

**Attachment A-9**

**CITY RECOMMENDED REVISED  
HEAD ROYCE CONDITIONS OF APPROVAL**

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**Clean version**

Final NSC Draft Requested Revisions to Proposal from City

August 17, 2015

**1. Approved Use.**

***Ongoing***

The project shall be constructed and operated in accordance with the authorized use as described in the application materials, attached staff report, the preliminary PUD plans approved January 4, 2006, final PUD approved plans dated October 29, 2007 the approved plans dated July 28, 2009, and the plans submitted on September 11, 2014 to correct striping and make other minor improvements on existing parking spaces. Any additional uses or facilities other than those approved with this permit, as described in the project description and the approved plans, will require a separate application and approval.

- a) The action by the City Planning Commission (PUDF07-520) which includes:
  - i. Approval of a Final Planned Unit Development (“FPUD”) for the Head Royce Master Plan PUD, under Oakland Municipal Code Section 17.140.
  - ii. Approval of a Conditional Use Permit for 20 tandem parking spaces on the parking level extension.
- b) The action by the City Planning staff (DS09-224) approving construction of parking improvements to the existing east parking lot at the Head Royce School to accommodate 126 parking spaces (including restriping, paving, grading, and construction of retaining walls, and construction of a drilled pier supported retaining wall for tandem parking approved by the Planning Commission as part of PUDF07-520).
- c) The action by Building Permit PZ1400021 to provide an additional 31 parking spaces on campus for a total of 157 spaces.
- d) This action by the City (“this Approval”) (REV13-0003) includes the amendments to the PUD and the Conditions of Approval set forth below which includes but is not limited to clarifications for:
  - i. School Enrollment
  - ii. Hours of Academic and Childcare Operation
  - iii. Summer Program Enrollment / Operations
  - iv. Number of Special Events / Days and Hours of Operation, and
  - v. Implementation of a Transportation Demand Management Program.

- e) The Conditions of Approval for REV13-003 supersede the previous Conditions of Approval for PUD04-400, PUDF07-520 and DS09-224.

**2. Effective Date, Expiration.**

***Ongoing***

Unless a different termination date is prescribed, this Approval shall expire two years from the approval date, unless within such period all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit for this project may invalidate this Approval if the said extension period has also expired.

**3. Scope of This Approval; Major and Minor Changes.**

***Ongoing***

The project is approved pursuant to the Planning Code only. Minor changes to approved plans, conditions of approval, facilities or use may be approved administratively by the Director of City Planning or designee. Major changes to approved plans, conditions of approval, facilities or use shall be reviewed by the City Planning Commission as a revision to the PUD. The Planning Director or designee shall, in his or her discretion, determine whether a proposed change in conditions, facilities or uses constitutes a minor or major change upon submission of an application for such change. Exception: Any changes to the TDM or traffic conditions, number of students, or summer program will be treated as Major changes to the approved plans and will require a hearing before the Planning Commission with appeal available to the City Council.

**4. Conformance to Approved Plans; Modification of Conditions or Revocation.**

***Ongoing***

- a) Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within ~~60-90~~30-60 days of approval, unless an earlier date is specified elsewhere.
- b) Violation of any term, Conditions/ Mitigation Measures or project description relating to the Approvals is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal

enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approvals or alter these Conditions/ Mitigation Measures if it is found that there is violation of any of the Conditions/ Mitigation Measures or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule<sup>1</sup> for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Conditions of Approval.

**5. Signed Copy of the Conditions/Mitigation Measures.**

***With submittal of a demolition, grading, and building permit***

A copy of the approval letter and Conditions/ Mitigation Measures shall be signed by the property owner, notarized, and submitted with each set of permit plans to the appropriate City agency for this project.

**6. Compliance with Conditions of Approval.**

***Ongoing***

The project applicant shall be responsible for compliance with the recommendations in any submitted and approved technical report and all the Conditions of Approval and in all applicable adopted mitigation measures set forth below at its sole cost and expense, and subject to review and approval of the City of Oakland.

**7. Indemnification.**

***Ongoing***

- a) To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, Oakland City Council, the Oakland City Planning Commission and its respective agents, officers, and employees (hereafter collectively called City) from any liability, damages, claim, judgment, loss, (direct or indirect) action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (**collectively called "Action"**) against the City to attack, set aside, void or annul, (1) this approval or (2) implementation of this approval. The City shall promptly notify the project applicant of any claim, action or proceeding. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorney's fees.
- b) Within ten (10) calendar days of the filing of any Action as specified in subsection a above, the applicant shall execute a Letter Agreement with the City, acceptable to the

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<sup>1</sup> The term "Master Fee Schedule" does not provide any information, understandable in the context of the proposal. Heather, please provide a definition and indicate what amount of money would be assessed.

Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the applicant of any of the obligations contained in this condition or other requirements or conditions of approval that may be imposed by the City.

**8. Severability.**

*Ongoing*

Approval of the project would not have been granted but for the applicability and validity of each and every one of the specified conditions and/or mitigations, and if one or more of such conditions and/or mitigations is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid conditions and/or mitigations consistent with achieving the same purpose and intent of such Approval.

**9. Subsequent Conditions or Requirements.**

*Ongoing*

This approval shall be subject to the conditions of approval contained in any subsequent Tentative Tract Map, Tentative Parcel Map or mitigation measures contained in the approved environmental document for this project.

**10. Compliance Matrix**

*Ongoing.* At the beginning of each semester, and the beginning of the summer program, ~~the~~The project applicant shall submit to the Planning and Zoning Division and the Building Services Division a Conditions/ Mitigation Measures compliance matrix that lists each condition of approval and mitigation measure, the City agency or division responsible for review, and how/when the project applicant has met or intends to meet the conditions and mitigations. The applicant will sign under penalty of perjury the Conditions of Approval attached to the approval letter and submit that with the compliance matrix for review and approval. ~~The compliance matrix shall be organized per step in the plancheck/construction process unless another format is acceptable to the Planning and Zoning Division and the Building Services Division. The project applicant shall update the compliance plan and provide it with each item submittal. Planning will provide the NSC with a copy of each matrix after it has been received.~~

**11. Mitigation Monitoring and Reporting Program.**

*Ongoing*

The following mitigation measures shall be incorporated into the project. The measures are taken from the Mitigated Negative Declaration for the Head Royce Master Plan Project (2006) and have been revised. For each measure, this Mitigation Monitoring and Reporting Program (MMRP) indicates the entity (generally, an agency or department within the City of Oakland) that is responsible for carrying out the measure (“**Responsible Implementing Entity**”); the actions necessary to ensure compliance with the applicable measure (“**Monitoring Action(s)**”) and the entity responsible for

monitoring this compliance (“**Monitoring Responsibility**”); and the time frame during which monitoring must occur (“**Monitoring Timeframe**”).

## **TRAFFIC AND CIRCULATION**

**Impact T1:** The increase in enrollment at the completion of the 2006 Master Plan could result in extension of the parking queue (defined as the cars waiting curbside along Lincoln) during the morning drop-off and the after-school pickup period.

**Mitigation T1:** The project sponsor shall monitor the morning drop-off and afternoon pick-up queue during the school year as well as during any summer program operations. The procedures and monitoring forms are included in the TDM Plan. The project sponsor shall implement the monitoring procedures by hiring either: 1) retaining a qualified independent traffic ~~engineer~~ consultant approved by the planning director or the director’s designee to monitor the extent of the queue along Lincoln Avenue ~~or 2) hire a qualified independent traffic consultant, approved by the Bureau of Planning, to train at least two (2) supervising monitors to implement and supervise the monitoring procedures. The engineer may select one assistant to help monitor the queue. Any new supervising monitor must be trained directly by the independent traffic consultant.~~ If the school’s drop-off or pick-up queue extends for more than 60 seconds in any single monitoring period (excluding delays due to extenuating circumstances such as a traffic accident) past the school’s upper driveway and the red “no parking” zone above the driveway along the north side of Lincoln Avenue and extending into the “Keep Clear” zone, the school shall implement as many of the following actions and continue to implement these actions as would be necessary to accomplish the necessary reduction in the length of the queue:

- ~~• Implement staggered morning drop-off and afterschool pickup times.~~
- ~~• Stagger the afterschool bus pick-up times so that the buses are loaded and leave prior to the start of pickup.~~
- ~~• Discourage early arrival for pickup within the Transportation Policy Guide and during an annual back to school traffic presentation.~~
- Immediately ~~h~~increase public and private bus ridership in addition to those measures already in effect at the time of the queueing violation.

Imposition of penalties and fines of \$100 per violation to the violating parent with an additional \$100 for each subsequent violation until the school brings the queue into compliance with the mitigation measure.

- ~~• Institute a program to charge parents for curbside access.~~
- ~~• If the previous measures do not reduce the queue, work with the City to restrict on-street parking during morning drop-off and afternoon pickup on Lincoln Avenue to allow for a longer queue. The School shall retain a qualified traffic consultant to prepare an analysis of~~

~~the queue extension for review by the City's Transportation Services and Oakland Police Department Traffic Safety Divisions. The School shall pay any required review fee. The City may decline to restrict on street parking to allow a longer queue, in which case other measures noted above must be pursued.~~

- ~~• Retain a qualified traffic consultant to analyze the installation of a bulb out on Lincoln Avenue for a specified length to prevent vehicles from entering and extending the queue beyond the School's upper driveway. The School shall pay the required review fee and if approved, the School will implement the bulb out for the length specified by the City's Transportation Services and Oakland Traffic Safety Divisions.~~
- ~~• Other measures as approved by the City's Bureau of Planning, Transportation Services, and Oakland Traffic Safety Divisions.~~
- ~~• If use of the Mormon Temple Upper Parking Lot as an off-site staging area to meter the flow and volume of morning or afternoon traffic to the Lincoln Avenue queues becomes unavailable and the queue length cannot be controlled in accordance with this condition by other means, consult with the City's Bureau of Planning, Transportation Services and Oakland Traffic Safety Divisions to find another off-site staging area. City staff shall ensure that use of another site as a staging area does not compromise the existing use of that site.~~

**Responsible Implementing Entity:** Bureau of Planning and Public Works Agency, Traffic Engineering Division

**Monitoring Action(s):** Monitoring and reporting shall take place for four one-week periods, once at the beginning of each School semester, and once at the beginning of each Summer Program session. After 2017, the number of monitoring sessions and the duration of the monitoring period for each school year shall be determined by the City of Oakland's Transportation Services Division, Oakland Traffic Safety Division and Bureau of Planning based in part of the school's performance in reducing the queue. In accordance with the TDM, ~~either~~ a qualified independent traffic consultant hired by the school subject to approval by the planning director or a designee with as many assistants as the traffic consultant feels are necessary, if needed, ~~or two (2) trained monitors~~ shall monitor the Lincoln Avenue queues during after-school pick-up (~~3:20-3:30~~ 3:20-3:30 to 3:45 p.m.) and morning drop-off (~~7:30-8:00~~ 7:30-8:00 to 8:30 a.m.) by recording observations of the length of ~~the~~ each queue, reporting on the number of vehicles in the queue every 15 minutes, and the maximum number of vehicles in the queue during the daily monitoring period using the form provided as an appendix to the TDM. The monitoring persons shall also note the number of buses in the queue at each monitoring time. ~~The traffic consultant~~ The Director of Operations shall prepare a report at the end of every week during each monitoring period based on the information gathered, sign the report, and submit to the Bureau of Planning.

If the results of any of the monitoring periods show that the queue of vehicles extends for a period of 60 seconds or more during each monitoring period past the school's upper driveway, the School shall consult with Bureau of Planning, Transportation Services Division, and Oakland Police Department Safety Division and determine which of the above actions shall be implemented in what order to reduce the length of the queue.

Monitoring and reporting shall continue for an additional three (3) weeks following implementation of each of the above actions and shall continue as long as the City deems necessary to show that it has been effective in reducing the length of the queue.

**Monitoring and Reporting Responsibility:** Head Royce School, through an independent traffic consultant.

**Monitoring and Reporting Review:** Bureau of Planning

## 12. School Grades/Enrollment / Verification.

### *Ongoing*

- a) Head Royce School is permitted to operate a K-12 Community Education Facility.
- b) The use of the campus will be limited to a private school, grades kindergarten through 12th grade, with a maximum enrollment of 875 students. Maximum total enrollment is not intended to be reached. This number recognizes the inability of the school admissions staff to know with precision the number of students who will actually matriculate relative to the number of students who are sent acceptance letters, and provides a cushion to protect the school from being out of compliance with this condition. The maximum school enrollment at Head Royce School is 906 students. No enrollment fluctuation resulting in enrollment above 906875 students is allowed.
- c) The school shall submit the enrollment numbers in a declaration signed under penalty of perjury by the head of school to the Bureau of Planning no later than October 15th each year.
- d) In accordance with state law, the school shall also submit its enrollment figures to the California Department of Education no later than October 15th of each year.

## 13. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Management.

*Ongoing* The project applicant may be required to cover the full costs of independent technical review and other types of peer review, monitoring and inspection, including without limitation, inspections of violations of Conditions of Approval. The project applicant shall establish a deposit with the Building Services Division, as directed by the Building Official, Director of City Planning or designee.

## 14. Hours of Operations (Academic, Childcare and After School Program).

### *Ongoing*



Head Royce School's hours of operation, which include academic, childcare and afterschool programs, are from 7:00 a.m. to 6:30 p.m. Monday through Friday. Indoor Athletic practices that do not involve visitors may commence at 6:30 a.m. on weekdays. In the fall, outdoor ~~Outdoor~~ athletic practices and games shall end by 5:00 p.m. with all vehicles off the campus and the gates locked by 7:00 p.m. 7:30 p.m. In the winter semester, athletic practices and games shall end by 6:00 p.m. with all vehicles off the campus and the gates locked by 8:00 p.m. Indoor activities involving only School students, faculty, staff and members of the board of trustees such as play rehearsals, standardized testing, band practices, and meetings of student organizations, faculty committees and meetings of the board of trustees are not considered Special Events as defined in Condition 16 and may occur after 6:30 p.m. on weekdays with all vehicles off the campus and the gates locked by 10:30 p.m. and between 8:00 a.m. and 6:00 p.m. on weekends. No lighting may be installed on the athletic field other than along paths, low to the ground, and for the purpose of walking to and from the field and parking lot. Coaches and teachers handling practices or games will remain on the premises and supervise the students until all of them have left the campus.

## 15. Summer Program Enrollment / Operations.

### *Ongoing*

- a) Summer Program hours are from 7:30 a.m. to 6:00 p.m. over the summer from Monday through Friday only.
- a)
- b) Summer Program includes two, three (3) week contiguous sessions spanning six weeks, generally beginning the third week in June through the last week in July.
- e) ~~Summer Program hours are from 7:30 a.m. to 6:00 p.m. over the summer from Monday through Friday only.~~
- d) ~~Summer Program includes two, three (3) week sessions spanning six weeks, generally beginning the third week in June through the last week in July.~~
- e) ~~The Summer Program may have evening or weekend Special Events. However, those Special Events will be included in the maximum number of Special Events listed below.~~
- c) After 2:00 p.m. of each day that the Summer Program is in session, the Summer Program activities will only involve quiet activities with no excessive noise from the participants, the employees, or anyone else affiliated with HRS or with the Summer Program becoming audible beyond HRS' property lines.
- f)d) The maximum Summer Program enrollment is 780500 children per session. The Director of Operations shall submit the enrollment numbers to the Planning and Zoning Division 2 weeks prior to each session of the Summer Program.
- g) ~~The playing fields or pool shall not be used prior to 9:00 AM.~~
- h)e) The School shall operate the Summer Program and shall not lease, partner or loan out the Summer Program to another operator.
- i)f) Unless otherwise noted, all Conditions of Approval that apply to School operations apply to the Summer Program.

## 16. Number of Special Events / Days and Hours of Operation.

### *Ongoing*

The School ~~and the Summer Program~~ shall be permitted to hold Special Events at the Head Royce School campus subject to the following:

- a) A "School Special Event"- is defined as a gathering of parents, students, visitors and school employees at the campus ~~in which visitors (including parents) are invited to the campus~~ in conjunction with a School ~~or Summer Program sponsored event or activity~~ activity such as a Back to School night, a play or musical performance by students, athletic event, dance, ~~walk-a-thon, guest speaker, school~~ fair, Admissions Open House, ~~promotion or or~~ graduation ceremony, associated and carried out by the school (not an outside group or organization) and for which 50 or more visitor vehicles are expected, but no more than 200 vehicles. If more than one Special Event occurs on a single day, each Special Event shall count as a separate one event. Parking rules for Special Events are discussed in the TDM Plan. A Special Event does NOT include indoor activities involving only School students, faculty, staff and members of the board of trustees such as play rehearsals, standardized testing, band practices, and meetings of student organizations, faculty committees and meetings of the board of trustees. In addition, neighborhood meetings required or requested to be held on campus as a condition of this permit or otherwise by the City are not considered to be Special Events.
- b) The project applicant is allowed 30 School Special Events per school year, not including summer months, between the hours of 7:00 a.m. and 9:00 p.m. on weekdays during the school year, only, and that do not exceed 100 visitors. All vehicles must be off the campus and the gates locked by 10:00 p.m.
- c) The project applicant is allowed another 10 School Special Events from 6:30 p.m. to 10:00 p.m. on weekdays, not including summer months, not to exceed 150 visitors. All vehicles must be off the campus and the gates locked by 10:30 p.m.
- d) The project applicant is allowed 2 Saturday School Special Events per school year, not including summer months, not to exceed 150 visitors anytime between 7:00 a.m. and 10:30 p.m. with all vehicles off the campus by 11:30 p.m. and the gates locked.
- a)e) No School Special Event, other than graduation may exceed 200 visitor vehicles.
- b) ~~The school shall post an annual calendar on its website and provide the website link to the NSC Neighborhood Committee described in Condition 25 by August 1st at the beginning of the School year listing all School Special Events and the anticipated number of visitor vehicles that will be generated for each event. The School is permitted an additional ten (10) total weekday evening events that are not on identified on the annual calendar, provided that the Neighborhood Committee is provided a 30-day notice of such addition and those events shall not take place during weekends or the summer.~~
- e) ~~The School is permitted an unlimited number of Special Events during school academic, childcare and afterschool program hours of operation. However, these events for which 50 or more visitor vehicles are expected must follow the TDM procedures for Special Events.~~
- d) ~~The school shall be permitted a maximum of 85 evening Special Events per school year during the hours of 7:00 p.m. 9:30 p.m. All Special Event participants shall~~

- ~~have left the campus and the lot locked by 10:00 p.m. School dances shall end by 10:30 p.m. with all participants leaving by 11:00 p.m.~~
- ~~e) The school shall be permitted a maximum of 55 Saturday daytime Special Events per school year during the hours of 9:00 a.m. to 6:00 and 10 Saturday evening Special Events per school year during the hours of 6:00 p.m. to 9:30 p.m. The school shall be permitted a maximum of 10 (10) Sunday Special Events per school year during the hours of 9:00 a.m. to 6:00 p.m. The school shall be permitted a maximum of ten (10) single day summer Special Events during the hours of 9:00 a.m. to 6:00 p.m. and only on weekdays.~~
- f) Other than the 2 Saturday events allowed above, there will be no School Special Events or any other use of the facilities on weekends.
- ~~g) No events shall be held that have not been published on the school calendar or a 30 day in advance or emailed to immediate neighbors one month in advance. The school is not permitted to rent or loan out any of its facilities.~~
- g)h) All School Special Events shall be monitored by the School per the TDM.

