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By: [Signature]

**OAKLAND UNIFIED SCHOOL DISTRICT**  
**Office of the Board of Education**  
**June 13, 2011**

**To:** Board of Education

**From:** Tony Smith, Ph. D, Superintendent,  
Timothy E. White, Assistant Superintendent of Facilities Planning &  
Management, Buildings & Grounds and Custodial Services

**Subject:** Approval of the Joint-Use Lease Agreement between the Oakland Unified School District and the City of Oakland, Oakland Public Library for the latter to lease space in a modular classroom building at Piedmont Elementary School, 4314 Piedmont Avenue, Oakland, California.

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**ACTION REQUESTED**

Approval by the Board of Education of the Joint-Use Lease Agreement between the Oakland Unified School District ("OUSD" or "District") and the City of Oakland, Oakland Public Library ("CITY") for the latter to lease space in a modular classroom building at Piedmont Elementary School, 4314 Piedmont Avenue, Oakland, California.

**BACKGROUND**

The CITY requires space to house a public library. District has space appropriate for CITY's Activities in a modular classroom building at Piedmont Elementary School, and desires to allow CITY to use the Modular Building for providing services for CITY's Activities.

The District, pursuant to section 17527(a) of the Education Code, is authorized "to enter into agreements to make vacant classrooms or other space in operating school buildings available for rent or lease to other school districts, educational agencies, except private educational institutions which maintain kindergarten or grades 1 to 12, inclusive, governmental units, nonprofit organizations, community agencies, professional agencies, commercial and noncommercial firms, corporations, partnerships, businesses, and individuals, including during normal school hours of the school is in session".

The District, pursuant to section 17529 of the Education Code, has determined by approving this Agreement, that leasing the Premises to CITY will not (1) interfere with the educational programs or activities of any school or class conducted on the School Site, (2) unduly disrupt the residents in the surrounding neighborhood, or (3) jeopardize the safety of the children at the School Site.

CITY agrees that the Agreement may be terminated for convenience by the District, should it be later determined that the space occupied by CITY is needed for educational programs or activities at the site. The term of the Agreement shall be for FIVE (5) years. The commencement date shall be February 1, 2012

**JOINT-USE LEASE AGREEMENT BETWEEN CITY OF OAKLAND,  
OAKLAND PUBLIC LIBRARY AND  
OAKLAND UNIFIED SCHOOL DISTRICT  
FOR USE OF EXISTING MODULAR CLASSROOM SPACE  
FOR PUBLIC LIBRARY AT  
PIEDMONT ELEMENTARY SCHOOL, OAKLAND CA**

THIS JOINT USE LEASE AGREEMENT ("Lease" or "Agreement") is made this 13th day of June, 2012, by and between the OAKLAND UNIFIED SCHOOL DISTRICT, a California public school district of California ("District") and the CITY OF OAKLAND, a California municipal corporation ("City"), referred to collectively as the "Parties," pursuant to City Resolution No. 83960 C.M.S. passed on 07/03/2011. 2012.

**RECITALS**

**WHEREAS**, City requires space to house a public library ("Program" or "Activities"), as the City's Activities are further defined and depicted on **Exhibit "A"**, attached hereto and made a part of this Agreement; and

**WHEREAS**, District has space appropriate for City's Activities in a modular classroom building ("Modular Building") at Piedmont Elementary School, 4314 Piedmont Avenue, Oakland, California ("School Site"), as further depicted on Exhibit "B"; and

**WHEREAS**, District desires to allow City to use the Modular Building on the designated School Site for providing services for City's Activities and as further detailed in this Agreement; and

**WHEREAS**, District, pursuant to section 17527(a) of the Education Code, is authorized "to enter into agreements to make vacant classrooms or other space in operating school buildings available for rent or lease to other school districts, educational agencies, except private educational institutions which maintain kindergarten or grades 1 to 12, inclusive, governmental units, nonprofit organizations, community agencies, professional agencies, commercial and noncommercial firms, corporations, partnerships, businesses, and individuals, including during normal school hours of the school is in session"; and

**WHEREAS**, District intends to utilize all remaining portions of the School Site as an operating school facility during the term of this Agreement and City shall only have use of the space as designated in **Exhibit "B"** attached hereto and made a part of this Agreement; and

**WHEREAS**, District, pursuant to section 17529 of the Education Code, has determined by approving this Agreement, that leasing the Modular Building to City will not (1) interfere with the educational programs or activities of any school or class conducted on the School Site, (2) unduly disrupt the residents in the surrounding neighborhood, or (3) jeopardize the safety of the children at the School Site;

**WHEREAS**, City agrees that District's fee interest shall at all times be and remain unsubordinated to any leasehold mortgage which may be imposed upon City's leasehold interest hereunder or upon the improvements, and that nothing contained in this Agreement shall be construed as an agreement by District to subject its fee interest to any lien;

**NOW THEREFORE**, in consideration of the covenants and agreements hereinafter set forth, District and City agree as follows:

## **AGREEMENT**

**1. Lease and Use of Property.** District hereby leases to City and City hereby leases from District the Modular Building at the School Site by City to perform City's Activities. The Modular Building that constitutes the premises subject to this Agreement is described in **Exhibit "B"**. City shall have use of the Modular Building at all times to perform City's Activities only, subject to modification by mutual agreement of both Parties, and only to the extent City pays Rent for the Modular Building.

**2. Condition of Modular Building.**

2.1. The Modular Building is leased to City on an "AS IS" basis. District shall not be required to make or construct any alterations, additions or improvements to the Modular Building, except as follows:

2.1.1. Prior to the Commencement Date, District shall reinforce the structural membrane of the flooring system to insure there is sufficient floor joist support to handle the increased load resulting from City's Activities to the reasonable satisfaction of City's structural engineers, and any requirements imposed by the Division of State Architect.

2.1.2. Prior to the Commencement Date, District shall provide required utility connections and services to the Modular Building, to the extent not currently provided, including electrical, gas, water, sewer, telephone, cable television, internet access, and security and fire alarm, and shall insure that the heating, ventilation, and air conditioning ("HVAC") system is in proper working condition.

2.2. Except as provided in 2.1.1 and 2.1.2., above, by entry and taking possession of the Modular Building pursuant to this Agreement, City accepts the Modular Building in its "AS IS" condition.

