regulation or control, enemy or hostile governmental action, civil commotion, insurrection, sabotage, fire or other casualty, or any condition caused by the other party (except as otherwise permitted hereunder) ("**Unavoidable Delay**"), then the time to perform such obligation or to satisfy such condition shall be extended on a day-for-day basis for the period of the delay caused by such event; provided, however, that the party claiming the benefit of this Section 40 shall, as a condition thereto, give notice to the other party in writing within ten (10) days of the incident specifying with particularity the nature thereof, the reason therefor, the date and time such incident occurred and a reasonable estimate of the period that such incident will delay the fulfillment of obligations contained herein. Failure to give such notice within the specified time shall render such delay invalid in extending the time for performing the obligations hereunder, but only to the extent that the other party suffers actual prejudice as a result thereof. This Section 40 and the term Unavoidable Delay as used herein shall not apply to the inability to pay any sum of money due hereunder or the failure to perform any other obligation due to the lack of money or inability to raise capital or borrow for any purpose.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease, through their respective officers or representatives, duly authorized, as of the day and year shown below.

LAS LOMITAS SCHOOL DISTRICT,

a subdivision of the State of California

By: Eric Hartwig

Name: Eric Hartwig

Title: Superintendent

Date: June 19, 2012

WOODLAND SCHOOL,

a California 501 (c) 3 corporation

By: John P. Ora

Name: John P. Ora

Title: Head of School

Date: 6/20/12

Approved as to Form:

Legal Counsel to Landlord

EXHIBIT A-1

LEGAL DESCRIPTION OF 360 LA CUESTA DRIVE, PORTOLA VALLEY, CA, COUNTY OF SAN MATEO, CALIFORNIA

ORDER NO. : 0377009763-KG

EXHIBIT A

The land referred to is situated in the unincorporated area of the County of San Mateo, State of California, and is described as follows:

Beginning at the most Easterly corner of Lot 169 as said lot is depicted upon that certain map entitled "Tract No. 631 Ladera, Unit No. 2", a copy of which map was filed in the Office of the Recorder of San Mateo County on September 8, 1950 in Book 32 of Maps at Pages 14 and 15; thence running from said point of beginning along the Northeasterly line of said Tract No. 631, North 70° 09' 11" West 233.78 feet and North 57° 48' 50" West 334.12 feet to the most Northerly corner of Lot 164; thence leaving said line and running North 23° 36' 50" West 280.02 feet to the Southeasterly line of the lands of Leland Stanford Junior University; thence running along the last mentioned line North 65° 41' 30" East 663.45 feet to a point distant 166.55 feet Southwesterly along said line from the most Westerly corner of Tract No. 604 Ladera Unit No. 1; thence leaving said line and running South 28° 071 10" East 508.28 feet along a line parallel with and distant 166 feet Southwesterly from the Southwesterly line of said Tract No. 604; thence on the arc of a curve to the right tangent to the preceding course having a radius of 222 feet, a central angle of 67° 07' 10" through an arc distance of 380.63 feet; thence South 39° 00' West 135.18 feet; thence on the arc of a curve to the left tangent to the preceding course having a radius of 228 feet, a central angle of 4° 10' through an arc length of 16.58 feet; thence North 78° 53' 80" West 112.17 feet to the point of beginning. Containing 9.8 acres, more or less.

APN: 077-180-020 JPN: 77-18-180-02

EXHIBIT A-2

MAP OF PROPERTY

Las Lomitas Elementary School District

PROPERTY TO BE LEASED AT LADERA SCHOOL SITI
(indicated within the dotted line shown below)

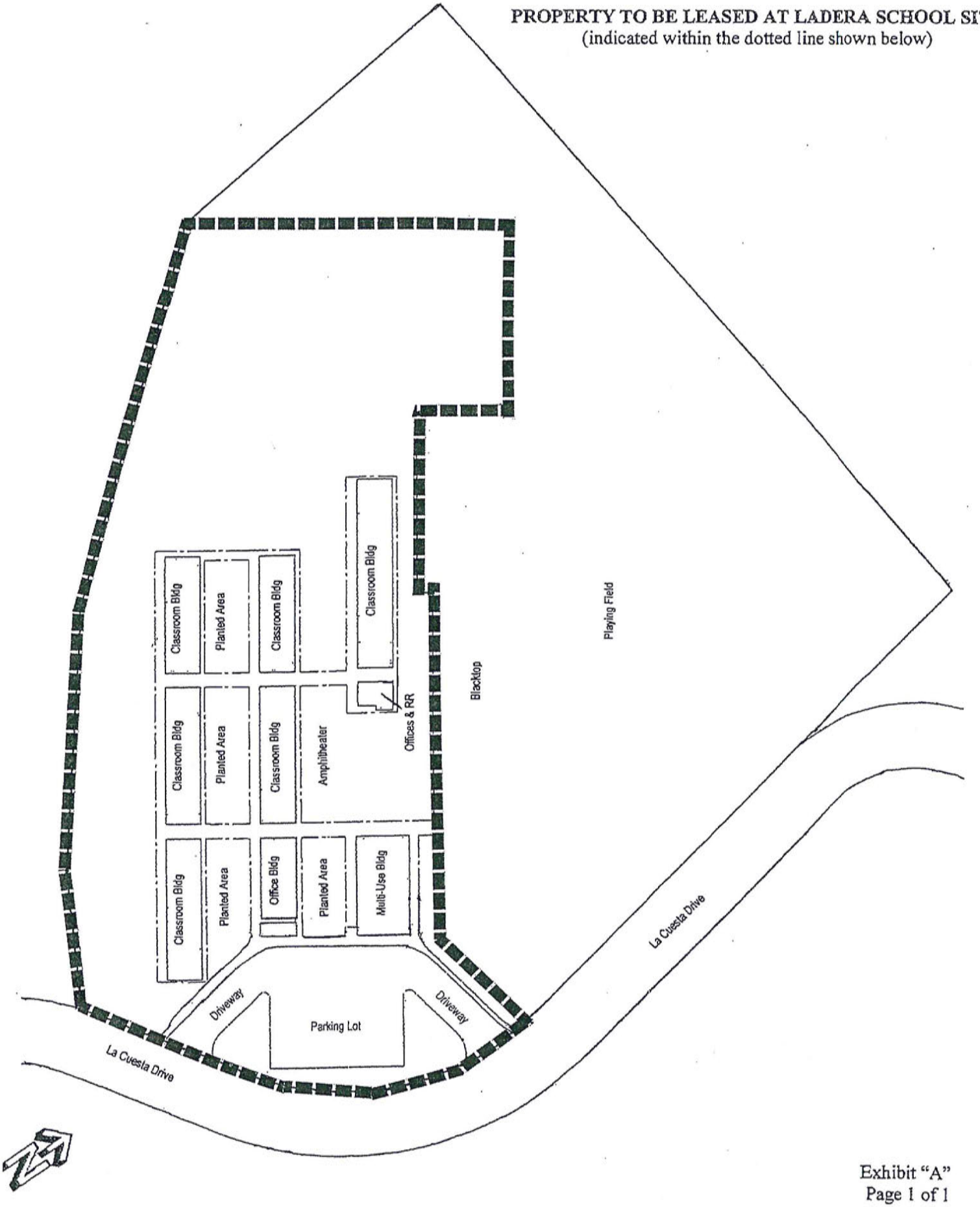


Exhibit "A"
Page 1 of 1

EXHIBIT B

OPTION TO LEASE AGREEMENT

EXHIBIT E

LAS LOMITAS ELEMENTARY SCHOOL DISTRICT

FIRST AMENDMENT TO LEASE AGREEMENT

Ladera School

360 La Cuesta Drive

Portola Valley, California

FIRST AMENDMENT

THIS FIRST AMENDMENT TO LEASE AGREEMENT (hereinafter referred to as "**Amendment**") is made on this 14 day of May, 2013, by and between **Las Lomitas Elementary School District**, a subdivision of the State of California, (hereinafter referred to as "**Landlord**"); and **Woodland School**, a California corporation, (hereinafter referred to as "**Tenant**").

RECITALS:

A. Landlord owns the real property located at 360 La Cuesta Drive, Portola Valley, CA, County of San Mateo, California, which is described on Exhibit A-1 to the Lease (the **"Ladera School Site").**

B. Landlord and Tenant entered into that certain Lease Agreement dated June 19, 2012 (the "**Lease**"), pursuant to which Landlord leased to Tenant a portion of the Ladera School Site as more particularly depicted on Exhibit A-2 to the Lease and as legally described in Exhibit 1 hereto and incorporated herein (the "**Property**") for the purpose of operating a preschool through eighth grade school, including day care, after school community and athletic activities.

C. Pursuant to Section 1A of the Lease, Tenant holds an irrevocable and exclusive license to use during School Hours, maintain and repair the "Blacktop" and the "Playing Fields" (collectively, the "**Play Areas**") shown outside the dashed lines on Exhibit A-2.

D. Tenant desires to make and Landlord desires to approve certain improvements to the Ladera School Site, including a new school gymnasium, new classrooms and a new administrative building on the Property (the "**Tenant Improvements**") and a drop-off lane, parking stalls and new fire truck access/ pedestrian path on the perimeter of the Playing Fields (the "**New Access and Parking**") as depicted on Tenant's proposed site plan ("**Tenant's Plans**") attached hereto as Exhibit 2.

E. Tenant is in the process of obtaining a loan to finance the Tenant Improvements and New Access and Parking, and in connection therewith, Tenant's lender requires that the Lease be amended to include additional mortgagee protections in accordance with Section 35D of the Lease.

F. Simultaneously herewith, Landlord and Tenant have entered into (i) that certain Ladera Site Use Permit to facilitate Tenant's construction of the Tenant Improvements and New Access and Parking and permit installation of temporary portable classrooms on the Blacktop during such construction; and (ii) that certain Access and Parking Easement and Agreement granting Tenant the right to use, maintain and repair the New Access and Parking.

G. Landlord and Tenant mutually agree to amend the Lease on the terms and conditions set forth in this Amendment to: (i) shift and clarify the maintenance obligations of the Play Areas and require certain changes to the District's regulations, application and agreement governing public use of the Play Areas; (ii) memorialize Landlord's approval of the Tenant Improvements and the New Access and Parking; and (iii) include additional mortgage protections in accordance with Section 35D of the Lease.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties agree as follows (capitalized terms used and not otherwise defined herein shall have the meanings given in the Lease):

1. **Maintenance Obligations**. Section 10.D of the Lease ("Maintenance, Repairs, Property Leased "As-Is") is hereby replace and superseded with the following:

D. Except as otherwise set forth in this Section, Tenant, at its cost, shall maintain the Play Areas in a good condition consistent with the condition of the Play Areas at the time of the Effective Date. Landlord shall have no maintenance or repair obligations with respect to the Play Areas except that the District shall be obligated to repair any damage caused by User Groups that directly contract with Landlord for use of the Play Areas. Furthermore, Landlord shall revise its form Facility Use Agreement and Application for Use of School District Facilities with respect to Las Lomitas to (i) require User Groups to indemnify and hold harmless Tenant with respect any loss, damage liability, cost or expense that may arise out of or be caused in anyway by such use or occupancy of the Play Areas and (ii) to name Tenant as additional insured on any policy User Groups are required to furnish to the District pursuant to Administrative Regulation 1330 ("AR 1330"). Further, Landlord shall revise AR 1330 to include language authorizing the District (i) to ban User Groups from future use of the Play Areas should User Groups fail to comply with the rules set forth in AR 1330; (ii) to ban User Groups from future use of the Play Areas at the request of Tenant accompanied by documentation that such User Groups violated the rules set forth in AR 1330. Tenant hereby expressly waives the provisions of Subsection 1 of Section 1932 and Sections 1941 and 1942 of the Civil Code of California and all rights to make repairs at the expense of Landlord as provided in Section 1942 of said Civil Code.

2. **Landlord Approval of Tenant Plans**. Pursuant to Section 11C of the Lease, Landlord hereby approves Tenant's Plans for construction of the Tenant Improvements on the Property and construction of the New Access and Parking on the Play Areas, as depicted on Exhibit 2.

A. Upon completion, the Tenant Improvements shall become part of the Property pursuant to Section 11D(4) of the Lease and shall be subject to the Lease provisions applicable to the Property. All insurance policies covering the Property set forth in Section 8 of the Lease shall be updated to reflect coverage of the Tenant Improvements.

B. Upon completion, the New Access and Parking shall become part of the Play Areas as defined in Section 1A of the Lease and subject to the Lease provisions applicable to the Play Areas except as otherwise set forth in this Amendment and in the Grant Access and Parking Easement and Agreement.

3. **Additional Mortgagee Provisions**. Section 35.5 is added to the Lease as follows:

35.5 Deed Of Trust On Tenant's Interest

A. Tenant's Right To Leasehold Deed Of Trust. Landlord consents and agrees to Tenant's assignment and deed of trust and pledge of the Lease in accordance with a leasehold deed of trust (the "Deed of Trust") executed by Tenant for the benefit of a lender of the loan (the "Lender" or "Beneficiary") or other evidence of indebtedness

relating to a loan agreement among Tenant and any other party or assignee thereto, and any refunding of such loan or evidence of indebtedness (collectively the "Loan").

B. Notice to Lender. All notices required by this Lease to be sent to the Beneficiary shall be sent to addresses that Tenant shall identify to Landlord in writing at the time of funding of the Loan.

C. Assignment Not Breach. The execution of the Deed of Trust and any entry or foreclosure and sale by the Beneficiary will not constitute a breach of any provision in the Lease, including the covenant against assignment (Section 21). A lessee of the leasehold estate through foreclosure or deed in lieu thereof or through bankruptcy, sale, or other process related to enforcement of the Deed of Trust and any person or entity acquiring such leasehold estate directly or indirectly through such lessee, has the right to freely sell, sublet, and assign the leasehold, subject to the approval of Landlord by its Board of Trustees, which approval shall not be unreasonably withheld and as long as the lessee or assignee agrees in writing to comply with all Lease terms and the provisions of this Section 35.5 are satisfied.

D. Mortgagee Protection Provisions. During the term of the Loan, the provisions of this Section shall apply.

(1) Notice Of Default. Landlord, upon delivering Tenant with any notice of default under the provisions of Article 12 of this Lease, shall also send a copy of such notice to Beneficiary, at the address provided for in Section 35.5(B).

(2) Remedy Of Payment Defaults By Beneficiary. In the event Tenant is in default in the payment of any Monthly Rent or other money owed to Landlord under this Lease, the Beneficiary shall have the right, but not the obligation, to remedy such default within thirty calendar (30) days after the period in which Tenant has the right to cure, and Landlord agrees to accept such performance as if the same had been made by Tenant. To take advantage of such cure right, the Beneficiary must notify Landlord, in writing, before the end of the period in which Tenant has the right to cure, of its intent to remedy the default.

(3) Stay Of Default. For the purposes of this Section, no Event of Default shall be deemed to exist under the Lease with respect to the performance of work required to be performed, or of acts to be done (excluding payment of Monthly Rent and other amounts which is governed by (D)(2) above), or of conditions to be remedied, if the Beneficiary commences, in good faith, within the time this Lease requires Tenant to act, to perform the work or do the act or remedy the condition, and continues to prosecute the work to completion with diligence and continuity, subject to the time limitations set forth in Section 14 of the Lease.

(4) Defaults Other Than Payment Defaults. Anything in this Lease to the contrary notwithstanding, upon the occurrence of an Event of Default other than an Event of Default due to a default in the payment of money as provided in paragraph (D)(2) above, Landlord shall take no action to effect a termination of the Lease without first giving to Beneficiary written notice stating (a) its intent to terminate the Lease; (b) the Event of Default that has occurred; and (c) a reasonable time thereafter within which

either to obtain possession of the Property (including possession by a receiver), or to institute, prosecute, and complete foreclosure proceedings or otherwise acquire Tenant's interest under the Lease with diligence; provided, however, the following conditions are duly and timely fulfilled: (i) the Beneficiary shall, within 30 days after Tenant's failure to timely cure such default specified in the written notice of default delivered to Tenant and Beneficiary pursuant to Sections 14(A)(2) and 35.5(D)(1), give written notice to Landlord of its intention to institute foreclosure proceedings and at the time of giving such notice of intention, the Beneficiary shall pay to Landlord any and all Monthly Rent payments then due and owing; (ii) the Beneficiary, after giving notice of intention to foreclose and paying such outstanding Monthly Rent, shall commence as soon as reasonably possible a foreclosure action and shall prosecute that action through foreclosure sale in good faith and with due diligence; (iii) the Beneficiary shall timely pay any rent or other payment coming due after receiving the Landlord's written notice of intention to terminate the Lease; and (iv) the Beneficiary shall not be obligated to continue the foreclosure proceedings after the defaults giving rise to the notice of intention to terminate the Lease are cured.

(5) Assumption By Assignee. Subject to the approval of Landlord's Board of Trustees, which shall not be unreasonably withheld, a party that is the successful bidder at a foreclosure sale under the Deed of Trust shall be entitled to become the lessee of the Property and acquire any and all interest in the Lease pursuant to such foreclosure sale, provided that such party shall deliver to Landlord an assumption agreement (an "Assumption Agreement"), under which such party assumes the Lease by covenanting to observe and perform all of the terms and covenants of the Lease on Tenant's part to be kept, observed, and performed. Any party assuming the Lease may, subject to the approval of Landlord's Board of Trustees, which shall not be unreasonably withheld, assign this Lease or its interest in the Lease if the new assignee executes and delivers to Landlord an Assumption Agreement. The assigning party shall, upon the new assignee executing and delivering an Assumption Agreement, be released from any and all liabilities and obligations as lessee under the Lease that accrued after the assignment, but the assigning party shall not be released from any liability or obligations that accrued before the assignment's effective date.

(6) Right To New Lease Upon Termination Of The Lease. In the event the Lease terminates for any reason before the expiration of the Term, Landlord shall serve upon the Beneficiary written notice that the Lease has been terminated together with a statement of any and all sums that would at the time be due under the Lease but for such termination, and of all other defaults, if any, under the Lease then known to Landlord. The Beneficiary shall then have the option to enter into a new lease with Landlord upon the same terms as this Lease, including the limitation on assignment pursuant to Section 21.

(7) Notice To Beneficiary. Any notice or other communication that Landlord shall desire or is required to give to or serve upon the Beneficiary shall be in writing and shall be served by certified mail, return receipt requested, addressed to the Beneficiary at its address in Section 35.5(B) or at such other address designated by Tenant or by the Beneficiary by notice in writing given to Landlord. Landlord will

provide copies of each notice given under this Section to those parties Tenant designates in writing to Landlord.

(8) Lease Modification Or Cancellation. No agreement between Landlord and Tenant amending, modifying, canceling, or surrendering the Lease shall be effective without the prior written consent of the Beneficiary,if any, which such consent shall not be unreasonably withheld, conditioned or delayed.

(9) Landlord's Estoppel Certificate. If the Beneficiary sends written notice to Landlord requesting an estoppel certificate, then within 15 days after receiving the request, Landlord shall deliver to the Beneficiary an estoppel certificate in accordance with Section 35(B), which in addition to the statements set forth in Section 35.5(B) states that there are no set-offs or defenses to the enforcement of the Lease by Tenant.

(10) Insurance. Each and every property insurance policy the Lease requires be maintained with respect to the Buildings, regardless of whether obtained and maintained by Landlord or Tenant, shall contain a standard mortgagee clause naming the Beneficiary. The Beneficiary shall have the right to participate in any settlement and/or adjustment of loss with the insurer under any such one or more insurance policies for claims in excess of $25,000.

4. General

A. The captions and section headings used in this Amendment are for the purposes of convenience only. They shall not be construed to limit or extend the meaning of any part of this Lease.

B. All capitalized terms used herein shall have the meaning set forth in the Lease.

C. Time is of the essence for the performance of each term, covenant and condition of this Amendment.

D. In case any one or more of the provisions contained in this Amendment shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Amendment, but this Amendment shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

E. This Amendment shall be construed and enforced in accordance with the laws of the State of California.

F. If Tenant is more than one person or entity, each such person or entity shall be jointly and severally liable for the obligations of Tenant hereunder.

G. The Lease shall remain in full force and effect. In the event of any conflict between the Lease and this Amendment, this Amendment shall control.

H. This Amendment does not confer upon any person or entity other than the parties hereto any right or interest, including without limitation any right to enforce any provisions of the Lease or this Amendment

I. This Amendment may be executed in counterparts, each of which shall constitute an original and all of which taken together shall constitute one instrument.

All other terms and conditions in the Lease shall remain in full force and effect.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment, through their respective officers or representatives, duly authorized, as of the day and year shown below.

LAS LOMITAS SCHOOL DISTRICT,

a subdivision of the State of California

By: Lisa Casario

Name: LISA CESARIO

Title: Supt.

Date: May 14, 2013

WOODLAND SCHOOL,

a California 501 (c) 3 corporation

By: JPO.

Name: John Ora

Title: Head of School

Date: 5/14/13

Approved as to Form: _____

Legal Counsel to Landlord

EXHIBIT 1

[LEGAL DESCRIPTION OF PROPERTY]

Exhibit B

(Legal description of Leased Property)

Beginning at the most Easterly corner of Lot 169 as said lot is depicted upon that certain map entitled "Tract No. 631 Ladera, Unit No. 2", a copy of which map was filed in the Office of the Recorder of San Mateo County on September 8, 1950 in Book 32 of Maps at Pages 14 and 15; thence running from said point of beginning along the Northeasterly line of said Tract No. 631, North 70° 09'11" West 233.78 feet and North 57° 48'50" West 272.00 feet; thence leaving the Northeasterly line of said tract North 17°01'40" East 282.00 feet; thence South 72°57'01" East 135.00 feet; thence South 17°01'40"West 64.00 feet; thence North 72°58'20" East 116.00 feet; thence North 17°01'40" East 12.00 feet; thence South 72°58'20" East 318.25 feet; thence North 60°40'05" East 87.67 feet to a point on the westerly right of way line of La Cuesta Drive. Thence 237.25 feet along a curve of said right of way line with a radius of 222.00 feet, central angle of 61°13'50" to a point of tangency. Thence South 39°00'00" West 135.18 feet; Thence 16.58 feet along a curve of said right of way line with a radius of 228.00 feet, central angle of 04°10'00" to the intersection of the right of way line and the Northeasterly corner of Lot 171 of Tract No. 631; thence leaving said right of way line, and continuing along the Northeasterly line of said tract South 78°52'00" West 112.18 feet to the Northeasterly corner of Lot 169 and the Point of Beginning, containing approximately 4.57 +/- acres.

EXHIBIT 2

[SITE PLAN WITH BOUNDARY OVERLAY]

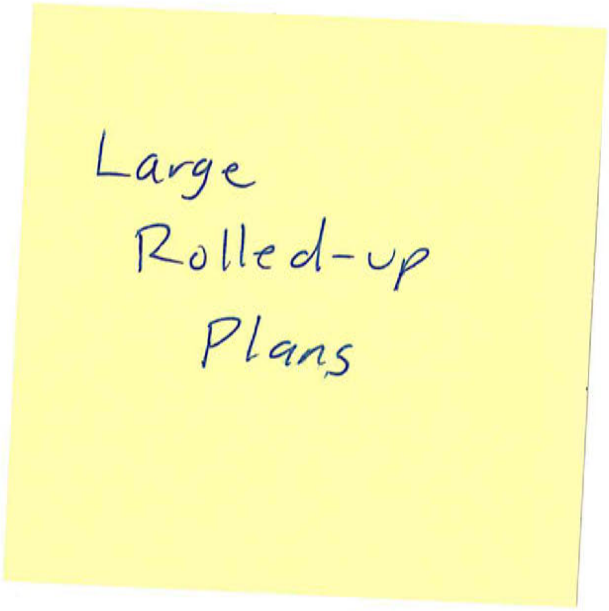


EXHIBIT F

LAS LOMITAS ELEMENTARY SCHOOL DISTRICT

SECOND AMENDMENT TO LEASE AGREEMENT

Ladera School

360 La Cuesta Drive

Portola Valley, California

SECOND AMENDMENT

THIS SECOND AMENDMENT TO LEASE AGREEMENT ("**Second Amendment**") is made on this 14th day of December, 2017, by and between the **Las Lomitas Elementary School District**, a subdivision of the State of California, ("**Landlord**"); and **Woodland School**, a California corporation, ("**Tenant**"). All capitalized terms when used herein shall have the same meanings given such terms in the Lease unless expressly superseded by the terms of this Second Amendment.

RECITALS:

A. Landlord owns the real property located at 360 La Cuesta Drive, Portola Valley, CA, County of San Mateo, California, which is described on Exhibit A-1 to the Lease (the "**Ladera School Site**").

B. Landlord and Tenant entered into that certain Lease Agreement dated June 19, 2012 (the "**Original Lease**"), pursuant to which Landlord leases to Tenant a portion of the Ladera School Site as depicted on Exhibit A-2 to the Lease (the "**Property**") for the purpose of operating a preschool through eighth grade school, including day care, after school community and athletic activities.

C. Pursuant to Section 1A of the Original Lease, Tenant holds an irrevocable and exclusive license to use during School Hours, maintain and repair the "Blacktop" and the "Playing Fields" (collectively, the "**Play Areas**") shown outside the dashed lines on Exhibit A-2.

D. Landlord and Tenant entered into a First Amendment to the Lease dated May 14, 2013 ("**First Amendment**") whereby Landlord authorized Tenant's plans, as depicted in Exhibit 1 to the First Amendment for (1) construction of certain tenant improvements to the Ladera School Site, including a new school gymnasium, new classrooms and a new administrative building on the Property (collectively, the "**Tenant Improvements**") and (2) a drop-off lane, parking and new fire truck access/ pedestrian path on the perimeter of the Playing Fields (collectively, the "**2013 Authorized Access and Parking**"). The First Amendment and the Original Lease are hereafter collectively referred to as the "**Lease**."

E. Concurrently with the First Amendment, the Parties entered into that certain "Grant of Access and Parking Easement and Agreement" dated May 14, 2013 ("**Easement Agreement**") whereby Landlord granted Tenant an easement over the Ladera School Site for the purpose of vehicular parking, vehicular and pedestrian ingress and egress, emergency vehicle access, maintenance and repair, which Easement was never recorded in the Official Records of San Mateo County.

F. On May 15, 2013, Landlord issued Tenant a Site Use Permit which granted Tenant permission to use and occupy the Play Areas exclusively for use as a temporary site-office, temporary classroom portables, storage, staging, equipment laydown and assembly area for activities associated with construction of the Tenant Improvements and the 2013 Authorized Access and Parking ("**Site Use Permit**").

G. On July 24, 2013, San Mateo County issued a Use Permit Amendment/Renewal and Grading Permit (PLN 2000-00352) allowing the Tenant Improvements and 2013 Authorized Access and Parking and continuation of Tenant's use of the Property as an elementary school for a maximum of 325 preschool to eighth grade students upon certain terms and conditions ("**County Use Permit**").

H. The new school gymnasium and new classroom components of the Tenant Improvements were completed on October 1, 2014, as shown on the map depicted in Exhibit A attached hereto and incorporated herein. Also as shown on Exhibit A, the four (4) classroom portable buildings ("**Portables**") authorized by the Site Use Permit were installed on August 30, 2016. With the exception of the fire truck access/ pedestrian path that were completed, the 2013 Authorized Access and Parking and the administrative office component of the Tenant Improvements were never constructed.

I. Tenant now desires to: (1) proceed with constructing the 2013 Authorized Access and Parking with certain modifications as depicted on Exhibit A that would allow for an additional 41 parking spaces on the licensed area of the Ladera School Site along with certain ADA improvements to the existing parking lot on the Property (collectively ("**New Access and Parking**"); (2) modify the School Hours to 7:30a.m.-5:00pm; and (3) retain the Portables for the term of the Lease and modify the boundaries of the Property to encompass the Portables.

J. Accordingly, on the terms and conditions set forth in this Second Amendment, Landlord and Tenant mutually agree and desire to further amend the Lease on the terms and conditions set forth in this Second Amendment to (1) memorialize Landlord's approval of Tenant's conceptual plans for the New Access and Parking and agreement to cooperate with Tenant in obtaining all consents, approvals, permits and authorizations required to implement the New Access and Parking; and (2) modify School Hours to 7:30a.m. – 6:00p.m; (3) grant Tenant a license to construct, use, operate and maintain the New Access and Parking and modify the use and maintenance provisions of the Lease accordingly; (4) release and terminate the Easement Agreement and the Site Use Permit; (5) and modify the boundaries of the Property to include the Portables.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the Parties agree as follows (capitalized terms used and not otherwise defined herein shall have the meanings given in the Lease and the First Amendment):

1. Landlord Approval of Tenant's Conceptual Plans; Cooperation with Permitting. Landlord hereby approves Tenant's conceptual plans for construction of the New Access and Parking and agrees to use all commercially reasonable best efforts to cooperate with Tenant in obtaining all consents, approvals, permits and authorizations, including any modification or amendment to the County Use Permit, required to implement the New Access and Parking.

