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Board Cover Memorandum

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Tadashi Nakadegawa, Deputy Chief of Facilities
Jody Talkington, Senior Director of Strategic Projects, Supt Office

Meeting Date December 15, 2021

Subject California Children Services West Oakland Medical Therapy Unit MOU with the North Region SELPA

Ask of the Board Board will review and approve the MOU for the facilities construction and routine maintenance cost sharing with the North Region SELPA.

Background /Discussion Pursuant to Government Code section 7575, Alameda County California Children Services (“AC CCS”), as the designated local agency of the State Department of Health Care Services, is responsible for the provision of medically necessary occupational therapy and physical therapy, as specified by Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, by reason of medical diagnosis, and when contained in a child’s individualized education program. Pursuant to Government Code section 7575, the Oakland Unified School District (“District”) must provide necessary space and equipment for the provision of occupational therapy and physical therapy in the most efficient and effective manner. State Interagency Cooperative Agreement (“State MOU”) that specifies the requirements for the space is attached.

- The West Oakland Medical Therapy Unit was held at the former Bunche Campus (“Campus”) until it became clear that the campus was not suitable for students or staff. The Campus has ongoing pest infestation, dry rot, access compliance concerns, alarm deficiencies, lead paint, and trace amounts of lead in soil. Many of the systems - including mechanical, plumbing, sewer, and electrical - are also at end of life and need to be replaced. In addition, on January 30, 2020, the California Children Services commissioned their own Inspection at the former Bunche campus and found similar concerns.
- Staff has reviewed 14 school sites in West and Northwest Oakland to see which sites are compliant with the State MOU specifications for space for the Medical Therapy unit. The review also includes the cost to prepare the

site and the timeline for when the space would be available to provide services.

- The students are currently not being served in person as they are waiting for the new West Oakland site to reopen for services.
- On June 16, 2021, the Board directed staff to explore a long term placement of the program at the Santa Fe Campus portables. Staff has taken the necessary steps to work with the partner agencies to develop a plan to be able to open the West Oakland Medical Therapy Unit in the spring or summer of 2021-22 School Year, and no later than the fall of the 2022-23 school year, at the Santa Fe Campus and for the location to be the long term home for the program.
- The purpose of this MOU is to clarify the terms for cost sharing for the support of facilities for the Medical Therapy Unit.

Fiscal Impact

This MOU is to clarify the portion of the cost that the North Region SELPA will contribute to initial construction and ongoing maintenance at the Santa Fe Campus where the program will be held. See the specific amounts in the MOU listed below.

Attachments

- Memorandum of Understanding
- Resolution No. 2021-0169 - Facilities Placement for the West Oakland Medical Therapy Unit
- [State MOU for the CCS Medical Therapy Unit with local SELPAs](#)
- [Santa Fe Construction Summary](#)

MEMORANDUM OF UNDERSTANDING BETWEEN

OAKLAND UNIFIED SCHOOL DISTRICT AND NORTH REGION SELPA

This Memorandum of Understanding (hereinafter referred to as this "MOU") is made and entered into as of December, 2021 (hereinafter referred to as the "Date of this Agreement"), by and between the Oakland Unified School District, a California Public School district and single district special education local plan area (hereinafter referred to as the "District" or "OUSD SELPA") and North Region SELPA, a five district special education local plan area (hereinafter collectively referred to as the "North Region SELPA"), for use of the facilities located at 915 54th Street, Oakland, CA 94608-3142, (hereinafter referred to as "Site").

RECITALS

WHEREAS, the District and North Region SELPA seek to provide services to students under the terms of the State Interagency Cooperative Agreement between California Department of Health Services, Children's Medical Services Branch and California Children Services Medical Therapy Program.

WHEREAS, pursuant to Government Code section 7575, Alameda County California Children Services ("AC CCS"), as the designated local agency of the State Department of Health Care Services, is responsible for the provision of medically necessary occupational therapy and physical therapy, as specified by Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, by reason of medical diagnosis, when contained in a child's individualized education program. Pursuant to Government Code section 7575, the Oakland Unified School District ("District") must provide necessary space and equipment for the provision of occupational therapy and physical therapy in the most efficient and effective manner. The MOU with the State ("State MOU") that specifies the requirements for the space is incorporated by reference.

WHEREAS, the District previously housed and operated the West Oakland Medical Therapy Unit at the former Bunche Campus ("Campus") until it became clear that the campus was not suitable.

