

LEASE AGREEMENT

Between

ALAMEDA UNIFIED SCHOOL DISTRICT

And

ALAMEDA EDUCATION FOUNDATION

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LEASE AGREEMENT

**2200 Central Avenue, Suite B, and Storage Area at Alameda High School
(SCHOOL SITE)**

THIS LEASE AGREEMENT ("Lease") is made on this 28th day of July, 2014 ("Effective Date"), by and between the Alameda Unified School District, a California public school district ("District"), and Alameda Education Foundation ("Tenant").

RECITALS:

WHEREAS, District owns that real property constituting the Alameda High School site, located in Alameda, California ("School Site"), which is further described on Exhibit "A" attached hereto;

WHEREAS, Tenant is a non-profit organization that desires to lease corporate office space at Alameda High School at 2200 Central Avenue, Suite B and Storage Space, located in the former city of Alameda library, for the purposes more particularly described in Exhibit "B" hereto ("Premises");

WHEREAS, pursuant to Education Code section 17077.40 and section 17527, et seq., District is authorized to enter into joint use agreements "to make vacant classrooms or other space in operating school buildings available . . . 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 . . .";

WHEREAS, Education Code sections 17527 through 17538 authorize the governing board of any school district to enter into a lease for the joint use of operating school property if the joint use does not (1) interfere with the educational program or activities of the school, (2) unduly disrupt residents in the surrounding neighborhood, or (3) jeopardize the safety of school children;

WHEREAS, District, pursuant to section 17529 of the Education Code, has determined that permitting Tenant to jointly use the Premises 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, District desires to lease the Premises to Tenant upon the terms and conditions set forth herein; and

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

AGREEMENT:

1. LEASE OF PREMISES. District does hereby lease to Tenant the Premises, including all improvements located thereon.

2. TERM.

A. The term of the Lease shall be one (1) year, commencing on July 1, 2014 ("Commencement Date") and expiring on June 30, 2015 ("Term").

B. At District's sole discretion, this Lease may be extended on mutually agreed upon terms and conditions beyond the term described in section 2.A for an additional one (1) year term; provided the District can make the requisite Joint Use findings as required by the Education Code.

C. Notwithstanding anything to the contrary in this Lease, District shall have the right to terminate the Lease at any time if the School Site is needed by the District for public school purposes, and the District shall give the tenant at least six (6) months advance notice of such termination.

3. PURPOSE OF LEASE. The purpose of this Lease is for District to provide Tenant the use of the Premises for operation of its Alameda Education Foundation program (the "Program").

4. RENT.

A. For and in consideration of the use of the Premises, Tenant shall pay a total annual rent of One Dollar (\$1.00) and is due upon commencement of the lease. This amount represents \$0.00 per square foot applied to the total of approximately (600) square feet of leased space ("Rent").

B. Tenant will not be assessed a pro rata share of the costs of utilities and services ("Utilities") during the 2014-2015 school year. Tenant shall also pay for all other services supplied to or consumed on the Premises, including but not limited to janitorial and custodial services and shall pay all taxes and surcharges on all utilities and services. The foregoing shall constitute "Additional Rent" which shall be subject to all provisions of this Lease concerning Rent and shall be due for each month commencing on the Effective Date.

C. For lease year two (2), commencing July 1 and each successive year of the Lease, the Rent shall be the product of multiplying the previous year's annualized rent by 103%. Subsequent yearly adjustments shall be effective on each successive July 1 for each succeeding year of the Lease Term until the expiration or earlier termination of the Lease.

D. Tenant acknowledges that late payment by Tenant to District of the Rent and other sums due hereunder will cause District to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges. Accordingly, if District does not receive any installment of Rent or any other sum due from Tenant by 4:00 p.m. within ten (10) days after

such amount is due, Tenant 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 Tenant. Acceptance of such late charge by District shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent District from exercising any of its other rights and remedies granted hereunder.

5. SECURITY DEPOSIT.

A. Amount of Security Deposit. Upon execution of this Lease, Tenant shall deposit with District N/A Dollars (\$0.00), hereafter referred to as "Security Deposit."

B. Uses of Security Deposit. The Security Deposit shall secure the timely, full and faithful performance by Tenant of each term, covenant and condition of this Lease. If at any time Tenant shall fail to make any payment or fail to keep or perform any term, covenant or condition on its part to be made or performed or kept under this Lease, without waiving or releasing Tenant from any obligation under this Lease, District may, but shall not be obligated to use, apply or retain the whole or any part of the Security Deposit: (a) to the extent of any sum due to District; (b) to make any required payment on Tenant's behalf; and/or (c) to compensate District for any loss, damage, attorneys' fees or expense sustained by District due to Tenant's default, it being expressly understood that the Security Deposit shall not be considered an advance payment of Rent or a measure of District's damages in case of default by Tenant. In such event, Tenant shall, within five (5) days of written demand by District, remit to District sufficient funds to restore the Security Deposit to its original sum. No interest shall accrue on the Security Deposit. District shall not be deemed a trustee of the Security Deposit, and may commingle the Security Deposit with its other funds. Should Tenant comply with all the terms, covenants, and conditions of this Lease and at the end of the term of this Lease leave the School Site in the condition required by this Lease, then the Security Deposit, less any sums owing to District, shall be returned to Tenant within thirty (30) days after the expiration or earlier termination of this Lease and vacancy of the School Site by Tenant.

C. Impermissible Use of Security Deposit. Tenant may not apply the security deposit to any Rent due under this Lease. If District sells or assigns the leased premises, District shall have the right to transfer the security deposit to the new owner or assignee to hold under this Lease, and upon so doing District shall be released from all liability to Tenant for return of the Security Deposit.

