



SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item 10.1o

Meeting Date: October 18, 2018

Subject: Approve Resolution No. 3040 Authorizing the Execution of the Charter School Facilities Program Memorandum of Understanding with the State of California

- ☐ Information Item Only
- ☒ Approval on Consent Agenda
- ☐ Conference (for discussion only)
- ☐ Conference/First Reading (Action Anticipated: _____)
- ☐ Conference/Action
- ☐ Action
- ☐ Public Hearing

Division: Facilities Support Services

Recommendation: Approve Resolution No. 3040.

Background/Rationale: St. Hope Public Schools applied directly to the California School Finance Authority ("CSFA"), State Allocation Board ("SAB") and the Office of Public School Construction ("OPSC") to receive funding from the State for charter school facilities at Public School #7 Elementary School. St. Hope has been approved by the CSFA and SAB for this project under the Charter School Facilities Program.

As a condition of receiving funds for the project, both St. Hope and SCUSD are required to execute a Memorandum of Understanding ("MOU") between the SAB and the CSFA.

Financial Considerations: Funds to be released directly to St. Hope Public Schools ("SHPS"). If SHPS ceases to use the facilities or defaults on the loan, the District will have to offer the facilities up for a successor charter to use the facilities and take over any remaining loan payments, if any. If there is no successor charter school, the District may take over the facility and loan payments remaining, if any, or pay the balance in lump sum. If the District does not want to assume use of the facilities and the financial obligation, it may sell the property to pay off the loan balance.

LCAP Goal(s): Operational Excellence

Documents Attached:

1. Resolution No. 3040
2. St. Hope PS-7 Charter School Facility Program Memorandum of Understanding

Estimated Time of Presentation: N/A

Submitted by: Cathy Allen, Chief Operations Officer

Approved by: Jorge A. Aguilar, Superintendent

**SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION
RESOLUTION NO. 3040**

**AUTHORIZING THE EXECUTION OF THE CHARTER SCHOOL FACILITIES
PROGRAM MEMORANDUM OF UNDERSTANDING WITH THE STATE OF
CALIFORNIA**

WHEREAS, St. HOPE Public Schools has applied directly to the California School Finance Authority (“CSFA”), State Allocation Board (“SAB”), and Office of Public School Construction (“OPSC”) to receive funding from the State for charter school facilities at the Public School #7 Elementary School, and;

WHEREAS, St. HOPE Public Schools has been approved by the CSFA and SAB for this project under the Charter School Facilities Program, and now wishes to request the release of funds from the OPSC, and;

WHEREAS, both St. HOPE Public Schools and Sacramento City Unified School District are required as a condition of receiving funds for this project to execute a Memorandum of Understanding (“MOU”) among the SAB and the CSFA, and;

WHEREAS, the CSFA requires evidence that both the Governing Board of the Sacramento City Unified School District and St. HOPE Public Schools have authorized the execution of the MOU, attached hereto as Charter School Facilities Program Memorandum of Understanding.

NOW, THEREFORE, BE IT RESOLVED that the Governing Board of the Sacramento City Unified School District hereby authorizes the District’s Representative to the OPSC to execute the MOU in accordance with Part 10, Chapter 12.5, and commencing with Section 17070.10, et seq, of the Education Code, Title 1, and under the regulations provided in California Code of Regulations, Title 4, Section 10151 et seq., and California Code of Regulations, Title 2, Section 1859.160 et seq.

RESOLVED, this 18th day of October, 2018, at Sacramento, California, at a regular meeting of the Governing Board of the Sacramento City Unified School District by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

Jessie Ryan
President of the Board of Education

ATTESTED TO:

Jorge A. Aguilar
Secretary of the Board of Education

**CHARTER SCHOOL FACILITIES PROGRAM
MEMORANDUM OF UNDERSTANDING**

By and Among:

**St. HOPE Public Schools,
a Charter Management Organization,
on behalf of St. Hope Public School 7 Elementary,
(CDS Code # 34-67439-0101048)
a California Charter School**

and

**Sacramento City Unified School District,
a California Public School District ;**

and

**The State of California,
State Allocation Board and California School Finance Authority**

ARTICLE I – PURPOSE AND LIMITATION

- A. This Memorandum of Understanding (“MOU”) is made and entered into as of _____ (“Effective Date”) by and among the State Allocation Board and the California School Finance Authority (individually or collectively referred to as the “State”); and the charter management organization identified above, on behalf of the charter school identified above, a California Charter School operating as a non-profit public benefit corporation, in accordance with Education Code Section 47604 (the charter management organization and charter school referenced above hereinafter individually and collectively referred to as “Charter School”) and the California Public School District identified above (“School District”). The provisions of this MOU shall be effective from and after the Effective Date and shall continue until all duties and obligations of the parties, as stated in this MOU, are carried out.
- B. The Charter School has applied to the State for financing of its charter school facilities project (“Facilities”) under the Charter School Facilities Program (“CSFP”) established pursuant to Article 12 of Chapter 12.5 of Part 10 of the California Education Code and the regulations for its implementation provided in Title 4, Cal.

Code Regs., Section 10151, et seq., and Title 2 Cal. Code Regs., Section 1859.160, et seq., attached hereto and incorporated by reference. A copy of the Funding Agreement is attached as Exhibit "A". A copy of the Authority's Staff Summary is attached to the Funding Agreement as Exhibit "D" and incorporated herein by reference as a means of defining the Facilities.

- C. This MOU is intended to tie together two (2) separate legal agreements: (i) a Funding Agreement by and between the State and the Charter School; and (ii) a Facilities Use Agreement by and between the School District and the Charter School. In accordance with the CSFP, the State is the lender of certain monetary funds to the Charter School to enable the Charter School to acquire real property and/or construct improvements thereon. This loan transaction is set forth in the Funding Agreement of which the School District is not a party to because it is not a lender and does not have obligations under said Funding Agreement. In accordance with Section 17078.57(a)(3)(A) of the California Education Code, the School District must hold title to the Facilities, acquired with the funds loaned by the State under the CSFP, in trust for the benefit of the state public school system. Pursuant to the CSFP, the School District as the holder in trust of the Facilities must provide the use of the Facilities to the Charter School for a charter school educational program and, hence, is the basis for the Facilities Use Agreement between the School District and the Charter School.

A copy of the Funding Agreement, Exhibit "A", and the School District's Facilities Use Agreement, Exhibit "B", are incorporated into this MOU solely for the purpose of setting forth the separate instruments for this transaction and not for the purpose of making the State a party to the Facilities Use Agreement and the School District a party to the Funding Agreement. This MOU, the Funding Agreement and the Facilities Use Agreement (collectively, the "Agreements") set forth the entire agreements between the parties regarding the loan of funds and use of the real property pursuant to the CSFP. There are no understandings, agreements, representations, or warranties, express or implied, not specified herein regarding this MOU, the Funding Agreement and the Facilities Use Agreement; provided, that in the event any portion of this MOU, the Funding Agreement and/or the Facilities Use Agreement is held unenforceable by a court of competent jurisdiction, the remainder of the applicable agreement shall remain in full force and effect and shall not nullify the intent of the CSFP.

- D. This MOU is being entered into in accordance with the requirements of the CSFP. To the extent this MOU is inconsistent or in conflict with the provisions of the CSFP and the implementing regulations, the CSFP and implementing regulations shall prevail.
- E. Notwithstanding any provision contained herein, the duties and obligations of the State and the School District shall be limited to the following:
1. The State. The State shall be responsible to administer the CSFP and determine eligibility of and compliance by the Charter School to the requirements of the CSFP. The School District shall have no duty or

obligation to administer, monitor or enforce any requirements imposed upon the Charter School under the CSFP.

2. The School District. The School District's duties and obligations under the CSFP shall be limited to the following:

- a. Accept title to the Facilities, as defined below, as trustee for the State of California public school system. Title shall be conveyed by an instrument acceptable to the School District; and
- b. In the event the Charter School, or any subsequent charter school, ceases to use the Facility or an Event of Default occurs, the School District shall observe the requirements of Section 17078.62 of the California Education Code as set forth in Section 4.2 below.

Other than the duties set forth in this Article I, E(2), no duties or responsibilities shall be imposed upon the School District as the result of it holding title to the Facility in trust for the California public school system except for that which is expressly contained in this Agreement.

3. Securing Approvals, Permits and Other Entitlements. Notwithstanding State supplied bond funds, the State and the School District shall have no duty or obligation to secure, or expend funds or incur costs to secure, any approvals, permits and other entitlements for the Facility and operation of the Charter School. This limitation on duty and obligation shall apply to any repair, maintenance, modification, renovation, addition, expansion, re-construction or re-habilitation occurring after the completion of initial construction of the Facility ("Future Work").
4. Construction. The State and the School District shall have no duty or obligation to construct all or any portion of the Facility or any Future Work. In the event of abandonment or any failure to complete the construction of the Facility or any Future Work for any reason, the School District, as trustee, will secure the site while it observes the requirements of Section 4.2 below.
5. Additional Funds. Other than the grant and the loan approved and provided under the CSFP, the State shall not be obligated to provide additional funds or financing for the planning, design, construction (including change orders and completion of construction), operation or maintenance of the Facility. The School District, by virtue of holding title to the Facility as trustee for the California public school system, shall not be obligated to provide additional funds or financing for the planning, design, construction (including change orders and completion of construction), operation or maintenance of the Facility.
6. Cooperation. In the event Charter School fails to complete construction or rehabilitation of the Facilities for any reason or fails to operate a school at the Facilities for any reason, the School District agrees that as the owner in trust of the Facilities for the public school system, the School District shall

cooperate with the State in its efforts to complete the construction of the Facilities or its effort to have a charter school operate from the Facilities; provided, that nothing in this MOU, the Funding Agreement, if applicable, and the Facilities Use Agreement shall require the School District to incur any costs or liabilities, or increase the School District's duties, obligations or exposure to liability, unless agreed to in writing by the School District.

ARTICLE II – FINANCING OF THE CHARTER SCHOOL'S PROJECT

2.1 Fifty Percent Local Matching Share Obligation

- A. The Charter School's Application for preliminary apportionment for the Facilities has been approved by the State. The Charter School's Apportionment ("Apportionment") is contingent upon the Charter School paying its 50% Local Matching Share obligation, which will be paid to the State by way of payments pursuant to the Funding Agreement.
- B. The Charter School's Application for a preliminary, advance, or final apportionment for the Facilities has been approved by the State. The State will provide as a grant funding for fifty percent (50%) of the approved costs for the Facilities and the Charter School will be responsible for fifty percent (50%) of the approved costs for the Local Matching Share for the Facilities. The Final Apportionment Amount will be reduced by any amounts received by the Charter School through an Advance Apportionment(s). The amounts of the Preliminary, Advance, and Final Apportionments are set forth in Exhibit "A" of the Funding Agreement.
- C. The Charter School will receive initial funding from the State for the Local Matching Share, less any lump sum payments made by, or on behalf of, the Charter School.

2.2 Conditions for Release of Funding

The following conditions must be satisfied before the State will release funding:

- A. The Charter School shall comply with all funding release conditions contained in the Funding Agreement to the satisfaction of the State.
- B. The Charter School agrees to utilize its apportionment for purposes consistent with the CSFP, and consistent with the purposes for which it was approved. The Charter School shall comply with any and all requirements and conditions imposed upon it for the development and operation of the Facility by any applicable governmental agency.
- C. Each party is duly authorized to enter, deliver, and perform this MOU, the Funding Agreement, as applicable to the appropriate parties, and the Facilities Use Agreement, as applicable to the appropriate parties.
- D. Pursuant to the provisions in Education Code Section 17199.4, the charter school's governing board approves the use of the intercept mechanism to make CSFP payments to the State. Evidence of filing of the intercept notice pursuant to 17199.4 in a form satisfactory to the Authority.

2.3 Charter School Facilities

- A. The Charter School's Facilities includes the real property and all improvements, repairs, replacements, substitutions, and modifications located or to be constructed on the property as described in its application for funding under CSFP.
- B. The Charter School's Facilities are located or will be located within the boundaries of the School District in the city and county as in Exhibit "D" of the Funding Agreement and is physically located within the school attendance area generating eligibility for funding, if applicable.
- C. The Charter School has satisfied itself as to the suitability of the Facilities by its own inquiries and tests. The Charter School shall, by entering into and occupying the Facilities, be deemed to have accepted the Facilities and to have acknowledged that they are in good order, condition and repair.
- D. The Charter School represents and warrants that it, by and through its officers, employees, agents and consultants, has made a thorough and independent examination of the Facilities and all matters related to its decision to enter into this Agreement. The Charter School is thoroughly familiar with all aspects of the Facilities and is satisfied that they are in an acceptable condition and meet its needs. The Charter School is solely responsible for identifying the real property, evaluating the condition of the title and suitability of the land for the Charter School's intended purpose, and negotiating and closing the acquisition of the real property. In addition, the Charter School is solely responsible for the construction of all improvements, repairs, replacements, substitutions, and modifications located or to be constructed on the real property

The State and/or the School District shall not have any obligation for construction work or improvements on or to the Facilities, to insure completion of construction, or provide additional funding in the event the Charter School determines it has insufficient funds to complete construction or operate the charter school. Pursuant to the CSFP, the School District is obligated to take title to the Facilities in trust for the benefit of the state public school system but such obligation does not make the School District a guarantor or warrantor of the Facilities and shall not impose any duty upon the School District to administer or oversee the construction of the Facilities by the Charter School, or in the event of any default prior to completion of construction, demolish all or any portion of the Facilities.

2.4 Payment

- A. The Charter School shall make payments to the State, as provided in the Funding Agreement in satisfaction of the requirements of the CSFP.
- B. This MOU, the Funding Agreement and the Facilities Use Agreement shall not be deemed to constitute a debt or liability or obligation of the State, the School District, or any political subdivision thereof, or a pledge of the faith and credit or taxing power of the State or any political subdivision thereof, but shall be a special obligation payable solely from the payments made by the Charter School. The obligation to make payments does not constitute an indebtedness of the Charter School or the School District, within the meaning of any constitutional or statutory

debt limitation or restriction and in all cases shall be made solely from legally available funds.

- C. Pursuant to the provisions in Education Code Section 17199.4, the charter school's governing board approves the use of the intercept mechanism to make CSFP payments to the State.

ARTICLE III – SECURITY PROVISIONS

- A. If title to the real property is already held by the Charter School:

1. the Charter School, at its sole cost and expense, shall cause to prepare a conveyance instrument, acceptable to the School District and the State, which shall convey title to the real property from the Charter School to the School District as trustee on behalf of the state public school system. The Charter School will convey to and the School District will accept conveyance of the good, absolute and marketable title to the Facilities in fee simple, free and clear of any mortgage, deeds of trust, liens (monetary or otherwise), claims, charges or other encumbrances or matters of any nature what so ever other than those included in any other provisions of this MOU. Prior to release of final apportionment, the Charter School must provide evidence to the State that title to the real property has been transferred to the School District. If Charter School fails to meet this requirement, Charter School will be in default of this MOU.
2. The Charter School shall provide proof satisfactory to the State and the School District that all liens and encumbrances that may arise from the construction of the Facilities have been released and/or satisfied.
3. The Charter School shall submit to the State and the School District for its review and acceptance a title report and a copy of each instrument listed in said title report. The title report shall be issued no more than thirty (30) calendar days prior to the date of submittal.
4. The Charter School shall provide to the State and the School District for its review and acceptance an American Land Title Association ("ALTA") survey which together with (3) above, shall be sufficient for the Charter School,, at its sole cost and expense, shall provide the School District with a ALTA owner's policy for the benefit of the School District and the State.

- B. If title to the real property is not held by the Charter School, the School District, at its sole cost and expense, shall cause to prepare a conveyance instrument, acceptable to the State, which shall convey title to the real property in trust on behalf of the state public school system. The School District will accept conveyance of the good, absolute and marketable title to the Facilities in fee simple, free and clear of any mortgage, deeds of trust, liens (monetary or otherwise), claims, charges or other encumbrances or matters of any nature what so ever other than those included in any other provisions of this MOU.

