

**SITE LEASE**

**For all or a portion of the following Site:**

**Lawrence Jones Middle School Band Room Addition and Replacement of the Fire Alarm System**

5154 Snyder Lane  
Rohnert Park, CA 94928

**By and between**

Cotati-Rohnert Park Unified School District  
7165 Burton Avenue  
Rohnert Park, CA 94928-3316

**And**

Alten Construction, Inc.  
1141 Marina Way  
South Richmond, CA 94804

Dated as of February 21, 2018

**WHEREAS**, the Parties have performed all acts, conditions and things required by law to exist, to have happened, and to have been performed prior to and in connection with the execution and entering into this Site Lease, and those conditions precedent do exist, have happened, and have been performed in regular and due time, form, and manner as required by law, and the Parties hereto are now duly authorized to execute and enter into this Site Lease; and

**WHEREAS**, Developer as lessee is authorized and competent to lease the Project Site from District and to develop and cause the construction of the Project on the Project Site, and has duly authorized the execution and delivery of this Site Lease.

**NOW, THEREFORE**, in consideration of the promises and of the mutual covenants contained herein, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto do hereby agree as follows:

**1. Definitions**

Unless the context clearly otherwise requires, all words and phrases defined in the Facilities Lease shall have the same meaning in this Site Lease.

**2. Exhibits**

The following Exhibits are attached to and by reference incorporated and made a part of this Site Lease.

**2.1. Exhibit A - Legal Description of the School Site:** The descriptions of the real property constituting the School Site

**2.2. Exhibit B - Description of the Project Site:** The map or diagram depiction of the Project Site

**3. Lease of the Project Site**

The District hereby leases to the Developer, and the Developer hereby leases from the District the Project Site, subject only to Permitted Encumbrances, in accordance with the provisions of this Site Lease, to have and to hold for the term of this Site Lease. This Site Lease shall only take effect if the Facilities Lease is executed by the District and Developer within three (3) days of execution of this Site Lease.

**4. Leaseback of the Project Site**

The Parties agree that the Project Site will be leased back to the District pursuant to the Facilities Lease for the term thereof.

**5. Term**

The term of this Site Lease shall commence as of the Effective Date and shall terminate on the last day of the Term of the Facilities Lease, provided the District has paid to the Developer, or its assignee, all payments which may be due under the Facilities Lease, and

The leaseback of the Project Site by the Developer to the District pursuant to the Facilities Lease shall not effect or result in a merger of the estates of the District in the Project Site, and the Developer shall continue to have a leasehold estate in the Project Site pursuant to this Site Lease throughout the term hereof.

**11. Right of Entry**

The District reserves the right for any of its duly authorized representatives to enter upon the Project Site at any reasonable time to inspect the same, provided the District follows all safety precautions required by the Developer.

**12. Quiet Enjoyment**

Subject to any rights the District may have under the Facilities Lease (in the absence of an Event of Default) to possession and enjoyment of the Project Site, the District hereby covenants and agrees that it will not take any action to prevent the Developer from having quiet and peaceable possession and enjoyment of the Project Site during the term hereof and will, at the request of the Developer, to the extent that it may lawfully do so, join in any legal action in which the Developer asserts its right to such possession and enjoyment.

**13. Waste**

The Developer agrees that at all times that it is in possession of the Project Site, it will not commit, suffer or permit any waste on the Project Site, and that it will not willfully or knowingly use or permit the use of the Project Site for any illegal purpose or act.

**14. Further Assurances and Corrective Instruments**

The Parties shall, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Project Site hereby leased or intended so to be or for carrying out the expressed intention of this Site Lease and the Facilities Lease.

**15. Representations of the District**

The District represents, covenants and warrants to the Developer as follows:

**15.1. Due Organization and Existence**

The District is a school district, duly organized and existing under the Constitution and laws of the State of California.

**15.2. Authorization**

The District has the full power and authority to enter into, to execute and to deliver this Site Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution of this Site Lease.

**15.3. No Violations**

possessed of full power to lease, leaseback, and hold real and personal property and has duly authorized the execution and delivery of all of the aforesaid agreements.

#### **16.2. Authorization**

The Developer has the full power and authority to enter into, to execute and to deliver this Site Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution of this Site Lease.

#### **16.3. No Violations**

Neither the execution and delivery of this Site Lease or the Facilities Lease, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Developer is now a party or by which the Developer is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Developer, or upon the Project Site, except for Permitted Encumbrances.

#### **16.4. No Bankruptcy**

Developer is not now nor has it ever been in bankruptcy or receivership.

#### **16.5. No Litigation**

There is no pending or, to the knowledge of Developer, threatened action or proceeding before any court or administrative agency which will materially adversely affect the ability of Developer to perform its obligations under this Site Lease or the Facilities Lease.