6. DELIVERY AND CONDITION OF PREMISES.

A. Delivery. District shall deliver to Tenant on the Commencement Date the actual and exclusive possession of the Premises, clear of all tenancies and occupancies. If for any reason District cannot deliver possession of the Premises to Tenant on the Commencement Date, District shall not be subject to any liability therefore except as described in this section, nor shall District's failure to deliver the Premises affect the validity of this Lease or the obligations of

Tenant hereunder or extend the term hereof, but in such case, Tenant shall not be obligated to pay any rent hereunder until possession of the Premises is tendered to Tenant.

B. Condition of Premises. The Premises are leased to Tenant on an "AS IS" basis. District shall not be required to make or construct any alterations including structural changes, additions or improvements to the Premises. By entry and taking possession of the Premises pursuant to this Lease, Tenant accepts the Premises in "AS IS" condition. Tenant acknowledges that neither the District nor District's agents have made any representation or warranty as to the suitability of the Premises to the conduct of Tenant's business. Any agreements, warranties or representations not expressly contained herein shall in no way bind either District or Tenant, and District and Tenant expressly waive all claims for damages by reason of any statement, representation, warranty, promise or agreement, if any, not contained in this Lease.

7. USE OF PREMISES.

A. Tenant shall use the Premises solely for the purpose of operating the Program. Tenant shall not use the Premises for any use other than that specified in section 3, this section, and Exhibit B without the prior written consent of the District. Tenant agrees to maintain the Premises and to conduct the Program in a manner that meets all federal, state and local regulations relating to the Premises and to the operation of the Program, and to comply with all federal, state and local laws, regulations and ordinances, now or hereafter enacted concerning the Premises, the use of the Premises, and/or the Program. The execution of this Lease shall be subject to the Tenant obtaining any and all permits or approvals which may be required in order for the Tenant to operate the Program on the Premises. Tenant shall obtain all requisite licenses before commencing operations and shall maintain all requisite licenses in force throughout the Lease Term. Tenant shall not use or permit the Premises to be used in whole or in part during the Term of this Lease for any purpose or use in violation of the laws or ordinances applicable thereto. Tenant shall indemnify, defend, and hold District harmless against any loss, expense, damage, attorneys' fees or liability arising out of failure of Tenant to comply with any applicable law, regulation, rule or ordinance. Tenant shall not commit or suffer to be committed, any waste upon the Premises, or allow any sale by auction upon the Premises, or allow the Premises 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 Premises. No waste materials or refuse shall be dumped upon or permitted to remain upon any part of the Premises except in trash containers designated for that purpose. Any uses that involve the serving and/or sale of alcoholic beverages and the conducting of games of chance are prohibited on the Premises. Tenant shall comply with the District-wide policy prohibiting the use of tobacco products on the Premises at all times. Tenant shall not use or permit the use of the Premises or any part thereof for any purpose that is inimical to public morals and welfare or morally objectionable as unsuitable for a public educational facility. Tenant agrees to immediately respond to concerns expressed by neighbors or District relating to the operation of the Premises.

B. If required, Tenant and all subtenants shall obtain a use permit from the City of Alameda for Tenant's use throughout the Term of this Lease. Tenant shall require all subtenants,

licensees, and invitees, to use the Premises only in conformance with the permitted use and with applicable governmental laws, regulations, rules and ordinances.

C. Tenant represents that it is qualified to administer and operate the Program. Tenant shall be solely responsible for the administration and operation of the Program, including the hiring of all employees. Tenant 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 Tenant's activities on the Premises.

D. Tenant shall vacate the premises during school fire drills.

8. FINGERPRINTING AND CRIMINAL BACKGROUND VERIFICATION.

If Tenant uses any portion of the Premises during school hours, Tenant shall be responsible for ensuring compliance with all applicable fingerprinting and criminal background investigation requirements for its employees described in Education Code section 45125.1, which may be met under the fingerprinting provisions of Title 22 of the California Code of Regulations and applicable provisions of the California Health and Safety Code relevant to community care facility licensing (Health & Safety Code, § 1500 et seq.). Tenant shall provide written verification of compliance with the aforementioned fingerprinting and criminal background investigation requirements to District prior to each individual's commencement of employment or participation in Tenant's Program and prior to permitting contact with any pupils.

9. INDEMNIFICATION.

A. Tenant Indemnification. Tenant agrees to indemnify, reimburse, hold harmless, and defend District, its trustees, officers, employees and agents against any and all claims, causes of action, judgments, obligations or liabilities, and all reasonable expenses incurred in investigating or resisting the same (including reasonable attorneys' fees), on account of, or arising out of, the operation, condition, use or occupancy of the Premises and all areas appurtenant thereto or from the conduct of Tenant's Program or from any activity, work, or other things done, permitted or suffered by Tenant in or about the Premises. This Lease is made on the express condition that District shall not be liable for, or suffer loss by reason of, injury to person or property, from whatever cause in any way connected with the condition, use or occupancy of the Premises specifically including, without limitation, any liability for injury to the person or property of the Tenant, its agents, officers, employees, licensees and invitees.

B. Further Tenant Indemnification. Tenant shall further indemnify, hold harmless, and defend District against and from any and all claims arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Agreement, or arising from any act, omission or negligence of the Tenant, or any officer, agent, employee, guest, or invitee of Tenant, and from all costs, attorney's fees, and liabilities incurred in or about the defense of any such claim or any action or proceeding brought thereon. If any action or proceeding is brought against District by reason of such claim (regardless of whether a claim is filed), Tenant upon notice from District shall defend the same at Tenant's expense.

Tenant shall give prompt written notice to District's Risk Manager in case of casualty or accidents in or on the Premises.

C. Costs to Enforce Indemnification. Any reasonable costs incurred (including filing fees, attorney's fees etc.) after providing written request for indemnification to the indemnifying party for indemnification shall be owed to the requesting party if it is determined the indemnification was owed. In addition the indemnifying party shall pay reasonable attorneys' fees and costs incurred to enforce the indemnity obligations of this agreement to the indemnified party.