- C. The School District shall provide to the State for its review and files the original Final California Department of Education ("CDE") approval subject to waivers

and/or exemptions to the use of real property as a school facility; provided, that if CDE has provided the Charter School any waivers and/or exemptions the Charter School shall obtain from CDE and provide to the School District a valid assignment of such waivers and/or exemptions. The purpose of the assignment is to ensure that the conveyance of fee title from the Charter School to the School District will not result in a situation whereby the Facilities then become non-compliant because of the transfer of fee simple title to the School District due to those requirements and standards that are typically imposed upon the School District.

- D. The School District shall provide to the State for its files the original “No Further Action” or “Further Action Letter” from the California Department of Toxic Substance Control (“DTSC”); provided, that if DTSC has issued a Further Action Letter, the Charter School shall provide to the School District proof satisfactory to the School District that all requirements of the Further Action Letter have been satisfied. Simultaneously with the delivery of the foregoing, the Charter School shall deliver to the State a copy of the documents delivered to the School District.
- E. The School District shall provide to the State for its review and files the final approval issued by DTSC for the final Preliminary Environmental Assessment (“PEA”) for the real property, if applicable.
- F. The School District shall provide to the State for its files the final approval of any applicable Federal, State, City or County agency necessary for the acquisition and construction of the Facilities, and the operation of the Facilities for an educational program conducted by the Charter School. As an example, and not as means of limitation, a charter school may require approval from the California Coastal Commission if a project will be located within its jurisdiction.
- G. Simultaneously with the delivery of the documents and instruments required in this Article III.A, the Charter School shall deliver to the State a copy of the same documents and instruments delivered to the School District.
- H. Title to the Facilities shall be conveyed to the School District by a grant deed or bill of sale, if applicable, agreed to and accepted by the School District. Title to the Facilities shall be held solely by the School District in whose boundaries the Facilities are to be located, in trust, for the benefit of the state public school system.
- I. Any person or entity providing a substantial contribution that is applied to the costs of the project in excess of the state share and the local matching share may be granted a security interest, as approved and memorialized in a written instrument executed by the State, to be satisfied from the proceeds, if any, realized when the property is ultimately disposed of. If the contribution was made for the explicit purpose of purchasing any asset with a normal life expectancy of less than twenty years, the security interest will be adjusted to reflect the depreciation of the assets. Contributions used solely to assist the applicant in meeting its local matching share shall not be entitled to a security interest. Where a contribution results in total project funding beyond the state and local matching shares, the contributor’s security interest shall be limited to the amount in excess of the state share and local matching share.

- J. If a default occurs and all payments have not been made, the security interest of any person or entity providing a substantial contribution to the costs of the project shall be satisfied only after the account is reimbursed for any remaining unpaid local matching share and the School District has been reimbursed for any costs and expenses incurred, if any, as the result of such default.
- K. Simultaneously with the execution of the Grant Deed, the Charter School and the School District shall enter into a Facilities Use Agreement, Exhibit "B". This Facility Use Agreement shall contain as standardized provisions the following, which must be addressed to the satisfaction of the State:
1. The acquisition and maintenance of all required licenses or permits. Any costs associated with licenses or permits shall not become an obligation of the State.
 2. The payment of all fees, and public charges of whatever nature accessed against the Facilities, including the payment of all taxes, and costs associated with telephone, water, sewer, gas, heat, electricity, garbage disposal, trash disposal, and all other services and utilities. Such fees and charges shall not become an obligation of the State.
 3. Prohibited uses of the Facilities, and provisions for the maintenance and repair of the Facilities. The State shall not under any circumstance be required to make any improvements or install any equipment on the Facilities, make any repairs, alterations or replacements of any nature to the Facilities, make any expenditures whatsoever in connection with this MOU or maintain the Facilities in any manner. The State shall not be required to maintain, repair or rebuild all or any part of the Facilities, and the Charter School or School District waive the provisions of Civil Code Sections 1941 and 1942 and any other law that would require the maintenance of the Facilities in a leasable condition or would provide the School District with the right to make repairs and deduct the cost of those repairs from its payments.
 4. The handling of hazardous materials.
 5. Insurance requirements, in addition to those specified in this MOU, for all risk (special-causes-of-loss) property and fire insurance; commercial general liability insurance; rental value insurance; worker's compensation insurance; flood and earthquake insurance as necessary; and such other types of insurance or endorsements to existing insurance as may be required by the School District.

ARTICLE IV – DEFAULT AND REMEDIES

4.1 Events of Default

The occurrence of any of the following shall constitute a "Default" or "Event of Default" under this Agreement:

- A. Failure by the Charter School to commence to use and occupy the Facilities for the operation of a charter school within one (1) year of receiving the certificate of occupancy issued by the Division of the State Architect.
- B. Failure by the Charter School to make any payment when due where such failure continues for a period of thirty (30) calendar days after receiving written notice by the State or the School District.
- C. Failure by the Charter School to maintain insurance on the Facilities or to provide reasonable evidence of insurance as required by the Funding Agreement and the Facilities Use Agreement, and where such failure continues for a period of thirty (30) calendar days after receiving written notice by the State or the School District;
- D. Failure by the Charter School to provide reasonable evidence of compliance with all requirements whether expressly stated in this MOU, the Funding Agreement, or the Facilities Use Agreement or otherwise imposed by the State under the CSFP or other applicable law or failure to observe or perform any other applicable covenant, condition, or agreement, where such failure continues for thirty (30) calendar days after receiving written notice of the failure. If thirty (30) calendar days is insufficient and the Charter School has instituted corrective action, the State, in its discretion, may extend this period up to one hundred and eighty (180) calendar days.
- E. The Charter School shall be or become insolvent, or admit in writing its inability to pay its debts as they mature, or make an assignment for the benefit of creditors; or the Charter School shall apply for or consent to the appointment of any receiver, trustee or similar officer for it or for all or any substantial part of its property; or such receiver, trustee or similar officer shall be appointed without the application or consent of the Charter School, as the case may be, where possession is not restored in sixty (60) calendar days; or the Charter School shall institute (by petition, application, answer, consent or otherwise) any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, liquidation or similar proceeding relating to it under the laws of any jurisdiction; or any such proceeding shall be instituted (by petition, application or otherwise) against the Charter School (unless, in the case of a petition filed against the Charter School, the same is dismissed in sixty (60) days) or any judgment, writ, warrant of attachment or execution or similar process shall be issued or levied against a substantial part of the Charter School's Facilities; provided, however, in the event that any provision of this paragraph is contrary to any applicable law, it shall be of no force and effect, and not affect the validity of the remaining provisions;
- F. The determination by the State that any material representation or warranty made by the Charter School was untrue in any material respect when made;
- G. The Charter School's charter is not renewed or is revoked, or the Charter School ceases to use the Facilities for a charter school purpose. Nothing in this section shall affect a Charter School's rights and obligations pursuant to Education Code Section 17078.62 if the Charter School ceases to use the facility after a revocation and/or non-renewal;

- H. The Charter School shall abandon the Facilities or breach the Facilities Use Agreement; and/or
- I. If the performance of the payment obligations of the Charter School is guaranteed, the actual or anticipatory failure or inability, for any reason, of the Guarantor to honor the guarantee as required, and the Charter School's failure to provide written alternative assurance or security, which when coupled with the Charter School's then-existing resources, equals or exceeds the combined financial resources that existed at the time this Agreement is executed. The Charter School shall have sixty (60) calendar days following written notice by the State, to provide the written alternative assurance or security.
- J. If an Event of Default occurs and the Charter School continues to occupy and/or possess the Facilities, the Charter School shall remain liable for the performance of all of the obligations of the Charter School under and subject to the Funding Agreement and the Facilities Use Agreement, including, without limitation, the obligation to make payments to the State when due under the Funding Agreement.
- K. Failure by the School District to acquire title of the Facilities as required prior to release of certain funds under Education Code Section 17078.63 or within 30 days of receipt of CSFP funds for site acquisition or final apportionment.

4.2 Remedies on Default

The parties acknowledge and agree that this MOU, the Funding Agreement and the Facilities Use Agreement represent a unique situation that is not limited by the standard landlord's remedies provided by Sections 1951.2 and 1951.4 of the California Civil Code. The parties agree that if any Event of Default shall have occurred, any one or more of the following respective remedies, which are not exclusive but cumulative, may be pursued:

- A. If an Event of Default occurs and the Charter School continues to occupy and/or possess the Facilities, the Charter School shall remain liable for the performance of all of the obligations of the Charter School under and subject to the Funding Agreement, as amended, and the Facilities Use Agreement, as amended, including, without limitation, the obligation to make payments to the State when due under the Funding Agreement.
- B. If the Event of Default is solely because the Charter School's chartering authority has revoked or declined to renew the Charter School's charter, in accordance with Section 17078.62(b)(1) of the Education Code, the Charter School shall:
 - 1. have that time period specified in Section 17078.62 of the Education Code, as may be amended, to complete the review process contemplated in Section 47607 or 47607.5 of the Education Code, as may be amended; and
 - 2. so long as the Charter School continues to use and occupy the Facilities, remain liable for the performance of all of the obligations of the Charter School under the Funding Agreement, as may be amended, and the Facilities Use Agreement, as may be amended, including, without limitation, the obligation to make payments to the State when due under the Funding Agreement.

- C. If the Event of Default is solely because the Charter School's chartering authority has revoked or declined to renew the Charter School's charter, the Charter School shall not be liable under the Facilities Use Agreement, as may be amended, on the effective date of the last to occur of all of the following:
1. the Charter School completes the review process provided in Section 47607 or 47607.5 of the Education Code and the Charter School fails to obtain a renewal of its charter, or the Charter School relinquishes all rights to pursue or complete the review process provided in Section 47607 or 47607.5 of the Education Code and the Charter School notifies the State and the School District of its election; and
 2. the Charter School vacates the Facilities and relinquishes to the School District all right, title and interest in the occupancy and use of the Facilities.
- D. Upon the occurrence of Subsection C of this Section 4.2, the School District shall permit the Facility to be used in its "as is" and "where is" condition by another charter school:
1. that the State deems as qualified,
 2. whose charter petition is approved and is in good standing with the School District or charter authorizer; and
 3. that has agreed to a Funding Agreement with the State and a Facilities Use Agreement with the School District.
- E. In the event a successor charter school cannot be identified as provided in Subsection D of this Section 4.2, the School District may:
1. in accordance with Section 17078.62(b)(3) of the Education Code, take possession of and use the Facility as a public school facility; provided, that the School District shall be required to make payment to the State in accordance with Section 17078.62(b)(4) or the payments shall be reduced or eliminated if the School District satisfies the conditions set forth in Section 17078.62(b)(4)(A) and (B). In the event the payments do not qualify for reduction or elimination in accordance with Section 17078.62(b)(4)(A) and (B), the State and the School District shall enter into an agreement for the School District's assumption of the payment obligation under the Funding Agreement. Assumption of the payment obligation shall in no way release the Charter School from its payment obligations that accrued prior to the termination of the Funding Agreement or from the Charter School's obligations for any holdover; or
 2. In accordance with Section 17078.62(b)(5) of the Education Code, if the School District declines to take possession of the Facilities or if the Facilities are no longer needed for public school purposes, the School District shall dispose of the Facilities in accordance with requirements for the disposal of surplus public school sites. The monetary proceeds from the disposal of the Facilities shall be applied in the following priority: (i) repay any unpaid local matching share in favor of the State; (ii) repay any security interest

granted pursuant to Section 17078.57(a)(3)(B); and (iii) to the School District to be used for capital improvements in the School District.

3. disclaims its remainder interest in the Facilities, the State shall succeed to title owner pursuant to its remainder interest.
- F. The State may proceed by appropriate court action to enforce specific performance by the Charter School of its covenants under the Funding Agreement and this MOU and under the terms of accepting funding under the CSFP, or to recover damages for the breach thereof, including without limitation for the recovery of all past due payments together with interest, penalties, and late charges, and all other sums due the State. The Charter School shall pay or repay to the State all costs of such action or court action, including, without limitation, reasonable attorneys' fees and costs. The School District may proceed by appropriate court action to enforce this MOU and the Facilities Use Agreement against the Charter School.
- G. In the event of the Charter School's default and the recovery of the Facilities by the School District, the State shall have the right to recover from the Charter School via the intercept mechanism described in Section 17199.4 of the Education Code (i) the amount of all outstanding payments or other obligations (whether direct or indirect owed by the Charter School to the State), if any, which are then due and owing, together with interest and late charges, and (ii) any other amounts due from the Charter School to the State, including indemnity payments, taxes, charges, reimbursement of any advances and other amounts payable by the Charter School to the State.
- H. Notwithstanding anything to the contrary, the State, the Charter School and/or the School District may take whatever action at law or in equity that may appear necessary or desirable to enforce its respective rights with respect to this MOU, the Funding Agreement, or the Facilities Use Agreement or the Facilities, and the party or parties prevailing in the action shall have all of their respective costs of such action or court action, including, without limitation, reasonable attorneys' fees and costs as provided in this MOU, the Funding Agreement, and/or the Facilities Use Agreement or as otherwise permitted by law, paid by the parties against whom the action was brought.
- I. No remedy herein conferred upon or reserved to the parties is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this MOU, the Funding Agreement and the Facilities Use Agreement or existing at law or in equity. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle either party to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice other than such notice as may be required under the Agreements. All remedies herein conferred upon or reserved to the parties shall survive the termination of this MOU, the Funding Agreement and/or the Facilities Use Agreement.

- J. The State, in its discretion, may provide the Charter School the opportunity to cure Default for up to a thirty (30) calendar day period. If thirty (30) calendar days is insufficient, and the Charter School has instituted corrective action, the State, in its discretion, may extend this period up to one hundred and eighty (180) calendar days.

ARTICLE V – MISCELLANEOUS

5.1 Release of Liability

The State and the School District are hereby released from any and all claims, demands, debts, liabilities, and causes of action of whatever kind or nature, whether known or unknown or suspected or unsuspected which the Charter School or any of the Charter School's employees or agents may have, claim to have, or which may hereafter accrue against the released parties or any of them, arising out of or relating to the Facilities or the Charter School's Facilities, including those in any way connected with any materials or substances defined as hazardous under any applicable statute, ordinance, rule or regulation, presently in, on or under, or now or hereafter emanating from or migrating onto or under the Facilities. In connection with this release, the Charter School hereby waives any and all rights conferred upon it by the provisions of Section 1542 of the California Civil Code, which reads as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

5.2 Non-waiver

No waiver of any provision of this MOU, the Funding Agreement and/or the Facilities Use Agreement shall be implied by any failure to enforce any remedy for the violation of that provision, even if that violation continues or is repeated. Any waiver of any provision contained in this MOU, the Funding Agreement and/or the Facilities Use Agreement, if applicable, must be in writing and executed by the applicable parties and will affect only the provision specified and only for the time and in the manner stated in the writing.

5.3 Indemnity

- A. Memorandum of Understanding. To the fullest extent permitted by law the Charter School shall at the Charter School's sole cost and expense with counsel acceptable to the School District and/or the State as applicable, indemnify, defend and hold the School District and the State harmless from and against any and all losses, costs, liabilities, claims, judgments, liens, damages (including consequential damages), actions, causes of action (whether in tort or contract law or equity or otherwise), charges, assessments, fines, penalties and expenses, including, without limitation, reasonable attorneys' fees and costs, and reasonable investigation costs (collectively "Claims"), incurred in connection with or arising from: (a) any breach or default by the Charter School in the observance or performance of any of the terms, covenants or conditions of this MOU on the Charter School's part to be observed or performed; (b) the construction, operation, maintenance, alteration, use or occupancy of the Facilities by the Charter School; (c) the condition of the Facilities, and any occurrence on the Facilities, from any

cause whatsoever, and (d) any acts omissions or negligence of the Charter School or the Charter School's employees, agents or contractors in, on or about the Facilities.

