

**Abstract of HEIA materials
re: Skyline High School Nov. 2008-August 2009**

<u>Meeting Date</u>	<u>Agenda Item</u>	<u>Minutes Recorded</u>
November 12	Ad Hoc meeting with high school	<p><u>Ad Hoc meeting with SHS</u> Not many issues discussed as Bill was the only HEIA member at the 10/29 meeting – invited SHS principal to the December meeting. No interim neighbor complaints to date about use of lights or about negative neighbor interactions with SHS.</p> <p>Bill reviewed light controls with Jack and Ted. Athletic Director is new to the position and currently uses the on/off switch for control of the lights.</p>
December 3 2008	8:30 High school issues	<p>Follow-up to SHS Discussion With regards to any agreement with SHS for additional use of field lights, board members are to send any points for consideration to Liz for inclusion with the SHS proposal. Sound issue is currently a significant concern for some of the HEIA home owners living near the school. Further discussion of this topic is planned for the January board meeting.</p>
January 7	Follow-up to SHS Discussion	<p>HEIA Board informed by Mr. Ted Cooper, HEIA member and SHS neighbor, that a verbal, “Gentlemen’s Agreement” has been reached between SHS (Mr. Sye) and Mr. Ted Cooper & Mr. Jack McElroy. Per Mr. Cooper the agreement addressed 5 areas – use of lights for practice; graffiti; litter abatement; noise abatement; and policing of truancy.</p> <p>HEIA Board asked if all concerned SHS neighbors were informed and in favor of the “Gentlemen’s Agreement” and the understanding was that they were.</p>

		<p>HEIA Board asked Mr. Sye, (SHS Principal) if “Gentlemen’s Agreement” would include the provisions of the HEIA-proposed MOU and the understanding was that it would.</p> <p>Some provisions of the “Gentlemen’s Agreement”:</p> <ol style="list-style-type: none"> 1) The east-facing lights (i.e., the lights facing the school), but not the lights facing Skyline, may be on for practices from dusk until 7 p.m., Monday through Thursday of each week during the Pacific Standard Time portion of the year (roughly 11/1-April 1). 2) The school will only use the PA system once, at 10:20 am, and not even daily, and will try to stop use of the PA system entirely, emergencies excepted 3) Litter will be policed better and more often and the school will try to enlist the sports teams’ assistance in that effort. 4) Truancy mitigation steps will be taken: school will patch holes in fence with Tim White’s help, security will patrol perimeter for reporting truants and holes in fences. Suggestion that HEIA may be able to help pay for fixing security camera systems and adding one at baseball field corner. 5) HEIA will be requested to help fund small items such as Maglites for janitors who clean outside at night so they will not feel a need to turn on the field lights. 6) If lights remain on past 7 PM for practice, more than three times, practice days will be reduced to three days a week. If lights remain on past 7PM for practice more than three times thereafter, use shall be reduced to two times per week. Three further occurrences shall result in no further use of lights for practice for the remainder of the season. <p>Following the discussion of the “Gentlemen’s Agreement”, some discussion on what the status of the standing contract between HEIA and OUSD should be in the future occurred – topic to be discussed at February meeting.</p>
February 9	Discussion of SHS Issues	Discussion of SHS Issues Liz reported that Kate Boskoff OUSD facilities

		<p>(attorney) would like to open a dialogue with HEIA regarding working on an agreement with the neighborhood. Ms. Boskoff expressed a desire for a rapid resolution and is willing to negotiate with HEIA. Board discussed how best to proceed with regard to this development from OUSD.</p> <p>Motion (Susan) ? moves / Jon 2nd. Liz will request Ms. Boskoff, by email with copy to the HEIA board, to inform the HEIA board, by reply to all email, what modifications OUSD would like to make to the existing 2002 agreement as amended in 2003, including using the lights for athletic practice. Vote: one abstain, all others yes</p> <p>After reviewing OUSD's response the board will consider whether to refer the matter to HEIA counsel.</p> <p>Discussion: Should Tim White be contacted about what the school district wants?</p>
March 4	Agenda : 7:30-8 SHS Issues	No Discussion.
April 4	Agenda : 8:15-8:45 SHS matters	<p>Minutes : SHS Matters Some discussion of recent SHS workshop meeting. Motion Jon / 2nd Susan - HEIA board will vote to approve the proposed 2nd amendment (as emailed after the recent neighbor workshop meeting) to submit as our counter offer to the school district (OUSD). Vote 4/5 (yes/no)</p> <p>Emily from Emily to PTA president on April 21. I can't find the one I sent to Chris Dobbins</p> <p>Dear Ginger, I note that you have a PTSA meeting tonight and I want to assure you that the neighborhood and the board of Hillcrest</p>

		<p>Estates are in favor of making more opportunities for students to use the athletic field, with appropriate lighting as needed. There might be some confusion on that account because at our April board meeting we did not vote in favor of an amendment or waiver to the contract between OUSD and HEIA.</p> <p>The reason is that we want to work over the summer on a slightly different amendment, perhaps one that would have broader opportunities for the school than the one proposed in April. As I emailed to Chris Dobbins last week, we have every intention of seeing that there is an agreement in place offering more opportunities to use the field and field lights for winter time practices.</p> <p>Sincerely, Emily Rosenberg</p>
May 5		<p>Spread Sheet Items</p> <p>SHS – no formal communications recently, committee planning continues.</p> <p>New Business Discuss a SHS Committee. Await this discussion until new board.</p>
June 3	Agenda: No SHS items	
July 1		<p>Skyline High School</p> <p>Discussion about how to get a revised agreement with OUSD. Emily will develop an system for getting board member response to the points considered earlier this year so that decisions about next step can be made at August meeting.</p> <p>July 16 email from Emily to the board: As I explained at our July board meeting, I have</p>

		<p>created an online tool to collect our opinions about how to respond to the school's request to use lights for after school practice during the winter. This is NOT the time to review the entire contract process, this is just about lights for practice. Please go to this link (link not active after August 3) and read it carefully. It is a tool I have created to help us discuss options for a proposed agreement with the school district about using the field lights for after school practice during the winter months. You can print it out to study but you must mark your answers online. This is NOT A VOTE, it is an opinion survey. Thanks Emily</p>
<p>August 5</p>	<p>Skyline High School Vote on SHS request to use field lights for practice during daylight savings time</p>	<p>Skyline HS (<u>these minutes have not yet been reviewed and approved by the Board</u>) Principal: BM provided update on selection of interim Skyline HS principal – New superintendent (Tony Smith) has made a selection (which is not yet public), and an offer has been made. Pending offer acceptance, both T. Smith and new principal are aware of problems with HEIA and open to meeting.</p> <p>Practice Lights: Issue at hand is a) what format and b) what criteria to use to allow SHS to use lights for practice. a) LR stated that</p> <ol style="list-style-type: none"> 1. agree or disagree with it, there is a contract 2. covers things we haven't talked about such as security 3. recognizes it's not perfect <p>but recommends agreement in form of amendment on lighting use for practice.</p> <p>LR made motion to use the format of 2nd amendment to the existing contract (rather than MOU) to establish guidelines for practice lights usage. Seconded by JW. Vote passed in favor 8/2 (Nays: LD, BM)</p> <p>Commentary: JW benefits all to have a clear and enforceable</p>