2. License to Include New Access and Parking; Modification of School Hours. Section 1.B of the Lease is hereby replaced and superseded with the following:

   License to Use Play Areas and New Access and Parking. Landlord hereby grants to Tenant and its employees, agents, contractors and invitees (collectively, "Tenant's Agents") an exclusive license to use, maintain and repair the Play Areas and to install, use, maintain and repair the New Access and Parking during School Hours during the Term. "School Hours" shall mean from the hours of 7:30am through 5:00 pm Monday through Friday excepting public school holidays.

3. Use of New Access and Parking. Section 6.C of the Lease is hereby replaced and superseded with the following:

   Use of Play Areas and New Access and Parking. The Play Areas and New Access and Parking shall be used cooperatively by Landlord, Tenant, the general public and other user groups ("User Groups") during the Term, provided that Tenant shall have the right to use the Play Areas and New Access and Parking exclusively during School Hours pursuant to Section 1B. Tenant agrees to allow users of the Play Areas and New Access and Parking ingress and egress through the Property during non-School Hours. Tenant will reasonably cooperate with User Groups to allow access to the Play Areas during School Hours provided such use does not interfere with Tenant's use of the Play Areas during School Hours and User Groups adhere to Tenant's published school rules while on the Property. Landlord shall indemnify, defend and hold harmless Tenant with respect to any loss, damage, liability, cost, or expense that may arise out of or be caused in any way by use or occupancy of the Play Areas the New Access and Parking or access through the Property by User Groups that directly contract with Landlord. Furthermore, Landlord shall require User Groups it directly contracts with to (i) indemnify, defend and hold harmless Tenant with respect to any loss, damage, liability, cost, or expense that may arise out of or be caused in any way by such use or occupancy of the Play Areas and/or the New Access and Parking, and (ii) name Tenant as an additional insured on any policy User Groups are required to furnish to the District. Landlord shall ban User Groups from future use of the Play Areas and/or the New Access and Parking should User Groups fail to comply with Tenant's published school rules and/or Landlord's policies for use of School Facilities set forth in Exhibit B attached hereto and incorporated herein.

4. Maintenance of New Access and Parking. Section 10.D of the Lease, as amended by the First Amendment, is hereby replaced and superseded with the following:

   Except as otherwise set forth in this Section, Tenant, at its cost, shall maintain the Play Areas and the New Access and Parking in a good condition. Landlord shall have no maintenance or repair obligations with respect to the Play Areas and the New Access and Parking except that Landlord shall be obligated to repair any damage caused by User Groups that directly contract with Landlord for use of the Play Areas and/or the New Access and Parking. In the event that repairs are required, and after ten (10) days' notice by Tenant to Landlord, Landlord does not make the repairs, Tenant shall have the right to make repairs on behalf of Landlord and Landlord shall reimburse Tenant all costs incurred in undertaking such repairs within thirty (30) days of Tenant's delivery of documentation of the costs of the repairs to Landlord. Tenant hereby expressly waives the provisions of Subsection 1 of Section 1932 and Sections 1941 and 1942 of the Civil Code of California and all rights to make repairs at the expense of Landlord as provided in Section 1942 of said Civil Code.

5. Termination of Easement Agreement and Site Use Permit. Tenant and Landlord hereby release and terminate the Easement Agreement and the Site Use Permit, and agree that they shall have no force or effect. Since these documents were not recorded with the County Recorder, no further action is required of the Parties.

6. Replacement of Exhibit A-2 to Lease; Inclusion of Portables within Property Boundaries. The Parties acknowledge and agree that the Portables shall be included within the Property as defined in Section 1A of the Lease. Exhibit A-2 to the Lease is hereby replaced and superseded with Exhibit A attached to this Second Amendment and incorporated herein. The Parties acknowledge and agree that Exhibit A modifies Exhibit A-2 to the Lease to encompass the Portables within the blue line depicting the Property boundaries. The Parties further acknowledge and agree that Exhibit A does not modify the Property boundaries to include the New Access and Parking and that Tenant's installation, use, maintenance and repair of the New Access and Parking will be governed by the license pursuant to Section 2 above.

7. Counterparts. This Second Amendment may be executed in any number of counterparts, which may be delivered electronically, via facsimile or by other means. Each party may rely upon signatures delivered electronically or via facsimile as if such signatures were originals. Each counterpart of this Second Amendment shall be deemed to be an original, and all such counterparts (including those delivered electronically or via facsimile), when taken together, shall be deemed to constitute one and the same instrument.

8. No Further Modification. Except as set forth in this Second Amendment, all of the terms and provisions of the Lease and the First Amendment are hereby ratified and confirmed and shall

remain unmodified and in full force and effect. In the event of any conflict between the terms and conditions of the Lease and/or the First Amendment and the terms and conditions of this Second Amendment, the terms and conditions of this Second Amendment shall prevail.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Second Amendment, through their respective officers or representatives, duly authorized, as of the day and year shown below.

LAS LOMITAS SCHOOL DISTRICT

By: Lisa Cesario

Name: LISA CESARIO

Title: SUPERINTENDENT

Date: 12/14/17

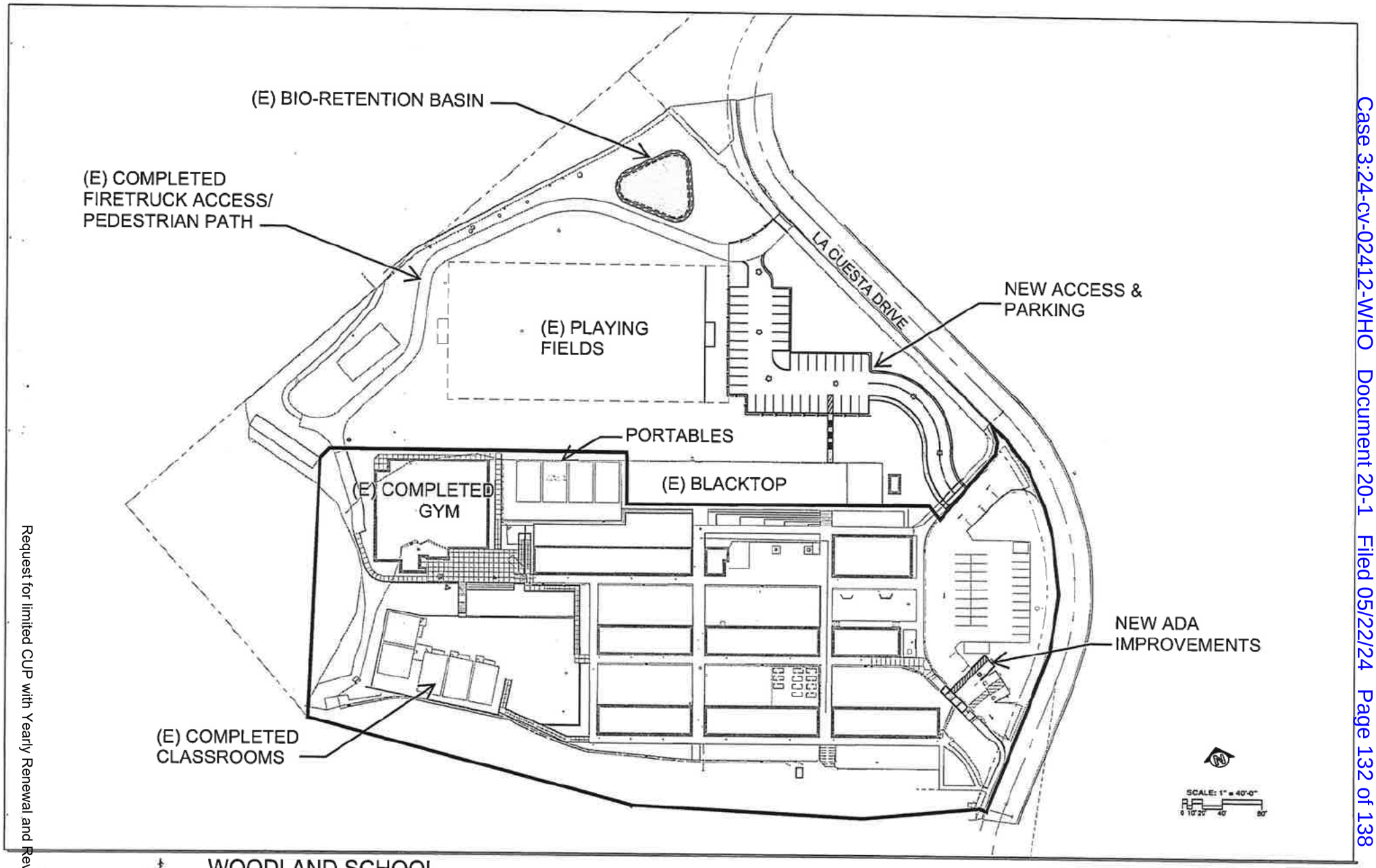
WOODLAND SCHOOL

By:

Name: Head of School

Title: Woodland School

Date: 1/2018



WOODLAND SCHOOL
Portola Valley, CA
Project Number: 9808.007

EXHIBIT A

DES

Exhibit B

Los Lomitas Elementary School District Policy

Section 1330 - Use Of School Facilities

Application for Use

All applications for the use of school facilities and equipment shall be made on official forms and submitted to the district office at least 10 school days prior to the proposed use.

Persons or organizations applying for the use of school facilities or grounds shall submit a facilities use statement indicating that they uphold the state and federal constitutions and do not intend to use school premises or facilities to commit unlawful acts.

The Superintendent or designee is authorized to determine the appropriateness of granting the use of the facility to the requesting group. If deemed appropriate, the application will be forwarded to the school site and to the Supervisor of Maintenance, Operations and Transportation for confirmation of space availability. The Superintendent's designee may then issue final approval to the requesting organization.

Applicants (such as sports leagues) who wish to schedule consecutive use dates for practices and/or games over a period of weeks/months must submit an application indicating all requested dates/times. The application is due no later than September 1 for the fall season, no later than November 1 for the winter season, and no later than March 1 for the spring season. The Superintendent's designee will attempt to reconcile conflicting requests based on the established use priorities. Late applications will be accepted only if there is available space to accommodate the request.

Charges

All charges shall be in accordance with the fee schedule adopted by the Board. This schedule is subject to change.

Expiration

No facility use permit shall be granted for a period exceeding one year.

Restrictions

School facilities or grounds shall not be used for any of the following activities:

1. Any use by an individual or group for the commission of any crime or any act prohibited by law.

2. Any use, which is inconsistent with the use of the school facilities for school purposes or which interferes with the regular conduct of school or school work.

3. Any use, which involves the possession, consumption, or sale of alcoholic beverages or any restricted substances, including tobacco.

(cf. 3513.3 - Tobacco-Free Schools)

Damage and Liability

Groups, organizations or persons using school facilities or grounds shall be liable for any property damage caused by the activity. The district may charge the amount necessary to repair the damages and may deny the group further use of school facilities or grounds. (Education Code 38134)

School/District Use Priority

All school and/or district activities have priority over any other use of district facilities. No use of district property shall be inconsistent with the use of facilities for school purposes. No use will be permitted which conflicts with the policies and procedures of the district.

Use of facilities shall be in the following order of priority, except that all use will be suspended in the event of a major disaster. In such a case, the district's program and rules shall prevail, and emergency procedures for mass care will take precedence.

1. Activities and programs of the School or district.

2. Team practices and events sponsored by the Las Lomitas League.

3. Use by community organizations and public agencies whose primary purpose is service to youth where no admission is charged and no fees or contributions are solicited.

4. Use by civic and service groups and public entities whose purpose for using the facilities is to improve the general welfare of the community and where admission is charged and/or contributions are solicited, but the net receipts are expended for the welfare of the students of the district.

5. Use by groups who wish to rent the school facilities but whose net receipts, if any, are not expended for the welfare of the district's students.

6. Use by groups to whom the Governing Board may make school facilities available at a fair rental value.

Hours of Use

All use of school facilities must terminate at 10:00 p.m., except with prior approval. During the school year, use of school facilities for student groups must terminate by 8:00 p.m.

District Employee in Charge

Keys required to carry out any and all activities shall remain in the sole possession of authorized district employees. Keys shall not be turned over to individual organizations, clubs, associations, etc. Buildings shall be opened, attended, and closed by an authorized employee of the district. The Superintendent and/or designee may suspend this requirement when such suspension would serve the best interest of the district.

Use of District Equipment

A qualified district employee must supervise the use of any district equipment. Any cost for the supervising employee shall be borne by the group using the facility.

Responsibility of Organizations

Each organization is directly responsible for the conduct of all persons using the facility in connection with its activities.

Controlled Substances

No alcoholic beverages or illegal drugs in any form shall be brought onto the property of the district. Any person under the influence of drugs or alcohol shall be denied participation in any activity.

Violation of this regulation shall be justification for immediate termination of the event, closing of the facility, and denial of future use of district facilities.

Supervision of Youth Activities

Supervision of students before and after the activity must be provided.

Insurance Coverage

It is the responsibility of any organization requesting the use of district facilities to have the necessary liability and property damage insurance. Such insurance shall not be less than $1,000,000 (one million) combined single limit for bodily injury and property damage for all groups. Additional types and amounts of coverage may be required at the district's discretion. On all insurance certificates, the user shall be named as the primary insured for the requested usage, and the district, its employees and agents shall be named as additional insured.

It is agreed that the User shall defend, hold harmless and indemnify the district, its officers, agents and/or employees from any and all liability, damage, cost, expense, and/or claims for injuries to persons (including, but not limited to, sports programs participants and spectators)

and/or damage to property which arise from the User's use of the Premises (including ingress and egress to the Premises), and for such liability, damage, cost, expense, and/or claims arising from the negligent acts or omissions of the User, its officers, agents and/or employees.

The district assumes no responsibility whatsoever for the loss or damage to personal items caused by, or pertaining to, the use of district facilities.

Rules and Regulations for Facilities Use

Gym and Jensen Hall at La Entrada

1. No player is allowed in the facility until his or her coach has arrived.

2. After practice coaches must stay with players until their parents or guardians arrive to pick them up.

3. FOOD, BEVERAGES OR GUM ARE NOT ALLOWED IN ANY PART OF THE GYMS (this includes the foyers and the bathrooms). Plastic water bottles filled with plain water are permitted (no flavored water or vitamin water). There are drinking fountains available in the foyers. Feel free to enjoy snacks and beverages outdoors.

4. No animals allowed in any part of the gyms.

5. All coaches and players must wear proper shoes that will not mark the gym floors. Everyone must have shoes on (no playing or coaching in bare feet or socks).

6. Pick up your trash and belongings. Put empty plastic water bottles in the recycling bins in the gym foyers.

7. Only scheduled teams are permitted in the gyms during their assigned time. No player is allowed to "hang out" while waiting for his or her practice.

8. Keep out of restricted areas: the stage and back hallways in Jensen Hall (the stair ramp is not a slide). Leave all P.E. and school equipment alone.

9. Do not throw, pass, serve, hit, etc. balls against any of the walls or ceilings. Keep feet/shoes off the walls.

10. Do not play with any balls in the foyer of the gyms.

11. The glass doors near the blacktop in Jensen Hall must remain closed during practice to discourage use of the foyer as a passageway and to keep unauthorized people out of the gym.

12. Shut-off the lights and close the doors when you leave the facility. An authorized person will check the doors and lights later in the evening to make sure the facility is secure.

La Entrada MUR or Library, Las Lomitas Library or Cano Hall, and All Other Classroom/Indoor Spaces

1. Children must be supervised at all times.

2. Be respectful of other materials in the room.

3. Pick up your trash and belongings.

4. Animals are not allowed at any time, without prior written approval.

5. Turn off the lights and close the door when you are finished.

Fields at Las Lomitas

1. Use of outside facilities (playgrounds and fields) shall be limited to daylight hours at times school is not in session or in use by school groups.

2. Use of outside facilities (playgrounds and fields) shall not be permitted while it is raining. Fields may not be used if wet and the activity would be harmful to the playing surface.

3. Children must be supervised at all times.

4. Movable Soccer and Lacrosse goals on school grounds can present a safety hazard. Organizations using district fields for soccer and lacrosse practices and/or games will be responsible for chaining goals to a fence or permanent structure whenever the goals are not in use. Failure to comply with these directions will result in denial of field use permit.

Restrooms

1. Restroom doors must remain locked between uses, and children must be supervised at all times.

2. Restrooms should be left free of all trash and personal belongings. Turn off the lights and close and/or lock the doors when you are finished.

3. To obtain the Restroom Key a deposit of $150 is required. Key must be returned the first work day following use for deposit to be returned, otherwise deposit will be used to re-key the Restrooms.

4. Additional costs for Restroom use will be added based on the condition of the facilities and the cleaning costs after use. Repair costs for any damages to the Restrooms due to negligence or misuse will also be added to the final billing.

Regulation LAS LOMITAS ELEMENTARY SCHOOL DISTRICT

approved: February 11, 2004 Menlo Park, California

revised: April 20, 2005

revised: August 9, 2006

revised: September 12, 2013

revised: December 14, 2016

EXHIBIT 2

Susanna L. Chenette (SBN 257914)
130 Lucero Way
Portola Valley, CA 94028
Phone: (773) 680-3892
Email: slchenette@gmail.com

Attorney for Plaintiff
LADERA TAXPAYERS FOR INTEGRITY IN GOVERNANCE

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

LADERA TAXPAYERS FOR INTEGRITY IN GOVERNANCE, Plaintiff, v. LAS LOMITAS ELEMENTARY SCHOOL DISTRICT, a political subdivision of the State of California; LAS LOMITAS ELEMENTARY SCHOOL DISTRICT GOVERNING BOARD; and DR. BETH POLITO, in her official capacity as Superintendent of the Las Lomitas Elementary School District, Defendants.	Case No. 24-cv-2412-DMR **PLAINTIFF'S REPLY TO DEFENDANTS' OPPOSITION TO PLAINTIFF'S *EX PARTE* APPLICATION FOR A TEMPORARY RESTRAINING ORDER AND ISSUANCE OF AN ORDER TO SHOW CAUSE WHY A PRELIMINARY INJUNCTION SHOULD NOT ISSUE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF**

I. INTRODUCTION

Defendants' mischaracterize Plaintiff's requested relief, and then they argue against their mischaracterization. The result is that Defendants never *actually* address Plaintiff's request. They do not acknowledge that the Lease and the CUP application are currently in conflict. It is this conflict that Plaintiff seeks relief from: specifically, an order enjoining

Defendants from signing-off any CUP application until it matches the Lease. Contrary to Defendants' assertions, Plaintiff does not seek to enjoin a CUP hearing or to prevent a CUP from issuing. That would be nonsense. A CUP should issue here. Plaintiff merely requests that it be lawful.

Either Defendants in bad faith (and with potential malice) intentionally mischaracterize the relief Plaintiff seeks to avoid litigating this issue fairly and on the merits, or Defendants are very confused. Either way, Defendants utterly fail to address Plaintiff's requested relief: enjoin Defendants from authorizing a CUP application unless and until it conforms with the Lease.

To the extent Defendants' recasting of Plaintiff's position is intentional, this represents a glimpse into the obfuscation tactics Defendants employed since July, 2023, in which they made bold, false assertions about the applicability of laws and continually sided with a private school over taxpaying members of the public to restrict (unlawfully) taxpayer speech and use of a limited public forum (further demonstrated by the fact that Woodland's head of school submits a declaration in support of Defendants' actions here, while Defendants fight affected taxpayers and ignore a petition signed by 400 District residents demanding that a parking lot ***not*** be authorized on their public recreation areas and that Defendants stop restricting public speech on their limited public forum).

Contrary to Defendants' claims, Plaintiff supports the CUP. Plaintiff knows a CUP is authorized per the Lease. Plaintiff knows a CUP is necessary for the private school to run. Plaintiff is not trying to enjoin a hearing, micromanage the County, assert a land-use issue, or force the District to take a position in the CUP hearing. Those would be odd, improper things for Plaintiff to do here because of potential standing or jurisdictional issues.

That's why Plaintiff is not doing any of those things. Plaintiff is instead simply requesting that the CUP application match the Lease. Defendants ***never*** address this point.

II. FACTS

A. The Lease Authorizes A CUP Over The Buildings And Parking Lot.

The Lease provides divides the 10-acre Ladera School Site ("Site") into two parts:

> 1. DESCRIPTION
>
> A. Property. Landlord does hereby lease to Tenant and Tenant does hereby lease from Landlord the Property. The Property is defined to include: (i) all of the existing buildings ("**Buildings**") and adjacent outdoor areas, (ii) the parking lot (the "**Parking Lot**"), and (iii) the driveways, as depicted within the dashed line on the map on **Exhibit A-2**. The Property does **not** include areas outside the dashed line on the map on **Exhibit A-2**, specifically the "Blacktop" and the "Playing Fields" (the "**Play Areas**"). "Play Areas" do not include the "play scapes" which are currently installed in 3 locations on the Property and which were installed by Tenant during the term of the Prior Lease.

Complaint, Dkt. 1, Ex. D, Sec. 1A.

The Lease allows the Tenant to obtain a CUP over the leased portions of the Site:

> A. Use of Property. The Property shall be used by Tenant as a preschool through eighth grade school which may include day care, after school, community and athletic activities which are in compliance with Conditional Use Permit PLN 2000-00352 ("**CUP**") issued by the County of San Mateo ("**County**"), as may be amended from time to time, a copy which is attached hereto in **Exhibit C** and incorporated herein. Tenant shall not use the Property for any use other than that specified in this subsection without the prior written consent of Landlord. Tenant shall require all subtenants, licensees, and invitees, to use the Property only in conformance with this use, and subject to all requirements of all federal, state, county and municipal governments, agencies, courts, commissions, boards, or any other body exercising functions similar to those of any of the foregoing, foreseen or unforeseen, ordinary as well as extraordinary, which may be applicable to the Property ("**Applicable Laws**"). Tenant shall not

Complaint, Dkt. 1, Ex. D, Section 6A.

The Lease also provides as follows:

> B. Conditional Use Permit. Landlord specifically does not warrant, represent or guarantee any particular zoning or particular use of the Property. Tenant acknowledges and accepts the terms and conditions of the CUP. Tenant and any subtenants, shall abide by the terms and conditions of the CUP and, if required by the County or Applicable Laws, obtain any additional renewals, modifications or amendments to the CUP and all other applicable permits from the County for Tenant's or subtenants' use of the Property throughout the Term of this Lease.

B. The Lease Does NOT Authorize A CUP Over The Play Areas Of The Site.

The Lease does not provide for, or authorize, a CUP for the Play Areas of the Site, which remain in-use District property subject to District policies; instead, the Play Areas are governed by a License:

> B. License to Use Play Areas. Landlord hereby grants to Tenant and its employees, agents, contractors and invitees (collectively, "**Tenant's Agents**") an irrevocable and exclusive license to use, maintain and repair the Play Areas during School Hours. "**School Hours**" shall mean from the hours of 8:30am through 3:00pm Monday through Friday excepting public school holidays.

Complaint, Dkt. 1, Ex. D, Section 1B.

Additionally, the use of the Play Areas is not determined by a use permit, but by the express terms of the License that is appended to the Lease:

> C. Use of Play Areas. The Play Areas shall be used cooperatively by Landlord, Tenant, the general public and other user groups ("**User Groups**") during the Term, provided that Tenant may use the Play Areas exclusively during School Hours pursuant to Section 1A. Tenant agrees to allow users of the Play Areas ingress and egress through the Property to the Play Areas during non-School Hours. Tenant will reasonably cooperate with User Groups to allow access to the Play Areas through the Property during School Hours provided such use does not interfere with Tenant's use of the Play Areas during School Hours and User Groups adhere to Tenant's published school rules while on the Property. Landlord shall maintain the Play Areas in accordance with Section 10B.

Complaint, Dkt. 1, Ex. D, Section 6C.

The Lease explicitly handles the Play Areas and the buildings/parking lot separately. They are not both subject to the conditional use permit. The use of the Play Areas is governed by the Lease; the use of the buildings/parking lot is governed by the CUP.

C. When Agreeing To Woodland's Request To Transfer Maintenance Of The Play Areas (Woodland Wanted A Higher Standard Of Maintenance For Its Students), The District Never Changed The Use Distinctions Between The Buildings/ Parking Lot And The Play Areas.

Defendants amended the Lease in 2013 to transfer the maintenance obligations for the Play Areas to Woodland. *See* Dkt. 1, Ex. E. This maintenance transfer was done at Woodland's request. *See* Complaint, Dkt. 1. Woodland wanted to water the grass more (it did, and killed a mature oak tree) and to install a new playground equipment, a new rubber

blacktop area, water features, and climbing structures dotted throughout the Play Areas.[1] To properly care for these investments, Woodland asked Defendants to transfer the maintenance. Defendants did. Defendants transferred no additional land or use as part of this transfer. *See* Complaint, Dkt. 1, Ex. E. Defendants also made no changes to the separate use provisions governing the Play Areas versus the buildings/parking lot. *Id.*

D. Despite Transferring Additional Land And Use Rights To Woodland For Free In A 2017 Amendment Lacking Any Form Of Consideration, The District Never Changed The Use Distinctions Between The Buildings/Parking Lot Area And The Play Areas.

Defendants amended the Lease in 2017 in a manner that (1) expanded Woodland's license to use the Play Areas by roughly 60% and (2) converted Play Areas into Leased Property. *See* Complaint, Dkt. 1, Ex. F. For these increases in use and leased property, Defendants received no payment, no new "improvements" (in fact, Woodland refused to remove temporary buildings that Defendants must demolish because they are not up to code for public school), no maintenance transfers: nothing. *Id.*

Despite these other changes in use and operations, Defendants made no changes to the separate use provisions governing the Play Areas versus the buildings/parking lot. *Id.* The Lease still requires a CUP over the buildings/parking lot and governs the use of the Play Areas separately (such as through Board Policies, which are referenced in the Lease). *Id.*

E. Today, Even Though The Lease Subjects ONLY The Use Of The Buildings/Parking Lot To A CUP (Not The Play Areas), Defendants' Signed-Off On A CUP Application That Covers The Entire Site.

Defendants signed a CUP application that has an error: it covers the ***entire*** Site, not

[1] Several of the "improvements" Woodland made constitute liabilities to the District because they are not up to code as required for a public school and lack the required fall zones and safety features that public school property must have.

just the buildings/parking lot. *See* Application, Dkt., Ex. 5. Plaintiff seeks this emergency relief to fix that error.

By fixing the error before the CUP hearing (continued today from May 8, 2024 to May 22, 2024), this will ensure that Defendants' Lease does not contain a mistake (the resulting CUP is incorporated by reference in its entirety into the Lease). It ensures the County will act in accordance with the Lease. It prevents other harm/issues detailed below.

III. ARGUMENT

A. Contrary to Defendants' Arguments, Plaintiff Is Not Enjoining The CUP Hearing; Plaintiff Is Trying To Correct An Error In The CUP *Application*, Which Is The Only Part Of The CUP Process Defendants Are Involved With.

Because Defendants mischaracterize Plaintiff as seeking to enjoin the CUP hearing/issuance (Plaintiff does not), the standing, administrative, and jurisdictional arguments that Defendants fixate on demonstrate a complete failure to address Plaintiff's arguments that the CUP application contains an error, which must be fixed. On motions to dismiss, Courts routinely find that "[f]ailure to oppose an argument … constitutes waiver of that argument." *See Ahmed v. W. Ref. Retail*, 2021 U.S. Dist. LEXIS 117643, at *7 n.4 (C.D. Cal. May 13, 2021) ("Failure to oppose an argument raised in a motion to dismiss constitutes waiver of that argument."); *Resnick v. Hyundai Motor Am., Inc.*, 2017 WL 1531192, at *22 (C.D. Cal. Apr. 13, 2017) ("Failure to oppose an argument raised in a motion to dismiss constitutes waiver of that argument.); *Silva v. U.S. Bancorp*, 2011 WL 7096576, at *4 (CD. Cal. Oct. 6, 2011) (dismissing claims where the plaintiff "failed to address Defendants' arguments in his Opposition"); *Tatum v. Schwartz*, 2007 U.S. Dist. LEXIS 10225, 2007 WL 419463, *3 (E.D. Cal. Feb. 5, 2007) (holding plaintiff "tacitly concede[d] this claim by failing to address defendants' argument in her opposition. Accordingly, defendants' motion to dismiss the fourth claim is GRANTED."); *see also Hopkins v. Women's Div., Gen. Bd. of Global Ministries*, 238 F. Supp. 2d 174, 178 (D.D.C. 2002) ("It is well understood in this Circuit that when a plaintiff files an opposition to a motion to dismiss addressing only

certain arguments raised by the defendant, a court may treat those arguments that the plaintiff failed to address as conceded.") (quoting *FDIC v. Bender*, 127 F.3d 58, 67-68 (D.C. Cir.1997)).