## 17. Total Number of Employees.

### *Ongoing*

- a) The Project Applicant shall not have more than 157 employees.<sup>2</sup> An “employee” is defined as: full-time or part-time, independent contractor, or other person paid by the school to provide services of any kind. Two persons filling one job are defined as two employees. The applicant shall submit the total number of employees to the Bureau of Planning no later than October 15th each year in a declaration signed under penalty of perjury.
- b) In accordance with state law, the school shall also submit their employee numbers to the California Department of Education no later than October 15th of each year.

## 18. Master Plan May Be Required for Student Enrollment Increase or “Future Construction”.

### *Ongoing*

The Project Applicant shall apply for a new or amended Planned Unit Development Permit for any student enrollment increase over ~~906875~~ students on the Head Royce campus site, including but not limited to any physical expansion of Head Royce School’s operations at 4315 Lincoln Avenue or any other “Future Construction” associated with increasing Head Royce School’s operations. The City may require preparation of a campus-wide Master Plan for any such expansion. Future Construction is defined for purposes of this condition as: new, wholly reconstructed, or relocated school buildings, any expansion of floor area (as defined by Planning Code), new enclosed buildings or portions of buildings (i.e., storage shed, garage, attic on an existing building). For purposes of this condition, future construction does not include features such as

<sup>2</sup> The NSC does not know the current number of employees at HRS. This number is based on the number of parking spaces and is not intended to suggest that HRS should only have 157 employees.

unenclosed decks/balconies, stairs, walkways, patios, courtyards, fences, walls and retaining walls, trellises or other landscape features, interior remodeling of an existing building, or repair of existing building features. Any future Master Plan shall address, at a minimum, an adequate on-site pick-up and drop-off area, how the school will accommodate additional student growth, a comprehensive development plan for the entire School, including addressing all on-site parking, events, sports fields (if applicable) and traffic-related and vehicle access issues. The last enrollment and staffing form submitted to the California Department of Education shall be required as part of the application documents.

## 19. Operational Noise General.

### *Ongoing*

Noise levels from the activity, property, or any mechanical equipment on site or as a result of school operations shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services. No outdoor amplified sound equipment shall be used on the campus without a permit from the City Manager's office. For the purposes of this permit, "amplified sound equipment" includes bull horns, air horns, or loud speakers.

## 20. Parking Requirement and Shared Parking

At maximum enrollment (~~906875~~ students), the School shall provide a minimum of 157 off-street parking spaces and in all cases shall, at a minimum, maintain sufficient off-street parking to meet Oakland Planning Code section 17.116.070(C). These spaces may be provided either at 4315 or 4368 Lincoln Avenue, provided that the spaces used at 4368 Lincoln Avenue are not already allocated to the existing use permit governing uses at that site. The School may use surplus parking<sup>3</sup> at 4368 Lincoln Avenue, the Greek Orthodox Church, Cerebral Palsy Center, Mormon Temple or other off-site locations for additional parking, provided that use of these facilities for parking is not in fulfillment of the School's obligation to provide 157 off-street parking spaces at maximum enrollment and are not required or needed for the uses governing those sites.

## 21. Whittle and Lincoln Avenue Properties.

### *Ongoing*

The properties located at 4200 and 4220, and 4180 Whittle Avenue, and the property located at -4233 Lincoln Avenue shall be limited solely to residential uses as defined in Oakland Municipal Code section 17.10.110 and the School will not merge the lots without obtaining an amendment to Case File PUD04-400. The merging of these residential lots will constitute a major change, reviewable by the Planning Commission and if there is an appeal, by the City Council. The school shall maintain the residential character of these houses and ensure that the houses maintain their structural integrity. No

<sup>3</sup> "Surplus parking" is not defined until later in the document. Please include a definition here.

part of these properties shall be used for ~~The rear of these properties shall not be used for additional School parking, egress and ingress to the school campus, drop-offs or pickups, deliveries, tree trimming or tree maintenance except for trees on one of the three residential properties owned by the school, storage of school supplies, materials or machinery or for maintenance purposes related to the campus.~~

**22. ~~Whittle Gate Access.~~**

*Ongoing*

**Insert 1: Ingress / Egress**

The campus has several points of possible entry and exit. They include, but are not limited to: the driveway on Lincoln Avenue, the gate and stairs on Lincoln Avenue, the residential properties owned by the school (4200, 4220, and 4180 Whittle Avenue, and the property located at 4233 Lincoln Avenue), a pedestrian gate on Whittle Avenue, a driveway on Whittle Avenue, and other non-designated entry points along the perimeter of the campus, which can be accessed with or without permission of the school. All ingress and egress to and from the campus will be from Lincoln Avenue through the campus driveway and through the gate leading to the main stairway into the campus. Handicapped vehicle access will be provided through the driveway off of Lincoln Avenue. Exception for students and employees living near the gate per Insert 2.

**Insert 2: Whittle Gate**

The gate leading to the driveway on Whittle Avenue will be changed from a metal gate to a solid wooden crash gate that can only be opened by a code used by drivers using the 22 parking spaces at the bottom of the Whittle driveway, delivery drivers, or for emergency or maintenance purposes. At all other times, the gate will remain closed and locked with an automatic locking system.

The school will obtain and follow the requirements of the fire department for providing emergency access through a crash gate, including installing a device that allows access to the crash gate lock. The school will submit the plan to the Planning Director for approval within two months of issuance of the modified PUD. The school will complete building the wooden crash gate and code operated gate within six months of the grant of the modified PUD.

The pedestrian gate on the side of the Whittle driveway gate will be changed to a key card system. The only persons allowed to have a key card will be students and HRS employees living on Whittle Avenue between Tiffin and where Whittle deadends, Funston Place, Fruitvale Avenue between Hoover Avenue and Tiffin Road, and Clemens between Waterhouse and Fruitvale Avenue. Each student and employee living on the

streets listed herein will sign a contract with the school agreeing to only use the key card and not loan it to anyone else, hold the gate open for anyone else, or in any other way make the gate accessible to anyone. The only allowable purpose for the key card will be to access the campus on school days, including for participants in the summer program, or for School Special Events. The contract will specify that the penalty for violating the rules stated in the contract will be loss of the key card for one semester.

The Whittle pedestrian gate will be monitored by an independent monitor hired by the school and approved by the Planning Director or designee. (See section on monitoring.) In the event that the monitor sees a rule violation, he or she will write up the violation with the most amount of information available and provide it to the rule enforcer for inclusion in the rule enforcer's report to the Planning Director or designee.

The code for the Whittle driveway gate will be changed at least every six months to prevent misuse of the code for access by persons other than drivers accessing the 22 parking spaces, delivery drivers, maintenance employees, and emergency personnel.

The school will install a solid wooden fence, at least six feet high, along the campus side of the property line adjacent to the houses on Whittle Avenue (4200, 4220, and 4180 Whittle Avenue) and 4233 Lincoln Avenue that prevents ingress and egress through the residential properties owned by the school. The solid wooden fencing must be at least six feet tall, of an attractive design, and sufficient length along the campus side of the property line to prevent ingress and egress, with the exception of the driveway and the key card holders leading from Whittle Avenue. The design of the fence will be shown to the adjacent neighbors and any comments will be submitted to the Planning Director along with the proposed design for approval by the Planning Director within two months of issuance of the modified PUD.

Access to the school through Whittle Gate shall be limited as follows: Deliveries to the School shall be directed to Whittle Gate in accordance with Condition 26. ~~The project applicant may provide pedestrian card access to the Whittle Gate to students or employees who walk or bike to School and to the 20 teachers permitted to park on Clemens Street. The School may provide up to 22 vehicle access cards to faculty, staff or disabled visitors to park in the parking spaces in the School's lower parking lot. Disabled students may be dropped off at Whittle gate. Each year, the School shall deactivate the cards and issue new cards.~~ Monitoring of Whittle Gate shall take place in accordance with Condition 23, below. ~~The number of pedestrian and vehicle~~ and key card passes distributed each year shall be submitted to the Planning and Zoning Division.

### **23. Transportation Demand Management.**

#### ***Ongoing***

The applicant shall maintain a TDM plan attached as Exhibit A to these conditions during both the regular school year and during the Summer Program. Among other things, the

TDM implements Conditions 23 a-g as set forth below. The Conditions are the governing and enforceable conditions of approval.

**a) Traffic Circulation and Management**

The School shall continue to implement policies to ensure that 1) the drop-off and pick-up process is managed effectively and efficiently; 2) to minimize traffic on neighborhood streets; and to 3) encourage safe driving behaviors. These policies include:

- i. Continuation of before and after-school childcare programs to reduce the number of peak vehicles arriving and departing the campus.

**Insert 3**

**C. Transportation**

**a. Drop-off**

At no time, will the school allow busses to park on both sides of Lincoln Avnue across from one another.

The school will require that at least 20% of all students enrolled by the school arrive at the school by bus or shuttle service. A “bus” is defined as having at least 62 seats and includes busses owned or controlled by the school or AC Transit. A “bus” does not include double-busses, tour busses, or busses of similar size. A “shuttle” is defined as a vehicle that carries at least 10 students and no more than 30 students or at least 10 adults, and is owned or controlled by the school. The school will provide the shuttle service and bus service, other than AC Transit, at a cost of no more than \$500 per year per school family to incentivize the bus and shuttle ridership. The \$500 fee will remain in effect for 10 years and the service will be free to employees for at least ten years.

The school has a current enrollment of 875 students. If the City approves the 906 student enrollment as requested, the school shall only enroll ten students at the end of 2016 if it has increased the bus ridership requirement to 30% of the 875 enrollment amount; another ten students by the end of 2017 if HRS has increased the bus ridership requirement of the 885 enrollment to 40%; and the remaining students (21 students) to complete the 906 by the end of 2018, if HRS increases required bus ridership to 50%. To qualify for addition of the students, the rule enforcer must count the students arriving by bus over three different, random days without notice to the school and submit the information to the Planning Director or designee. Only if the students riding the bus meet the criteria, may the school advance to the next level of additional enrollment.

The school shall require that at least another 10% of the students arrive by walking or bicycle.

A “carpool” is defined as a standard sized or larger vehicle with one adult driver over 21 years of age and transporting at least four students, a standard sized or larger vehicle with one student driver with at least four additional students, a compact car with one adult driver over 21 years of age and three students, a compact car with one student driver over 17 years of age and at least three additional students. At least 10% of the students must arrive by carpools.

The school will require that students arriving by bus or shuttle service will have one location to offload, in front of the main gate on the north side of Lincoln Avenue. The school will schedule bus and shuttle arrival times such that no more busses and shuttles queue between the front gate and the school’s driveway on Lincoln Avenue than can fit into that space. The school will not allow any bus, vehicle, or shuttle service to offload on the south side of Lincoln Avenue.

In the event that the school finds it cannot stack the busses and shuttles so that they do not park east of the school’s main gate and west of the school’s driveway, it will stagger its class schedule to achieve the restriction in the above condition.

All school related vehicles and busses will not load or unload on any street other than Lincoln Avenue and will proceed in the same direction through Lincoln Avenue to the freeway.

Parents with children too young to ride the bus or a carpool will deliver the children to the bottom of the school driveway parking lot at the Lincoln Avenue side. The school driveway must be kept sufficiently free of parked cars as to provide sufficient space for drivers to loop around the campus parking lot so that they can resume travel after drop-off in the same direction as before they dropped off students. School traffic is not permitted to make u-turns on Lincoln Avenue or any other neighborhood street, use any residential streets as a “loop,” or in any other manner enter residential streets to change the direction of their travel after dropping off students.

The school will require that all busses, shuttles, or other vehicles, other than the AC bus, not enter or leave any residential streets in the neighborhood surrounding the campus, including but not limited to: Alida, Alida Court, Laguna, Charleston, Burlington, Potomac, Linnet, Tiffin, Whittle, Funston, Coolidge, Clemens, and Fruitvale. The school will monitor and prevent any bus or shuttle drop-off from occurring in any other location within the neighborhood other than in front of Lincoln Avenue in the area described in the above condition. It will monitor and



require that all carpools and other vehicles with students do not drop-off students in any other location than specified in the above condition.

Prior to August 1st of each school year, the school will provide the Planning Director an accurate list of all license plates for parents or others who may at some time during the school year bring children to or from the school. The license plate list must accurately list the license plates and descriptions of all vehicles that may come to the school at any time. The school will provide a copy of an accurate list to the Neighborhood Steering Committee by August 1st of each year.

The school's employees will arrive at the school by at least 30% shuttles or busses, provided by the school at no charge, at least 20% in carpools, and no more than 50% by single occupancy cars. A carpool for employees is defined as a compact car with one driver and at least two passengers or a larger vehicle with one driver and at least four occupants. The "no charge" condition will remain in effect for at least ten years.

**Penalty Provisions:** The penalty for having less than the applicable percentage of bus ridership will be \$1,000 for each day that it is not met and \$100 per student below the applicable bus ridership. The penalties will begin anew the following semester or after two months, whichever occurs first. A violation may be demonstrated with a declaration from any person. The documents must be submitted to the planning department with a copy to the school's head of school to be considered by the Planning Director. The Planning Director will determine whether a violation has occurred and apply any penalties.

#### **D. Pick-up**

At no time, will the school allow busses to park on both sides of Lincoln Avenue across from one another.

Head Royce operates an after-school program and many students who come to school at the same time do not go home at the same time due to after school activities.

The school will require bus ridership for 10% of the students leaving HRS at the end of each school day.

The school has a current enrollment of 875 students. If the City approves the 906 student enrollment as requested, the school shall only enroll ten students at the end of 2016 if it has increased the bus ridership requirement for pick-up to 20% of the 875 enrollment amount;

another ten students by the end of 2017 if HRS has increased the bus ridership requirement for pick-up of the 885 enrollment to 30%; and the remaining students (21 students) to complete the 906 by the end of 2018, if HRS increases required bus ridership to 40%. To qualify for addition of the students, the rule enforcer must count the students arriving by bus over three different, random days without notice to the school and submit the information to the Planning Director or designee. Only if the students riding the bus meet the criteria, may the school advance to the next level of additional enrollment.

Any parent picking up a student by car will be directed by the school to the campus driveway. No child will be picked up at any other location, including but not limited to, the residential streets Alida, Alida Court, Laguna, Charleston, Linnet, Burlington, Potomac, Tiffin, Whittle, Funston, Coolidge, Clemens, and Fruitvale, and the south side of Lincoln Avenue.

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ii. Maintenance of detailed, written instructions of the vehicle pick-up and drop-off process for the purpose of increasing efficiency in the pick-up and drop-off operation. These procedures, which will be incorporated into a Transportation Policy Guide, shall include, but are not limited to, how to access the vehicle drop-off/pick-up lane from each direction (~~loops~~), a map showing the specific area where vehicle drop-off and pick-up is permitted, rules regarding safe practices for entering and exiting vehicles, and the area that queue cannot exceed. The Guide shall specifically discourage early arrival for afternoon pickup. The summer program shall follow the Transportation Policy Guide.

iii. Compliance with Mitigation Measure Mitigation T1 and Condition 11.

~~iv. Mormon Temple Staging Area and Alternative: If the Mormon Temple Staging Area becomes unavailable for use during the pick-up or drop-off process, the School shall promptly institute one of the alternative means of maintaining the queue in compliance with these conditions as set forth in Condition 11. If an off-site staging area continues to be the preferred method to control the queue, the School shall institute that alternative within 30 days of the unavailability of the Mormon Temple in consultation with City staff. Alternative potential staging areas could include the parking lot of the Greek Orthodox Church, the Cerebral Palsy Center and/or the School's property at 4368 Lincoln,~~

**Insert 5:**

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**Monitoring:** Within 90 days after issuance of the modified use permit, the Planning Director will choose a traffic management company, to be paid for by the school, who will perform the following services:

a. Hire, train, and supervise competent, adult traffic monitors, not employed by HRS, to complete the following tasks between 7:00 a.m. and 8:30 a.m., and again between 2:30 p.m. and 4:00 p.m. on school days during the school year and between 7:00 a.m. and 1:00 p.m. during summer school:

- i. One monitor will be located at the campus driveway and prevent any vehicles, busses or shuttles from parking eastward (uphill) of the school's driveway on Lincoln Avenue. If a vehicle attempts to pull into this area, the monitor will direct the vehicle either down the driveway or if that is not possible, record the license plate and description of the vehicle as a rule violation. The monitor will also intercede and stop jaywalking and any other unsafe driving or pedestrian behavior.
- ii. A second monitor will be located on the south side of Lincoln Avenue across from the school driveway and will direct drivers who attempt to u-turn or use the Greek church parking lot that they may not do so. If the driver refuses to comply with the monitor, the monitor will write down the license plate and description of the vehicle. The monitor will intercede and stop jaywalking and any other unsafe driving or pedestrian behavior.
- iii. A monitor will be located half way between the school's driveway and its main entrance on the north side of Lincoln Avenue. This monitor will prevent drivers from double-parking or pulling the front of the vehicle into the bus and shuttle parking space. If the driver refuses to comply with the monitor, the monitor will write down the license plate and description of the vehicle. The monitor will also intercede and stop jaywalking and any other unsafe driving or pedestrian behavior.
- iv. A monitor will be located half way between the school's driveway and its main entrance on the south side of Lincoln Avenue. This monitor will prevent parking, and drop-off or pick-up. If the driver refuses to comply with the monitor, the monitor will write down

the license plate and description of the vehicle. The monitor will also intercede and stop jaywalking and any other unsafe driving or pedestrian behavior.

- v. Two monitors will be located at the front gate on Lincoln Avenue to make sure that students safely depart busses and shuttles and walk into the campus through the main gate. These monitors will also direct drivers of vehicles not to park in front of the school or drop-off or pick-up students in that location. If a driver refuses to comply with the monitors or repeats the same driving maneuver again, the monitor will write down the license plate and description of the vehicle. The monitors will also intercede and stop jaywalking and any other unsafe driving or pedestrian behavior.
- vi. One monitor will be located on the south side of Lincoln Avenue across from the main gate. He will direct drivers to not drop-off or pick-up students on Lincoln Avenue. If the driver refuses to comply with the monitors or repeats the same driving maneuver again, the monitor will write down the license plate and description of the vehicle. The monitors will also intercede and stop jaywalking and any other unsafe driving or pedestrian behavior.
- vii. At least two monitors will be located in each driveway on the former Lincoln Child Center property driveway and the campus driveway to supervise drivers and students leaving the driveways to enter the campus or returning for pick-up. If a driver refuses to comply with the monitors, the monitor will write down the license plate and description of the vehicle.
- viii. Four monitors will be posted each at the corners of Alida & Laguna, Alida & Lincoln, Potomac & Lincoln, Burlington & Lincoln Ave., and Tiffin & Lincoln to direct school traffic away from entering the neighborhood residential streets. If a driver refuses to comply with the monitors or repeats the same driving maneuver again after being instructed not to do so, the monitor will write down the license plate and description of the vehicle.
- ix. Two monitors will be posted each at the corner of Tiffin and Whittle and at the Whittle gate to direct school traffic from

entering Whittle or attempting to complete drop-off or pick-up on the residential streets. If a driver refuses to comply with the monitors or repeats the same driving maneuver again, the monitor will write down the license plate and description of the vehicle.