	<p>document, and we can make changes if needed BM requested statement of his POV – considers contract a mistake in 2001 compounding as time moves on, is against amendment, as it only reinforces legitimacy of contract, which at best has outlived its usefulness and is obsolete and is at worst not legitimate. Advocates a fresh approach.</p> <p>JF objective is to get agreement down on paper for use of lights for practice, time is wasting, get on with it as an agreement is needed to get kids practice lights they need for the fall and that there would not be time to rewrite for 2009/10 school year DL shared JF POV, and that the amendment is okay as a stopgap</p> <p>b) Board voted on criteria for practice lights usage following results from survey* questions as written (except for additions as noted) Results are as follows: [not included in this Abstract]</p> <p>12: Meeting concluded with discussion of point 12 . Lee asked the board to “Please indicate which way you think we should deal with violation of light use during practice time”. Two possible enforcement options were discussed in the survey, neither met with favor from the board.</p> <p>Next Steps:</p> <ul style="list-style-type: none">• It was agreed that all would email comments on item #12 to LR who would summarize.• A meeting would be scheduled prior to next monthly meeting (possibly 8/12) to resolve this outstanding issue.• Board will see this agreement before it goes to OUSD <p>Adjourn about 9:10</p> <p>*Survey provided by Emily Rosenberg via email provided board with guidance as to interest in including/excluding parameters for practice light</p>
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		usage, as well as an opportunity to comment on those parameters
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STEP ONE

This document was sent to OUSD in December 2008/January 2009 in response to their request for a contract waiver to use the lights for after school practice.

Memorandum of Understanding

Between: Skyline High School and Hillcrest Estate Improvement Association

Skyline High School has a need to increase the amount of practice time available for fall, winter, and early spring outdoor sports. The increase in practice time will allow Skyline High School to remain competitive with other area high schools and will improve the athletic, academic and social experience for the students. Hillcrest Estates Improvement Association (HEIA) has a need to maintain the rural ambiance of the neighborhood and to minimize the environmental impacts of light pollution. In order to increase the amount of practice time available during the time that Standard Time is in effect, increased use of the athletic field lighting is required. The increased use of the field lighting will improve safety for students, staff and the surrounding community.

Therefore, Skyline High School and the Hillcrest Estates Improvement Association Board agree to conditionally waive certain terms of the contract dated July 2002 and as amended in 2003 between the Oakland Unified School District (OUSD), Hillcrest Estates Improvement Association (HEIA) and Susan Thorner.

In consideration, Skyline High School and HEIA agree to the following conditions:

1. Lights may be used for practice, as needed, only until 7:00 PM Monday through Thursday during Pacific Standard Time, a span running roughly November 1 to April 1 of each year.
2. Only the lights based on the west side of the athletic field will be used for practices.
3. If lights remain on past 7 PM for practice, more than three times, practice days will be reduced to three days a week. If lights remain on past 7PM for practice more than three times thereafter, use shall be reduced to two times per week. Three further occurrences shall result in no further use of lights for practice for the remainder of the season.
4. The lighting controls must be maintained and set to allow operation only Monday through Thursday with automatic cut-off at 7:00 PM for practice and 9 PM for scheduled events.
5. Full use of the lights will be allowed only for scheduled football and soccer events, not to exceed 10 per year and up to 3 track and field events in the early spring if required.
6. All events where lights are used shall require that a Skyline team is participating
7. The lights will not be on when they are not needed for practices or a scheduled event.

8. Students will not have access to lighting or related athletic field equipment controls
9. Light blockage banners and landscaping shall be fully maintained so as to minimize light spillage
10. Skyline High School will provide to HEIA, in advance, a schedule for all sporting events planned for the athletic field that will require use of the field lighting via the school website and email to the board.
11. Skyline High School administrators and HEIA Board representatives will review progress towards meeting the conditions of this agreement on a monthly basis and work collaboratively to address any neighborhood complaints related to athletic events such as litter, graffiti, and traffic.
12. In the event of any staffing change in the office of principal or athletic director, this MOU will be temporarily suspended until a meeting between the HEIA board and new administration occurs.

So long as the above terms and conditions are met, this agreement will be renewable each fall if and only if there has been at least one pre season meeting between the HEIA board, principal and athletic director.

HEIA BOARD _____ DATE _____

Skyline High School _____ DATE _____

Step Two

These are minutes of the January 7, 2009 Board Meeting recording the presentation of a gentlemen's agreement by a few of the neighbors near the school. There is no written documentation of the agreement.

From the approved minutes:

HEIA Board informed by Mr. Ted Cooper, HEIA member and SHS neighbor, that a verbal, "Gentlemen's Agreement" has been reached between SHS (Mr. Sye) and Mr. Ted Cooper & Mr. Jack McElroy. Per Mr. Cooper the agreement addressed 5 areas – use of lights for practice; graffiti; litter abatement; noise abatement; and policing of truancy.

HEIA Board asked if all concerned SHS neighbors were informed and in favor of the "Gentlemen's Agreement" and the understanding was that they were.

HEIA Board asked Mr. Sye, (SHS Principal) if "Gentlemen's Agreement" would include the provisions of the HEIA-proposed MOU and the understanding was that it would.

Some provisions of the "Gentlemen's Agreement":

- 1) The east-facing lights (i.e., the lights facing the school), but not the lights facing Skyline, may be on for practices from dusk until 7 p.m., Monday through Thursday of each week during the Pacific Standard Time portion of the year (roughly 11/1-April 1).
- 2) The school will only use the PA system once, at 10:20 am, and not even daily, and will try to stop use of the PA system entirely, emergencies excepted
- 3) Litter will be policed better and more often and the school will try to enlist the sports teams' assistance in that effort.

- 4) Truancy mitigation steps will be taken: school will patch holes in fence with Tim White's help, security will patrol perimeter for reporting truants and holes in fences. Suggestion that HEIA may be able to help pay for fixing security camera systems and adding one at baseball field corner.
- 5) HEIA will be requested to help fund small items such as Maglites for janitors who clean outside at night so they will not feel a need to turn on the field lights.
- 6) If lights remain on past 7 PM for practice, more than three times, practice days will be reduced to three days a week. If lights remain on past 7PM for practice more than three times thereafter, use shall be reduced to two times per week. Three further occurrences shall result in no further use of lights for practice for the remainder of the season.

Following the discussion of the “Gentlemen’s Agreement”, some discussion on what the status of the standing contract between HEIA and OUSD should be in the future occurred – topic to be discussed at February meeting.

Step Three OUSD to HEIA

This is the MOU proposed by the school district in response to HEIA's proposed MOU. Sorry I don't have the date we received it. I THINK BUT AM NOT SURE that it came after the following action from the February 4, 2009 Board Meeting:

Motion (Susan)

? moves / Jon 2nd.

Liz will request Ms. Boskoff ,[OUSD counsel]

by email with copy to the HEIA board, to inform the HEIA board, by reply to all email, what modifications OUSD would like to make to the existing 2002 agreement as amended in 2003, including using the lights for athletic practice.