2.3. City acknowledges that neither District nor District's agents have made any representation or warranty as to the suitability of the Modular Building to the conduct of City's business. Any agreements, warranties or representations not expressly contained herein shall in no way bind either District or City, and District and City expressly waive all claims for damages by reason of any statement, representation, warranty, promise or agreement, if any, not contained in this Agreement.

2.4. If required, City will bear all costs associated with providing ADA access to the Modular Building. City shall work in consultation with District to ensure compliance with ADA. will be determined by the City in consultation with OUSD and costs will be borne by the City.

**3. Title to School Site/Classroom Buildings.** The Parties acknowledge that title to the School Site is held by District.

**4. Term.**



4.1. The term of this Agreement shall be for FIVE (5) years. The commencement date shall be September 1, 2012, ("Commencement Date") and unless sooner terminated under any provision hereof, this Agreement shall end on the fifth anniversary of the Commencement Date ("Term"). The City shall be given possession and use of the Modular Building on the Commencement Date. If District has not delivered possession of the Modular Building on the Commencement Date, City may, at City's option, by notice in writing to District within thirty (30) days thereafter, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If the Modular Building is for any reason not ready for occupancy by September 1, 2012, and City elects to continue this Lease, the Commencement Date shall be the date that the Modular Building is ready for occupancy and has been delivered to City, notwithstanding the above.

#### **4.2. Renewal of Agreement**

4.2.1. If the Parties wish to further renew this Agreement after the first five (5) years, this can only be done by a separate writing executed by both Parties that complies with all of the following provisions:

4.2.1.1. It specifically authorizes further tenancy by OPL and specifies the terms of that tenancy, and

4.2.1.2. It is approved by each Party's governing body prior to the end of the Term.

4.2.2. On the last day of the Term hereof, or on sooner termination of this Agreement, City shall surrender to District the Modular Building and any then existing improvements in good order, condition and repair, reasonable wear and tear excepted, free and clear of all liens, claims and encumbrances other than any preexisting liens, claims or encumbrances or any liens, claims or encumbrances that are unrelated to the City's Activities or use of the Modular Building. This condition shall be similar to that existing as of the Commencement Date of this Agreement excepting normal ordinary wear and tear and any structural improvements made by District subsequent to the Commencement Date. This Agreement shall operate as a conveyance and assignment to District of any improvements identified by District to remain on the School Site. City shall remove from the Modular Building all of City's personal property, trade fixtures, and any improvements made by City which City and District agreed would be removed by City. All property not so removed shall be deemed abandoned by City. If the Modular Building is not so surrendered at the termination of this Agreement, City shall indemnify District against loss or liability resulting from delay by City in so surrendering the Modular Building including, without limitation, any claims made by any succeeding lessees or losses to District due to lost opportunities to lease to succeeding lessees.

#### **5. Security Deposit. N/A**

#### **6. Rent.**

6.1. For and in consideration of the use of the Modular Building for the Term of this Agreement, City agrees to pay District the sum of TWO THOUSAND FIVE HUNDRED

Dollars (\$2,500.00) per month ("Rent"). The Rent shall not increase during the Term of this Lease.

- 6.2. Rent for the first month shall be due upon the Commencement Date, subject to District's delivery of possession of the Modular Building to City on that date. Thereafter, rent shall be due on the first day of each month until the expiration or termination of this Agreement.
- 6.3. City shall pay promptly to District, the monthly Rent on the fifteenth day of each month in advance during the term of the Agreement, without deduction, setoff, prior notice or demand.
- 6.4. City acknowledges that late payment by City to District of the Rent and other sums due hereunder will cause District to incur costs not contemplated by this Agreement, 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 District does not receive any installment of rent or any other sum due from City by 4:00 p.m. within ten (10) days after such amount is due, City shall pay to District, as additional rent, a late charge equal to five percent (5%) of such overdue amount or the maximum amount allowed by law, whichever is less. The parties hereby agree that such late charges represent a fair and reasonable estimate of the costs District will incur by reason of late payment by City. Acceptance of such late charge by District shall in no event constitute a waiver of City's default with respect to such overdue amount, nor prevent District from exercising any of its other rights and remedies granted hereunder.
- 6.5. Taxes, costs, expenses, assessments, levies, possessory interest taxes, late charges, and other charges and governmental fees, general and special, ordinary and extraordinary, unforeseen, as well as foreseen, of any kind or nature whatsoever, which prior to or during the Term of this Agreement, assessed, levied, or imposed upon or become due and payable which City is required to pay hereunder, together with all interest and penalties that may accrue thereon in the event of City's failure to pay such amounts, and all reasonable damages, costs, and attorneys' fees and expenses which District may incur by reason of any default of City or failure on City's part to comply with the terms of this Agreement, shall be deemed to be additional rent ("Additional Rent") and, in the event of nonpayment by City, District shall have all of the rights and remedies with respect thereto as District has for the nonpayment of the monthly rent. The provisions of this Section shall survive the expiration or earlier termination of this Agreement.
- 6.6. Any amount due to District not paid when due shall bear interest at one and one-half percent (1.5%) per month commencing thirty (30) days after the due date, but not to exceed the maximum rate permitted by law. Payment of interest shall be in addition to any late charges owing pursuant to this Agreement and shall not excuse or cure any default by City under this Agreement.

**7. Utilities.** In addition to the Rent, City shall pay to District monthly all actual utility costs incurred for the use of the Modular Building ("Utility Charges"), on a prorated basis based on the square footage of the Modular Building relative to the School Site. For purposes of this Agreement, the Utility Charges include: water, gas, electricity, telephone, data and communication lines and service, and sewage fees. City shall pay these Utility Charges to District on a reimbursement basis at the same time it pays the Rent. District shall send an invoice monthly to City for the Utility Charges at least 10 days prior to the



date payment is due, along with supporting documentation verifying the amount and nature of the invoiced Utility Charges. Charges for other utility services shall be paid by City directly to the provider, including security and fire and intrusion alarm monitoring and garbage collection.