Obviously, this is not a motion to dismiss and there can be no such standard for (what is typically) an unopposed *ex parte* emergency application for TRO. But here, since Defendants fully briefed the issue, but failed to address the main point, this Court could (and should) consider such failure an omission resulting in waiver of the right to oppose Defendants' correction of the error in the CUP application.

B. <u>Defendants Fail To Show Why A Restraining Order Should Not Issue.</u>

Defendants fail to oppose Plaintiff's showing for why a restraining order should issue.

1. <u>Plaintiff is likely to succeed because Defendants are unlawfully gifting taxpayer property in exchange for nothing, improperly restricting free speech and rights of assembly (as well as a host of other state statutory schemes and its own Board Policies), which result in the unequal treatment of similarly situated District residents.</u>

Defendants' only proof that Woodland *pays* for its use of the Ladera School Site is a self-serving Declaration from Woodland, wherein Woodland comingles its monthly payments with its costs to construct new classrooms (that are not built to public school code and thus constitute a cost to the District) and a gym (which Woodland built on written promises of shared public use, but now only lets six members of the public access two times a week for a total of eight hours, and only after completing fingerprinting and training), which were all erected well-before 2017, to show that (1) it pays for its use and (2) Defendants will benefit from the new structures. This fails to show no likelihood of success for several reasons.

First, based on the timeline alone, Woodland's earlier-performed construction cannot constitute consideration for a later-executed 2017 agreement that expanded use of the Play Areas by 60% and added District property to the Lease. "The general rule is that a past consideration is not sufficient to support a contract." *Blonder v. Gentile*, 149 Cal. App. 2d 869, 874-875 (1957); *Passante v. McWilliam*, 53 Cal. App. 4th 1240, 1247 (1997). With no

payment or promises to act, Defendants cannot point to past acts to justify the gift.

Second, because Woodland's improvements already pass to Defendants upon Lease expiration, Defendants cannot claim that such improvements are benefits in exchange for a gift: a benefit cannot be realized twice. "Generally speaking, a commitment to perform a preexisting contractual obligation has no value. In contractual parlance, for example, doing or promising to do something one is already legally bound to do cannot constitute the consideration needed to support a binding contract." *Auerbach v. Great W. Bank*, 74 Cal. App. 4th 1172, 1185 (1999) (citing 1 Witkin, Summary of Cal. Law (9th ed. 1987) Contracts, § 221, p. 227; 2 Corbin on Contracts (rev. ed. 1995) § 7.1 et seq.; 3 Williston on Contracts (4th ed. 1992), § 7:36 et seq.). Here, there is no "payment" or benefit for giving Defendants something they already have. Even if there were, Woodland's position that unsafe play structures and other buildings that Defendants will be forced to remove, which will be decades old by the time the District inherits them, are a benefit to the District is laughable.

Third, Woodland's self-serving declaration is contradicted by public records, and thus will not be admissible at trial or on motion for summary judgment. Defendants have therefore submitted no evidence to counter Plaintiff's allegations that property was gifted to Woodland without payment in 2017. Nor do Defendants introduce any evidence to demonstrate that the license to the Play Areas, which was provided after public bidding closed and resulted in no increase in lease payments, is not a gift.

Fourth, Defendant Beth Polito and Woodland's declarant have a preexisting longstanding relationship from their respective positions at Woodside Elementary School District and Portola Valley School District, which both abut LLESD, and which may impact the issues here. *See* Declaration of S. Chenette, ¶ 3. Comments to news publications about Dr. Polito accuse her of illegal activity and other bad conduct while at Woodside. *Id.*, ¶¶ 4-6. Another employee served time in prison for embezzlement and misappropriation of public funds from Portola Valley and Woodside School Districts. *Id.* ¶ 7.

Fifth, Defendants refuse to address the fact that transfers of land by a District that occur in violation of the Education Code or the Naylor Act are only protected if they are *for*

value. *See*, *e.g.*, Cal. Ed. Code § 17496 ("Failure by the school district to comply with the provisions of this article shall not invalidate the transfer or conveyance of real property to a purchaser or encumbrancer ***for value***.") (emphasis added). Defendants' transfers were not.

Sixth, Defendants ignore the seminal purpose for this Complaint: to address Defendants' violations of Plaintiff's rights to speak, to assemble, and to receive equal treatment. Plaintiff's free speech is nonexistent on the Play Areas, and yet Woodland exercises free speech daily with self-serving signage (which such signs are also not authorized under the Lease). Defendants' statement that Plaintiff lacks "any articulable, actionable legal claim" reflects a willful ignorance of the state and federal laws at-issue here.

2. Plaintiff will experience irreparable harm because, as Defendants outline at-length, the procedure for correcting this mistake after a CUP issues is intensive and as soon as the County authorizes the CUP, Woodland may build the parking lot and erect the fence.

Defendants' opposition dedicates pages to explaining how and why Plaintiff cannot challenge the issuance of a CUP. This is precisely Plaintiff's point: once the CUP process is set in motion, it is profoundly difficult, if not impossible, for Plaintiff to affect. Hence the immediate need for this relief before the May 22, 2024 hearing.

Whether Woodland does or does not plan immediately to erect a fence or to build a parking lot completely misses the point. The time-sensitive inquiry is not about the construction, it is about the *permission* to perform the construction. Once Woodland is *authorized* to act, Plaintiff has exceedingly limited recourse, as Defendants make clear.

This mistake is the crux of the dispute. Over the last 10 years, the tail has been wagging the dog. Woodland learned that its CUP gives it rights to do things on public property with County consent. Quickly assimilating this knowledge, Woodland began to bypass the Lease, the community, and the District to go directly to the County first when requesting permissions on the public Play Areas. In 2017, this is how Woodland obtained the lease amendments: Woodland first asked the County for approval, then presented the District with the County's sign-off, and then the District felt forced to accept the changes. Woodland

continues today to do this. Without constant vigilance through public records requests, there is *literally no mechanism* to police Woodland's conduct on public school property.

This is not the proper procedure. It creates confusion. It endows a renter with unintended rights to public property. It evades detection, and thus legal scrutiny. This is why the legal documents here (the Lease and the CUP application) must match.

Additionally, Woodland's proposed fence design crosses a recorded public easement. Chenette Decl., ¶ 2. Clearly, the public's rights are not even being considered here.

3. On balance, the equities favor enjoining Defendants from allowing the CUP mistake to persist because the impacts reach members of the public.

In balancing the equities, the Ninth Circuit considers whether "the impact of an injunction reaches beyond the parties, carrying with it a potential for public consequences." *Boardman v. Pac. Seafood Grp.*, 822 F.3d 1011, 1023-24 (9th Cir. 2016). Protecting public access to public property while parties finally determine their rights to the property is perhaps the sine-qua-none of public consequences.

Moreover, what inequity could possibly result from requiring Defendants to abide by the use terms of a legally binding, executed, undisputed, unchallenged, valid, enforceable Lease (**not** the amendments to the Lease or the License, which are void as illegal), especially where such terms could have been amended in two separate amendments but were not.

4. Restraining conduct such as Defendants' is in the public interest because it is illegal.

Defendants' arguments that the public is served by letting the District manage assets without oversight is untethered from reality. Such a position sets the breeding ground for misuse of resources, corruption, and abuse, as we see here, where Defendants repeatedly cater to Woodland's desires over the clear, and clearly articulated, requests from taxpayers.

Defendants second point argues that the public interest is served by receiving below-market-rate proceeds on an extremely desirable property. That is ridiculous. Defendants could simply lease the property to another entity who would respect the public's rights to use public property; a different private school already expressed interest. Or the District could keep its

existing Lease with Woodland while also renting out the field to AYSO or other soccer groups – or even Woodland's own athletics programs – and would be making additional income above the current Lease payments. Instead, Woodland makes money by subleasing the District property. There is no public interest in denying this relief; only granting it.

IV. CONCLUSION

For the forgoing reasons, Plaintiff needs an emergency injunction preventing Defendants from signing-off on a flawed CUP application that does not conform to the Lease. Defendants should be enjoined from signing-off on any CUP application unless and until it enacts the Lease and limits the CUP to the leased property (excluding the Play Areas).

Dated: April 29, 2024 By: */s/Susanna Chenette*

Susanna Chenette
Attorney for Plaintiff
LADERA TAXPAYERS FOR INTEGRITY IN GOVERNANCE

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LADERA TAXPAYERS FOR INTEGRITY IN GOVERNANCE

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

LADERA TAXPAYERS FOR INTEGRITY IN GOVERNANCE, Plaintiff, v. LAS LOMITAS ELEMENTARY SCHOOL DISTRICT, a political subdivision of the State of California; LAS LOMITAS ELEMENTARY SCHOOL DISTRICT GOVERNING BOARD; and DR. BETH POLITO, in her official capacity as Superintendent of the Las Lomitas Elementary School District, Defendants.	Case No. 24-cv-2412-DMR **DECLARATION OF S. CHENETTE ISO REPLY ISO DEFENDANTS' OPPOSITION TO PLAINTIFF'S EX PARTE APPLICATION FOR TRO AND OSC** **Complaint filed**: April 23, 2024

DECLARATION OF S. CHENETTE

I, Susanna Chenette, declare:

1. I am an attorney at law, admitted to practice before all courts in the State of California. I am an attorney of record for Plaintiff Ladera Taxpayers for Integrity in Governance. I am familiar with all aspects of this case, including the matters which are set

forth in this Declaration. If called upon to testify at the hearing on this Application, I could and would do so completely to the following based on my own personal knowledge.

2. Woodland's proposed fence design crosses a publicly recorded easement. Attached hereto as **Exhibit 1** is a true and correct copy of the easement, which was recorded with the County as 2019-043972.

3. As alleged in the Complaint, Dr. Beth Polito, superintendent of LLESD, and Dr. Jenny Warren, headmaster of Woodland, know each other and have a longstanding relationship. Dr. Warren used to work at Portola Valley School District. Dr. Polito used to work at Woodside School District.

4. Attached hereto as **Exhibit 2** is a true and correct copy of an article from a news publication about Dr. Polito. The comment to this article provides:

> "I guess the school board ignored the MULTIPLE notifications they got about her MULTIPLE illegal dealings. Did you even look her up online? Good luck LLESD. Teachers watch out. Another bad person getting a huge pay raise. Shameful."

5. Attached hereto as **Exhibit 3** is a true and correct copy of an article from a news publication about Dr. Polito. One comment to this article provides:

> "No comments yet, seriously? Both Woodside and Las Lomitas School Districts need to pay attention. The Almanac has posted many articles on Ms. Polito that would make me not want to hire her for any job. I know many teachers have been reluctant to talk to me about her as if they are scared. It's like she is a mini Trump administration. Do your research here Las Lomitas! I suggest the Woodside district do exit interviews of their former employees. It's as if they don't want to know what is going on in their own district. And I suggest Las Lomitas talk to current and former employees of Beth's as well. I notice the reporter Barbara Wood who has negatively reported on Ms. Polito in the past is not the writer of this article.

Interesting."

6. Another comment to this article provides:

"My children are enrolled in the LLESD and this news makes me so sad. Given the geography of the two school districts one can only conclude that Ms. Polito already knows the toxic duo of Lisa Cesario and Shannon Potts. One can only conclude she will have been influenced in her opinions about the district by them. If the commotion surrounding the promotion of Shannon Potts served a purpose besides making her richer, it was that it exposed that Lisa and Shannon and the school board are all clearly out of touch with the state of the school district. I know many in the community hoped for a fresh start. This is not fresh start. It looks like a substitution off the bench. Ms. Polito, I beg you, go to the teachers and find out what has been going on. Listen to them and allow them to speak open and honestly and not put a positive spin on everything for their new boss. Find out the truth. You won't get that from the school board or district administration.

7. Attached hereto as **Exhibit 4** is a true and correct copy of a newspaper article reporting that a former employee of both Woodside School District and Portola Valley School District served time in prison for embezzlement and misappropriation of public funds from local school districts.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Declaration was executed on the 29th day of April 2024, in Portola Valley, California.

Dated: April 29, 2024 By: */s/Susanna Chenette*

Susanna Chenette
Attorney for Plaintiff
LADERA TAXPAYERS FOR INTEGRITY IN GOVERNANCE

EXHIBIT 1

RECORDING REQUESTED BY: Porter Goltz, Esq. Law Offices of Porter Goltz 520 South El Camino Real, Suite 500 San Mateo, CA 94402 WHEN RECORDED MAIL TO: Steven Fuentes, CBO Las Lomitas Elementary School District 1011 Altschul Ave Menlo Park, CA 94025	

GRANT OF PATH EASEMENT

THIS grant of path easement ("**Agreement**") is made and entered into this 8th day of May 2019, ("**Effective Date**") by and between **Las Lomitas Elementary School District**, a subdivision of the State of California ("**Grantor**"), and **Ladera Recreation District** ("**LRD**"), collectively referred to as "the Parties."

Recitals

Woodland, Grantor, and **LRD** make and enter into this **Agreement** with reference to the following facts:

A. **Grantor** owns that certain real property (hereinafter called the "**LLSD Property**") which is located in the County of San Mateo, State of California, with the implicated portions of the **LLSD Property** more particularly described in Exhibits A and B, attached hereto.

B. **LRD** owns that certain real property (hereinafter called the "**LRD Property**") which is located in the County of San Mateo, State of California, and which is more particularly described in Exhibit B, attached hereto, and commonly known as 150 Andeta Way, Portola Valley.

C. **Woodland School, Portola Valley**, a California corporation ("**Woodland**"), is the current lessor of the **LLSD Property**, upon which the easement path will run.

Agreement

NOW, THEREFORE, in consideration of the mutual agreements contained herein, the Parties agree as follows:

1. Grant of Path Easement: **Grantor** grants and conveys to **LRD** a non-exclusive easement appurtenant for installation, access to, use for, and maintenance of a path easement.

This easement shall be on and over that certain real property (hereinafter called the "**Path Easement**"), which is located on **LLSD Property** and which is more particularly described in Exhibits A and B, attached hereto.

2. Term: The Pathway Easement granted herein shall remain in full force and effect for the term of one hundred (100) years, unless terminated pursuant to law or a subsequent agreement between the Parties.

3. Maintenance: All costs and responsibilities related to the **Path Easement** in any way (e.g., installation, maintenance and repair of the **Path Easement**) shall be the sole responsibility of **LRD**. **Grantor** shall be entitled to coordinate and contract for emergency repairs, with costs for such repairs to be fully paid and/or fully reimbursed by **LRD.** Access to any potential and/or actual installation, inspection, maintenance and/or repair site shall be provided by **Grantor**, pending adequate notice. **Grantor** must be notified of such work at least seventy-two (72) hours in advance, absent a serious emergency.

4. Indemnification: To the extent permissible by California law, **LRD** shall defend and indemnify **Grantor, Woodland**, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers, for any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, that arise out of, pertain to, or relate to the construction, use and enjoyment, or maintenance of the **Path Easement**.

5. Insurance: **LRD**'s policy of comprehensive general liability insurance shall be updated to cover any and all claims arising out of public use of the **Path Easement**.

6. Dominant and Servient Tenements: The easement appurtenant granted herein is for the benefit of **LRD** only; with respect to such easement, the dominant tenement shall be **LRD**, and the servient tenement shall be the property providing the easement (**Grantor**).

7. Enforcement of Agreement: This **Agreement** shall be enforceable by any Party. In addition to any other rights and remedies, each Party may institute legal action to cure, correct, or remedy any default; to enforce any terms or provisions of this **Agreement**; to enjoin any threatened or attempted violation of the terms or provisions of this **Agreement**; to recover damages for any default; and to obtain any other remedy consistent with the purpose of this **Agreement**.

8. Compliance with Law: Each Party shall abide by and comply with any and all laws, ordinances and regulations applicable to such Party's obligations under this **Agreement**. The rights and obligations of the Parties shall be governed by the laws of the State of California.

9. Successors and Assigns: This **Agreement** shall inure to the benefit of, and be binding upon, the successors, subsequent purchasers, and assigns of the Parties hereto, provided, however, the Parties acknowledge that the easements granted hereby are junior to any existing liens and encumbrances which were duly recorded before the recordation of this

Easement Agreement. The Parties also acknowledge that existing liens and encumbrances could extinguish this Easement Agreement in whole or in part. If any of the Parties has an existing lien or encumbrance which may extinguish this **Agreement** in whole or in part, that Party must notify all other Parties of same.

10. Attorney's Fees: If any legal action or proceeding is commenced by any Party to enforce any provisions of this **Agreement**, the prevailing Party shall be entitled to recover from the losing Party reasonable attorney's fees and court costs in such amounts as shall be set by the Court.

11. Recordation: This **Agreement** shall be recorded and otherwise implemented at the sole and exclusive expense and effort of **LRD**, although the other Parties agree to execute and acknowledge this Agreement in proper recordable form.

12. Further Assurances: The Parties shall reasonably execute and deliver to any other all such other further instruments and documents as may be necessary to carry this **Agreement** into effect at the sole and exclusive expense and effort of **LRD**.

13. Exhibits: All exhibits attached hereto are incorporated herein as though set forth in full.

14. Entire Understanding: This **Agreement** constitutes the entire understanding of the Parties and supersedes all negotiations and prior agreements between the Parties concerning the subject matter of this **Agreement**. The Parties have made no representations, arrangements, or understandings concerning the subject matter of this **Agreement** which are not fully expressed in this **Agreement**.

IN WITNESS WHEREOF, the Parties have executed this **Agreement** on the date(s) set forth opposite their respective signatures below, effective as of the date set forth above.

Dated: May 13, 2019

LADERA RECREATION DISTRICT

By: _____
Robert E Felderman, Board President

Dated: May 8, 2019

LAS LOMITAS ELEMENTARY SCHOOL DISTRICT

By: _____
John Earnhardt, Board President

EXHIBIT A
LAS LOMITAS ELEMENTARY SCHOOL DISTRICT
PATH EASEMENT
LEGAL DESCRIPTION

BEING a six (6.00) foot wide Path Easement for ingress and egress over, upon and across a portion of the lands of "LAS LOMITAS ELEMENTARY SCHOOL DISTRICT" as described in the Corporation Grant Deed recorded in Volume 2211, Page 343 of Official Records in the Office of the County Recorder, County of San Mateo, State of California, and said Path Easement also being further described as lying three (3.00) feet on each side of the following described centerline:
COMMENCING at a found ¾ ich iron pipe tagged C.E. 5476 on the centerline of Andeta Way as shown on the "RECORD OF SURVEY" recorded in Book 17 of L.L.S. Maps at Page 49 in the Office of said County Recorder;
THENCE North 65°41'30" East, 185.29 feet to the northwesterly corner of said lands as shown on said "RECORD OF SURVEY";
THENCE along the northwesterly boundary line of said lands, said northwesterly boundary line also being the southeasterly boundary line of the lands of "LADERA RECREATION DISTRICT" as described in the "FINAL ORDER OF CONDEMNATION" recorded July 18, 1980 in Volume 7973 at Page 41, Official Records of said County, North 65°41'30" East, 154.51 feet to the TRUE POINT OF BEGINNING;
THENCE leaving said common boundary line, South 24°18'30" East, 5.20 feet to an angle point in said centerline;
THENCE North 65°41'30" West, 15.14 feet to the beginning point of a tangent curve, concave southerly and having a radius of 20.00 feet;
THENCE northeasterly along said curve, through a central angle of 41°44'35", an arc length of 14.57 feet to the beginning point of a tangent reverse curve, concave northerly and having a radius of 30.00 feet;
THENCE easterly along said reverse curve, through a central angle of 41°41'30", an arc length of 21.83 feet;
THENCE North 65°44'35" East, 52.49 feet to an angle point in said centerline;
THENCE North 58°07'44" East, 61.76 feet to an angle point in said centerline;
THENCE North 43°16'36" East, 17.87 feet to an angle point in said centerline;
THENCE North 65°41'30" West, 79.02 feet to an angle point in said centerline;
THENCE North 79°38'07" East, 112.05 feet to an angle point in said centerline;
THENCE North 78°56'39" East, 88.77 feet to an angle point in said centerline;
THENCE North 73°53'26" East, 21.67 feet to an angle point in said centerline;
THENCE South 52°31'17" East, 61.36 feet to an angle point in said centerline;
THENCE South 31°22'46" East, 41.72 feet to an angle point in said centerline;
THENCE South 35°37'19" East, 29.22 feet, to an angle point in said centerline;
THENCE North 69°18'15" East, 6.84 feet, more or less, to a point of intersection with the northeasterly boundary line of said lands of LAS LOMITAS ELEMENTARY SCHOOL DISTRICT, said northeasterly boundary line also the southwesterly boundary line of the lands of Delmar Trust as described in the Grant Deed recorded as Document Number 2015-056146, Official Records of said County, and said point of intersection

also being the point of termination of said path easement centerline.

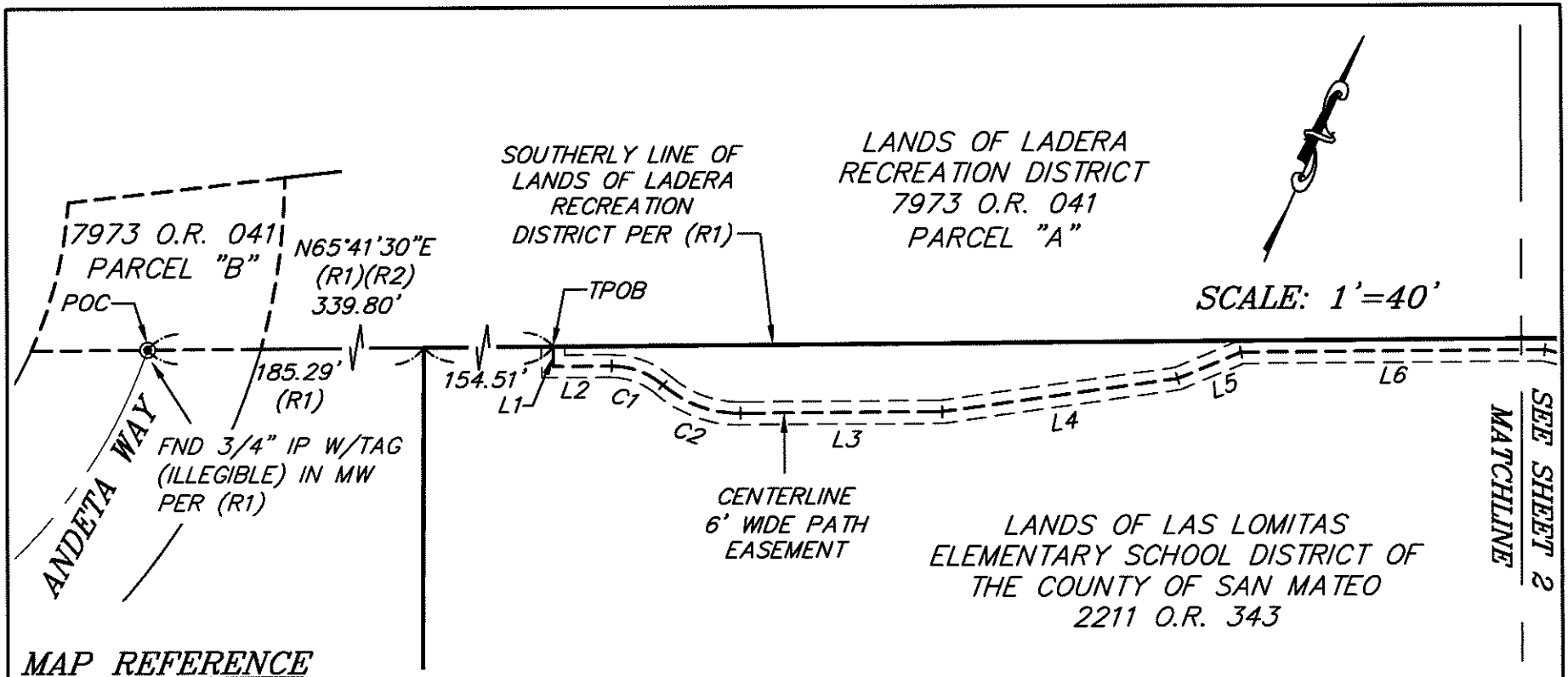
The sidelines of the above described Path Easement are to be lengthened or shortened so as to begin on said northwesterly boundary line of said lands of LAS LOMITAS ELEMENTARY SCHOOL DISTRICT and to terminate upon intersection with said northeasterly boundary line of said lands of LAS LOMITAS ELEMENTARY SCHOOL DISTRICT.

The above described easement is shown on the attached Exhibit "B"and by reference hereto made a part hereof.

Legal Description Prepared
Under the Supervision of

Andrew K. Holmes

Andrew K. Holmes, LS 4428
License Expires 09/30/19



MAP REFERENCE

(R1)	17 LLS 49
(R2)	36 MAPS 35

LEGEND

FND	FOUND
CL	CENTERLINE
IP	IRON PIPE
MW	MONUMENT WELL
POB	POINT OF COMMENCEMENT
TPOB	TRUE POINT OF BEGINNING
IP	IRON PIPE
W/	WITH

Line Table		
Line #	Length	Bearing
L1	5.20'	S24° 18' 30"E
L2	15.14'	N65° 41' 30"E
L3	52.49'	N65° 44' 35"E
L4	61.76'	N58° 07' 44"E
L5	17.87'	N43° 16' 36"E
L6	79.02'	N65 41' 30"E

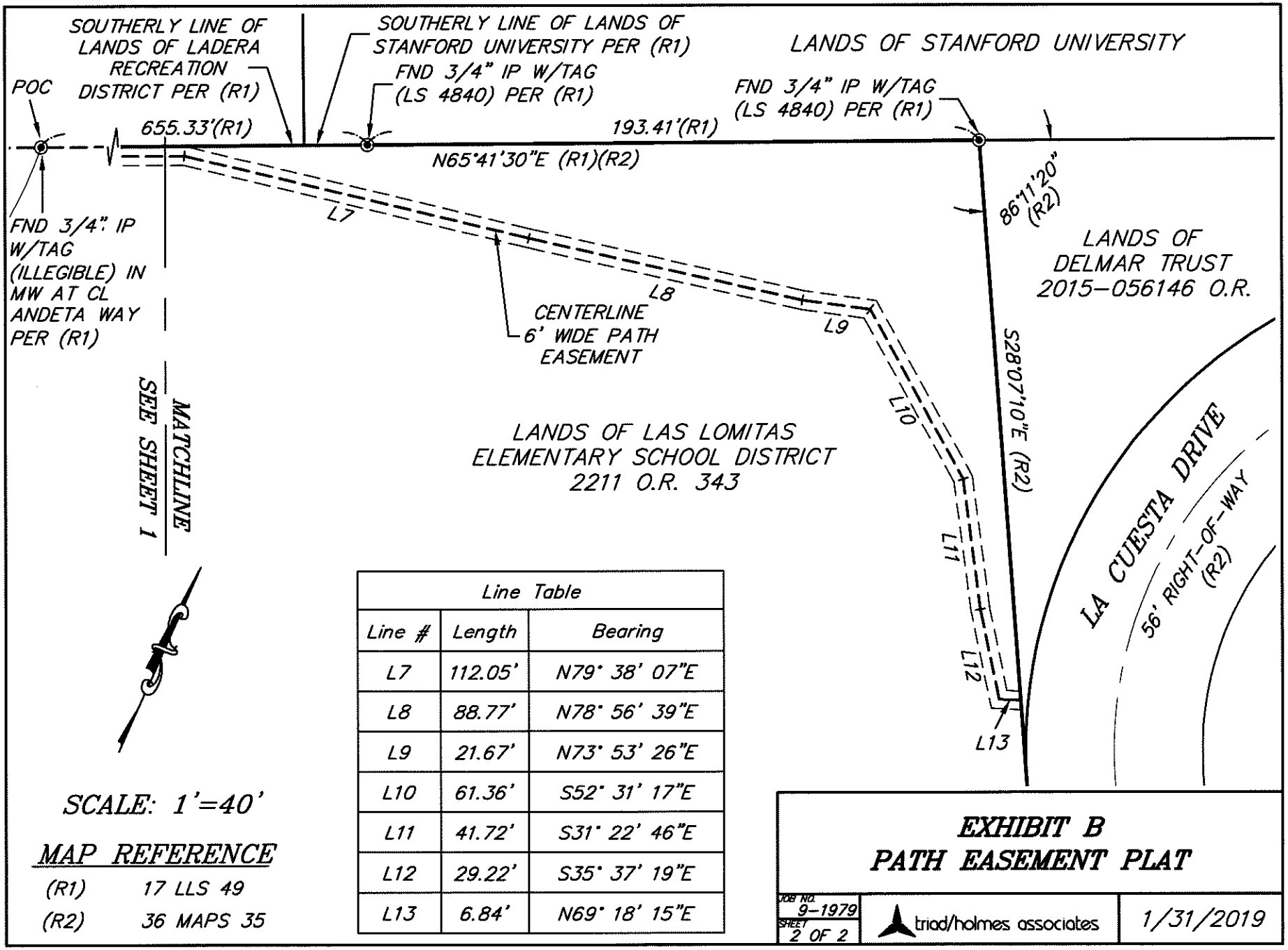
Curve Table			
Curve #	Radius	Length	Delta
C1	20.00'	14.57'	41° 44' 35"
C2	30.00'	21.83'	41° 41' 30"

EXHIBIT B
PATH EASEMENT PLAT

JOB NO. 9-1979
SHEET 1 OF 2

triad/holmes associates

1/31/2019



Line Table		
Line #	Length	Bearing
L7	112.05'	N79° 38' 07"E
L8	88.77'	N78° 56' 39"E
L9	21.67'	N73° 53' 26"E
L10	61.36'	S52° 31' 17"E
L11	41.72'	S31° 22' 46"E
L12	29.22'	S35° 37' 19"E
L13	6.84'	N69° 18' 15"E

SCALE: 1'=40'

MAP REFERENCE

(R1) 17 LLS 49

(R2) 36 MAPS 35

EXHIBIT B
PATH EASEMENT PLAT

JOB NO. 9-1979

SHEET 2 OF 2

triad/holmes associates

1/31/2019

EXHIBIT 2

NEWS

Polito to head Las Lomitas district

by **Angela Swartz**
May 15, 2019 8:24 am Updated May 17, 2019 11:38 am

Listen to this article now

00:00 02:13 1.0×

Woodside Elementary School District Superintendent Beth Polito will head the neighboring Las Lomitas School District beginning July 1.