- x. Two monitors will be located each in the parking areas for student drivers. These monitors will supervise student drivers and direct them to drive slowly in and out of the driveways, turn off their radios until they have left the neighborhood, and not honk horns or make other unnecessary and excessive noise. The monitors will also supervise passengers of the student drivers and make sure that conduct in the parking areas and driveways is consistent with safe and polite behavior. If a student driver fails or refuses to comply with directions, the monitor will write down the license plate and vehicle description.
- xi. The monitors will provide reports of violations to the rule-enforcer once a week.

**Insert 6:**

**Rule Enforcer/Violations:** The Planning Director will choose a person who will act as a “rule enforcer,” and be paid for by the school. The Rule Enforcer will collect violation reports from the monitors and any other person who provides them. The rule enforcer will include the violation reports in his or her report to the Planning Director each month and the Planning Director will provide a copy to the Neighborhood Steering Committee and the school with attached violation reports.

The rule enforcer will provide a copy of the monitors’ violation reports to the school, which will have the driver meet with the head of school. The school will provide a notice to the violator with specifics of what rule was violated.

If the violator is a student, the project applicant will notify the student of the violation, and send a notice of the violation to his or her parents, and if there is any further violation require that the student arrive and leave on a bus or shuttle. If the violator refuses or violates again, a fine in the amount of \$100.00 shall be imposed by the school, payable to the City, to be deposited into a "penalty fund," described further in Section 43 of this permit. Further violations will result in fines of amounts increased by \$100.00 for each subsequent violation.

If the violator is an employee, the project applicant will notify the employee of the violation. If the employee refuses to comply or violates again, a fine in the amount of \$100.00 shall be

imposed by the school, payable to the City, to be deposited into a "penalty fund." Further violations will result in fines of amounts increased by \$100.00 for each subsequent violation.

If the violator is a driver of a bus or shuttle, the school will notify the driver, if self-employed, or his employer. If the employer refuses to comply or the violating driver refuses to comply and violates again, a fine in the amount of \$100.00 shall be imposed by the school, payable to the City, to be deposited into a "penalty fund." Further violations will result in fines of amounts increased by \$100.00 for each subsequent violation. The terms of this condition will be included in any contract between the school and the bus service provider.

The rule enforcer will collect the data from the car trip counting equipment once a month and include that information in the monthly report to the Planning Director. Once a month for the first three years, and thereafter once every three months, the rule enforcer will find a car count company, to be paid for by the school, to count the number of students arriving and leaving on the busses and shuttles. The car counts will be random and without any notice to the school. The car count company can use as many employees as necessary to complete an accurate count. The rule enforcer will include the counts in the reports to the Planning Director, who will provide a copy to the school and to the Neighborhood Steering Committee.

~~v. Circulation Assistants: During morning drop-off and afternoon pick-up periods, the project applicant shall assign 5 adults in the morning and 8 adults in the afternoon to assist with the efficient flow of pick up and drop off traffic in approximately the locations listed below, subject to refinement per discussion with the City planning staff. The circulation assistants shall be distinct from the traffic safety monitors:~~

~~Morning assistants:~~

- ~~1. One circulation assistant at the Lincoln Avenue crosswalk in front of the Gatehouse.~~
- ~~2. One circulation assistant at the bus loading zone on the north side of Lincoln.~~
- ~~3. One circulation assistant at the middle school gate above the bus loading zone on the north side of Lincoln.~~
- ~~4. One circulation assistant for the student drop off area zone on the south side of Lincoln~~
- ~~5. One circulation assistant at the top of queue on the north side of Lincoln~~

~~Afternoon circulation assistants:~~

~~Same as morning with additional circulation assistants as follows:~~

- ~~6. One circulation assistant at the top of the main gate stairs matching parent vehicles to waiting students for pick up.~~

- ~~7. One circulation assistant at the upper driveway to manage the queue.~~
- ~~8. One circulation assistant at staging area in the Church's overflow parking lot (or alternative)~~

~~The school shall have a sufficient number of qualified alternates on campus during every morning and afternoon drop-off time to ensure that the minimum number of traffic personnel is always met. All traffic assistants shall wear colored safety vests. The summer program shall have at least as many circulation assistants as the school year program.~~

**Insert 7:**

**c) b) Parking management strategies**

**d) E. Parking**

There are three locations owned by Head Royce that have parking lots: the campus parking lot (138 parking spaces) accessed by the driveway on Lincoln Avenue to the campus parking lot, the Whittle driveway parking lot (22 spaces), and the former Lincoln Child Center parking lot with 140 spaces. The school will use the campus parking lot, the Whittle driveway parking lot, and 44 parking spaces on the former Lincoln Child Center parking lot, and that have been allowed by the planning department for the school's use. These lots must be used for all student drivers, employees, vendors, independent contractors, visitors, and any other person affiliated or having business with Head Royce. It will direct visitors or others at the main gate to move their vehicles off Lincoln Avenue, Alida, Alida Court, Laguna, Charleston, Burlington, Potomac, Tiffin, Linnet, Whittle, Funston, Coolidge, Linnet, Clemens, and Fruitvale, or out of any residential street and into one of these parking lots.

The school will not allow its employees, student drivers, independent contractors, vendors, employees, or visitors to park on Lincoln Avenue or any residential street including but not limited to Alida, Alida Court, Laguna, Linnet, Charleston, Burlington, Potomac, Tiffin, Whittle, Funston, Coolidge, Clemens, and Fruitvale.

The school will provide a complete and accurate list of employees' vehicle car license plates and vehicle descriptions to the Planning Director no later than August 1st of each school year with the license plate and a description of each vehicle that may be used by employees to enter or leave the school. The school will provide a copy of the list to the Neighborhood Steering Committee by the same date.

The school will not allow any radios to be played, honking of horns, or excessive noise to occur on any parking lots owned by the school.

~~The School shall implement parking management strategies to ensure that 1) the School minimizes parking in the neighborhood; 2) school-related parking does not disrupt traffic; and provides incentives to reduce single occupancy vehicles.~~

~~i. Through its TDM and Transportation Policy Guide, the School's policy shall be to direct staff, students and visitors to park in the School's 157 off-street spaces, in the lot at 4368 Lincoln Avenue, in the 20 spaces by agreement on Clemens Avenue and on Lincoln Avenue above the Gatehouse and direct them not to park on the side streets in the neighborhood.~~

~~ii.i. The School shall continue to pay for a Residential Permit Parking program on Alida Avenue, Alida Court and Linette Court, Whittle Avenue (above Tiffin Rd) and Funston Place, including any increases in fees charged by the City through the City of Oakland unless the neighbors on these streets withdraw their request to maintain this permit program,~~

~~ii.ii. Staff who contract with the school to carpool shall be given on-site priority spaces relative to non-carpooling staff in order to reduce single occupancy vehicles,~~

~~ii.iii. Students shall be directed by the School to park in off-street parking on campus or on Lincoln Avenue above the Gate house. Students that contract with the school to carpool shall be given on-site priority spaces in order to reduce single occupancy vehicles.~~

~~iv. The School shall maintain the required number of parking spaces per Section 17.116.070(C) at all times, including the Summer Program (one (1) space for each three employees plus one space for each 10 high school students of planned capacity.) An increase in employees or high school students could require additional parking spaces to be provided to meet the Planning Code. Required parking may be provided either on the Head Royce campus itself, unless prohibited by other Conditions of Approval, or at 4368 Lincoln Avenue or at other off-street locations. Surplus parking spaces are defined as those spaces above and beyond the requirements of the Planning Code for the permitted use. City staff shall use the School staff and student enrollment information submitted to the State of California Department of Education to determine compliance with parking ratios.~~

~~v. In its Transportation Policy Guide, the School shall define "single occupancy vehicle" as a vehicle with the one driver and one non-driving student or child.~~

**c) Auto Trip Reduction Program**

The School shall discourage single-student and single parent/student driving in the Transportation Policy Guide and comply with the conditions herein that reduce implement policies with a goal of reducing single occupant vehicles arriving or



departing the School. The Auto Trip Reduction Program shall be included in the TDM and address all four modes of transportation (pedestrian, bicycle, carpooling/vanpooling, and transit), including:

- i. The project applicant shall continue to sponsor and provide private buses ~~(or an equivalent service and capacity as existing conditions)~~ in conformance with the conditions stated in this permit.
- ii. The project applicant shall continue to subsidize an AC Transit bus pass to students and faculty as long as AC Transit bus service is available. The project applicant shall assign a transportation coordinator who will provide carpooling and ridematching services to parents who are interested in carpooling.
- ~~iii.~~ ~~The School shall commit to maintain the applicable percentage ~~an average of 20% of~~ ~~(as measured over three years)~~ of its students traveling to school by busses or shuttles. ~~It shall institute the conditions in this permit as stated herein.~~ ~~modes other than single occupancy vehicles (e.g. driving or being driven alone).~~ ~~The School shall conduct an annual survey of travel modes, which survey shall be reviewed as part of the independent compliance monitoring described in Condition 23(g).~~ ~~Alternative travel modes shall include walking, biking, carpooling or taking a bus.~~~~

iii.

d) **School Special Events**

- i. The project applicant shall establish transportation procedures for Special Events to 1) ensure that Special Events are managed efficiently and effectively; and 2) ~~minimize prevent~~ traffic and parking in the neighborhood. The project sponsor shall anticipate the attendance of Special Events and note this on the school's calendar. At least two weeks prior to a Special Event, the School shall confirm the anticipated number of vehicles and distribute the appropriate parking locations and restrictions to the attendees and Neighborhood Liaison Committee. For all Special Events, the school shall direct visitors not to park on neighborhood streets and instead ~~direct encourage~~ them to park in off-street lots. ~~or on either side of Lincoln Avenue above the gatehouse.~~
- ii. For single or cumulative Special Events on the same day that will generate between 50 and 150 ~~cars people~~, the School shall provide sufficient parking on-site parking either at the main campus, or 4368 Lincoln Ave. ~~or Lincoln Ave. above the gatehouse.~~ For single events or cumulative events on the same day expected to bring be between 150 and ~~400-200 cars people~~, the School shall provide sufficient parking on-site, at 4368 Lincoln Avenue, ~~on Lincoln Avenue above the gatehouse~~, the Mormon Temple, the Greek Orthodox Church and/or Cerebral Palsy Center. For any School Special Event, the school may not allow more than 200 visitor cars to participate.

Exception: For graduation, the school may have more than 200 visitor cars and it will provide ~~For events exceeding 400 people,~~ an off-site alternative, with a shuttle or valet system, is required.

iii. Traffic Monitors during Special Events: The purpose of traffic monitors during Special Events is to direct cars away from neighborhood streets and into off-street parking ~~or onto Lincoln Avenue above the gatehouse~~. Single or cumulative events with 50 or fewer visitor vehicles people are not considered Special Events per Condition 16 and do not require a traffic monitor. However, parking signs shall be posted along Lincoln Avenue. Single or cumulative events with 50-150 people shall require one monitor along Lincoln Avenue at the corner of Lincoln and Alida and another monitor at the Whittle Gate. Single or cumulative events between 50 and 200 people shall require four (4) monitors. Monitors will be stationed at the following streets to direct cars to parking provided for the event: Whittle Gate, Lincoln Avenue south of the gate house, Alida Street between Lincoln and Laguna Avenue, and Alida Court. Single or cumulative events over 200 people shall require six (6) monitors, unless an off-site shuttle service is used. In addition to the streets listed above, the monitors will be stationed at the following streets:– Tiffin Avenue between Whittle and Lincoln Avenue, and Burlington Street.

The traffic monitors shall wear a colored safety vest, carry digital cameras, and provide adequate information to the school in order to identify the Special Event parking violators and for the school to implement the enforcement policy. Monitors shall be in the neighborhoods 15 minutes prior to any event.

The project applicant shall provide a live hotline number to reach an event manager during Special Events to be used to report violations or complaints. Enforcement of violations of Traffic Safety Rules (see subsection (e) below) observed during Special Events shall be handled in the manner set forth in the TDM.

**e) Communication**

The project applicant shall establish communication protocols to 1) institutionalize and encourage good neighbor parking and driving behavior; 2) ensure that the School community drives in a safe manner; and 3) ensures the rules are clearly communicated, including:

- i. Traffic Safety Rules: The TDM contains a list of Traffic Safety Rules that are designed specifically to increase safety of the school community and the neighborhood. The TDM also includes a list of “Good Neighbor Rules” designed to decrease impacts to neighbors.
- ii. The project applicant shall continue to maintain a Transportation Policy Guide. The Guide shall include, but not be limited to the following: Vehicle drop-off and pick-up procedures designed to promote an efficient operation; bus loading procedures; Traffic Safety Rules; “Good Neighbor Rules” including blocking

driveways, u-turns in neighbor's driveways; Transit Subsidy Program; Special Event Traffic and Parking Rules; and consequences for violations. If necessary to reflect the updated TDM Plan, the Transportation Policy Guide shall be submitted to Bureau of Planning, Transportation Services Divisions, and OPD-Traffic Safety for review. The project applicant shall distribute the Transportation Policy Guide to each student's parent/guardian. Each student's parent/guardian will need to provide written acknowledgement of receipt of the Policy Guide, and acceptance of its policies as a condition of enrollment. The School shall submit a record of each family's acknowledgement of receipt in a form acceptable to the City if requested. The project applicant shall hold a parent meeting at the beginning of each school year to discuss the traffic and parking. If rules change significantly, as determined by the Director of the Bureau of Planning, after the beginning of the school year, the project applicant shall hold another meeting. A City staff member may attend. The project applicant shall annually review the Transportation Policy Guide and submit the Transportation Policy Guide for review by the Bureau of Planning, Transportation Services Division, and OPD-Traffic Safety staff.

- f) Enforcement of Traffic Safety Rules and Event Traffic and Parking**
- i. The School shall implement and maintain a system to identify and track persons who violate the School's Traffic Safety Rules as set forth in the TDM. Good Neighbor Rules as set forth in the TDM shall not be considered Traffic Safety Rules subject to enforcement by the Bureau of Planning. Violations of the Vehicle Code are enforced by the Oakland Police Department.
  - ii. During the pick-up and drop-off periods: The School shall assign four (4) traffic monitors to implement and monitor the Traffic Safety Rules. The monitors shall be placed at:
    - Whittle Gate,
    - On the westbound loop (e.g. the intersection of Laguna and Alida)
    - Two traffic monitors for Lincoln Ave between the main entrance and upper driveway.

The traffic safety rule monitors shall wear a safety vest, carry digital cameras, and provide adequate information to the school in order to identify the rule violators and for the school to implement the traffic safety rule enforcement policy. Monitors shall be in the neighborhoods 15 minutes prior to scheduled pick-up and drop-off times.

- g) Compliance Reporting**
- i. The project applicant shall hire a qualified traffic consultant, approved by the planning director or designee to monitor compliance with the traffic-related conditions in the Conditions of Approval and the approved TDM. Specifically, the independent monitors shall verify compliance by:
    - Counting the number of traffic assistants and monitors present during drop-off and pick-up periods.

- Observing the drop-off and pick-up traffic flow and requiring measures to ensure smooth operations.
  - Reviewing the length of the queue and check if it extends above the upper driveway.
  - Collecting the number of violations that have been reported from Head Royce's database and recommending measures to reduce violations.
  - Recording parking occupancy in all Head Royce parking lots.
  - Monitoring Whittle Avenue and Alida to ensure it is not being use for School –related parking.
  - Maintenance of efforts to meet Auto Trip Reduction Goal
  - Count the number of students to determine whether the school is in compliance with the applicable percentage of bus ridership requirements.
  -
- ii. The independent monitor shall monitor the school's compliance with the traffic-related conditions of approval as implemented by the TDM four times per year: once each semester, once during the Summer Program and once during a Special Event involving over 100 cars. The independent traffic consultant shall submit a written report within two weeks of the monitoring summarizing the results of the monitoring session. The reports shall include recommendations to remedy potential infractions of the traffic-related conditions of approval, if appropriate to the Bureau of Planning. Such measures proposed by the independent traffic consultant must be approved by the City of Oakland prior to implementation. The City of Oakland shall have one week to review and approve the submitted measures. Upon City of Oakland approval of enhanced or additional TDM measures, the project applicant shall be given four weeks after the approval to implement the recommended measures.
- iii. The School shall have 30 to 60 days~~one semester~~ to cure any traffic-related violations of the conditions of approval. If after invoking enhanced or additional TDM measures the School still does not meet its traffic-related conditions of approval based on the independent monitors reports submitted to the City of Oakland, the Bureau of Planning may refer the matter to the City of Oakland Planning Commission for scheduling of a compliance hearing to determine whether the School's approvals should be revoked, altered, or additional conditions of approval imposed. This could include a permanent reduction in enrollment. The City of Oakland can also impose penalties on a per infraction fee pursuant to the City's Master Fee Schedule based on the observations of city officials, the Oakland Police Department, or the independent monitors. In determining whether reduced enrollment or other remedies are appropriate, the City of Oakland shall consider if the School has demonstrated a good faith effort to comply with the traffic-related conditions of approval. It will be up to the School to provide evidence to the City of Oakland of good faith efforts for review.

**24. Lincoln Avenue Property.**

*Ongoing*

The property located at 4233 Lincoln Avenue shall be limited solely to residential uses (not storage) and the School will not merge the lots without obtaining an amendment to Case File PUD04-400. The school shall maintain the residential character of the house and ensure that the house maintains its structural integrity.

**25. Neighborhood Liaison Committee /Point of Contact/Complaints.**

*Ongoing*

A Neighborhood Meeting shall occur one time per year. The date/time/location shall be mutually agreed to by the NSC and the School. Invitations to the meeting with a written agenda shall be mailed at least 10 days prior to the scheduled meeting to the NSC, the City Council's office for district 4, the planning director or designee, and all residents immediately abutting and adjacent to the School. The meeting agenda shall include a review of any complaints or concerns received from the community and their resolution. A copy of the complaint log and minutes and agenda of the Neighborhood meetings shall be made available to the City Planning Department.

~~The School shall invite interested representatives from the Upper Lincoln, Lower Lincoln, Alida Court and Whittle Avenue neighborhood (Neighborhood Committee) to meet with a representative from the School administration, the Director of Neighborhood Relations (or his or her designee) and a member of the board of trustees, in order to resolve conflicts and maintain communications between the school and the surrounding neighborhoods. Additional groups may be added by the School or Bureau of Planning if it is determined impacts of the school on those communities warrant inclusion of such groups. The School shall convene the Neighborhood Committee at least three times a year, with one meeting held at the end of the school year and prior to the start of the Summer Program. The School shall increase the number of meetings if determined to be necessary by City Bureau of Planning staff. School shall provide notice of these meetings to City staff who may attend.~~

**No later than 30 days after this approval and ongoing**

The Project Applicant shall designate a representative, or series of representatives, on site, to act as the primary point(s) of contact and as a complaint manager. The procedures and protocols to track and timely respond and resolve complaints/concerns raised by neighbors, or others relating to the school's operations, including but not limited to traffic, noise, etc. are contained in the TDM Plan.<sup>4</sup> One of the purposes of this condition is to have the project applicant timely respond and resolve complaints prior to involvement by Building Services Code Compliance Division, unless the complaint is related to imminent threats to public health or safety.

