Peralta Community College District
For Board of Trustees Meeting of July 17, 2011 **Item # 23**
Presenter: Vice Chancellor Ikharo

INFORMATIONAL SUMMARY: NATURAL GAS PROVIDERS FOR THE DISTRICT

Independent natural gas suppliers are able to supply the commodity at a less expensive rate than PG&E's standard commercial or industrial rate. The natural gas commodity is still transmitted over PG&E gas lines, but the purchase of the natural gas itself is more economically priced by others than PG&E.

SPURR (the School Project for Utility Rate Reduction) for the past few years has provided the District both the core and noncore commodity. The noncore commodity is less expensive but first to be curtailed to resolve any capacity constraint issues (i.e., over-demand), while core pricing is higher but delivery is guaranteed. Tens of thousands of dollars may be saved by the District properly balancing these deliveries.

SPURR is a California joint powers authority (JPA) with 200 participating school districts, colleges, universities, and public agencies. The JPA members expect to buy low and have rates kept low. SPURR has no marketing arm to provide support, thus their service and information is marginal. In the past year, SPURR has provided a low price for the noncore gas being delivered to PCCD. The District intends to continue with SPURR for noncore deliveries, which represent approximately 70% of the District's consumption.

SPURR's core pricing – the higher priced commodity, but lesser delivered – has been higher than most other commodity deliverers, since California public educational institutions need budget pricing for the next fiscal year by May, meaning that prices must be locked in and gas forward-purchased in late winter (February). For that reason, the District intends to contract with Commercial Energy, an Oakland-based natural gas producer and supplier, for the core commodity which makes up 30% of the District's gas usage.

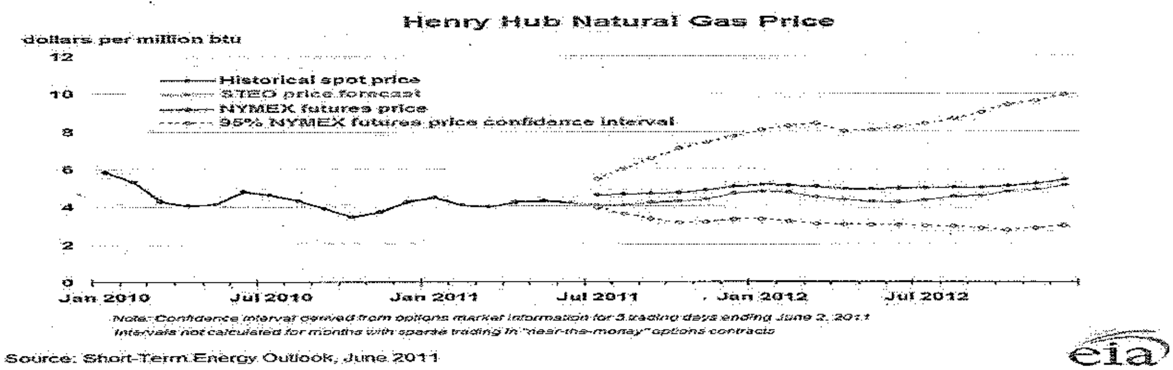
Commercial Energy conducts business out of its 7677 Oakport Street office (near the Coliseum) and supplies over 2,000 businesses at 7,000 locations within PG&E's operating territory. Commercial's client base spans all major industries including low income housing, hospitality, healthcare, commercial property management, public and private schools, baking, food processing, and metal production enabling it to have a balanced demand regardless of whether one of the 7,000 locations which it serves has a summer or winter gas peak. This has made Commercial the #1 supplier within PG&E's Core Gas Aggregation Program.

On a monthly basic Commercial Energy will meet with the District to review the past month's performance, analyze current energy and legislative issues, and recommend energy strategies to optimize core pricing relative to the District's objectives. The monitoring and flexibility has proven to deliver lower costs while maintaining cost certainty. As the following graph shows, over the recent three years, the natural gas market has provided the best opportunities to manage cost in the fall months – rather than just in February. The District can take advantage of this and fine-tune purchasing strategies on a monthly basis.