Vote: one abstain, all others yes

2009 ATHLETIC FIELD LIGHTING MEMORANDUM OF UNDERSTANDING

This 2009 ATHLETIC FIELD LIGHTING MEMORANDUM OF UNDERSTANDING is entered into effective _____, 2009 by and between the Oakland Unified School District, a California Public School District ("School District") and the Hillcrest Estates Improvement Association, Inc., a California Corporation, ("HEIA") and Susan Thorner ("Thorner"), (collectively referred to herein as "The Parties") and is made in reference to the following:

- A. **Whereas**, The Parties entered into a SETTLEMENT AGREEMENT AND RELEASE effective July 20, 2002 in which the Parties agreed to certain covenants, conditions, release and agreements;
- B. **Whereas**, The Parties have agreed to reconcile the terms of the SETTLEMENT AGREEMENT AND RELEASE and create an understanding that more accurately reflects the desires of The Parties going forward with respect to certain issues including, but not limited to, the use of the athletic field lights at Skyline High School;

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and with incorporation of the recitals above, the Parties agree as set forth below:

- 1. The athletic field lights may be used for official Skyline High School athletic team athletic practices until 7:00 PM Monday through Thursday as needed during each school year ;
- 2. The athletic field lighting controls will be maintained and set to allow operation only Monday through Thursday with automatic cut-off at 7:00 PM for such practices;
- 3. Only authorized District personnel will have access to the athletic field equipment controls. Students will not have access to lighting or related athletic field equipment controls;
- 4. Light blockage banners and landscaping, as in existence on the date of this Agreement, shall be maintained at all times the lights are used so as to minimize light spillage;
- 5. Skyline High School will provide to HEIA, in advance, a schedule for all sporting events, other than team athletic practices specified in paragraph 1, planned for the athletic field that will require use of the field lighting via the school website or electronic sign;
- 6. Skyline High School shall be allowed to use of the athletic field lights for scheduled sporting events as follows:
 - i. Four (4) Football Games;
 - ii. Four (4) track Events;
 - iii. Five (5) Boys Soccer Games;
 - iv. Five (5) Girls Soccer Games;

- v. Five (5) Baseball Games;
 - vi. Five (5) Softball Games; and
 - vii. Two (2) School Events including, but not limited to, Commencement Ceremonies.
7. Skyline High School will monitor the use its public address system and reasonably control unnecessary and /or unwarranted use.
 8. Upon a change in school administration, the principal and athletic director will arrange a meeting with the HEIA board, to confirm commitment and adherence to the terms contained herein;
 9. Skyline High School administrators, HEIA Board representatives, and, if necessary, their respective legal counsel, shall review progress towards meeting the conditions of the agreement on a monthly basis and will work collaboratively to address any neighborhood complaints expressly related to the scheduled games and events referenced in Paragraph 6.;
 10. If terms regarding the use of the field lights are not adhered to, and following three separate and uncured written warnings from HEIA to the School Principal with copy to the School District office of General Counsel, then, within 20 days from the receipt of the final (3rd) uncured written warning, the HEIA and School District will mutually select a mediator to resolve the dispute. If the parties are not able to agree on a mediator, the HEIA shall file a written request for mediation with the American Arbitration Association which shall administer the selection of a mediator and the mediation process;
 11. If mediation fails to completely resolve the dispute, HEIA may proceed to a Civil Action in Superior Court in Alameda County, subject to HEIA following the claims presentation provisions under California Government Code § 900, *et. seq.*, and applicable District claims policies, prerequisites for filing suit against public entities;
 12. The mediator's fees and administrative costs of the mediation shall be shared equally by the parties, and the mediator shall have no discretion to alter this agreement.
 13. The Parties agree that entering into this 2009 ATHLETIC FIELD LIGHTING MEMORANDUM OF UNDERSTANDING shall serve to forever extinguish, supersede and restate all prior written understandings between The Parties, including, but not limited to those contained in the SETTLEMENT AGREEMENT AND RELEASE referenced herein

IN WITNESS WHEREOF, this 2009 ATHLETIC FIELD LIGHTING MEMORANDUM OF UNDERSTANDING has been executed as of the date first set forth above.

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HILLCREST ESTATES IMPROVEMENT ASSOCIATION, INC.

By _____,
Its _____

Date

Susan Thorner

Date

OAKLAND UNIFIED SCHOOL DISTRICT

Alice Spearman, President, Board of Education

Date

Edgar Rakestraw, Jr., Secretary, Board of Education

Date

APPROVED AS TO FORM:

Danielle Houck, OUSD Interim General Counsel

Date

STEP Four April 2009

This is the document was created in an informal meeting on March 24, 2009 where some of the board members and some of the neighbors near the school discussed how to respond to the school's request for a waiver to the contract to allow more use of field lights for after school practice. The group that created this document presented it at the April 2009 Board Meeting with a request that the Board present this document to OUSD. The Board voted not to use this amendment in responding to the school's request for a waiver.

April 4, 2009 Minutes **SHS Matters** Some discussion of recent SHS workshop meeting. Motion Jon / 2nd Susan - HEIA board will vote to approve the proposed 2nd amendment (as emailed after the recent neighbor workshop meeting) to submit as our counter offer to the school district (OUSD). Vote 4/5 (yes/no)

Please move on to the next page.

**Second Amendment
to
SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS**

This Second Amendment to the SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS is entered into effective January 12, 2009 by and between the Oakland Unified School District, a California Public School District ("School District") and the Hillcrest Estates Improvement Association, Inc., a California Corporation, ("HEIA") and Susan Thorner ("Thorner"), (collectively referred to herein as "The Parties") and is made in reference to the following:

- A. **Whereas**, The Parties entered into a SETTLEMENT AGREEMENT AND RELEASE effective July 20, 2002 in which the Parties agreed to certain covenants, conditions, release and agreements;
- B. **Whereas**, by entering into this Second Amendment to the SETTLEMENT AGREEMENT AND RELEASE, The Parties ratify, restate and recommit themselves to good faith compliance with all of the terms of the SETTLEMENT AGREEMENT AND RELEASE, as amended by the First Amendment to the SETTLEMENT AGREEMENT AND RELEASE, and to the terms of the Second Amendment, as described herein;

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and with incorporation of the recitals above, the Parties agree as set forth below:

- 1. The athletic field lights located on the western side of the athletic field (those mounted on standards closest to Skyline Boulevard, which point toward the school buildings) may be used for official Skyline High School athletic team athletic practices until 7:00 PM Monday through Thursday, from November 1 to April 1 of each year;
- 2. The athletic field lighting controls must be maintained and set to allow operation only Monday through Thursday with automatic cut-off at 7:00 PM for such practices;
- 3. The athletic field lights located on the eastern side of the athletic field (those mounted on standards closest to the permanent school buildings, which point toward Skyline Boulevard and the neighborhood beyond), may not be used for any such practices at any time;
- 4. Students will not have access to lighting or related athletic field equipment controls;
- 5. Light blockage banners and landscaping shall be fully maintained at all times the lights are used so as to minimize light spillage;
- 6. Skyline High School will provide to HEIA, in advance, a schedule for all sporting events planned for the athletic field that will

**Second Amendment
to
SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS**

require use of the field lighting via the school website or electronic sign;

7. Skyline High School will use its public address system no more than once per day, with such use occurring at 10:20 a.m., provided, however, that the public address system may be used in emergencies. The filed sound systems shall be used in accordance with
8. Upon a change in school administration, at least one meeting must occur between the HEIA board, principal and athletic director prior to the use of the athletic field lights for any purpose;
9. If terms are not adhered to, and following two uncured written warnings from HEIA to the School Principal and School District, the School District agrees that Skyline High will cease use of the athletic field lights for athletic practices for the rest of the school year.