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<sup>4</sup> Heather, we do not see in the TDM where it sets forth the content referenced in this sentence.

The School shall provide the NSC and all neighbors abutting the campus with a ~~daytime and evening~~24-hour contact number and email address for the complaint manager. All written complaints sent to the complaint manager shall be answered in writing within 48 hours of receipt. The responses shall include: 1. What investigation was completed regarding the complaint; 2. What steps were taken or not taken to address the complaint; 3. If applicable, what steps the school intends to take to prevent the actions in the future that led to the complaint. Complaints will be responded to within 48 hours.

## 26. Deliveries.

### *Ongoing*

All deliveries, except US Mail, Fed-Ex and UPS trucks ~~and a once a year mulch delivery to the playground area~~, must access the School via the Whittle Gate or the upper parking lot area. -Except as noted above, no deliveries are permitted along Lincoln Avenue. Deliveries must be scheduled for school operation hours only and no overnight parking or idling is permitted. The School shall provide a live daytime and evening contact number for the complaint manager. Deliveries must occur only on weekdays and between the hours of 9:00 a.m. and 1:30 p.m. or between 4:00 p.m. and 6:00 p.m. No deliveries may occur on Saturdays, Sundays, days when school is not in session, after 6:00 p.m. or before 9:00 a.m.

## 27. Emergency Management Plan.

### *Prior to the start of the next semester after Planning Approvals and Ongoing*

The project applicant shall develop an Emergency Management Plan (“EMP”), and submit to Planning and Zoning Division, Transportation Services Division, OPD-Traffic Safety, and the Fire Marshall, for review and consultation. The Applicant shall implement the final EMP. The EMP shall include at least the following components:

### **a) Fire Protection Bureau Occupancy Review**

#### **Ongoing**

The School shall cooperate and coordinate with the Fire Services Department to conduct yearly occupancy and fire safety inspections of the school, fire drills and unannounced future site visits. The resulting Fire Department report(s), and any follow-ups, shall be sent to the Planning and Zoning Division for review.

### **b) Emergency Preparedness Plan**

#### *With 6 months and Ongoing*

The School shall submit an Emergency Preparedness Plan, within 6 months after this approval. The completed plan shall be submitted to the Planning and Zoning Division and the Fire Protection Bureau for review and consultation. The plan shall discuss emergency evacuation procedures that will facilitate emergency vehicle access to the neighborhood during School pick-up and drop-off operations. The plan shall be implemented.

**c) Fire Department Site Visits**

The project applicant shall coordinate with the Oakland Fire Marshal's Office to make periodic unannounced visits to the school (the frequency, timing, and types of visits should be at the Fire Marshal's discretion based on need for visits and compliance by the school) to verify that adequate emergency vehicle access is being maintained during peak pick-up and drop-off periods. The Fire Marshal should consult with the School to identify modifications to the circulation rules, if emergency access problems are identified.

28. Hillside: The campus includes a hillside below upper Whittle Avenue. There is a cement path located directly below the housing on the hillside, which the school will remove within 60 days of permit approval to prevent its continued use as a break area for employees, and for students to access without supervision. The school will monitor the hillside at all times when school or after school activities are ongoing and prevent students from using the hillside to engage in activities that are not allowed under the conduct rules of the school, including but not limited to smoking, drinking, playing music, or engaging in any activity that would be considered unacceptable by any school.

29. The school constructed a very short fence on top of a wooden wall that goes along a running path above the playing field. This fence will be replaced with one that is eight feet in height, goes around the area of the parking lot, and is secured with a locked gate at either end. The gates will be kept locked at all times and only opened for emergencies and for maintenance. The fence shall be designed to prevent students and transients from accessing the hillside during school and non-school hours.

30. Trash: shall be contained within an enclosed area submitted to and approved by the Planning Director within 60 days after issuance of the modified PUD, located at least 50 feet from any property line, and not within view of adjoining properties or the public street. Trash pickup shall be made within the property between 9:00 a.m. and 5:00 p.m. Monday through Friday, but not during peak period drop-off and pick-up times. There shall be no trash removal on Saturdays or Sundays or any day when the school is not in session.

31. Within 60 days after issuance of the modified PUD, the trash hauling company shall be informed by the school in a letter that all activity associated therewith shall be conducted in a manner so as not to interrupt traffic on the adjoining streets or cause excessive noise, disturbance or parking problems. The letter shall indicate that no service shall be permitted during the hours of student drop off or pick up. The applicable hours shall be stated in the letter. Upon mailing such letter to the trash hauling company, the school shall transmit a copy thereof to the Planning Director.

32. **Maintenance:** All outdoor maintenance will occur only between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday. No outdoor maintenance, including, but not limited to tree cutting, landscaping, construction, repairs, deliveries of materials, running leaf blowers and mowers will occur on Saturdays or Sundays, or on any day when school or summer school is not in session. The mulching must be handled in a manner that does not involve vibrating impacts to the housing near the school.

33. **Landscaping:** The school will keep the landscaping surrounding the campus irrigated and pruned. Dead plant material and dead trees will be removed. The ivy or other plants will be removed from all of the trees and will be trimmed back away from sidewalks and streets. The eucalyptus trees located on the hillside(s) above the parking lot on the campus produce debris which will be removed annually from the hillsides. Trees leaning over the parking lot at the end of the campus driveway will be removed within 60 days of issuance of the permit. All weeds will be removed and grass kept mowed down for fire prevention purposes.

34. **Noise Mitigation:** The school will not use or allow any use of bells or other methods of notifying students or employees that can be heard by neighbors. It will not use or allow use of amplified sound for any purpose, including loudspeakers, blowhorns, or other noise makers that can be heard by neighbors of the school.

35. **Lighting Mitigation:** The school will not use outdoor lighting on its field.

36. **Residential Properties:** The residential properties owned by the school will be used for residential purposes only. They may not be used for ingress and egress into the campus, deliveries, or any other school-related purpose.

37. Rental, lease, partnering, or loan of the campus or any of its facilities is not permitted. The terms “rental”, “lease”, “partnering”, or “loan” are not dependent upon payment of a fee. The use by homeowners and civic groups or an athletic contest not including a Head Royce team, for example, are not permitted. Private uses of the facilities for soccer games, tennis lessons or other use by an employee, a person affiliated with the school, or friend of the school are other examples of unpermitted activities.

38. Parking spaces available on-site shall not be utilized for events or uses occurring at off-site locations.

39. All activities affiliated in any manner with Head Royce or any of its employees, board members, or persons affiliated with the school during school hours or non-school



hours, must occur on the campus and no other location on Lincoln Avenue or on the residential streets surrounding the campus. The school may not lease, borrow, or partner with any other neighbor on Lincoln Avenue to use their facilities or property for school-related activities at any time.

40. The school may not allow any temporary structures for play, sport, spectators, or special events in any part of the campus or its ancillary facilities. Placement of bounce houses on the play field would be an example of an unpermitted use.

41. No cones or any other device may be placed in front of the handicap zone or the mailbox on Lincoln Avenue. That area must be kept open and available for access to the mailbox and the handicap parking zone at all times. In other locations, all cones, signs, flags, sandwich boards, or other devices used to inform or direct drivers, will be removed from the streets and sidewalks by 5:00 p.m. each weekday when school is in session, and will not be replaced until an hour before they are needed to direct drivers. No such devices will be left on any street or sidewalk over the weekend, unless for a special event, in which case, they must be removed from the streets and sidewalks by the conclusion of each event.

**42. Penalty Provisions:** Students enrolled over the maximum allowable use permit cap will result in a \$1,000 per day, and \$100 per student penalty until the school brings its enrollment back into compliance with the use permit enrollment cap. Proof of the violation can be demonstrated by a copy of the school's directory, the state Department of Education statistics, or in any other manner that the Planning Director finds credible. A violation of any of the other above listed conditions by the school will result in a fine to the school of \$1,000 for the first violation, \$3,000 for a second violation, and \$5,000 for a third violation with each violation thereafter resulting in a \$5,000 fine for each violation. The penalties, other than for violating the enrollment cap, will begin anew the following semester or after two months, whichever occurs first. A violation may be demonstrated with a photograph, video, document, or declaration from any person. The documents must be submitted to the Planning Director with a copy to the school's head of school to be considered by the Planning Director. The Planning Director will apply the fines.

Fines collected under this provision shall be payable to the City of Oakland, to be deposited into the "penalty fund", described further in Paragraph 43 of this document

43. Penalty Fund: All penalties collected by the City of Oakland pursuant to this conditional use permit shall be deposited into a special fund, the purpose of which shall be to defray the costs of the Planning Department in administering this permit, and defraying the cost to mitigate the impact of the school on the neighborhood, including, but not limited to, pothole repair and repaving of the streets adjacent to the school, and

July 15, 2015

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other improvements to the immediate neighborhood. In addition to the penalties described above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Applicant ~~and/or Contractor~~ Statement**

I have read and accept responsibility for the Conditions of Approval, as approved by Planning Commission actions on \_\_\_\_\_ and all previous actions. I agree to abide by and conform to these conditions, as well as to all provisions of the Oakland Zoning Code and Municipal Code pertaining to the project.

\_\_\_\_\_  
Signature of Owner/Applicant:

\_\_\_\_\_  
(date)

**CITY RECOMMENDED REVISED  
HEAD ROYCE CONDITIONS OF APPROVAL**

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Final NSC Draft Requested Revisions to Proposal from City

August 17, 2015

**Clean Version**

**1. Approved Use.**

***Ongoing***

The project shall be constructed and operated in accordance with the authorized use as described in the application materials, attached staff report, the preliminary PUD plans approved January 4, 2006, final PUD approved plans dated October 29, 2007 the approved plans dated July 28, 2009, and the plans submitted on September 11, 2014 to correct striping and make other minor improvements on existing parking spaces. Any additional uses or facilities other than those approved with this permit, as described in the project description and the approved plans, will require a separate application and approval.

- a) The action by the City Planning Commission (PUDF07-520) which includes:
  - i. Approval of a Final Planned Unit Development (“FPUD”) for the Head Royce Master Plan PUD, under Oakland Municipal Code Section 17.140.
  - ii. Approval of a Conditional Use Permit for 20 tandem parking spaces on the parking level extension.
- b) The action by the City Planning staff (DS09-224) approving construction of parking improvements to the existing east parking lot at the Head Royce School to accommodate 126 parking spaces (including restriping, paving, grading, and construction of retaining walls, and construction of a drilled pier supported retaining wall for tandem parking approved by the Planning Commission as part of PUDF07-520).
- c) The action by Building Permit PZ1400021 to provide an additional 31 parking spaces on campus for a total of 157 spaces.
- d) This action by the City (“this Approval”) (REV13-0003) includes the amendments to the PUD and the Conditions of Approval set forth below which includes but is not limited to clarifications for:
  - i. School Enrollment
  - ii. Hours of Academic and Childcare Operation
  - iii. Summer Program Enrollment / Operations
  - iv. Number of Special Events / Days and Hours of Operation, and
  - v. Implementation of a Transportation Demand Management Program.
- e) The Conditions of Approval for REV13-003 supersede the previous Conditions of Approval for PUD04-400, PUDF07-520 and DS09-224.

**2. Effective Date, Expiration.**

**Attachment B**

***Ongoing***

Unless a different termination date is prescribed, this Approval shall expire two years from the approval date, unless within such period all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit for this project may invalidate this Approval if the said extension period has also expired.

**3. Scope of This Approval; Major and Minor Changes.**

***Ongoing***

The project is approved pursuant to the Planning Code only. Minor changes to approved plans, conditions of approval, facilities or use may be approved administratively by the Director of City Planning or designee. Major changes to approved plans, conditions of approval, facilities or use shall be reviewed by the City Planning Commission as a revision to the PUD. The Planning Director or designee shall, in his or her discretion, determine whether a proposed change in conditions, facilities or uses constitutes a minor or major change upon submission of an application for such change. Exception: Any changes to the TDM or traffic conditions, number of students, or summer program will be treated as Major changes to the approved plans and will require a hearing before the Planning Commission with appeal available to the City Council.

**4. Conformance to Approved Plans; Modification of Conditions or Revocation.**

***Ongoing***

- a) Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 30-60 days of approval, unless an earlier date is specified elsewhere.
- b) Violation of any term, Conditions/ Mitigation Measures or project description relating to the Approvals is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approvals or alter these Conditions/ Mitigation Measures if it is found that there is violation of any of the Conditions/ Mitigation Measures or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule<sup>1</sup> for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Conditions of Approval.

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<sup>1</sup> The term "Master Fee Schedule" does not provide any information, understandable in the context of the proposal. Heather, please provide a definition and indicate what amount of money would be assessed.

**5. Signed Copy of the Conditions/Mitigation Measures.**

***With submittal of a demolition, grading, and building permit***

A copy of the approval letter and Conditions/ Mitigation Measures shall be signed by the property owner, notarized, and submitted with each set of permit plans to the appropriate City agency for this project.

**6. Compliance with Conditions of Approval.**

***Ongoing***

The project applicant shall be responsible for compliance with the recommendations in any submitted and approved technical report and all the Conditions of Approval and in all applicable adopted mitigation measures set forth below at its sole cost and expense, and subject to review and approval of the City of Oakland.

**7. Indemnification.**

***Ongoing***

- a) To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, Oakland City Council, the Oakland City Planning Commission and its respective agents, officers, and employees (hereafter collectively called City) from any liability, damages, claim, judgment, loss, (direct or indirect) action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (**collectively called "Action"**) against the City to attack, set aside, void or annul, (1) this approval or (2) implementation of this approval. The City shall promptly notify the project applicant of any claim, action or proceeding. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorney's fees.
- b) Within ten (10) calendar days of the filing of any Action as specified in subsection (a) above, the applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the applicant of any of the obligations contained in this condition or other requirements or conditions of approval that may be imposed by the City.

**8. Severability.**

***Ongoing***

Approval of the project would not have been granted but for the applicability and validity of each and every one of the specified conditions and/or mitigations, and if one or more of such conditions and/or mitigations is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid conditions and/or mitigations consistent with achieving the same purpose and intent of such Approval.

**9. Subsequent Conditions or Requirements.**

*Ongoing*

This approval shall be subject to the conditions of approval contained in any subsequent Tentative Tract Map, Tentative Parcel Map or mitigation measures contained in the approved environmental document for this project.

**10. Compliance Matrix**

*Ongoing.*

At the beginning of each semester, and the beginning of the summer program, the project applicant shall submit to the Planning and Zoning Division and the Building Services Division a Conditions/ Mitigation Measures compliance matrix that lists each condition of approval and mitigation measure, the City agency or division responsible for review, and how/when the project applicant has met or intends to meet the conditions and mitigations. The applicant will sign under penalty of perjury the Conditions of Approval attached to the approval letter and submit that with the compliance matrix for review and approval. Planning will provide the NSC with a copy of each matrix after it has been received.

**11. Mitigation Monitoring and Reporting Program.**

*Ongoing*

The following mitigation measures shall be incorporated into the project. The measures are taken from the Mitigated Negative Declaration for the Head Royce Master Plan Project (2006) and have been revised. For each measure, this Mitigation Monitoring and Reporting Program (MMRP) indicates the entity (generally, an agency or department within the City of Oakland) that is responsible for carrying out the measure (“**Responsible Implementing Entity**”); the actions necessary to ensure compliance with the applicable measure (“**Monitoring Action(s)**”) and the entity responsible for monitoring this compliance (“**Monitoring Responsibility**”); and the time frame during which monitoring must occur (“**Monitoring Timeframe**”).

**TRAFFIC AND CIRCULATION**

**Impact T1:** The increase in enrollment at the completion of the 2006 Master Plan could result in extension of the parking queue (defined as the cars waiting curb-side along Lincoln) during the morning drop-off and the after-school pickup period.

**Mitigation T1:** The project sponsor shall monitor the morning drop-off and afternoon pick-up queue during the school year as well as during any summer program operations. The procedures and monitoring forms are included in the TDM Plan. The project sponsor shall implement the monitoring procedures by hiring a qualified independent traffic engineer approved by the planning director or the director’s designee to monitor the extent of the queue along Lincoln Avenue. The engineer may select one assistant to help monitor the queue. If the school’s drop-off or pick-up queue extends for more than 60 seconds in any single monitoring period (excluding delays due to extenuating circumstances such as a traffic accident) past the school’s upper driveway and the red “no

parking” zone above the driveway along the north side of Lincoln Avenue and extending into the “Keep Clear” zone, the school shall implement as many of the following actions and continue to implement these actions as would be necessary to accomplish the necessary reduction in the length of the queue:

- Immediately increase public and private bus ridership in addition to those measures already in effect at the time of the queueing violation.
- Imposition of penalties and fines of \$100 per violation to the violating parent with an additional \$100 for each subsequent violation until the school brings the queue into compliance with the mitigation measure.

**Responsible Implementing Entity:** Bureau of Planning and Public Works Agency, Traffic Engineering Division

**Monitoring Action(s):** Monitoring and reporting shall take place for four one-week periods, once at the beginning of each School semester, and once at the beginning of each Summer Program session. After 2017, the number of monitoring sessions and the duration of the monitoring period for each school year shall be determined by the City of Oakland’s Transportation Services Division, Oakland Traffic Safety Division and Bureau of Planning based in part of the school’s performance in reducing the queue. In accordance with the TDM, a qualified independent traffic consultant hired by the school subject to approval by the planning director or a designee with as many assistants as the traffic consultant feels are necessary, if needed, shall monitor the Lincoln Avenue queues during after-school pick-up (2:30 to 3:45 p.m.) and morning drop-off (7:30 to 8:30 a.m.) by recording observations of the length of each queue, reporting on the number of vehicles in the queue every 15 minutes, and the maximum number of vehicles in the queue during the daily monitoring period using the form provided as an appendix to the TDM. The monitoring persons shall also note the number of buses in the queue at each monitoring time. The traffic consultants shall prepare a report at the end of every week during each monitoring period based on the information gathered, sign the report, and submit to the Bureau of Planning.

If the results of any of the monitoring periods show that the queue of vehicles extends for a period of 60 seconds or more during each monitoring period past the school’s upper driveway, the School shall consult with Bureau of Planning, Transportation Services Division, and Oakland Police Department Safety Division and determine which of the above actions shall be implemented in what order to reduce the length of the queue.

Monitoring and reporting shall continue for an additional three (3) weeks following implementation of each of the above actions and shall continue as long as the City deems necessary to show that it has been effective in reducing the length of the queue.

**Monitoring and Reporting Responsibility:** Head Royce School, through an independent traffic consultant. **Monitoring and Reporting Review:** Bureau of Planning

## **12. School Grades/Enrollment / Verification.**

### ***Ongoing***

- a) Head Royce School is permitted to operate a K-12 Community Education Facility.
- b) The use of the campus will be limited to a private school, grades kindergarten through 12th grade, with a maximum enrollment of 875 students. Maximum total enrollment is not intended to be reached. This number recognizes the inability of the school admissions staff to know with precision the number of students who will actually matriculate relative to the number of students who are sent acceptance letters, and provides a cushion to protect the school from being out of compliance with this condition. No enrollment fluctuation resulting in enrollment above 875 students is allowed.
- c) The school shall submit the enrollment numbers in a declaration signed under penalty of perjury by the head of school to the Bureau of Planning no later than October 15th each year.
- d) In accordance with state law, the school shall also submit its enrollment figures to the California Department of Education no later than October 15th of each year.