10. INSURANCE.

A. Fire Insurance. During the term of this Lease, 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 Premises as of the Commencement Date. In the event of loss or damage to the buildings, the leased Premises 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.

B. Workers' Compensation Insurance. During the term of this Lease, Tenant shall comply with all provisions of law applicable to Tenant with respect to obtaining and maintaining workers' compensation insurance.

C. Subtenant Insurance. During the term of this Lease, Tenant shall require any subtenant of all or any portion of the Premises to maintain in effect during the term of its sublease, insurance coverage equivalent to that required to be maintained by Tenant.

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

E. Certificates of Insurance and Endorsements. Prior to the Commencement Date Tenant shall deliver to District a certificate of insurance evidencing the existence of the policies required hereunder and copies of endorsements stating that such policies shall:

- (i) not be canceled or altered without thirty (30) days prior written notice to District;
- ii) insure performance of the indemnity set forth in Sections 9 and 29 D;

- iii) state the coverage is primary and any coverage by District is in excess thereto;
- iv) contain a cross liability endorsement; and,
- v) 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, Tenant 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.

F. Insurance Limits, Rating of Insurers and Certificates. It is the intent of the parties that policy limits set herein shall be raised from time to time during the Term of this Lease to account for (i) increases in Annual Rent for the Premises, (ii) increases in the estimated full replacement cost of the Premises, and (iii) increases in the general marketplace insurance limits for tenancies as defined herein or sub-tenancies consistent with the provisions of this lease. 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. Tenant shall furnish District with the original certificates and amendatory endorsements effecting coverage required.

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

11. MAINTENANCE AND REPAIRS.

A. Tenant, at its cost, shall maintain the Premises and the interior of the facilities located thereon in a good condition consistent with the condition of the School Site existing at the time of delivery in accordance with applicable provisions of the Education Code, the implementing regulations and the District's policies and/or practices. Tenant acknowledges and accepts that the Premises are leased in "AS IS" condition.

B. District makes no representations or warranties for the structure of the building as it exists, but subject to the provisions of Section 12, 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 Tenant, then District will repair the damage in such a manner as to bring it back to a condition which is similar to the condition which exists at the time Tenant takes possession of the Premises; however, District may terminate this Lease if such repair cost exceeds twenty five thousand dollars (\$25,000) per incident. District agrees to pro-rate Tenant's rent during the "repair" period, if the resulting structural damage prohibits

Tenant from carrying out its normal daily activities. If District elects not to perform a repair estimated to cost in excess of one hundred thousand dollars (\$100,000), then Tenant may elect to remain in possession of the Premises and pay the stipulated rent unless changed through mutual agreement of the parties or Tenant may elect to terminate this Lease.

C. District shall not be required to maintain, repair or replace the interior spaces including the interior surface of exterior walls. If District is required to perform maintenance that is not District's obligation, Tenant shall reimburse District, as additional rent, within fifteen (15) days after receipt of billing, for the cost of such maintenance and repairs which are the obligation of Tenant hereunder; provided, however, that Tenant shall not be required to reimburse District for the cost of repairs of the structural elements of the building unless such repair is required because of the negligence or willful misconduct of Tenant or its employees, agents, or invitees in which event necessary repairs or replacements shall be charged to Tenant, its agents or clients as additional rent.

D. As used in this Lease, the term "structural elements of the building" are 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 which can be completed without wall or floor removal in which case these repairs shall be the responsibility of the Tenant.

E. Except as expressly provided in above, Tenant shall, at its cost, maintain and repair the Premises including the windows, skylights, doors and all door hardware, the walls and partitions, ceilings and all other surfaces visible to public or Tenant and the electrical, plumbing, lighting, heating, ventilating and air conditioning systems in a condition similar to that which exists at the time Tenant takes possession of the Premises. The term "maintain and repair" shall be defined as routine, regular or necessary maintenance. If plumbing, heating, ventilating and electrical systems can be accessed without the removal of walls or floors, repairs and maintenance shall be the Tenant's responsibility. For example, Tenant will be responsible for toilet replacements and clogged toilets, while the District will be responsible for main sewer lines that are clogged, damaged or broken due to no fault of Tenant. Tenant shall have sole and complete responsibility for the cost of maintenance, repair and replacement of the air conditioning systems. District shall have no responsibility for the air conditioning systems.

F. District shall have no maintenance or repair obligations with respect to the Premises except as expressly provided in this section. Tenant hereby expressly waives the provisions of Subsection 1 of Section 1932 and Sections 1941 and 1942 of the Civil Code of California and all rights to make repairs at the expense of District as provided in Section 1942 of said Civil Code.

G. Lessor agrees to provide custodial services daily consisting of trash removal, sweeping and bathroom cleaning. In addition, once weekly wet mop, vacuum and dust. With this exception Lessee shall be responsible for general care and maintenance of the classrooms and restrooms during the time of Lessee's use. Lessee shall be responsible for the repairs and/or replacement of the facilities, fixtures and equipment caused by its use of the facilities.

12. ALTERATIONS AND IMPROVEMENTS.

A. With prior written approval of the District, Tenant may, at its sole cost and expense, construct or cause to be constructed on the Premises those improvements which Tenant deems necessary to the operation of its business provided such improvements are subject to local site, zoning, and design review and other required approvals and provided District has approved all such improvements.

B. Requirements. In regard to the improvements constructed on the Premises consistent with the provisions of this Lease, Tenant shall, prior to construction, major repair, renovation or demolition of any improvements on the Premises, obtain the prior written consent of District thereto and to the final plans, specifications, and schedule for completion thereof. Tenant shall also, prior to construction of any improvements, obtain written approval from District and the Division of the State Architect (DSA) for the improvements and their related costs. Said approval or disapproval must be expressly made by District in writing. Tenant agrees to deliver DSA's written approval to District within 10 days after Tenant's receipt. Tenant agrees not to proceed with any construction of improvements until Tenant has obtained District's and DSA's written approvals. District and Tenant recognize that such approvals may be completed in phases, such that Tenant initially requests conceptual approval and, if approved by District, then proceeds to draw the plans and specifications. District shall respond to Tenant with said approval or disapproval within fifteen (15) days after District receives a written request with architectural plans and drawings from Tenant. District's approval shall be at District's sole and absolute discretion and District may withhold or disapprove of such improvements without reason. As a condition of such approval, District may require that Tenant agree to remove certain improvements and restore the Premises to its original condition upon expiration or earlier termination of this Lease, and/or provide District with adequate security for such removal.