IN WITNESS WHEREOF, this Second Amendment has been executed as of the date first set forth above

OAKLAND UNIFIED SCHOOL DISTRICT

_____ Date: _____

By _____, its _____

HILLCREST ESTATES IMPROVEMENT ASSOCIATION, Inc.

_____ Date: _____

By _____, its _____

Susan Thorner

_____ Date: _____

STEP FIVE—August 2009 board meeting voted to use the amendment form and include the following points. Decisions about enforcement have not been made. The amendment has not been written up.

Agenda Item for August 5 Board Meeting

Skyline High School

Vote on SHS request to use field lights for practice during daylight savings time

Draft Minutes from August 5 Board Meeting

Skyline HS (these minutes have not yet been reviewed and approved by the Board)

Principal: BM provided update on selection of interim Skyline HS principal – New superintendent (Tony Smith) has made a selection (which is not yet public), and an offer has been made. Pending offer acceptance, both T. Smith and new principal are aware of problems with HEIA and open to meeting.

Practice Lights: Issue at hand is a) what format and b) what criteria to use to allow SHS to use lights for practice.

a) LR stated that

- 1. agree or disagree with it, there is a contract***
- 2. covers things we haven't talked about such as security***
- 3. recognizes it's not perfect***

but recommends agreement in form of amendment on lighting use for practice.

LR made motion to use the format of 2nd amendment to the existing contract (rather than MOU) to establish guidelines for practice lights usage. Seconded by JW. Vote passed in favor 8/2 (Nays: LD, BM)

Commentary:

JW benefits all to have a clear and enforceable document, and we can make changes if needed

BM requested statement of his POV – considers contract a mistake in 2001 compounding as time moves on, is against amendment, as it only reinforces legitimacy of contract, which at best has outlived its usefulness and is obsolete and is at worst not legitimate. Advocates a fresh approach.

JF objective is to get agreement down on paper for use of lights for practice, time is wasting, get on with it as an agreement is needed to get kids practice lights

they need for the fall and that there would not be time to rewrite for 2009/10 school year

DL shared JF POV, and that the amendment is okay as a stopgap

b) Board voted on criteria for practice lights usage following results from survey* questions as written (except for additions as noted) Results are as follows:

Question		Yay	Nay	From MOU or From Amendment	
1	The athletic field lights located on the western side of the athletic field (those mounted on standards closest to Skyline Boulevard, which point toward the school buildings) may be used for official Skyline High School athletic team athletic practices until 7:00 PM Monday through Thursday, from approximately November 1 to April 1 of each school year;	9	0		Passed - Unanimous
2	The athletic field lighting controls must be maintained and set to allow operation only Monday through Thursday with automatic cut-off at 7 PM for such practices	9	0	Amendment	Passed - Unanimous
3	Full use of the lights will be allowed only for SHS organized and scheduled football and soccer events, not to exceed 10 per year and up to 3 track and field events in the early spring if required.	6	3	Amendment	Passed with addition of addition of "SHS organized events"
4	The athletic field lights located on the eastern side of the athletic field (those mounted on standards closest to the permanent school buildings, which point toward Skyline Boulevard and the neighborhood beyond), may not be used for practices at any time	8	1		Passed
5	Students will not have access to lighting or related athletic field equipment controls;	9	0	Amendment	Passed - Unanimous
6	Light blockage banners and landscaping shall be fully maintained and functional at all times the lights are used so as to minimize light spillage	9	0	MOU and Amendment	Passed - Unanimous
7	Skyline High School will provide to HEIA, in advance, a schedule for all sporting events planned for the athletic field that will require use of the field lighting	9	0	MOU	Passed - Unanimous Website schedule is sufficient for notification
8	Skyline High School will use its classroom public address system no more than once per day, at a level that can be heard in the neighborhood except that the public address system may be used in emergencies [Note this is NOT the loud speaker system for the athletic field]	5	4	Amendment	Passed
9	The agreement for use of practice lights will be suspended until such meeting between HEIA and OUSD/SHS has taken place when there is new campus administration.	5	2	Amendment	Passed

10	As long as the above terms and conditions are met, this agreement will be renewable each fall if and only if there has been at least one pre season meeting between the HEIA board, OUSD principal and athletic director.	9	0	MOU	Unanimous with addition of OUSD
11	Upon a change in school administration or in athletic director, at least one meeting must occur between the HEIA board, OUSD representative, SHS principal and SHS athletic director prior to the use of the athletic field lights for any purpose.	8	1		Passed

12: Meeting concluded with discussion of point 12 . Lee asked the board to “Please indicate which way you think we should deal with violation of light use during practice time”. Two possible enforcement options were discussed in the survey, neither met with favor from the board.

Next Steps:

- It was agreed that all would email comments on item #12 to LR who would summarize.
- A meeting would be scheduled prior to next monthly meeting (possibly 8/12) to resolve this outstanding issue.
- Board will see this agreement before it goes to OUSD

Adjourn about 9:10

*Survey provided by Emily Rosenberg via email provided board with guidance as to interest in including/excluding parameters for practice light usage, as well as an opportunity to comment on those parameters

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

THIS SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS is entered into effective as of July 20, 2002, by and between the Oakland Unified School District, a California public school district (“School District”) and the Hillcrest Estates Improvement Association, Inc., and Susan Thorner (“Petitioners”), and is made with reference to the following:

A. WHEREAS, School District has undertaken a project to improve the football field, the oval track, and certain related facilities (“the Project”) at the School District’s Skyline High School; and

B. WHEREAS, School District’s Board of Education adopted a Categorical Exemption from the requirements of the California Environmental Quality Act (“CEQA”) for the Project; and

C. WHEREAS, Petitioners have challenged that action by the filing of a petition for a writ of mandate in the Alameda County Superior Court, Case No. 2002056986 (“the lawsuit”); and

D. WHEREAS, School District and Petitioners have negotiated in good faith and have reached agreement to resolve and settle the issues regarding the Project and certain related issues and enter into this Settlement Agreement and Release of Claims (“Agreement”) in order to memorialize their agreement on these matters.

NOW, THEREFORE, the School District and the Petitioners agree as follows from and after the effective date of the Agreement:

1. Field Lighting. School District agrees that it shall not erect and operate field lighting at Skyline High School unless and until the School District completes an Initial Study and all other applicable legal requirements with regard to such activity, including, but not limited to, appropriate environmental impact documentation and mitigation in conformity with CEQA and the State CEQA Guidelines. The School District will notify Petitioners in writing when the School District commences the CEQA review process and will simultaneously provide Petitioners with a detailed written description and drawing plans for the proposed field lighting. The School District agrees that any such field lighting will include a 10:00 p.m. cutoff time for use of said field lights and that, except in emergencies as defined below, the School District will utilize said field lighting at Skyline High School not more than the number of times per school year shown in the following table and only for football or soccer games that will end after dark (“Night Games”), and only for Night Games in which a Skyline High School team is participating, and only in accordance with the provisions of this paragraph and paragraph 2 of this Agreement, including, but not limited to, the requirement that the School District will not conduct any Night Games without written assurance from the Oakland Police Department (“OPD”) that it can and will provide security services for each such Night Game.