PGE-Citygate	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2008	$7.11	$7.99	$9.00	$9.33	$10.84	$11.31	$12.57	$8.69	$7.73	$6.45	$6.06	[illegible]
2009	$6.00	$4.77	$4.19	$3.99	$3.22	$3.40	$3.42	$3.61	$2.92	$4.07	$5.29	$5.12
2010	$6.37	$5.73	$5.15	$4.46	$4.52	$4.29	$4.66	$4.44	$3.63	$4.09	[illegible]	$4.65
2011	$4.26	$4.34	$4.08	$4.53	$4.47							

Best Month to manage cost | 2nd Best Month to Manage Cost | 3rd Best Month to Manage Cost

Going forward, the Energy Information Administration (EIA, the statistical agency for the Department of Energy), suggests that that the current market prices will be coming down as we store natural gas for the upcoming winter. This fact is reflected in the below graph that was published on June 7, 2011 showing that the EIA expects prices to lower from current market pricing, further validating that the fall months will have a greater opportunity to manage core costs (EIA forecast-red line is below the current wholesale price-solid blue line).



The District intends to purchase its core gas from Commercial Energy and its noncore commodity from SPURR beginning August 1, 2011, and continuing until June 30, 2012. In this way the District will benefit from the historical lower price that SPURR has delivered for noncore gas, while utilizing Commercial Energy's local presence, monthly pricing models, and historical lower priced core natural gas.

Cost-Benefit of Receiving our Core Natural Gas Product from Oakland-Based Commercial Energy

For the twelve months ending March 1, 2011 the District used approximately 350,196 Therms of natural gas in our core accounts (those with guaranteed delivery; i.e. not subject to curtailment). Over this period Commercial Energy's pricing was $0.518 per Therm (Attachment 1*), whereas SPURR's was $0.535, a difference of $0.017 per Therm which relates to $5,953.33 in savings had we been with Commercial Energy.

By receiving our core natural gas with Commercial Energy (CE) for the next year not only do we receive this commodity from a local Oakland company, but CE has committed to meeting with us on a monthly basis to review market indices. These meetings would usually be with the Director of Facilities and Operations and the Sustainability Manager, but be available for the Vice Chancellor of General Services and serve to verify and empirically prove savings on the utility bill over the previous month, a service not offered by SPURR . A savings of approximately $6,000 is projected simply through this change to CE.

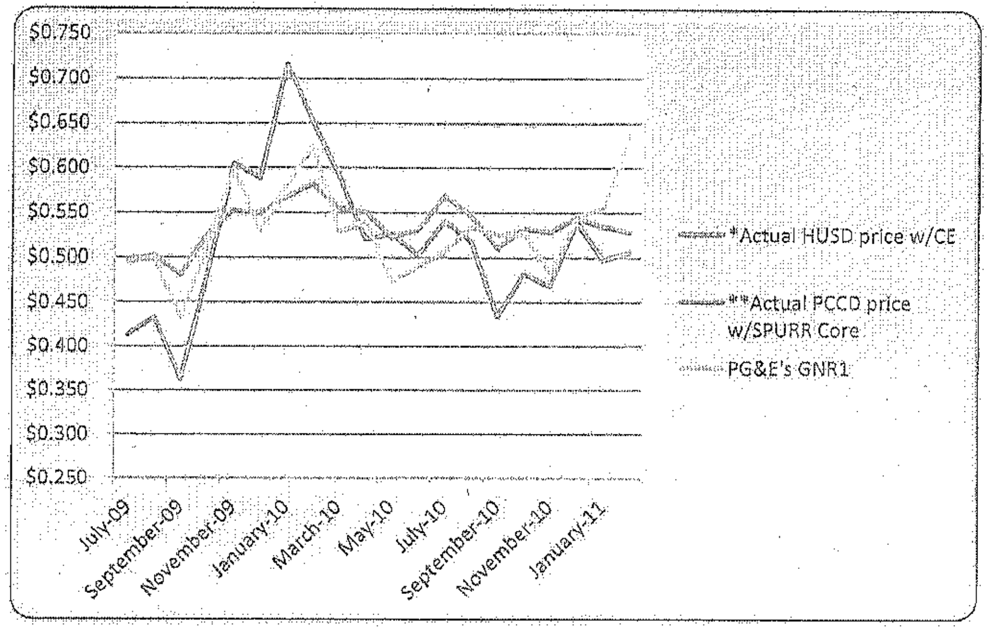
Attachment 2 shows the Terms & Conditions which Commercial Energy is proposing. The above $0.017 per Therm savings which HUSD achieved incorporated a management fee of $0.060 per Therm. CE has dropped this fee for PCCD to $0.050 per Therm throughout the life of our relationship with them. Had HUSD had this discount their difference with SPURR's rate would have been $0.027 per Therm (1 cent more per Therm than the $0.017 rate). This alone would have increased PCCD's above projected savings from $5,953.33 to $9,455.29.