C. Not less than fifteen (15) days prior to the construction, major repair, renovation or demolition of any improvements on the Premises, Tenant shall provide District with information regarding the contractor's financial condition and evidence to District's satisfaction that adequate funds to complete the improvements are committed and available or that completion has been otherwise adequately assured. Such assurances may include, in District's discretion, a completion guarantee. No construction shall commence until District has given Tenant written acceptance of such assurances.

D. Tenant shall give District fifteen (15) days prior written notice before commencing any work on the Premises so that District may post such notices of non-responsibility with respect thereto as District may deem appropriate.

E. Not less than fifteen (15) days prior to the construction, major repair, renovation or demolition of any improvements on the Premises, Tenant shall provide District with sufficient evidence that it has obtained all required approvals and permits for the work and that Tenant or Tenant's contractor(s) has in effect, with premiums paid, adequate casualty and liability

insurance (including builder's risk) coverage and workers compensation that is satisfactory to District in its sole discretion.

F. Upon commencement of construction of any improvements, Tenant shall cause the work to be diligently pursued to completion in accordance with the schedule for completion approved by District, subject to unavoidable delays caused by weather, supply shortages, strikes or acts of God.

G. All work or improvements shall be performed in a sound and workmanlike manner, in compliance with all applicable laws and building codes, in conformance with the plans and specifications approved by District and DSA, if applicable, or any modifications thereto which have been approved in writing by District. If an improvement project requires the use of DSA-approved Inspector services, Tenant shall reimburse District for the costs related to said services.

H. District or District's agent shall have a continuing right at all times during the period that improvements are being constructed on the Premises to enter the Premises and to inspect the work provided that such entries and inspections do not unreasonably interfere with the progress of the construction. Tenant shall require its contractors who construct improvements on the Premises to reasonably cooperate with District or its agent in such inspections.

I. Within ninety (90) days after completion of construction of any work of improvement on the Premises, Tenant shall deliver to District two (2) full and complete sets of as-built plans for the work so completed.

J. Removal of Alterations. Upon the expiration or sooner termination of the Agreement, Tenant shall, upon written demand by District, at Tenant's sole cost and expense, forthwith and with all due diligence, remove any alterations, additions, or improvements made by Tenants, designated by District to be removed, and Tenant shall, forthwith and with all due diligence, at its sole cost and expense, repair any damage to the Premises caused by such removal.

13. CASUALTY DAMAGE.

A. In the event that any portion of the Premises are destroyed or damaged by an uninsured peril, District or Tenant may, upon written notice to the other, given within thirty (30) days after the occurrence of the damage or destruction, elect to terminate this Lease; provided, however, that either party may, within thirty (30) days after receipt of notice, elect to make the required repairs and/or restoration at that party's sole cost and expense, in which event this Lease shall remain in full force and effect, and the party having made the election to restore or repair shall thereafter diligently proceed with the repairs and/or restoration.

B. In the event the Premises are damaged or destroyed from any insured peril to the extent of fifty percent (50%) or more of the then replacement cost of the Premises, District or

Tenant may, upon written notice, given to the other within thirty (30) days after the occurrence of the damage or destruction, elect to terminate this Lease. If neither party gives notice in writing within this period, District shall be deemed to have elected to rebuild or restore the Premises, in which event District shall, at its expense, promptly rebuild or restore the Premises to their condition prior to the damage or destruction. In the event the Premises are damaged or destroyed from any insured peril to the extent of less than fifty percent (50%) of the then replacement cost of the Premises, District shall at District's expense, promptly rebuild or restore the Premises to their condition prior to the damage or destruction.

C. In the event that, pursuant to the foregoing provisions, District is to rebuild or restore the Premises, District shall, within thirty (30) days after the occurrence of such damage or destruction, provide Tenant with written notice of the time required for such repair or restoration. If this period is longer than one hundred twenty (120) days from the issuance of a building permit, Tenant may, within thirty (30) days of receipt of District's notice, elect to terminate the Lease by giving written notice to District of this election, whereupon the Lease shall immediately terminate. The period of time for District to complete the repair or restoration shall be extended for delays caused by the fault or neglect of Tenant or because of acts of God, labor disputes, strikes, fires, freight embargoes, rainy or stormy weather, inability to obtain materials, suppliers or fuels, acts of contractors or subcontractors, or delays of contractors or subcontractors due to such causes or other contingencies beyond the control of District. District's obligation to repair or restore the Premises shall not include restoration of Tenant's trade fixtures, equipment, merchandise, or any improvements, alterations, or additions made by Tenant to the Premises.

14. DEFAULT.

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

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

(ii) Tenant's failure to perform any other term, covenant or condition contained in this Lease and the failure shall have continued for thirty (30) days after written notice of such failure is given to Tenant; however, should Tenant's default involve a serious risk to the safety of the students or an illegal use of the premises, such cure must occur immediately. In the event the District has notified Tenant of default on the same basis on two prior occasions, the period to cure shall be reduced to five (5) business days. On the fourth occasion of default, the District may dispense with a cure period and determine that Tenant is in material default and commence termination of this Agreement pursuant to Section 14.B.

(1) The vacating or abandonment of the Premises by Tenant before the expiration of the Lease Term.

(2) The failure by Tenant to utilize the premises for the sole purpose of operating of the Program as authorized by this Lease and the terms and conditions set forth herein.