SCHOOL YEAR	MAXIMUM # TIMES FIELD LIGHTING CAN BE USED
2002-2003	4
2003-2004	6
2004-2005	8
2005-2006	10

School District agrees that the number of permitted Night Games will be evenly split

between soccer games and football games and will not exceed in total ten (10) Night Games per school year. Further, School District and Petitioners agree that they will participate in and conduct a periodic review regarding the success or failure of the Night Games (“periodic review”) as follows:

- (a) An ad-hoc review committee (“Review Committee”) will be established by the School District to conduct the periodic review. The Review Committee will consist of one representative of Petitioners (“Neighbor Representative”) selected by Petitioners, one Skyline High School administrator, one District athletic director, and the OPD Lieutenant responsible for police coverage of the Skyline High School campus, or, in the event that there is no OPD coverage of the Skyline High School campus, the OPD beat lieutenant with responsibility for the area that includes Skyline High School (in either case, the “OPD Lieutenant”), or an OPD designated officer in place of the Lieutenant on occasions when the OPD Lieutenant is not available;
- (b) The Review Committee will meet once after each football game in the first season in which Night Games are held, and thereafter upon request by the Neighbor Representative or a School District representative. In the event that the OPD Lieutenant is unavailable, the Neighbor Representative will contact one of the OPD Deputy Chiefs and request a knowledgeable substitute officer be assigned to meet with the Review Committee;
- (c) The Review Committee will evaluate the success or failure of the Night Games by examining at least the following issues:
 - i. Whether the School District was able to control Night Games the prior season;

- ii. Whether the School District administrators arrived at the site to supervise the Night Games and in fact did effectively supervise the games;
- iii. How many police officers were required to be present at the Night Games and if the number was higher than in the OPD Lieutenant's opinion should have been necessary and the reasons therefor;
- iv. The nature and number of incidents related to the Night Games that police officers reported to the OPD Lieutenant or recorded in police or incident reports;
- v. Whether the Neighbor Representative became aware through reports from other neighbors or direct observation of behaviors of a nuisance or dangerous nature on the part of game participants and/or spectators;
- vi. Whether the Night Games contributed to or caused traffic problems due to a lack of ability or effort to control the traffic; and
- vii. Whether the police officers and their supervisors who were on duty during the Night Games felt that the Night Games were a success or failure and the reasons for their opinions.

(d) At the conclusion of the review meeting the OPD Lieutenant will be invited by the School District to make a recommendation, which the School District will follow, that may include, but is not limited to:

- i. Continuing with Night Games
- ii. Making recommendations to the School District for better control over future games;

- iii. Suspending one or more Night Games for a specified period of time;
- iv. Suspending all soccer and/or football Night Games for a specified period of time;
- v. Suspending all football and/or soccer Night Games for the duration of the season with a re-evaluation for the next season.
- vi. Suspend all Night Games indefinitely for a period not to exceed two school years.

The School District agrees that any overhead lighting used at the track/field will be of a type designed to shine in a downward direction and will be shielded to prevent glare off campus and will only be used to cast light in a downward direction onto the field.

The School District agrees to incorporate the applicable conditions of this Agreement into the School District's Conditions for Approval and/or Mitigations for any field lighting project at the Skyline High School campus in accordance with CEQA. The Petitioners agree that such measures, if fully implemented, will satisfy their concerns regarding the potential adverse environmental impacts of such a project which are addressed by those measures and that the Petitioners will not attempt, or cause or encourage others to attempt, to have additional or more restrictive conditions or mitigation measures imposed on such a project as a part of the CEQA process or otherwise with respect to the matters which are specifically addressed in this Agreement. Petitioners further agree that the School District may treat said field lighting as a discrete "project" for CEQA purposes, separate and apart from the Project which is the subject of the lawsuit. By their execution of this Agreement, Petitioners shall be deemed to have waived any and all claims that the School District, by so treating the field lighting at Skyline High School, has, or will be, impermissibly splitting a project in violation of CEQA or any other statute. The Petitioners will retain the right to raise in CEQA proceedings environmental impact issues as to the type, size, height, and brightness of lights related to the field lighting since these

matters are unknown as of the parties' signing the Agreement.

2. Security for Night Games. School District will provide the Petitioners with a written security plan for their review and comment at least fourteen (14) calendar days prior to the beginning of the Fall 2002 football/soccer season at Skyline High School, and fifteen (15) business days prior to each football/soccer season thereafter during the term of this Agreement upon written request. In addition to utilizing the Review Committee, the School District and the Petitioners will work cooperatively throughout the term of this Agreement to attempt to resolve any questions or concerns that either may have concerning the security plan or its implementation including crowd control and minimizing traffic, noise, and nuisance behaviors. The School District will not conduct any Night Games without written assurance from the Oakland Police Department ("OPD") that it can and will provide security services for each such Night Game. A copy of the written assurance from OPD will be provided to Petitioners within 5 days of its availability and upon written request from HEIA. The School District will provide a schedule of Night Games to Petitioners prior to the start of each football/soccer season upon written request from HEIA.

The School District will provide a sufficient number of trash receptacles at the track/field area during each Night Game for use by the participants and spectators and will remove any trash or other wastes left on the Skyline High School campus, and/or on the sidewalks or in the gutters and streets adjacent to the campus, after Night Games by 10:00 a.m. the morning after such Night Games.

3. Project Operation. Notwithstanding any other provision of this Agreement, School District agrees that it will not conduct, or allow to be conducted, any Night Games or nighttime track and field meets on the track and field at Skyline High School other than strictly in accordance with the provisions of paragraph 1 and 2 of this Agreement regardless of the provisions of any other agreement to which the School District may be a party. Except as otherwise required by the Civic Center Act (California Education Code section 38130 et seq.) or other provisions of law, or by the Joint Use Agreement between the School District and the City

of Oakland, as in effect on the date of this Agreement, the track and field shall not be open to the public at any time and the School District agrees that it will not rent or authorize use of same by anyone other than Skyline High School students and staff, with the exception of games in which a Skyline High School team is a participant. The School District represents that the provisions of the Joint Use Agreement, as in effect on the date of this Agreement, are the same as the provisions of the unexecuted version of the Joint Use Agreement attached hereto as Exhibit B. In the event that groups or organizations request permission to use the field and track and the School District agrees to that request as required by the Civic Center Act or by the Joint Use Agreement between the School District and the City of Oakland, the School District shall comply with all applicable permitting requirements and the School District will provide supervision by one or more persons employed by the School District. The School District agrees that the oval track at Skyline High School shall be limited to no more than eight (8) lanes. The School District further agrees that prior to the opening of school for the Fall 2002 school year, and as often thereafter as reasonably may be necessary as requested by Petitioners, the Skyline High School Principal will meet and confer in good faith with the Petitioners about any issues or concerns they may have regarding the school's plans and practices for operating the Project, including security, litter and refuse cleanup and disposal, in connection with athletic and other special events on the campus.