The total projected Cost-Benefit is expected to approximate $10,000 over the next year through this change to a local provider for the core portion (only) of our natural gas utilization. Non-core product, which amounts to approximately 70% of PCCD's consumption, will remain with SPURR since their non-core pricing has been competitive.

Price Comparison

CE vs. SPURR's core pricing program that both HUSD and PCCD have participated in.

	*Actual HUSD price w/CE	**Actual PCCD price w/SPURR Core	PG&E's GNR1
July-09	$0.413	$0.498	$0.495
August-09	$0.433	$0.501	$0.499
September-09	$0.362	$0.480	$0.432
October-09	$0.480	$0.525	$0.513
November-09	$0.605	$0.552	$0.599
December-09	$0.587	$0.548	$0.529
January-10	$0.716	$0.567	$0.580
February-10	$0.650	$0.582	$0.624
March-10	$0.590	$0.555	$0.527
April-10	$0.519	$0.550	$0.541
May-10	$0.526	$0.521	$0.473
June-10	$0.502	$0.531	$0.490
July-10	$0.540	$0.569	$0.506
August-10	$0.517	$0.546	$0.534
September-10	$0.434	$0.510	$0.524
October-10	$0.481	$0.532	$0.526
November-10	$0.468	$0.528	$0.482
December-10	$0.539	$0.544	$0.543
January-11	$0.497	$0.534	$0.556
February-11	$0.505	$0.528	$0.636
	$0.518	$0.535	$0.530
Savings w/CE vs SPURR		$0.017	



*HUSD felt comfortable being on the index because they knew they had a supplier that was watching the market protecting their budget.

**SPURR recommended to PCCD and all its core users the blended cost (Please see attached)

***Speaking of service and the value of it, I would also refer you to the letter CE sent PCCD prior to the '08-'09 school year where the fixed portion was $1.28.

****This analysis does not even includes SPURR administrative fees.

*****Commerical Energy is an Oakland based business (zip: 94621) paying taxes that support PCCD

Summary/Findings

Flexability has no value without the service to educate you as to what options are best depending on your unquie goals.

ATTACHMENT 1

COMMERCIAL ENERGY
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NATURAL GAS PURCHASE AGREEMENT

This Agreement is between Commercial Energy of Montana Inc., dba Commercial Energy of California (Seller), 7677 Oakport St., Suite 525, Oakland, CA 94621, and Peralta Community College District (Buyer) 333 East 8th St., Oakland..

SELLER'S OBLIGATIONS:

- To sell natural gas to the Buyer under the terms and conditions specified herein, beginning no later than **July 1st, 2011**, for a one year (12 billing months) term
- To perform all balancing, nominations and such other services necessary to provide natural gas to Buyer to fulfill Buyer's daily requirements.
- To manage and secure all necessary natural gas transportation and storage capacity requirements on behalf of Buyer as Buyer's agent.

BUYER'S OBLIGATIONS:

- To purchase all natural gas from Seller under the terms detailed herein for the following locations or as listed on attachment A (if any) to this Agreement (Service ID Number and Meter may be modified by Utility and are listed here for informational purposes only):
  - **Please refer to Attachment A:**
- To provide to Seller all necessary or sufficient information to assist Seller in meeting Seller's balancing and nominating duties on behalf of Buyer.
- To pay all invoices for natural gas, customer charges, and transportation under the terms herein.