## **13. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Management.**

### ***Ongoing***

The project applicant may be required to cover the full costs of independent technical review and other types of peer review, monitoring and inspection, including without limitation, inspections of violations of Conditions of Approval. The project applicant shall establish a deposit with the Building Services Division, as directed by the Building Official, Director of City Planning or designee.

## **14. Hours of Operations (Academic, Childcare and After School Program).**

### ***Ongoing***

Head Royce School's hours of operation, which include academic, childcare and afterschool programs, are from 7:00 a.m. to 6:30 p.m. Monday through Friday. Indoor athletic practices that do not involve visitors may commence at 6:30 a.m. on weekdays. In the fall, outdoor athletic practices and games shall end by 5:00 p.m. with all vehicles off the campus and the gates locked by 7:00 p.m. In the winter semester, athletic practices and games shall end by 6:00 p.m. with all vehicles off the campus and the gates locked by 8:00 p.m. Indoor activities involving only School students, faculty, staff and members of the board of trustees such as play rehearsals, standardized testing, band practices, and meetings of student organizations, faculty committees and meetings of the board of trustees are not considered Special Events as defined in Condition 16 and may occur after 6:30 p.m. on weekdays with all vehicles off the campus and the gates locked by 10:30 p.m. and between 8:00 a.m. and 6:00 p.m. on weekends. No lighting may be installed on



the athletic field other than along paths, low to the ground, and for the purpose of walking to and from the field and parking lot. Coaches and teachers handling practices or games will remain on the premises and supervise the students until all of them have left the campus.

**15. Summer Program Enrollment / Operations.**

***Ongoing***

- a) Summer Program hours are from 7:30 a.m. to 6:00 p.m. over the summer from Monday through Friday only.
- b) Summer Program includes two, three (3) week contiguous sessions spanning six weeks, generally beginning the third week in June through the last week in July.
- c) After 2:00 p.m. of each day that the Summer Program is in session, the Summer Program activities will only involve quiet activities with no excessive noise from the participants, the employees, or anyone else affiliated with HRS or with the Summer Program becoming audible beyond HRS' property lines.
- d) The maximum Summer Program enrollment is 500 children per session. The Director of Operations shall submit the enrollment numbers to the Planning and Zoning Division 2 weeks prior to each session of the Summer Program.
- e) The School shall operate the Summer Program and shall not lease, partner or loan the Summer Program to another operator.
- f) Unless otherwise noted, all Conditions of Approval that apply to School operations apply to the Summer Program.

**16. Number of Special Events / Days and Hours of Operation.**

***Ongoing***

The School shall be permitted to hold Special Events at the Head Royce School campus subject to the following:

- a) A "School Special Event" is defined as a gathering of parents, students, visitors and school employees at the campus in conjunction with a School activity such as a Back to School night, a play or musical performance by students, athletic event, dance, school fair, Admissions Open House, or graduation ceremony, associated and carried out by the school (not an outside group or organization) and for which 50 or more visitor vehicles are expected, but no more than 200 vehicles. If more than one Special Event occurs on a single day, each Special Event shall count as a separate event. Parking rules for Special Events are discussed in the TDM Plan. A Special Event does NOT include indoor activities involving only School students, faculty, staff and members of the board of trustees such as play rehearsals, standardized testing, band practices, and meetings of student organizations, faculty committees and meetings of the board of trustees. In addition, neighborhood meetings required or requested to be held on campus as a condition of this permit or otherwise by the City are not considered to be Special Events.
- b) The project applicant is allowed 30 School Special Events per school year, not including summer months, between the hours of 7:00 a.m. and 9:00 p.m. on weekdays

- during the school year, only, and that do not exceed 100 visitors. All vehicles must be off the campus and the gates locked by 10:00 p.m.
- c) The project applicant is allowed another 10 School Special Events from 6:30 p.m. to 10:00 p.m. on weekdays, not including summer months, not to exceed 150 visitors. All vehicles must be off the campus and the gates locked by 10:30 p.m.
  - d) The project applicant is allowed 2 Saturday School Special Events per school year, not including summer months, not to exceed 150 visitors anytime between 7:00 a.m. and 10:30 p.m. with all vehicles off the campus by 11:30 p.m. and the gates locked.
  - e) No School Special Event, other than graduation may exceed 200 visitor vehicles.
  - f) The school shall post an annual calendar on its website and provide the website link to the NSC Neighborhood Committee described in Condition 25 by August 1st at the beginning of the School year listing all School Special Events and the anticipated number of visitor vehicles that will be generated for each event. Other than the 2 Saturday events allowed above, there will be no School Special Events or any other use of the facilities on weekends.
  - g) No events shall be held that have not been published on the school calendar. The school is not permitted to rent or loan out any of its facilities.
  - h) All School Special Events shall be monitored by the School per the TDM

#### **17. Total Number of Employees.**

##### ***Ongoing***

- a) The Project Applicant shall not have more than 157 employees.<sup>2</sup> An “employee” is defined as: full-time or part-time, independent contractor, or other person paid by the school to provide services of any kind. Two persons filling one job are defined as two employees. The applicant shall submit the total number of employees to the Bureau of Planning no later than October 15th each year in a declaration signed under penalty of perjury.
- b) In accordance with state law, the school shall also submit their employee numbers to the California Department of Education no later than October 15th of each year.

#### **18. Master Plan May Be Required for Student Enrollment Increase or “Future Construction”.**

##### ***Ongoing***

The Project Applicant shall apply for a new or amended Planned Unit Development Permit for any student enrollment increase over 875 students on the Head Royce campus site, including but not limited to any physical expansion of Head Royce School’s operations at 4315 Lincoln Avenue or any other “Future Construction” associated with increasing Head Royce School’s operations. The City may require preparation of a campus-wide Master Plan for any such expansion. Future Construction is defined for purposes of this condition as: new, wholly reconstructed, or relocated school buildings,

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<sup>2</sup> The NSC does not know the current number of employees at HRS. This number is based on the number of parking spaces and is not intended to suggest that HRS should only have 157 employees.

any expansion of floor area (as defined by Planning Code), new enclosed buildings or portions of buildings (i.e., storage shed, garage, attic on an existing building). For purposes of this condition, future construction does not include features such as unenclosed decks/balconies, stairs, walkways, patios, courtyards, fences, walls and retaining walls, trellises or other landscape features, interior remodeling of an existing building, or repair of existing building features. Any future Master Plan shall address, at a minimum, an adequate on-site pick-up and drop-off area, how the school will accommodate additional student growth, a comprehensive development plan for the entire School, including addressing all on-site parking, events, sports fields (if applicable) and traffic-related and vehicle access issues. The last enrollment and staffing form submitted to the California Department of Education shall be required as part of the application documents.

#### **19. Operational Noise General.**

##### ***Ongoing***

Noise levels from the activity, property, or any mechanical equipment on site or as a result of school operations shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services. No outdoor amplified sound equipment shall be used on the campus without a permit from the City Manager's office. For the purposes of this permit, "amplified sound equipment" includes bull horns, air horns, or loud speakers.

#### **20. Parking Requirement and Shared Parking**

At maximum enrollment (875 students), the School shall provide a minimum of 157 off-street parking spaces and in all cases shall, at a minimum, maintain sufficient off-street parking to meet Oakland Planning Code section 17.116.070(C). These spaces may be provided either at 4315 or 4368 Lincoln Avenue, provided that the spaces used at 4368 Lincoln Avenue are not already allocated to the existing use permit governing uses at that site. The School may use surplus parking<sup>3</sup> at 4368 Lincoln Avenue, the Greek Orthodox Church, Cerebral Palsy Center, Mormon Temple or other off-site locations for additional parking, provided that use of these facilities for parking is not in fulfillment of the School's obligation to provide 157 off-street parking spaces at maximum enrollment and are not required or needed for the uses governing those sites.

#### **21. Whittle and Lincoln Avenue Properties.**

##### ***Ongoing***

The properties located at 4200 and 4220, and 4180 Whittle Avenue, and the property located at 4233 Lincoln Avenue shall be limited solely to residential uses as defined in Oakland Municipal Code section 17.10.110 and the School will not merge the lots without obtaining an amendment to Case File PUD04-400. The merging of these

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<sup>3</sup> "Surplus parking" is not defined until later in the document. Please include a definition here.

residential lots will constitute a major change, reviewable by the Planning Commission and if there is an appeal, by the City Council. The school shall maintain the residential character of these houses and ensure that the houses maintain their structural integrity. No part of these properties shall be used for additional School parking, egress and ingress to the school campus, drop-offs or pickups, deliveries, tree trimming or tree maintenance except for trees on one of the three residential properties owned by the school, storage of school supplies, materials or machinery or for maintenance purposes related to the campus.

22. .  
*Ongoing*

**Insert 1: Ingress / Egress**

The campus has several points of possible entry and exit. They include, but are not limited to: the driveway on Lincoln Avenue, the gate and stairs on Lincoln Avenue, the residential properties owned by the school (4200, 4220, and 4180 Whittle Avenue, and the property located at 4233 Lincoln Avenue), a pedestrian gate on Whittle Avenue, a driveway on Whittle Avenue, and other non-designated entry points along the perimeter of the campus, which can be accessed with or without permission of the school. All ingress and egress to and from the campus will be from Lincoln Avenue through the campus driveway and through the gate leading to the main stairway into the campus. Handicapped vehicle access will be provided through the driveway off of Lincoln Avenue. Exception: for students and employees living near the gate per Insert 2.

**Insert 2: Whittle Gate**

The gate leading to the driveway on Whittle Avenue will be changed from a metal gate to a solid wooden crash gate that can only be opened by a code used by drivers using the 22 parking spaces at the bottom of the Whittle driveway, delivery drivers, or for emergency or maintenance purposes. At all other times, the gate will remain closed and locked with an automatic locking system.

The school will obtain and follow the requirements of the fire department for providing emergency access through a crash gate, including installing a device that allows access to the crash gate lock. The school will submit the plan to the Planning Director for approval within two months of issuance of the modified PUD. The school will complete building the wooden crash gate and code operated gate within six months of the grant of the modified PUD.

The pedestrian gate on the side of the Whittle driveway gate will be changed to a key card system. The only persons allowed to have a key card will be students and HRS employees living on Whittle Avenue between Tiffin and where Whittle dead ends, Funston Place, Fruitvale Avenue between Hoover Avenue and Tiffin Road, and Clemens between Waterhouse and Fruitvale Avenue. Each student and employee living on the streets listed herein will sign a contract with the school agreeing to only use the key card

and not loan it to anyone else, hold the gate open for anyone else, or in any other way make the gate accessible to anyone. The only allowable purpose for the key card will be to access the campus on school days, including for participants in the summer program, or for School Special Events. The contract will specify that the penalty for violating the rules stated in the contract will be loss of the key card for one semester.

The Whittle pedestrian gate will be monitored by an independent monitor hired by the school and approved by the Planning Director or designee. (See section on monitoring.) In the event that the monitor sees a rule violation, he or she will write up the violation with the most amount of information available and provide it to the rule enforcer for inclusion in the rule enforcer's report to the Planning Director or designee.

The code for the Whittle driveway gate will be changed at least every six months to prevent misuse of the code for access by persons other than drivers accessing the 22 parking spaces, delivery drivers, maintenance employees, and emergency personnel.

The school will install a solid wooden fence, at least six feet high, along the campus side of the property line adjacent to the houses on Whittle Avenue (4200, 4220, and 4180 Whittle Avenue) and 4233 Lincoln Avenue that prevents ingress and egress through the residential properties owned by the school. The solid wooden fencing must be at least six feet tall, of an attractive design, and sufficient length along the campus side of the property line to prevent ingress and egress, with the exception of the driveway and the key card holders leading from Whittle Avenue. The design of the fence will be shown to the adjacent neighbors and any comments will be submitted to the Planning Director along with the proposed design for approval by the Planning Director within two months of issuance of the modified PUD.

Access to the school through Whittle Gate shall be limited as follows: Deliveries to the School shall be directed to Whittle Gate in accordance with Condition 26. Monitoring of Whittle Gate shall take place in accordance with Condition 23, below. The number of and vehicle and key card passes distributed each year shall be submitted to the Planning and Zoning Division.

### **23. Transportation Demand Management.**

#### ***Ongoing***

The applicant shall maintain a TDM plan attached as Exhibit A to these conditions during both the regular school year and during the Summer Program. Among other things, the TDM implements Conditions 23 a-g as set forth below. The Conditions are the governing and enforceable conditions of approval.

#### **a) Traffic Circulation and Management**

The School shall continue to implement policies to ensure that 1) the drop-off and pick-up process is managed effectively and efficiently; 2) to minimize traffic on neighborhood streets; and to 3) encourage safe driving behaviors. These policies include:

- i. Continuation of before and after-school childcare programs to reduce the number of peak vehicles arriving and departing the campus.

### **Insert 3**

## **C. Transportation**

### **a. Drop-off**

At no time, will the school allow busses to park on both sides of Lincoln Avenue across from one another.

The school will require that at least 20% of all students enrolled by the school arrive at the school by bus or shuttle service. A “bus” is defined as having at least 62 seats and includes busses owned or controlled by the school or AC Transit. A “bus” does not include double-busses, tour busses, or busses of similar size. A “shuttle” is defined as a vehicle that carries at least 10 students and no more than 30 students or at least 10 adults, and is owned or controlled by the school. The school will provide the shuttle service and bus service, other than AC Transit, at a cost of no more than \$500 per year per school family to incentivize the bus and shuttle ridership. The \$500 fee will remain in effect for 10 years and the service will be free to employees for at least ten years.

The school has a current enrollment of 875 students. If the City approves the 906 student enrollment as requested, the school shall only enroll ten students at the end of 2016 if it has increased the bus ridership requirement to 30% of the 875 enrollment amount; another ten students by the end of 2017 if HRS has increased the bus ridership requirement of the 885 enrollment to 40%; and the remaining students (21 students) to complete the 906 by the end of 2018, if HRS increases required bus ridership to 50%. To qualify for addition of the students, the rule enforcer must count the students arriving by bus over three different, random days without notice to the school and submit the information to the Planning Director or designee. Only if the students riding the bus meet the criteria, may the school advance to the next level of additional enrollment.

The school shall require that at least another 10% of the students arrive by walking or bicycle.

A “carpool” is defined as a standard sized or larger vehicle with one adult driver over 21 years of age and transporting at least four students, a standard sized or larger vehicle with one student driver with at least four additional students, a compact car with one adult driver over 21 years of age and three students, a compact car with one student driver over 17 years of age and at least three additional students. At least 10% of the students must arrive by carpools.

The school will require that students arriving by bus or shuttle service will have one location to offload, in front of the main gate on the north side of Lincoln Avenue. The school will schedule bus and shuttle arrival times such that no more busses and shuttles queue between

the front gate and the school's driveway on Lincoln Avenue than can fit into that space. The school will not allow any bus, vehicle, or shuttle service to offload on the south side of Lincoln Avenue.

In the event that the school finds it cannot stack the busses and shuttles so that they do not park east of the school's main gate and west of the school's driveway, it will stagger its class schedule to achieve the restriction in the above condition.

All school related vehicles and busses will not load or unload on any street other than Lincoln Avenue and will proceed in the same direction through Lincoln Avenue to the freeway.

Parents with children too young to ride the bus or a carpool will deliver the children to the bottom of the school driveway parking lot at the Lincoln Avenue side. The school driveway must be kept sufficiently free of parked cars as to provide sufficient space for drivers to loop around the campus parking lot so that they can resume travel after drop-off in the same direction as before they dropped off students. School traffic is not permitted to make u-turns on Lincoln Avenue or any other neighborhood street, use any residential streets as a "loop," or in any other manner enter residential streets to change the direction of their travel after dropping off students.

The school will require that all busses, shuttles, or other vehicles, other than the AC bus, not enter or leave any residential streets in the neighborhood surrounding the campus, including but not limited to: Alida, Alida Court, Laguna, Charleston, Burlington, Potomac, Linnet, Tiffin, Whittle, Funston, Coolidge, Clemens, and Fruitvale. The school will monitor and prevent any bus or shuttle drop-off from occurring in any other location within the neighborhood other than in front of Lincoln Avenue in the area described in the above condition. It will monitor and require that all carpools and other vehicles with students do not drop-off students in any other location than specified in the above condition.

Prior to August 1st of each school year, the school will provide the Planning Director an accurate list of all license plates for parents or others who may at some time during the school year bring children to or from the school. The license plate list must accurately list the license plates and descriptions of all vehicles that may come to the school at any time. The school will provide a copy of an accurate list to the Neighborhood Steering Committee by August 1st of each year.

The school's employees will arrive at the school by at least 30% shuttles or busses, provided by the school at no charge, at least 20% in carpools, and no more than 50% by single occupancy cars. A carpool for employees is defined as a compact car with one driver and at least two passengers or a larger vehicle with one driver and at least four occupants. The "no charge" condition will remain in effect for at least ten years.

**Penalty Provisions:** The penalty for having less than the applicable percentage of bus ridership will be \$1,000 for each day that it is not met and \$100 per student below the applicable bus ridership. The penalties will begin anew the following semester or after two months,

whichever occurs first. A violation may be demonstrated with a declaration from any person. The documents must be submitted to the planning department with a copy to the school's head of school to be considered by the Planning Director. The Planning Director will determine whether a violation has occurred and apply any penalties.

#### **D. Pick-up**

At no time, will the school allow busses to park on both sides of Lincoln Avnue across from one another.

Head Royce operates an after-school program and many students who come to school at the same time do not go home at the same time due to after school activities.

The school will require bus ridership for 10% of the students leaving HRS at the end of each school day.

The school has a current enrollment of 875 students. If the City approves the 906 student enrollment as requested, the school shall only enroll ten students at the end of 2016 if it has increased the bus ridership requirement for pick-up to 20% of the 875 enrollment amount; another ten students by the end of 2017 if HRS has increased the bus ridership requirement for pick-up of the 885 enrollment to 30%; and the remaining students (21 students) to complete the 906 by the end of 2018, if HRS increases required bus ridership to 40%. To qualify for addition of the students, the rule enforcer must count the students arriving by bus over three different, random days without notice to the school and submit the information to the Planning Director or designee. Only if the students riding the bus meet the criteria, may the school advance to the next level of additional enrollment.

Any parent picking up a student by car will be directed by the school to the campus driveway. No child will be picked up at any other location, including but not limited to, the residential streets Alida, Alida Court, Laguna, Charleston, Linnet, Burlington, Potomac, Tiffin, Whittle, Funston, Coolidge, Clemens, and Fruitvale, and the south side of Lincoln Avenue.

ii. Maintenance of detailed, written instructions of the vehicle pick-up and drop-off process for the purpose of increasing efficiency in the pick-up and drop-off operation. These procedures, which will be incorporated into a Transportation Policy Guide, shall include, but are not limited to, how to access the vehicle drop-off/pick-up lane from each direction, a map showing the specific area where vehicle drop-off and pick-up is permitted, rules regarding safe practices for entering and exiting vehicles, and the area that queue cannot exceed. The Guide shall specifically discourage early arrival for afternoon pickup. The summer program shall follow the Transportation Policy Guide.

iii. Compliance with Mitigation Measure Mitigation T1 and Condition 11.