4. Trees. Petitioners agree that, subject to obtaining, and subject to the provisions of, any applicable tree removal permit from the City of Oakland, the School District may remove up to an additional seven (7) trees from the area of the Project in connection with the construction, installation, and operation of the Project, consisting of two (2) redwood trees located behind the existing scoreboard on the football field, and, at the north end of the oval track, one (1) redwood tree and four (4) pine trees. School District and Petitioners agree that, in accordance with the tree removal permit conditions, dated July 11, 2002, School District will plant additional trees and bushes along selected portions of Skyline Blvd. adjacent to the area of the Project and Balmoral Drive adjacent to the Skyline High School campus by the end of 2003.

The School District will plant further sufficient trees and bushes (at least 15) by the end of the 2002-2003 school year to provide a continuous visual barrier between the area of the Project and Skyline Blvd and between the area of the Project and Balmoral Drive. The School District and Petitioners shall work cooperatively in identifying the appropriate species, and number of, and placement of trees and bushes to be planted pursuant to this paragraph. Petitioners shall pay the cost of acquiring said trees and bushes along the fence line separating the Skyline High School campus from Balmoral Drive. The number of trees and bushes will be sufficient to provide an effective visual barrier for the students and the neighbors of the high school. Petitioners will pay \$750 toward purchase of trees or plants for the selected portions of the Skyline Blvd. side of the Skyline High School campus and the fence line separating the Skyline High School campus from Balmoral Drive. Said amount shall be paid to the School District and shall be expended to carry out the provisions of this paragraph within twelve (12) calendar months from the effective date of this Agreement. As to all plantings, the School District will plant, irrigate and maintain them; in the event that a tree or bush dies, withers or is damaged the School District will remove and replace it at the School District's expense.

With respect to all trees that are now or hereafter located in the Skyline High School parking area adjacent to Balmoral Drive between Skyline Blvd. and the East Bay Municipal Water District Madrone Reservoir site, the School District further agrees that, except in emergencies as defined below, the School District shall not remove any living trees with trunks in excess of 2" in diameter from said location for a period of ten (10) years from and after the effective date of this Agreement. It is further agreed that at the end of that period and thereafter, if the School District wishes to remove any such trees from said location, then the School District shall adhere to the requirements of the City of Oakland's Tree Protection Ordinance(s) if required by law to do so, and in addition shall enter into good faith negotiations with Petitioner Thorner, or her successors in interest, regarding any such request and regarding the School District's plans for mitigating any alleged adverse environmental impact associated with such tree removal, including the planting of replacement trees. The consent of Petitioner Thorner or

her successors in interest to any such removal request shall not be unreasonably withheld.

5. Sign in Front of School. The School District agrees that for so long as the electronic sign that is located, as of the effective date of this Agreement, in front of the Skyline High School main gate, remains in a location that is visible from Skyline Boulevard or Balmoral Drive, the School District will not operate or light said electronic sign other than between the hours of 7:30 a.m. and 5:00 p.m., Monday through Friday, except that the School District may operate such sign to no later than 10:00 p.m. on those nights when special evening events have been scheduled at Skyline High School. The School District will operate the sign in a manner such that it does not flash messages or display commercial messages. The School District further agrees that during the Fall 2002 school semester the Skyline High School principal will meet and confer in good faith with Petitioners and other interested persons to consider the possibility of relocating the sign so that it is not visible from either Skyline Blvd. or Balmoral Drive. The School District further agrees that in no event shall any other electronic or electrically operated sign be placed in any location where it is visible from either Skyline Blvd. or Balmoral Drive.

6. Construction Hours. Notwithstanding any other provision of law, School District and Petitioners agree that the School District will not permit its contractors, suppliers, and others under contract or in the employment of the School District to undertake construction of the Project or construction-related activities at the area of the Project other than between the hours of 7:00 a.m. and 7:00 p.m. on a Monday through Saturday schedule. School District agrees to give careful consideration to the possibility of reducing the construction hours and/or the days of the week during which said construction hours may be maintained, in order to be a good neighbor to Petitioners and others residing in the vicinity of Skyline High School, to eliminate construction hours on at least two (2) Saturdays prior to September 1, 2002, to notify HEIA in advance of which Saturdays will be construction days, and to eliminate each day during Labor Day weekend from the construction schedule.

7. Drainage. School District agrees that it will consult with staff from the City of Oakland and from the Alameda County Public Works Agency regarding the adequacy of the

School District's drainage plans for the Project and will request said agencies to review and approve said drainage plans. The School District will attempt, in good faith, to implement any reasonable changes to said plans, and/or mitigation measures, suggested by the agencies.

Petitioner and the School District recognize and agree that, as a practical matter, the School District cannot force the City of Oakland or the Alameda County Public Works Agency to review and/or approve the School District's drainage plans for the Project in a timely manner, or at all. If one or both of said agencies are unable or unwilling to provide such review, then the School District shall conduct its own good faith review of the drainage plans, utilizing the services of a qualified and licensed civil engineer, and shall promptly share the results of such review with Petitioners, including any written documents. If said review and consultation results in a recommendation for changes to said plans, then the School District will attempt, in good faith, to implement any such reasonable changes to said plans.

8. Mutual Release and dismissal of lawsuit. Petitioners and School District hereby release, acquit, and forever discharge one another from any and all claims, expenses, debts, demands, costs, and other actions or liabilities of every nature, whether in law or in equity, which each now has, may have had, or may claim to have as a result of the allegations made in the lawsuit and, in addition, as to those matters specifically addressed by this Agreement. The parties to this Agreement shall not have any right whatsoever to prosecute the lawsuit or file any action or institute or prosecute any other action, claim, charge, lawsuit, grievance, or legal proceedings of any type whatsoever, whether in a court, with an administrative agency or with the School District, based upon, connected with, or in any manner arising out of the allegations made in the lawsuit and, in addition, as to those matters specifically addressed by this Agreement. However, nothing in this Agreement shall be construed as a waiver by Petitioners to pursue CEQA rights, tort rights for nuisance, or any other legal or equitable rights regarding any other projects proposed by the School District for which Petitioners have standing to sue, including but not limited to any project related to installation of field lighting at Skyline High

School or related to the type and location of any sign that the School District may install on the Skyline High School campus that is visible from Skyline Blvd. or Balmoral Drive. Upon execution of this Agreement by all parties, any existing stipulation and court orders related to the lawsuit immediately shall be deemed to have been superceded and dissolved and Petitioners shall immediately dismiss the lawsuit with prejudice.

9. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter of this Agreement. There are no oral understandings, terms, or conditions, and neither party has relied upon any representation, express or implied, not contained in this Agreement. All prior negotiations, understandings, terms, or conditions between and among the parties are deemed merged into this Agreement.

10. Amendments. This Agreement cannot be changed or supplemented orally and may be modified or superseded only by written instrument executed by all parties.

11. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

12. No Admission of Liability. This Agreement is entered into by the parties for the purpose of compromising and settling the lawsuit. It does not constitute, nor shall it be construed as, an admission of liability by any party for any purpose.

13. Voluntary Agreement. Petitioners represent that they have read this Agreement in full and understand and voluntarily agree to all of its provisions. Petitioners further declare that prior to signing this Agreement they apprised themselves of relevant data, through sources of their own selection, in deciding whether to execute this Agreement. Petitioners further represent that they have, as of the date of execution of this Agreement, the legal capacity to understand, agree to, and sign this Agreement. Petitioners further acknowledge and agree that they have been represented by competent legal counsel at all times relevant to this matter and have had an

adequate opportunity to consult with and receive legal advice from said counsel prior to their entry into this Agreement.