EXTENSION: This Agreement automatically extends monthly at the PG&E Citygate Monthly Index Price (as published in Natural Gas Intelligence, Inc. - www.intelligencepress.com) plus Seller's risk management fee of 5.0%, or at the same terms of this Agreement, whichever is greater, if neither party sends a written non-renewal notice to the other party at least fifteen (15) days prior to the beginning of the last delivery month. Buyer's monthly price paid to Seller does not include Utility's shrinkage allowance.

UTILITY SERVICE RATE ADJUSTMENT: Seller will perform for the Buyer an audit of Utility charges for transportation, transmission, or distribution delivery services, and utility user taxes for electricity and natural gas. Should Seller find a potential reduction in these fees, Seller will provide Buyer with a findings letter to reduce these fees, as well as to obtain potential refund(s) from Utility for previous overcharges. If Seller is successful in obtaining either reductions in fees or refunds from Utility, Seller will receive 33% of the savings generated for a period of 24 months. Seller's costs to capture these savings and/or refunds will be borne by Seller.

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Attachment 2

COMMERCIAL ENERGY
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PRICING AND TERM

Natural gas will be measured and billed on the basis of therms delivered to the Buyer's meter(s). Interstate transportation and gas storage costs paid to Utility as part of Utility's procurement costs will be borne by Seller. Buyer's monthly price paid to Seller does not include Utility's customer charge(s) or transportation charge(s). Those charges are published from time-to-time by Utility. Please initial one of the pricing and term offers below:

_____ MARKET PRICE:
Buyer pays for each therm of natural gas delivered at a monthly price based on the month's PG&E Citygate Monthly Index Price (as published in NGI - www.intelligencepress.com) plus Seller's risk management fee of **$0.040** per therm. Buyer's monthly price paid to Seller does not include Utility's shrinkage allowance.

BLEND & EXTEND:
On a monthly basis, Buyer may request Seller to provide an additional twelve (12) months to existing Agreement. This extension offer will blend the costs of the remaining term of existing Agreement with the costs of the additional months of the extended Agreement.

This Offer expires April 14th, 2011, at 5:00 pm Pacific Time, if not signed and returned via fax. This Agreement (4 pages) is the complete agreement of the parties and may be modified only in writing and only upon the mutual consent of both parties.

Seller: Commercial Energy of Montana, Inc.

By:____________________

Its: Vice President/General Manager

Date:____________________

Buyer: Peralta Community College District

By:____________________

Its:____________________

Date:____________________

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GENERAL CONDITIONS

VOLUME OBLIGATIONS: Buyer will purchase all natural gas measured at the locations listed on Page 1 or Attachment A (if any) of this Agreement from Seller during the term of this Agreement. Seller will deliver and supply all necessary natural gas to meet Buyer's daily requirements. Seller shall be responsible for any shortfalls and/or penalties as a result of any out of balance situations other than those arising from Buyer consuming more than its Maximum Daily Quantity (MDQ) on a Utility declared Operational Flow Order (OFO) or Emergency Flow Order (EFO) day. Buyer will curtail natural gas consumption below Buyer's MDQ if directed by the Utility due to a utility declared Operational Flow Order (OFO) or Emergency Flow Order (EFO) day.

PAYMENTS: Billing and collection of Buyer's account will be performed by the Utility. Buyer will abide by all terms of payment as provided within the monthly Utility billing statement. Payments not received by Utility and/or Seller by the due date incur a fifty dollar ($50) administrative charge. Interest on late payments of all undisputed amounts accrues from the due date until the date of payment at the rate of twelve percent (12%) annually, or the maximum applicable lawful interest rate, whichever is less. Seller cannot be compelled to assign Buyer's transportation and storage management to another provider until such time as the amount due, including interest, is paid. However, if Buyer, in good faith, disputes the amount of any such billing or part thereof, and shall pay such amounts as it concedes to be correct, no suspension shall be permitted. Such disputes shall be resolved through arbitration.

JURISDICTION: This Agreement shall be construed under the laws of the State of California.