(3) Revocation or non-renewal of Tenant's license, permits or other authorizations to operate its program.

(4) Failure to keep in effect insurance as required herein.

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

(6) The Tenant or any guarantor of Tenant's obligations hereunder shall generally not pay its debts as they become due or shall admit in writing its inability to pay its debts;

(7) Any case, proceeding or other action against the Tenant or any guarantor of the Tenant's obligations hereunder shall be commenced seeking to have an order for relief entered against it as debtor, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property, and the case, proceeding or other action (i) results in the entry of an order for relief against it which is not fully stayed within seven (7) business days after the entry thereof or (ii) remains undismissed for a period of forty-five calendar (45) days.

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

(i) Recovery of Rent. District shall be entitled to keep this Lease in full force and effect (whether or not Tenant shall have abandoned the Premises) and to enforce all of its rights and remedies under this Lease, including the right to recover rent and other sums as they become due, plus interest at the rate of Bank of America's or its successor's reference rate plus three percent (3%) per annum from the due date of each installment of rent or other sum until paid.

(ii) Termination. District may terminate this Lease by giving Tenant written notice of termination. On the giving of the notice all of Tenant's rights in the Premises shall terminate. Upon the giving of the notice of termination, Tenant shall surrender and vacate the Premises in the condition required under this Lease, and District may re-enter and take possession of the Premises and all the remaining improvements or property and eject Tenant or any of Tenant's subtenants, assignees or other person or persons claiming any right under or

through Tenant or eject some and not others or eject none. This Lease may also be terminated by a judgment specifically providing for termination. Any termination under this section shall not release Tenant from the payment of any sum then due District or from any claim for damages or rent previously accrued or then accruing against Tenant. In no event shall any one or more of the following actions by District constitute a termination of this Lease:

(1) maintenance and preservation of the Premises;

(2) efforts to relet the Premises;

(3) appointment of a receiver in order to protect District's interest hereunder;

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

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

(iii) Damages. In the event this Lease is terminated, District shall be entitled to damages in the following sums:

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

(2) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus,

(3) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; and,

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

(5) the "worth at the time of award" of the amounts referred to in Subsections (a) and (b) of this section, is computed by allowing interest at the rate of Bank of America's or its successor reference rate plus three percent (3%) per annum. The "worth at the

time of award" of the amounts referred to in Subsection (c) of this section is computed by discounting such amount at the discount rate of the Federal Reserve Board of San Francisco at the time of award plus one percent (1%). The term "rent" as used in this section shall include all sums required to be paid by Tenant to District pursuant to the term of this Lease.

15. LIENS. Tenant shall: (i) pay for all labor and services performed for, materials used by or furnished to Tenant or any contractor employed by Tenant with respect to the Premises; and, (ii) indemnify, defend and hold District and the Premises harmless and free from the perfection of any liens, claims, demands, encumbrances or judgments created or suffered by reason of any labor or services performed for, or materials used by or furnished to, Tenant or any contractor employed by Tenant with respect to the Premises; and, (iii) give notice to District in writing fifteen (15) days prior to employing any laborer or contractor to perform services related to, or receiving materials for use upon, the Premises; and, (iv) permit District to post a notice of non-responsibility in accordance with the statutory requirements of California Civil Code Section 3094 or any amendment thereof. In the event Tenant is required to post an improvement bond with a public agency in connection with the above, Tenant agrees to include District as an additional obligee.

16. INSPECTION OF PREMISES. Tenant agrees to provide District with a set of keys for emergency repairs. Tenant shall permit District and its agents to enter the Premises at any reasonable time for the purpose of inspecting the same, performing District's maintenance and repair responsibilities, or posting a notice of non-responsibility for alterations, additions, or repairs. In addition to the right granted to District under Section 12 to inspect improvements under construction on the Premises, District and its authorized agents and representatives shall have the right throughout the Term of this Lease to enter the Premises at all reasonable times during usual business hours and upon reasonable notice for the purpose of inspecting the Premises or exhibiting them to prospective lessees or occupants.

17. HOLDING OVER. Should Tenant hold over in possession after the expiration of the original term or any extended term of this Lease, the holding over shall not be deemed to extend the term or renew the Lease, but the tenancy thereafter shall continue upon the covenants and conditions herein set forth at 150% (one hundred fifty percent) of the monthly rental (Holding Over Rent) of the last expiring term unless Tenant and District mutually agree to a different rental amount.

18. NOTICES. Any notices which either of the parties hereto is required or may desire to send or deliver to give to the other party, shall be mailed, certified mail, return receipt requested, postage prepaid, or delivered, with all charges prepaid, to such other party at the address listed below, or to such address as either party may designate to the other from time to time in writing.

District: Robert Clark, Chief Business Officer
Alameda Unified School District
2060 Challenger Drive
Alameda, CA 94501

Tenant: Vicki Sedlack, Executive Director

Alameda Education Foundation
2200 Central Avenue, Suite B
Alameda, CA 94501

The date of service of any notice mailed as aforesaid shall be deemed to be five (5) days after the date of such mailing, and the date of service of any notice hand delivered, as aforesaid, shall be deemed to be one (1) day after delivery thereof to the delivery service office.

19. ATTORNEYS' FEES. In the event either party shall bring any action or legal proceeding for damages for any alleged breach of any provision of this Lease, to recover rent or possession of the Premises, to terminate this Lease, or to enforce, protect or establish any term or covenant of this Lease or right or remedy of either party, the prevailing party shall be entitled to recover, as a part of the action or proceeding, reasonable attorneys' fees and court costs, including attorneys' fees and costs for appeal, as may be fixed by the court or jury. The term "prevailing party" shall mean the party who received substantially the relief requested, whether by settlement, dismissal, summary judgment, judgment, or otherwise.