## **8. Maintenance and Repairs.**

- 8.1. District shall maintain the Modular Building at its sole expense in a good condition consistent with the condition of the Modular Building existing at the time of delivery. District shall provide at its sole expense all custodial services and pest abatement, as further detailed in **Exhibit "C,"** attached hereto and incorporated herein by reference. City acknowledges and accepts that the Modular Building is leased in "AS IS" condition. District shall keep and maintain the structural elements of the building, as hereinafter defined, on the Modular Building in the condition existing at the time City takes possession of the Modular Building excepting normal wear and tear.
- 8.2. District makes no representations or warranties for the structure of the building as it exists. District agrees that if the structural elements of the building become damaged to a lesser condition than currently exists, and if such structural damage is due to no fault or negligence of City, then District shall repair the damage in such a manner as to bring it back to a condition which is similar to the condition which existed at the time City took possession of the Modular Building; however, District may terminate this Agreement if such repair cost exceeds One Hundred Fifty Thousand dollars (\$150,000) per incident. District agrees to abate City's Rent, if and to the extent that structural damage or repair, or maintenance work on the structural elements of the building, impairs City from carrying out its Activities. If District elects not to perform a repair estimated to cost in excess of One Hundred Fifty Thousand dollars (\$150,000), then City may elect to remain in possession of the Modular Building and pay the Rent (as abated), or City may elect to terminate this Agreement.
- 8.3. As used in this Agreement, the term "structural elements of the building" is defined as and shall be limited to the foundation, footings, floor slab but not flooring, structural walls excluding glass and doors, and the roof excluding skylights. Plumbing, electrical and heating systems shall be considered "structural elements of the building"; excluding, however, those repairs and maintenance items to these systems that can be completed without wall or floor removal, in which case these repairs shall be the responsibility of City.
- 8.4. If District fails to commence work on any of the repairs required to be made by District under this Agreement within thirty (30) days after written notice of the necessity therefore, City, in addition to any other rights it may have hereunder, shall have the right, but not the obligation, to make said repairs on behalf of District and bill the District for the reasonable costs thereof, and District shall promptly reimburse City for the costs thereof; or the City may at its option offset such costs against Rent due and owing. If such repairs are necessitated by an emergency affecting public health and safety, then City may make such repairs upon reasonable notice.
- 8.5. District shall have no maintenance or repair obligations with respect to the Modular Building except as expressly provided in this Section. City 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 District as provided in section 1942 of said Civil Code.

8.6. If City wishes to have any improvements, alterations, work, or other services performed on the Modular Building that are not part of the maintenance or repair services indicated herein, City shall request that work via the attached Work Order form in **Exhibit "D,"** attached hereto and made a part of this Agreement.

8.6.1. The type of work that would be subject to this provision includes, for example, painting that is requested that is neither repainting nor painting to bring the facility to its original condition, new room dividers, installing or removing casework, whiteboards, or other fixtures, and similar City-requested improvements.

8.6.2. District shall prepare and provide to City an estimate for that work. If City accepts that estimate, the District shall perform that work as indicated in the estimate and City shall pay for that work as indicated in the estimate, which shall be due and owing with the next month's Rent, unless otherwise agreed to in writing by the Parties.

## **9. Title to and Removal of City's Improvements / Facilities.**

9.1. City shall not construct or cause to be constructed on the Modular Building any improvements ("City's Improvements") without express prior written consent from District, which shall not be unreasonably withheld, conditioned or delayed.

9.2. City shall at its own expense obtain all necessary environmental and governmental approvals and permits, including, without limitation, the California Environmental Quality Act ("CEQA"), any necessary approvals from any local authority including any site, grading, zoning, design review and other required permits or approvals, if applicable, prior to commencing construction and shall provide District with evidence of approval by all applicable governmental agencies.

9.3. Any modifications to the Modular Building and surrounding School Site must be approved in writing in advance by District. City's contractor must be approved as well, unless the work is being performed by City employees. All contractors and subcontractors of City, if any, shall be duly licensed in the State of California. City shall be solely responsible for maintaining the City's Improvements installed thereon during the term of this Agreement, including any extensions, and for compliance with all applicable laws or ordinances, rules and regulations.

9.4. To the extent consistent with California law, approval from the Division of the State Architect for City's Improvements is exempted.

9.5. Title to removable furniture (including all shelving), equipment and/or other personal property placed by City onto the Modular Building, but not affixed thereto, shall be held solely by City. These items shall remain the personal property of City and shall not be treated as real property or become a part of the School Site unless District accepts or City abandons any of this personal property at the end of the Term.

9.6. On or before the expiration of this Agreement, or within thirty (30) days after any earlier termination of this Agreement, City shall remove City's Improvements, at its sole expense. City shall repair any damage to the School Site and/or the Modular



Building, caused by removal of City's Improvements and restore the School Site and the Modular Building to good condition, less ordinary wear and tear. In the event that City fails to timely remove City's Improvements, District, upon thirty (30) days written notice, may either (1) accept ownership of City's Improvements with no cost to District, or (2) remove City's Improvements at City's sole cost. In the event that District chooses to accept ownership of City's Improvements, City shall execute any necessary documents to effectuate the change in ownership of City's Improvements. In the event that District removes City's Improvements, City shall pay all invoices for the removal of City's Improvements within thirty (30) days of receipt of such invoices.

**10. Supervision.** City shall provide adequate and comprehensive supervision of the children attending its program when on the Modular Building. City shall follow and adhere to all District policies and procedures. In the case of a minor accident or injury, City will be responsible for administering first aid and supplies as necessary. City will report all incidents or injuries to the site administrator and may be required to complete an accident / incident report.

**11. Use of the Modular Building.**

11.1. City shall not use the Modular Building for any use other than that specified in this Section without the prior written consent of District. City agrees to maintain the Modular Building and to conduct its Activities in a manner that meets all federal, state and local regulations relating to the Modular Building and to the operation of the Activities, and to comply with all federal, state and local laws, regulations and ordinances, now or hereafter enacted concerning the Modular Building, the use of the Modular Building, and/or the Activities. The effectiveness of this Agreement shall be subject to the City obtaining any and all permits or approvals which may be required in order for City to operate the Activities on the Modular Building. City shall not use or permit the Modular Building to be used in whole or in part during the term of this Agreement for any purpose or use in violation of the laws or ordinances applicable thereto. City shall indemnify, defend, and hold District harmless against any loss, expense, damage, attorneys' fees or liability arising out of failure of City to comply with any applicable law, regulation, rule or ordinance. City shall not commit or suffer to be committed, any waste upon the Modular Building, or allow any sale by auction upon the Modular Building, or allow the Modular Building to be used for any unlawful purpose, or place any loads upon the floor, walls or ceiling which endanger the structure, or place any harmful liquids in the plumbing, sewer or storm water drainage system of the Modular Building. No waste materials or refuse shall be dumped upon or permitted to remain upon any part of the Modular Building except in trash containers 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 Modular Building. City shall comply with District-wide policy prohibiting the use of tobacco products in the Modular Building at all times. City shall not use or permit the use of the Modular Building or any part thereof for any purpose which is inimical to public morals and welfare or morally objectionable as unsuitable for a public educational facility. City agrees to respond within a reasonable time to concerns expressed by neighbors or District relating to the operation of the Modular Building. So long as City pays all Rent and complies with all of the terms and conditions of this Lease, City shall peaceably and quietly have, hold and enjoy the Modular Building.