The Las Lomitas school board voted 5-0 on May 8 to approve a three-year contract for Polito, who served as Woodside's superintendent for eight years. Polito will earn $279,000 annually in her new post, according to board President John Earnhardt. She now earns an annual $228,774 as Woodside's superintendent, according to the Woodside district.

"With her experience in Reader's and Writer's Workshop, equity, social and emotional literacy, construction and encouraging and supporting innovative approaches to learning and much more, Beth joins us at a great time to help make our 'District of the Little Hills' better tomorrow than it is today," Earnhardt said in a May 9 email to district community members.

Polito replaces Lisa Cesario, who announced her retirement in February. In his May 9 email, Earnhardt thanked Cesario for her seven years as superintendent.

"She has, among many other things, hired great teachers, implemented great education programs in math, reading, writing, science and supported and expanded access to electives," Earnhardt said. "Under her leadership, La Entrada was recognized as one of the best middle schools in the nation and the state of California. She has also helped update and improve the facilities at both schools for 21st Century learnir She has supported our teachers through investing in professional development and rewarding them with

in each of her years as su rict and LLESD is absolutely better today th

Polito, who holds a docto co, served as assistant superintendent of the Sar the Woodside district. Prior to that, she was a teacher, dean of students, vice principal, and principal at Redwood Middle School in Saratoga for 14 years.

Polito's last day with the Woodside district will be June 30, Polito said in a May 9 email.

–

John

May 16, 2019 12:59 am at 12:59 am

I guess the school board ignored the MULTIPLE notifications they got about her MULTIPLE illegal dealings. Did you even look her up online? Good luck LLESD. Teachers watch out. Another bad person getting a huge pay raise. Shameful.

EXHIBIT 3

NEWS

Woodside school district superintendent announces move to Las Lomitas

Beth Polito is top pick to head school district in west Menlo Park and Atherton

by **Angela Swartz**
April 25, 2019 3:29 pm

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Woodside Elementary School District Superintendent Beth Polito is leaving her post at the end of the school year to head the nearby Las Lomitas School District, pending a school board vote, according to a April 25 Las Lomitas district press release.

Polito, who joined the Woodside district as its superintendent in 2011, will stay on until July 1, she said in an email to district families April 25. She is poised to replace Superintendent Lisa Cesario, who announced her retirement in February.

The Las Lomitas district plans to vote on Polito's appointment in an open session school board meeting at 7 p.m. on May 8 in the La Entrada Middle School multiuse room, 2200 Sharon Road in Menlo Park, according to the district's press release.

"We are extremely pleased to attract someone of Dr. Polito's caliber. Her experience as a sitting superintendent, as well as her background as a teacher and school site and district administrator, all in the Bay Area, make her uniquely qualified to lead our district," said board President John Earnhardt in a prepared statement.

Polito is the third local school district superintendent to recently announce a resignation. In addition to Cesario, Portola Valley School District Superintendent Eric Hartwig announced his resignation in Novem

Polito, who holds a docto[illegible]co, served as assistant superintendent of the San[illegible] the Woodside district. Prior to that, she was a te[illegible]wood Middle School in Saratoga for 14 years.

Woodside school district officials say Polito will be missed.

"Over the past eight years as Superintendent for Woodside School, Dr. Polito has focused on making our school a place where every child can learn and thrive," wrote Woodside board president Silvia Edwards in an April 25 email to The Almanac. "Beth accomplished much during her tenure: She oversaw the implementation of the Common Core standards; She helped the district successfully pass a bond measure which resulted in the building and renovation of school facilities; Finally, she worked to build a robust SEL (Social and Emotional Learning) and Design Thinking program."

The school board reviewed a superintendent search proposal during a **public meeting on April 26** and decided to push the process back until its May 7 meeting, Edwards said after the meeting. Board members expressed interest in possibly hiring an interim superintendent instead of doing a full-fledged search for a replacement, given the quick turnaround, she said.

At the meeting, the board opted not to hire the search firm Hazard, Young, Attea & Associates (HYA) to help fill Polito's job, Edwards said. The firm has been working with the Portola Valley School District to find a new superintendent, and was involved in the Las Lomitas district superintendent search.

At the May 7 meeting, the board will consider whether it will appoint an interim superintendent, hire HYA or interview other search firms, Edwards said. The meeting will take place at 3:30 p.m. in the Wildcats room at Woodside School, 3195 Woodside Road in Woodside.

The school board will also host a community forum to solicit input on the superintendent search from 9 a.m. to 1 p.m. on Thursday, May 2, in the Wildcats room.

The district hopes to fill the role by the end of the school year, which is June 7, Polito said.

–

Chris

April 27, 2019 1:11 am at 1:11

No comments yet, seriously? B Almanac has posted many articles on Ms. Polito that woul n reluctant to talk to me about her as if they are scared. It's lik suggest the Woodside district do exit interviews of their form n district. And I suggest Las Lomitas talk to current and former employees of Beth's as well. I notice the reporter Barbara Wood who has negatively reported on Ms. Polito in the past is not the writer of this article. Interesting.

Susan

May 4, 2019 3:54 pm at 3:54 pm

My children are enrolled in the LLESD and this news makes me so sad. Given the geography of the two school districts one can only conclude that Ms. Polito already knows the toxic duo of Lisa Cesario and Shannon Potts. One can only conclude she will have been influenced in her opinions about the district by them. If the commotion surrounding the promotion of Shannon Potts served a purpose besides making her richer, it was that it exposed that Lisa and Shannon and the school board are all clearly out of touch with the state of the school district. I know many in the community hoped for a fresh start. This is not fresh start. It looks like a substitution off the bench. Ms. Polito, I beg you, go to the teachers and find out what has been going on. Listen to them and allow them to speak open and honestly and not put a positive spin on everything for their new boss. Find out the truth. You won't get that from the school board or district administration.

EXHIBIT 4

The Almanac

NEWS

Hanretty's appeal alleges former official complicit in misappropriation

by **Renee Batti**
June 5, 2014 9:51 pm

Listen to this article now 1.0× 00:00 03:59

Tim Hanretty, who served time in prison for embezzlement and misappropriation of public funds from local school districts, has asserted in a document filed recently in the California Court of Appeal that his former boss, now deceased, was complicit in some of the illegal deeds. The legal action challenges the amount of restitution he was ordered to pay the Woodside Elementary School District.

The legal brief was submitted to the First Appellate District on May 21, and asks that the $2.67 million restitution order issued by a San Mateo County Superior Court judge last year be overturned and a new restitution hearing be held.

Mr. Hanretty in 2012 pleaded guilty to stealing nearly $101,000 from the Portola Valley School District while he was superintendent there — from mid-2010 to early 2012 — and to misappropriating funds in the Woodside district by forging paperwork to take out a much larger loan for construction projects at Woodside Elementary School than was authorized by the school board in 2007.

In the brief, Mr. Hanretty asserts that he and the late Dan Vinson, who was superintendent of the Woodside district when Mr. Hanretty served as its financial officer, "felt that the 'dysfunctional' school board pressured them to complete a modernization project that the board had undertaken. When the board only approved a $632,000 loan over ten years for the project, (Hanretty) and Vinson falsified documents to obtain a ($2.6 million) loan payable over 21 years."

An investigation of the crime by the San Mateo County District Attorney's Office concluded that the money was spent entirely on the school project, unlike the money taken from the Portola Valley district, which Mr. Hanretty used to remodel his home.

Mr. Hanretty is not challenging the restitution he has been ordered to pay to the Portola Valley district.

Basis for the challenge

Mr. Hanretty's attorney, J. Wilder Lee of San Francisco, argues in the brief that the trial court failed to account for the "time value" of money in ordering restitution of $856,553 in loan interest in addition to the amount of the loan principal.

In ordering that the restitution be paid immediately, he asserts, the court should have considered that, "were the (principal) paid off today, then years of interest payments would not be due." Therefore, the interest calculation was excessive and would result in "the district receiving a windfall."

Mr. Lee declined to comment for this story.

Deputy District Attorney Kimberly Perrotti, who prosecuted the case in Superior Court, said the "time value" argument wasn't raised at the trial court level.

Because attorney Michael Markowitz of Danville, who represented Mr. Hanretty in Superior Court, didn't make that argument, he "rendered ineffective assistance," the Appeals Court brief asserts.

Mr. Markowitz could not be reached for comment for this article.

The Appeals Court brief also argues that restitution to the school district must be based on "the monetary loss on the unauthorized portion of the loan offset by the value to the district of the improvements acquired through the modernization project." That offset wasn't factored in, which "resulted in the District getting a double benefit from the use of the upgraded facilities and by having Hanretty pay for the entire amount of the unauthorized loan used to pay for those upgrades," the brief asserts.

Ms. Perrotti said that argument was raised in Superior Court, and she continues to refute it. "Simply put, the district has no choice but to live with the consequences" of the construction project. "You can't undo the work and recoup the costs," she said, because the school can't be sold to get the district out of its unwanted and unauthorized debt.

A responding brief by the state attorney general’s office is due June 20.

EXHIBIT 3

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Attorney for Plaintiff
LADERA TAXPAYERS FOR INTEGRITY IN GOVERNANCE

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

LADERA TAXPAYERS FOR INTEGRITY IN GOVERNANCE,
Plaintiff,

v.

LAS LOMITAS ELEMENTARY SCHOOL DISTRICT, in its capacity as a property owner; LAS LOMITAS ELEMENTARY SCHOOL DISTRICT GOVERNING BOARD, in its capacity as a property manager; DR. BETH POLITO, in her official capacity as Superintendent of the Las Lomitas Elementary School District; HEATHER HOPKINS, in her official capacity as President of the Las Lomitas Elementary School District Governing Board; WOODLAND SCHOOL; and DR. JENNIFER WARREN, in her official capacity as Head of Woodland,

Defendants.

Case No. 24-cv-2412-WHO

PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION TO DISMISS

Date: July 10, 2024
Time: 2:00 p.m.
Location: Courtroom 2, 17th Floor

Complaint Filed: April 23, 2024

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I. INTRODUCTION

Defendants' motion to dismiss fails to recite (and apply) the correct analysis for 11th Amendment immunity, incorrectly states that Plaintiff has no injury and cannot assert injuries on behalf of its members (it does and it can), distractingly fixates on an administrative procedure that appears nowhere in Plaintiff's first amended complaint ("FAC"), and improperly disputes Plaintiff's alleged facts. Defendants' motion also confuses the applicable standing analysis here, which is simple Art. III standing.

Accordingly, Defendants' motion to dismiss fails as a matter of law and should be denied. If this Court finds otherwise, Plaintiff respectfully requests leave to amend.

II. FACTS

A. Plaintiff's FAC Alleges That Defendant Las Lomitas Elementary School District Is A "Minimum Expenditure" or "Basic Aid" School District.

Plaintiff repeatedly alleges that Defendant LLESD is a basic aid (or minimum expenditure) school district. According to the FAC:

> "Las Lomitas Elementary School District ("District" and/or "LLESD") … is a Basic Aid district not subject to any "maximum expenditure" requirements that receives between 90-95% of its funding from non-state sources."

FAC, Dkt. 20, ¶ 20.

> "LLESD is a 'basic need/support/aid' district, meaning that there is no maximum expenditure per student and there is no spending cap, and the funds are not subject to state control."

FAC, Dkt. 20, ¶ 34.

> "LLESD … is a Basic Aid district with a 'minimum' or uncapped expenditure, receiving roughly 5-10% of funds from State sources, thus requiring no damages be paid from State funds[.] "

FAC, Dkt. 20, ¶ 32.

> "LLESD is a 'Basic Aid' district[.]"

FAC, Dkt. 20, ¶ 33.

B. Plaintiff's FAC Alleges That Local Property Owner Las Lomitas Elementary School District and Local Property Manager LLESD Board Do Not Perform Central Government Functions When Managing Their Local Property.

Plaintiff repeatedly alleges that LLESD and the LLESD Board do not perform state functions with regard to their management of their local property. According to the FAC:

> "[I]n their respective capacities as property owner and manager, LLESD/the Board do not perform central government functions (and all relevant State agencies responsible for overseeing the District repeatedly confirmed on numerous occasions to Plaintiff that it had no ability to oversee and/or intervene in LLESD/Board's managing of property because that is a local function subject only to local control)[.]"

FAC, Dkt. 20, ¶ 32.

> "[H]ere, … the issues do not involve education and there is no State function of local land management[.]"

FAC, Dkt. 20, ¶ 32.

C. Plaintiff's FAC Alleges Harms and Injuries Suffered Both by Plaintiff and by Plaintiff's Members.

Plaintiff alleges that each of Defendants LLESD, LLESD Board, Heather Hopkins, and Beth Polito harmed and injured (and continue to harm and injure) Plaintiff as a group and Plaintiff's members. According to the FAC:

> "According to the District's own documents, policies, and actions, the in-use Play Areas are a limited public forum. And yet, Plaintiff and its members have been (and continue to be) prevented from hosting meetings, speaking, gathering, posting signs, and otherwise using the Play Areas as a civic center."

FAC, Dkt. 20, ¶ 9.

> "Such differential treatment constitutes a viewpoint-based restriction on

> speech and rights to assemble that in effect deprives *the District's own students and constituents* (including Plaintiff and its members) of their constitutional rights *on their own public school property* in favor of the interests of a private school. A private school that competed with another private school to lease the Property *without any use of the Play Areas*."

FAC, Dkt. 20, ¶ 9.

> "Ladera Taxpayers for Integrity in Governance is a group of District taxpayers who reside in close proximity to the Play Areas in unincorporated San Mateo County in the neighborhood of Ladera and within LLESD. All members have been assessed and paid a tax, including property taxes with bond measures specifically for LLESD, within the past year. All members possess the same harm of being deprived of their constitutional freedoms on the Play Areas by certain Defendants, who act under color of law to cause such deprivation.

FAC, Dkt. 20, ¶ 19.

> Nor is closing a limited public forum to Plaintiff and its members, but allowing Woodland to use it exclusively, a valid time, place, and manner restriction because it is content-based; it is not narrowly tailored to achieve a significant government interest; there are no other, let alone ample, other alternative channels for communicating the speaker's message; it does not apply to all groups equally nor is there any rational basis for it; it violates equal protection because it is a restriction on speech that applies to different classes of speech differently because it restricts everyone but Woodland's speech on a limited public forum, without any substantial, rational, legitimate, valid government interest in doing so; nor is it reasonable in light of the Play Areas' purpose to be a recreation and civic center for the community, including Plaintiff and its members.

FAC, Dkt. 20, ¶ 107.

> Beth Polito and Heather Hopkins have deprived Plaintiff of the right to use the limited public forum of the Play Areas for First Amendment purposes. Acting jointly and severally, and in collaboration with Jennifer Warren, Beth Polito, and Heather Hopkins allow Woodland to post signs, hold meetings, host events, gather, and express viewpoints at the Play Areas. Acting jointly and severally, and in collaboration with Jennifer Warren, Beth Polito, and Heather Hopkins prevented and restricted (and continue to prevent and restrict) Plaintiff from posting signs, holding meetings, hosting events, gathering, and expressing viewpoints at the Play Areas. In so restricting Plaintiff's and its members' rights to the Play Areas, Beth Polito and Heather Hopkins, in their official and individual capacity, and Jennifer Warren acted (and continue to act) under the color of LLESD District policies, procedures, contracts, Lease/License agreements, and the Education Code (allowing Districts to

control their property and to exercise local control).

FAC, Dkt. 20, ¶ 109.

> Preventing Plaintiff, and allowing only Woodland and its students, staff, teachers, administrators, and members, to gather, speak, assemble, post signs, and perform, while restricting Plaintiff's opportunities to do the same, constitutes a viewpoint- and content-based restriction on speech and rights to assembly, and an irrational illegitimate time, place, and manner restriction on speech and rights to assemble in violation of the US and California Constitutions' protections for freedom of speech and rights of assembly.

FAC, Dkt. 20, ¶ 148

> Plaintiff has been harmed by Defendants Heather Hopkins' and Beth Polito's breaches of their duties to follow binding ministerial Board Policies and state and federal law in several ways, including but not limited to Plaintiff has been unable to use the Play Areas for years which caused Plaintiff and its members to incur additional costs in driving further to access other recreation areas, inability to recreate, inability to meet and to gather, inability to form a civic center, community disruption, erosion of feelings of community, emotional distress, physical and mental health declines and distress, extensive time spent requesting Board Policies and laws be followed, consulting with experts for help, and other harm, including affecting their ability to be at peace in their own neighborhood

FAC, Dkt. 20, ¶ 175.

> All members possess the same harm of being deprived of their constitutional freedoms on the Play Areas by certain Defendants, who act under color of law to cause such deprivation. Per the Lease Agreement, Woodland is required to obtain a Conditional Use Permit ("CUP") from San Mateo County to allow it to operate a private school on the Ladera School Site, which is currently zoned for operating a public school. The Lease Agreement incorporates the CUP in its entirety; the CUP is part of the Lease Agreement. *See* Dkt. 1, Exhs. D-F.

D. <u>Plaintiff's FAC Clearly and Repeatedly Alleges the Viewpoint, Content, and Time, Place, and Manner Restrictions That Defendants Unlawfully Impose On Plaintiff's And Its Members' Speech.</u>

Plaintiff explains *ad nauseam* in its FAC that Defendants allow one private entity to speak and to assemble on Defendants' limited public forum, but prohibit Plaintiff and its

members from speaking and assembling on Defendants' limited public forum, which thus restricts specific viewpoints and content, thereby violating Plaintiff's and its members first and fourteenth amendment rights. Plaintiff also repeatedly alleges that Defendants improperly restrict the time, place, and manner of its (and its members') speech, without a legitimate government interest. Per the FAC:

> "Plaintiff and its members have been (and continue to be) prevented from hosting meetings, speaking, gathering, posting signs, and otherwise using the Play Areas … [b]ut Woodland School … is allowed to do (and does) any and all of these things on the Play Areas, all day long, M-F, 7:30am-5pm. … Such differential treatment constitutes a viewpoint-based restriction on speech and rights to assemble that in effect deprives *the District's own students and constituents* (including Plaintiff and its members) of their constitutional rights *on their own public school property* in favor of the interests of a private school."

FAC, Dkt. 20, ¶¶ 9-11

> "LLESD gifted an extremely valuable license to in-use District property to Woodland, for free … result[ing] in viewpoint- and content-based access restrictions on a limited public forum that were not reasonable given the forum's purpose (to "be made available to the District and the community" Ex. B)."

FAC, Dkt. 20, ¶ 69.

> "This gift of a license to the Play Areas violates … Plaintiff's rights to free speech, the equal protection clause (by distinguishing between classes of speech, Woodland's v. Plaintiff's, creating content- and viewpoint-based restrictions, and restricting Plaintiff's and the public's rights of access to the limited public forum but leaving other limited public forums open)[.]"

FAC, Dkt. 20, ¶ 73.

> "Preventing Plaintiff from speaking, gathering, assembling, meeting, renting, using, posting signs, and/or communicating on the limited-public-forum Play Areas, but allowing Woodland to do so, constitutes a viewpoint- and content-based restriction on speech that is not narrowly tailored to achieve a significant government function and that is not reasonable in light of the forum's purpose, which is to provide the public with a civic center and recreation. *See Cornelius v. NAACP Legal Defense & Ed. Fund, Inc.*, 473 U. S. 788, 806 (1985); *see also* Ex. B ("the Governing Board desires to continue

> to control the use of the playing fields so that they may be made available to the District and the community"). Serving the needs of a private school and out-of-district private school children is not a significant government interest; a public school has no interest, let alone a significant one, in serving the needs of a private school or promoting/enabling the speech of out-of-district private school children *on public school property*."

FAC, Dkt. 20, ¶ 106.

> "Beth Polito and Heather Hopkins have deprived Plaintiff of the right to use the limited public forum of the Play Areas for First Amendment purposes. Acting jointly and severally, and in collaboration with Jennifer Warren, Beth Polito, and Heather Hopkins allow Woodland to post signs, hold meetings, host events, gather, and express viewpoints at the Play Areas. Acting jointly and severally, and in collaboration with Jennifer Warren, Beth Polito, and Heather Hopkins prevented and restricted (and continue to prevent and restrict) Plaintiff from posting signs, holding meetings, hosting events, gathering, and expressing viewpoints at the Play Areas. In so restricting Plaintiff's and its members' rights to the Play Areas, Beth Polito and Heather Hopkins, in their official and individual capacity, and Jennifer Warren acted (and continue to act) under the color of LLESD District policies, procedures, contracts, Lease/License agreements, and the Education Code (allowing Districts to control their property and to exercise local control)."

FAC, Dkt. 20, ¶ 109.

> "By letting only one private entity use the Play Areas, which are limited public forums, Heather Hopkins, Beth Polito, Woodland School, and Jennifer Warren allow only one viewpoint to be expressed on its limited public forum. Heather Hopkins, Beth Polito, Woodland School, and Jennifer Warren's acts are performed under the color of LLESD's Board Policies and Bylaws and contracts of letting only Woodland speak, gather, and use the Play Areas."

FAC, Dkt. 20, ¶ 111.

> "Allowing only Woodland's free speech and free association on the Play Areas reflects a content- and viewpoint-based restriction on using a limited public forum that is not reasonable in light of the forum's purpose, which, according to the District/Board itself, is "to be available to the District and the community." *See* Ex. B. Such content- and viewpoint-based restrictions are not narrowly tailored to achieve a compelling government interest because there is no government interest in facilitating the operations of a private school, when that private school bid to lease the adjoining property without ***any*** use of, or access to, the Play Areas and a second bidder would have accepted the same terms for only a few thousand less. Nor is supporting private-school sporting events or protecting access to recreation areas for

> private school children who reside outside the District a compelling government interest."

FAC, Dkt. 20, ¶ 113.

> "Allowing only Woodland's free speech and free association on the Play Areas is not a valid time, place, and manner restriction because it does not apply to all speech and assembling and there is no rational basis for allowing one private entity only to use a limited public forum when the public seeks simultaneous use and the private entity agreed to lease the adjoining school without any use of the Play Areas whatsoever."

FAC, Dkt. 20, ¶ 114

> "Allowing only Woodland and private school students to gather, speak, assemble, post signs, and perform, while restricting Plaintiff's opportunities to do the same, constitutes a viewpoint- and content-based restriction on speech and rights to assembly, and an irrational illegitimate time, place, and manner restriction on speech and rights to assemble that is neither narrowly tailored nor serving a compelling government interest in violation of the US Constitutions' First Amendment protections for freedom of speech and rights of assembly."

FAC, Dkt. 20, ¶ 134.

> "Beth Polito, Heather Hopkins, LLESD, and LLESD Board deprive Plaintiff of its First Amendment rights by restricting access to the Play Areas to one viewpoint/speaker only (Woodland)."

FAC, Dkt. 20, ¶ 136.

> "Beth Polito, Heather Hopkins, LLESD, and LLESD Board claims [sic] that this unequal treatment of Plaintiff is acceptable because they can do whatever they want with in-use District property, selectively enforce ministerial Board Policies and law, and discriminate between classes/viewpoints/subjects of speakers."

FAC, Dkt. 20, ¶ 142.

> "Preventing Plaintiff, and allowing only Woodland and its students, staff, teachers, administrators, and members, to gather, speak, assemble, post signs, and perform, while restricting Plaintiff's opportunities to do the same, constitutes a viewpoint- and content-based restriction on speech and rights to assembly, and an irrational illegitimate time, place, and manner restriction on speech and rights to assemble in violation of the US and California Constitutions' protections for freedom of speech and rights of assembly."

FAC, Dkt. 20, ¶ 148.

III. LEGAL ARGUMENT

A. Defendants' 11th Amendment Immunity Argument Is Without Merit Because Defendants Ignore Binding Ninth Circuit Precedent That Finds Immunity Only For "Maximum" Expenditure Districts, Which LLESD Is Not.

"The [Eleventh] Amendment . . . enacts a sovereign immunity from suit, rather than a nonwaivable limit on the Federal Judiciary's subject-matter jurisdiction." *Idaho v. Coeur d'Alene Tribe of Idaho*, 521 U.S. 261, 267 (1997). It "prohibits federal courts from hearing suits brought against an unconsenting state." *Brooks v. Sulphur Springs Valley Elec. Coop.*, 951 F.2d 1050, 1053 (9th Cir. 1991); *see also Tennessee v. Lane*, 541 U.S. 509, 517 (2004); *Idaho*, 521 U.S. at 267-68; *Clark v. California*, 123 F.3d 1267, 1269 (9th Cir. 1997).

The Eleventh Amendment immunizes agencies of the state from federal court actions for damages or injunctive relief. *Pennhurst State School & Hosp. v. Halderman*, 465 U.S. 89, 100 (1984) (eleventh amendment proscribes suit against state agencies "regardless of the nature of the relief sought"); *Alabama v. Pugh*, 438 U.S. 781 (1978) (per curiam).

"To determine whether a governmental agency is an arm of the state, the following factors must be examined: [1] whether a money judgment would be satisfied out of state funds, [2] whether the entity performs central governmental functions, [3] whether the entity may sue or be sued, [4] whether the entity has the power to take property in its own name or only the name of the state, and [5] the corporate status of the entity." *Mitchell v. Los Angeles Community College District*, 861 F.2d 198, 201 (9th Cir. 1988), *cert. denied*, 490 U.S. 1081 (1989) (*citing Jackson v. Hayakawa*, 682 F.2d 1344, 1350 (9th Cir. 1982).

"To determine these factors, the court looks to the way state law treats the entity." *Mitchell*, 861 F.2d 198 (*citing Mount Healthy City School Dist. Bd. of Educ. v. Doyle*, 429 U.S. 274, 280 (1977); *Rutledge v. Arizona Bd. of Regents*, 660 F.2d 1345, 1349 (9th Cir. 1981), *aff'd. sub nom*; *Kush v. Rutledge*, 460 U.S. 719 (1983).