- B. Facilities Use Agreement. The State is not a party to the Facilities Use Agreement and, as a result, to the fullest extent permitted by law the Charter School shall at the Charter School's sole cost and expense with counsel acceptable to the State as applicable, indemnify, defend and hold the State harmless from and against any and all Claims incurred in connection with or arising from any breach or default by the Charter School in the observance or performance of any of the terms, covenants or conditions of the Facilities Use Agreement on the Charter School's part to be observed or performed.
- C. Funding Agreement. The School District is not a party to the Funding Agreement and, as a result, to the fullest extent permitted by law the Charter School shall at the Charter School's sole cost and expense with counsel acceptable to the School District as applicable, indemnify, defend and hold the School District harmless from and against any and all losses, costs, liabilities, claims, judgments, liens, damages (including consequential damages), actions, causes of action (whether in tort or contract law or equity or otherwise), charges, assessments, fines, penalties and expenses, including, without limitation, reasonable attorneys' fees and costs, and reasonable investigation costs (collectively "Claims"), incurred in connection with or arising from any breach or default by the Charter School in the observance or performance of any of the terms, covenants or conditions of the Funding Agreement on the Charter School's part to be observed or performed.
- D. The Charter School will at all times protect and defend, at its own cost and expense, the title to the Facilities from and against all claims, liens and legal processes of creditors and keep all the Facilities and the title free and clear of all such claims, liens, and processes except for the liens created or expressly permitted under the Agreements and the CSFP.

5.4 Notice

Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served and received if given in writing and personally delivered or either deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service or facsimile transmission, addressed as follows:

If to the State:

**California School Finance Authority
300 S. Spring, Suite 8500
Los Angeles, CA 90013
Attention: Katrina Johantgen**

If to the Charter School:
St. HOPE Public Schools
5201 Strawberry Ln.
Sacramento, CA 95820-4815
Attention: Julian Love

If to the School District:
Sacramento City Unified School District
PO Box 246870
Sacramento, CA 95824-6870
Attention: Jorge Aguilar

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the next business day following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

5.5 Applicable Law

This MOU shall be governed by and construed in accordance with the laws of the State of California.

5.6 Amendments

- A. The terms of this MOU may not be waived, altered, modified, supplemented or amended in any manner except in writing, upon the agreement of all of the parties, or except as otherwise permitted by law.
- B. The terms of this MOU may be amended, or new agreements executed, as necessary, upon the application of the Charter School and the approval by the State and the School District of a final apportionment.

5.7 Force Majeure

The time for the State, the Charter School or the School District to perform any obligation or assert any right under this MOU or the CSFP shall be extended on a day for day basis for any Force Majeure event, which shall include but not be limited to: (1) Acts of God or of the public enemy; and (2) Acts of the federal or State government in either its sovereign or contractual capacity.

5.8 Severability

Should any provision of this Memorandum of Understanding be determined to be invalid, illegal or unenforceable in any respect, such provision shall be severed and the remaining provisions shall continue as valid, legal and enforceable.

THE STATE:

STATE ALLOCATION BOARD:

By: _____

Name: _____

Title: _____

CALIFORNIA SCHOOL FINANCE AUTHORITY:

By: _____

Name: _____

Title: _____

THE SCHOOL DISTRICT: **SACRAMENTO CITY UNIFIED SCHOOL DISTRICT**

By: _____

Name: _____

Title: _____

THE CHARTER SCHOOL: **ST. HOPE PUBLIC SCHOOL 7 ELEMENTARY**

BY: **ST. HOPE PUBLIC SCHOOLS, ON BEHALF OF ST. HOPE PUBLIC SCHOOL
7 ELEMENTARY**

By: _____

Name: _____

Title: _____

Exhibit A

Funding Agreement
(attached)

Exhibit B

Facilities Use Agreement
(attached)

**CHARTER SCHOOL FACILITIES PROGRAM
FUNDING AGREEMENT**

Between the State of California,

and

**St. HOPE Public Schools,
a Charter Management Organization, on behalf of
St. Hope Public School 7 Elementary
(CDS Code # 34-67439-0101048),
a California Charter School**

ARTICLE I – PURPOSE

- A. This Funding Agreement (“Agreement”) is made and entered into as of _____, (“Effective Date”) by and between the State Allocation Board and the California School Finance Authority (individually or collectively referred to as the “State”) and the charter management organization identified above on behalf of the charter school identified above , as assigned by the California Department of Education, a California Charter School operating as a non-profit public benefit corporation in accordance with Education Code Section 47604 (the charter management organization and charter school referenced above hereinafter individually and collectively referred to as “Charter School”). The provisions of this Agreement shall be effective from and after the Effective Date until the termination of the Agreement as provided herein.
- B. The Charter School has applied to the State for financing of its charter school facilities project (“Facilities”) under the Charter School Facilities Program (“CSFP”) established pursuant to Article 12 of Chapter 12.5 of Part 10 of the California Education Code and the regulations for its implementation provided in Title 4, Cal. Code Regs., Section 10151, et seq., and Title 2 Cal. Code Regs., Section 1859.160, et seq.
- C. The Charter School’s Facilities may involve the purchase of real property or the purchase of real property and construction of all improvements, repairs, replacements, substitutions, and modifications located or to be constructed on the property, or the construction of all improvements, repairs, replacements, substitutions, and modifications located or to be constructed on real property that the Charter School has acquired previously.
- D. This Agreement is being entered into in accordance with the requirements of the CSFP. To the extent the Agreement is inconsistent with or in conflict to the

provisions of the CSFP and the implementing regulations, the CSFP and implementing regulations shall prevail.

- E. The terms of this Agreement may not be waived, altered, modified, supplemented or amended in any manner except in writing, upon the agreement of the parties, or except as otherwise permitted by law. This Agreement may be amended, or a new agreement executed, as necessary, upon the application of the Charter School and the approval by the State of a final apportionment.

ARTICLE II – FINANCING OF THE CHARTER SCHOOL’S PROJECT

2.1 Fifty Percent Local Matching Share Obligation

A. Payments

1. The Charter School’s Application for Preliminary, Advance, and/or Final apportionment for the Facilities has been approved by the State. The State will provide as a grant funding for fifty percent (50%) of the approved costs for the Facilities, and the Charter School is responsible for a Local Matching Share of fifty percent (50%) of the approved costs for the Facilities. The Final Apportionment Amount will be reduced by any amounts received by the Charter School through any Advance Apportionment(s). The amounts of the Preliminary, Advance and/or Final Apportionment are set forth in Exhibit “A” of this Funding Agreement.
2. The Charter School’s Final Apportionment (“Apportionment”) is contingent upon the Charter School paying its 50% Local Matching Share obligation by making payments to the State pursuant to this Agreement. The 50% grant funding does not need to be repaid.
3. The Charter School will make its payments on the Local Matching Share to the State through the use of the Intercept Mechanism as described in Section 17199.4 of the Education Code. The Charter School shall comply with all provisions in this section prior to any funds being released.
4. The Charter School will repay the Local Matching Share to the State by making monthly payment installments, in arrears, as provided for in the schedule of payments (“Payment Schedule”), developed in compliance with section 2.1(D). The amount shall include interest on the unpaid principal balance at the interest rate prescribed in Section 17078.57(a)(1)(D) and (E) of the Education Code.
5. Payments will be applied first to accrued but unpaid interest, then to the unpaid principal balance.
6. Payments may be prepaid in whole or in part at any time before the end of the payment term without penalty.
7. Payments shall be made directly to the State Allocation Board for deposit into the respective 2002, 2004, 2006, or 2016 Charter School Facilities Account, or as otherwise directed by the State in writing.

B. Late Payments

The failure to make a payment on time will cause the State to incur costs not contemplated by the parties when entering into this Agreement, the exact nature and amount of which would be extremely difficult and impracticable to ascertain. Accordingly, on the fifteenth day after a payment is due, the Charter School may be assessed, by way of damages, a late charge in an amount equal to five percent (5%) of the past due amount. The parties agree that this late charge represents a fair and reasonable estimate of the costs incurred by the State as the result of a late payment, and the Charter School agrees to immediately pay the late charge. The State's acceptance of late charges will not constitute a waiver of default with respect to the overdue payment, and will not prevent the State from exercising any other rights available under this Agreement. The Charter School will pay a late charge only once on any late payment. The late charges will be deposited into the 2002, 2004, 2006, or 2016 Charter School Facilities Account.

C. Payment Period

The payment period shall commence upon the later to occur: (1) the Effective Date; or (2) after one full year of the Facilities being open and the Charter School commences its educational program ("Commencement Date"). The period shall end 30 years following the Effective or Commencement Date, or when paid in full.

D. Payment Schedule

1. Within thirty (30) days of the start of the Charter School's operations, the parties will execute a letter confirming the Commencement Date, the Expiration Date, the payment terms, and other such terms, including a Payment Schedule which shall be attached to this Agreement and incorporated herein as Exhibit "B".
2. The State shall establish the Payment Schedule in accordance with Education Code section 17078.57 and California Code of Regulations, title 4, Section 10160. The Payment Schedule may be amended, at the State's sole discretion, where the Charter School has demonstrated financial hardship to the State's satisfaction and the State has determined that the Charter School continues to be financially sound. The Payment Schedule shall end 30 years following the Effective or Commencement Date, or when paid in full.

E. Payments To Be Unconditional

Except as expressly provided for in this Agreement, any present or future law to the contrary notwithstanding, this Agreement shall not terminate, nor shall the Charter School be entitled to any abatement, suspension, deferment, reduction, setoff, counterclaim, or defense with respect to the payments, nor shall the obligations of the Charter School be affected (except as expressly permitted) by reason of:

1. any failure of the Facilities or any part thereof to be delivered or installed, any defects, malfunctions, breakdowns or infirmities in the Facilities, any

accident or unforeseen circumstances, or any damage to or destruction of the Facilities, or any part thereof;

2. any taking of the Facilities, or any part thereof, or interest therein by condemnation or otherwise;
3. any prohibition, limitation, restriction or prevention of the Charter School's use, occupancy or enjoyment of the Facilities, or any part thereof, or any interference with such use, occupancy or enjoyment by any person for any reason;
4. any title defect, lien or any other matter affecting title to the Facilities;
5. any eviction by paramount title or otherwise;
6. any default by the Charter School;
7. any action for bankruptcy, insolvency, reorganization, liquidation, dissolution or other proceeding relating to or affecting this Agreement or the Charter School;
8. the impossibility or illegality of performance by the Charter School;
9. any action of any governmental authority or any other person;
10. the Charter School's acquisition of ownership of all or part of the Facilities;
11. breach of any warranty or representation with respect to the Facilities;
12. any defect in the condition, quality, or fitness for use of the Facilities;
13. Any other cause or circumstance similar or dissimilar to the foregoing, and whether or not the Charter School has notice or knowledge of any of the foregoing; or
14. Notwithstanding the above, nothing in this section shall affect a Charter School's rights and obligations pursuant to Education Code Section 17078.62 if the Charter School ceases to use the facility after a revocation and/or non-renewal.

F. Acceptance and Application of Payment; Not Accord and Satisfaction

1. No receipt by the State of a lesser payment than the payment required under this Agreement shall be considered to be other than on account of the earliest amount due, and no endorsement or statement on any check or letter accompanying a payment or check shall be considered an accord and satisfaction. The State may accept checks or payments without prejudice to its right to recover all amounts due and pursue all other remedies provided for in this Agreement.
2. Acceptance of monies from the Charter School after the Charter School has received notice of termination shall in no way reinstate, continue, or extend the term or affect the termination notice. The State may receive and collect any payment due, and payment shall not waive or affect any prior notice, action, or judgment.

2.2 Conditions for Release of Funding

The following conditions must be satisfied, and such others as may be reasonably required by the State, before the State will release any funding:

- A. The Charter School shall have satisfied all of the requirements for such funding under the CSFP and Memorandum of Understanding, including that it shall have a current, valid charter.
- B. The Charter School shall have entered into this Agreement and the State shall have received an original of this Agreement properly executed on behalf of the Charter School, with each of the Exhibits hereto properly completed.
- C. If title to the property is already held by the Charter School, the Charter School, at its sole cost and expense, shall cause to prepare a conveyance instrument, acceptable to the school district in which the Facilities are located ("School District"), which is listed in the attached Staff Summary, Exhibit "D", and the State, which shall convey title to the real property from the Charter School to the School District as trustee on behalf of the public school system. The Charter School must notify the State and the School District when CSFP funds are received by the Charter School. Within 30 days of receipt of CSFP funds, the Charter School must provide evidence to the State that title to the real property has been transferred to the School District. If Charter School fails to meet this requirement, Charter School will be in default of this Agreement.
- D. If the Charter School is required to have a Guarantor for its project, it shall have entered into a guaranty with an acceptable Guarantor and the State shall have received an executed original of the agreement.
- E. The State shall have received a certificate of the secretary of the Charter School as to (i) the resolution of the board of directors of the Charter School, or authorizing the execution, delivery and performance of this Agreement, (ii) the bylaws of the Charter School, (iii) signatures of the officers or agents of the Charter School authorized to execute and deliver this Agreement on behalf of the Charter School and, if applicable, attaching thereto a copy of the Charter School's certificate or articles of incorporation or partnership or limited liability company formation document certified by the Office of the Secretary of State for the State of California.
- F. Certificate of good standing issued to the Charter School by the California Secretary of State not more than 30 days prior to the Effective Date of this Agreement, if applicable.
- G. The School District shall deliver to the State a standard preliminary title report issued by a title company with respect to the Facilities, and legible copies of all documents referred to in the title report. (Exhibit "C"). The Charter School and School District shall comply with the title requirements of section 3.4 of this Agreement, and shall provide to the State, upon request, all documents and materials relating to the Facilities and the title to the Facilities.
- H. The Charter School represents that it has a minimum debt service coverage ratio determined by the State to be sufficient, but in no event to be less than 1.0x.

- I. The Charter School represents that it is financially sound, and will demonstrate to the satisfaction of the State, its continued financial soundness. If the Charter School's chartering authority revokes or declines to renew the Charter School's charter, this Agreement will be in default and the provisions of Education Code section 17078.62 shall be invoked. Nothing in this section shall affect a Charter School's rights and obligations pursuant to Education Code Section 17078.62 if the Charter School ceases to use the facility after a revocation and/or non-renewal.
- J. The Charter School shall establish and maintain a separate and distinct account for deposits of all CSFP loan proceeds.
- K. The Charter School and the School District, in whose geographical jurisdiction the Charter School is located, will enter into an agreement governing the use of the facilities ("Use Agreement"). The phrase "substantial completion of construction" shall mean that standard of construction generally recognized by California construction law. The State shall have the right to review and approve the Use Agreement if there will be any modifications to the standard provisions. The State reserves the right to communicate directly with either the Charter School or the School District regarding amendments to the Use Agreement. The Charter School shall be in full compliance with the terms of the Use Agreement.

2.3 Payment During Dispute Period

Notwithstanding any dispute between the Charter School, its chartering authority, the State, or any vendor under any purchase agreement or any other person, the Charter School shall make all payments when due and shall not withhold any payments pending final resolution of a dispute, nor shall the Charter School assert any right of set-off or counterclaim against its obligation to make payments, and the Charter School waives any and all rights now or hereafter available by statute or otherwise to modify or to avoid strict compliance with its obligations under this Agreement.

2.4 Force Majeure

The time for the Charter School or the State to perform any obligation or assert any right under this Agreement or the CSFP shall be extended on a day for day basis for any Force Majeure event, which shall include but not be limited to: (1) Acts of God or of the public enemy; and (2) Acts of the federal or State government in either its sovereign or contractual capacity.