11.2. City represents that it is qualified to administer and operate the Activities. City shall be solely responsible for the administration and operation of the Activities, including the hiring of all employees. City shall be responsible for verifying the qualifications, credentials, certificates, and licenses of its staff, agents, consultants and/or subcontractors who may provide services in conjunction with City's Activities in the Modular Building.

11.3. City's use of the Modular Building shall be exclusively limited to its Activities during the operation of the Program. City must remove any equipment at the end of Agreement term. District is in no manner responsible for damage or theft of City's play equipment. City must maintain and repair any damage to the Modular Building to at least as good a condition as the Modular Building existed as of the Commencement Date of this Agreement, less ordinary wear and tear.

**12. Inspection of Modular Building.** District agrees to provide City with a set of keys for the Modular Building. City shall permit District and/or its agents to enter the Modular Building at any reasonable time for the purpose of inspecting the Modular Building and/or exhibiting the Modular Building to prospective lessees, occupants, purchasers or mortgagees.

**13. Termination for Cause.**

13.1. Either Party may terminate this Agreement for cause. Cause may include:

13.1.1. Material violation of this Agreement by the other Party; or

13.1.2. Any act by a Party in violation of this Agreement exposing the other Party to liability to others for personal injury or property damage.

13.2. A Party exercising its rights under this Section shall give written notice to the other Party of the event of default giving rise to cause for termination. Said notice shall specify the nature of the act, omission, or deficiency giving rise to the event of default, and shall specify the action required to cure the default, and a reasonable date, which shall not be less than 30 calendar days from the mailing of the notice, by which the defaulting Party must take or commence such action to cure. If the notice specifies only a commencement date for the cure, the defaulting Party must commence such cure within the specified time and must diligently pursue the cure to completion within a reasonable time thereafter.

13.3. If District terminates for cause, City's rights in the Modular Building shall terminate upon City's receipt of notice of termination from District following notice and opportunity to cure as set forth above and City's resultant failure to cure the default. Upon receipt of District's notice of termination, City shall surrender and vacate the Modular Building in the condition required under this Agreement, and District may re-enter and take possession of the Modular Building and all the remaining improvements or property and eject City or any of City's subtenants, assignees or other person or persons claiming any right under or through City or eject some and not others or eject none. This Agreement may also be terminated by a judgment specifically providing for termination. Any termination under this Section shall not release City from the payment of any sum then due District or from any claim for damages or rent previously accrued or then accruing against City.



13.4. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District and/or City.

13.5. Upon termination of this Agreement due to a default by City, City shall be responsible to restore the Modular Building to its condition prior to the commencement of this Agreement, reasonable wear and tear excepted.

**14. Indemnification.** To the fullest extent permitted by California law, City shall defend, indemnify, and hold harmless District, its agents, representatives, officers, consultants, employees, trustees, and volunteers (the "indemnified parties") from any and all losses, liabilities, claims, suits, and actions of any kind, nature, and description, including, but not limited to, attorneys' fees and costs, directly or indirectly arising out of, on account of, connected with, or resulting from, the City's negligence or willful misconduct in its operation, use or occupancy of the Modular Building, all improvements thereon, and all areas appurtenant thereto; and in case any action or proceeding be brought against District, City shall defend the same at City's sole expense. City shall keep the School Site clear of all liens, encumbrances and/or clouds on District's title to any portion of the School Site.

To the fullest extent permitted by California law, District shall defend, indemnify, and hold harmless City, its agents, representatives, officers, consultants, employees, trustees, and volunteers (the "indemnified parties") from any and all losses, liabilities, claims, suits, and actions of any kind, nature, and description, including, but not limited to, attorneys' fees and costs, directly or indirectly arising out of, on account of, connected with, or resulting from, District's negligence, willful misconduct, or breach or failure to comply with the terms and conditions of this Agreement; and in case any action or proceeding be brought against City, District shall defend the same at District's sole expense.

When the liability or claim is caused by the joint negligence or willful misconduct of both City and District, each Party's duty to defend, indemnify and hold harmless shall be in proportion to the Party's allocable share of the joint negligence or willful misconduct.

## **15. Insurance.**

15.1. Insurance is to be placed with insurers with a current A.M. Best Insurance rating of no less than A-minus: VII and subject to the approval of District. City shall furnish District with the original certificates and amendatory endorsements effecting coverage required.

15.2. City acknowledges that the insurance to be maintained by District on the Modular Building will not insure any of City's property or improvements made by City.

15.3. City shall, at City's expense, obtain and keep in force during the term of this Agreement a policy of commercial general liability insurance and a comprehensive auto liability policy insuring District and City against claims and liabilities arising out of the operation, condition, use, or occupancy of the Modular Building and all areas appurtenant thereto, including parking areas. City's comprehensive auto liability policy shall insure all vehicle(s), whether hired, owned or non-owned. City's commercial general insurance shall be at least as broad as the Insurance Service Office (ISO) CG 00-01 form and in an amount of not less than One Million dollars (\$1,000,000) for bodily injury or death and property damage as a result of any one occurrence and a Two Million dollar (\$2,000,000) general aggregate policy limit. In addition, City shall obtain a products/completed operations aggregate policy in the amount of One Million dollars (\$1,000,000). The insurance carrier, deductibles



and/or self insured retentions shall be approved by District, which approval shall not be unreasonably withheld. Prior to the Commencement Date City shall deliver to the Risk Management Office of the District a certificate of insurance evidencing the existence of the policies required hereunder and copies of endorsements stating that such policies shall:

- 15.3.1. Not be canceled or altered without thirty (30) days prior written notice to District;
- 15.3.2. State the coverage is primary and any coverage by District is in excess thereto;
- 15.3.3. Contain a cross liability endorsement; and,
- 15.3.4. Include a separate endorsement naming District as an additional insured.