In 1992, the Ninth Circuit applied the *Mitchell* factors to hold that a California school

in the central valley was an arm of the state, immune from suit in federal court. *Belanger v. Madera Unified Sch. Dist.*, 963 F.2d 248, 249 (9th Cir. 1992). Considering the "first and most important factor," the Ninth Circuit placed primary weight on the fact that a money judgment would be satisfied out of state funds because "[u]nlike most states, California school district have budgets that are controlled and funded by the state government rather than the local districts." *Id.* at 251. The Court held that since "the bulk of the school district's budget comes directly from the state school fund, and [since] the property tax revenue in the budget is interchangeable with the state funds and is treated as state funds for all practical purposes[, then u]nder California's revenue limit system, a judgment against the school district would be satisfied from state funds." *Id.* at 252-53.

Since *Belanger*, California's school funding changed dramatically. California now allows school districts to accept less state funding in exchange for avoiding caps on expenditures. Only 3.7% of school districts in California opt-out of more state funding to be able to become "minimum expenditure" or "basic aid" districts, allowing them to accept more money from local sources. *See* Declaration of T. Oliver, ¶ 8. Those districts, such as LLESD, are primarily located in the wealthier Bay Area, coastal, and mountain areas. *Id.*

1. <u>The first "predominant" *Mitchell* factor does not support immunity because LLESD is a basic-aid, "minimum" funding district, not subject to any caps on per pupil expenditures.</u>

In 2017, the Ninth Circuit revisited its holding in *Belanger* in light of the California legislature's enactment of AB 97, which provided more local funding control to school districts but was yet to be fully implemented. *Sato v. Orange Cty. Dep't of Educ.*, 861 F.3d 923, 929-31 (9th Cir. 2017). "Examining the purposes of AB 97, [the Ninth Circuit] find[s] no intent on the part of the California legislature to replace a maximum per-pupil funding formula with a minimum per-pupil formula." *Id.* at 931. The Court concluded that because the "maximum" per-pupil funding formula remained, the California school district was immune from federal suit.

Since *Sato*, AB 97 has now been fully implemented and 3.7% of California school

districts opt-out of state funding and control, opting instead to be "minimum" per pupil funding, or basic aid, districts. Oliver Decl., 8. LLESD is one of these "minimum" funding districts, as alleged. *See* FAC; Oliver Decl., ¶ 9.

Sato carefully teases-out the "maximum" v. "minimum" per-pupil funding district distinction and explains that, in schools that have minimum funding, such as LLESD, immunity is disfavored:

> "[I]n states that set a minimum, rather than a maximum, per-pupil funding amount, we have found that the first *Mitchell* factor disfavors immunity for school districts. *See, e.g., Holz*, 347 F.3d at 1184 (Alaska); *Savage*, 343 F.3d at 1044 (Arizona); *Eason*, 303 F.3d at 1143 (Nevada). In Alaska and Nevada, for example, the state guarantees minimum funding for school districts—called the 'basic support guarantee' in Nevada and the 'basic need' in Alaska—and school districts are free to raise additional revenue beyond that amount. *Holz*, 347 F.3d at 1183-84; *Eason*, 303 F.3d at 1142-43. Because per-pupil spending need not be equalized across districts, we held it was 'not necessarily true that an amount withdrawn from a school district's account in order to pay a judgment will be replaced with state money.' *Holz*, 348 F.3d at 1184 (quoting *Eason*, 303 F.3d at 1143). Similarly, in *Savage*, we held the state of Arizona would not be liable for judgments against school districts, as districts' funds 'are not subject to state control, are not subject to a *Belanger*-style spending-cap, and will not be replenished with money out of the state treasury.' 343 F.3d at 1044."

Sato, 861 F.3d 930.

Thus, the Ninth Circuit's immunity analysis for the "prominent" first factor turns on whether a school receives "maximum" v. "minimum" per-pupil funding from the state: if it's "maximum," such as in *Sato* and *Belanger*, then the first factor supports immunity; if it is "minimum," such as for LLESD, then immunity is disfavored. *See Sato*, 861 F.3d at 930; *Belanger*, 963 F.2d at 251.

Defendants erroneously ignore this "maximum" v. "minimum" funding distinction, instead seeking to treat California as a single unit. But now with AB 97 implemented fully, California has both "minimum" and "maximum" districts, and some "minimum" districts receive negligible state funding. Oliver Decl., ¶ [LLESD is one of these districts and thus the Ninth Circuit disfavors immunity for LLESD. *See Sato*, 861 F.3d at 930.

Defendants cite *Mullin v. Las Lomitas Elementary School District* to support a finding

of immunity. 109 F. App'x 146 (9th Cir. 2004). But as *Mullin* explains, "the state sets a revenue ***limit*** for each school district based on the number of students the district serves. If a school district's property tax revenue is less than this revenue limit, the state makes up the difference by providing equalization." *Id.* at 148 (emphasis added). This is no longer the case for LLESD; LLESD is no longer subject to revenue or maximum spending limits. Dkt. 20, ¶¶ 20, 32-34 ("LLESD is a 'basic need/support/aid' district, meaning that there is no maximum expenditure per student and there is no spending cap, and the funds are not subject to state control."); Oliver Decl., ¶ 9. Accordingly, as a minimum funding or basic aid district, the first and most critical *Mitchell* factor disfavors immunity for LLESD.

2. The second *Mitchell f*actor does not support immunity because, in this Action, LLESD/Board is acting as a local property manager, not performing state functions, and as a basic-aid District, there is less state oversight/control.

The second *Mitchell* factor considers whether the entity performs central government functions. *Mitchell*, 861 F. 2d at 201. The Ninth Circuit also held that, although "public schooling is usually considered to be a local governmental function[,] through the state constitution, statutes, and supreme court decisions, California has made public schooling a state governmental function." *Id.* at 253-54. The Ninth Circuit's analysis focuses on the "education" function that a school is performing, and whether the school has local control.

Here, the LLESD and LLESD Board is operating as a local land owner and local land manager. As alleged, "[I]n their respective capacities as property owner and manager, LLESD/the Board do not perform central government functions (and all relevant State agencies responsible for overseeing the District repeatedly confirmed on numerous occasions to Plaintiff that it had no ability to oversee and/or intervene in LLESD/Board's managing of property because that is a local function subject only to local control)[.]" FAC, Dkt. 20, ¶ 32. "[H]ere, … the issues do not involve education and there is no State function of local land management[.]" FAC, Dkt. 20, ¶ 32. Accordingly, LLESD and LLESD Board are not performing any government functions here.

Additionally, because LLESD is a "basic aid" or "minimum funding" District, the State exercises far less control over LLESD than other California schools. Oliver Decl., ¶ 8.

Defendants' argument for immunity rests on disputing these facts, which is improper on a motion to dismiss where all pleaded facts must be assumed true and construed in favor of Plaintiff. *See Teixeira v. Cnty. of Alameda*, 873 F.3d 670, 678 (9th Cir. 2017); *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009); *Kwan v. SanMedica Int'l*, 854 F.3d 1088, 1096 (9th Cir. 2017).

3. The remaining *Mitchell* factors do not support immunity because Defendants may be sued, may take property in their own name, and are corporate or municipal actors in their capacity as property owners and managers.

The third, fourth, and fifth *Mitchell* factors do not support a finding of immunity because (3) LLESD/the Board may sue and be sued (4) LLESD/the Board have the power to take property in LLESD's own name and (5) school districts have the corporate status of State agents for purposes of school administration, but as corporate or municipal actors for purposes of property management, ownership, and development. *See Mitchell*, 861 F.2d at 201; FAC, Dkt. 20, ¶ 32. Defendants fail to show otherwise, and, at this pleading stage, this Court must accept as true the allegations in the complaint and construe them in favor of the Plaintiff. *See Teixeira*, 873 F.3d 678; *Ashcroft*, 556 U.S. at 679; *Kwan*, 854 F.3d at 1096. Defendants fail to show any pleading deficiencies and fail to cite any case law to explain how *Mitchell* factors 3-5 support finding immunity. As pleaded, they do not.

4. Heather Hopkins and Beth Polito do not qualify for Eleventh Amendment immunity because Plaintiff is requesting this Court to command them to do nothing more than refrain from violating federal law.

Even if LLESD and the LLESD Board were immune here (they are not), Heather Hopkins and Beth Polito have no immunity for their acts. In *Ex parte Young*, the Supreme Court explained that, because an unconstitutional legislative enactment was "void," a state

official who enforces that law "comes into conflict with the superior authority of [the] Constitution," and therefore is "stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States." 209 U.S., 123, 159-60 (1908).

In 2011, the Supreme Court further explained:

> "This doctrine has existed alongside our sovereign-immunity jurisprudence for more than a century, accepted as necessary to "permit the federal courts to vindicate federal rights." *Pennhurst*, 465 U.S., at 105. It rests on the premise--less delicately called a "fiction," *id.* at 114, n. 25 --that when a federal court commands a state official to do nothing more than refrain from violating federal law, he is not the State for sovereign-immunity purposes. The doctrine is limited to that precise situation, and does not apply "when 'the state is the real, substantial party in interest,' id. at 101 (*quoting Ford Motor Co. v. Department of Treasury of Ind*., 323 U.S. 459, 464 (1945)), as when the "'judgment sought would expend itself on the public treasury or domain, or interfere with public administration,' 465 U.S., at 101, n. 11 (*quoting Dugan v. Rank*, 372 U.S. 609, 620 (1963)).

Va. Office for Prot. & Advocacy v. Stewart, 563 U.S. 247, 254-55 (2011).

Here, the alleged causes of action against Heather Hopkins and Beth Polito seek an order commanding them to refrain from violating federal law. Eleventh amendment immunity therefore does not apply to any claims against them.

B. <u>Defendants' Standing Argument Is Baseless Because the FAC Repeatedly and Sufficiently Alleges Violations of Plaintiff's Constitutional Rights and Plaintiff Is Not Required to Plead Additional Injury or Harm for 1983 Violations.</u>

From what Plaintiff is able to discern from the garbled presentation, Defendants' standing argument is based on two distinct theories, neither of which has merit: (1) Plaintiff asserts third party rights and (2) Plaintiff lacks federal taxpayer standing. To state a cognizable claim for a Section 1983 violation, a plaintiff must allege (1) the deprivation of a constitutional right and (2) a person who committed the alleged violation acted under color of state law. *West v. Atkins*, 487 U.S. 42, 48, 108 S. Ct. 2250, 101 L. Ed. 2d 40 (1988); *Williams v. Gorton*, 529 F.2d 668, 670 (9th Cir. 1976). Plaintiff's federal standing is based on 1983

violations, not taxpayer or third-party claims. Plaintiff properly pleads the two-prongs of 1983 violations ((1) deprivation of a right (2) by one of Defendants acting under color of law) and thus satisfies its pleading burden; Defendants' taxpayer and injury concerns entirely miss the point.

1. Plaintiff repeatedly alleges the definite injury of "no use" of unlawfully gifted public property throughout the FAC and therefore Plaintiff sufficiently alleges Article III harm.

Considering Defendants' taxpayer standing argument first, Plaintiff repeatedly alleges direct pocketbook injuries from Defendants' illegal gifting of public property. *See, generally*, FAC. "To establish standing in a state or municipal taxpayer suit under Article III, a plaintiff must allege a direct injury caused by the expenditure of tax dollars or a direct injury or harm sufficient to warrant Article III standing." *ASARCO v. Kadish*, 490 U.S. 605, 613 (1989). The same conclusion may not hold for municipal taxpayers, if it has been shown that the "peculiar relation of the corporate taxpayer to the [municipal] corporation" makes the taxpayer's interest in the application of municipal revenues "direct and immediate." *Frothingham v. Mellon*, 262 U.S. 447, 486-87 (1923); *citing Crampton v. Zabriskie*, 101 U. S. 601 (1880). "[W]e have likened state taxpayers to federal taxpayers, and thus we have refused to confer standing upon a state taxpayer absent a showing of 'direct injury,' pecuniary or otherwise." *ASARCO*, 490 U.S. 605, 614 (*quoting Doremus v. Board of Education of Hawthorne*, 342 U. S. 429 342 U. S. 429, 434 (1952); *see Hoohuli v. Ariyoshi*, 741 F.2d 1169, 1178 (9th Cir. 1984) (pleadings of valid taxpayer suit must "set forth the relationship between taxpayer, tax dollars, and the allegedly illegal government activity"). Plaintiff's FAC satisfies this requirement handily.

Plaintiff pleads that Defendants' gift of Plaintiff's taxpayer-owned public property to a private entity violates the CA Constitution, ministerial LLSED Board Policies, and various non-discretionary state laws. FAC, ¶¶ 152-157. Plaintiff pleads that the public property given to a private entity deprives Plaintiff of its use of the property it pays for (an injury). *Id.*

Plaintiff pleads that Defendants' unlawful gift prevents Defendants from renting the property for additional income (another injury). Plaintiff alleges that its taxpayer property is subsidizing the operations of a private school, which is an improper use of taxpayer funds/property. This subsidy hurts and injures Plaintiff both because, as a Basic Aid district, this subsidy is a direct expenditure of Plaintiff's funds and because Plaintiff and its members cannot use the property.

Defendants cite *United States v. Richardson* to justify dismissal for lack of a discrete injury for standing, but *Richardson* involves a federal taxpayer challenging the constitutionality of legislation without a direct, discrete injury. 418 U.S. 166, 177 (1974).

Defendants cite *Cantrell v. City of Long Beach*, but that case supports finding standing because, unlike those taxpayer claims dismissed for failure to allege any monetary or other damages, here Plaintiff repeatedly alleges damages from subsidizing, gifting, and being deprived use of their public property. *See* FAC; 241 F.3d 674, 683 (9th Cir. 2001) ("To establish standing in a state or municipal taxpayer suit under Article III, a plaintiff must … 'set forth the relationship between taxpayer, tax dollars, and the allegedly illegal government activity.'") (*quoting Hoohuli*, 741 F.2d at 1178. Because Plaintiff alleges harm and injury here, Plaintiff properly alleges Article III standing.

Additionally, Plaintiff properly pleads facts to support its taxpayer action:

> Section 526a "establishes the right of a taxpayer plaintiff to maintain an action against any officer of a local agency to obtain a judgment restraining or preventing illegal expenditure, waste, or injury of the estate, funds, or property of said agency." *Schmid v. City and County of San Francisco*, 60 Cal. App. 5th 470, 495, 274 Cal. Rptr. 3d 727 (2021). However, "[a] claim under this statute does not lie to attack exercises of administrative discretion and may not be employed to interfere with policymaking." *Schmid v. City & Cnty. of San Francisco*, 60 Cal. App. 5th 470, 495-96 (2021); *see also San Bernardino County v. Superior Court*, 239 Cal.App.4th 679, 686, 190 Cal. Rptr. 3d 876 (2015) ("[T]axpayer suits are authorized only if the government body has a duty to act and has refused to do so. If it has discretion and chooses not to act, the courts may not interfere with that decision." (internal quotation omitted); *Humane Society of the United States v. State Bd. of Equalization*, 152 Cal.App.4th 349, 356, 61 Cal. Rptr. 3d 277 (2007) ("[S]ection 526a has its limits. In particular, the courts have stressed that the statute should not be

> applied to principally 'political' issues or issues involving the exercise of the discretion of either the legislative or executive branches of government.").

Roark v. Richardson Bay Reg'l Agency, No. 22-cv-07610-WHO, 2023 U.S. Dist. LEXIS 214691, at *48-49 (N.D. Cal. Dec. 1, 2023) (finding Plaintiff failed to plead his nineteenth cause of action because the municipal acts were discretionary and there was no expenditure to enjoin).

Here, the acts are not discretionary and there is an expenditure to enjoin. Plaintiff alleges an illegal expenditure (a gift) of LLESD property performed by Defendants who have a duty to act and refused to act. *See* FAC, ¶¶ 152-57. The expenditure is ongoing. It harms Plaintiff. The expenditure can (and should) be enjoined.

2. Plaintiff repeatedly alleges injuries to Plaintiff because Defendants act illegally to prevent Plaintiff from exercising its rights on Defendants' limited public forum, while protecting a private school's rights to speak freely.

Plaintiff's FAC repeatedly explains how it is (and its members are) and has (have) been harmed by Defendants, who could simply reclassify the limited public forum as "surplus" property to close it as a limited public forum, but who instead open it as a limited public forum and restrict certain viewpoints and content of Plaintiff's and its members' speech while allowing Woodland and its members to speak and gather freely. *See* Facts, *supra,* Sections II.C. and D (quoting FAC). Since this Court must accept as true Plaintiff's allegations of harm and construe them in favor of Plaintiff, Defendants' standing argument fails. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007) (to survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to "state a claim to relief that is plausible on its face"); *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S. Ct. 1937, 173 L. Ed. 2d 868 (2009) ("A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged."); *see also CallerID4u, Inc. v. MCI Commc'ns Servs. Inc.*, 880 F.3d 1048, 1061 (9th Cir. 2018); *Teixeira,* 873 F.3d at 678.

Defendants rely on *Laird v. Tatum* to defeat standing, but that case involves "allegations of a subjective chill" that surveillance activity *might* have on speech; nowhere does that plaintiff allege a "claim of specific present objective harm or a threat of specific future harm" as Plaintiff alleges. *See* 408 U.S. 1, 14 (1972); FAC. Defendants seem to ignore the fact that each Defendant, when she/it refuses to provide Plaintiff (and its members) access to the limited public forum, and prevents Plaintiff from using the forum for first amendment purposes, is in-fact depriving Plaintiff (and its members) of their First and Fourteenth amendment rights, which constitutes an actual injury.

Defendants also cite *Warth v. Seldin*, in which a group of non-property-owning plaintiffs lacked standing to challenge a zoning ordinance that applied only to builders/developers on the basis that it made property plaintiffs wanted to buy too expensive, but that case explains that a plaintiff must have suffered "some threatened or actual injury resulting from the putatively illegal action…[,]" such as refusing to follow Board Policies and other laws that protect first amendment rights on school grounds. *See* 422 U.S. 490, 499, 95 S. Ct. 2197, 2205 (1975) (*quoting Linda R. S. v. Richard D.*, 410 U.S. 614, 617 (1973) and *citing Data Processing Service v. Camp*, 397 U.S. 150, 151-154 (1970).

Warth also explains that the "Art. III judicial power exists only to redress or otherwise to protect against injury to the complaining party, even though the court's judgment may benefit others collaterally." 422 U.S. at 499. In other words, Defendants make a big deal about potential benefit to other third parties, and cite this to demonstrate Plaintiff lacks standing. But, the fact that other entities benefit from Defendants acting lawfully and not violating the Constitution does not, without more, defeat standing. *See* Id. at 499-501 ("the plaintiff still must allege a distinct and palpable injury to himself, even if it is an injury shared by a large class of other possible litigants. … But so long as this requirement is satisfied, persons to whom Congress has granted a right of action, either expressly or by clear implication, may have standing to seek relief on the basis of the legal rights and interests of others, and, indeed, may invoke the general public interest in support of their claim.") (*citing U.S. v. SCRAP*, 412

U.S. 669 (1973) *and Sierra Club v. Morton*, 405 U.S. 727, 737 (1972); *FCC v. Sanders Radio Station*, 309 U.S. 470, 477 (1940)).

Defendants also cite *Carne v. Stanislaus Cnty. Animal Servs. Agency*. 445 F. Supp. 3d 772 (E.D. Cal. 2020). Not only is it not precedent here, but also *Carne* involved novel and complex issues of state law (applicability and effect of the Hayden Act as it relates to claims under other statutes), the factual and evidentiary showings for which did not overlap sufficiently with plaintiff's federal 1983 claims, resulting in remand of the state claims. *Id.*, at 775-78. Here, there are no novel state law issues and the evidence for Plaintiff's state and federal claims overlaps almost entirely.

3. Plaintiff is not seeking redress of injuries to third parties because it is alleging its own injuries and the injuries of its members.

As alleged repeatedly throughout the FAC, Plaintiff seeks to redress its own injuries and the injuries of its members; it is not bringing suit on behalf of third parties, and Plaintiff is not compelled to disclose its membership. Where the rights of an association and the rights of its members are coextensive, the Supreme Court allows associations to rely on violations of its members' First Amendment associational rights to bar defendants from compelling disclosure of the association's membership lists. *United Food & Commer. Workers Union Local 751 v. Brown Grp.*, 517 U.S. 544, 551-52 (1996); *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 459 (1958); *Joint Anti-Fascist Refugee Comm. v. McGrath*, 341 U.S. 123, 183-187 (1951) (Jackson, J., concurring); *Barrows v. Jackson*, 346 U.S. 249, 255-259 (1953); *NAACP v. Button*, 371 U.S. 415, 428, (1963); *National Motor Freight Traffic Assn., Inc. v. U.S.*, 372 U.S. 246, 247 (1963); *Sierra Club*, 405 U.S. at 739.

Here, Defendants impermissibly seek to limit Plaintiff and its members from redressing Defendants' constitutional violations by arguing that Plaintiff's failure to disclose its membership, which the Supreme Court does not require Plaintiff to do, somehow presents a standing or jurisdictional issue. It does not. Defendants are wrong.

Moreover, Plaintiff satisfies all three parts of the *Hunt v. Washington State Apple*

Advertising Commission test for assessing when an organization may sue to redress its members' injuries: "(a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." 432 U.S. 333, 343 (1977). Here, (a) Plaintiff's members have standing to sue because they are taxpayers, with a pocketbook injury, and Defendants violated their constitutional freedoms under color of law; (b) protecting these interests is germane to the purpose of the organization, which is to protect integrity in governance; and (c) Plaintiff seeks only injunctive and declaratory relief against Heather Hopkins, Beth Polito, LLESD, and the LLESD Board. *See United Food & Commer. Workers Union Local 751*, 517 U.S. at 546 (1996); *Hunt*, 432 U.S. at 343.

Defendants attempt to cast Plaintiff as asserting third party rights and cite *Powers v Ohio*, 499 U.S. 400, 411 (1991) (allowing a criminal defendant to raise the equal protection claims of third-party jurors, who were excluded by the prosecution because of their race) and *Singleton v. Wulff*, 428 U. S. 107, 112-13 (1976) (in an action by two physicians for injunctive relief and a declaration of the unconstitutionality of a Missouri statute that excludes abortions that are not "medically indicated" from the purposes for which Medicaid benefits are available to needy persons, the physicians alleged a sufficiently concrete interest in the outcome of the suit to make it a case or controversy subject to Article III jurisdiction because prevailing will result in benefit to the physicians of receiving payment for the abortions and the State will be out of pocket by the amount of the payments). Not only are those cases inapplicable here, but also Defendants' argument depends on ignoring the facts as-pleaded (that Plaintiff and its members have been harmed, directly), which is improper on a motion to dismiss. *See Teixeira*, 873 F.3d at 678 (the court must accept as true the allegations in the complaint and construe them in favor of the plaintiff); *Iqbal*, 556 U.S. at 679.

C. <u>Defendants Attempt To Argue The Merits Of Plaintiff's First and Fourteenth Amendment Claims, Which Is Impermissible On A Motion To Dismiss.</u>

In deciding whether the plaintiff has stated a claim upon which relief can be granted, the Court accepts the plaintiff's allegations as true and draws all reasonable inferences in favor of the plaintiff. *See Usher v. City of Los Angeles*, 828 F.2d 556, 561 (9th Cir. 1987). However, the court is not required to accept as true "allegations that are merely conclusory, unwarranted deductions of fact, or unreasonable inferences." *In re Gilead Scis. Sec. Litig.*, 536 F.3d 1049, 1055 (9th Cir. 2008). If the court dismisses the complaint, it "should grant leave to amend even if no request to amend the pleading was made, unless it determines that the pleading could not possibly be cured by the allegation of other facts." *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000).

1. Defendants' argument around Plaintiff's First and Fourteenth Amendment allegations requires disputing Plaintiff's alleged facts.

Plaintiff sufficiently alleges 1983 violations. To state a cognizable claim for a Section 1983 violation, a plaintiff must allege (1) the deprivation of a constitutional right and (2) a person who committed the alleged violation acted under color of state law. *West v. Atkins*, 487 U.S. 42, 48, 108 S. Ct. 2250, 101 L. Ed. 2d 40 (1988); *Williams*, 529 F.2d 668, 670. Instead of designating the property as "surplus" and closing the limited public forum, Plaintiff explains that Defendants, acting under color of law, prevented (and continue to prevent) Plaintiff and its members, all of whom share the same degree of injury, from speaking, gathering, assembling, or meeting on the limited public forum, but allow a private school and its members to exercise their free speech there. *See* FAC; Facts, *supra*, Section II.C. and D. Plaintiff further alleges that, because Defendants allow one private party to exercise its free speech, but prevent Plaintiff and its members from exercising their free speech, Defendants unlawfully and impermissibly restrict viewpoints and content, and also create content-based time, place, and manner restrictions that are neither narrowly tailored nor serve a legitimate government function (serving the desires of a private school is not a legitimate government function of a public school). *Id.* Accordingly, Plaintiff sufficiently alleges Defendants violated

(and continue to violate) 42 USC 1983 by restricting Plaintiff's first amendment and equal protection rights. *Id.*

Defendants improperly dispute these facts by saying that there are no restrictions, that such restrictions do not prevent Plaintiff from speaking or gathering (they do), and that there is a legitimate government interest in having these restrictions (Plaintiff alleges there is not; a public school cannot be legitimately interested in protecting the business of a private school on un-leased, non-surplus, in-use public school property that the private entity pays nothing to use).

To the extent this Court disagrees, Plaintiff respectfully requests leave to amend with additional facts. On June 3, 2024, LLESD provided documents in response to a public records request from 2023. The small production contained emails between Defendant Dr. Warren (of Woodland School) and LLESD's acting interim superintendent Shannon Potts, wherein Dr. Warren requests LLESD's help to prevent Plaintiff and its members from exercising their rights to free speech: "We also can't have them engaging with prospective families in negative ways (signs, picketing, etc) as they mentioned at the Board meetings." Oliver Decl., ¶ 2.

Heather Hopkins, Beth Polito, LLESD Board, and LLESD allow Woodland to paint parking lines on the field and then park Woodland cars there – as many as 75 cars. *Id.* ¶ 3. Plaintiff and its members are not permitted to park on the field or to paint anything on the field; Plaintiff and its members are not even allowed on the field during these times. *Id.* Parking on the field is expressly prohibited by Board Policy 1330 and County Regulation 6121, so no legitimate government function exists in allowing this type of expression on the limited public forum. Plaintiff and its members repeatedly request Heather Hopkins, Beth Polito, LLESD Board, and LLESD to stop Woodland's cars from parking on the field. These Defendants refuse to act, nor do they allow Plaintiff and its members equivalent expression on the field. *Id.*

Beth Polito and LLESD allowed Woodland to install play structures and water features on the limited public forum. Oliver Decl., ¶ 4. These installations do not appear to comply with the legal safety requirements for public play structures because they lack fall zones and have drops of several feet over exposed concrete protrusions. *Id.* Plaintiff and its members are prohibited from making any installations on the limited public forum. *Id.* There is no legitimate government interest in having unsafe play structures that violate code on a limited public forum. FAC.

Beth Polito and LLESD and Woodland paint bicycle tracks around the limited public forum. *Id.* ¶ 5. Plaintiff and its members are prohibited from doing this. *Id.* Defendants and Woodland hang student art and signs all around the limited public forum. *Id.* Plaintiff and its members are prohibited from doing this; when Plaintiff and its members post signs and art around the limited public forum, Defendants and Woodland immediately remove them. *Id.*

Beth Polito, Heather Hopkins, LLESD, and LLESD Board allow Woodland to host events, meetings, gatherings, and plays on the limited public forum. *Id.* ¶ 6. These Defendants also prohibit Plaintiff and its members from doing this whenever Plaintiff and its members request the same rights and access. *Id.*

Woodland parents donate money to spend on the limited public forum, including decorating it. *Id.* ¶ 7. Plaintiff and its members are prevented from exercising their money-speech in this manner. *Id.*

Accordingly, through their acts and omissions, Beth Polito, Heather Hopkins, LLESD Board, and LLESD institute speaker-based restrictions, which in-fact constitute content- and viewpoint-based restrictions, on speech on the limited public forum. These restrictions are untethered to any legitimate government interest (and some of the authorized speech violates the law). The Defendants here do not have any legitimate interest in allowing a private school to use, control, and prevent Plaintiff's use of public property that the private school is not even paying to use. To the extent this Court finds Plaintiff has insufficiently pleaded facts to support its 1983 claims, Plaintiff requests leave to amend with these and other facts.

2. Defendants' characterization of Plaintiff's Fourteenth Amendment cause of action is incorrect because it ignores allegations in the FAC.