### **17. Insurance and Indemnity**

The Developer and the District shall comply with the insurance requirements and the indemnity requirements as indicated in the Facilities Lease.

### **18. Assignment and Subleasing**

This Site Lease may be assigned and/or the Project Site subleased, as a whole or in part, by the Developer only upon the prior written consent of the District to such assignment or sublease, which shall not be unreasonably withheld.

### **19. Restrictions on District**

The District agrees that it will not mortgage, sell, encumber, assign, transfer or convey the Project Site or any portion thereof during the term of this Site Lease in any way that would interfere with or diminish Developer's interests indicated in this Site Lease.

### **20. Liens and Further Encumbrances**

In the event any provision of this Site Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, unless elimination of such invalid provision materially alters the rights and obligations embodied in this Site Lease or the Facilities Lease.

**25. Amendments, Changes and Modifications**

Except as to the termination rights of both Parties as indicated in the Facilities Lease, this Site Lease may not be amended, changed, modified, altered or terminated without the written agreement of both Parties hereto.

**26. Obligations Absolute**

The Developer agrees that the obligations of the Developer are absolute and unconditional and not subject to any charges or setoffs against the District whatsoever.

**27. Execution in Counterparts**

This Site Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

**28. Developer and District Representatives**

Whenever under the provisions of this Site Lease approval by the Developer or the District is required, or the Developer or the District is required to take some action at the request of the other, such approval or such request shall be given for the Developer by the Developer Representative and for the District by the District Representative, and any party hereto shall be authorized to rely upon any such approval or request.

**29. Applicable Law**

This Site Lease shall be governed by and construed in accordance with the laws of the State of California, and venue in the County within which the School Site is located.

**30. Attorney's Fees**

If either party brings an action or proceeding involving the School Site or to enforce the terms of this Site Lease or to declare rights hereunder, each party shall bear the cost of its own attorneys' fees.

**31. Captions**

The captions or headings in this Site Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Site Lease.

**32. Prior Agreements**

This Site Lease and the corresponding Facilities Lease collectively contain all of the agreements of the Parties hereto with respect to any matter covered or mentioned in this Site Lease and no prior agreements or understanding pertaining to any such matter shall be effective for any purpose.

**EXHIBIT A**

**LEGAL DESCRIPTION OF SCHOOL SITE**

**Attached is the Legal Description for:**

Lawrence Jones Middle School Band Room Addition and Replacement of the Fire Alarm System Project  
5154 Snyder Lane  
Rohnert Park, CA 94928

**EXHIBIT "A"**  
**Description Page**

Situated in the State of California, Unincorporated Area, County of Sonoma, and described as follows:

**PARCEL ONE:**

A portion of that tract conveyed to Frank H. Denman and Geo. B. Murphy by David R. Risk and James C. Risk by deed dated February 23, 1911 and recorded in Book 272 of Deeds at Page 200, Sonoma County Records, and bounded as follows.

Beginning at a stake standing on the West boundary of the tract conveyed to Denman and Murphy, as above mentioned and on the East side of a road across the Cotati Rancho, from which the Southwest corner of the above mentioned tract bears South 5.79 chains distant,  
Thence East 19.65 chains to a stake;  
Thence North 3.05 chains to a stake;  
Thence West 19.65 chains to the East side of said road;  
Thence South 3.05 chains to the point of beginning.

Excepting therefrom that portion conveyed by Dora Garcia to Theodore Brians, at ux, in deed dated February 4, 1953 and recorded February 6, 1953 in Book 1186 of Official Records, Page 502, Sonoma County Records.

**PARCEL TWO:**

Being a portion of that tract of land conveyed to Frank H. Denman and Geo. B. Murphy by David R. Risk and James C. Risk by deed dated February 23, 1911 and recorded in Book 272 of Deeds, Page 200, Sonoma County Records, and bounded and described as follows, to wit:

**Beginning** at the Southwest corner of the tract conveyed to Denman and Murphy as above mentioned, in the center of Hinebaugh Road;  
Thence along the South boundary of said tract East 19.65 chains to a stake marked 26 and 27;  
Thence North 5.79 chains to a stake;  
Thence West 19.65 chains to a stake standing on the East side of a road across said Cotati Rancho;  
Thence along said road South 5.79 chains to the point of beginning.  
Bearings true.

**Excepting** therefrom that portion described in the deed from William Neil Chappel and Patricia Chappel to Sonoma County Water Agency by deed dated September 15, 1978,



## **EXHIBIT B**

### **DESCRIPTION OF PROJECT SITE**

**Attached is a map or diagram showing the location of the School Site that is subject to this Site Lease and upon which Developer will construct the Project.**