WHEREAS, on June 16, 2021, the OUSD Board of Education directed staff to explore a relocation and long term placement of the Oakland Medical Therapy Unit program at portables located on the Santa Fe Campus, 915 54th Street, Oakland, CA 94608-3142. Staff has taken the necessary steps to work with the partner agencies to develop a plan to be able to open the West Oakland Medical Therapy Unit in the spring or summer of the 2021-2022 School Year, and no later than the fall of the 2022-2023 school year, at the Santa Fe Campus and for the location to be the long term home for the program.

WHEREAS, upon approval from the Children's Medical Services' Branch, the California Department of Education, the Local County CCS Program, and the North Region SELPA, the Parties intent to relocate the Medical Therapy Unit to portables located on the Santa Fe Campus, 915 54th Street, Oakland, CA 94608-3142.

1. SITE

It is the intent of the Parties that the Oakland Medical Therapy Unit ("MTU") program be relocated to portables located on the Santa Fe Campus, 915 54th Street, Oakland, CA 94608-3142.

Staff has taken the necessary steps to work with the partner agencies to develop a plan to be able to open the Oakland Medical Therapy Unit in the spring or summer of the 2021-2022 School Year, and no later than the fall of the 2022-2023 school year, at the Sante Fe Campus and for the location to be the long term home for the program.

2. TERM

The term of this Agreement shall be for five (5) consecutive fiscal years, commencing on July 1, 2022 and ending on June 30, 2027, subject to earlier termination as set forth in this Agreement ("Initial Term"). The Parties shall have the right to renew this Agreement for up to one additional term upon mutual written agreement. At the time a Party gives the other Party its written notification to exercise the extension term, the District or North Region SELPA may indicate its desire to meet and confer regarding the potential renegotiation of the terms of this MOU and the Parties shall meet and confer in good faith regarding whether there are revisions to terms of the MOU that both Parties agree to. If both Parties agree to revisions to the terms of the MOU, the Parties shall execute an amendment to this MOU memorializing the same.

3. CONSTRUCTION CONTRIBUTION

The District is making a substantial financial commitment to improve the Site in order to house the Medical Therapy Unit as described in the Santa Fe Construction Summary Sheet. The estimated total cost of construction is \$873,090. The North Region SELPA will contribute to the total cost based on an average percentage of attendance in the program over a three year period. The average percentage for the past three years is 35%. The North Region SELPA will contribute an amount that shall not exceed \$305,581.50.

4. MAINTENANCE AND REPAIRS

The ongoing daily operations and maintenance of the facilities and equipment at the Site is the responsibility of the District. The District shall be responsible for maintenance of premises after improvements are complete. Maintenance includes but is not limited to structural repairs, custodial services, and replacement of broken (non-functional) equipment and fixtures. The total yearly cost for routine maintenance for the portables on the Santa Fe Campus is \$45,760. The North Region SELPA will contribute to the total cost based on the average percentage of attendance in the program over a three year period. The yearly contribution would need to be recalculated on a yearly basis. The yearly contribution for routine maintenance by the North Region SELPA would begin the year after the program opens on the Santa Fe campus.

5. INDEMNITY

A. North Region SELPA shall indemnify, hold harmless, and defend the District, its Board Members, trustees, officers, administrators, attorneys, volunteers, employees and agents against and from any and all claims, demands, actions, suits, losses, liability, loss, expenses and costs for any injury, death or damage to any person or property occurring in, on or about the Site arising from North Region SELPA's use of the Site from the conduct of its business or from any activity, work, or other things done, permitted or suffered by North Region SELPA in or about the Site; provided, however, that North Region SELPA shall not have any obligation to indemnify, hold harmless or defend the District, its trustees, officers, employees and agents against and from any and all claims, demands, actions, suits, losses, liability, expenses and costs for any injury, death or damage to any person or property occurring in, on or about the Site resulting from or arising out of the negligence or misconduct of the District, its trustees, officers, employees and agents.

B. District shall indemnify, hold harmless, and defend North Region SELPA, its Board Members, trustees, officers, administrators, attorneys, volunteers, employees and agents against and from any and all claims, demands, actions, suits, losses, liability, loss, expenses and costs related to or resulting from or arising from District's negligence or misconduct in connection with the conduct of its business or from District's negligence or misconduct in connection with the any activity, work, or other things done, permitted or suffered by District, its trustees, officers, employees and agents in or about the Site; provided, however, that District shall not have any obligation to indemnify, hold harmless or defend the North Region SELPA, its trustees, officers, employees and agents against and from any and all claims, demands, actions, suits, losses, liability, expenses and costs for any injury, death or damage to any person or property occurring in, on or about the Site resulting from or arising out of the negligence or misconduct of the North Region SELPA, its trustees, officers, employees and agents.