2.5 No Debt or Liability/Obligation of the State

- A. This Agreement shall not be deemed to constitute a debt or liability or obligation of the State or any political subdivision thereof, or a pledge of the faith and credit or taxing power of the State or any political subdivision thereof, but shall be a special obligation payable solely by the Charter School.
- B. The obligation to make payments does not constitute an indebtedness of the Charter School or its chartering authority within the meaning of any constitutional or statutory debt limitation or restriction and in all cases shall be made solely from legally available funds.

- C. The parties intend that the obligations of the Charter School shall be covenants, agreements and obligations that are separate and independent from any obligations of the State, and shall continue unaffected unless modified or terminated in accordance with an express provision of this Agreement.

ARTICLE III – CHARTER SCHOOL'S FACILITY

3.1 Utilization of Apportionment for Facility

The Charter School agrees to utilize its apportionment for purposes consistent with the CSFP, and for the acquisition of real property and the installation, construction, retrofitting and improvement of said real property in order to allow a charter school educational program to be conducted. To the extent that the apportionment is insufficient in any way, the Charter School must pay additional amounts as necessary to complete the acquisition, installation, construction, retrofitting and improvement of the Facilities and to ensure that all elements of the Facilities, including the property and improvements, are operational. The State shall have no obligation to provide additional funding beyond the apportionment provided for in this Agreement.

3.2 Use of Facilities for Charter School

- A. The Charter School may use and occupy the Facilities during the term of the Agreement solely for the operation of a charter school, as authorized under the California Education Code and subject to the terms of the Use Agreement. The foregoing statement shall not constitute a representation or guaranty that the operation of a charter school may be conducted in the Facilities or is lawful or permissible under any certificates of occupancy issued for the Facilities, or is otherwise permitted by law. Use of the Facilities shall in all respects comply with all applicable legal requirements.
- B. The general terms of the Charter School's use of the Facilities shall be governed by the Use Agreement between the Charter School and the School District.
- C. Prior to commencing operations in the school, the Charter School shall provide the State and the School District with a copy of a valid certificate of occupancy issued by the appropriate governmental agency for the Facilities, if applicable, or the equivalent issued by the California Division of the State Architect.
- D. In the event the Charter School no longer is using the Facilities, the usage and priority provisions of Education Code section 17078.62 shall apply. The Charter School shall reasonably cooperate and assist with any transition that may take place pursuant to the priority provisions.
- E. The State and School District shall not have any obligation for construction work or improvements on or to the Facilities. The Charter School has made a thorough and independent examination of the Facilities and all matters related to its decision to enter into this Agreement. The Charter School is thoroughly familiar with all aspects of the Facilities and is satisfied that they are in an acceptable condition and meet its needs.
- F. The Charter School, its officers, members, partners, agents, employees and contractors shall not unlawfully discriminate, harass, or allow harassment against

any employee or applicant for employment because of sex, race, color, ancestry, religion, creed, national origin, culture, physical disability (including HIV and AIDS), mental disability, medical condition (cancer or genetic characteristics), sexual orientation, political affiliation, position in a labor dispute, age, marital status, and denial of statutorily-required employment-related leave. The Charter School, its officers, members, partners, agents, employees and contractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, title 2, section 7285 et seq.).

3.3 Facility Location and Suitability

- A. The Charter School's Facilities are located in the county listed in the attached Staff Summary, Exhibit "D", and are more particularly described in the "Project Description" section of the summary.
- B. The property is physically located within the geographical jurisdiction of the School District in which the Facilities are located, which is listed in Exhibit "D" and the school attendance area generating eligibility for funding, if applicable.
- C. The Charter School has satisfied itself as to the suitability of the Facilities by its own inquiries and tests. The Charter School shall, by entering into and occupying the Facilities, be deemed to have accepted the Facilities and to have acknowledged that they are in good order, condition and repair.

3.4 Title to the Facilities

- A. The School District has obtained or will obtain upon release of funds from the State, good, absolute and marketable title to the Facilities in fee simple, free and clear of any mortgage, deeds of trust, liens (monetary or otherwise), claims, charges or other encumbrances or matters of any nature what so ever other than those included in the title report on the terms and conditions of this Agreement. The Charter School agrees to obtain and transfer title in accordance with the requirements of Article III Section A of the Memorandum of Understanding.
- B. Title to the Facilities shall be conveyed to, and vested in trust for the benefit of the California State public school system.
- C. The Charter School and School District will at all times protect and defend, at its own cost and expense, the title from and against all claims, liens and legal processes of creditors, and keep all the Facilities and the title free and clear of all such claims, liens and processes except for the liens created or expressly permitted by the Security Provisions of this Agreement and the CSFP.
- D. Any sale, contract to sell, option to purchase, conveyance or other transference of the Facilities must first be approved by the State in writing.
- E. The Charter School will execute, acknowledge and record all documents, certificates and agreements, including without limitation any grant deed, bill of sale or assignment as necessary to effectuate a transfer to the School District title to the Facilities, as provided herein, and provide copies of all documents, certificates

and agreements to the State as required by this Agreement or as otherwise requested by the State.

3.5 Insurance Requirements

A. Types of Insurance

1. The Charter School shall, at its sole cost and expense, obtain and maintain at all times during the construction and occupancy of the Facilities, the following types of insurance on the Facilities, naming the State and School District loss payee and additionally insured:

- a. All Risk (special-causes-of-loss) property and fire insurance (with extended coverage endorsement including malicious mischief and vandalism and sprinkler leakage).
- b. Commercial general liability insurance (broad form) covering claims for bodily injury, personal injury, death and property damage based on or arising out of the ownership, use, occupancy or maintenance of the Facilities and all areas appurtenant thereto.
- c. Rental value insurance.
- d. Worker's compensation insurance
- e. Other types of insurance or endorsements to existing insurance as may be reasonably required from time to time by the School District or the State.

B. The Charter School shall not do anything, or permit anything to be done, in or about the Facilities that would: (i) invalidate or be in conflict with the provisions of or cause any increase in the applicable rates for any fire or other insurance policies covering the Facilities (unless it pays for such increased costs); (ii) result in a refusal by insurance companies of good standing to insure the Facilities in amounts reasonably satisfactory to the School District; (iii) result in injury to any person or property by reason of the Charter School's operations being conducted in the Facilities; or (iv) result in the cancellation of or assertion of any defense by the insurer to any claim under any policy of insurance maintained by or for the benefit of the School District.

C. The Charter School, at its own expense, shall comply with all rules, orders, regulations or requirements of the American Insurance Association (formerly the National Board of Fire Underwriters) and with any similar body that shall hereafter perform the function of such Association.

D. All of the insurance policies required shall be issued by corporate insurers licensed or qualified to do business in the State of California and rated A:X or better by A.M. Best Company, and shall be in form acceptable to the School District and the State.

E. All certificates of insurance shall be delivered to the School District and the State, along with evidence of payment in full of all premiums required. All such certificates shall be in form acceptable to the State and School District and shall require the insurance company to endeavor to give to the State and School District

at least thirty (30) days' prior written notice before canceling the policy for any reason. Certificates evidencing all renewal and substitute policies of insurance shall be delivered to the State and School District, along with evidence of the payment in full of all premiums, at least thirty (30) days before termination of the policies being renewed or substituted.

- F. The State and School District shall be entitled to assignment and payment of all claims, causes of action, awards, payments, proceeds and rights to payment arising under or derived in connection with any insurance policy required to be maintained by the Charter School and any other insurance policies payable because of loss sustained to all or part of the Facilities, together with all interest which may accrue on any of the foregoing, provided, however, if the loss sustained to the Facilities can be repaired or constructed with the proceeds of the insurance policy (plus any additional funds needed and supplied by the Charter School), then, provided the Charter School is not in default hereunder, upon request of the Charter School, the proceeds of the insurance policy and such additional funds may be used for such repair and reconstruction of the Facilities, if agreed to by the State and the School District.
- G. The State and the School District shall immediately be notified in writing if any damage occurs or any injury or loss is sustained to all or part of the Facilities, or any action or proceeding relating to any such damage, injury or loss is commenced. The State and the School District may, but shall not be obligated to, in its own name appear in or prosecute any action or proceeding to enforce any cause of action based on warranty, or for damage, injury or loss to all or part of the Facilities, and may make any compromise or settlement of the action or proceeding, provided that no compromise or settlement of any action or proceeding that materially affects the Charter School shall be entered into or agreed to without the Charter School's prior written consent, which may not unreasonably be withheld.
- H. Waiver of Subrogation
 - 1. Notwithstanding anything to the contrary in this Agreement, the Charter School releases the School District and the State and their respective agents, employees, successor, assignees and subtenants from all liability for injury to any person or damage to any property that is caused by or results from a risk (i) which is actually insured against, to the extent of receipt of payment under such policy (unless the failure to receive payment under any such policy results from a failure of the Charter School to comply with or observe the terms and conditions of the insurance policy covering such liability, in which event, such release shall not be so limited), (ii) which is required to be insured against under this Agreement, or (iii) which would normally be covered by the standard form of "all risk-extended coverage" casualty insurance, without regard to the negligence or willful misconduct of the entity so released.
 - 2. The Charter School shall obtain from its insurers under all policies of fire, theft, and other property insurance maintained by it at any time during the

term insuring or covering the Facilities, a waiver of all rights of subrogation which the Charter School's insurers might otherwise, if at all, have against the State and School District, and the Charter School shall indemnify the State and School District against any loss or expense, including reasonable attorneys' fees, resulting from its failure to obtain such waiver.

- I. No approval by the School District or the State of any insurer, or the terms or conditions of any policy, or any coverage or amount of insurance, or any deductible amount shall be construed as a representation by the State of the solvency of the insurer or the sufficiency of any policy or any coverage or amount of insurance or deductible and the Charter School assumes full risk and responsibility for any inadequacy of insurance coverage or any failure of insurers.
- J. The Charter School is liable for all duties and obligations with respect to its purchase and development of the Facilities, and it shall bear the risk of any loss or claim relating to the Facilities. The State and the School District shall assume no liability or risk of loss.

3.6 Consent for Assignment

- A. The State's and the School District's (in accordance with the California Education Code) written consent shall be required before the Charter School may directly or indirectly, voluntarily or by operation of law, sell, assign, encumber, pledge or otherwise transfer or hypothecate all or any part of its interest in or rights with respect to the Facilities or permit all or any portion of the Facilities to be occupied by anyone other than itself or sublet all or any portion of the Facilities. Such consent shall not be unreasonably withheld. No sublease or assignment nor any consent by the State and the School District shall relieve the Charter School of any obligation to be performed under this Agreement or under the CSFP.
- B. The Charter School shall not be permitted to assign any of its rights or liabilities under this Agreement without the written consent of the State. A transfer of control shall be deemed to have occurred if there shall be any of the following: (i) a transfer of the ultimate beneficial ownership of fifty percent (50%) or more of the equity or other ownership interests in the Charter School or of any class of equity interests in the Charter School, including, without limitation, by the issuance of additional shares or other equity interests or other ownership interests in the Charter School, (ii) a transfer of the right to receive fifty percent (50%) or more of any category of distributions made by the Charter School, or (iii) a transfer of the right to direct the management, policies or operations of the Charter School, by contract or otherwise.
- C. Except as provided in Education Code Section 17078.62, in no event shall this Agreement be assigned or assignable by operation of law or by voluntary or involuntary bankruptcy proceedings or otherwise and in no event shall this Agreement or any rights or privileges hereunder be an asset of the Charter School under any bankruptcy, insolvency, reorganization or other debtor relief proceedings.

ARTICLE IV – REPORTING

A. The Charter School shall:

1. Report to the State any material adverse change in its financial and/or operational condition that could adversely affect its ability to make its payments under this Agreement and the CSFP;
2. Report to the State if the Charter School's charter has been revoked or has not been renewed within 30 days of notification of such action, including providing a copy of the document provided by the chartering authority notifying the Charter School of such action;
3. Provide audited financial statements within 120 days of the end of each fiscal year. Charter School may submit a written request for an extension from the State;
4. Notify the State when the Charter School incurs any borrowing of \$50,000 or more, with a duration of over one year. At its discretion, the State may conduct a financial soundness review; and
5. Comply with the State's requirements for reporting any civil or criminal matters.
6. Provide to the California School Finance Authority quarterly reports detailing all disbursements and interest earned as it relates to the separate CSFP account referenced in section 2.2, item 10 of the Funding Agreement.

ARTICLE V – DEFAULT AND REMEDIES

5.1 Events of Default

The occurrence of any of the following shall constitute a “Default” or “Event of Default” under this Agreement:

- A. Failure by the Charter School to commence to use and occupy the Facilities for the operation of a charter school within one (1) year of receipt of the certificate of occupancy.
- B. Failure by the Charter School to make any payment when due, and such failure continues for a period of thirty (30) calendar days after receiving written notice by the State;
- C. Failure by the Charter School to maintain insurance on the Facilities or to provide reasonable evidence of insurance as required, and where such failure continues for a period of thirty (30) calendar days after receiving written notice by the State;
- D. Failure by the Charter School to provide reasonable evidence of compliance with all legal requirements whether expressly stated under this Agreement or otherwise imposed by the State under the CSFP or other applicable law, or failure to observe or perform any other applicable covenant, condition or agreement, where such failure continues for thirty (30) calendar days after receiving written notice by the State. If thirty (30) calendar days is insufficient, and the Charter School has

instituted corrective action, the State, in its discretion, may extend this period up to one hundred and eighty (180) calendar days;

- E. The Charter School shall be or become insolvent, or admit in writing its inability to pay its debts as they mature, or make an assignment for the benefit of creditors; or the Charter School shall apply for or consent to the appointment of any receiver, trustee or similar officer for it or for all or any substantial part of its property; or such receiver, trustee or similar officer shall be appointed without the application or consent of the Charter School, as the case may be, where possession is not restored in sixty (60) calendar days; or the Charter School shall institute (by petition, application, answer, consent or otherwise) any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, liquidation or similar proceeding relating to it under the laws of any jurisdiction; or any such proceeding shall be instituted (by petition, application or otherwise) against the Charter School (unless, in the case of a petition filed against the Charter School, the same is dismissed in sixty (60) days) or any judgment, writ, warrant of attachment or execution or similar process shall be issued or levied against a substantial part of the Charter School's Facilities; provided, however, in the event that any provision of this paragraph is contrary to any applicable law, it shall be of no force and effect, and not affect the validity of the remaining provisions;
- F. The determination by the State that any material representation or warranty made by the Charter School was untrue in any material respect when made;
- G. The Charter School's charter is not renewed or is revoked, or the Charter School ceases to use the Facilities for a charter school purpose. Nothing in this section shall affect a Charter School's rights and obligations pursuant to Education Code Section 17078.62 if the Charter School ceases to use the facility after a revocation and/or non-renewal;
- H. The Charter School shall abandon the Facilities; and/or
- I. If the performance of the payment obligations of the Charter School is guaranteed, the actual or anticipatory failure or inability, for any reason, of the Guarantor to honor the guarantee as required, and the Charter School's failure to provide written alternative assurance or security, which when coupled with the Charter School's then-existing resources, equals or exceeds the combined financial resources that existed at the time this Agreement is executed. The Charter School shall have sixty (60) calendar days following written notice by the State, to provide the written alternative assurance or security.
- J. Failure by the School District to acquire title of the Facilities as required prior to release of certain funds under Education Code Section 17078.63 or within 30 days of receipt of CSFP funds for site acquisition or final apportionment.