20. ASSIGNMENT. The Tenant may not assign this Lease without District's consent and written approval. Any assignment of this Lease must be in writing and signed by District and Tenant. This Lease cannot be assigned during the first five years of the Lease Term. No assignment or transfer shall be effective until there shall have been delivered to District an agreement, or a duplicate original of such assignment containing an agreement, in recordable form, executed by the assignor and the proposed assignee whereby such assignee agrees, expressly for the benefit of District, to assume, keep and perform, and be bound by each and all of the covenants, conditions, restrictions and provisions herein contained on the part of Tenant, and any such assignment or transfer shall be subject to each and all of the covenants, conditions, restrictions and provisions hereof. Any assignment in violation of this Section shall be void and of no effect. Tenant agrees that the District may assign any interest in this Lease, as required or desired at any time, provided that the assignment will not disturb the Tenant's possession and quiet enjoyment of the Premises.

21. SUCCESSORS. This Lease contains all of the covenants, agreements, representations and provisions thereof and shall inure to the benefit of and be binding upon the respective heirs, legal representatives, executors, administrators, successors and assigns of the parties hereto, except as provided in the preceding Section.

22. SURRENDER OF LEASE NOT MERGER. The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not work a merger and shall, at the option of District, terminate all or any existing subleases or subtenancies, or operate as an assignment to District of any or all subleases or subtenancy.

23. WAIVER. The waiver by District or Tenant of any breach of any term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained shall not be deemed to be a waiver of the term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained.

24. GENERAL.

A. The captions and section headings used in this Lease are for the purposes of convenience only. They shall not be construed to limit or extend the meaning of any part of this Lease.

B. Time is of the essence for the performance of each term, covenant and condition of this Lease.

C. In case any one or more of the provisions contained herein, except for the payment of rent, shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Lease, but this Lease shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein. This Lease shall be construed and enforced in accordance with the laws of the State of California.

D. If Tenant is more than one person or entity, each such person or entity shall be jointly and severally liable for the obligations of Tenant hereunder.

25. SIGNS. Tenant shall at Tenant's cost have the right and entitlement to place Tenant's signs on the Premises, and otherwise to advertise its services, provided Tenant obtains the approval and consent of District. The approval and consent shall not be unreasonably withheld. Any signs shall be at Tenant's cost and in compliance with the local ordinances pertaining thereto. In connection with the placement of such signs, District agrees to cooperate with Tenant in obtaining any governmental permits which may be necessary. Throughout the Term of this Lease Tenant shall, at its sole cost and expense, maintain the signage and all appurtenances in good condition and repair. At the termination of this Lease, Tenant shall remove any signs that it has placed on the School Site in which the Premises are located, and shall repair any damage caused by the installation or removal of those signs.

26. SURRENDER OF THE PREMISES. On the last day of the term hereof, or on sooner termination of this Lease, Tenant shall surrender to District the Premises 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. This condition shall be similar to that existing as of the Commencement Date of this Lease excepting normal ordinary wear and tear and any structural improvements made by District subsequent to the Commencement Date. This Lease shall operate as a conveyance and assignment to the District of any improvements identified by the District to remain on the School Site. Tenant shall remove from the Premises all of Tenant's personal property, trade fixtures, and any improvements made by Tenant which District agrees will be removed by Tenant. All property not so removed shall be deemed abandoned by Tenant. If the Premises are not so surrendered at the termination of this Lease, Tenant shall indemnify District against loss or liability resulting from delay by Tenant in so surrendering the Premises including, without limitation, any claims made by any succeeding Tenant or losses to District due to lost opportunities to Lease to succeeding tenants.

27. DISTRICT'S COVENANTS. The District covenants, warrants and represents that it has full right and power to execute and perform this Lease, and to grant the estate demised herein,

and covenants that Tenant on paying rent as herein provided and performing the covenants hereof shall peaceably and quietly have, hold and enjoy the demised Premises and all right, easements, appurtenances and privileges belonging or in any way appertaining thereto, during the term of this Lease and any extension or renewal thereof.

28. HAZARDOUS MATERIALS. District and Tenant agree as follows with respect to the existence or use of Hazardous Materials on the Premises including any improvements made by Tenant.

A. Definition. As used herein, the term "Hazardous Materials" means any hazardous or toxic substance, material or waste that 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.

B. Hazardous Materials. Tenant shall not cause or permit any Hazardous Material to be generated, brought onto, used, stored, or disposed of in or about the Premises and any improvements by Tenant 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). Tenant shall comply with all Environmental Laws.

C. Responsibility of Tenant. From and after the commencement date, Tenant shall be solely responsible for all environmental matters affecting the Premises and any improvements. Tenant has been afforded the opportunity under the Option Agreement to enter the Premises during the option period for the purpose of conducting tests, engineering studies, to satisfy itself of the condition of the Premises with respect to Hazardous Materials. Without limiting the preceding sentence:

(i) Any handling, transportation, storage, treatment, disposal or use of Hazardous Materials in or about the Premises and any improvements by any person or entity shall be the responsibility of Tenant and shall strictly comply with all applicable Hazardous Materials Laws and the provisions of this Lease.

(ii) shall be the duty of Tenant to insure that the Premises and any improvements are at all times in strict compliance with all Hazardous Materials Laws and that all activities conducted in or about the Premises and improvements comply in every respect with all

applicable Hazardous Materials Laws including, but not limited to, all notification, record keeping, and maintenance requirements of such Laws.

(iii) Tenant shall have and discharge all of the duties and obligations of the owner of the Premises and improvements under applicable Hazardous Materials Laws, including, but not limited to, response and remediation; and

(iv) Tenant shall be responsible for all liability to third parties who may be harmed or claim harm resulting from an environmental condition on or about the Premises and any improvements.