ASSIGNMENT: Neither party will assign this Agreement or any of its rights or obligations under this Agreement without the prior written consent of the other party. Consent to assignment shall not be unreasonably withheld

TITLE AND WARRANTS: Seller warrants that it will transfer good and merchantable title to all natural gas sold hereunder and delivered by it to Buyer, free and clear of all liens, encumbrances and claims. Title and right of possession to all natural gas sold and delivered hereunder shall pass from Seller to Buyer at the Delivery Point, which shall mean the Buyer's Utility meter.

FORCE MAJEURE: If either party due to a condition of force majeure is unable to perform any obligation or condition of this Agreement, with the exception of paying debt, such obligation shall be suspended during the continuance of the inability. Force majeure shall include, without limitations, acts of God, failure of any pipeline or utility to accept or transport gas, strikes, lockouts, or labor disputes, fire, flood, storms, hurricanes or other natural occurrences, or any similar cause which is beyond the reasonable control of the party claiming force majeure. Economic hardship of either party shall not constitute a Force Majeure under this Agreement. A party that is delayed in performing or rendered unable to fulfill any of its obligations under this Agreement by Force Majeure shall notify the other party in writing as soon as possible and shall exercise due diligence to attempt to remove such inability with all reasonable dispatch.

CREDIT: Buyer credit standing is essential to Seller entering into and performing its obligations under this Agreement. Should Seller, at any time, become reasonably concerned about Buyer's credit quality (as a result, for instance, of two late payments in a six-month period or a credit rating agency red flag), Seller may require and Buyer will provide credit assurance in the form of a prepayment or cash deposit up to the amount of sixty (60) days exposure plus the Contract Value minus the Market Value for the remaining term. Seller will reasonably determine this amount, which must be funded within ten (10) business days of written request. Failure to fund the request is a Default event of the Buyer.

FORWARD CONTRACT/EARLY TERMINATION: This Agreement is a forward contract under the Federal Bankruptcy Code. In the event that Buyer or Seller shall: i) make an assignment or any general arrangement for the benefit of creditors; ii) file a petition or otherwise commence, authorize or acquiesce in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors or have such petition filed or proceeding commenced against it, iii) otherwise become insolvent, then such party will be in Default of this Agreement and this Agreement will terminate immediately. Seller shall have the right to suspend deliveries without prior notice. Buyer's early termination without cause shall be an event of default of this Agreement.

DEFAULT: In the event either party defaults ("Defaulting Party") in its obligations under the terms of this Agreement to the other party ("Performing Party") except to the extent excused by Force Majeure under this Agreement (which shall not include a delay in payment that is cured within 5 (five) business days of a written demand or any other failure of performance that is cured within 10 (ten) business days of a written demand from the Performing Party for corrective action), Performing Party shall have the right to establish an early termination date to this Agreement upon 10 business days written notice to the Defaulting Party. The Performing Party shall act reasonably to minimize its damages.

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DISPUTE RESOLUTION AND ARBITRATION: The parties shall attempt to resolve any claim or dispute through good faith negotiations. Upon failure of such negotiations, all claims and disputes that (1) are between Seller and Buyer and (2) arise out of, or relate to, this Agreement between Seller and Buyer or to their performance or breach (including any tort or statutory claim) ("Arbitrable Claims"), shall be arbitrated under the Commercial Arbitration Rules of the American Arbitration Association ("AAA"), in English within the state of California, within the County of Alameda, before one neutral arbitrator who shall be a member of the AAA's Large Complex Case Panel. Upon the reasonable request of a party, specific documents relevant to the claim or dispute in the possession of the other party shall be made available to the requesting party not later than sixty (60) days after the demand for arbitration is served. The arbitrator may permit depositions or other discovery deemed necessary for a fair hearing. The hearing may not exceed two days. The award shall be rendered within 120 days of the demand for arbitration. The arbitrator may award interim and final injunctive relief and other remedies, but may not award punitive damages. No time limit herein is jurisdictional. Any award of the arbitrator (including awards of interim or final remedies) may be confirmed or enforced in any court having jurisdiction. Notwithstanding the above, Buyer or Seller may bring court proceedings or claims against each other (i) solely as part of separate litigation commenced by an unrelated third party, or (ii) if not first sought from the arbitrator, solely to obtain in the state or federal courts in or for the state of California temporary or preliminary injunctive relief or other interim remedies pending conclusion of the arbitration.