5.2 Remedies on Default

- A. The parties acknowledge and agree that this Agreement represents a unique situation that is not limited by the landlord's remedies provided by Sections 1951.2 and 1951.4 of the California Civil Code. Whenever any Event of Default shall have

occurred, any one or more of the following respective remedies, which are not exclusive but cumulative, may be pursued:

1. If the Event of Default is solely because the chartering authority has revoked or declined to renew the Charter School's charter, the Charter School shall remain liable for the performance of all of the obligations of the Charter School including, without limitation, the obligation to make payments to the State when due, so long as the Charter School continues to use and occupy the Facilities.
 2. On the termination of this Agreement for any reason, any steps the School District takes to comply with Education Code section 17078.62 shall in no way release the Charter School from its payment obligations that accrued prior to the last date upon which the Charter School had beneficial ownership and use of the facility ("Termination Date") or from the Charter School's obligation for any holdover. Assumption of this Agreement shall in no way release the Charter School from its payment obligations that accrued prior to the Termination Date or from the Charter School's obligations for any holdover.
 3. The State may proceed by appropriate court action to enforce specific performance by the Charter School of its covenants under this Agreement and under the terms of accepting funding under the CSFP, or to recover damages for the breach thereof, including without limitation for the recovery of all past due payments together with interest and late charges, and all other sums due the State. The Charter School shall pay or repay to the State all costs of such action or court action, including, without limitation, reasonable attorneys' fees and costs.
- B. In the event of the Charter School's default, the State shall have the right to recover from the Charter School via the intercept mechanism described in Section 17199.4 of the Education Code via the intercept mechanism described in Section 17199.4 of the Education Code (i) the amount of all unpaid payments or other obligations (whether direct or indirect owed by the Charter School to the State), if any, which are then due and owing, together with interest and late charges, and (ii) any other amounts due from the Charter School to the State, including indemnity payments, taxes, charges, reimbursement of any advances and other amounts payable by the Charter School to the State.
- C. Notwithstanding anything to the contrary, the State may take whatever action at law or in equity that may appear necessary or desirable to enforce its rights with respect to this Agreement or the Facilities, and the Charter School, as applicable, shall pay or repay to the State all costs of such action or court action, including, without limitation, reasonable attorneys' fees and costs as provided in this Agreement or as otherwise permitted by law.
- D. No remedy herein conferred upon or reserved to the parties is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or existing at law or in equity. No delay or omission to exercise any right or power accruing upon any Event of

Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle either party to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice other than such notice as may be required under this Agreement. All remedies herein conferred upon or reserved to the parties shall survive the termination of this Agreement.

- E. No waiver of any provision of this Agreement shall be implied by any failure to enforce any remedy for the violation of that provision, even if that violation continues or is repeated. Any waiver of any provision of this Agreement must be in writing and will affect only the provision specified and only for the time and in the manner stated in the writing.
- F. The State, in its discretion, may provide the Charter School the opportunity to cure Default for up to a thirty (30) calendar day period. If thirty (30) calendar days is insufficient, and the Charter School has instituted corrective action, the State, in its discretion, may extend this period up to one hundred and eighty (180) calendar days.

ARTICLE VI – RELEASE OF LIABILITY AND INDEMNIFICATION

6.1 No Liability

- A. To the fullest extent permitted by law, the Charter School, on its behalf and on behalf of its officers, members, partners, agents, employees, and contractors, waives all claims it may have now or in the future (in law, equity, or otherwise) against the State, officials, directors, officers, attorneys, accountants, financial advisors, staff and employees arising out of, knowingly and voluntarily assumes the risk of, and agrees that the State shall not be liable for any of the following:
 - 1. Injury to or death of any person; or
 - 2. Loss of, injury or damage to, or destruction of any tangible or intangible property, including the resulting loss of use, economic losses, and consequential, incidental, punitive or penal or resulting damage of any kind from any cause.
- B. The State shall not be liable under this clause regardless of whether the liability results from any active or passive act, error, omission, or negligence of any party; or is based on claims in which liability without fault or strict liability is imposed or sought to be imposed.
- C. The State shall not be liable for any latent, hidden, or patent defect of the Facilities, or any part thereof, or any failure of the Facilities or any part thereof to comply with any legal requirement.

6.2 No Representations/Warranties

The Charter School does not rely on, and the State does not make any express or implied representations or warranties as to any matters including, without limitation, (a) the physical condition of the Facilities, (b) the existence, quality, adequacy or availability of

utilities serving the Facilities, (c) the use, habitability, merchantability, fitness or suitability of the Facilities for the intended use, (d) the likelihood of deriving business from the location or the economic feasibility of the business, (e) Hazardous Materials on, in under or around the Facilities, (f) zoning, entitlements or any laws, ordinances or regulations which may apply to the use of the Facilities, or (g) any other matter relating to the Facilities.

6.3 Release of All Claims and Demands

The Charter School releases the State from any and all claims, demands, debts, liabilities, and causes of action of whatever kind or nature, whether known or unknown or suspected or unsuspected which the Charter School or any of its employees or agents may have, claim to have, or which may hereafter accrue against the released parties or any of them, arising out of or relating to or in any way connected with Hazardous Materials presently in, on or under, or now or hereafter emanating from or migrating onto or under the Facilities. In connection with such release, the Charter School hereby waives any and all rights conferred upon it by the provisions of Section 1542 of the California Civil Code, which reads as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.”

6.4 Indemnification

- A. To the fullest extent permitted by law the Charter School shall at the Charter School's sole cost and expense with counsel acceptable to the State as applicable, indemnify, defend and hold the State harmless from and against any and all losses, costs, liabilities, claims, judgments, liens, damages (including consequential damages), actions, causes of action (whether in tort or contract law or equity or otherwise), charges, assessments, fines, penalties and expenses, including, without limitation, reasonable attorneys' fees and costs, and reasonable investigation costs (collectively "Claims"), incurred in connection with or arising from: (a) any breach or default by the Charter School in the observance or performance of any of the terms, covenants or conditions of this Agreement on the Charter School's part to be observed or performed; (b) the construction, operation, maintenance, alteration, use or occupancy of the Facilities by the Charter School; (c) the condition of the Facilities, and any occurrence on the Facilities, from any cause whatsoever; (d) any acts-omissions or negligence of the Charter School, its employees, agents or contractors in, on or about the Facilities; and (e) any breach in the Charter School's representations or warranties provided under this Agreement.
- B. The indemnification provided in this section shall apply regardless of the active or passive negligence of the State and regardless of whether liability without fault or strict liability is imposed or sought to be imposed; provided, however, that the right of indemnification shall not apply to the extent that a final judgment of a court of competent jurisdiction establishes that a claim was proximately caused by gross negligence or willful misconduct.

- C. In case any action or proceeding be brought, made or initiated against any of the State relating to any matter covered by the Charter School's indemnification obligations, the Charter School, shall at its sole cost and expense, resist or defend such claim, action or proceeding by counsel approved by the State. Notwithstanding the foregoing, the State may retain its own counsel to defend or assist in defending any claim, action or proceeding, and the Charter School shall pay the reasonable fees and disbursements of such counsel. The Charter School's obligations to indemnify the State shall survive the expiration or earlier termination of this Agreement. The State is an intended third-party beneficiary of this article, and shall be entitled to enforce the provisions hereof.
- D. The Charter School's obligation to indemnify the State may not be construed or interpreted as in any way restricting, limiting, or modifying the Charter School's insurance or other obligations under this Agreement and is independent of the Charter School's insurance and other obligations. The Charter School's compliance with the insurance requirements and other obligations under this Agreement shall not in any way restrict, limit or modify the Charter School's indemnification obligations under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Funding Agreement on the dates set forth below adjacent to their respective signatures. The effective date of this Funding Agreement shall be the last date set forth below.

THE STATE:

STATE ALLOCATION BOARD:

Date: _____

By: _____

Name: _____

Title: _____

CALIFORNIA SCHOOL FINANCE AUTHORITY:

Date: _____

By: _____

Name: Katrina Johantgen

Title: Executive Director

THE CHARTER SCHOOL:

ST. HOPE PUBLIC SCHOOL 7 ELEMENTARY

BY: **ST. HOPE PUBLIC SCHOOLS, ON BEHALF OF ST. HOPE PUBLIC SCHOOL 7 ELEMENTARY**

Date: _____

By: _____

Name: _____

Title: _____

Exhibit A
Schedule of Apportionments

Apportionment	Date	Amount
Preliminary		
Advance		
Final		

Exhibit B
Payment Schedule

Exhibit C
Title Documentation

Exhibit D
Staff Summary

FACILITIES USE AGREEMENT

This Facilities Use Agreement ("Agreement") is made by and between Sacramento City Unified School District ("District") and St. HOPE Public Schools, a California non-profit public benefit corporation ("Non-Profit"), which operates Sacramento Charter High School, Public School No. 7, and Oak Park Preparatory School, charter schools (Singularly or collectively, the "Charter Schools"). The Non-Profit and District are collectively referred to as the "Parties."

RECITALS

- A. WHEREAS, the District and its charter schools are partners in the public education of students and it is the District's intent to ensure that its facilities are shared equally with all of its students, including those students who attend its charter schools housed in District facilities.
- B. WHEREAS, District is the owner of certain real property located at 5201 Strawberry Lane and 2315 34th Street, Sacramento, California ("Sites").
- C. WHEREAS, the Charter Schools are charter schools duly formed and approved by the District under the laws of the Charter Schools Act of 1992 (Education Code §§ 47600, *et seq.*) PS7 serves students in grades Kindergarten through 8th grade in the 2012-2013 to 2016-2017 school years; Oak Park Preparatory School serves students in 7th through 8th grade in the 2012-2013 to 2014-2015 school years; and, Sacramento Charter High School serves grades 9th through 12th in the 2012-2013 to 2016-2017 school years.
- D. WHEREAS, the Charter Schools desire to use certain District facilities located on the Sites for its public charter school programs.
- E. WHEREAS, the Parties intend this Agreement to satisfy their obligations for the 2012-2013 to 2016-2017 school years, under Education Code Section 47614 and Title 5 of the California Code of Regulations Section 11969, *et seq.*, adopted by the State Board of Education ("Proposition 39"), which among other things require a written agreement regarding the allocation of facilities.

AGREEMENT

NOW THEREFORE, in consideration of the covenants and conditions of this Agreement, the Parties hereby agree as follows. All obligations imposed hereby on the Charter Schools are equally imposed on the Non-Profit.

1. Recitals.

The recitals set forth above are incorporated herein and made part of this Agreement.

2. Facilities.

Use of the Facilities shall be for the purposes set forth in the Charter Schools' charter, and on the terms and conditions set forth herein. The Charter Schools shall not have exclusive use of the Sites. The District grants use to the Non-Profit of the facilities located at the 34th Street Site, as identified in Exhibits A and B attached to this Agreement and incorporated herein by reference, and the facilities at the Strawberry Lane Site (Collectively, "Facilities") under the terms and conditions set forth in this Agreement. In regard to the housing of PS7, the Facilities at the 5201 Strawberry Lane Site are designated for grades K-5. The Facilities at the 2315 34th Street Site are designated for PS7's grades 6-8. Charter Schools use of the Facilities shall be made available for the entire calendar year through the Term of this Agreement.

Notwithstanding the above, the District specifically reserves the right to have exclusive access to, and exclusive use of, Rooms P16-P20 and E33-E39 ("Co-location Space") at the 34th Street Site (as reflected in Exhibit B) including but not limited to placement of another educational program ("co-location"). Should the District choose to use some or all of the Co-location Space at the 34th Street Site, the District will also have shared access and use of the following areas of this Site (as reflected in Exhibit B): Annex 1, 2 and 3; the Auditorium building (including Auditorium classrooms 1, 2 and 3); the Mel Lawson Theater; the pool house, the field house and locker rooms; the pavilion gym building and locker rooms; a reasonable number of parking spaces; and a reasonable number of faculty and student rest rooms located in the east wing of the building ("Shared Use Areas"). The District's right to co-locate is limited to the Co-location Space and Shared Use Areas above.

As of August 1, 2012, the pool house and Auditorium building (including Auditorium classrooms 1, 2 and 3) are not available for use by the Charter Schools. Therefore, the Charter Schools will not be charged a fee for the pool house and Auditorium building (including Auditorium classrooms 1, 2 and 3) until these areas do become available for use by the Charter Schools. When and if the pool house and Auditorium building become available, the Charter Schools will have the option of using the pool house and Auditorium building or any subpart thereof, and will only be charged a fee should they choose to do so. The Charter School must provide the District with Sixty (60) days written notice if it will use the pool house and/or Auditorium building.

The District shall give written notice to the Non-Profit of the District's use of the Co-location Space or Shared Use Areas ("Notice of Use") at least sixty (60) days before it will begin such use.

For scheduling purposes related to the Shared Use Areas, the District will meet and confer with the Non-Profit, as follows:

- a. An initial scheduling meeting will occur within ten (10) days of the Notice of Use. At the initial scheduling meeting, the Parties will submit and discuss tentative schedules of use of the Shared Use Areas.

b. A master scheduling meeting ("Master Scheduling Meeting") shall occur no later than thirty (30) days prior to the District's use of the Co-location Space or Shared Use Areas. At the Master Scheduling Meeting, the Parties shall agree upon a master schedule. The Master Scheduling Meeting will consist of the Charter Schools' Superintendent designee of the schools, and the District's Chief Accountability Officer or his/her designee. The agreed-upon master schedule will supersede any previously developed schedules.

c. When creating the tentative and master schedules, (i) the Charter Schools will receive priority for regular use of the Shared Use Areas of the field house and locker rooms and the pavilion gym building and locker rooms, but the District would have use for no less than 2 hours per day between 8 a.m. and 3 p.m.; and (ii) the District will receive priority for regular use of the Shared Use Areas of the Annex 1, 2 and 3, the Auditorium building (including Auditorium classrooms 1, 2 and 3), and the Mel Lawson Theater, but the Charter Schools, collectively, would have use for no less than 2 hours per day between 8 a.m. and 3 p.m.. Any remaining time for these Shared Use Areas will be available for third-party use consistent with the District's procedures and policies.

d. To the extent that there are times when the Shared Use Areas are not scheduled for use by either party, the Shared Use Areas will be made available on a first-come, first-serve basis from the time a request is submitted. Requests for use of the Shared Use Areas will be submitted by a party in writing to the other party and shall designate the time, date, number of hours, number of participants and type of use of the Shared Use Areas. No requests shall be made more than sixty (60) days in advance. The District shall confirm that the requested use is approved in a timely manner. Under mutual consent, the Parties will re-open the master calendar for any scheduling exceptions that may occur.

3. Term.

The term of this Agreement shall be from July 1, 2012 to June 30, 2017 ("Term"), unless earlier terminated as provided herein.

4. Facilities Use Fee.

Each and every school year, Non-Profit shall pay District a Facilities Use Fee. Facilities Use Fees shall be paid out in equal installments each month throughout the respective school year within the Term. Beginning on July 1, 2012, payments shall be payable on or in advance on the first day of each month ("Due Date") in lawful money of the United States.

The calculation for the 2012-2013 school year, and terms of Facilities Use Fee payments, are further described with more particularity in Exhibit C, attached hereto and incorporated herein. These fees will be calculated and adjusted annually by the District.

The Facility Use Fee shall be based on a pro rata cost estimate per square foot for the Facilities provided. The dollar amount to be paid by Non-Profit, per square foot, for use of the Facilities during the Term will be calculated by the District pursuant to Title 5, California Code of Regulations, section 11969.7. To calculate the fee, the District must determine actual facilities costs and total space figures in the year preceding the fiscal year in which facilities are provided. Such amounts may only become available to the District after each fiscal year ends. Therefore, within ninety (90) days of the beginning of each fiscal year, or as soon as the actual facilities costs and total space figures for the prior fiscal year become available, whichever is later, the District shall provide notice to the Non-Profit of any amended Facilities Use Fee calculations based on the actual data for the prior fiscal year. Amounts owed to or by the Non-Profit due to this calculation will be credited or added to subsequent remaining monthly installment payments of the Facilities Use Fees.

If any payment is made more than fifteen (15) days after the Due Date, a late fee of one percent (1%) shall apply and interest shall accrue thereafter on such late payment commencing thirty (30) days after the Due Date, provided however that no interest shall accrue on said late fee. The interest charged shall be computed at the then-current discount rate established by the Federal Reserve Bank of San Francisco plus five percent (5%), or the maximum rate permitted by law. The payment by Non-Profit of any late fees or interest shall in no event excuse or cure any default by Non-Profit nor waive District's legal rights and remedies with respect to such default.