D. Indemnification. Tenant shall indemnify, defend upon demand with counsel reasonably acceptable to District, and hold harmless District and its trustees, agents and employees from and against any liabilities, losses, claims, damages, lost profits, consequential damages, interest, penalties, fines, monetary sanctions, attorneys' fees, experts' fees, court costs, remediation costs, investigation costs, and other expenses which result from or arise in any manner whatsoever out of the use, storage, treatment, transportation, release, disposal, or presence from any cause or source whatsoever of Hazardous Materials on or about the Premises and any improvements.

E. Tenant Action. If the presence of Hazardous Materials on the Premises and any improvements (from any source whatsoever) results in contamination or deterioration of water or soil resulting in a level of contamination greater than the levels established as acceptable by any governmental agency having jurisdiction over such contamination, and if the Tenant is responsible therefore under applicable law, then Tenant shall, at its sole cost and expense, promptly take any and all action necessary to investigate and remediate such contamination if required by law or as a condition to the issuance or continuing effectiveness of any governmental approval which relates to the use of the Premises and any improvements or any part thereof. Tenant shall further be solely responsible for, and shall defend, indemnify and hold District and its agents harmless from and against, all claims, costs and liabilities, including attorneys' fees and costs, arising out of or in connection with any investigation and remediation required hereunder to return the Premises and any improvements to full compliance with all Hazardous Materials Laws.

F. Notice. District and Tenant shall each give written notice to the other as soon as reasonably practicable of (i) any communication received from any governmental authority concerning Hazardous Materials which relates to the Premises and any improvements, and (ii) any contamination of the Premises and any improvements by Hazardous Materials which constitutes a violation of any Hazardous Materials Law. Tenant and subtenants may use small quantities of household chemicals such as adhesives, lubricants, and cleaning fluids in order to conduct their business on the Premises and any improvements and such other Hazardous Materials as are necessary for the operation of their respective businesses of which District receives notice prior to such Hazardous Materials being brought onto the Premises and any improvements and to which District consents in writing. As a condition to its consent, District may require from Tenant or any subtenant additional security and/or indemnification against potential claims or losses resulting from the presence or use of such Hazardous Materials at or on

the Premises and any improvements. At any time during the Term, Tenant shall, within thirty (30) days after written request therefore received from District, disclose in writing all Hazardous Materials that are being used by Tenant or subtenants on the Premises and any improvements, the nature of the use, and the manner of storage and disposal.

G. **Monitoring Wells.** In the event that District has reason to believe that Hazardous Materials may be present on the Premises and any improvements, District may require that, at Tenant's expense, testing wells be installed on the Premises and any improvements, at locations determined by District and Tenant, and may cause the ground water to be tested to detect the presence of Hazardous Materials by the use of such tests as are then customarily used for such purposes. Tenant shall comply promptly with any such request.

H. **Survival.** The obligations of Tenant under this Section shall survive the expiration or earlier termination of this Lease. The rights and obligations of District and Tenant with respect to issues relating to Hazardous Materials are exclusively established by this Section. In the event of any inconsistency between any part of this Lease and this Section, the terms of this Section shall control.

I. In the event that Tenant causes any Hazardous Materials to be released, spilled or otherwise exposed through its use and occupancy of the Premises, such as, but not limited to remodeling or other construction, Tenant shall be solely responsible for all costs associated with the proper handling, mitigation, remediation and disposal of the Hazardous Materials and all related cleanup.

29. **PARKING.** Tenant shall have non-exclusive use of any parking lot located on the School Site. Tenant shall not abandon any inoperative vehicles or equipment on any portion of the School Site.

30. **SUBLEASING.** Tenant shall not have the right to sublease the Premises or any other portion of the School Site.

31. **NO SUBORDINATION.** Tenant agrees that District's fee interest shall at all times be and remain unsubordinated to any leasehold mortgage which may be imposed upon Tenant's leasehold interest hereunder or upon the improvements, and that nothing contained in this Lease shall be construed as an agreement by District to subject its fee interest to any lien. Nothing in this Section or in any other provision of this Lease shall be construed as an agreement by District to subordinate its fee interest in the Premises to any leasehold mortgage or other lien or right. No leasehold mortgage shall impair District from enforcing its rights and remedies herein or by law provided.

32. **ENTIRE AGREEMENT.** This Lease constitutes the entire understanding between the parties hereto and no addition to or modification of, any term or provision of this Lease shall be effective until set forth in writing signed by both District and Tenant.

33. **COOPERATION WITH OTHER OCCUPANTS OF THE PROPERTY.** It is understood and recognized by Tenant that the School Site, of which the Premises is a part, will be used by

other parties, including District, and Tenant shall cooperate with the other parties in reaching amicable arrangements concerning such matters as use of the parking areas, playgrounds, policing of common areas, custodial services, and security measures.

34. SEVERABILITY. The provisions of this Lease are declared to be severable, and if any provision herein is invalidated by any court, the remaining provisions shall not be affected thereby and shall be fully enforceable, unless such enforcement would be unreasonable or inequitable under all the circumstances or would frustrate the purposes of this Lease.

35. JURISDICTION AND VENUE. This Lease has been executed and delivered in the State of California and the validity, enforceability and interpretation of any of the clauses of this Lease shall be determined and governed by the laws of the State of California. To the fullest extent permitted by California law, the county in which the School Site is located shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Lease.

IN WITNESS WHEREOF, District and Tenant have executed this Lease, through their respective officers or representatives, duly authorized, as of the day and year shown below.

District:
Alameda Unified School District,
a California public school district

By: Robert Clark

Name: Robert Clark

Title: CBO

Tenant:
Alameda Education Foundation,
a 501(c)(3) non profit

By: Vicki Sedlack

Name: Vicki Sedlack

Title: Executive Director

Attachments:

Exhibit "A"

Map of site with tenant's space

Exhibit "B"

Definition of tenant program.