14. Binding Effect. This Agreement is for the benefit of and shall be binding on all parties and their heirs, successors, and assigns.

15. Cooperation. All parties agree to cooperate fully in carrying out the terms and conditions of this Agreement, including the execution of any other documents necessary to finalize or implement this Agreement. The parties agree that they will represent to others, including but not limited to school board members, other elected officials, the School District employees, police officers, neighbors of Skyline High School, and members of the public that the Agreement in total and in all of its parts represents the parties' best efforts to improve the neighborhood and Skyline High School for the benefit of the students, the School District staff, and the neighbors. If asked by anyone about the resolution of the litigation between Petitioners and the School District, the parties will indicate that the litigation was satisfactorily concluded and that the Agreement provides for the betterment of the school campus and neighborhood. The parties will not take, encourage, or support any actions, which, directly or indirectly, would frustrate the settlement effected by this Agreement or prevent the achievement of the purposes and goals of this Agreement.

16. Attorneys' Fees and Costs. Each party shall bear her/their/its own attorneys' fees and costs for all such fees and costs incurred prior to the date of execution of this Agreement.

17. Breach of Agreement. If any party breaches this Agreement, then in any action regarding the breach, the prevailing party shall be entitled to all damages reasonably flowing from the breach, plus reasonable attorneys' fees and costs.

18. Notices. All notices or other documents to be provided pursuant to this Agreement shall be sent either by first-class mail (postage prepaid), overnight delivery service, or by fax provided that a confirmation of receipt is received and retained by the sending party, to

the appropriate address as set forth below or to such other addresses as may be designated in writing by the parties from time to time during the term of this Agreement.

To Petitioner HEIA:

HEIA President
The Firehouse
13152 Skyline Blvd.

Oakland, CA 94619

with a copy to Leila Moncharsh, Esq.
Veneruso & Moncharsh
440 Grand Ave., STE 360
Oakland, CA 94610

To Petitioner Thorner at
5601 Balmoral Drive
Oakland, CA 94619

with a copy to Leila Moncharsh, Esq.
Veneruso & Moncharsh
440 Grand Ave., STE 360
Oakland, CA 94610

To the School District:
Oakland Unified School District
1025 Second Avenue
Oakland, CA 94606
Attention: Superintendent

with a copy to General Counsel
Oakland Unified School District
1025 Second Ave.
Oakland, CA 94606

with a copy to Jeffrey L. Kuhn, Esq.
Lozano Smith
285 W. Bullard Ave., STE 101
Fresno, CA 93704

19. Execution in Counterparts. This Agreement may be executed in counterparts, including by facsimile, such that the signatures may appear on separate signature pages. A copy or an original, with all signatures appended together, shall be deemed a fully executed Agreement.

20. Severability. If any provision of this Agreement is held to be void, voidable, or unenforceable, the remaining portions of the Agreement shall remain in full force and effect.

21. Interpretation. The language of all parts of this Agreement shall, in all cases, be construed as a whole, according to its fair meaning, and not strictly for or against any party.

22. District Defined. The term “District” includes the Oakland Unified School District, its agents, officers, attorneys, successors, predecessors, insurers, and Board of Education.

23. School District Approval. The School District represents and warrants that its Superintendent and his designees have the legal authority to enter into this Agreement on behalf of the School District and that such Agreement, when executed by the Superintendent or his designee on behalf of the School District, shall be binding upon and enforceable against the School District according to its terms.

24. Term of the Agreement. The property currently owned by Petitioner Thorner and located at 5601 Balmoral Drive is described in Exhibit A, attached. Petitioners and the School District agree that this Settlement Agreement contains provisions that are designed to mutually improve the lands of Petitioners Susan Thorner, HEIA and the School District since Skyline High School will be improved by the plantings contributed by Petitioners and Petitioner’s lands will be benefited by the security provisions, limits on Night Games and lighting, and by the planting and maintenance of trees and bushes visible from Skyline Blvd. and by Balmoral Drive. The parties intend that should Skyline High School be sold or leased, the terms of the Agreement would still be in effect subject to the following paragraph. Similarly, the parties agree that if

Petitioner Susan Thorner sells or leases her property, the terms of the Agreement would still be in effect, subject to the following paragraph.

The initial term of this Agreement shall be for a period of fifteen (15) years from its effective date (the “Initial Term”). Following the Initial Term, this Agreement automatically shall be renewed for an unlimited number of additional terms of fifteen (15) years each, on the same terms and conditions, unless six months prior to any such renewal date the parties agree in writing to different terms and conditions or agree in writing not to renew the Agreement, or the School District or any subsequent property owner notifies Petitioners in writing that the field and track area will no longer be used for its current intended use or for any other similar use and what the new use will be. In that event, the School District or any subsequent property owner may cease compliance with the Agreement as to the provisions involving conduct of Night Games at the end of the six month notice period and the remaining provisions of this Agreement otherwise will remain in effect. In the event that the School District or any subsequent property owner effects a change in the use of the field and track area, the School District or such subsequent property owner will remove the field lighting prior to commencement of the change in use. As to any new use of the project site, Petitioners retain all of their legal rights. In addition, at any time during the initial or a renewal term of this Agreement the parties or subsequent owners of the properties belonging to the parties may terminate this Agreement upon their mutual consent

25. Recording. This Agreement may be recorded.

26. Emergencies defined. For purposes of paragraphs 1 and 4 above, the term “emergencies” means sudden, urgent, and unforeseen occurrences or occasions requiring immediate action to preserve or protect the life, health, or safety of persons or to prevent irreparable damage to property.

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Jeffrey L. Kuhn, Special Counsel
Oakland Unified School District

Leila H. Moncharsh
Attorney for Hillcrest Estates
Improvement Association, Inc. and Susan Thorner

Agreement Concerning Skyline High School Stadium Lighting Project

This agreement is among the Hillcrest Estates Improvement Association (“HEIA”), Susan Thorner (“Thorner”), and the Oakland Unified School District (“School District”) regarding the School District’s stadium lighting project at Skyline High School and shall be effective on the date executed by all parties.