The Parties agree that the Facilities Use Fee is in lieu of Non-Profit paying a pro rata share for in-district students and any actual costs for out-of-district students.

5. [Not used.]

6. Dispute Resolution.

The Parties agree to attempt to resolve all disputes regarding this Agreement, including the alleged violation, misinterpretation, or misapplication of the Agreement and/or a schedule conflict for Shared Use Areas, pursuant to the dispute resolution procedures identified in the Charter Schools' charter.

7. Use.

a. Public Charter School. The Facilities shall be used and occupied by the Charter Schools for the sole purpose of operating a California public charter school and for no other purpose without the prior written consent of the District. The Charter Schools' enrollment must not exceed the safe and legal limit for the classroom space it occupies.

b. Insurance Risk. The District shall maintain first party property insurance for the Facilities. The Charter Schools shall not do or permit anything to be done in or about the Facilities nor bring or keep anything therein which will in any way increase the existing insurance rate or affect any fire or other insurance upon the Facilities, or any of the

contents of the Facilities (unless the District gives its prior approval and the Non-Profit pays any increased premium as a result of such use or acts), or cause a cancellation of any insurance policy covering the Facilities or any part thereof or any of its contents, nor shall the Charter Schools sell or permit to be kept, used, or sold in or about the Facilities any articles which may be prohibited by a standard form policy of fire insurance. The Charter Schools shall provide adequate and appropriate supervision for Charter School students and employees using the Facilities.

c. Rights of the District. The Charter Schools shall not do or permit anything to be done in or about the Facilities that will in any way obstruct or interfere with the rights of the District or injure the District, or use or allow the Facilities to be used for any unlawful purpose, nor shall the Charter Schools cause, maintain or permit any nuisance in or about the Facilities. The Charter Schools shall not commit or suffer to be committed any waste in or upon the Facilities.

d. Illegal Uses. The Charter Schools shall not use the Facilities or permit anything to be done in or about the Facilities that will in any way conflict with any applicable law, statute, ordinance or governmental rule, or regulation. The Charter Schools agree to comply with their respective charters as they relate to District Facilities.

e. Security Badges. The Charter Schools will provide identification cards to its staff. The identification cards will be pictured with school name, logo, staff names, and titles. In the event a Co-location with a District program occurs, both the Charter Schools' staff and District staff shall carry said cards at all times that they are at the Site.

f. Civic Center Act. The Charter Schools agree to comply with the provisions of the Civic Center Act (Education Code Section 38131, *et seq.*) in making use of the Facilities accessible to members of the community. The Parties understand that the Facilities are to be primarily used for school programs and activities and as such any use of the Facilities by members of the community shall not interfere with school activities at any time. District Board Policy and Administrative Regulations related to the Civic Center Act shall control scheduling, use and collection of fees related to use of the Facilities by members of the public. Consistent with that policy and the regulations, the District shall be solely responsible for coordinating access to the Facilities under the Civic Center Act and shall require users to provide appropriate proof of insurance related to use of the Facilities and to indemnify and hold harmless the District and Charter Schools for injury, risk of loss, or damage to property as a result of that access by members of the community. The District agrees to promptly clean and repair, if necessary, any portion of the Facilities used by members of the community immediately following such use. All requests for use of the Facilities made directly to the Charter Schools shall be forwarded to the District for coordination of use consistent with Board Policy and Administrative Regulations.

g. Alarms. The Charter Schools shall have access to activate burglar alarms and intruder alerts corresponding to the Facilities provided at the Site. The Charter Schools agree that in the event that any of Charter Schools' employees, directors, trustees, officers, agents,

students, visitors, or contractors, trigger a false alarm at the Site, the Charter Schools shall be responsible for costs incurred.

8. Furnishings and Equipment.

The furnishings and equipment to be provided by the District for the Facilities are those furnishings and equipment that exist at the Facilities as of July 1, 2012. Said furnishings and equipment will be provided pursuant to Education Code section 47614(b), and Title 5, California Code of Regulations, section 11969.2. The Non-Profit is responsible for any furnishings and equipment over and above those provided by the District, except the District shall be responsible for providing Charter Schools additional furnishings and equipment, consistent with the District's policies, that are reasonably equivalent to meet the increase in in-District ADA, when it occurs, throughout the term of this Agreement.

The Non-Profit shall return all such furniture, fixtures and equipment to the District in like condition at the termination of this Agreement, excepting ordinary wear and tear. Upon return of the furniture, fixtures, and equipment, the District will inspect said items within sixty (60) calendar days. The Non-Profit shall be responsible for costs to repair or replace furniture, fixtures, and equipment to like condition, excepting ordinary wear and tear. All furniture, fixtures, and equipment that are not the property of the District or are not otherwise reimbursed by the District shall remain the property and under the ownership of Non-Profit and shall be disposed of according to the provisions of the approved Charter petitions.

9. Utilities.

District agrees to furnish or cause to be furnished to the Facilities necessary utilities. Utilities include, but are not limited to, electrical, natural gas, sewer, waste disposal/recycling and water services. Due to cost containment efforts by the District, the number of bins associated with the Site(s) and the number of removals per week shall only increase during the Term proportionally based on an increase in ADA. The District's failure to furnish or cause to be furnished necessary utilities when such failure is caused by (i) Acts of God or other acts beyond the control or fault of the District; (ii) strikes, lockouts, or other labor disturbances or labor disputes of any kind; (iii) any laws, rules, orders, ordinances, directions, regulations, requirements, or any other action by federal, state, county or municipal authority; (iv) inability despite the exercise of reasonable diligence by the District to obtain electricity, water, or fuel; or (v) any other unavoidable delay, shall not cause the District to be in default and shall not result in any liability of the District.

The Non-Profit shall reimburse the District for the cost of utilities at the Sites, as charged to the District by its utility providers, pro-rated to reflect use by other users of the Sites. Thirty (30) days prior to the commencement of the 2012-2013 school year, and every subsequent school year during the Term of this Agreement, the District shall endeavor to notify the Non-Profit of its estimated monthly charge for utilities. The Non-Profit shall pay such charge to the District throughout the Term on a monthly basis concurrent with

the Non-Profit payment of the Facilities Use Fee to the District pursuant to Section 4 of this Agreement. Within one hundred twenty (120) days after the expiration of each school year, or earlier termination of this Agreement, the District shall provide the Non-Profit with a reconciliation of the Non-Profit's actual utility usage throughout the Term and the cost thereof. The District shall either refund the Non-Profit for any overpayment or shall invoice the Non-Profit for any underpayment. The Non-Profit shall reimburse the District for such underpayment, if any, within thirty (30) days after receipt of said invoice.

The Charter Schools shall comply with all District energy conservation policies in regard to use of the Facilities, as amended from time to time, including, but not limited to, Board Policy 3511 and the District's Energy Education program.

10. Proposition 39/Conditions Reasonably Equivalent.

a. Non-Profit acknowledges by execution of the Agreement that the Facilities provided by the Agreement are "reasonably equivalent," as that term is defined by Proposition 39. Non-Profit agrees that upon execution of this Agreement, all obligations of the District to the Non-Profit and Charter Schools under Proposition 39 have been satisfied for the Term of the Agreement.

b. Non-Profit acknowledges and agrees that neither the District nor any of its agents have made, and the District hereby disclaims any representations or warranties, express or implied, concerning the premises, the physical or environmental condition of the premises or any other property beneath, adjacent to, or otherwise related to the premises.

11. Custodial Services.

Custodial services shall be provided by the District pursuant to the terms and conditions as defined in Exhibit D.

12. Signage.

The Charter Schools shall be allowed to place signage on the exterior of the Facilities. The District will keep its own signage exhibited at the Site, identifying the school as operated or formerly operated by the District. The District shall have final approval over the design, content and location of the Charter Schools' signage, but shall not unreasonably deny such design, content or location. The Charter Schools must remove the signage upon termination of this Agreement. The Charter Schools must restore the Facilities, following removal of the signage, to the condition existing prior to installation of the signage to District's reasonable satisfaction. All such signage shall be subject to compliance with all applicable laws at Non-Profit's sole cost.

13. Maintenance and Repairs.

a. The District shall maintain the Facilities, furnishings and equipment, in good order, condition, and repair. The Non-Profit will reimburse the District for the costs, including

time, labor and materials, to maintain the Facilities in good order, condition and repair. Said costs to the Non-Profit will be the sum total of: 1) The Facilities Use Fee of Section 4 of the Agreement; 2) the costs of custodial services per Section 11 and Exhibit D of the Agreement; and 3) the actual costs, including salary, benefits and payroll taxes, of the equivalent of one full time (1.0 FTE) District-employed Plant Manager (SPOM III) assigned to the Sites for all 12 months of the year. The District will invoice the Non-Profit quarterly for these actual costs of the District employed custodian and Plant Manager assigned to the Site. The Non-Profit will pay said invoice within thirty (30) days of receipt.

b. The Charter Schools will provide reasonable workspace for the Plant Manager assigned to the Sites.

c. The District will be responsible for any modifications necessary to maintain the Facility in accordance with Education Code sections 47610, subd.(d) or 47610.5. District shall be responsible for the major maintenance of the facilities used by Charter Schools. For purposes of this section, "major maintenance" includes the major repair or replacement of plumbing, heating, air conditioning, electrical, roofing, and floor systems, exterior and interior painting, and any other items considered deferred maintenance under Education Code section 17582.

d. The District shall be responsible for providing the wiring / MIS infrastructure and maintaining it in its condition as of July 1, 2012. Any upgrades or improvements to the wiring / MIS infrastructure shall be the responsibility of the Charter Schools, in compliance with Section 14 ("Alterations and Additions"). The Charter Schools are responsible for the cost of internet services provided at the commercial rate.

e. Upon the expiration or earlier termination of this Agreement, the Charter Schools shall surrender the Facilities and furnishings and equipment in the same condition as received, ordinary wear and tear excepted.

14. Alterations and Additions.

The Charter Schools shall only make alterations, additions, or improvements ("Improvements") to the Facilities after obtaining the prior written consent of the District's Superintendent or his designee, which shall not be unreasonably withheld. Any Improvements to the Facilities made by the Charter Schools shall be paid for by the Charter Schools, and shall be contracted for and performed in accordance with federal, state and local law, and all applicable building code standards, including without limitation Title 24 of the California Code of Regulations, the Field Act, Americans with Disabilities Act and the Fair Employment and Housing Act and all applicable District policies relating to facilities construction (the "Construction Standards"). The District Superintendent or his designee will identify persons with whom the Charter Schools can communicate to seek information regarding District policies and to obtain consent for Improvements.

The District may impose, as a condition to the aforesaid consent, such requirements as the District may deem necessary in its sole discretion, including without limitation, the manner in which the work is done, a right of approval of the contractor by whom the work is to be performed, and the times during which it is to be accomplished.

Should the Charter Schools fail to obtain the prior written consent of the District's Superintendent or his designee for Improvements, the Charter Schools shall, upon written request by the District, immediately cease making Improvements until such written consent is obtained, and the Charter Schools shall bear any costs, expenses and liabilities associated with the work stoppage.

Should the Charter Schools fail to contract and perform the Improvements in accordance with the Construction Standards or fail to adhere to the conditions to the District's consent as described above, the District may, at its sole option, direct that the Charter Schools immediately cease making such Improvements, and the District may alter, repair, or improve the Facilities pursuant to paragraph 15 hereunder, to bring the Facilities into compliance with the Construction Standards and/or the conditions to the District's consent, and Charter Schools shall be responsible for all such costs and expenses incurred by the District for such alterations, repairs or improvements. No Improvement shall reduce or otherwise impair the value of the Facilities. No Improvements shall be commenced until Charter Schools have first obtained and paid for all required permits and authorizations of all governmental authorities having jurisdiction with respect to such Improvements. All Improvements shall be made in a good workmanlike manner and in compliance with all laws, ordinances, regulations, codes and permits.

Upon written reasonable request of the District prior to the expiration or earlier termination of the Agreement, Charter Schools will remove any and all improvements to the Facilities, at its own cost, that can be done without damage to the Facilities. In the event of charter termination or closure of one or more of Charter Schools, all property shall be disposed of in accordance with the provision of the approved individual Charter School's petition. Unless the Parties agree otherwise in writing on an item by item basis, Charter Schools maintains their ownership rights in any alterations, additions or improvements and may be allowed to remove at termination of this Agreement and restore the Facilities to the condition existing prior to alteration, addition or improvement. Notwithstanding the foregoing, any addition to the Facilities that the Charter Schools do not remove prior to vacating the Facilities, shall vest in the District.

15. Entry by District.

The District may enter the facility at any time to inspect the Facilities, to supply any service to be provided by the District to the Charter Schools hereunder and to alter, improve or repair the Facilities, or in the case of an emergency, consistent with Education Code Section 47607(a)(1).

The District may erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed so long as the Charter Schools'

operations do not suffer unreasonable interference. The District agrees to use its best efforts at all times to keep any interference to the academic programs at Charter Schools to a minimum. The Charter Schools waive any claim for damages for any inconvenience to or interference with the Charter Schools' business, any loss or use of quiet enjoyment of the Facilities related to District's entry for the purposes identified in this Section.

16. Employees, Contractors and Independent Contractors.

The Charter Schools and the District, their employees, agents, contractors and subcontractors shall comply with the requirements of Education Code Sections 45125.1 and 45125.2 related to access to the Facilities and protection of minor students.

17. Indemnity.

The Charter Schools, individually and collectively, shall indemnify, hold harmless, and defend the District, its Board of Trustees, the members of its Board of Trustees, officers, employees and agents against and from any and all claims, demands, actions, suits, losses, liabilities, expenses and costs for any injury, death or damage to any person or property arising from the Charter Schools' use of the Facilities, excepting those claims, demands, actions, suits, losses, liabilities, expenses and costs arising from the negligent or intentional acts of the District, its employees, agents, officers and invitees.

The Charter Schools shall further indemnify, hold harmless, and defend the District, its Board of Trustees, the members of its Board of Trustees, officers, employees and agents against and from any and all claims arising from any breach or default in the performance of any obligation on the individual or collective Charter Schools' part to be performed under the terms of this Agreement, and from all costs, attorneys' fees, and liabilities incurred in or about the defense of any such claim or any action or proceeding brought thereon.

The District shall indemnify, hold harmless, and defend the Charter Schools, their trustees, officers, and agents against and from any and all claims, demands, actions, suits, losses, liabilities, expenses and costs for any injury, death or damage to any person or property arising from the District's conduct of business at the Facilities, excepting those claims, demands, actions, suits, losses, liabilities, expenses and costs arising from the negligent or intentional acts of the Charter Schools, their employees, agents, officers and invitees.

The District shall further indemnify, hold harmless, and defend the Charter Schools against and from any and all claims arising from any breach or default in the performance of any obligation on the District's part to be performed under the terms of this Agreement, and from all costs, attorneys' fees, and liabilities incurred in or about the defense of any such claim or any action or proceeding brought thereon.

Upon becoming aware of any casualty or accident in or on the Facilities, each Party to this Agreement shall give prompt written notice thereof to the other Party.

In the event of a third party claim or potential claim covered by these provisions, the Parties agree to take all steps reasonable or necessary to cooperate in defending and protecting their joint interests, and in expediting all reasonable or necessary efforts to gain coverage for the Parties under any liability policy or indemnity agreement issued in favor of the Non-Profit, including indemnity rights or agreements existing in contracts between the Non-Profit and any third party (such as contract with a supplier of goods or services), and further including efforts to reduce defense costs (through joint representation whenever possible), expenses and potential liability exposures.

18. Insurance.

The Charter Schools shall comply with insurance provisions contained within its charter and any Memoranda Of Understanding between the Parties.