6. CONDEMNATION

The rights and obligations of the Parties shall be determined as follows: If Site is totally taken by condemnation; this Agreement shall terminate on the date of taking.

7. DISPUTE RESOLUTION

In the event of any disagreement as to the terms of this Agreement, the Parties shall utilize an Alternative Dispute Resolution process prior to pursuit of litigation.

8. MISCELLANEOUS

A. Captions; Attachments; Defined Terms, Amendments.

1. The captions of the paragraphs of this Agreement are for convenience only and shall not be deemed to be relevant in resolving any question of interpretation or construction of any section of this Agreement.
2. Exhibits attached hereto, and addenda and schedules initialed by the parties, are deemed by attachment to constitute part of this Agreement and are incorporated herein.
3. This Agreement may only be amended in a writing that specifically indicates its intent to modify and/or amend this Agreement.

B. Severability. If any term or provision of this Agreement shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, then the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valued and be enforceable to the fullest extent permitted by law.

C. Binding Effect; Choice of Law. The Parties hereto agree that all provisions hereof are to be construed as both covenants and conditions as though the words importing such covenants and conditions were used in each separate paragraph hereof. All of the provisions hereof shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns. The laws of the State of California shall govern this Agreement. In the event of any suit or proceeding arising out of or related to this Agreement, Alameda County Superior Court of California will have exclusive jurisdiction and the parties will submit to the jurisdiction of that court.

D. Waiver. The waiver by any party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

No provision of this Agreement shall be deemed waived by either party hereto unless expressly waived in a written instrument signed by a person on behalf of the party waiving the provision. The waiver by either party hereto of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of same or any other term, covenant or condition herein contained.

E. Notices. All Notices or demands of any kind required or desired to be given by District or North Region SELPA hereunder shall be in writing and shall be deemed delivered three (3) business days after depositing the notice or demand in the United States mail, certified or registered, postage prepaid, addressed to the District or North Region SELPA respectively at the following addresses:

Office of the General Counsel
Oakland Unified School District
1000 Broadway, Suite 300
Oakland, CA 94607

Northern SELPA
Attn: Director of Northern SELPA
1200 Solano Avenue
Albany, CA 94706

F. Corporate Authority. Each individual executing this Agreement on behalf of the Parties represents and warrants that they are duly authorized to execute and deliver this Agreement on behalf of the represented and that this Agreement is binding.

G. Contract Contingent on Governing Board Approval. Districts shall not be bound by the terms of this Agreement until it has been formally approved by the District's Governing Board. This Agreement shall be deemed to be approved by the District when it has been signed by the Board of Education, and/or the Superintendent as its designee.

IN WITNESS WHEREOF, District and North Region SELPA execute this Agreement effective the date and year first above written.

APPROVAL BY OUSD BOARD OF EDUCATION

 12/16/2021

Shanthi Gonzales
President, Board of Education

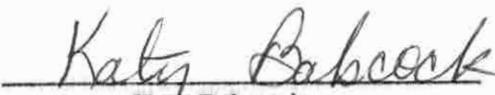
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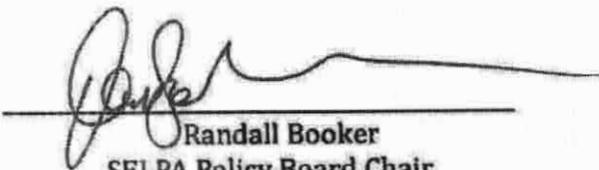
Kyla Johnson-Trammell
Superintendent and Secretary, Board of Education

Approved as to Form:


Counsel for the District

APPROVAL BY NORTH REGION SELPA


Katy Babcock
SELPA DIRECTOR


Randall Booker
SELPA Policy Board Chair

Board Office Use: Legislative File Info.	
File ID Number	21-1563
Introduction Date	6/30/2021
Enactment Number	21-1199
Enactment Date	6/30/2021 os



Board Cover Memorandum

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Sondra Aguilera, Chief Academic Officer
Jennifer Blake, Executive Director, Special Education
Jody Talkington, Senior Director of Strategic Projects