**Insert 5:**

**Monitoring:** Within 90 days after issuance of the modified use permit, the Planning Director will choose a traffic management company, to be paid for by the school, who will perform the following services:

a. Hire, train, and supervise competent, adult traffic monitors, not employed by HRS, to complete the following tasks between 7:00 a.m. and 8:30 a.m., and again between 2:30 p.m. and 4:00 p.m. on school days during the school year and between 7:00 a.m. and 1:00 p.m. during summer school:

- i. One monitor will be located at the campus driveway and prevent any vehicles, busses or shuttles from parking eastward (uphill) of the school's driveway on Lincoln Avenue. If a vehicle attempts to pull into this area, the monitor will direct the vehicle either down the driveway or if that is not possible, record the license plate and description of the vehicle as a rule violation. The monitor will also intercede and stop jaywalking and any other unsafe driving or pedestrian behavior.
- ii. A second monitor will be located on the south side of Lincoln Avenue across from the school driveway and will direct drivers who attempt to U-turn or use the Greek church parking lot that they may not do so. If the driver refuses to comply with the monitor, the monitor will write down the license plate and description of the vehicle. The monitor will intercede and stop jaywalking and any other unsafe driving or pedestrian behavior.
- iii. A monitor will be located half way between the school's driveway and its main entrance on the north side of Lincoln Avenue. This monitor will prevent drivers from double-parking or pulling the front of the vehicle into the bus and shuttle parking space. If the driver refuses to comply with the monitor, the monitor will write down the license plate and description of the vehicle. The monitor will also intercede and stop jaywalking and any other unsafe driving or pedestrian behavior.
- iv. A monitor will be located half way between the school's driveway and its main entrance on the south side of Lincoln Avenue. This monitor will prevent parking, and drop-off or pick-up. If the driver refuses to comply with the monitor, the monitor will write down the license plate and description of the vehicle. The monitor will also intercede and stop jaywalking and any other unsafe driving or pedestrian behavior.

- v. Two monitors will be located at the front gate on Lincoln Avenue to make sure that students safely depart busses and shuttles and walk into the campus through the main gate. These monitors will also direct drivers of vehicles not to park in front of the school or drop-off or pick-up students in that location. If a driver refuses to comply with the monitors or repeats the same driving maneuver again, the monitor will write down the license plate and description of the vehicle. The monitors will also intercede and stop jaywalking and any other unsafe driving or pedestrian behavior.
- vi. One monitor will be located on the south side of Lincoln Avenue across from the main gate. He will direct drivers to not drop-off or pick-up students on Lincoln Avenue. If the driver refuses to comply with the monitors or repeats the same driving maneuver again, the monitor will write down the license plate and description of the vehicle. The monitors will also intercede and stop jaywalking and any other unsafe driving or pedestrian behavior.
- vii. At least two monitors will be located in each driveway on the former Lincoln Child Center property driveway and the campus driveway to supervise drivers and students leaving the driveways to enter the campus or returning for pick-up. If a driver refuses to comply with the monitors, the monitor will write down the license plate and description of the vehicle.
- viii. Four monitors will be posted each at the corners of Alida & Laguna, Alida & Lincoln, Potomac & Lincoln, Burlington & Lincoln Ave., and Tiffin & Lincoln to direct school traffic away from entering the neighborhood residential streets. If a driver refuses to comply with the monitors or repeats the same driving maneuver again after being instructed not to do so, the monitor will write down the license plate and description of the vehicle.
- ix. Two monitors will be posted each at the corner of Tiffin and Whittle and at the Whittle gate to direct school traffic from entering Whittle or attempting to complete drop-off or pick-up on the residential streets. If a driver refuses to comply with the monitors or repeats the same driving maneuver again, the monitor will write down the license plate and description of the vehicle.
- x. Two monitors will be located each in the parking areas for student drivers. These monitors will supervise student drivers and direct them to drive slowly in and out of the driveways, turn off their radios until they have left the neighborhood, and not honk horns or

make other unnecessary and excessive noise. The monitors will also supervise passengers of the student drivers and make sure that conduct in the parking areas and driveways is consistent with safe and polite behavior. If a student driver fails or refuses to comply with directions, the monitor will write down the license plate and vehicle description.

- xi. The monitors will provide reports of violations to the rule-enforcer once a week.

**Insert 6:**

**Rule Enforcer/Violations:** The Planning Director will choose a person who will act as a “rule enforcer,” and be paid for by the school. The Rule Enforcer will collect violation reports from the monitors and any other person who provides them. The rule enforcer will include the violation reports in his or her report to the Planning Director each month and the Planning Director will provide a copy to the Neighborhood Steering Committee and the school with attached violation reports.

The rule enforcer will provide a copy of the monitors’ violation reports to the school, which will have the driver meet with the head of school. The school will provide a notice to the violator with specifics of what rule was violated.

If the violator is a student, the project applicant will notify the student of the violation, and send a notice of the violation to his or her parents, and if there is any further violation require that the student arrive and leave on a bus or shuttle. If the violator refuses or violates again, a fine in the amount of \$100.00 shall be imposed by the school, payable to the City, to be deposited into a "penalty fund," described further in Section 43 of this permit. Further violations will result in fines of amounts increased by \$100.00 for each subsequent violation.

If the violator is an employee, the project applicant will notify the employee of the violation. If the employee refuses to comply or violates again, a fine in the amount of \$100.00 shall be imposed by the school, payable to the City, to be deposited into a "penalty fund." Further violations will result in fines of amounts increased by \$100.00 for each subsequent violation.

If the violator is a driver of a bus or shuttle, the school will notify the driver, if self-employed, or his employer. If the employer refuses to comply or the violating driver refuses to comply and violates again, a fine in the amount of \$100.00 shall be imposed by the school, payable to the City, to be deposited into a "penalty fund." Further violations will result in fines of amounts increased by \$100.00 for each subsequent violation. The terms of this condition will be included in any contract between the school and the bus service provider.

The rule enforcer will collect the data from the car trip counting equipment once a month and include that information in the monthly report to the Planning Director. Once a month for the first three years, and thereafter once every three months, the rule enforcer will find a car count company, to be paid for by the school, to count the number of students arriving and leaving on

the busses and shuttles. The car counts will be random and without any notice to the school. The car count company can use as many employees as necessary to complete an accurate count. The rule enforcer will include the counts in the reports to the Planning Director, who will provide a copy to the school and to the Neighborhood Steering Committee.

**Insert 7:**

**c) Parking management strategies**

**d) E. Parking**

There are three locations owned by Head Royce that have parking lots: the campus parking lot (138 parking spaces) accessed by the driveway on Lincoln Avenue to the campus parking lot, the Whittle driveway parking lot (22 spaces), and the former Lincoln Child Center parking lot with 140 spaces. The school will use the campus parking lot, the Whittle driveway parking lot, and 44 parking spaces on the former Lincoln Child Center parking lot, and that have been allowed by the planning department for the school's use. These lots must be used for all student drivers, employees, vendors, independent contractors, visitors, and any other person affiliated or having business with Head Royce. It will direct visitors or others at the main gate to move their vehicles off Lincoln Avenue, Alida, Alida Court, Laguna, Charleston, Burlington, Potomac, Tiffin, Linnet, Whittle, Funston, Coolidge, Linnet, Clemens, and Fruitvale, or out of any residential street and into one of these parking lots.

The school will not allow its employees, student drivers, independent contractors, vendors, employees, or visitors to park on Lincoln Avenue or any residential street including but not limited to Alida, Alida Court, Laguna, Linnet, Charleston, Burlington, Potomac, Tiffin, Whittle, Funston, Coolidge, Clemens, and Fruitvale.

The school will provide a complete and accurate list of employees' vehicle car license plates and vehicle descriptions to the Planning Director no later than August 1st of each school year with the license plate and a description of each vehicle that may be used by employees to enter or leave the school. The school will provide a copy of the list to the Neighborhood Steering Committee by the same date.

The school will not allow any radios to be played, honking of horns, or excessive noise to occur on any parking lots owned by the school.

- i. The School shall continue to pay for a Residential Permit Parking program on Alida Avenue, Alida Court and Linett Court, Whittle Avenue (above Tiffin Rd) and Funston Place, including any increases in fees charged by the City through the City of Oakland unless the neighbors on these streets withdraw their request to maintain this permit program,

- ii. Staff who contract with the school to carpool shall be given on-site priority spaces relative to non-carpooling staff in order to reduce single occupancy vehicles,
  - iii. Students shall be directed by the School to park in off-street parking on campus or. Students that contract with the school to carpool shall be given on-site priority spaces in order to reduce single occupancy vehicles.
  - iv. The School shall maintain the required number of parking spaces per Section 17.116.070(C) at all times, including the Summer Program (one (1) space for each three employees plus one space for each 10 high school students of planned capacity.) An increase in employees or high school students could require additional parking spaces to be provided to meet the Planning Code. Required parking may be provided either on the Head Royce campus itself, unless prohibited by other Conditions of Approval, or at 4368 Lincoln Avenue or at other off-street locations. Surplus parking spaces are defined as those spaces above and beyond the requirements of the Planning Code for the permitted use. City staff shall use the School staff and student enrollment information submitted to the State of California Department of Education to determine compliance with parking ratios.
  - v. In its Transportation Policy Guide, the School shall define “single occupancy vehicle” as a vehicle with the one driver and one non-driving student or child.
- c) Auto Trip Reduction Program**
- The School shall discourage single-student and single parent/student driving in the Transportation Policy Guide and comply with the conditions herein that reduce single occupant vehicles arriving or departing the School. The Auto Trip Reduction Program shall be included in the TDM and address all four modes of transportation (pedestrian, bicycle, carpooling/vanpooling, and transit), including:
- i. The project applicant shall continue to sponsor and provide private buses in conformance with the conditions stated in this permit.
  - ii. The project applicant shall continue to subsidize an AC Transit bus pass to students and faculty as long as AC Transit bus service is available. The project applicant shall assign a transportation coordinator who will provide carpooling and ridematching services to parents who are interested in carpooling.
  - iii. The School shall commit to maintain the applicable percentage of its students traveling to school by busses or shuttles. It shall institute the conditions in this permit as stated herein.
- d) School Special Events**
- i. The project applicant shall establish transportation procedures for Special Events to 1) ensure that Special Events are managed efficiently and effectively; and 2)

prevent traffic and parking in the neighborhood. The project sponsor shall anticipate the attendance of Special Events and note this on the school's calendar. At least two weeks prior to a Special Event, the School shall confirm the anticipated number of vehicles and distribute the appropriate parking locations and restrictions to the attendees and Neighborhood Liaison Committee. For all Special Events, the school shall direct visitors not to park on neighborhood streets and instead direct them to park in off-street lots.

ii. For single or cumulative Special Events on the same day that will generate between 50 and 150 cars, the School shall provide sufficient parking on-site parking either at the main campus, or 4368 Lincoln Ave. For single events or cumulative events on the same day expected to bring between 150 and 200 cars, the School shall provide sufficient parking on-site, at 4368 Lincoln Avenue, the Mormon Temple, the Greek Orthodox Church and/or Cerebral Palsy Center. For any School Special Event, the school may not allow more than 200 visitor cars to participate.

Exception: For graduation, the school may have more than 200 visitor cars and it will provide an off-site alternative, with a shuttle or valet system, is required.

iii. Traffic Monitors during Special Events: The purpose of traffic monitors during Special Events is to direct cars away from neighborhood streets and into off-street parking. Single or cumulative events with 50 or fewer visitor vehicles are not considered Special Events per Condition 16 and do not require a traffic monitor. However, parking signs shall be posted along Lincoln Avenue. Single or cumulative events with 50-150 people shall require one monitor along Lincoln Avenue at the corner of Lincoln and Alida and another monitor at the Whittle Gate. Single or cumulative events between 50 and 200 people shall require four (4) monitors. Monitors will be stationed at the following streets to direct cars to parking provided for the event: Whittle Gate, Lincoln Avenue south of the gate house, Alida Street between Lincoln and Laguna Avenue, and Alida Court. Single or cumulative events over 200 people shall require six (6) monitors, unless an off-site shuttle service is used. In addition to the streets listed above, the monitors will be stationed at the following streets: Tiffin Avenue between Whittle and Lincoln Avenue, and Burlington Street.

The traffic monitors shall wear a colored safety vest, carry digital cameras, and provide adequate information to the school in order to identify the Special Event parking violators and for the school to implement the enforcement policy. Monitors shall be in the neighborhoods 15 minutes prior to any event.

The project applicant shall provide a live hotline number to reach an event manager during Special Events to be used to report violations or complaints. Enforcement of violations of Traffic Safety Rules (see subsection (e) below) observed during Special Events shall be handled in the manner set forth in the TDM.

**e) Communication**

The project applicant shall establish communication protocols to 1) institutionalize and encourage good neighbor parking and driving behavior; 2) ensure that the School community drives in a safe manner; and 3) ensures the rules are clearly communicated, including:

- i. Traffic Safety Rules: The TDM contains a list of Traffic Safety Rules that are designed specifically to increase safety of the school community and the neighborhood. The TDM also includes a list of “Good Neighbor Rules” designed to decrease impacts to neighbors.
- ii. The project applicant shall continue to maintain a Transportation Policy Guide. The Guide shall include, but not be limited to the following: Vehicle drop-off and pick-up procedures designed to promote an efficient operation; bus loading procedures; Traffic Safety Rules; “Good Neighbor Rules” including blocking driveways, u-turns in neighbor’s driveways; Transit Subsidy Program; Special Event Traffic and Parking Rules; and consequences for violations. If necessary to reflect the updated TDM Plan, the Transportation Policy Guide shall be submitted to Bureau of Planning, Transportation Services Divisions, and OPD-Traffic Safety for review. The project applicant shall distribute the Transportation Policy Guide to each student’s parent/guardian. Each student’s parent/guardian will need to provide written acknowledgement of receipt of the Policy Guide, and acceptance of its policies as a condition of enrollment. The School shall submit a record of each family’s acknowledgement of receipt in a form acceptable to the City if requested. The project applicant shall hold a parent meeting at the beginning of each school year to discuss the traffic and parking. If rules change significantly, as determined by the Director of the Bureau of Planning, after the beginning of the school year, the project applicant shall hold another meeting. A City staff member may attend. The project applicant shall annually review the Transportation Policy Guide and submit the Transportation Policy Guide for review by the Bureau of Planning, Transportation Services Division, and OPD-Traffic Safety staff.

**f) Enforcement of Traffic Safety Rules and Event Traffic and Parking**

- i. The School shall implement and maintain a system to identify and track persons who violate the School’s Traffic Safety Rules as set forth in the TDM. Good Neighbor Rules as set forth in the TDM shall not be considered Traffic Safety Rules subject to enforcement by the Bureau of Planning. Violations of the Vehicle Code are enforced by the Oakland Police Department.
- ii. During the pick-up and drop-off periods: The School shall assign four (4) traffic monitors to implement and monitor the Traffic Safety Rules. The monitors shall be placed at:
  - Whittle Gate,
  - On the westbound loop (e.g. the intersection of Laguna and Alida)

- Two traffic monitors for Lincoln Ave between the main entrance and upper driveway.

The traffic safety rule monitors shall wear a safety vest, carry digital cameras, and provide adequate information to the school in order to identify the rule violators and for the school to implement the traffic safety rule enforcement policy. Monitors shall be in the neighborhoods 15 minutes prior to scheduled pick-up and drop-off times.

**g) Compliance Reporting**

- i. The project applicant shall hire a qualified traffic consultant, approved by the planning director or designee to monitor compliance with the traffic-related conditions in the Conditions of Approval and the approved TDM. Specifically, the independent monitors shall verify compliance by:
  - Counting the number of traffic assistants and monitors present during drop-off and pick-up periods.
  - Observing the drop-off and pick-up traffic flow and requiring measures to ensure smooth operations.
  - Reviewing the length of the queue and check if it extends above the upper driveway.
  - Collecting the number of violations that have been reported from Head Royce's database and recommending measures to reduce violations.
  - Recording parking occupancy in all Head Royce parking lots.
  - Monitoring Whittle Avenue and Alida to ensure it is not being use for School –related parking.
  - Maintenance of efforts to meet Auto Trip Reduction Goal
  - Count the number of students to determine whether the school is in compliance with the applicable percentage of bus ridership requirements.
  -
- ii. The independent monitor shall monitor the school's compliance with the traffic-related conditions of approval as implemented by the TDM four times per year: once each semester, once during the Summer Program and once during a Special Event involving over 100 cars. The independent traffic consultant shall submit a written report within two weeks of the monitoring summarizing the results of the monitoring session. The reports shall include recommendations to remedy potential infractions of the traffic-related conditions of approval, if appropriate to the Bureau of Planning. Such measures proposed by the independent traffic consultant must be approved by the City of Oakland prior to implementation. The City of Oakland shall have one week to review and approve the submitted measures. Upon City of Oakland approval of enhanced or additional TDM measures, the project applicant shall be given four weeks after the approval to implement the recommended measures.



iii. The School shall have 30 to 60 days to cure any traffic-related violations of the conditions of approval. If after invoking enhanced or additional TDM measures the School still does not meet its traffic-related conditions of approval based on the independent monitors reports submitted to the City of Oakland, the Bureau of Planning may refer the matter to the City of Oakland Planning Commission for scheduling of a compliance hearing to determine whether the School's approvals should be revoked, altered, or additional conditions of approval imposed. This could include a permanent reduction in enrollment. The City of Oakland can also impose penalties on a per infraction fee pursuant to the City's Master Fee Schedule based on the observations of city officials, the Oakland Police Department, or the independent monitors. In determining whether reduced enrollment or other remedies are appropriate, the City of Oakland shall consider if the School has demonstrated a good faith effort to comply with the traffic-related conditions of approval. It will be up to the School to provide evidence to the City of Oakland of good faith efforts for review.

**24. Lincoln Avenue Property.**

*Ongoing*

The property located at 4233 Lincoln Avenue shall be limited solely to residential uses (not storage) and the School will not merge the lots without obtaining an amendment to Case File PUD04-400. The school shall maintain the residential character of the house and ensure that the house maintains its structural integrity.

**25. Neighborhood Liaison Committee /Point of Contact/Complaints.**

*Ongoing*

A Neighborhood Meeting shall occur one time per year. **The date/time/location shall be mutually agreed to by the NSC and the School.** Invitations to the meeting with a written agenda shall be mailed at least 10 days prior to the scheduled meeting to the NSC, the City Council's office for district 4, the planning director or designee, and all residents immediately abutting and adjacent to the School. The meeting agenda shall include a review of any complaints or concerns received from the community and their resolution. A copy of the complaint log and minutes and agenda of the Neighborhood meetings shall be made available to the City Planning Department.

**No later than 30 days after this approval and ongoing**

The Project Applicant shall designate a representative, or series of representatives, on site, to act as the primary point(s) of contact and as a complaint manager. The procedures and protocols to track and timely respond and resolve complaints/concerns raised by neighbors, or others relating to the school's operations, including but not limited to traffic, noise, etc. are contained in the TDM Plan.<sup>4</sup> One of the purposes of this condition is to have the project applicant timely respond and resolve complaints prior to

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<sup>4</sup> Heather, we do not see in the TDM where it sets forth the content referenced in this sentence.

involvement by Building Services Code Compliance Division, unless the complaint is related to imminent threats to public health or safety.