REMEDIES IN THE EVENT OF DEFAULT:
(a) If Seller terminates this Agreement upon the default of Buyer, or Buyer terminates without cause, Buyer will pay Seller the following early termination payment, if a positive number: Contract Value minus Market Value.
(b) If Buyer terminates this Agreement upon the default of Seller, Seller will pay Buyer the following early termination payment, if a positive number: Market Value minus Contract Value.
(c) For purposes of this Section, "Contract Value" means the contract price of natural gas, per therm hereunder, times Remaining Anticipated Usage. "Market Value" means the amount, as determined by the Non-Defaulting Party, less Costs, a bona fide third party would purchase or sell for the Remaining Anticipated Usage over the remaining term of the Agreement at current forward market prices. In determining "Market Value", the Non-Defaulting Party may consider, among other things, quotes from dealers in the wholesale energy industry, forward price valuations developed by the Non-Defaulting Party, and other bona fide offers from third parties, all as commercially available and adjusted for the length of the Remaining Term, as the Non-Defaulting Party reasonably determines. "Costs" mean brokerage fees, commissions and similar transaction costs reasonably incurred by, or on behalf of, the Non-Defaulting Party in terminating or liquidating any arrangement pursuant to which it has hedged its obligations, and attorneys' fees, expenses and costs, if any, incurred in connection with enforcing its rights under this Agreement. "Remaining Anticipated Usage" means the historical usage (in therms), for the remaining term of the Agreement.
(d) If Seller Defaults on the Agreement and the Buyer finds a replacement alternate supplier, Seller should take direction from Buyer with regards to switching the accounts.
After termination, cancellation, or expiration, Buyer agrees that it will remit full payment of all amounts due under this Agreement within the Final Payment Period (which will be deemed to be the 20-day period following receipt of the invoice for the last period of deliveries hereunder). The applicable provisions of this Agreement will continue in effect after termination, cancellation, or expiration hereof to the extent necessary, including but not limited to providing for final billing, billing adjustments and payments, and with respect to any other payment obligations hereunder.

SURVIVAL: Termination of this Agreement shall not relieve either Party from an obligation under this Agreement to pay amounts due to the other Party that were incurred prior to termination.

LIMITATION OF LIABILITY: FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT, THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER DAMAGES OR REMEDIES HEREBY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED, THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE WAIVED. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES IN TORT, CONTRACT UNDER ANY INDEMNITY PROVISION OR OTHERWISE.

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Attachment A

Address	City	State	Zip Code	Service ID Number	Meter Number
SS E 10TH ST BET 2ND &,3RD AVE (LANEY CAMPUS)	OAKLAND	CA	94606	2134615005	48605546
555 5TH AVE,@ DATA-CENTER	OAKLAND	CA	94606	2353508005	30930020
DOOLITTLE DR 760 FT W/,EARHART RD-AIR SCHOOL	OAKLAND	CA	94603	3752471005	40596314
900 FALLON ST,@ LANEY-CAMPUS	OAKLAND	CA	94607	7610058005	000020A
555 RALPH APPEZZATO MEMORIAL PKWY,@ ALAMEDA-CAMPUS	ALAMEDA	CA	94501	8084114005	25959615
555 RALPH APPEZZATO MEMORIAL PKWY,@ ALAMEDA-CAMPUS	ALAMEDA	CA	94501	8125781005	000064A
555 RALPH APPEZZATO MEMORIAL PKWY,@ ALAMEDA-CAMPUS	ALAMEDA	CA	94501	8167448005	31485443
12500 CAMPUS DR,@ MERRITT-CAMPUS	OAKLAND	CA	94619	9239263005	30506839
SS E 10TH ST BET 2ND &,3RD AVE (LANEY CAMPUS)	OAKLAND	CA	94606	2134615005	48605546

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