At least thirty (30) days prior to the expiration of each certificate, and every subsequent certificate, City shall deliver to District a new certificate of insurance consistent with all of the terms and conditions required in connection with the original certificate of insurance as described above.

15.4. During the term of this Agreement, District shall maintain at its cost a policy of standard fire and casualty insurance limited to the value of the buildings and improvements located on the School Site as of the Commencement Date. In the event of loss or damage to the School Site, the buildings, the leased Modular Building or any contents, 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 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 the extent permitted, for itself and its insurers, waives all such insurance claims against the other party.

15.5. During the term of this Agreement, City shall comply with all provisions of law applicable to City with respect to obtaining and maintaining workers' compensation insurance. Prior to the commencement and any renewal of this Agreement and City's occupancy of the Property, City shall provide District, as evidence of this required coverage, a certificate in a form satisfactory to District on or before the commencement or renewal date, providing that insurance coverage shall not be canceled or reduced without thirty (30) days prior written notice to District.

15.6. As an alternative to the insurance policies specified above, City may submit evidence of adequate self-insurance to District, whose approval of self insurance shall not be unreasonably withheld or conditioned.

**16. Surrender of Agreement Not Merger.** The voluntary or other surrender of this Agreement by City, or a mutual cancellation thereof, shall not work a merger and shall, at the option of District, terminate all or any existing subleases or subtenancies, or operate as an assignment to District of any or all subleases or subtenancies.

## **17. Notices.**

17.1. **Notices to District.** Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Lease or by law to be served on or given to District by City or any Lender described in this Lease shall be in writing and shall be deemed duly served and given when personally delivered to



District, to any managing employee of District, or, in lieu of personal service, when deposited in the United States mail, first-class postage prepaid, and sent by express mail that allows for tracking, addressed to District at Oakland Unified School District, 955 High Street, Oakland, CA 94607, Attn: Assistant Superintendent of Facilities Planning and Management, Buildings and Grounds and Custodial Management. District may change District's address for the purpose of this section by giving written notice of that change to City in the manner provided in Section 18.2.

**17.2 Notices to City.** Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Lease or by law to be served on or given to City by District shall be in writing and shall be deemed duly served and given when personally delivered to City, any managing employee of City, or, in lieu of personal service, when deposited in the United States mail, first-class postage prepaid, and sent by express mail that allows for tracking, addressed to Oakland Public Library at 125 14<sup>th</sup> Street, Oakland, CA, 94612, Attn: Associate Director. City may change its address for the purpose of this section by giving written notice of that change to District in the manner provided in Section 18.1.

**18. Subcontract, Assignment and Sublease.** Neither Party shall assign its rights, duties or privileges under this Agreement, nor shall either Party attempt to confer any of its rights, duties or privileges under this Agreement on any third party, without the written consent of the other Party. City shall not sublease any portion of the Modular Building without the prior written consent of District.

**19. Independent Contractor Status.** This Agreement is by and between two independent entities and is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture, or association.

**20. Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.

**21. California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in county in which the District's administrative offices are located.

**22. Compliance with All Laws.**

22.1. City shall at City's expense comply with all requirements of all governmental authorities, in force either now or in the future, affecting the Modular Building, and shall faithfully observe in City's use of the Modular Building all laws, regulations and ordinances of these authorities, in force either now or in the future including, without limitation, all applicable federal, state and local laws, regulations, and ordinances pertaining to air and water quality, hazardous material, waste disposal, air emission and other environmental matters (including the California Environmental Quality Act ("CEQA") and its implementing regulations in its use of the Modular Building), and all District policies, rules and regulations, including those indicated herein in **Exhibit "E,"** attached hereto and made a part of this Agreement. Specifically, City shall comply with the restriction on chemical usage indicated in **Exhibit "E."**



- 22.2. The judgment of a court of competent jurisdiction, or City' admission in an action or a proceeding against City, whether District be a party to it or not, that City has violated any law or regulation or ordinance in City's use of the Modular Building shall be considered conclusive evidence of that fact as between District and City. If City fails to comply with any such law, regulation or ordinance, District reserves the right to take necessary remedial measures at City's expense, for which City agrees to reimburse District on demand.
- 22.3. City shall not cause or permit any Hazardous Material to be generated, brought onto, used, stored, or disposed of in or about the Modular Building and any improvements by City or its agents, employees, contractors, subtenants, or invitees, except for limited quantities of standard office, classroom and janitorial supplies (which shall be used and stored in strict compliance with Environmental Laws). City shall comply with all Environmental Laws. 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. The term "Hazardous Materials" includes, without limitation, petroleum products, asbestos, PCB's, and any material or substance which is (i) defined as hazardous or extremely hazardous pursuant to Title 22 of the California Code of Regulations, Division 4.5, Chapter 11, Article 4, section 66261.30 et seq. (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 Law" 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.

**23. Cooperation with Other Occupants of the Property.** It is understood and recognized by City that the School Site, of which the Modular Building is a part, will be used by other parties, including District, and City shall cooperate with the other parties in reaching amicable arrangements concerning such matters as policing of common areas, custodial services, and security measures.

**24. Attorneys' Fees.** If either Party files any action or brings any proceedings against the other arising out of this Agreement, the prevailing Party shall be entitled to recover, in addition to its costs of suit and damages, reasonable attorneys' fees to be fixed by the court. The "prevailing Party" shall be the Party who is entitled to recover its costs of suit, whether or not suit proceeds to final judgment. No sum for attorneys' fees shall be counted in calculating the amount of a judgment for purposes of determining whether a Party is entitled to its costs or attorneys' fees.

**25. Waiver.** The waiver by either 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.

**26. Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, legal representatives, successors, and assigns.

**27. Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.

**28. Captions.** The captions contained in this Agreement are for convenience only and shall not in any way affect the meaning or interpretation hereof nor serve as evidence of the interpretation hereof, or of the intention of the Parties hereto.

**29. Severability.** Should any provision of this Agreement be determined to be invalid, illegal or unenforceable in any respect, such provision shall be severed and the remaining provisions shall continue as valid, legal and enforceable.