Defendants mischaracterize Plaintiff's fourteenth amendment claim as only seeking to redress the fact that Defendants treat similarly situated community members differently and unequally (by allowing some community members access to their local limited public forum property beginning at 2:20pm but preventing Plaintiff's access), which Plaintiff properly pleads here. *See* FAC; Facts, supra, Section II. But Defendants fail to address Plaintiff's alleged fourteenth amendment violation of creating different classes of allowed speech on a limited public forum and treating both classes differently according to their speaker (Woodland v. Plaintiff), content (Woodland-related issues v. matters of Plaintiff's concern), and viewpoint (whether the field is Woodland's or public property). Plaintiff properly pleaded its 14th Amendment claims here and Defendants do not refute that.

3. Defendants' "shotgun pleading" argument constitutes yet another attempt by Defendants to confuse the issues here, to discredit Plaintiff, and to avoid the merits of this case.

Defendants argue that they cannot discern the complaints here, but the FAC is clear, concise, direct, and sufficiently alleges all causes of action. Rule 8 only requires a plain and short statement of the facts and claims. Fed. R. Civ. Proc. 8. If all Plaintiff's allegations were accepted as true, then this Court could grant the relief Plaintiff seeks. *See Teixeira*, 873 F.3d at 678 (the court must accept as true the allegations in the complaint and construe them in favor of the plaintiff); *Iqbal*, 556 U.S. at 679. Thus Plaintiff has satisfied its pleading requirements and Defendants' "shotgun" arguments are merely a distraction and attempt to avoid the valid – and serious – allegations here by casting doubt on the serious, thoughtful, well-researched, and properly presented facts in the FAC.

D. Defendants' Motion Demonstrates Defendants' Overall Approach of Lack of Concern for Plaintiff or Plaintiff's Rights, Evidenced by the Fact that Defendants Dedicate Pages of Their MPA Arguing About Administrative Processes and

Issues That Do Not Appear in the FAC.

Defendants spend over two pages waxing on about administrative processes and land use issues *that have nothing to do with this dispute*. Defendants make a request for judicial notice about the same issue, which, again, *has nothing to do with this dispute*. There is no mention of a conditional use permit, a permit application, a hearing, or any County-related issues anywhere in the operative legal document here.

Defendants demonstrate a lack of respect for Plaintiff, Plaintiff's rights, and Defendants' own legal duties, contracts, commitments, and obligations. Defendants disregard and ignore County, Federal, and State law as they see fit to achieve their objectives. This is not how a public school district should operate. Even now, in Federal Court, Defendants cannot be bothered to read Plaintiff's FAC. Defendants mischaracterize Plaintiff's fourteenth amendment claims, Plaintiff's alleged injuries, Plaintiff's membership, and Plaintiff's Defendant-specific allegations (of who did what, when).

This is not a joke. There are legitimate, continuing violations of numerous laws here; laws that protect Plaintiff's (and its members') rights.

Laws matter. Contracts matter. And lawyers' professional duties of candor before the tribunal, duties not to mislead and confuse the Court to avoid the merits, and integrity in presenting facts and argument, matter.

IV. CONCLUSION

For the aforementioned reasons, Plaintiff respectfully requests that this Court deny Defendants' motion to dismiss. Defendants are not immune from suit, Plaintiff has standing, and Plaintiff has properly pleaded its claims. To the extent this Court disagrees, Plaintiff respectfully requests leave to amend.

Dated: June 11, 2024 By: */s/Susanna Chenette*

Susanna Chenette
Attorney for Plaintiff

LADERA TAXPAYERS FOR INTEGRITY IN GOVERNANCE

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

LADERA TAXPAYERS FOR INTEGRITY IN GOVERNANCE,
Plaintiff,

v.

LAS LOMITAS ELEMENTARY SCHOOL DISTRICT, in its capacity as a property owner; LAS LOMITAS ELEMENTARY SCHOOL DISTRICT GOVERNING BOARD, in its capacity as a property manager; DR. BETH POLITO, in her official capacity as Superintendent of the Las Lomitas Elementary School District; HEATHER HOPKINS, in her official capacity as President of the Las Lomitas Elementary School District Governing Board; WOODLAND SCHOOL; and DR. JENNIFER WARREN, in her official capacity as Head of Woodland,

Defendants.

Case No. 24-cv-2412-WHO

DECLARATION OF T. OLIVER ISO OPPOSITION TO MOTION TO DISMISS

Date: July 10, 2024
Time: 2:00 p.m.
Location: Courtroom 2, 17th Floor

Complaint filed: April 23, 2024

DECLARATION OF TREVOR OLIVER

I, Trevor Oliver, declare:

1. I am familiar with the facts underlying this case including the facts that I state in this Declaration. If called upon to testify about these issues and facts, I could and would do so completely to the following based on my own personal knowledge.

2. On June 3, 2024, LLESD provided documents in response to a public records request from 2023. A true and correct copy of an email between Dr. Warren (of Woodland School) and LLESD's acting interim superintendent Shannon Potts is attached hereto as **EXHIBIT 1**. This email states: "We also can't have them engaging with prospective families in negative ways (signs, picketing, etc) as they mentioned at the Board meetings."

3. Woodland is allowed to paint parking lines on the field and then park Woodland cars there – as many as 75 or more cars. I am not allowed on the field at these times; I'm certainly not allowed to park there. The County recently issued a published report stating that its Parking Regulation 6121 prohibits using the field as a parking lot like this. The Board's own policies prohibit gas vehicles on any of its fields. Many times, Heather Hopkins, Beth Polito, and LLESD Board have been asked to stop this parking on the field. They refuse to do anything about it. They even say it's ok for Woodland to park there.

4. There are play structures and water features that Woodland installed in the Play Areas. These installations do not appear to comply with the legal safety requirements for public play structures because they lack fall zones and have drops of a few feet; one even has a piece of concrete sticking out from the dirt right were kids have fallen. I am not allowed to install anything like this on the Play Areas. Neither is anyone other than Woodland, because the District protects Woodland's use of the Play Areas aggressively.

5. Woodland paints bicycle tracks around the field. Woodland hangs student art and signs all around the fence that sits in the middle of the Play Areas. I've posted signs both on that fence, and on an exterior perimeter fence right beside Woodland's existing signs and art. Woodland immediately remove them. Dr. Warren told our community representative that LLESD told Woodland it can do whatever it wants with the Play Areas or to prevent me and other members of Plaintiff from using them.

6. Woodland hosts events, meetings, gatherings, and plays on the Play Areas, including in the new gym.

7. From the public records request, I also learned that Woodland parents donated roughly $1,000,000.00 to spend on the Play Areas in the last three years. Woodland decorated and added new things to the Play Areas. I, and other members of my group, are not allowed to exercise our money-speech in this way.

8. Attached here as **EXHIBIT 2** is a print-out from a website dedicated to providing understanding to California's education system that explains the difference between "maximum" and "minimum" (or "basic aid") school districts.

9. Attached here as **EXHIBIT 3** is a print-out from the Las Lomitas Education Fund', which raises funds for LLESD. It explains that LLESD is a "basic aid" district.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Declaration was executed on the 11th day of June 2024, in Portola Valley, California.

Dated: June 11, 2024 By: */s/Trevor Oliver*

Trevor Oliver

EXHIBIT 1

Fwd: Upcoming Events

From: Potts, Shannon <spotts@llesd.org> Thu, Nov 30, 2023 at 6:09 AM PST (GMT-08:00)
To: Jason Morimoto <jmorimoto@llesd.org>

There are 3 major events at Woodland (Dec 2, Dec 21& Dec 22) They are following all requirements of the CUP and are going above and beyond to UBER in employees during the events. They will be using the grass on Dec 21& 22.

See email below:

Best regards, Shannon

---------- Forwarded message ---------
From: **Jennifer Warren** <jwarren@woodland-school.org>
Date: Thu, Nov 30, 2023, 9:03 AM
Subject: Re: Upcoming Events
To: Potts, Shannon <spotts@llesd.org>

Hi Shannon,

We are once again paying for all of our employees to ride share into work on this day so that the parking is available for visitors. Should overflow be needed, we will use the perimeter of the field as a last resort.

As you can imagine, this is not sustainable for us from a financial perspective. We are working diligently with the LCA negotiating group to find an overall compromise (for the record, that group agrees that we can park on the field) and are trying not to upset members of the community during this critical time. We also can't have them engaging with prospective families in negative ways (signs, picketing, etc) as they mentioned at the Board meetings.

We have 2 more major events on December 21/22 for our Winter Concert and will absolutely need to park on the field then.

Best,
Jennifer

> On Nov 30, 2023, at 5:09 AM, Potts, Shannon <spotts@llesd.org> wrote:
>
> I know my messages may be delayed. Did you see this questuon regarding parking on Saturday?
>
> Best regards, Shannon
>
> ---------- Forwarded message ---------
> From: **Potts, Shannon** <spotts@llesd.org>
> Date: Wed, Nov 29, 2023, 7:59 AM
> Subject: Re: Upcoming Events
> To: Jennifer Warren <jwarren@woodland-school.org>
>
> Thank you for the information Jennifer. I knew you had a process, I just wanted to confirm it. Will you be parking on the grass this Saturday?
>
> Best regards, Shannon
>
> On Tue, Nov 28, 2023, 5:18 PM Jennifer Warren <jwarren@woodland-school.org> wrote:
>> Hi Shannon,
>>
>> This Saturday is Open House, one of our Major events for the year.

Per our CUP, we are required to notice the community before school starts with a list of the events for the year. It is posted on the listserve and sent to the Ladera Crier for publication (though they have yet to publish it during my tenure). In addition, 1-2 days prior to the event a reminder is sent via the listserve for everyone to see. Finally, the 50 closest houses to Woodland receive EVERYTHING via US Mail: both the beginning of the year communication and the monthly one with the events outlined and the expected impact. Attached is the list for this school year.

For each of these major and minor events, we have traffic monitors posted throughout the neighborhood to ensure there are no issues. Recently, we have had the sheriff present as well to ensure neighbors are not harassing employees AND so that we have witnesses that the event was not problematic to the Ladera community.

Best,
Jennifer

On Tue, Nov 28, 2023 at 10:48 AM Potts, Shannon <spotts@llesd.org> wrote:

> Can you let us know about any upcoming events at Woodland? Also, will they impact parking, and if so, how might you let the community know?
>
> Kind regards,
> *Shannon Potts*
> *Interim Superintendent*
>
> Las Lomitas Elementary School District
> Inclusive. Engaging. Inspiring.
> llesd.org
> 1011 Altschul Avenue, Menlo Park, CA 94025
> 650-854-6311
>
>

--
Jennifer Warren, Ed.D.
Head of School
(preferred pronouns she/her/hers)
Woodland School I 650.854.9065

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EXHIBIT 2

What are Basic Aid districts?

by Jeff Camp | February 3, 2024 | 1 Comment (#comments)

Overflowing funds for schools?

As we've written regularly, California's public schools are not generally overflowing with resources. Their cup does not run over. Oddly, though, overflowing is actually part of the design of the school finance system system.

Virtually all K-12 public school students in California attend a school funded by a mix of (mostly) state income taxes and (some) local property taxes. This mixed-source funding system, the Local Control Funding Formula (LCFF (/lessons/lcff)), serves about 96% of the students in the state.

> *About 4% of California students attend a school in a Basic Aid district. Here's how that works.*

Phased in from 2013-14 through 2018-19, LCFF replaced a complex and unfair school funding system with one designed for fairness and flexibility. The LCFF system is widely recognized as rational, explainable, and, well, *good policy* (https://learningpolicyinstitute.org/product/school-funding-effectiveness-ca-lcff-report). Among other things, LCFF eliminated a bunch of regulation-heavy state programs, and empowered school districts to make more of the decisions about how to spend the money entrusted to them.

In 2022-23, just 3.7% of California's public school students attended a school that is *not* part of the LCFF system. *Basic Aid* districts (also sometimes called *Community Funded* or *Excess Tax* districts) are the exceptions in the LCFF system. In these districts, the revenue from local property taxes is greater than the minimum guaranteed on a per-student basis through the LCFF calculation. In principle, these districts are self-funded, and *might* receive only a minimal amount of funding from the state — thus the term *Basic Aid*.

> *Did you notice wiggle words in the sentences above? Hmm. I'll come back to them.*

Did you notice the word *might* in the sentence above? Hmm. I'll come back to it. Fair warning: this post spelunks some deep policy junk. I'll do my best to get it right based on the data I have. (If I make mistakes, please contact me. This stuff is hard to get right!)

The point of this post is to demystify the Basic Aid system as a way of helping to understand what LCFF does and why it matters so much. It's also interesting as a case study of how change actually happens, complete with the power plays and tradeoffs sometimes involved in getting to yes.

How does LCFF fund school districts?

You can't appreciate LCFF without at least a little bit of context, so here's some high-speed background. (Leans back, stretches.) OK, here goes:

The school funding systems that came before LCFF started out breathtakingly unequal, but got better over decades of change.

1960s:
In the 1960s and earlier, California public schools were funded almost entirely locally, using local taxes on local property wealth. This was

deeply unfair, because the value of taxable property varied wildly from one school district to another. Low-income neighborhood with a low tax base? Sorry, kids. Better luck next decade.

1970s:
In the 1970s the system *did* change, and in a big way. Responding to massive inequity in school funding, the courts blew up the school funding system, Robin Hood-style. A system of court-ordered *revenue limits* (https://www.ppic.org/publication/funding-california-schools-the-revenue-limit-system/) redistributed wealth and sparked political fire. It was only a matter of time before…

1980s:
…yep, voters blew up the funding system again in 1978 by passing Proposition 13 (/lessons/prop13), which slashed property taxes. This sent school funding in California into a tailspin, so it was only a matter of time before…

1990s:
…voters intervened again by passing Proposition 98. It took form in the 1990s. Prop 98 established in the state constitution a minimum level for education spending when local and state spending is considered together. It's ugly, but it rescued public education and we still rely on it.

In combination, these voter measures inverted the tax system, swapping property taxes with state income taxes as the main source of school funding.

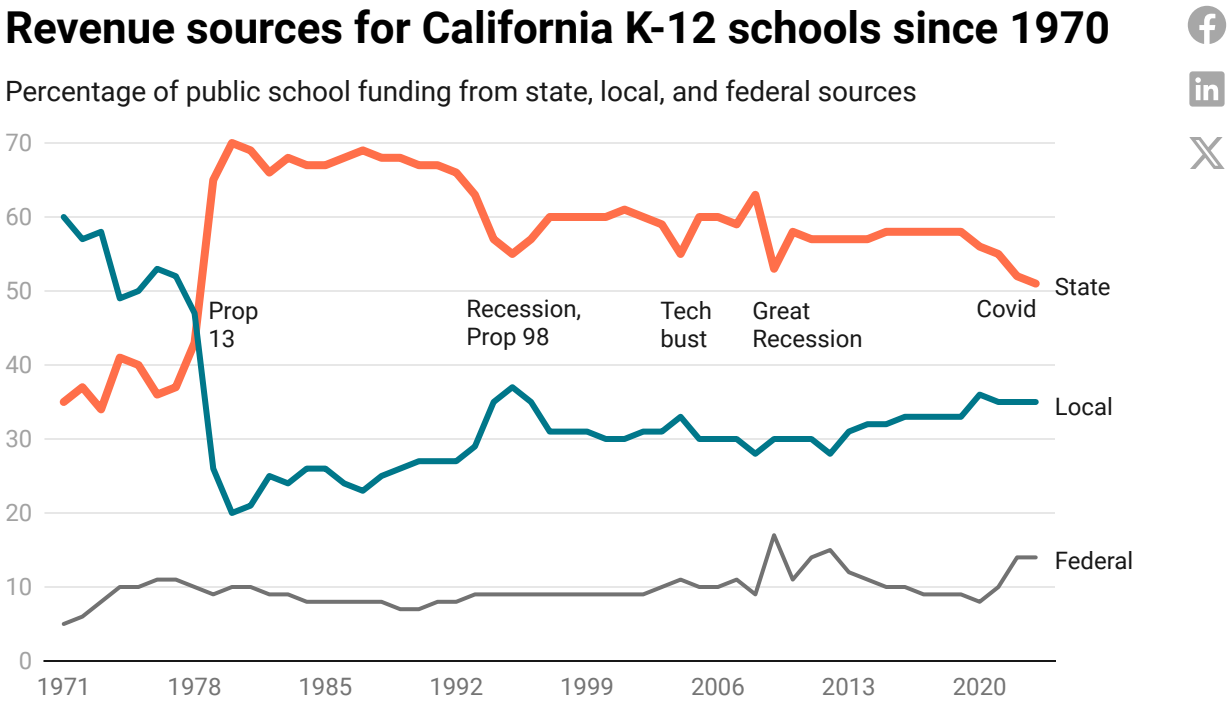


Chart: Ed100 Lesson 8.3 • Source: National Education Association • Embed • Created with Datawrapper

To be clear, the system that emerged in the '90s worked, but it was a Frankenstein monster. Features of the system included revenue limits (https://www.ppic.org/publication/funding-california-schools-the-revenue-limit-system/), categorical programs, precedents, line items, exceptions and plenty of special deals. Reform-minded people hoped it might just be a matter of time before...

2010s:

...a crisis brought a chance to make a more purposeful system. The Great Recession trashed education funding and delivered the opportunity of a long-needed crisis. Partly responding to good advice from a nonpartisan expert panel (the Governor's Committee on Education Excellence (/blog/EdExcellence)) the legislature blew up the system (/lessons/change) again in 2012 — in a good way. In place of the old system,

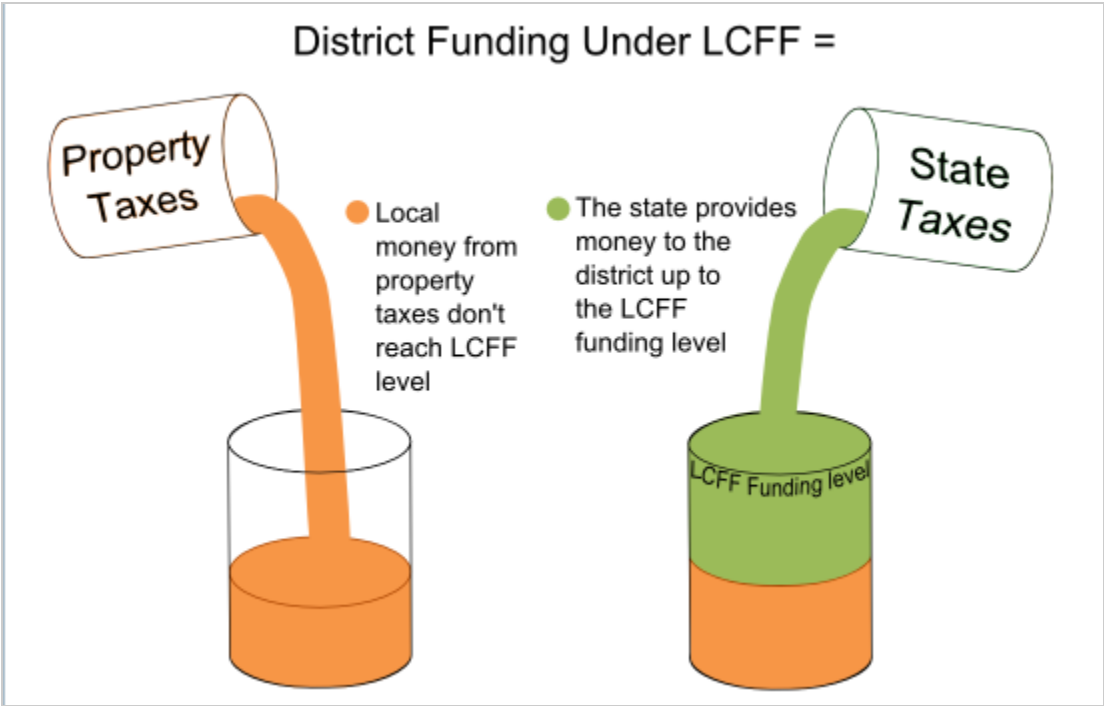
California leaders instituted LCFF, a much more rational and fair education finance system assembled with far *fewer* sloppy sutures and neck bolts.

Only a few, in fact. (Yes, yes, be patient. We'll get there, I promise.)

Um, what does LCFF do, again?

Here's a *simplified* bucket metaphor for the Local Control Funding Formula system.

1. The state budget gives your district a bucket of LCFF revenue that's just the right LCFF size for your LCFF district.
2. Local property taxpayers pour in property taxes, partly filling your LCFF bucket. (37% for the average district in 2022.)
3. The state adds state taxes until your LCFF bucket is full to the brim, like this:



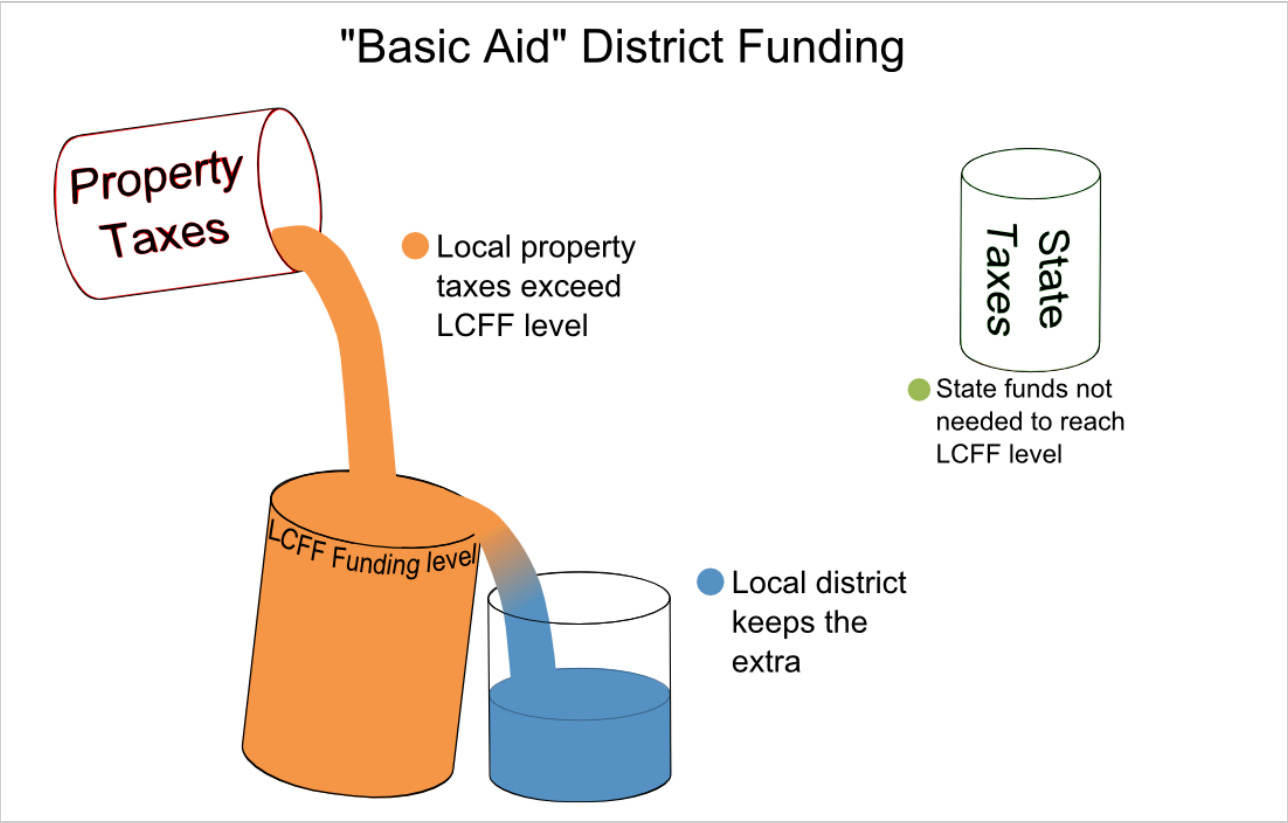
Does this look too simple? Of course it does. Let's fix that a little but stay with the metaphor. Time for some fine print:

- The size of your district's LCFF bucket is a factor of the state budget.
- Your bucket is a little bigger to the extent that you have more kids in higher grades.
- Also to the extent that you have students in poverty, learning English, homeless, or in foster care.
- Also the bucket is sized up if you have lots of kids with any of these attributes — but don't count 'em twice.
- Oh, and funds evaporate from the bucket to the extent kids don't *attend* school — they only count when they show up.

But this is a metaphor, and it's *simplified*, remember? The big point is that as an LCFF district, what matters is the size of your LCFF bucket, *not* the mix of funding sources that fill it. State? Local? Doesn't matter — dollars are dollars.

What's different about funding in a Basic Aid district?

Continuing with the metaphor, Basic Aid districts have a standard LCFF-sized bucket, but they have more than enough local revenue to fill it themselves, without state help.



The local property taxes collected for K-12 at a Basic Aid district would overflow an LCFF-sized bucket, so basic aid districts have their own buckets to keep the extra. Local property tax dollars at a Basic Aid district stay local, *even when they exceed the LCFF level*.

Remember all the fine print about how LCFF districts get a little extra money for this and that, but only if kids show up for nose count, etc? None of that matters at a Basic Aid district. The budget for a Basic Aid district is determined by how much property tax comes in. That's pretty much it, mostly. (Notice the wiggle words? Stay with me.)

Being a student in a Basic Aid district is generally a good thing for students but not *automatically* so. Some Basic Aid school districts bring in property taxes at a level that puts them only marginally or intermittently over the LCFF line, so it's not like they are definitely

getting a bunch of extra money. In a downturn, these districts worry, with reason, whether they would receive emergency support from the state or federal government. They tend to be extra careful about saving adequate rainy-day reserves locally. Many Basic Aid school districts are located in the most expensive areas of the state, so they are not without fiscal challenges.

And yet. Some schools in Basic Aid districts have money other school communities can only dream of. Some of them have even more than that… if they also get *Minimum State Aid*. (You have now arrived at the heart of the mystery.)

What is Minimum State Aid (MSA)?

The LCFF system wasn't born like Minerva, fully-formed and shining like justice. It is a surprisingly decent outcome of messy political processes. The bad old system (https://www.ppic.org/wp-content/uploads/content/pubs/report/R_913MWR.pdf) that preceded it (Revenue Limits, Categorical Funds and backroom deals) wasn't equally bad for everyone. For some districts it was pretty good, actually, so why would their representatives vote to change it?

A spoonful of sugar called *Minimum State Aid* (MSA) made the medicine go down.

