

Board Office Use: Legislative File Info.	
File ID Number	23-1671
Introduction Date	6/28/2023
Enactment Number	23-1326
Enactment Date	6/28/2023 CJH



Board Cover Memorandum

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Pranita Ranbhise, Director, Facilities Planning & Management
Joshua R. Daniels, Chief Governance Officer

Meeting Date June 28, 2023

Subject Cost Sharing Memorandum of Understanding with the North Region SELPA

Ask of the Board Adoption by the Board of Education of the Memorandum of Understanding Between Oakland Unified School District and the North Region Special Education Local Plan Area

Background 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. Pursuant to Government Code section 7575, the District is required to provide necessary space and equipment for the provision of occupational therapy and physical therapy in the most efficient and effective manner. The District previously housed and operated the West Oakland Medical Therapy Unit program (“MTU”) at the former Bunche Campus (“Bunche”) until Bunche was closed for health and safety reasons. In the spring of 2022, the OUSD Board of Education directed the Superintendent to explore a relocation and long term placement of the MTU at portables located on the Site. OUSD Staff developed a plan to be able to open the MTU at Santa Fe.

Discussion Under the proposed MOU, the District would agree to install portables and associated facilities at Santa Fe in order to provide a location for the MTU and the North Region SELPA would agree to reimburse the District \$500,000 to cover a portion of the cost.

Fiscal Impact The last estimate of the cost (from October 2022) of locating the five portables and one portable restroom at Santa Fe was \$2.9M. The proposed MOU would offset this cost to the District by \$500,000. The District would likely be obligated to provide space for the MTU and the Board had previous indicated that it supported doing so at Santa Fe.

Attachments

- Memorandum of Understanding Between Oakland Unified School District and the North Region Special Education Local Plan Area

**MEMORANDUM OF UNDERSTANDING BETWEEN
OAKLAND UNIFIED SCHOOL DISTRICT AND NORTH REGION SELPA**

This Memorandum of Understanding (“MOU”) is entered into by the Oakland Unified School District, a California Public School district and single district special education local plan area (“District” or “the District SELPA”) and the North Region SELPA for purposes of sharing the costs of installing portables and associated facilities (“Improvements”) at the Santa Fe facilities located at 915 54th Street, Oakland, CA 94608 (“Site”) for purposes of providing a location for the West Oakland Medical Therapy Unit program. The term “Parties” refers to the District and the North Region SELPA.

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 the California Department of Education;

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;

WHEREAS, pursuant to Government Code section 7575, the District is required to provide necessary space and equipment for the provision of occupational therapy and physical therapy in the most efficient and effective manner;

WHEREAS, the District previously housed and operated the West Oakland Medical Therapy Unit program (“MTU”) at the former Bunche Campus (“Bunche”) until Bunche was closed for health and safety reasons;

WHEREAS, in the spring of 2022, the the District Board of Education directed the Superintendent to explore a relocation and long term placement of the MTU at portables located on the Site;

WHEREAS, Staff has developed a plan to be able to open the MTU at the Site; and

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 intend to locate the MTU to portables located at the Site.

The PARTIES hereby agree as follows:

- I. **Improvements**. The term “Improvements” shall be defined to mean the installation of portables and associated facilities at the Site in order to provide a location for the MTU.

Without the need to amend this MOU, staff leadership (e.g., the Superintendent or designee, on behalf of the District) shall determine all remaining details that are necessary to fully define the facility additional and changes necessary at the Site in order to provide a location for the MTU (e.g., determining the number and type of portables).

II. **Purpose.** The purpose of this MOU is to establish how the Parties will share the cost of installing the Improvements. Aside from the cost, the District is responsible for the actual installation of the Improvements. Except as explicitly stated herein, this MOU does not constitute a legal agreement permitting another entity (including the North Region SELPA) to use any aspect of the Site, including the Improvements; any such use would require a separate legal agreement.

III. **Cost Contributions.**

A. **North Region SELPA.** The North Region SELPA will contribute \$500,000 to the cost of installing the Improvements. The District may invoice the North Region SELPA for its contribution January 1, 2024. Upon receiving such an invoice, the North Region SELPA shall remit full payment to the District within sixty (60) days of receiving the invoice.

B. **District.** The District will cover all remaining costs of installing the Improvement.

IV. **Ongoing Maintenance and Repairs.** The ongoing maintenance and repairs of the facilities and equipment, including the Improvements, at the Site is the responsibility of the District. Ongoing maintenance and repairs includes, but is not limited, to structural repairs, custodial services, and replacement of broken (non-functional) equipment and fixtures.