**30. Incorporation of Recitals and Exhibits.** The Recitals and each Exhibit attached hereto are hereby incorporated herein by reference.

ACCEPTED AND AGREED on the date first indicated above:

**City of Oakland,**  
a municipal corporation

By: \_\_\_\_\_  
City Administrator

\_\_\_\_\_  
Date

Approved as to form and legality:

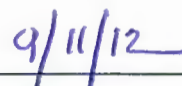
By: \_\_\_\_\_  
Deputy City Attorney

\_\_\_\_\_  
Date

**Oakland Unified School District,**  
a California public school district of California

  
\_\_\_\_\_

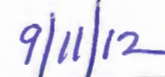
Jody London, President, Board of Education

  
\_\_\_\_\_

Date

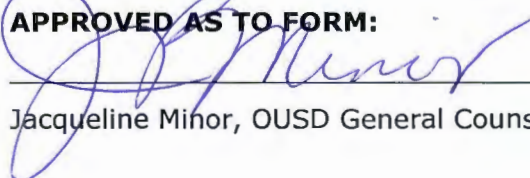
  
\_\_\_\_\_

Edgar Rakestraw, Jr., Secretary, Board of Education


  
\_\_\_\_\_

Date

**APPROVED AS TO FORM:**

  
\_\_\_\_\_

Jacqueline Minor, OUSD General Counsel

  
\_\_\_\_\_

Date



**PROGRAMS & ACTIVITIES AGREEMENT BETWEEN THE OAKLAND UNIFIED  
SCHOOL DISTRICT AND THE CITY OF OAKLAND REGARDING THE  
THE PIEDMONT AVENUE BRANCH LIBRARY OF THE OAKLAND PUBLIC  
LIBRARY**

In fulfillment of the Oakland Unified School District's (District) commitment to improve the quality of educational facilities for its students and in keeping with the goals stated in Bond Measure B, the District has agreed to allow the City of Oakland (City) to operate a public library on the site of the Piedmont Avenue Elementary School.

In meetings with the general and school communities of Piedmont Avenue, it has been agreed that a public library that operates on the school's site, and that may be used by both students and members of the public, enhances the services and facilities that might be offered by either agencies individually.

Consequently, the City and the District agree to the following joint cooperative activities:

**SECTION 1 General**

- (a) This Cooperative Activities Agreement is contingent upon approval by the governing bodies of each Party of the Joint-Use Lease Agreement between the City and the District and will become effective on the date when the last Party authorizes its designated representative to execute the Joint-Use Lease Agreement on behalf of that Party.
- (b) Standards for the operation of the library facility shall be generally consistent with the standards established for the operation of other Oakland Public Library facilities, including hours of operation, staff qualifications, materials selection guidelines and circulation policies, to the extent provided in this Agreement.
- (c) The primary purpose of the Piedmont Avenue Library shall be to equally serve the educational and recreational reading needs of the general public, students and faculty using the facility. The library modular facility shall be open for use to District students, faculty and administrators and members of the general public, in accordance with established policies and procedures of the Oakland Public Library and such additional policies and procedures as may be developed pursuant to authority granted in this Agreement.

**SECTION 2 Definition of the Roles and Responsibilities of Each Party with Respect to Funding, Staffing, Supervision, Operation, and Management**

- (a) A Library Coordination Committee (LCC) will be established to implement and evaluate the joint venture. The Committee will include two representatives from the Piedmont Avenue Elementary School (School) and two for the Piedmont Avenue Library (Library). The LCC will meet quarterly to review and implement the joint venture project and clarify guidelines for operations and services. Any issues that cannot be resolved by the LCC will be referred to the Library Director and the School Superintendent or their designee.

- (b) In addition to participating in the LCC, the City and District will have the following responsibilities:

The City shall provide:

- Library staff for the operation of the library during public service hours; and to supervise day-to-day operations of the library.
- A general collection for use by students, faculty, administrators and the general public.
- Furnishings, equipment and supplies for the library.
- All necessary software and related equipment to operate the functions of circulation and collection management.

The District shall provide:

- Staff for operation of the library during non-public hours.
- Staff to supervise students brought into the library during school hours.

The Library Director, as a representative of the City, and the School Superintendent or designee shall meet to finalize and initiate any actions necessary to insure that any necessary adjustments are made to this Agreement.

**SECTION 3 Description of the Joint Services and How They Will Be Provided**

The joint use services include all available library collections, services and programs to support the K-5 students at the Piedmont Avenue Elementary School with which the library shares a campus, as well as other local schools.

In order to better implement the joint services, the Library has been designed with a separate, non-public school entrance available for all students and faculty who will be using the library during school hours. After-school entry will be through the public entrance.

Classes from the school may be scheduled for visits to the library on a regular basis. Classes from other local schools (traditional and charter) may also be scheduled. Planning for class visits will be done on a quarterly basis by the LCC, with the calendar maintained by the Library staff.

School staff shall supervise students using the library during school hours. Students may use the library whenever it is open to the public.

**SECTION 4 Staff Members Available for Services**

**City--Library**

The library staff available to assist the general public and school for general operations includes a Branch Manager, Children's Librarian, Library Assistant and Aide.



To support the **joint venture** work with the school, additional staff will be assigned as needed.

**District--School**

For the **joint venture** services the District will provide:

Teachers or designated adults to supervise library use when the library is not open to the public and classes are brought in, and to supervise students using the library during school hours.

**SECTION 5 Responsibility for the Operation, Maintenance and Management**

The operation, management and supervision of day-to-day operations of the library will be the responsibility of the City, with advice from the LCC. The facility will be maintained per conditions outlined in the Joint-Use Lease Agreement.

During those school hours when the library is closed to the public, District staff will supervise any use by classes.

The parties shall develop a mutually agreeable security plan for the joint use facility prior to commencement of operation of the facility.

**SECTION 6 Review and Modification Process for the Conditions of the Agreement**

This Agreement will be reviewed quarterly by both Parties through the Library Coordination Committee for the first two years and semi-annually thereafter, with either party able to call for a review at any time. Proposed changes may be submitted to the Committee at any time in writing for consideration.

The agreement may be modified to provide services that meet the greater need of residents and students than the services described herein, provided that the services still meet the spirit and intent of the original cooperative. Changes to the conditions of the agreement will be made by written agreement signed by the Library Director and School Superintendent or their designee.