Meeting Date June 30, 2021

Subject Proposed location for a facilities space for the West Oakland Therapy Unit provided by the California Children’s Services

Ask of the Board Approval by the Board of Education of Resolution No. 2021-0169 - Facilities Placement for the West Oakland Medical Therapy Unit

Background & Discussion Pursuant to Government Code section 7575, Alameda County California Children Services (“AC CCS”), as the designated local agency of the State Department of Health Care Services, is responsible for the provision of medically necessary occupational therapy and physical therapy, as specified by Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, by reason of medical diagnosis, when contained in a child’s individualized education program. Pursuant to Government Code section 7575, the Oakland Unified School District (“District”) must provide necessary space and equipment for the provision of occupational therapy and physical therapy in the most efficient and effective manner. The MOU with the State (“State MOU”) that specifies the requirements for the space is attached.

- The West Oakland Medical Therapy Unit was held at the former Bunche Campus (“Campus”) until it became clear that the campus was not suitable for students or staff. The Campus has ongoing pest infestation, dry rot, access compliance concerns, alarm deficiencies, lead paint, and trace amounts of lead in soil. Many of the systems - including mechanical, plumbing, sewer, and electrical - are also at end of life and need to be replaced. In addition, on January 30, 2020, the California Children’s Services commissioned their own Inspection at the former Bunche campus and found similar concerns.
- Staff has reviewed 14 school sites in West and Northwest Oakland to see which sites are compliant with the State MOU specifications for space for the Medical Therapy unit. The review also includes the cost to prepare the

site and the timeline for when the space would be available to provide services.

- The students are currently not being served in person as they are waiting for the new West Oakland site to reopen for services.
- On June 16, the Board directed staff to explore a long term placement of the program at the Santa Fe Campus portables. Staff has taken the necessary steps to work with the partner agencies to develop a plan to be able to open the West Oakland Medical Therapy Unit in the spring or summer of 2021-22 School Year, and no later than the fall of the 2022-23 school year, at the Sante Fe Campus and for the location to be the long term home for the program.

Fiscal Impact

\$873,090 for the preparation of the portables at the Santa Fe Campus from the General Fund, specifically the one-time cost avoidance from 2020-21, until the District determines if there is another resource applicable to this project to absorb all or a portion of this cost. Staff is working with the North Region SELPA to cover a portion of the costs of facilities preparation of the site that is aligned with the percentage of their students who will be served through the program.

Attachment(s)

- Resolution No. 2021-0169 - Facilities Placement for the West Oakland Medical Therapy Unit
- State MOU for the CCS Medical Therapy Unit with local SELPAs

**RESOLUTION OF THE
BOARD OF EDUCATION OF THE
OAKLAND UNIFIED SCHOOL DISTRICT**

Resolution No. 2021-0169

Facilities Placement for the West Oakland Medical Therapy Unit

WHEREAS, Pursuant to Government Code section 7575, Alameda County California Children Services (“AC CCS”), as the designated local agency of the State Department of Health Care Services, is responsible for the provision of medically necessary occupational therapy and physical therapy, as specified by Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, by reason of medical diagnosis, when contained in a child’s individualized education program. Pursuant to Government Code section 7575, the Oakland Unified School District (“District”) must provide necessary space and equipment for the provision of occupational therapy and physical therapy in the most efficient and effective manner;

WHEREAS, Staff has reviewed all the school site campuses in North and West Oakland to identify the best long term location for the program that satisfies the space requirements specified in the State MOU;

WHEREAS, On June 16, the Board of Education directed staff to take the necessary steps to be able to place the West Oakland Medical Therapy Unit at the Santa Fe portables as the long term solution;

WHEREAS, During the preparation and construction of the portables to fit the State mandated requirements for the state, students most in need of in person services will be served at the Cesar Chavez location as a temporary site; and

WHEREAS, Staff will collaborate with the Peralta Colleges and other community locations to be able to reopen safely to be able to serve the Young Adult Program that is currently using the Santa Fe Portables temporarily due to COVID Safety Measures.

NOW, THEREFORE, BE IT RESOLVED, the Board hereby declares that the long term placement of the West Oakland Medical Therapy Unit provided by California Children Services is the Santa Fe Campus in the portables on 53rd St. and directs the Superintendent to take the necessary actions and to pursue approval, if needed, by the State and/or the County for the relocation of the program to that site; and