The School shall provide the NSC and all neighbors abutting the campus with a 24-hour contact number and email address for the complaint manager. All written complaints sent to the complaint manager shall be answered in writing within 48 hours of receipt. The responses shall include: 1. What investigation was completed regarding the complaint; 2. What steps were taken or not taken to address the complaint; 3. If applicable, what steps the school intends to take to prevent the actions in the future that led to the complaint.

**26. Deliveries.**

***Ongoing***

All deliveries, except US Mail, Fed-Ex and UPS trucks, must access the School via the Whittle Gate or the upper parking lot area. Except as noted above, no deliveries are permitted along Lincoln Avenue. Deliveries must be scheduled for school operation hours only and no overnight parking or idling is permitted. The School shall provide a live daytime and evening contact number for the complaint manager. Deliveries must occur only on weekdays and between the hours of 9:00 a.m. and 1:30 p.m. or between 4:00 p.m. and 6:00 p.m. No deliveries may occur on Saturdays, Sundays, days when school is not in session, after 6:00 p.m. or before 9:00 a.m.

**27. Emergency Management Plan.**

***Prior to the start of the next semester after Planning Approvals and Ongoing***

The project applicant shall develop an Emergency Management Plan (“EMP”), and submit to Planning and Zoning Division, Transportation Services Division, OPD-Traffic Safety, and the Fire Marshall, for review and consultation. The Applicant shall implement the final EMP. The EMP shall include at least the following components:

**a) Fire Protection Bureau Occupancy Review**

***Ongoing***

The School shall cooperate and coordinate with the Fire Services Department to conduct yearly occupancy and fire safety inspections of the school, fire drills and unannounced future site visits. The resulting Fire Department report(s), and any follow-ups, shall be sent to the Planning and Zoning Division for review.

**b) Emergency Preparedness Plan**

***With 6 months and Ongoing***

The School shall submit an Emergency Preparedness Plan, within 6 months after this approval. The completed plan shall be submitted to the Planning and Zoning Division and the Fire Protection Bureau for review and consultation. The plan shall discuss emergency evacuation procedures that will facilitate emergency vehicle access to the neighborhood during School pick-up and drop-off operations. The plan shall be implemented.

**c) Fire Department Site Visits**

The project applicant shall coordinate with the Oakland Fire Marshal's Office to make periodic unannounced visits to the school (the frequency, timing, and types of visits should be at the Fire Marshal's discretion based on need for visits and compliance by the school) to verify that adequate emergency vehicle access is being maintained during peak pick-up and drop-off periods. The Fire Marshal should consult with the School to identify modifications to the circulation rules, if emergency access problems are identified.

**28. Hillside:** The campus includes a hillside below upper Whittle Avenue. There is a cement path located directly below the housing on the hillside, which the school will remove within 60 days of permit approval to prevent its continued use as a break area for employees, and for students to access without supervision. The school will monitor the hillside at all times when school or after school activities are ongoing and prevent students from using the hillside to engage in activities that are not allowed under the conduct rules of the school, including but not limited to smoking, drinking, playing music, or engaging in any activity that would be considered unacceptable by any school.

**29.** The school constructed a very short fence on top of a wooden wall that goes along a running path above the playing field. This fence will be replaced with one that is eight feet in height, goes around the area of the parking lot, and is secured with a locked gate at either end. The gates will be kept locked at all times and only opened for emergencies and for maintenance. The fence shall be designed to prevent students and transients from accessing the hillside during school and non-school hours.

**30. Trash:** shall be contained within an enclosed area submitted to and approved by the Planning Director within 60 days after issuance of the modified PUD, located at least 50 feet from any property line, and not within view of adjoining properties or the public street. Trash pickup shall be made within the property between 9:00 a.m. and 5:00 p.m. Monday through Friday, but not during peak period drop-off and pick-up times. There shall be no trash removal on Saturdays or Sundays or any day when the school is not in session.

**31.** Within 60 days after issuance of the modified PUD, the trash hauling company shall be informed by the school in a letter that all activity associated therewith shall be conducted in a manner so as not to interrupt traffic on the adjoining streets or cause excessive noise, disturbance or parking problems. The letter shall indicate that no service shall be permitted during the hours of student drop off or pick up. The applicable hours shall be stated in the letter. Upon mailing such letter to the trash hauling company, the school shall transmit a copy thereof to the Planning Director.

**32. Maintenance:** All outdoor maintenance will occur only between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday. No outdoor maintenance, including, but not limited to tree cutting, landscaping, construction, repairs, deliveries of materials, running leaf blowers and mowers will occur on Saturdays or Sundays, or on any day when school

or summer school is not in session. The mulching must be handled in a manner that does not involve vibrating impacts to the housing near the school.

**33. Landscaping:** The school will keep the landscaping surrounding the campus irrigated and pruned. Dead plant material and dead trees will be removed. The ivy or other plants will be removed from all of the trees and will be trimmed back away from sidewalks and streets. The eucalyptus trees located on the hillside(s) above the parking lot on the campus produce debris which will be removed annually from the hillsides. Trees leaning over the parking lot at the end of the campus driveway will be removed within 60 days of issuance of the permit. All weeds will be removed and grass kept mowed down for fire prevention purposes.

**34. Noise Mitigation:** The school will not use or allow any use of bells or other methods of notifying students or employees that can be heard by neighbors. It will not use or allow use of amplified sound for any purpose, including loudspeakers, blowhorns, or other noise makers that can be heard by neighbors of the school.

**35. Lighting Mitigation:** The school will not use outdoor lighting on its field.

**36. Residential Properties:** The residential properties owned by the school will be used for residential purposes only. They may not be used for ingress and egress into the campus, deliveries, or any other school-related purpose.

**37.** Rental, lease, partnering, or loan of the campus or any of its facilities is not permitted. The terms “rental”, “lease”, “partnering”, or “loan” are not dependent upon payment of a fee. The use by homeowners and civic groups or an athletic contest, not including a Head Royce team, for example, are not permitted. Private uses of the facilities for soccer games, tennis lessons or other use by an employee, a person affiliated with the school, or friend of the school are other examples of unpermitted activities.

**38.** Parking spaces available on-site shall not be utilized for events or uses occurring at off-site locations.

**39.** All activities affiliated in any manner with Head Royce or any of its employees, board members, or persons affiliated with the school during school hours or non-school hours, must occur on the campus and no other location on Lincoln Avenue or on the residential streets surrounding the campus. The school may not lease, borrow, or partner with any other neighbor on Lincoln Avenue to use their facilities or property for school-related activities at any time.

**40.** The school may not allow any temporary structures for play, sport, spectators, or special events in any part of the campus or its ancillary facilities. Placement of bounce houses on the play field would be an example of an unpermitted use.

**41.** No cones or any other device may be placed in front of the handicap zone or the mailbox on Lincoln Avenue. That area must be kept open and available for access to the

mailbox and the handicap parking zone at all times. In other locations, all cones, signs, flags, sandwich boards, or other devices used to inform or direct drivers, will be removed from the streets and sidewalks by 5:00 p.m. each weekday when school is in session, and will not be replaced until an hour before they are needed to direct drivers. No such devices will be left on any street or sidewalk over the weekend, unless for a special event, in which case, they must be removed from the streets and sidewalks by the conclusion of each event.

**42. Penalty Provisions:** Students enrolled over the maximum allowable use permit cap will result in a \$1,000 per day, and \$100 per student penalty until the school brings its enrollment back into compliance with the use permit enrollment cap. Proof of the violation can be demonstrated by a copy of the school's directory, the state Department of Education statistics, or in any other manner that the Planning Director finds credible. A violation of any of the other above listed conditions by the school will result in a fine to the school of \$1,000 for the first violation, \$3,000 for a second violation, and \$5,000 for a third violation with each violation thereafter resulting in a \$5,000 fine for each violation. The penalties, other than for violating the enrollment cap, will begin anew the following semester or after two months, whichever occurs first. A violation may be demonstrated with a photograph, video, document, or declaration from any person. The documents must be submitted to the Planning Director with a copy to the school's head of school to be considered by the Planning Director. The Planning Director will apply the fines.

Fines collected under this provision shall be payable to the City of Oakland, to be deposited into the "penalty fund", described further in Paragraph 43 of this document

**43. Penalty Fund:** All penalties collected by the City of Oakland pursuant to this conditional use permit shall be deposited into a special fund, the purpose of which shall be to defray the costs of the Planning Department in administering this permit, and defraying the cost to mitigate the impact of the school on the neighborhood, including, but not limited to, pothole repair and repaving of the streets adjacent to the school, and other improvements to the immediate neighborhood. In addition to the penalties described above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Applicant Statement**

I have read and accept responsibility for the Conditions of Approval, as approved by Planning Commission actions on \_\_\_\_\_ and all previous actions. I agree to abide by and conform to these conditions, as well as to all provisions of the Oakland Zoning Code and Municipal Code pertaining to the project.

\_\_\_\_\_  
Signature of Owner/Applicant:

\_\_\_\_\_  
(date)

## MEMORANDUM

**TO:** Heather Klein  
**FROM:** NSC  
**DATE:** August 17, 2015  
**RE:** Head Royce

### COMMENTS – NSCE REQUESTED REVISIONS TO PROPOSAL

Thank you for sharing the draft proposal containing possible conditions of approval applicable to a modified use permit for Head Royce School (“HRS”) with the Neighborhood Steering Committee (“NSC”). We understand that this proposal represents a combination of HRS’ input and the planning department’s judgment. It obviously took the planning department much effort to produce such a detailed document and it is appreciated.

While the proposal and draft Transportation Demand Management Plan (“TDM”) represent substantial effort and provide an opportunity for analyzing the issues, there are serious flaws in both of them. Neither document appears to be supported by a comprehensive traffic engineer report and the 2006 Mitigated Negative Declaration is seriously out of date. As has been the problem in the past with HRS submissions, the TDM is nothing more than suggestions anyone, including the school, could and probably did make about how to deal with the transportation problems caused by the school’s operations. It is not supported by car counts, although the NSC witnessed car counts being taken by a counting company, Quality Counts. Nor has any traffic engineer analyzed the safety concerns and produced a signed and wet stamped report.

The most significant traffic issues involve safety for the public and the school community. Lincoln Avenue is a treacherous street and yet most people driving it would never realize that fact. The roadway is very long, and on a gradual steep downgrade. Despite the sign requiring trucks to stay off of it if they weigh over four and a half tons, the sign is often ignored, with trucks then losing their brakes on the downslope. There have been several serious incidents and at least one tragic accident due to that cause. Lincoln Avenue also is a major arterial between Highway 13 and Highway 580, which means that it carries substantial business and resident traffic.

The residential streets feeding into Lincoln Avenue are narrow and not designed to carry business traffic from the school. They also are unable to safely handle busses beyond the AC Transit route of Lincoln to Alida to Coolidge. Residential neighbors rely on these narrow feeder streets to access Lincoln Avenue and then the two highways. In case of a natural disaster, Lincoln Avenue would be necessary for evacuating thousands of residents and institutional participants that come to the neighborhood every week day.

Accordingly, the traffic safety and convenience of Lincoln Avenue and the neighborhood feeder streets should be of the highest importance to the City.

Because the draft proposal is unsupported by any traffic engineer report or car count data, the NSC has reviewed documents submitted to the city by traffic engineers, hired by Head Royce over the last five years, traffic memos from the City's traffic engineer, neighbor observations of the traffic patterns and solutions implemented by HRS, and transportation plans that were adopted by other jurisdictions for private schools with a desire to grow. The NSC has offered solutions below that rely in part on use permits from other jurisdictions in California that have successfully solved the transportation problems created by these schools.

**Paragraph 3: Scope of This Approval; Major and Minor Changes.** The paragraph leaves to the planning director's discretion whether requested changes to the use permit are major or minor. If minor, the planning department can decide whether to grant or deny the application and presumably, there would be an appeal available only to the Planning Commission. If major, there would need to be a hearing before the Planning Commission with an appeal available to the city council.

NSC requests that any changes to the TDM, traffic conditions of approval, enrollment number, or summer program require a planning commission hearing with an appeal to the city council. These three areas have been particularly problematic.

Presently, Lincoln owns approximately 22 acres of real estate in one very large residential neighborhood. The city should be seeking to cut off any further revisions to the PUD that was issued in 2006, prior to the other real estate purchases, seeking a master plan, and refusing to continue tinkering, piecemeal, with the now very outdated PUD for one campus. In the event that HRS does seek further modifications to the PUD, it should be required to go through the Planning Commission and City Council so that the neighbors have an adequate opportunity to consider and possibly oppose the application. They should be able to look to their city council representative for assistance and not have the amendment to the PUD left to the discretion of the planning director and with an appeal, to the unelected Planning Commission.

**Paragraph 4. Conformance to Approved Plans; Modification of Conditions or Revocation.**

This paragraph in subsection (a) allows the applicant to correct nuisance or blight conditions within 60 to 90 days after approval of the permit. The time is excessive. HRS has been put on notice regarding nuisance conditions on the property and should have already corrected them. To the extent that any remain, 30 to 60 days should be sufficient. NSC is concerned that the city tends to give far too much time for corrections to schools that are not in compliance with their permits. Here and elsewhere, we have cut down the time.

Subsection (b) does not inform the reader what is meant by Master Fee Schedule. The fines and penalties for noncompliance of the use permit should be spelled out specifically. NSC has added penalties and fines from other use permits as examples of providing specifics. We would like to see the specifics of the city's paragraph and then compare those specifics with what NSC is proposing.

## **Paragraph 10. Compliance Matrix**

This paragraph appears to be boilerplate intended for construction projects. It needs to be revised so that it applies to the instant application. If the project involves construction, the planning department needs to so indicate and define the proposed construction. NSC is requesting that the matrix be submitted at the beginning of each semester and the summer program with a copy to the NSC. Given the history of permit noncompliance, the request is reasonable. The document should be signed under penalty of perjury to assure that the signatory has carefully determined that it is accurate.

## **Paragraph 11. Mitigation Monitoring and Reporting Program.**

This paragraph attempts to deal with the problem of the queue becoming too long while parents wait to pick up their children. The purpose of keeping the queue from extending past the allowable area involves safety for the public and parents who drive on Lincoln Avenue. It also prevents blocking the driveways of the residents who live in the area where the queue is not to extend. When the queue exceeds its allowable area, parents double park or attempt to nose into the queue forcing the traffic behind them to cross into the travel lane with oncoming traffic.

For about a year Mary Fahey, a HRS employee, attempted to control the queue by using a walky-talky and communicating with a staging area monitor. She was able to reduce the queue with varying degrees of success. However, on occasion, when she was talking to one parent, another one would go behind her and try to nose into the queue. At some point, HRS changed to a security guard who sat down and did nothing. It was unclear why Mary Fahey stopped handling the monitoring of the queue, but one possible reason is that it requires someone to hike up a very steep hill to get to the location since HRS does not provide any shuttle service for its monitors.

NSC deleted many of the proposed solutions because they are not mitigations, but are procedures that the school should be following to move students in and out of the campus efficiently. Further, the NSC is requesting extensive bus ridership requirements as part of the conditions of approval, which if adopted, would duplicate these mitigation measures. The proposed mitigation of having parents pay for curbside access made no sense since the goal should be to reduce the number of parents using curbs to deliver or pick up students in the first instance. Allowing them to pay for the privilege of using the curb incentivizes wealthy people to drive to the school for transportation purposes and is counter-productive.

While NSC notes that the mitigation now includes morning drop-off and the summer program, we cannot say that is more stringent than the earlier version and question whether the City can legally change the mitigation without CEQA review. However, we have given examples of what would make it more stringent than the earlier version and these examples should be adopted by the decision-makers.

The bulb-out mitigation is vague as to location and the proposed condition does nothing to reduce the impact of the extended queue. Mitigations must actually reduce the impact, not just



study various ways to address them. Mitigations, with no substantial evidence that they would reduce the environmental impact do not comply with the mandates of CEQA. Nor do vague references to “other measures” that might be taken in the future.

The Mormon temple parking lot is on loan for free to HRS, on condition that people not drink coffee or smoke cigarettes. There is no evidence that the temple will continue loaning this lot to HRS. As such, it is not a feasible mitigation as required under CEQA as there is no substantial evidence that it will always be available. Furthermore, the staging should not be occurring in the neighborhood where the parents are forced to wait in two separate places to drop-off or pick up their children. Instead, it should be occurring in the neighborhood where the students reside with a “kiss and ride” shuttle or bus service. That is an accepted practice that provides much more efficient and safe traffic management than what occurs presently, where parents who get tired of waiting either skip the staging area, use Lincoln Way to cut into the queue or text their children to meet on a residential street for pick-up. (Archer, Brentwood, Hillbrook.<sup>1</sup>)

Under “Monitoring” we have changed the hours to the ones that correspond with the school’s drop-off and pick-up times, according to our observations. If these hours are incorrect, we will observe again and change our request. The NSC is opposed to self-reporting, given that HRS initially contended vigorously that it was in compliance with its use permit when it was not. It has consistently used monitoring to “defend the school” by creating documents supporting whatever it chose to do, rather than as a way to make sure that there was a safe system for its students to arrive and leave the school. One of NSC’s major goals is to seek independent monitoring and reporting of HRS’ compliance with its use permit to avoid controversy about whether it is in or out of compliance and to avoid the neighborhood having to constantly scrutinize the school’s operation.

**Paragraph 12(b). School Grades/Enrollment / Verification.**

This paragraph addresses the enrollment cap and use of the school. We have inserted language from another school’s use permit. It is designed to address the problem of a few private schools in California seeking percentages in use permits to squeeze more students into the enrollment cap and thereby creating confusion related to exactly what enrollment cap should be enforced. It also addresses the problems of these schools, including HRS, attempting to include far more uses of their facilities, for financial gain, than operation of a school.

In the past, HRS has held large conferences open to the public, “partnered” with other groups and organizations to put on events open to the public or to those buying tickets, leased out its facilities, run a recreational program for the public, offered its café to persons other than its students and employees, loaned its facilities to various persons for recreational purposes, etc. The

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<sup>1</sup> We are including the names of schools as examples for some of our requested conditions. Hillbrook is located in Los Gatos and the other two schools are in Los Angeles. All three depend on “kiss and ride” and busses to reduce the number of cars coming into the neighborhood where the schools are located. Two of them, Archer and Brentwood, also impose conditions requiring substantial bus ridership. All three schools present similar impacts to those of HRS.

use permit needs to be modified so that it is clear that the only activities allowed on the property are those typically involved in operating a school.

The NSC changed the enrollment number from 906 to 875. The Mitigated Negative Declaration has phase two, let alone phase 3 only achieved by 2019, not 2012, when HRS went to that number against the advice of the planning department. It is unclear to us that HRS could go to phase two if it was short the 20 “assigned parking spaces” it claimed to have on Clemens, a residential street blocks from the campus. We have not found any neighbor who agreed to have HRS use this narrow residential street to meet the school’s parking needs.

Here is how we arrived at the 875 enrollment number:

Had the school not violated its use permit, it would still be in phase 2 with 820 students, plus or minus 25 students using the +/- 3% factor, listed in the use permit until 2021. **So, the most it could have had, if it had complied with its use permit was 845 students.** Instead, it violated its permit and is now, according to the school, at 875 students, **30** students over its limit.

The school now wants 906 students, which they claim represents Phase 3. However, the use permit condition states:

Third phase of 60 additional students: would bring the school population on the current campus to 880, plus or minus 26 students using the +/- 3% factor. This block of additional students would not be admitted to the school for a minimum of 15 years after approval of the Master Plan.