**THIS EXHIBIT IS ATTACHED TO AND MADE A PART OF THE AGREEMENT OF THE JOINT-USE LEASE AGREEMENT BETWEEN THE CITY OF OAKLAND, OAKLAND PUBLIC LIBRARY AND THE OAKLAND UNIFIED SCHOOL DISTRICT FOR OPERATION OF A PUBLIC LIBRARY AT THE PIEDMONT AVENUE ELEMENTARY SCHOOL.**

## **EXHIBIT C**

# **OAKLAND UNIFIED SCHOOL DISTRICT**

### **Custodial Services**

The standard District custodial services and protocol provided to Piedmont Avenue Elementary School will be followed and provided to the leased Modular Building.

### **Integrated Pest Management Program (Administrative Regulation 3514.2)**

# **OAKLAND UNIFIED SCHOOL DISTRICT**

## **Administrative Regulation**

AR 3514.2

### **Business and Noninstructional Operations**

#### **Integrated Pest Management**

The Superintendent or Deputy Superintendent of Business Services shall develop and implement an integrated pest management program that incorporates effective least toxic pest management practices.

Integrated pest management is a strategy that focuses on long-term prevention or suppression of pest problems through a combination of techniques such as monitoring for pest presence and establishing treatment threshold levels, using nonchemical practices to make the habitat less conducive to pest development, improving sanitation, and employing mechanical and physical controls. (Food and Agricultural Code 13181)

#### **Procedures**

In the control and/or management of pests at district facilities, the Superintendent or Deputy Superintendent of Business Services shall:

1. Carefully monitor and identify the pest and the site of infestation. Strategies for managing the pest shall be influenced by the pest species and whether that species poses a threat to people, property or the environment.
  2. Consider a full range of possible alternatives. Such alternatives include not taking any action or controlling the pest by physical, mechanical, chemical, cultural or biological means.
  3. Select nonchemical pest management methods over chemical methods, whenever they are effective to provide the desired control. Cost or staffing considerations alone will not be adequate justification for use of chemical control agents.
  4. Use the least toxic material when it is determined that a chemical method of pest
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management must be used. The least toxic material shall be chosen and applied in accordance with law.

5. Limit pesticide purchases to amounts needed for the year. Pesticides shall be stored at a secure location that is not accessible to students and unauthorized staff, and they shall be stored and disposed of in accordance with state regulations and label directions registered with the Environmental Protection Agency.

(cf. 3514.1 - Hazardous Substances)

6. Ensure that persons applying pesticides follow label precautions and are trained in the principles and practices of integrated pest management.

(cf. 4231 - Staff Development)

#### Notification

The Superintendent or Deputy Superintendent of Business Services shall annually notify staff and parents/guardians of students enrolled at a school site, in writing, regarding pesticide products expected to be applied at the school facility in the upcoming year. The notification shall include at least the following: (Education Code 17612)

1. The Internet address used to access information on pesticides and pesticide use reduction developed by the Department of Pesticide Regulation pursuant to Food and Agricultural Code 13184.
2. The name of each pesticide product expected to be applied in the upcoming year and the active ingredient(s) in it.
3. An opportunity for interested persons to register to receive notification of individual pesticide application at the school site. The Superintendent or Deputy Superintendent of Business Services shall notify such registered persons of individual pesticide applications at least 72 hours prior to the application.
4. Other information deemed necessary by the Superintendent or Deputy Superintendent of Business Services.

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

(cf. 5145.6 - Parental Notifications)

If a pesticide product not included in the annual notification is subsequently intended for use at the school site, the Superintendent or Deputy Superintendent of Business Services shall provide written notification of its intended use to staff and parents/guardians of students enrolled at the school, at least 72 hours prior to the application. (Education Code 17612)

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## Posting of Warning Signs

The Superintendent or Deputy Superintendent of Business Services shall post a warning sign at each area of the school site where pesticides will be applied, at least 24 hours prior to the application and until 72 hours after the application. The warning sign shall display the following: (Education Code 17612)

1. The term "Warning/Pesticide Treated Area"
2. The product name, manufacturer's name, and the Environmental Protection Agency's product registration number
3. Intended areas and dates of application
4. Reason for the pesticide application

## Notification During Emergency Conditions

Whenever the Superintendent or Deputy Superintendent of Business Services deems that the immediate use of a pesticide is necessary to protect the health and safety of students, staff, or other persons, or the school site, he/she shall make every effort to provide the required notifications prior to the application of a pesticide. In such a case, the warning sign shall be posted immediately upon application and shall remain posted until 72 hours after the application. (Education Code 17609, 17612)

(cf. 3514 -Environmental Safety)

## Records

Each school site shall maintain records of all pesticide use at the school for four years, and shall make the information available to the public, upon request, in accordance with the California Public Records Act. Such records may be maintained by retaining a copy of the warning sign posted for each pesticide application with a recording of the amount of the pesticide used. (Education Code 17611)

(cf. 3580 - District Records)

## Legal Reference:

EDUCATION CODE

17608-17613 Healthy Schools Act of 2000

17366 Legislative intent (fitness of buildings for occupancy)

48980.3 Notification of pesticides

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## FOOD AND AGRICULTURAL CODE

11401-12408 Pest control operations and agricultural chemicals

13180-13188 Healthy Schools Act of 2000

## GOVERNMENT CODE

3543.2 Scope of representation; right to negotiate safety conditions

6250-6277 California Public Records Act

## CODE OF REGULATIONS, TITLE 8

340-340.3 Employer's obligation to provide safety information

5142 Heating, ventilating and air conditioning systems; minimum ventilation

5143 Mechanical ventilating systems; inspection and maintenance

## UNITED STATES CODE, TITLE 7

136-136y Insecticide, Fungicide and Rodenticide Act

## CODE OF FEDERAL REGULATIONS, TITLE 40

763.93 Management plans

763.94 Record keeping

## Management Resources:

### CDE PUBLICATIONS

Indoor Air Quality, A Guide for Educators, 1995

### U.S. ENVIRONMENTAL PROTECTION AGENCY

Pest Control in the School Environment: Adopting Integrated Pest Management, 1993

### WEB SITES

CDE: <http://www.cde.ca.gov>

California Department of Pesticide Regulation: <http://www.cdpr.ca.gov>

U.S. EPA: <http://www.epa.gov>

8/25/04

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## EXHIBIT "D"