The project described in the School District’s initial study/mitigated negative declaration will be modified as follows:

1. All of the luminaires will be upgraded from the Qualite “Pro” series to the “International” series. As a result, maximum vertical spill illuminance at a distance of 100 feet from the playing field will be reduced from 6.16-foot candles (fc) to 2.23 fc, and maximum horizontal spill illuminance at that distance will be reduced from 3.10 fc to 0.63 fc.
2. Prior to installation of the stadium lighting, a helium balloon will be attached to the two existing footings on the home side of the football field. The balloon will be tethered to reach 70 feet (vertical) above the football field (the height of the proposed lighting). Points at which the balloons are visible while driving along Skyline Boulevard will be recorded. These points will be marked on a set of construction drawings. After installation of the lights, the School District will utilize calibrated photometric instrument measurements to verify that illuminance at the identified points are equal to or less than the levels described above for the “International” model. If the readings at these locations exceed the illuminance described above, then the aiming of the lights will be adjusted until the readings at the locations do not exceed the levels described above.
3. After installation of the stadium lighting, views of the stadium lighting while driving along Skyline Boulevard will be evaluated. The District will adjust any errant luminaire to ensure that there is no significant spill light glare impacts to the driving public, which reduce visibility to any extent below what existed without the lights on.
4. During the first heavily foggy night after installation of the stadium lighting, the stadium lighting while driving along Skyline Boulevard will be reviewed and evaluated by the District, in conjunction with the City of Oakland and with the participation of HEIA and/or Thorner if so requested. The District will adjust any errant luminaire so that it no longer creates undesirable spill light or glare for drivers on Skyline Boulevard, which reduces visibility to any extent below what existed with the lights off. This process will be repeated on subsequent foggy nights to ensure the issue is resolved. If after the above measures are taken, the combination of fog and stadium lighting creates an undesirable spill or glare that reduces visibility for drivers on Skyline Boulevard, then the District will install a fog-sensing device at the stadium. The District will set the fog-sensing device’s threshold to the level at which the combination of fog and lighting creates undesirable glare, reducing visibility for those driving along Skyline Boulevard. When this threshold level is met, then the luminaires that are causing the problem will be turned off.
5. Prior to the School District using the lights for any purpose apart from testing as set forth in Paragraphs 2-4, two new fences will be installed along the Skyline Boulevard side of the football and baseball fields, located so as to provide the maximum shielding from direct glare for auto traffic on Skyline Boulevard and the neighborhood beyond. The inner perimeter 10' fence will have slats. The color and design of the slats will be agreed upon between School District and HEIA prior to any contracts for ordering the materials. The inner fence shall be located, to the extent practicable, along the highest possible elevation along the west side of the field, so as to block light spill most effectively. The outer 10', 1 inch, diamond, nine-gauge (9 GA) galvanized steel fabric fence will be installed where the old fence now exits. There will be no unlocked access to the area between the two fences, and the fences will be not less than

three and four feet apart, so as not to interfere with the trees that are currently there.

After the fences along Skyline Boulevard are installed, and the lights have been aimed in accordance with the provisions of Paragraphs 2-4, if there is light spill onto Balmoral Drive, residences on Balmoral Drive, or residences at the south end of the school campus, a similar fencing arrangement or other effective measures to be agreed upon by the parties hereto or their successors will be adopted to prevent light trespass onto those properties. If the additional fencing or other measures are insufficient to prevent light spill onto any of these three areas, then the parties hereto or their successors shall agree upon reasonable further measures to prevent light spill.

6. The measures described above are in addition to and do not derogate from the provisions of that certain Settlement Agreement and Release of Claims by and between the District, HEIA, and Susan Thorner effective as of July 20, 2002 (the "Settlement Agreement").

7. The measures described in this agreement, as well as each of the measures concerning nighttime use of the project set forth in Sections 1, 2 and 3 of the Settlement Agreement, shall be adopted and incorporated into the resolution adopted by the School District approving the mitigated negative declaration.

8. This agreement is for the benefit of and shall be binding upon all parties and their heirs, successors, and assigns, and may not be modified or amended except by a writing signed by all parties.

9. The execution of this Agreement may be made in counterpart such that each document, when all signatures are appended together, will constitute a fully executed original or copy thereof. Facsimile signatures shall be as valid as original signatures.

We agree that this letter accurately states the agreements that have been reached between the Hillcrest Estates Improvement Association, Susan Thorner, and the Oakland Unified School District regarding modifications to the School District's Stadium Lighting Project at Skyline High School.

Dated: _____, 2003

Hillcrest Estates Improvement Association

By _____
Annie Reutinger, President

Dated: _____, 2003

Susan Thorner

Dated: _____, 2003

Oakland Unified School District

By _____
Timothy E. White, Assistant Superintendent

STEP Four April 2009

This is the document was created in an informal meeting on March 24, 2009 where some of the board members and some of the neighbors near the school discussed how to respond to the school's request for a waiver to the contract to allow more use of field lights for after school practice. The group that created this document presented it at the April 2009 Board Meeting with a request that the Board present this document to OUSD. The Board voted not to use this amendment in responding to the school's request for a waiver.

April 4, 2009 Minutes **SHS Matters** Some discussion of recent SHS workshop meeting. Motion Jon / 2nd Susan - HEIA board will vote to approve the proposed 2nd amendment (as emailed after the recent neighbor workshop meeting) to submit as our counter offer to the school district (OUSD). Vote 4/5 (yes/no)

Please move on to the next page.

**Second Amendment
to
SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS**

This Second Amendment to the SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS is entered into effective January 12, 2009 by and between the Oakland Unified School District, a California Public School District ("School District") and the Hillcrest Estates Improvement Association, Inc., a California Corporation, ("HEIA") and Susan Thorner ("Thorner"), (collectively referred to herein as "The Parties") and is made in reference to the following:

- A. **Whereas**, The Parties entered into a SETTLEMENT AGREEMENT AND RELEASE effective July 20, 2002 in which the Parties agreed to certain covenants, conditions, release and agreements;
- B. **Whereas**, by entering into this Second Amendment to the SETTLEMENT AGREEMENT AND RELEASE, The Parties ratify, restate and recommit themselves to good faith compliance with all of the terms of the SETTLEMENT AGREEMENT AND RELEASE, as amended by the First Amendment to the SETTLEMENT AGREEMENT AND RELEASE, and to the terms of the Second Amendment, as described herein;

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and with incorporation of the recitals above, the Parties agree as set forth below:

- 1. The athletic field lights located on the western side of the athletic field (those mounted on standards closest to Skyline Boulevard, which point toward the school buildings) may be used for official Skyline High School athletic team athletic practices until 7:00 PM Monday through Thursday, from November 1 to April 1 of each year;
- 2. The athletic field lighting controls must be maintained and set to allow operation only Monday through Thursday with automatic cut-off at 7:00 PM for such practices;
- 3. The athletic field lights located on the eastern side of the athletic field (those mounted on standards closest to the permanent school buildings, which point toward Skyline Boulevard and the neighborhood beyond), may not be used for any such practices at any time;
- 4. Students will not have access to lighting or related athletic field equipment controls;
- 5. Light blockage banners and landscaping shall be fully maintained at all times the lights are used so as to minimize light spillage;
- 6. Skyline High School will provide to HEIA, in advance, a schedule for all sporting events planned for the athletic field that will

**Second Amendment
to
SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS**

require use of the field lighting via the school website or electronic sign;

7. Skyline High School will use its public address system no more than once per day, with such use occurring at 10:20 a.m., provided, however, that the public address system may be used in emergencies. The filed sound systems shall be used in accordance with
8. Upon a change in school administration, at least one meeting must occur between the HEIA board, principal and athletic director prior to the use of the athletic field lights for any purpose;
9. If terms are not adhered to, and following two uncured written warnings from HEIA to the School Principal and School District, the School District agrees that Skyline High will cease use of the athletic field lights for athletic practices for the rest of the school year.

IN WITNESS WHEREOF, this Second Amendment has been executed as of the date first set forth above

OAKLAND UNIFIED SCHOOL DISTRICT

_____ Date: _____

By _____, its _____

HILLCREST ESTATES IMPROVEMENT ASSOCIATION, Inc.

_____ Date: _____

By _____, its _____

Susan Thorner

_____ Date: _____