> *A deal's a deal, right?*

With the help of advisors including Mike Kirst (https://mikekirstbiographyproject.com/), Governor Brown negotiated a set of financial agreements to protect districts that stood to lose out in the

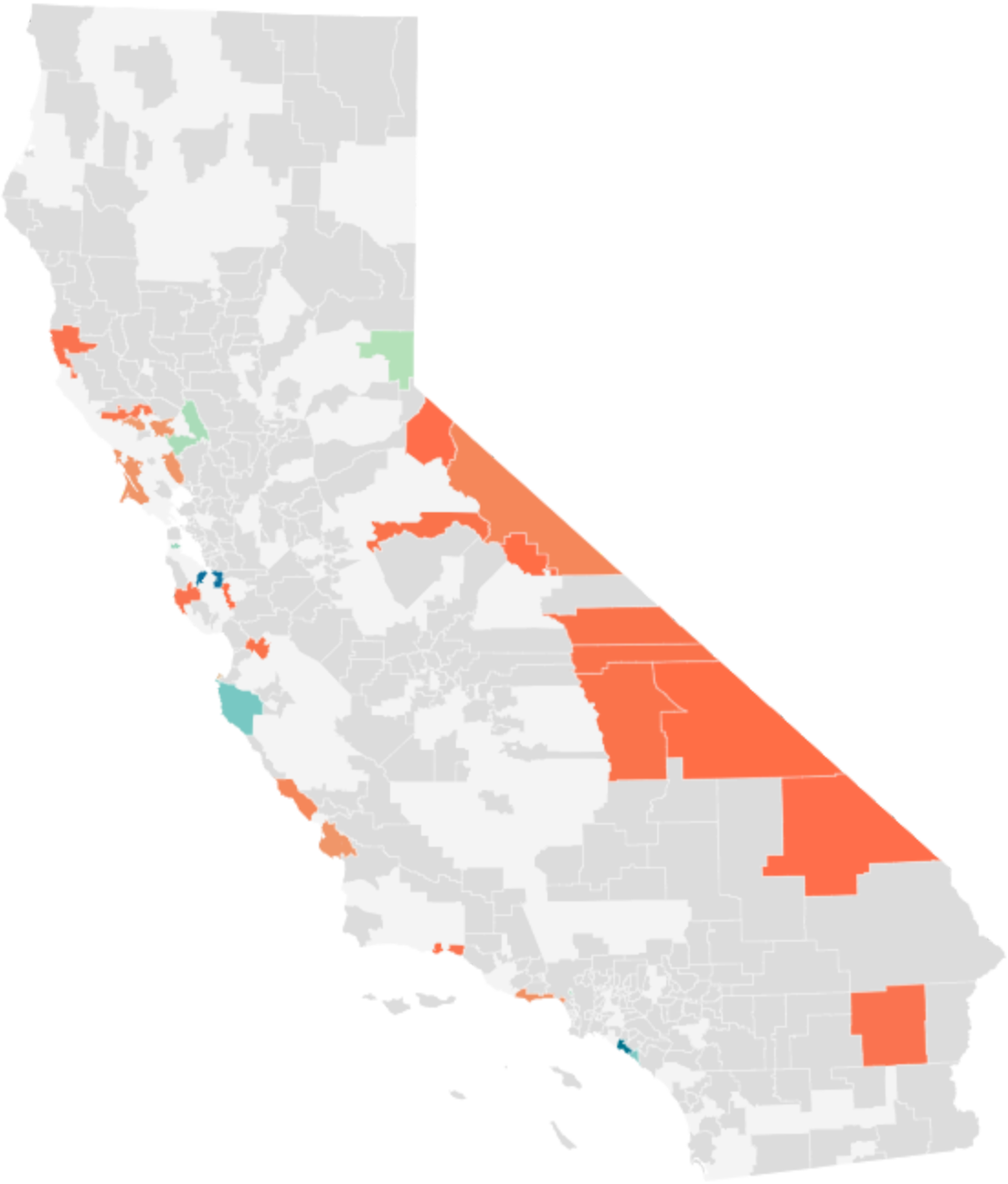
transition to LCFF. Minimum State Aid was a mechanism to get that done. By agreeing to support LCFF, some legislators secured promises for ongoing state aid for their constituents' schools. The commitments are still in place. Hey, a deal's a deal, right? In 2022-23, minimum state aid commitments to school districts totaled about $125 million.

Where does the extra money go?

The map below shows all of the unified (K-12) school districts that receive Basic Aid and/or Minimum State Aid. Most are located in the Bay Area, in coastal counties or in the Sierras. This pattern has been stable for decades. A map of the state's Elementary districts or High School districts would show a similar pattern. (Hover or click for details.)

Which Unified School Districts received extra support beyond LCFF in 2022-23?

Most school districts are part of the Local Control Funding Formula system.
About 3.7% of California students attend schools in districts that aren't part of it. This map shows unified districts that received extra funds through local property taxes and/or state aid arrangements (MSA). Most of these are Basic Aid districts. Hover, click or tap for details.



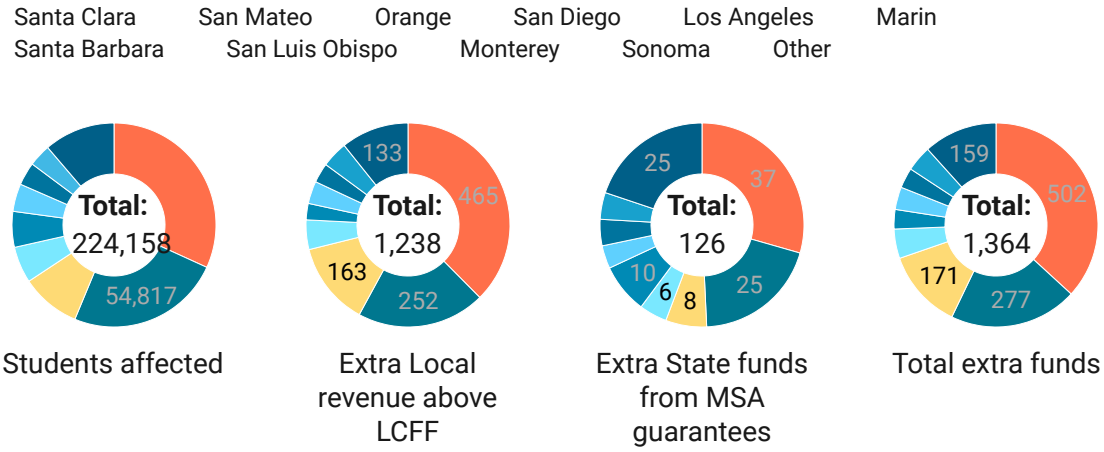
Map: Ed100 Lesson 8.5 • Source: CDE • Get the data • Embed • Created with Datawrapper

The map effectively shows *which* unified districts receive money, but doesn't make it very obvious just how significantly some of the school districts in the Silicon Valley benefit from the extra local and state

funds. Basic Aid schools in the high-cost Santa Clara and San Mateo Counties receive thousands of dollars of extra funds this way. Collectively, they serve more than 100,000 students.

Beyond LCFF guarantee, most extra local and state money supports districts in Silicon Valley

In 2022-23, districts in Santa Clara County and San Mateo County, in combination, accounted for more than half of extra local funding to school districts beyond the level of the Local Control Funding Formula (LCFF). Many of the same districts received a majority of "Minimum State Aid" funds.



Dollar figures in $millions

Chart: Ed100 Lesson 8.5 • Source: CDE • Get the data • Embed • Created with Datawrapper

About two-fifths of the students who benefit from either or both kinds of extra aid are in unified school districts.

District type	Students (ADA)	Districts	Local extra funding	Local extra per student	State extra funds (MSA excl. COEs)	State extra per student (MSA excl. COEs)
Elementary	76,487	70	328,470,002	4,294	56,744,650	814
Unified	94,004	30	603,105,494	6,416	56,744,650	951

High School	53,666	12	306,272,897	5,707	19,740796	651
Total	224,157	112	1,237,848,393	5,522	125,782,845	832

Should the system change?

Some will look at this data and feel jealous of the districts that have more money for their education system. Certainly, the system of MSAs is the outcome of politically-negotiated deals. But that's not the point of this post.

The LCFF system is an astonishing achievement of public policy, accomplished in the real world. It works very well for most of what we ask of it. Anyway, clawing funds away from places where they are being used to educate kids seems a waste of indignation.

Colleges can be Basic Aid, too.
Similar to public K-12 school districts, most public community college districts in California are funded by a blend of local taxes and state taxes. (The Student Centered Funding Formula, or SCFF (https://www.lao.ca.gov/Publications/Report/4695), strongly resembles LCFF.)
Also similar to K-12 and LCFF, some college districts receive enough local funding to be Basic Aid institutions. As of 2024, the Basic Aid public college districts (https://aft1493.org/explaining-basic-aid-or-community-supported-districts/) in the state strongly matched the self-funded K-12 districts: San Mateo, Marin, Mira Costa, South Orange, West Valley/Mission, San Jose/Evergreen, Napa Valley, San Luis Obispo County, and Sierra.

I grew up in the bad old days of California education policy. The education finance system at that time was *bananas*. It was a murky mess so unfair that it was hard to feel good about putting more money into it. Today, we're in a much better place. When incremental money flows to public education in today's K-12 system, by design it goes toward need, not greed.

There's plenty of room for improvement in California's education system, but the basic finance system is sound. With more economic effort (/blog/education-and-economy) to invest in our state's schools, we could reasonably expect good results.

California's basic aid districts and MSA recipients

In the table below, the "UD%" column shows the unduplicated percentage of students who are learning English, are from lower-income households, are homeless, or are in foster care. Statewide, 57% of students meet this definition. In Basic Aid and MSA recipient districts the rate is 32%, but it varies from 1% to 94%. If you want to go even deeper into the data, enjoy (https://docs.google.com/spreadsheets/d/1L8m4mC_eZMxNXrOmrPXW5ICQfdw2rIDDajpOESu7-rc/edit#gid=999732624).

California Basic Aid districts and Minimum State Aid districts, 2022-23

County	Type	District	Sdts	UD%	Local extra $	State extra MSA $	Local extra $ per student	S ext stuc
Alameda	ELEM	Mountain House Elementary	20	74%	92,161	196,668	4,726	10,
Alpine	UNIFIED	Alpine County Unified	86	62%	275,084	476,520	3,202	5,

Butte	ELEM	Golden Feather Union Elementary	67	88%	85,628	361,499	1,283	5,
Calaveras	ELEM	Vallecito Union	534	53%	1,754,842	628,691	3,285	1,
Calaveras	HIGH	Bret Harte Union High	591	38%	5,097,280	121,048	8,626	
El Dorado	ELEM	Latrobe	154	13%	1,020,697	-	6,646	
El Dorado	ELEM	Silver Fork Elementary	16	53%	89,238	183,846	5,574	11,
Fresno	ELEM	Big Creek Elementary	36	84%	387,502	212,212	10,681	5,
Fresno	ELEM	Pine Ridge Elementary	75	42%	1,020,990	121,244	13,690	1,
Inyo	ELEM	Round Valley Joint Elementary	48	46%	597,152	97,223	12,548	2,
Inyo	UNIFIED	Big Pine Unified	148	64%	666,546	248,617	4,513	1,
Inyo	UNIFIED	Lone Pine Unified	340	65%	673,110	445,343	1,981	1,
Inyo	UNIFIED	Owens Valley Unified	82	45%	641,535	28,793	7,821	
Kern	ELEM	General Shafter Elementary	175	66%	635,929	152,886	3,634	

Kern	ELEM	Linns Valley-Poso Flat Union	18	57%	135,930	65,262	7,637	3,
Kern	ELEM	McKittrick Elementary	51	47%	1,967,701	184,477	38,432	3,
Kern	ELEM	Midway Elementary	51	55%	575,475	95,884	11,375	1,
Los Angeles	UNIFIED	Beverly Hills Unified	3,264	21%	26,714,185	1,338,733	8,184	
Los Angeles	UNIFIED	Santa Monica-Malibu Unified	9,459	28%	5,400,952	8,585,843	571	
Marin	ELEM	Bolinas-Stinson Union	93	43%	2,827,080	229,708	30,514	2,
Marin	ELEM	Mill Valley Elementary	2,604	9%	1,287,739	1,736,292	494	
Marin	ELEM	Nicasio	36	49%	298,791	39,589	8,360	1,
Marin	ELEM	Reed Union Elementary	1,165	7%	8,009,036	-	6,875	
Marin	ELEM	Ross Elementary	362	1%	2,369,647	185,455	6,552	
Marin	ELEM	Sausalito Marin City	321	59%	3,984,538	815,163	12,421	2,
Marin	HIGH	Tamalpais Union High	4,893	11%	19,341,999	704,071	3,953	
Marin	UNIFIED	Shoreline Unified	370	63%	6,033,131	877,629	16,287	2,

Mendocino	ELEM	Manchester Union Elementary	37	61%	205,854	72,102	5,550	1,
Mendocino	HIGH	Point Arena Joint Union High	131	65%	2,315,256	326,425	17,721	2,
Mendocino	UNIFIED	Mendocino Unified	401	54%	1,161,698	1,556,031	2,899	3,
Mono	UNIFIED	Eastern Sierra Unified	393	53%	3,591,356	959,729	9,132	2,
Monterey	UNIFIED	Carmel Unified	2,299	19%	39,487,401	1,684,362	17,176	
Monterey	UNIFIED	Pacific Grove Unified	1,792	21%	11,983,330	2,505,456	6,687	1,
Napa	ELEM	Howell Mountain Elementary	95	57%	614,415	54,770	6,437	
Napa	ELEM	Pope Valley Union Elementary	51	84%	761,081	73,930	14,911	1,
Napa	UNIFIED	Calistoga Joint Unified	824	82%	6,776,722	508,956	8,228	
Napa	UNIFIED	Saint Helena Unified	1,148	44%	23,465,062	481,492	20,442	
Nevada	ELEM	Nevada City Elementary	638	33%	1,038,105	631,011	1,628	

Orange	UNIFIED	Laguna Beach Unified	2,629	18%	38,545,395	548,204	14,663	
Orange	UNIFIED	Newport-Mesa Unified	18,535	45%	124,718,168	7,634,726	6,729	
Placer	UNIFIED	Tahoe-Truckee Unified	3,664	36%	20,711,853	1,906,330	5,652	
Riverside	UNIFIED	Desert Center Unified	25	84%	1,199,773	120,493	47,838	4,
San Benito	ELEM	Willow Grove Union Elementary	16	94%	68,358	22,963	4,307	1,
San Benito	UNIFIED	Aromas - San Juan Unified	937	59%	1,060,437	1,560,937	1,132	1,
San Bernardino	ELEM	Cucamonga Elementary	2,331	71%	10,802,323	2,130,982	4,634	
San Bernardino	UNIFIED	Baker Valley Unified	123	84%	115,931	182,560	939	1,
San Diego	ELEM	Cardiff Elementary	608	16%	4,381,838	386,643	7,204	
San Diego	ELEM	Del Mar Union Elementary	3,933	19%	18,418,833	1,170,350	4,683	
San Diego	ELEM	Encinitas Union Elementary	4,908	19%	8,827,772	1,840,774	1,799	

San Diego	ELEM	Rancho Santa Fe Elementary	566	9%	5,671,672	157,463	10,014	
San Diego	ELEM	Solana Beach Elementary	2,815	20%	20,282,502	1,663,990	7,205	
San Diego	HIGH	Julian Union High	96	52%	457,033	347,758	4,750	3,
San Luis Obispo	ELEM	Cayucos Elementary	173	39%	1,651,296	133,560	9,558	
San Luis Obispo	ELEM	Pleasant Valley Joint Union Elementary	54	36%	243,244	124,441	4,471	2,
San Luis Obispo	UNIFIED	Coast Unified	525	77%	3,663,493	623,045	6,984	1,
San Luis Obispo	UNIFIED	San Luis Coastal Unified	7,183	39%	6,015,215	3,029,242	837	
San Mateo	ELEM	Belmont-Redwood Shores Elementary	4,043	16%	1,878,302	253,946	465	
San Mateo	ELEM	Brisbane Elementary	442	27%	4,664,344	182,688	10,544	
San Mateo	ELEM	Hillsborough City Elementary	1,235	4%	12,772,173	172,044	10,344	
San Mateo	ELEM	Las Lomitas Elementary	1,055	13%	14,157,348	264,400	13,414	

San Mateo	ELEM	Menlo Park City Elementary	2,595	13%	15,133,234	432,027	5,832	
San Mateo	ELEM	Portola Valley Elementary	468	9%	9,662,831	146,571	20,657	
San Mateo	ELEM	San Bruno Park Elementary	2,217	47%	2,013,375	553,758	908	
San Mateo	ELEM	San Carlos Elementary	2,803	12%	356,008	1,575,946	127	
San Mateo	ELEM	San Mateo-Foster City	10,775	41%	6,452,223	7,821,366	599	
San Mateo	ELEM	Woodside Elementary	318	13%	6,255,152	165,217	19,670	
San Mateo	HIGH	Jefferson Union High	3,946	37%	3,978,680	2,752,472	1,008	
San Mateo	HIGH	San Mateo Union High	8,618	28%	71,203,302	3,705,980	8,262	
San Mateo	HIGH	Sequoia Union High	8,253	32%	72,848,088	3,369,327	8,827	
San Mateo	UNIFIED	La Honda-Pescadero Unified	274	58%	1,129,155	213,482	4,125	
San Mateo	UNIFIED	South San Francisco Unified	7,776	45%	29,490,038	3,356,626	3,793	
Santa Barbara	ELEM	Ballard Elementary	134	10%	411,315	277,420	3,081	2,

Santa Barbara	ELEM	Cold Spring Elementary	185	5%	2,499,103	90,129	13,509	
Santa Barbara	ELEM	College Elementary	169	60%	2,345,042	501,743	13,898	2,
Santa Barbara	ELEM	Goleta Union Elementary	3,415	41%	12,455,125	2,278,858	3,647	
Santa Barbara	ELEM	Hope Elementary	864	35%	2,630,005	348,218	3,045	
Santa Barbara	ELEM	Los Olivos Elementary	158	25%	319,857	247,660	2,022	1,
Santa Barbara	ELEM	Montecito Union Elementary	361	11%	12,149,289	181,307	33,692	
Santa Barbara	ELEM	Vista del Mar Union	25	40%	587,775	133,020	23,502	5,
Santa Barbara	HIGH	Santa Ynez Valley Union High	846	26%	4,000,568	-	4,732	
Santa Barbara	UNIFIED	Carpinteria Unified	2,030	73%	1,174,846	1,205,011	579	
Santa Clara	ELEM	Campbell Union	448	76%	13,399,741	7,403,399	29,890	16,
Santa Clara	ELEM	Lakeside Joint	69	20%	759,887	133,641	10,957	1,
Santa Clara	ELEM	Loma Prieta Joint Union Elementary	452	10%	166,701	209,738	369	
Santa Clara	ELEM	Los Altos Elementary	3,688	14%	13,123,844	654,207	3,558	

Santa Clara	ELEM	Los Gatos Union Elementary	2,754	9%	8,827,300	121,495	3,206	
Santa Clara	ELEM	Mountain View Whisman	4,736	35%	18,410,230	3,714,457	3,888	
Santa Clara	ELEM	Orchard Elementary	788	58%	19,487	795,884	25	1,
Santa Clara	ELEM	Saratoga Union Elementary	1,640	9%	18,250,617	324,666	11,132	
Santa Clara	ELEM	Sunnyvale	5,889	44%	32,299,438	2,907,954	5,485	
Santa Clara	HIGH	Campbell Union High	8,371	36%	4,610,652	3,827,724	551	
Santa Clara	HIGH	Fremont Union High	10,382	17%	51,481,750	1,455,766	4,959	
Santa Clara	HIGH	Los Gatos-Saratoga Union High	3,344	8%	20,325,848	150,691	6,079	
Santa Clara	HIGH	Mountain View-Los Altos Union High	4,196	16%	50,612,441	2,979,534	12,061	
Santa Clara	UNIFIED	Palo Alto Unified	10,339	17%	116,436,307	2,560,485	11,262	
Santa Clara	UNIFIED	Santa Clara Unified	14,220	46%	116,396,229	9,818,349	8,185	
Santa Cruz	ELEM	Bonny Doon Union Elementary	127	18%	536,043	117,428	4,225	

Santa Cruz	ELEM	Happy Valley Elementary	109	12%	41,821	73,875	382	
Santa Cruz	ELEM	Santa Cruz City Elementary	1,832	42%	9,072,761	1,104,695	4,953	
Sonoma	ELEM	Alexander Valley Union Elementary	108	29%	678,844	298,328	6,301	2,
Sonoma	ELEM	Forestville Union Elementary	48	39%	1,543,589	439,479	31,978	9,
Sonoma	ELEM	Fort Ross Elementary	13	65%	179,867	72,066	13,585	5,
Sonoma	ELEM	Guerneville Elementary	24	60%	307,010	471,540	13,064	20,
Sonoma	ELEM	Horicon Elementary	56	84%	1,032,594	112,358	18,522	2,
Sonoma	ELEM	Kenwood	58	23%	1,743,327	101,864	30,303	1,
Sonoma	ELEM	Monte Rio Union Elementary	69	73%	353,287	129,882	5,150	1,
Sonoma	ELEM	Montgomery Elementary	20	56%	255,422	91,797	12,848	4,
Sonoma	UNIFIED	Geyserville Unified	125	59%	1,429,580	410,531	11,459	3,
Sonoma	UNIFIED	Healdsburg Unified	1,295	61%	6,859,207	1,012,698	5,295	

Sonoma	UNIFIED	Sonoma Valley Unified	3,422	57%	6,414,668	2,206,444	1,875	
Tuolumne	ELEM	Twain Harte	251	50%	618,322	623,250	2,466	2,
Tuolumne	UNIFIED	Big Oak Flat-Groveland Unified	296	53%	875,087	657,983	2,951	2,

Source: CDE, 2022-23. Excludes County Offices of Education.

Questions & Comments

To comment or reply, please sign in (#modalsSignIn).

Todd Maddison March 7, 2024 at 6:02 pm

I'm very much an education funding kind of dweeb. I've spent time in the past searching for data on Basic Aid districts - it's not easy to find, there is no "quick list" available anywhere on the CDE site (or others) that I've found before. Much less a quick description of what it means to begin with.

This is the most awesomely comprehensive yet easy to read outline of what "Basic Aid" means that I've ever seen. My brain now hurts, but I feel like I have a much better understanding.

Thanks Ed100!

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EXHIBIT 3

What does the Foundation do?

Welcome! You just joined something special.

The Las Lomitas Elementary School District (LLESD) is one of the most coveted school districts in California. Our award-winning schools (Las Lomitas and La Entrada), outstanding enrichment programs, and strong community support all make the LLESD an exceptional environment in which children flourish. Each of our schools is recognized for academic excellence and innovative programming and are consistently ranked among the top in the state. Maintaining this standard of excellence requires annual community support.

What is the Las Lomitas Education Foundation?

The mission of the Foundation is to raise funds to bridge the gap between public funding and the actual cost of a high-quality education. The Foundation is a non-profit, volunteer-run, community organization dedicated to fostering and enriching the tradition of educational excellence in the Las Lomitas Elementary School District.

Las Lomitas Education Foundation

Donate now

Upcoming Events

More questions? Check out our FAQ below.

How does an LLEF donation compare to tuition at private schools or preschools?
How can I get involved with the Las Lomitas Education Foundation?

Why do we need a Foundation at a public school? Isn't public education free?

Public funding for schools in California is not sufficient to provide the exceptional education that we seek for our children. In fact, California schools are ranked 41st in the nation in per-student spending. Our District fares slightly better than many Districts in California because we are a "Basic Aid" or "Community Funded" district. This means that the majority of school revenue comes from property tax revenue. However, Proposition 13 in 1978 overhauled the way California property taxes were assessed by basing the tax rate on the property's purchase price rather than the property's assessed value. This tax reform dramatically lowered the total amount of money raised by counties and reduced expenditures for local police, fire, public libraries and public school education in California. Property tax revenue only covers 70% of the district's operating budget.

How does my child benefit?
Your child, and all of our children, have benefited from the legacy of generous and consistent giving from district families and the community for nearly 30 years. Funds raised by the LLEF are used exclusively for the LLESD annual operating budget to support the hallmarks of a great LLESD education:

20% smaller classes led by exceptional teachers
When you go into your child's classroom, take a look at how few children there are...somewhere between 18 and 24. Without Foundation support you'd see 32 children! Now take a moment to notice the one on one attention and innovative teaching methods our teachers use. Teachers can differentiate - providing intervention support to those that need it, accelerated paths for those that are ready for the challenge and everything in between.

Enhanced programs
Foundation funds allow our children to experience a wide breadth and depth of electives and non-state-mandated classes unique for a school our size. Exposure to these diverse topics fuels creativity and curiosity and helps our kids find their spark.

Educational excellence
Our District is committed to ensuring that our children develop the necessary skills for success in the future: critical thinking, creativity, collaboration, and communication. This includes keeping our teachers current and competitive in a changing world and implementing academic innovation. Our teachers participate in high-quality professional development around STEM and Next Generation Science Standards, Singapore Math, Reader's and Writer's Workshop, PE, creativity and design, and technology integration.

Do other local public schools fundraise too?

We Appreciate Your Support!

Donate Now

Tax ID #94-2952818

To find out more about volunteer opportunities, email us at president@llef.org. We are always looking for volunteers, across a variety of skills and interests. Volunteering with the Foundation doesn't require being at school during school hours.

EXHIBIT 4

RECORDING REQUESTED BY: Porter Goltz, Esq. Law Offices of Porter Goltz 520 South El Camino Real, Suite 500 San Mateo, CA 94402 WHEN RECORDED MAIL TO: Steven Fuentes, CBO Las Lomitas Elementary School District 1011 Altschul Ave Menlo Park, CA 94025	

GRANT OF PATH EASEMENT

THIS grant of path easement ("**Agreement**") is made and entered into this 8th day of May 2019, ("**Effective Date**") by and between **Las Lomitas Elementary School District**, a subdivision of the State of California ("**Grantor**"), and **Ladera Recreation District** ("**LRD**"), collectively referred to as "the Parties."

Recitals

Woodland, Grantor, and **LRD** make and enter into this **Agreement** with reference to the following facts:

A. **Grantor** owns that certain real property (hereinafter called the "**LLSD Property**") which is located in the County of San Mateo, State of California, with the implicated portions of the **LLSD Property** more particularly described in Exhibits A and B, attached hereto.

B. **LRD** owns that certain real property (hereinafter called the "**LRD Property**") which is located in the County of San Mateo, State of California, and which is more particularly described in Exhibit B, attached hereto, and commonly known as 150 Andeta Way, Portola Valley.

C. **Woodland School, Portola Valley**, a California corporation ("**Woodland**"), is the current lessor of the **LLSD Property**, upon which the easement path will run.

Agreement

NOW, THEREFORE, in consideration of the mutual agreements contained herein, the Parties agree as follows:

1. Grant of Path Easement: **Grantor** grants and conveys to **LRD** a non-exclusive easement appurtenant for installation, access to, use for, and maintenance of a path easement.

This easement shall be on and over that certain real property (hereinafter called the "**Path Easement**"), which is located on **LLSD Property** and which is more particularly described in Exhibits A and B, attached hereto.

2. Term: The Pathway Easement granted herein shall remain in full force and effect for the term of one hundred (100) years, unless terminated pursuant to law or a subsequent agreement between the Parties.

3. Maintenance: All costs and responsibilities related to the **Path Easement** in any way (e.g., installation, maintenance and repair of the **Path Easement**) shall be the sole responsibility of **LRD**. **Grantor** shall be entitled to coordinate and contract for emergency repairs, with costs for such repairs to be fully paid and/or fully reimbursed by **LRD.** Access to any potential and/or actual installation, inspection, maintenance and/or repair site shall be provided by **Grantor**, pending adequate notice. **Grantor** must be notified of such work at least seventy-two (72) hours in advance, absent a serious emergency.

4. Indemnification: To the extent permissible by California law, **LRD** shall defend and indemnify **Grantor, Woodland**, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers, for any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, that arise out of, pertain to, or relate to the construction, use and enjoyment, or maintenance of the **Path Easement**.

5. Insurance: **LRD**'s policy of comprehensive general liability insurance shall be updated to cover any and all claims arising out of public use of the **Path Easement**.

6. Dominant and Servient Tenements: The easement appurtenant granted herein is for the benefit of **LRD** only; with respect to such easement, the dominant tenement shall be **LRD**, and the servient tenement shall be the property providing the easement (**Grantor**).

7. Enforcement of Agreement: This **Agreement** shall be enforceable by any Party. In addition to any other rights and remedies, each Party may institute legal action to cure, correct, or remedy any default; to enforce any terms or provisions of this **Agreement**; to enjoin any threatened or attempted violation of the terms or provisions of this **Agreement**; to recover damages for any default; and to obtain any other remedy consistent with the purpose of this **Agreement**.

8. Compliance with Law: Each Party shall abide by and comply with any and all laws, ordinances and regulations applicable to such Party's obligations under this **Agreement**. The rights and obligations of the Parties shall be governed by the laws of the State of California.

9. Successors and Assigns: This **Agreement** shall inure to the benefit of, and be binding upon, the successors, subsequent purchasers, and assigns of the Parties hereto, provided, however, the Parties acknowledge that the easements granted hereby are junior to any existing liens and encumbrances which were duly recorded before the recordation of this

Easement Agreement. The Parties also acknowledge that existing liens and encumbrances could extinguish this Easement Agreement in whole or in part. If any of the Parties has an existing lien or encumbrance which may extinguish this **Agreement** in whole or in part, that Party must notify all other Parties of same.

10. Attorney's Fees: If any legal action or proceeding is commenced by any Party to enforce any provisions of this **Agreement**, the prevailing Party shall be entitled to recover from the losing Party reasonable attorney's fees and court costs in such amounts as shall be set by the Court.

11. Recordation: This **Agreement** shall be recorded and otherwise implemented at the sole and exclusive expense and effort of **LRD**, although the other Parties agree to execute and acknowledge this Agreement in proper recordable form.

12. Further Assurances: The Parties shall reasonably execute and deliver to any other all such other further instruments and documents as may be necessary to carry this **Agreement** into effect at the sole and exclusive expense and effort of **LRD**.

13. Exhibits: All exhibits attached hereto are incorporated herein as though set forth in full.

14. Entire Understanding: This **Agreement** constitutes the entire understanding of the Parties and supersedes all negotiations and prior agreements between the Parties concerning the subject matter of this **Agreement**. The Parties have made no representations, arrangements, or understandings concerning the subject matter of this **Agreement** which are not fully expressed in this **Agreement**.