V. **Indemnity**

A. **North Region SELPA Indemnity of District.** 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 sole negligence or misconduct of the District, its trustees, officers, employees and agents.

- B. District Indemnity of North Region SELPA. 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 sole negligence or misconduct of the North Region SELPA, its trustees, officers, employees and agents

VI. Miscellaneous Terms and Conditions

- A. Notice. All notices provided for under this MOU shall be sent: (i) via email to the email address set forth below, (ii) personally delivered during normal business hours, or (iii) sent by U.S. Mail (certified, return receipt requested) with postage prepaid to the other Party at the address set forth below.

District

Site/Dept: Office of General Counsel
Address: 1011 Union St., Site 946
City, ST Zip: Oakland, CA 94607
Phone: 510-879-5060
Email: ousdlegal@ousd.org

North Region SELPA

Name: Katy Babcock
Title: North Region SELPA Director
Address: 819 Bancroft Way,
City, ST Zip: Berkeley CA 94710
Phone: 510-525-9805
Email: kbabcock@ausdk12.org

Notice shall be effective when received if personally served or emailed or, if mailed, three days after mailing. Either Party must give written notice of a change of mailing address or email.

- B. Notice. All notices provided for under this MOU shall be sent: (i) via email to the email address set forth below, (ii) personally delivered during normal business hours, or (iii) sent by U.S. Mail (certified, return receipt requested) with postage prepaid to the other Party at the address set forth below.
- C. Assignment. The obligations of North Region SELPA under this MOU shall not be assigned by North Region SELPA without the express prior written consent of the District and any assignment without the express prior written consent of the District shall be null and void.
- D. Waiver. No delay or omission by either Party in exercising any right under this MOU shall operate as a waiver of that or any other right or prevent a subsequent act from constituting a violation of this MOU.
- E. No Rights in Third Parties. This MOU does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
- F. Miscellaneous Terms and Conditions. This MOU shall be deemed to be performed in Oakland, California and is governed by the laws of the State of California, but without resort to California's principles and laws regarding conflict of laws. The Alameda County Superior Court shall have jurisdiction over any litigation initiated to enforce or interpret this MOU.
- G. Integration/Entire Agreement of Parties. This MOU constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This MOU may be amended or modified only by a written instrument executed by both Parties.
- H. Severability. If any term, condition or provision of this MOU is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
- I. Provisions Required By Law Deemed Inserted. Each and every provision of law and clause required by law to be inserted in this MOU shall be deemed to be inserted herein and this MOU shall be read and enforced as though it were included therein.
- J. Captions and Interpretations. Section and paragraph headings in this MOU are used solely for convenience, and shall be wholly disregarded in the construction of this MOU. No provision of this MOU shall be interpreted for or against a Party

because that Party or its legal representative drafted such provision, and this MOU shall be construed as if jointly prepared by the PARTIES.

- K. Counterparts and Electronic Signature. This MOU, and all amendments, addenda, and supplements to this MOU, may be executed in one or more counterparts, all of which shall constitute one and the same amendment. Any counterpart may be executed and delivered by facsimile or other electronic signature (including portable document format) by either Party and, notwithstanding any statute or regulations to the contrary (including, but not limited to, Government Code section 16.5 and the regulations promulgated therefrom), the counterpart shall legally bind the signing Party and the receiving Party may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received. Through its execution of this MOU, each Party waives the requirements and constraints on electronic signatures found in statute and regulations including, but not limited to, Government Code section 16.5 and the regulations promulgated therefrom.

- L. Agreement Publicly Posted. This MOU, its contents, and all incorporated documents are public documents and will be made available by the District to the public online via the Internet.

REST OF PAGE IS INTENTIONALLY LEFT BLANK

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

Approval by the District



Mike Hutchinson
President, Board of Education

6/29/2023

Date



Kyla Johnson-Trammell
Superintendent and Secretary, Board of Education

6/29/2023

Date

Approved as to Form:

Josh Daniels 6/20/2023
Counsel for the District

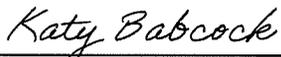
Approval by the North Region SELPA



Quiauna Scott
Chair, SELPA Policy Board

6-20-23

Date



Katy Babcock
Director, North Region SELPA

6-20-23

Date