Exhibit A

LEGEND

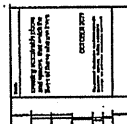
C CLASSROOM
THR THEATER
ST STAGE

SQUARE FOOTAGE

C1	1818 SF
C2	667 SF
C3	435 SF
C4	624 SF
C5	942 SF
C6	1528 SF
STAIRS	2718 SF
THR	

ORIGINAL FACILITY BUILT: 1924
BUILDING AREA: 49,269 SF EXCLUDING
THE NON-DSA STRUCTURES.

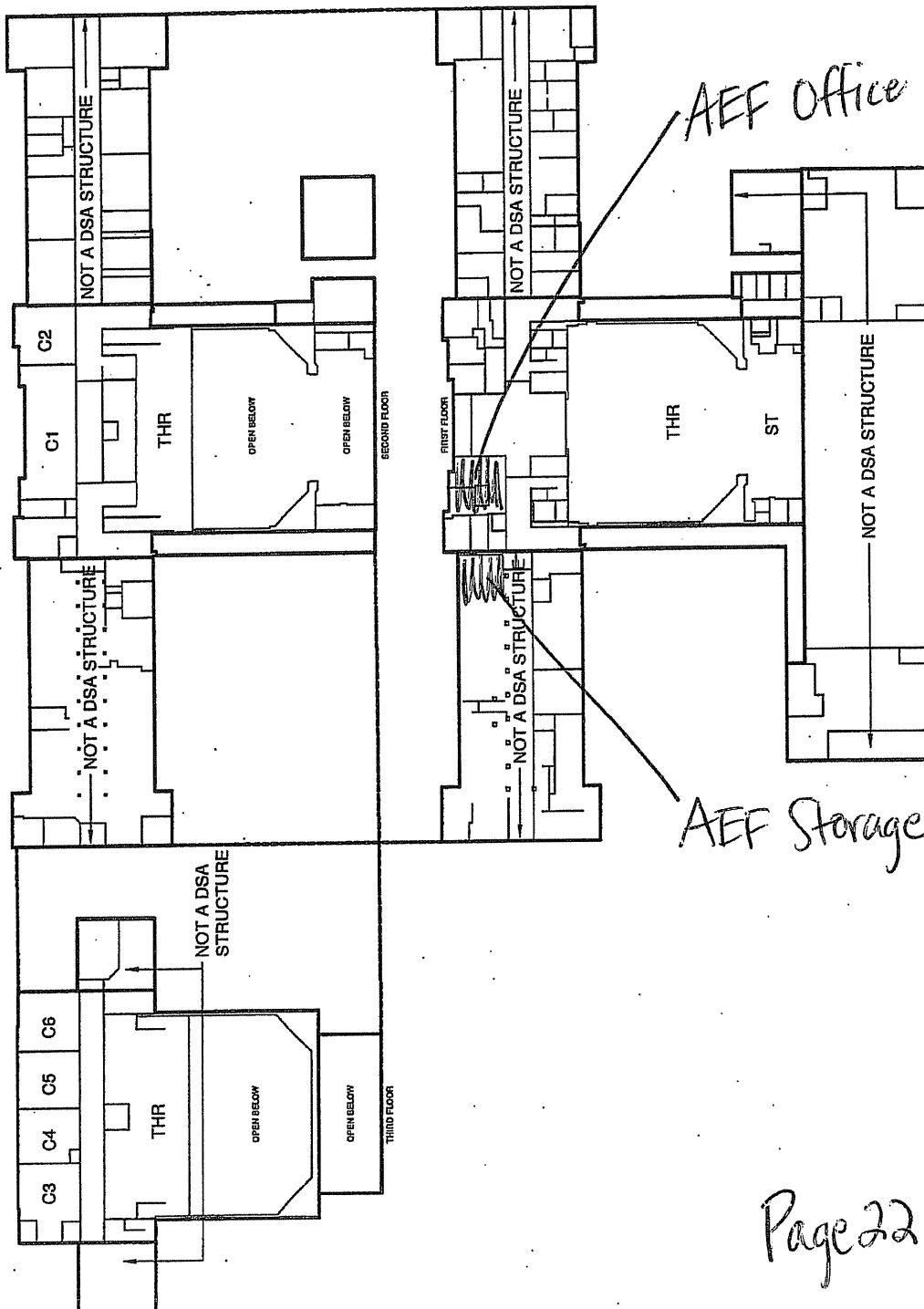
NOTE:
1. CANOPIES AND COVERED AREAS
ARE NOT INCLUDED IN TOTAL SQUARE
FOOTAGE.
2. CLASSROOM SQUARE FOOTAGE
ABOVE IS GROSS FOOTAGE.



EP3

ALAMEDA HIGH SCHOOL

ALAMEDA UNIFIED SCHOOL DISTRICT
2201 BACHMAN AVE., ALAMEDA, CALIFORNIA 94501



AEF Office

AEF Storage

Page 22

DATE: 10/15/03
PROJECT: ALAMEDA HIGH SCHOOL
DRAWN BY: [Name]
CHECKED BY: [Name]
SCALE: AS SHOWN
SHEET NO. 01

10450 Shiloh Rd., Suite 201
San Ramon, CA 94583
P: 925.772.0000
F: 925.772.0000
W: www.lpa.com

LPA
ARCHITECTS
PLANNERS
ENGINEERS

Exhibit B

About AEF

The Alameda Education Foundation (AEF) is made up of parents, educators, business leaders and members of the community. A vital force in the community since 1982, AEF supports educational excellence in Alameda public schools by promoting educational opportunities, innovation and equity for Alameda K-12 public school students.

Our programs support the academic, athletic, creative and social growth for Alameda's 10,000+ students. We manage and support a variety of programs including music, drama, sports, foreign languages, science, technology, counseling and much more. We believe every child in Alameda has a right to quality educational opportunities and that thriving schools are essential for a strong community and a promising future.

Join us as we work to preserve and enhance our schools!

Alameda Education Foundation

501(c)(3) non-profit, Tax ID #94-2867769

P. O. Box 1363

Alameda, CA 94501

tel: 510-337-7189

www.alamedaeducation.org