IN WITNESS WHEREOF, the Parties have executed this **Agreement** on the date(s) set forth opposite their respective signatures below, effective as of the date set forth above.

Dated: May 13, 2019

LADERA RECREATION DISTRICT

By: _____
Robert E Felderman, Board President

Dated: May 8, 2019

LAS LOMITAS ELEMENTARY SCHOOL DISTRICT

By: _____
John Earnhardt, Board President

EXHIBIT A
LAS LOMITAS ELEMENTARY SCHOOL DISTRICT
PATH EASEMENT
LEGAL DESCRIPTION

BEING a six (6.00) foot wide Path Easement for ingress and egress over, upon and across a portion of the lands of "LAS LOMITAS ELEMENTARY SCHOOL DISTRICT" as described in the Corporation Grant Deed recorded in Volume 2211, Page 343 of Official Records in the Office of the County Recorder, County of San Mateo, State of California, and said Path Easement also being further described as lying three (3.00) feet on each side of the following described centerline:
COMMENCING at a found ¾ ich iron pipe tagged C.E. 5476 on the centerline of Andeta Way as shown on the "RECORD OF SURVEY" recorded in Book 17 of L.L.S. Maps at Page 49 in the Office of said County Recorder;
THENCE North 65°41'30" East, 185.29 feet to the northwesterly corner of said lands as shown on said "RECORD OF SURVEY";
THENCE along the northwesterly boundary line of said lands, said northwesterly boundary line also being the southeasterly boundary line of the lands of "LADERA RECREATION DISTRICT" as described in the "FINAL ORDER OF CONDEMNATION" recorded July 18, 1980 in Volume 7973 at Page 41, Official Records of said County, North 65°41'30" East, 154.51 feet to the TRUE POINT OF BEGINNING;
THENCE leaving said common boundary line, South 24°18'30" East, 5.20 feet to an angle point in said centerline;
THENCE North 65°41'30" West, 15.14 feet to the beginning point of a tangent curve, concave southerly and having a radius of 20.00 feet;
THENCE northeasterly along said curve, through a central angle of 41°44'35", an arc length of 14.57 feet to the beginning point of a tangent reverse curve, concave northerly and having a radius of 30.00 feet;
THENCE easterly along said reverse curve, through a central angle of 41°41'30", an arc length of 21.83 feet;
THENCE North 65°44'35" East, 52.49 feet to an angle point in said centerline;
THENCE North 58°07'44" East, 61.76 feet to an angle point in said centerline;
THENCE North 43°16'36" East, 17.87 feet to an angle point in said centerline;
THENCE North 65°41'30" West, 79.02 feet to an angle point in said centerline;
THENCE North 79°38'07" East, 112.05 feet to an angle point in said centerline;
THENCE North 78°56'39" East, 88.77 feet to an angle point in said centerline;
THENCE North 73°53'26" East, 21.67 feet to an angle point in said centerline;
THENCE South 52°31'17" East, 61.36 feet to an angle point in said centerline;
THENCE South 31°22'46" East, 41.72 feet to an angle point in said centerline;
THENCE South 35°37'19" East, 29.22 feet, to an angle point in said centerline;
THENCE North 69°18'15" East, 6.84 feet, more or less, to a point of intersection with the northeasterly boundary line of said lands of LAS LOMITAS ELEMENTARY SCHOOL DISTRICT, said northeasterly boundary line also the southwesterly boundary line of the lands of Delmar Trust as described in the Grant Deed recorded as Document Number 2015-056146, Official Records of said County, and said point of intersection

also being the point of termination of said path easement centerline.

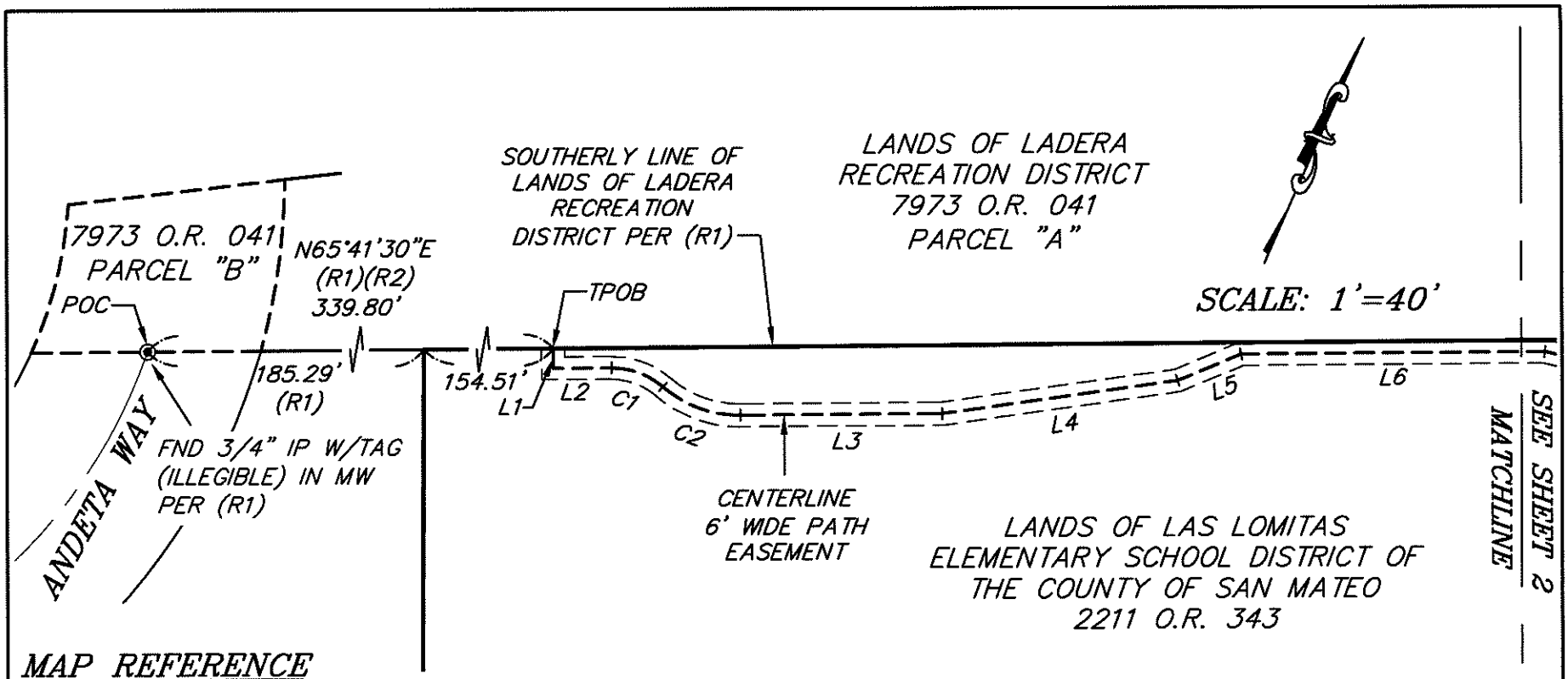
The sidelines of the above described Path Easement are to be lengthened or shortened so as to begin on said northwesterly boundary line of said lands of LAS LOMITAS ELEMENTARY SCHOOL DISTRICT and to terminate upon intersection with said northeasterly boundary line of said lands of LAS LOMITAS ELEMENTARY SCHOOL DISTRICT.

The above described easement is shown on the attached Exhibit "B"and by reference hereto made a part hereof.

Legal Description Prepared
Under the Supervision of

Andrew K. Holmes

Andrew K. Holmes, LS 4428
License Expires 09/30/19



MAP REFERENCE

(R1)	17 LLS 49
(R2)	36 MAPS 35

LEGEND

FND	FOUND
CL	CENTERLINE
IP	IRON PIPE
MW	MONUMENT WELL
POB	POINT OF COMMENCEMENT
TPOB	TRUE POINT OF BEGINNING
IP	IRON PIPE
W/	WITH

Line Table		
Line #	Length	Bearing
L1	5.20'	S24° 18' 30"E
L2	15.14'	N65° 41' 30"E
L3	52.49'	N65° 44' 35"E
L4	61.76'	N58° 07' 44"E
L5	17.87'	N43° 16' 36"E
L6	79.02'	N65 41' 30"E

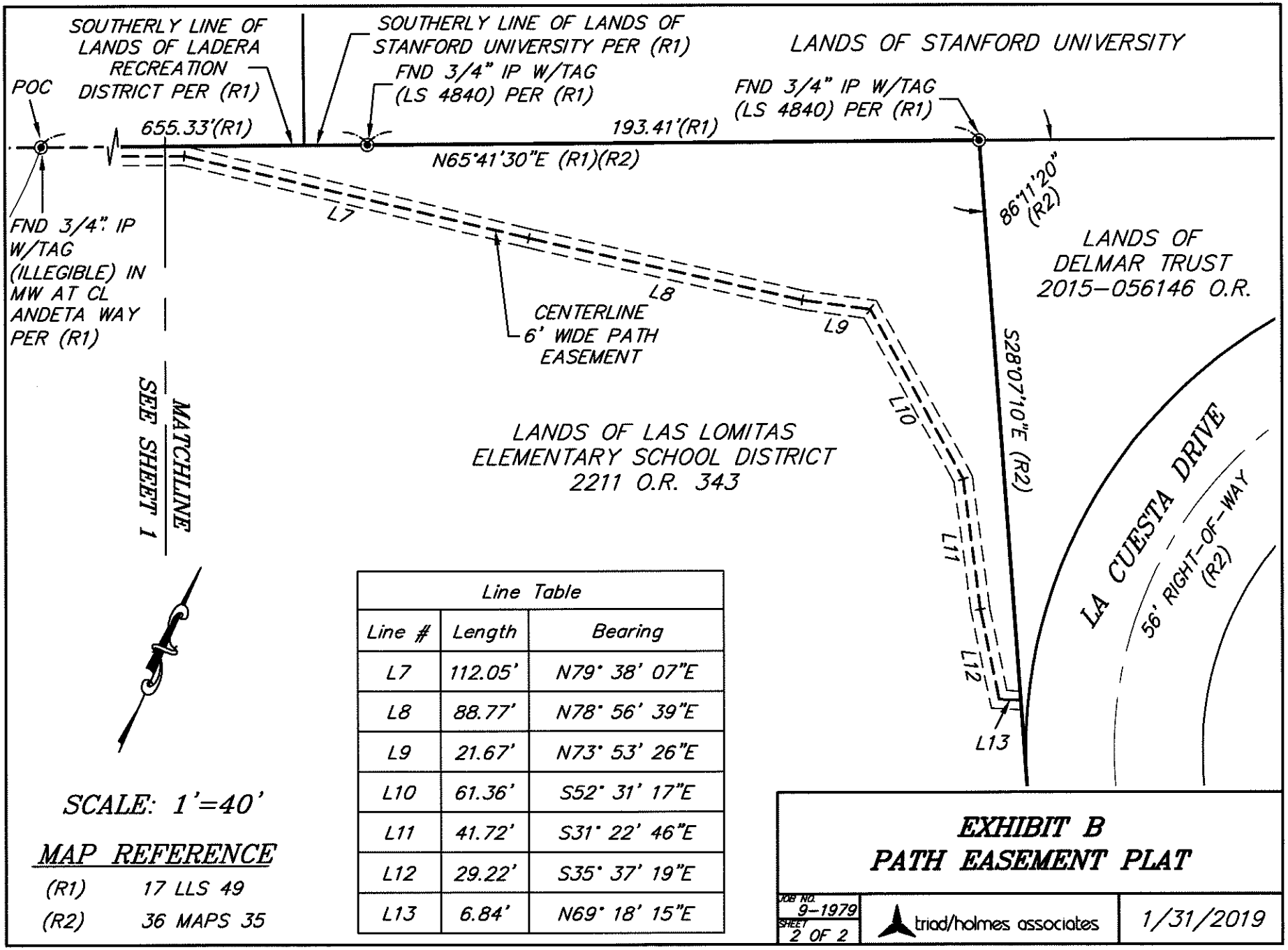
Curve Table			
Curve #	Radius	Length	Delta
C1	20.00'	14.57'	41° 44' 35"
C2	30.00'	21.83'	41° 41' 30"

EXHIBIT B
PATH EASEMENT PLAT

JOB NO. 9-1979
SHEET 1 OF 2

triad/holmes associates

1/31/2019



Line Table		
Line #	Length	Bearing
L7	112.05'	N79° 38' 07"E
L8	88.77'	N78° 56' 39"E
L9	21.67'	N73° 53' 26"E
L10	61.36'	S52° 31' 17"E
L11	41.72'	S31° 22' 46"E
L12	29.22'	S35° 37' 19"E
L13	6.84'	N69° 18' 15"E

SCALE: 1'=40'

MAP REFERENCE

(R1) 17 LLS 49

(R2) 36 MAPS 35

EXHIBIT B
PATH EASEMENT PLAT

JOB NO. 9-1979

SHEET 2 OF 2

triad/holmes associates

1/31/2019

EXHIBIT 5

Gmail

Susanna Chenette <slchenette@gmail.com>

[TheLaderaListServe] About the fence and elementary student safety

1 message

Mike Roberts via groups.io <mmr1936=gmail.com@groups.io> Mon, Jun 10, 2024 at 4:12 PM
Reply-To: mmr1936@gmail.com
To: "theladeralistserve@groups.io" <theladeralistserve@groups.io>

Now that the MOU vote is settled, I would like to add a comment about the fence business. Going back to the beginning, Ladera School's fence was more a boundary line than anything else. A long period of laissez faire has ensued. The attached picture, taken this afternoon along the path to the pool from La Cuesta, shows that the oak trees have mostly prevailed over the fence.

Today, after murderous schoolyard assaults on children - Sandy Hook, Parkland and Uvalde are just a few - we need a new fence designed to control access to the school property. A secure fence designed by professionals. They should decide the height, not residents with no family stake in the potential deadly outcome of a sociopath incursion. As a neighbor across the street, I think it can be ten feet high if that serves a security purpose.

Let's put the kids' safety first and pull together on this.

- Mike

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_.-._.-._.-._

Gmail

Susanna Chenette <slchenette@gmail.com>

[TheLaderaListServe] About the playing field controversy

1 message

Mike Roberts via groups.io <mmr1936=gmail.com@groups.io> Mon, Jun 10, 2024 at 5:11 PM
Reply-To: mmr1936@gmail.com
To: "theladeralistserve@groups.io" <theladeralistserve@groups.io>

One more post-MOU vote comment and I will shut up. I have been skeptical since the early arguments about parking that there was really a conflict. As the attached pictures demonstrate, there is no real reason for cars and student sports to have to coexist on the playing field. To the left side of the gravel path in the pictures, there is ample room for the limited, occasional parking which Woodland desires. Cut down the grass and prune the low hanging branches and there you are.

Someone a while back decided that it was more important for grownups to park their cars close to the school than it was for the students to have a first class, protected sports/playing area. It is time to turn that around. It is also time to turn around the proprietary attitude among some in the community that residents have a co-equal right to the playing field. That's nowhere in the statutes governing school properties. Let the lawyers and wannabe lawyers out there argue that on their own time. In the meantime, let's put students first.

It would make life easier for all parties if this is reduced to a simple rule/regulation: "There shall be no vehicle parking on any portion of the enclosed school area which is used for student/community sports activities." This means grass surfaces used for actual sports, not areas used for spectators, equipment arrangements, etc.

The rationale is obvious from a safety and maintenance point of view and I will not belabor the details here. Will this be a bit less convenient for Woodland parents/visitors? Yes. Is it worth the inconvenience to settle a long standing and trivial dispute? Yes.

- Mike

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Gmail **Susanna Chenette <slchenette@gmail.com>**

[TheLaderaListServe] Shopper Park and Ride etc

7 messages

Mike Roberts via groups.io <mmr1936=gmail.com@groups.io> Mon, Jun 10, 2024 at 1:44 PM
Reply-To: mmr1936@gmail.com
To: "theladeralistserve@groups.io" <theladeralistserve@groups.io>

Thanks to Kevin for putting a professional underline to this topic.

The Shopper's entrances and exits and parking are frequently overcommitted these days. Let's not worsen one problem to lighten another. The stores do not need clusters of non-customer bodies waiting for transportation, however well intentioned the idea is.

Alpine Road congestion is worsening and is already the subject of traffic management planning. The idea of stop lights in Ladera offends me, but the accident potential is bad and rising.

In the spirit of yesterday's call for full disclosure, I admit that a portion of the route from the school to the Shopper runs alongside our property. We welcome the student traffic so long as it does not interfere with the needs of Janie Barman's cats to traverse our lot!

Also, I should admit that we actually enjoy paying property taxes to the county that end up at LLESD. We have been told that Ladera is a highly educated community and thus our pursuit of educational excellence shows a definite bias! The result is a district that ranks near the top statewide.

- Mike

Elizabeth McDougall via groups.io <lizrossmcd=yahoo.com@groups.io> Mon, Jun 10, 2024 at 3:47 PM
Reply-To: lizrossmcd@yahoo.com
To: Mike Roberts <mmr1936@gmail.com>
Cc: theladeralistserve@groups.io

Mike ,
I think a solution for the traffic congestion on Alpine might be small roundabouts ! They slow down traffic making it easier for drivers on side roads get access to major roads .
Redwood City has several very small ones and they are effective . The Stanford ones have improved traffic flow enormously but they are also quite large and probably more expensive ….
Not sure anyone wants traffic lights .
> On Jun 10, 2024, at 1:45 PM, Mike Roberts <mmr1936@gmail.com> wrote:
>
> Thanks to Kevin for putting a professional underline to this topic.
>
> The Shopper's entrances and exits and parking are frequently overcommitted these days. Let's not worsen one problem to lighten another. The stores do not need clusters of non-customer bodies waiting for transportation, however well intentioned the idea is.

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>
> - Mike
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Dave Story via groups.io <davidstorydavid=gmail.com@groups.io> Mon, Jun 10, 2024 at 4:10 PM
Reply-To: davidstorydavid@gmail.com
To: Ladera List Serve <theladeralistserve@groups.io>

OOOhhhh. sign me up to support traffic circles! SOOOO much better than lights, as Stanford has (re)proven.

I'm pretty sure some members of the LCA are also in favor (as fans of the efficiency) and have looked into the space requirements (which will be a problem, as they require more space than a stoplight).

Dave Story
170 Pecora

Taylor Fortnam via groups.io <tfortnam=pacbell.net@groups.io> Mon, Jun 10, 2024 at 4:20 PM
Reply-To: tfortnam@pacbell.net
To: theladeralistserve@groups.io

Why so much opposition to traffic lights? These intersections are remarkably dangerous to pedestrians, cyclists, and drivers - it's actually concerning that public opposition to stoplights has prevented safety improvements here for this long.

I think that traffic lights would be a very efficient solution in this case. Traffic lights could help with the excessive traffic caused by Woodland during drop-off hours using an extended green for those leaving Ladera at certain times of day, while roundabouts may exacerbate this issue further due to heavy through-traffic on Alpine.

Traffic lights may also help pedestrians crossing Alpine more than roundabouts would - at a traffic light, there is a clear time for pedestrians to enter an intersection (while traffic is stopped). Conversely, at a roundabout, pedestrians still have to rely on cars to stop for them.

Neither solution is ideal, and certainly decreasing the traffic volume caused by Woodland would help the situation more

quickly than any efforts put in place by San Mateo County, which will take years.

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Janie Barman via groups.io <janiebarman=gmail.com@groups.io> Mon, Jun 10, 2024 at 4:30 PM
Reply-To: janiebarman@gmail.com
To: ELIZABETH MCDOUGALL <lizrossmcd@yahoo.com>
Cc: Mike Roberts <mmr1936@gmail.com>, The Ladera List Serve <theladeralistserve@groups.io>

100% Agree Liz! We have asked for and advocated for roundabouts for YEARS!!!

Janie Barman
650-759-1182

On Mon, Jun 10, 2024, 3:47 PM Elizabeth McDougall via groups.io <lizrossmcd=yahoo.com@groups.io> wrote:

> Mike ,
> I think a solution for the traffic congestion on Alpine might be small roundabouts ! They slow down traffic making it easier for drivers on side roads get access to major roads .
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> Not sure anyone wants traffic lights .
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> > Thanks to Kevin for putting a professional underline to this topic.
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> > - Mike
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The Maxwell Family via groups.io <themaxwellfamily1=gmail.com@groups.io> Mon, Jun 10, 2024 at 4:51 PM

Reply-To: themaxwellfamily1@gmail.com
To: tfortnam@pacbell.net
Cc: theladeralistserve@groups.io

Exactly, Taylor, thanks so much for actually addressing the real issue.

1. The left-turn center lane merges represent traffic systems from decades ago and have not scaled to 2020s traffic & neighborhood commuting hours egress.
2. Commuter/peak hour traffic on Alpine Rd. has drastically increased over the years.
3. Both of these factors combined with people's frequent inability to use the left turn merges results in long backups during commuting hours
    1. At one point neighbors put up a sign instructing people on how to use the center lane, but CalTrans (we think) removed it
4. Non-neighborhood Woodland parents contribute to this traffic at the La Mesa exit.
5. Ladera residents use La Cuesta, which then becomes 2x longer (or cleverly escape through the La Mesa Wells Fargo parking lot and go upstream a bit)

People focus on item 4 because it's an easy and obvious target — non-residents contributing during peak commuting hours makes it harder for all of us to leave, even if we take the La Cuesta exit. But as anyone has experienced, even going out of La Cuesta you're sometimes waiting for 2-3 minutes for a gap in the incoming Alpine Rd traffic to just turn left. I've been late for kids' dentist/dr/ortho appointments so many times.

To me, addressing the root of traffic backup through pressure on local govt is more beneficial than focusing on a multiplier.

On Mon, Jun 10, 2024 at 4:20 PM Taylor Fortnam via groups.io <tfortnam=pacbell.net@groups.io> wrote:

> Why so much opposition to traffic lights? These intersections are remarkably dangerous to pedestrians, cyclists, and drivers - it's actually concerning that public opposition to stoplights has prevented safety improvements here for this long.
>
> I think that traffic lights would be a very efficient solution in this case. Traffic lights could help with the excessive traffic caused by Woodland during drop-off hours using an extended green for those leaving Ladera at certain times of day, while roundabouts may exacerbate this issue further due to heavy through-traffic on Alpine.
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> Traffic lights may also help pedestrians crossing Alpine more than roundabouts would - at a traffic light, there is a clear time for pedestrians to enter an intersection (while traffic is stopped). Conversely, at a roundabout, pedestrians still have to rely on cars to stop for them.
>
> Neither solution is ideal, and certainly decreasing the traffic volume caused by Woodland would help the situation more quickly than any efforts put in place by San Mateo County, which will take years.

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Michelle White via groups.io <michellestantonwhite=comcast.net@groups.io> Mon, Jun 10, 2024 at 5:32 PM

Reply-To: michellestantonwhite@comcast.net
To: Dave Story <davidstorydavid@gmail.com>, Ladera List Serve <theladeralistserve@groups.io>

I second Dave's opinion. Love those traffic circles 😊

-----Original Message-----
From: theladeralistserve@groups.io <theladeralistserve@groups.io> On Behalf Of Dave Story
Sent: Monday, June 10, 2024 4:10 PM
To: Ladera List Serve <theladeralistserve@groups.io>
Subject: Re: [TheLaderaListServe] Shopper Park and Ride etc

OOOhhhh. sign me up to support traffic circles! SOOOO much better than lights, as Stanford has (re)proven.

I'm pretty sure some members of the LCA are also in favor (as fans of the efficiency) and have looked into the space requirements (which will be a problem, as they require more space than a stoplight).

Dave Story
170 Pecora

Luis Topete, ltopete@smcgov.org
Planning and Building Department
455 County Center, 2nd Floor, Mail Drop PLN122
Redwood City, CA 94063

Woodland School CUP hearing, June 12, 2024

Mr. Topete,

I can not be at the hearing in person, in my absence I present you this letter of my opinions on the matter.

I am a Portola Valley native, past Woodland parent, for 17.5 years (1/2001 - 6/2019) and Ladera resident for 17.5 years (12/2006 - today) ... Oh, and I live directly across the street from the school. I feel the school is a tremendous asset to our community, education and the Peninsula.

Most importantly, Woodland offered our family options that our public schools, although VERY good schools, could not. Having their resources and options was invaluable to us as parents and to our children and their success. My husband and I are self employed, our work hours are unpredictable and Woodland's extended care and summer school/camp programs gave us immeasurable peace of mind that our children were safe, getting enrichment and being cared for. They had space to run around with friends and learn the lessons that team sports offer, especially how to lose gracefully, LOL! We simply did not have to worry, the extended care option was VITAL to me and so many other parents, especially my Woodland parent friends that are doctors and nurses. I can not emphasize this enough, extended care is a lifeline, literally! PLEASE allow them to offer extended care until 6:00 PM, it could save lives!

Woodland has been a very good neighbor. There have been times of irritation for sure, but they have been addressed immediately, and far better than some of my human neighbors. Especially over the last 3+ years, Woodland has worked very hard to remedy all concerns and complaints within their control. I am sure you will hear comments to the contrary, but there are just some people that will never choose to be happy, I am sad for them.

Because I am directly across the street and along a curve in the road from Woodland, safety, parking and traffic has been and always will be my #1 concern. We have had one cat hit and killed (by a van turning left out of the school parking lot) and three of our cars have been side-swiped (pre-COVID) but only when big events happen at Woodland. Using the field for limited and temporary parking has ended the utter insanity on La Cuesta and alleviated danger unlike any solution we have seen. It is the least of many evils IMHO. BTW, I think dog poop on the field is just as damaging to the ecosystem and children if not more so than cars on the field. Parking on the field is seldom, and the safety benefits to everyone are so absolutely enormous that I FIRMLY believe it should remain as an option for the big events as needed. As with the many other steps Woodland has taken to control traffic and safety, the employees that are out there daily are always pleasant and helpful and go the extra mile to assist everyone.

Ladera has spoken clearly with votes for the MOU that it wants to collaborate and move forward in a good, neighborly relationship with Woodland. I believe there are claims by a few that are trying to count the abstained voters in Ladera to dilute the percentage, as I'm sure you know, this is a "Hail Mary" and silly. You can not count an uncast vote either way, just as you can't force someone to eat their veggies, you can't force someone to vote. Not wise, but their choice.

Please grant Woodland the CUP they are seeking. I am available to discuss further any issue surrounding this matter and encourage you to call or email me at your convenience.

Thank you.

Sincerely,

Janie Barman
351 La Cuesta Drive
Portola Valley, CA 94028
(650) 759-1182

Kelsey and Matt Lopez
291 Erica Way ● Portola Valley, CA 94028

June 11, 2024

Luis Topete
Planning and Building Department
455 County Center,
2nd Floor Mail Drop PLN122
Redwood City, CA 94063

Dear Mr. Topete,

We would like to express our support for Woodland School's request to renew the school's conditional use permit and extend school operating hours until 6:00pm to align with Woodland's existing after school and extended care programs.

Our family built a home in Ladera in and have now lived here for just over a year, while our oldest child, Brooklyn, has attended Woodland for the last three years. Kelsey previously attended Woodland for eight years, graduating in 2001, then worked at the summer camp and extended care program for the next four years. We love both Woodland and Ladera for their warm and welcoming communities, and a significant factor in choosing Woodland was the on-site after school and summer camp programs as we both work full time and go into our offices three days a week (in Mountain View and Pleasanton).

Since we first joined the Ladera community in 2020, we've received regular updates from Woodland's Head of School via the neighborhood listserv, including the reopening of campus and notice of events at the school, as well as via the Ladera Community Association (LCA) board and regular mail. There have been timely communications about renovations, unexpected road closures, and other topics that may affect us as neighbors. We've also seen the school's responsiveness to community feedback about gym lights, carline noise, and clarity of policies.

As Woodland parents, we also receive very regular reminders about traffic safety and parking rules, including in parent newsletters, separate emails, and live while on campus. We sign an acknowledgement of the rules at the start of each year and are responsible for sharing them with any caretakers who help to drop off or pick up our children. We see the many staff and volunteers, including the Head of School, who are out every school day (rain or shine), helping to guide traffic efficiently and to allow us to safely cross the street as we walk to and from school.

Woodland has been an empathetic and responsive neighbor in Ladera, and we urge you to renew the conditional use permit with the school's requested modifications. Thank you for your consideration.

Thank you,

Kelsey and Matt Lopez