“15 years” would occur in 2021. Therefore, the school is asking the city to move up the date when it can go to phase 3. However, the plus or *minus* factor is in the condition. If we add 26 students to 880, the total is 906 students. However, if we **subtract** 26 from the 880, the total is 854, the phase 2 number. The city has the discretion to deny the permit and require HRS to return to the 854 number until 2021 or it could apply the minus 3% or it could apply the plus 3%. The school wants the maximum – 906 (854 where it should be plus another **52** students.)

If the City wishes to “make the trade” of a sizeable increase in the student enrollment now over both the 854 phase two number and the current 875 enrollment in exchange for a better written use permit, it should not permit the entire 52 student increase. Instead, it should neither apply the plus 3% or the minus 3%, and leave the school where it is now.

The policy reasons for either granting an amended permit for 875 students or reducing it to 854 relate to HRS’ philosophy that it has demonstrated repeatedly over the years. It believes that as a private school, it should be free of regulations. It owns the land where its school is situated, government is too regulation minded in any event, and as long as the school provides a good educational service, no further interference should occur because it is “such an important part of Oakland.” If neighbors have a problem with the school, they can contact the school and if

the head of school feels the complaint is reasonable, the school will do something about it. Otherwise, HRS will flick away the neighbor, do as it pleases, and the neighbor is in the wrong if he complains any further to any agency, including to the city.

This philosophy is well documented by the school in its letter responses to the planning department's attempts to get it into compliance. The letters denied any violations of the use permit, informed the planner that it would increase its enrollment as it chose, and were written in an aggressive, combative tone. Most recently, the philosophy is documented by the chairman of the board for HRS. After the board recently terminated the employment of Rob Lake, HRS head of school, the chairman listed Lake's accomplishments. Included was the following:

Also, during Rob's tenure, our Annual Fund increased by more than 50% with increased giving from all major constituents. *In addition, admissions significantly strengthened and enrollment today is at an all-time high.*

(Emphasis added. Notice to HRS Families, dated August 12, 2015, attached.)

Therefore, the philosophy is that as long as we get more money and more students, regardless of the way we do it, we are to be congratulated. There are a handful of private schools in California that follow this same philosophy, although we are aware of none of them that are as dedicated to the philosophy as HRS.

If the city continues the practice of allowing private schools to increase their enrollment in violation of their use permits and then "legalize" it, these schools will continue encroaching on the rights of their residential neighbors by creeping increases in enrollment. Success is the reward for violating the use permit.

**Paragraph 14. Hours of Operations (Academic, Childcare and After School Program)**

The field is dark during most of the fall semester and part of the winter semester. There is no reason why students would still be practicing or playing games in the dark. Neighbors have consistently opposed night games and other evening uses of the property due to the noise which permeates the housing above the school while neighbors' children are trying to do homework and people are making or sitting down to dinner. The supervision should continue until the students leave, especially those students who have parked in the lot below the housing.

**Paragraph 15. Summer Program Enrollment / Operations.**

The Summer Program, also previously labeled "Summer Camp" has been a major problem for the neighborhood for several reasons. It is open to the public and therefore, the parents arriving and leaving in cars do not know the driving rules and are not at the school long enough to learn them. The monitoring is handled by children who hold up signs which is

ineffective to prevent constant use of the residential streets for a variety of school rule violations at the same time that the neighbors are trying to go to work.

Regardless of the many years the Summer Program has existed, the people running it never have been able to figure out ways to prevent excessive noise which interferes with residents, often all day. For awhile, it was “screaming sessions” with students standing on the field screaming in unison, then it was use of loud speakers for calling role several times a day one child at a time, then it was screaming the names of each child as its parent arrived for pick-up, and recently it has been due to yelling out the names of children *and* twice over the summer four or five bounce houses with loud motors running all day in concert. Despite phone call complaints and a representative of the neighborhood on Whittle walking down to the school to talk with someone, the excessive noise is either repeated or there is a new source of it.

School summer programs normally do not create noise and traffic nuisances in the neighborhoods where they are located. Many of them run only in the mornings. Summer afternoons should be times of quietude for the residents who are trying to work in their homes, take an afternoon nap, or enjoy family time with their own children. NSC has no objection to HRS putting on all day, loud, boisterous public recreational and child care programs, but they should be in conjunction with the nearby Dimond Park or some other location that is not in the midst of housing.

The number of summer “campers” in the proposal is also excessive. Ms. Klein recalls, as does the NSC, that last year the HRS website reported that the summer program had been attended by “over a thousand” children. The increase from that number to 1,560 represents a substantial increase in noise and traffic impacts for the residents. The requirement that there be a cap on the number of students permitted to attend the Summer Program came from the Archer CUP, which also includes hours and where the attendees may be located on the campus during certain times. Hillbrook’ CUP limits the hours.

**Paragraph 16. Number of Special Events / Days and Hours of Operation.**

One of the NSC’s goals is to seek a reduction in the number of events. The proposal appears to increase them. For example, it allows more Saturday events than there are Saturdays in the year. Schools do not normally have an enormous number of events and other than a school dance and graduation, they do not generally use weekends. The residents need evenings and weekends to be relatively quiet, consistent with any residential neighborhood. Evenings and weekends are times for children’s homework, people getting caught up on their chores, entertaining their friends and family, and enjoying the peace and quiet that most people experience in a neighborhood.

HRS’ events often involve visitors entering the neighborhood who do not know the driving rules, and create traffic congestion at the same time residents are coming home from work. When they leave the “event,” there is loud talking and laughing late at night as they go back to their cars, waking up the residents. Some of the HRS events have been huge affairs open

to the public for widely advertised conferences. At one point, four busses were showing up in the neighborhood and parking on Lincoln Avenue related to a HRS event. The NSC supports HRS' good causes for which it puts on events that ostensibly seem school related (i.e., mayor candidate debates in front of students and convention on race relations), but they need to be placed in appropriate locations, such as the Oakland Convention Center, and not in our dense residential neighborhood.

The CUPs we have reviewed have limitations on school events. (Examples: Archer, Hillbrook.) They generally limit the number of events, the hours, the number of attendees, and the number of vehicles or guests.

### **Paragraph 17. Total Number of Employees**

The use permits for private schools normally include a cap on employees, which is reasonable given that there is a relationship between the number of people working at the school and its parking needs. (Bentley in Oakland.) Without that cap, the school could increase its employees needing more onsite parking without ever revealing that it had done so. This recently occurred at Bentley School with the city then having to require compliance. We do not know HRS' current number of employees.

### **Paragraph 20. Parking Requirement and Shared Parking**

The paragraph does not define what is meant by "surplus parking." Is that somehow different from parking on other sites that is limited by the sites' own use permits for their own uses?

### **Paragraph 21. Whittle and Lincoln Avenue Properties**

The school purchased the 4180 Whittle residential, half-acre property in June 2015. There is one other non-school property purchased by HRS in the last couple of years, and the NSC will obtain its address. That property should also be included in this list. The NSC is concerned about "land-banking" by HRS of residential properties. These residential purchases make no sense given that the school already owns over 20 acres of institutional properties. The school's continuing encroachment into the residential neighborhoods creates a predictability problem for buying and selling real estate, especially given that it tore down a residential property on Lincoln Avenue to construct its entryway gate. At this point, Whittle Avenue in the area of the school's boundary is substantially destabilized. The City should require divestment of the residential lots, similar to its requirement of Kaiser in the 1980s.

### **Paragraph 22. Inserts 1 and 2**

Closure of the Whittle gate to all but deliveries and the few vehicles accessing the parking spaces at the end of the driveway is one of NSC's goals. This gate has become an attractive second entry into the campus for drivers who do not wish to wait in the staging area or in a queue on Lincoln Avenue to drop off or pick up students. The monitors have been

ineffective at preventing wide scale use of the gate. There is no reason for pedestrians, other than students and employees who live on the defined streets, to use this gate.

The gate access also has caused employees to park in the residential streets behind the school since they can then avoid parking onsite where there are apparently too few spaces available, and access the school conveniently through the Whittle gate. The school is now claiming that it has “assigned parking spaces” on Clemens Street which is located blocks from the campus, and that the school can use this residential street for 20 employee parking spaces. We understand that planning is tracking down what HRS means by “assigned parking spaces.” The city should be discouraging business uses of the residential neighborhood narrow streets as it destabilizes the neighborhood, as discussed above. As a policy, the city should also deter use of residential neighborhoods where a business has purchased residential properties for its business purposes. It appears that HRS intends to convert the Whittle Street area for its own business purposes. Furthermore, other use permits forbid using back gates as access points for students and employees. (Hillbrook, College Preparatory School.) They are a nuisance to the neighbors and a threat to the residential characteristics of the streets where they are located.

### Paragraph 23. **Transportation Demand Management**

The traffic reports in the past have discouraged having drop-off or pick-up across the street from the main gate. It’s dangerous. The closer to a main entrance children either leave or get into a car, the safer. The practice of now having busses on both sides of Lincoln Avenue at the same time has created a “bus tunnel” for which drivers have no visibility as they drive through it. If a small child ran across the street, the driver would not see him in time to stop. When Lincoln Child Center occupied the property on the south side of the street, it did not use large busses and only unloaded and loaded its small busses when HRS was finished with its busses.

HRS is approximately twice the size of most private schools in the Bay Area, and possibly in California. Generally, private schools either break into two different campuses and separate them into two different neighborhoods or remain in the 350 to 550 student size. Even in looking for private schools with 350 to 550 students, we noticed that some of them present traffic and noise problems for residential neighborhoods similar to the problems presented by HRS. (Bentley, College Prep, Archer, Brentwood, Hillbrook.) College Prep, Archer, Brentwood, and Hillbrook all have “kiss and ride” shuttle services and bus services that greatly reduce the number of vehicle trips. College Prep, Archer, Brentwood, and Hillbrook have provided onsite loading and unloading spaces.

There are basically only two ways to reduce vehicle trips – car trip caps or bus ridership requirements. It is impossible to effectively use car trip caps with HRS because the parents are currently unloading and loading in too many different locations, including on residential streets. Archer has a 70% bus ridership requirement and penalty provisions. Brentwood also has a bus ridership requirement. Both schools have successfully complied with the bus ridership requirement for many years.

One of the NSC's key goals is removing all of HRS' operations out of the residential streets. By reducing the number of vehicles coming in and out of the neighborhood, traffic should substantially lighten in the neighborhood and on highway 13. It also solves the problem of HRS designing its campus with NO adequate drop off and pick up facilities. The Mormon Temple and Greek Church do not impact the neighborhood because they have provided such facilities and HRS could have done so, as well. It has chosen for over a decade not to budget for construction of an underground parking garage or other facility that would provide a safe way for its students to arrive and leave the campus. As such, a bus ridership requirement is a reasonable solution and acceptable in other jurisdictions.

The bus ridership requirement also should free up the parking area at the bottom of HRS' driveway. Instead of small children getting out of cars, including across the street from the school, they should be unloaded in the much safer location at the bottom of the driveway in the parking lot. Several parents have reported to the NSC that at one time, this is how small children arrived and left the campus and they wished that the driveway had not been closed off.

The NSC disagrees with the notion that Lincoln Avenue is too long and therefore, there is a need for "loops." By the time the busses maneuver through three narrow residential streets with four turns and get past resident traffic, including making very difficult turns, they could have been on the freeway heading in either direction of highway 580. They would then be able to access the Skyline area by heading up 35<sup>th</sup> Avenue or the Montclair area by going up Park Blvd. These two streets are aerial connector streets that provide easy access to the Oakland hills and to highway 13.

The current TDM, by contrast, offers nothing for the parents and just as importantly, the employees who work at HRS. It simply moves vehicles around the neighborhood without making life any easier for parents and employees. A parent would much rather drop off and pick up his or her child in their own neighborhood with a "kiss and ride" system than be forced to drive down Lincoln Avenue in Oakland, compete with a lot of other parents for curb access, sit through two waiting areas for the school monitors to go get their child and finally unload or load, only to have a time crunch due to being late for work or late dropping off another child at a different school.

Similarly, there are not enough parking spaces for the employees under the TDM. HRS failed to provide them, and then dropped their application to use all of the 140 parking spaces on the former Lincoln Child Center property. A free shuttle service that starts approximately an hour before the student pick-up and drop-off periods would greatly help employees and reduce the conflict between the neighbors and the school over employees parking on residential streets.

The NSC disagrees that the City cannot legally require a private school to prevent its employees and visitors from parking on City streets. *Most* use permits for private schools include that language, including Oakland. (Bentley, Hillbrook, Archer.) To be credible, the onus is on the school or the City to provide legal authority that these conditions are unenforceable.

The license database has been a continuing problem because HRS does not obtain complete information from the drivers and fails to produce the database on time.

The staging area should not be included as a condition of approval. It is a voluntary situation with no lease between HRS and the Temple. At one point, NSC understands that the Temple offered to enter into a lease and HRS declined. The Temple has enormous parking facilities in the back that are unused and at any time, HRS could have set up a jitney to use this area away from the residential neighbors. It chose not to enter into negotiations for a lease.

The neighbors' observations of the staging area have been mixed. There is no mechanism for the person with the sign to avoid walking up a very long, steep hill to the parking lot. Sometimes, the staging area is not even set up. At best, it is inconsistent and dependent on employee's willingness to make the hike. It is also a "two-part" system because it relies on someone at the driveway to monitor the queue and communicate when it is ready for more cars. For the first year, Mary Fahey religiously filled that role, but as could be expected she stopped and then the job went to a security guard who just sat at the driveway not directing traffic. As is customary with HRS according to neighbor observations, it has kept up the staging area, although somewhat sporadically, because it wants another expansion permit, not because it intends to comply with that condition in the permit.

Furthermore, the staging needs to occur in the neighborhoods where the students reside, not in a dense residential neighborhood that was never designed to handle over 1200 people using the residential streets for arriving and leaving a school. The Temple, the Greek Church, and Cerebral Palsy Center have never considered such an unsafe method of handling their attendees. Nor has the City allowed it.

Besides having no data or a traffic engineer's report to support the staging area condition or measure the effectiveness of the staging area, the condition should not include other locations that *might* be available for staging if the Temple does not wish to continue. Cerebral Palsy Center and the Church both would involve a left hand turn which would slow down the traffic traveling in both directions of Lincoln Avenue. The condition is speculative, at best. The proposal should have at least required a lease for an extended period of time.

### **Inserts 5 and 6**

The NSC's goals include removing the monitoring function from HRS. It has been a failure for years and cannot work in the school's hands. The monitors have been a couple of security guards who make notes in the interests of "defending the school" rather than directing traffic or stopping parents from unsafe driving maneuvers. The other monitors have been an array of ever changing school employees who do not want to hike up the steep hill and instead, stay around the main gate. They are of assistance in getting students in and out of the cars but they do little, if anything, to direct drivers. The rest of Lincoln Avenue remains unmonitored. The Whittle gate monitor allows "one and all" to use the gate. Despite photos, videotape and declarations from neighbors regarding these deficiencies, the school has never corrected them.



The monitoring and enforcement of the conditions need to be in the hands of a third party approved by the City.

The TDM includes milk-warm, loose violation corrections. In the neighbors' experience, not one parent has even been contacted by the school and asked to discontinue unsafe driving conduct. Multiple times, someone from NSC has asked for follow-up regarding a report of a violation, and no information has been forthcoming. The system is broken and without a third party collecting the violation information, there is no way to enforce the condition or hold the school accountable for compliance.

#### **Insert 7**

Some of the parking requirements in the proposal are well-conceived. However, the NSC's goal is to remove HRS' operations from the residential streets and that includes parking. Lincoln Avenue is not a parking lot for the school. In the event of a natural disaster or fire sufficiently threatening to require evacuation and emergency personnel access, Lincoln Avenue will be necessary for thousands of people living and working on Lincoln Avenue. It should not be narrowed with parked cars for one business' parking needs. The bus ridership requirement for students and employees should greatly reduce the need for onsite parking spaces, which should be filled on the campus, instead of pushing the parking onto Lincoln Avenue and residential streets.

Moreover, given that approximately 53% of HRS' students come from Oakland, there should not be a need for any of them to drive to the school. Similarly, the bus and shuttle routes offered by the school should be sufficient to avoid other students driving to school, as well. As one parent put it succinctly, "My teenager will drive to our mailbox if we let him." Kids love to drive, but it is not a necessity or even a good idea to add teenagers to the traffic and parking load. Most schools recognize that it is better for teens to leave cars at home and use buses or shuttles for school.

#### **Paragraph 25. Neighborhood Liaison Committee /Point of Contact/Complaints**

This paragraph has the City deciding which neighborhoods will be part of the communication system with the school. This is not a City function and borders on interfering with the neighbors' right to organize as they choose.

The former Neighborhood Liaison Committee (NLC) system was a failure and should not be resurrected. It involved two decision-makers and two employees from the school meeting with NLC neighbors. There were heated exchanges involving the two decision-makers who were asked to discontinue their participation and did so. Instead, the head of school and one board member took their places and while pleasant, they apparently had no decision making authority. After two years of negotiations between them and the NLC neighbors, the decision makers then reasserted themselves and cancelled various negotiated agreements. Without decision-makers at the school attending meetings with neighbors, there can be no effective solutions achieved through that method.

This problem is not new. It exists at Bentley, Redwood Day School, and HRS in Oakland, at Hillbrook in Los Gatos and at least Archer in Los Angeles. The substitute paragraph came from the Archer use permit and allows all of the neighbors to participate once per year with the school without the City deciding who will and who will not be allowed at the meeting. In the unlikely event that the two decision-makers at HRS and the neighbors, or some of them, wish to meet, they can arrange to do so.

The rest of the changes to this paragraph are self-evident.

**Additional requested conditions:**

These are self-explanatory with a couple of minor exceptions. Without informing the neighbors or asking if it would be disruptive, HRS leased a field from Cerebral Palsy Center above housing and began having school practices from 4:00 p.m. to 6:00 p.m. The noise escalated with time until the neighbors were hearing a coach screaming, constantly blowing a whistle, and a lot of kids yelling back and forth. The neighbors right below the field included people working from home, children doing homework after school, retired very elderly people, and others preparing or eating dinner. After a request to Cerebral Palsy Center, the arrangement terminated. It makes no sense to have a permit controlling HRS' activities just to have it move those same activities elsewhere in the neighborhood.

It is unclear how often and for what purposes, HRS loans its parking spaces. The other institutional users have their own parking lots and the neighbors do not want to find that the parking spots at HRS are now being used by others with no conditions addressing those uses.

The cones and parking signs are routinely left in the street. There is one mailbox serving the entire neighborhood and unfortunately it is located in front of HRS. There is also a handicapped parking spot right near it. However, because of the cones constantly left in the street, cars cannot pull up to it. The cones and signs should be kept away from that location and others timely removed.

Neighbors have complained to the NSC about maintenance workers beginning with leaf blowers and other equipment at 7:00 a.m. Major maintenance appears to be delayed until school is out of session, including the Summer Program or until there is a holiday, in which case the neighbors then have to listen to the maintenance equipment noise.

There is more than one way to mulch of garden or school yard. It is not necessary to vibrate the neighborhood houses to get it done.

The bounce houses are described elsewhere. These temporary structures (and any others that make excessive noise) should not be placed on the field or outdoors.