### District's Form of Work Order



### Buildings & Grounds Work Order Protocol

- **WORK ORDERS ARE TO BE PLACED BY DESIGNATED SITE STAFF ONLY**
- **CONTACT WORK CONTROL CENTER AT (510)535-2718 WITH THE FOLLOWING INFORMATION:**
  1. Site Name (Site Number if applicable)
  2. Contact Name and Phone Number
  3. Exact nature of request (i.e. 2 light fixtures broken/missing in room 2 Main Building vs. replace light fixtures) – Please specify if EMERGENCY
  4. Specific location (Building/Room Number/Area)
  5. Obtain your Work Order number
- **WORK CONTROL HOURS: MONDAY – FRIDAY 7:30AM – 4:00PM**
  1. If Emergency and No Answer contact Main Office: (510) 535-2718
  2. If After Hours (For Emergency Only) contact on-call Manager: (510) 277-7284

**OUR WORK CONTROL CENTER HAS THE RESPONSIBILITY OF EVALUATING AND ASSIGNING A PRIORITY LEVEL TO ALL WORK REQUESTS**

#### **PRIORITY LEVELS AND TIME LINES ARE AS FOLLOWS:**

- **Emergency Requests -Same day response whenever possible or next business day, depending on nature of problem and time received.**
    1. **Emergencies consist of repairs/replacements that need to be addressed immediately in order to: Protect the health and safety of a student, employee or other person at the site and/or prevent damage to the integrity of the site (see B&G Prioritization List for more details)**
  - **Non-emergency requests that require immediate attention, but do not require same day service completed within 1-7 business days.**
  - **Requests of a general nature that do not pose an immediate threat to the safety of the facility or its occupants to be completed within 10-30 business days.**
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- If you have placed a work order and the request has not been addressed within the allotted timeframe, please follow up with our Work Control Center at (510) 535-2718 (please have your work order number and date of request available), or email [carla.colbert@ousd.k12.ca.us](mailto:carla.colbert@ousd.k12.ca.us).

**For Pest Management and custodial requests contact Custodial Services at (510) 434-2202**  
**For Environmental concerns contact Risk Management at (510) 535-2750**

**EXHIBIT E**  
**RESTRICTION ON CHEMICAL USAGE**  
**(Administrative Regulation 3514.1)**

Oakland Unified School District  
Administrative Regulation

AR 3514.1  
Business and Noninstructional Operations

Hazardous Substances

The disposal of chemicals may be accomplished in accordance with removal and disposal systems established by the County Office of Education or by permission of the County Superintendent of Schools. (Education Code 49411)

Hazard Communication Program

The written hazard communication program shall be available upon request to all employees and their designated representatives. (8 CCR 5194)

The following materials are exempted from the hazard communication program and this district regulation: hazardous wastes; tobacco products; wood and wood products; manufactured articles; food, drugs and cosmetics intended for personal consumption by employees while in the workplace; and substances used in compliance with regulations issued by the Department of Pesticide Regulation pursuant to Food and Agriculture Code 12981.

1. Container Labeling

Except for consumer products, pesticides, alcoholic beverages, and food, drug and additive products which are already labeled in compliance with federal law, no container of hazardous substance shall be accepted by schools or the district unless labeled by the supplier with the following information:

- a. Identity of the hazardous substance(s)
- b. Hazard warning statements
- c. Name and address of the chemical manufacturer or importer

Whenever hazardous substances are transferred from their original containers to other containers, the secondary containers shall likewise be labeled with the identity and hazard warning statement.

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## 2. Material Safety Data Sheets

Upon receiving a hazardous substance or mixture, the Superintendent or Deputy Superintendent of Business shall ensure that the manufacturer has also furnished a Material Safety Data Sheet (MSDS) as required by law. If the MSDS is missing or obviously incomplete, the Superintendent or designee shall request a new MSDS from the manufacturer and shall notify the California Occupational Safety and Health Division (Cal/OSHA) if a complete MSDS is not received.

The Superintendent or Deputy Superintendent of Business shall maintain copies of the MSDS for all hazardous substances and ensure that they are kept up to date and available to all affected employees during working hours. He/she shall review each incoming MSDS for new and significant health or safety information and shall disseminate this information to affected employees.

## 3. Employee Information and Training

Employees shall receive inservice training on hazardous substances in their work area at the time of their initial assignment and whenever a new hazard is introduced into their work area. This training shall include but is not limited to: (8 CCR 5194)

- a. An overview of the requirements of California's Hazard Communication Regulation (8 CCR 5194), including employee rights described therein
  - b. The location, availability and content of the district's written hazard communication program
  - c. Information as to any operations in the employees' work area where hazardous substances are present
  - d. The physical and health effects of the hazardous substances in the work area
  - e. Techniques and methods of observation that may determine the presence or release of hazardous substances in the work area
  - f. Methods by which employees can lessen or prevent exposure to these hazardous substances, such as appropriate work practices, use of personal protective equipment and engineering controls
  - g. Steps the district has taken to lessen or prevent exposure to these substances
  - h. Instruction on how to read labels and review the MSDS for appropriate information
  - i. Emergency and first aid procedures to follow if exposed to the hazardous substance(s)
-

In addition, employees shall receive training on how to operate the computers or fax machines that provide access to MSDS files

4. List of Hazardous Substances

For specific information about the hazardous substances known to be present in the district and schools, employees may consult the MSDS.

5. Hazardous Nonroutine Tasks

When employees are required to perform hazardous nonroutine tasks, they shall first receive information about the specific hazards to which they may be exposed during this activity and the protective/safety measures which must be used. They shall also receive information about emergency procedures and the measures the district has taken to lessen the hazards, including ventilation, respirators, and the presence of another employee.

6. Hazardous Substances in Unlabeled Pipes

Before starting to work on unlabeled pipes, employees shall contact their supervisors for information as to the hazardous substance(s) contained in the pipes, the potential hazards, and safety precautions which must be taken.

(cf. 3514 - Environmental Safety)

7. Informing Contractors

To ensure that outside contractors and their employees work safely in district buildings and schools, the Superintendent or Deputy Superintendent of Business shall inform these contractors of hazardous substances which are present on the site and precautions that employees may take to lessen the possibility of exposure. It shall be the contractor's responsibility to disseminate this information to his/her employees and subcontractors.

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## EXHIBIT B