19. Damage to or Destruction of School Site.

a. Cost. The cost of restoring the Facilities under this Section shall be borne by the Non-Profit if the cause of the casualty is the negligence or intentional act of one or more of the Charter Schools, its employees, agents, students or invitees. The cost of restoring the Facilities under this Section shall be borne by the District if the cause of the casualty is the negligence or intentional act of the District, its employees, agents, or invitees. The Parties shall tender the cost of restoring the Facilities to their respective insurance carriers if the casualty is caused by a third party.

b. Partial Damage – Insured. If the Facilities are damaged by any casualty which is covered under fire and extended coverage insurance carried by District, then District may restore such damage provided insurance proceeds are available to pay eighty percent (80%) or more of the cost of restoration and provided such restoration can be completed within ninety (90) days after the commencement of the work in the opinion of a registered architect or engineer appointed by District. In such event this Agreement shall continue in full force and effect, except that Charter Schools shall be entitled to proportionate reduction of use payments while such restoration takes place, such proportionate reduction to be based upon the extent to which the restoration efforts interfere with Charter Schools' business in the Facilities. The District shall provide the Charter Schools alternative space in the District for any part of the respective Charter Schools' program that is displaced by the partial damage and/or the repair work of the same. If one or more of the effected Charter Schools secure alternative space then there shall be no diminution in the use payments during the period of the restoration.

c. Total Destruction. If the Facilities are totally destroyed (defined as the destruction of more than fifty percent (50%) of the usable classroom space) or the Facilities cannot be restored as required herein under applicable laws and regulations, notwithstanding the availability of insurance proceeds, then this Agreement shall be terminated effective the date of the damage. Immediately upon the effective date of the damage, the District must provide a reasonably equivalent school facility to the effected Charter Schools as soon as

reasonable so as to avoid any interruption in the educational program of the effected Charter Schools.

20. Liens.

Non-Profit shall keep the Facilities free from any liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Non-Profit. Notwithstanding anything stated herein to the contrary, if the Non-Profit fails to promptly release and remove any such lien, District, at its sole option, may immediately (but shall not be obligated to) take all action necessary to release and remove such lien, without any duty to investigate the validity thereof, and all sums, costs and expenses, including reasonable attorneys' fees and costs, incurred by District in connection with such lien shall be immediately due and payable by Non-Profit.

21. Holding Over.

Non-Profit shall not remain in possession of the Facilities or any part thereof after the expiration of this Agreement or after termination thereof without the express written consent of District. Notwithstanding the foregoing, if the Non-Profit holds over, the Non-Profit shall pay the monthly Facilities Use Fee plus all other charges payable required by this Agreement. Any holdover by Non-Profit requires the Non-Profit and the Charter Schools to comply with all terms of this Agreement. A holdover by the Charter School shall not trigger any additional term. The District shall have the right to remove the Charter Schools at any time after the expiration of the Term or termination of this Agreement.

22. Assignment and Subletting.

The Non-Profit may not assign its rights under this Agreement or sublet any portion of the Facilities without the prior written consent of the District.

23. Rules, Regulations and Law.

The Charter Schools and the Charter Schools' agents, employees, students, visitors and invitees shall observe and comply fully and faithfully with all reasonable and nondiscriminatory policies, rules, and regulations adopted by the District for the care, protection, cleanliness, and operation of the Facilities, and the Facilities' furnishings and equipment, and shall comply with all applicable laws. The District will provide the Non-Profit with copies of the relevant written custodial and maintenance policies. The District will provide any such written policies that are amended during the term of the Agreement.

24. Smoking.

Smoking or the consumption of alcohol in any form shall not be allowed in or on District property and Facilities, including but not limited to all courtyards, walkways, and parking

areas.

25. Default by Non-Profit.

The occurrence of any one or more of the following events shall constitute a default and material breach of this Agreement by Non-Profit:

- a. The failure by Non-Profit to utilize the Facilities for the sole purpose of operating the Charter Schools.
- b. The failure by Non-Profit to make timely payments required under this Agreement.
- c. The failure by Non-Profit to observe or perform any of the material express covenants, conditions or provisions of this Agreement.
- d. The revocation or non-renewal of one or more of the Charter School' charters. Notwithstanding the foregoing, this Agreement shall not be terminated pursuant to this provision provided that the Charter School continues to operate in accordance with the terms of this Agreement and is diligently pursuing a statutory appeal of the revocation or nonrenewal of its charter. In the event of any material default or breach by Non-Profit, District may, but shall not be obligated to, terminate this Agreement and Non-Profit's right to possession of the Facilities upon thirty (30) days written notice thereof to the Non-Profit if the default is not cured within the thirty (30) day period. If the nature of the default is such that the same cannot reasonably be cured within said thirty (30) day period, the Non-Profit shall not be in default if Non-Profit shall within such thirty (30) day period commence such cure and thereafter, diligently prosecute the same to completion. In no event shall such period to cure exceed sixty (60) days.

In the instance of a default pursuant to part (d) of this provision, the District may impose the following remedy: The specific Facilities allocated to the respective charter school(s) that has been revoked or not renewed shall revert back to District possession and use. Upon termination, District shall retain the right to recover from Non-Profit, without limitation, any amounts due under this Agreement or applicable law. Unpaid Facilities Use Fees shall bear interest from the date due at the maximum legal rate. In the event of termination by the District by reason of Non-Profit default or breach of this Agreement, the District shall not be obligated to provide facilities to the Charter Schools pursuant to Proposition 39 for the remainder of that school year.

26. Default by District.

District shall be in default of this Agreement if District fails to perform any material obligation required by this Agreement. In the event of any default by District, Charter School may perform the action that is the obligation of the District and invoice the District for the reasonable costs thereof. Prior to taking such action, the Non-Profit must provide thirty (30) days written notice thereof to the District if the District has failed to cure the default within thirty (30) days, unless the nature of the default is such that the

same cannot reasonably be cured within said thirty (30) day period, in which event District shall not be in default (and Charter School may not terminate this Agreement) if District commences to cure such default within such thirty (30) day period and thereafter, diligently prosecutes the same to completion.

27. Miscellaneous.

a. Waiver. The waiver by either Party of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of any charge hereunder by District or payment of any charge by Non-Profit shall not be deemed to be a waiver of any preceding default by Non-Profit or District of any term, covenant or condition of this Agreement, other than the failure of the Non-Profit to pay the particular charge so accepted, regardless of District's knowledge of such preceding default at the time of the acceptance of such charge.

b. Marginal Headings. The marginal headings and article titles to the articles of this Agreement are not a part of the Agreement and shall have no effect upon the construction or interpretation of any part hereof.

c. Successors and Assigns. The covenants and conditions herein contained, subject to the provisions as to assignment, apply and bind the heirs, successors, executors, administrators and assigns of the Parties hereto.

d. Amendment. No provision of this Agreement may be amended or modified except by an agreement in writing signed by the Parties hereto.

e. Construction. Each of the Parties acknowledges and agrees that this Agreement is to be construed as a whole according to its fair meaning and not in favor of nor against any of the Parties as draftsman or otherwise.

f. Venue. Any action or proceeding by any Party to enforce the terms of this Agreement shall be brought solely in the Superior Court of the State of California for the County of Sacramento.

g. Applicable Law. This Agreement shall be governed by and interpreted under the laws of the State of California applicable to instruments, persons, transactions and subject matter that have legal contacts and relationships exclusively within the State of California.

h. Severability. If any provision or any part of this Agreement is for any reason held to be invalid, unenforceable or contrary to public policy, law, or statute and/or ordinance, the remainder of this Agreement shall not be affected thereby and shall remain valid and fully enforceable.

i. Prevailing Authority. In the event of a conflict between the law and the terms of this

Agreement, the law shall prevail, and any such conflicting terms shall be severed from this Agreement and nullified. In the event of a conflict between the terms of the charter and the terms of this Agreement, the terms of this Agreement shall prevail. The Parties shall meet and confer to determine how to correct any conflicts so this Agreement complies with the Charter.

j. No Admission. Except as expressly agreed herein, nothing contained herein shall constitute an admission of fact or law.

k. Binding Obligation. If and to the extent that the Non-Profit is a separate legal entity from the District, the Non-Profit expressly agrees that this Agreement is a binding obligation on the Non-Profit and the Charter Schools and the District agrees that this Agreement is a binding obligation on the District.

l. Prior Agreements. This Agreement contains all of the agreements of the Parties hereto with respect to any matter covered or mentioned in this Agreement, and no prior agreements or understanding pertaining to any such matters shall be effective for any purpose.

m. Subject to Approval by Governing Board. This Agreement shall become effective upon ratification by the District's Governing Board.

n. Notices. All notices and demands that may be or are to be required or permitted to be given by either Party to the other hereunder shall be in writing. All notices and demands by the District to the Non-Profit or the Charter Schools shall be sent by United States Mail, postage prepaid, addressed to the Non-Profit or Charter Schools at the address set forth below. All notices and demands by the Non-Profit and/or Charter Schools to the District shall be sent by United States Mail, postage prepaid, addressed to the District at the address set forth below.

To District:

Sacramento City Unified School District
Attn: Mary Shelton, Chief Accountability Officer
5735 47th Avenue
Sacramento, CA 95824
Facsimile 916-643-9489

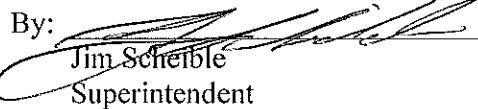
To Non-Profit or Charter School:

St. HOPE Public Schools
Attn: Jim Scheible, Superintendent
2315 34th Street
Sacramento, CA. 95817
Facsimile 916-649-7757

o. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original of the Agreement. Signatures transmitted via facsimile or portable document format ("pdf") to other Parties to this Agreement shall be deemed equivalent to original signatures on counterparts.

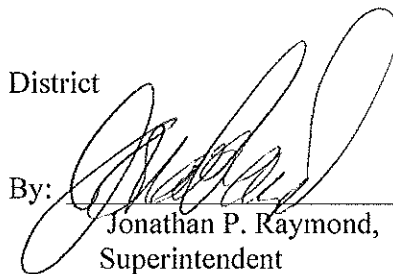
p. Warranty of Authority. Each of the persons signing this Agreement represents and warrants that such person has been duly authorized to sign this Agreement on behalf of the Party indicated, and each of the Parties by signing this Agreement warrants and represents that such Party is legally authorized and entitled to enter into this Agreement.

Non-Profit and Charter Schools

By: 
Jim Scheible
Superintendent

Date: 7/19/12

District

By: 
Jonathan P. Raymond,
Superintendent

Date: 7/17/12

Approved and ratified this 21 day of June, 2012, by the Board of Education of the Sacramento City Unified School District by the following vote:

AYES: 4

NOES: 0

Abstentions: 0

Secretary to the Board of Education

Exhibit A – Description and Square Footage of Facilities

School Name: Sacramento High School
 School Code: 550
 Site Area: 26.12 Acres
 Year Built: 1937, 1967 & 1974
 A.P.N. 010-0010-002
 Address: 2315 - 34th Street, Sacramento, CA 95817

Bldg/Room Code	Classroom No.	Room Use	Area	Year Built/Modernized	DSA #
PERMANENT BUILDINGS					
Bldg.001	West Wing			1974	36964
A-13	W-1	Reception	880		
A-36B	W-10	Student Center	485		
A-36F	W-11	Computer Classroom	449		
A-54	W-12	Classroom	1,249		
A-109B	W-13	Storage	56		
A-110	W-13	Mens	90		
A-109	W-13	Womens	108		
A-55	W-13	Print Office	139		
A-53	W-13	Conf. Room	780		
A-52A	W-14	Electrical Room	45		
A-52	W-14	Classroom	907		
A-50	W-16	Science Lab	1,650		
A-44	W-17	Science Lab	1,225		
A-49B	W-18	Storage	45		
A-49	W-18	Science Lab	1,648		
A-48	W-19	Science Lab	1,492		
A-14	W-1A	Principal	302		
A-15	W-1B	Conference Room	302		
A-12	W-2	Attendance	383		
A-47	W-20	Classroom	1,650		
A-42	W-21	Classroom	733		
A-46	W-22	Classroom	731		
A-41	W-23	Classroom	485		
A-40	W-24	Classroom	753		
A-45	W-25	Classroom	757		
A-56	W-26	Classroom	938		
A-57	W-27	Classroom	908		
A-37	W-28	Classroom	908		
A-38	W-29	Classroom	880		
A-10	W-3	VP.	141		
A-11	W-3	Dean	142		
A-09	W-3	Reception	288		
A-39	W-30	Classroom	876		
A-35	W-31	Classroom	878		
A-34	W-33	Classroom	881		
A-28A	W-34A	Conference Room	288		
A-28B	W-34B	Office	288		
A-17	W-35	Classroom	879		
A-18	W-36	Classroom	879		
A-31	W-37	Classroom	879		
A-19	W-38	Classroom	881		
A-04	W-39	Teacher Work Room	430		
A-03	W-40	Classroom	908		
A-02	W-41	Classroom	908		
A-01	W-42	Classroom	938		
A-16	W-43	Classroom	908		
A-27	W-44	Classroom	908		
A-33	W-45	Classroom	908		
A-24	W-6	Classroom	878		

<u>St Hope</u>	
<u>Public</u>	
<u>Schools</u>	<u>PS 7</u>
880	
485	
449	
	1,249
	56
	90
	108
	139
	780
	45
	907
1,650	
1,225	
	45
	1,648
	1,492
302	
302	
383	
	1,650
	733
	731
	485
	753
	757
	938
	908
	908
	880
141	
142	
288	
	876
	878
881	
288	
288	
879	
879	
879	
881	
430	
908	
908	
938	
908	
	908
	908
878	

Bldg/Room Code	Classroom No.	Room Use	Area	Year Built/ Modernized	DSA #
A-25	W-7	Classroom	879		
A-26	W-8	Computer Classroom	1,216		
A-32	W-9	Classroom	1,028		
A-107B		Janitor	38		
A-102B		Custodian	50		
A-104		Mens	52		
A-51E		Electrical Room	68		
A-36A		Hallway	69		
A-13B		Vault	74		
A-103		Womens	78		
A-43B		Storage	98		
A-108		Womens	118		
A-36E		Librarian	141		
A-107		Mens	142		
A-51B		Custodian	142		
A-43		Storage	144		
A-36C		Work Room	190		
A-102		Girls	204		
A-36D		A.V. Room	215		
A-51C		MDF Room	238		
A-51A		Clerk	340		
A-101		Boys	399		
A-63		Corridor	493		
A-65		Corridor	579		
A-61C		Corridor	609		
A-62		Corridor	733		
A-66		Corridor	767		
A-61A		Corridor	947		
A-61B		Corridor	1,047		
A-64		Corridor	1,062		
		Unspecified	1,193		
A-36		Media Center/Library	5,398		
A-51		Book Room	1,752		
A-60		Corridor	2,060		
A-51C	W-15A	Reception	93		
A-08	W-4	Office	116		
A-07	W-4	Office	134		
A-51D	W-15B	VP.	142		
A-05	W-4	Parent Center	143		
A-06	W-4	Waiting Room	160		
A-22	W-5	Counselor	164		
A-20	W-5	Counselor	165		
A-21	W-5	Counselor	169		
A-23	W-5	Guidance Counselor	510		
A-30	W-32B	Reception	279		
A-29	W-32A	Principal	297		

BUILDING AREA TOTAL 59,999

COVERED WALKWAYS -

CLASSROOMS 32

Bldg. 002	Commons			1974	36964
B-1		Multi-use	16,412		
B-2		Storage	181		
B-2		Kitchen	125		
B-2		Storage	92		
B-2		Clock Tower	1,024		
B-2		Serving	1,816		
B-3		Snack Bar	184		
B-4		Scullery	173		
B-5		Storage	25		

<u>St Hope Public Schools</u>	<u>PS 7</u>
879	
1,216	
1,028	
38	
50	
52	
68	
69	
74	
78	
98	
118	
141	
142	
142	
144	
190	
204	
215	
238	
340	
399	
493	
579	
609	
733	
767	
947	
1,047	
1,062	
1,193	
5,398	
1,752	
2,060	
	93
116	
134	
	142
143	
160	
164	
165	
169	
510	
279	
297	
-	
16,412	
181	
125	
92	
1,024	
1,816	
184	
173	
25	

Bldg/Room Code	Classroom No.	Room Use	Area	Year Built/ Modernized	DSA #
B-5		Office	76		
B-6		Lockers	45		
B-6		Toilet	23		
B-7		Food Storage	493		
B-7A		Stairs	59		
BUILDING AREA TOTAL			20,728		
COVERED WALKWAYS			600		
CLASSROOMS			-		

<u>St Hope</u> <u>Public</u> <u>Schools</u>	<u>PS 7</u>
76	
45	
23	
493	
59	
600	

Bldg. 003	East Wing			1974	36964
C-04	E-13	Auto Shop	2,101		
C-13	E-13	Storage	169		
C-4A	E-13	Office	118		
C-21	E-41	Classroom	1,307		
C-21A	E-41	Storage	446		
C-27	E-41	Dark Room	299		
C-27B	E-41	Dark Room	56		
C-32	E-41	Storage	87		
C-55		Corridor	532		
C-56A		Corridor	1,209		
C-56B		Corridor	1,353		
C-56C		Corridor	1,109		
C-57		Corridor	531		
C-58		Corridor	1,075		
C-59		Corridor	532		
C-48	E-3	Classroom	879		
C-40	E-43	Classroom	898		
C-47	E-44	Classroom	908		
C-19	E-16	Computer Lab	781		
C-15	E-18	Science Lab	1,325		
C-08	E-33	Science Lab	1,855		
C-33	E-6	Classroom	887		
C-28	E-7	Classroom	879		
C-22	E-8	Classroom	879		
C-18	E-9	Classroom	875		
C-103A		Women	31		
C-104A		Men	31		
C-103		Girls	147		
C-104		Boys	147		
C-43	E-1	Reception	305		
C-16	E-10A	Office	105		
C-17	E-10B	Office	198		
C-10	E-11	Classroom	882		
C-11	E-12	Classroom	876		
C-29	E-14	Classroom	879		
C-23	E-15	Computer Lab	1,176		
C-14	E-17	Classroom	880		
C-25	E-19	Classroom	866		
C-42	E-2	Principal	294		
C-20	E-20	Office	182		
C-24	E-21	Computer Lab	789		
C-30	E-22	Classroom	879		
C-31	E-23	Classroom	896		
C-35	E-24A	Office	435		
C-36	E-24B	Office	435		
C-38	E-25	Classroom	879		
C-44AA	E-26A	Office	32		
C-44A	E-26A	Office	204		
C-44B	E-26B	Office	313		
C-45	E-27	Storage	190		

2,101
169
118
1,307
446
299
56
87
532
1,209
1,353
1,109
531
1,075
532
879
898
908
781
1,325
1,855
887
879
879
875
31
31
147
147
305
105
198
882
876
879
1,176
880
866
294
182
789
879
896
435
435
879
32
204
313
190

Bldg/Room Code	Classroom No.	Room Use	Area	Year Built/ Modernized	DSA #
C-50	E-27	Art Classroom	877		
C-52	E-28	Art Classroom	908		
C-53	E-29	Art Classroom	938		
C-51	E-30	Art Classroom	906		
C-46	E-30/E-31	Kiln Room	135		
C-46	E-30/E-31	Storage	154		
C-39	E-31	Ceramic Lab	1,521		
C-26	E-32	Classroom	1,212		
C-07	E-34	Science Lab	1,366		
C-06	E-35	Classroom	907		
C-05	E-36	Science Lab	1,693		
C-03	E-37	Classroom	909		
C-02	E-38	Classroom	910		
C-01	E-39	Classroom	937		
C-41B	E-4	Office	431		
C-09	E-40	Classroom	905		
C-31A	E-42	Office	459		
C-41A	E-5	Office	431		
C-42A		Custodian	25		
C-105A		Women	31		
C-106A		Men	31		
		IDF	52		
C-14A		Custodian	66		
C-45A		Custodian	93		
C-106		Boys	146		
C-105		Girls	147		
C-14C		Girls	149		
C-14B		Boys	171		
C-49		Event Center	6,782		

BUILDING AREA TOTAL 56,433
COVERED WALKWAYS 1,980
CLASSROOMS 35

<u>St Hope Public Schools</u>	<u>PS 7</u>
877	
908	
938	
906	
135	
154	
1,521	
1,212	
1,366	
907	
1,693	
909	
910	
937	
431	
905	
459	
431	
25	
31	
31	
52	
66	
93	
146	
147	
149	
171	
6,782	
1,980	

Bldg. 004	Auditorium		1937	2772
1st Floor				
		Corridors	2,258	
		Foyer	260	
		Stairs	433	
		Stage	4,248	
		Assembly	6,390	
		Storage	3,177	
		Toilets	573	
		Practice Room	613	
	Aud 303	Classroom	1,044	
	Aud 301	Classroom	1,044	
		Subtotal 1st Floor	20,040	
Mezzanine Level				
		Corridors	165	
		Stairs	156	
		Toilets	330	
		Storage	165	
		Subtotal Mezzanine Level	816	
2nd Floor				
		Stairs	366	
		Foyer	230	
		Storage	500	

2,258
260
433
4,248
6,390
3,177
573
613
1,044
1,044

165
156
330
165

366
230
500

Bldg/Room Code	Classroom No.	Room Use	Area	Year Built/ Modernized	DSA #
	Aud 302	Classroom	1,925		
		Assembly	4,779		
<i>Subtotal 2nd Floor</i>			7,800		

BUILDING AREA TOTAL 28,656
COVERED WALKWAYS 188
CLASSROOMS 3

**St Hope
Public
Schools**

PS 7

1,925
4,779

188

Bldg. 005	Dance Annex			1937	2772
	DA 2	Classroom	1,140		
	DA 1	Classroom	945		
	DA	Classroom	3,182		
		Storage	394		
		Costumes	225		
		Corridor	324		

BUILDING AREA TOTAL 6,210
COVERED WALKWAYS 948
CLASSROOMS 3

1,140
945
3,182
394
225
324

948

Bldg. 006	Pavilion Gym			1937	2772
1st Floor					
H602		Corridor	1,762		
V009		Medical Exam	587		
H601		Corridor	1,186		
C005		Instructor	156		
SFTB		Drying	516		
R601		Team Lockers	4,117		
SX61		Storage	223		
SX63		Instructor	160		
SX62		Equipment	436		
SH61		Storage	176		
SNW6		Storage	136		
		Office	111		
O002		Office	356		
SC04		Storage	111		
C004		Instructor	140		
R602		Team Lockers	3,559		
TR65		Showers	1,067		
B600		Pump Room	387		
ZC60		Wash Room	237		
TR6T		Toilet	302		
SR61		Storage	166		
C006		Instructor	139		
SC06		Drying	343		
SME6		Storage	131		
C007		Instructor	167		
C008		Instructor	130		
F600		Lobby	2,631		
SSEO		Storage	536		
V601		Football Stor.	1,055		
V602		Classroom	1,079		
H600		Corridor	1,949		
HTW6		Vestibule	37		
J600		Custodian	78		
SH6X		Storage	41		
SW60		Storage	107		

1,762
587
1,186
156
516
4,117
223
160
436
176
136
111
356
111
140
3,559
1,067
387
237
302
166
139
343
131
167
130
2,631
536
1,055
1,079
1,949
37
78
41
107

Bldg/Room Code	Classroom No.	Room Use	Area	Year Built/ Modernized	DSA #
TW60		Toilet (Men)	247		
ZBX1		Tickets	88		
CR0P		Storage	445		
		Refreshments	231		
SS86		Storage	179		
R010		Dressing Rm	325		
R011		Lockers	622		
COF7		Gym	12,648		
T10S		Shower	75		
T11S		Shower	112		
SH60		Lounge	117		
SE60		Storage	80		
T10T		Toilet	58		
T11T		Toilet	87		
ZBX2		Tickets	83		
TW60		Toilet (Women)	247		
		Unspecified	778		
<i>Subtotal 1st Floor</i>			40,736		
2nd Floor					
M600		Mechanical	1,804		
S261		Storage	172		
ZG60		Broad. Booth	101		
HTMF		Vestibule	70		
TMF2		Toilet (Men)	230		
HTWF		Lounge	99		
TWF2		Toilet (Women)	204		
<i>Subtotal 2nd Floor</i>			2,680		

BUILDING AREA TOTAL 43,416
COVERED WALKWAYS 1,256
CLASSROOMS -

**St Hope
Public
Schools**

PS 7

247
88
445
231
179
325
622
12,648
75
112
117
80
58
87
83
247
778

1,804
172
101
70
230
99
204

1,256

Bldg. 007	Fieldhouse Gym			1974	36964
		Equipment	138		
H710		Vestibule	212		
H708		Vestibule	212		
O709		Exercise	858		
		Storage	115		
S711		Storage	211		
		Storage	119		
C700		Student Store	518		
		Storage	292		
V700		Dance	3,826		
		Vestibule	88		
V701		Gymnastics	3,343		
		Classroom	2,072		
		Vestibule	49		
		Coaches	347		
H700		Corridor	648		
C705		Office	432		
T708		Lockers	179		
S700		Storage	95		
B700		Boiler	568		
S707		Showers	794		
		Toilet	260		
S701		Storage	187		

138
212
212
858
115
211
119
518
292
3,826
88
3,343
2,072
49
347
648
432
179
95
568
794
260
187

<u>St Hope Public Schools</u>	<u>PS 7</u>
1,933	
73	
7,651	
230	
-	

1,748
520
923
871
372
671
300

779

779

779

[illegible]

TOTAL	218,073	19,107	35,028
--------------	----------------	---------------	---------------

779

779

Exhibit B – Map of Sacramento High School Campus Facilities/Buildings and Other Property

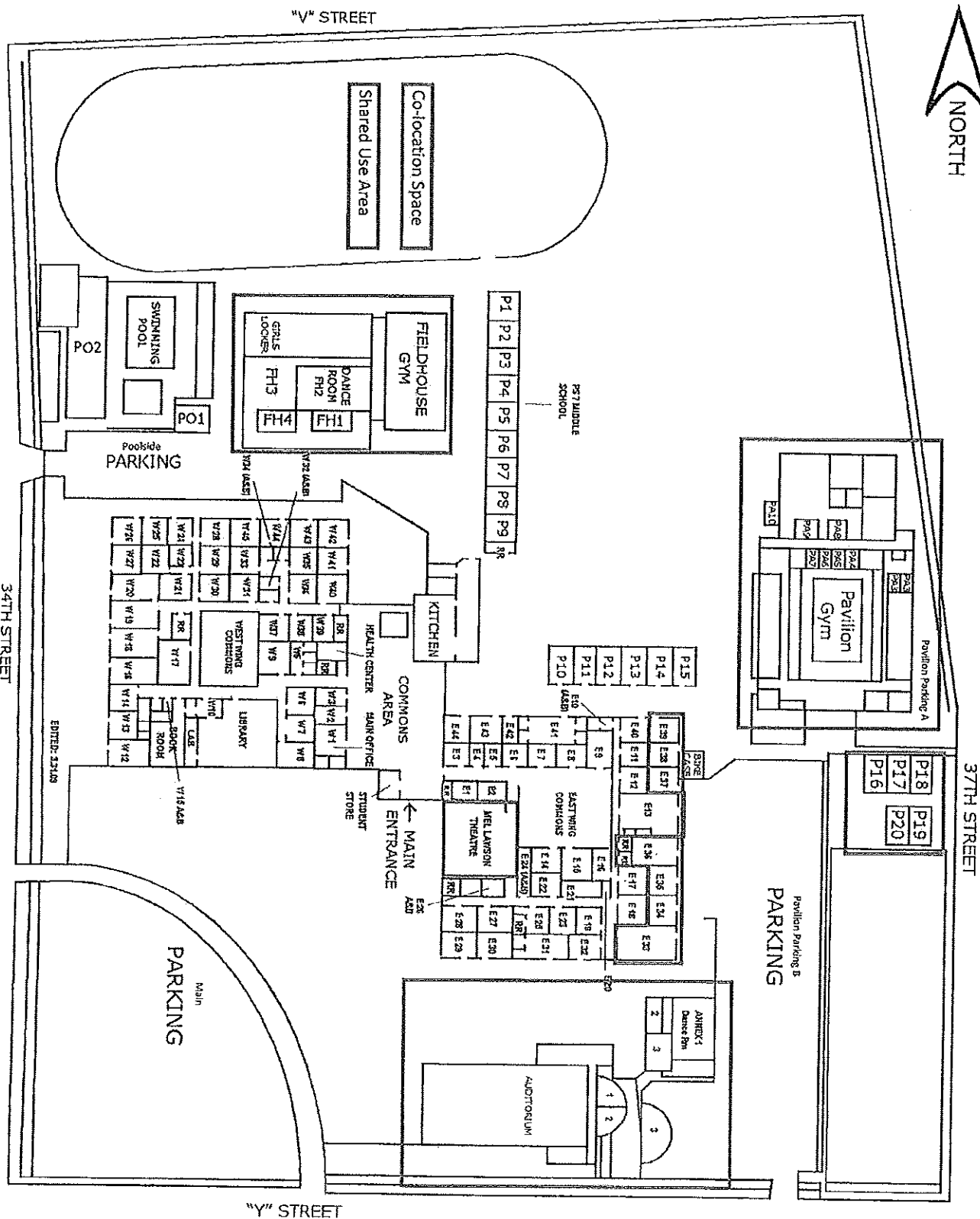


Exhibit C – Facilities Use Fee

For the 2012-2013 school year, Non-Profit shall pay District an initial estimated Facilities Use Fee of Five Hundred Forty-Three Thousand Nine Hundred Four Dollars and Twenty Cents (\$543,904.20) based on a pro rata Facilities cost estimate of Two Dollars and Ten Cents (\$2.10) per square foot for the use of approximately Two Hundred Fifty Nine Thousand and Two (259,002) square feet of the Facilities (237,180 square feet at Sacramento High School site plus 21,822 square feet at the Strawberry Lane Site) during that time. The Facilities Use Fee shall be paid out in equal installments of Forty-Five Thousand Three Hundred Twenty-Five Dollars and Thirty-Five Cents (\$45,325.35) each month throughout the fiscal year. Beginning on July 1, 2012, payments shall be payable on or in advance on the first day of each month ("Due Date"), without deduction, offset, prior notice or demand, in lawful money of the United States.

The District will re-calculate and adjust these fees annually for the remaining fiscal years for the Term of this Agreement.

In the event that there are adjustments made to the allocation of space, the Facilities Use Fee will be calculated according to the square feet allocated.

Exhibit D – Custodial Services

a. Routine Services. The District shall be responsible for providing the “routine” or regularly scheduled daily or weekly custodial services for the Strawberry Lane facility. The level of said services will be consistent with the District’s standard practices and policies. The District’s standard policies will be provided to the Charter schools. Said services will be provided by District employees, and Charter Schools have the right to report dissatisfaction with the custodial services so the District will take any corrective action that may be appropriate. Charter Schools shall have the right to direct the custodian to perform specific duties that are within the scope of the custodian’s job duties. The Charter Schools will reimburse the District for the actual costs, including time and labor (including salary, benefits and payroll taxes), to provide custodial services for the Strawberry Lane facility. In order to provide more comprehensive coverage of services, Charter Schools will employ two (2) 3.5 hour custodians on separate shifts.

Said reimbursement shall also include actual costs to the District for any cleaning supplies and tools necessary for those District personnel to provide Custodial Services, including but not limited to toilet paper, soap and paper towels. The District will invoice the Charter Schools quarterly for these services. The Charter Schools will pay said invoice within thirty (30) days of receipt.