



SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item# 11.1k

Meeting Date: June 23, 2022

Subject: Approve Joint Venture and License Agreement Between Sacramento City Unified School District and River Oak Center for Children

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

Division: Facility Support Services

Recommendation: Approve Joint Venture and License Agreement Between Sacramento City Unified School District and River Oak Center for Children (ROC).

Background/Rationale: The previous ROC Agreement was for a portion of the Fruitridge Elementary School, and their initial joint venture and license agreement was entered into on September 15, 2016. ROC has been a strong community partner since moving into their Fruitridge Elementary School location.

Financial Considerations: The License Fee is \$1.88/square foot/year.

LCAP Goal(s): Family and Community Empowerment

Documents Attached:

- 1) Draft Joint Venture and License Agreement Between Sacramento City Unified School District and River Oak Center for Children illustrating proposed changes.
- 2) Final Joint Venture and License Agreement Between Sacramento City Unified School District and River Oak Center for Children

<p>Estimated Time of Presentation: NA Submitted by: Rose Ramos, Chief Business Officer Nathaniel Browning, Director of Facilities Approved by: Jorge A. Aguilar, Superintendent</p>
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**JOINT VENTURE AND LICENSE AGREEMENT
BETWEEN SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
AND RIVER OAK CENTER FOR CHILDREN**

THIS JOINT VENTURE AND LICENSE AGREEMENT ("Agreement" or "License") is made and entered into upon approval between the parties below ("Effective Date"), by and between the Sacramento City Unified School District ("District") and River Oak Center for Children ("ROC"), a California nonprofit corporation (collectively, the "Parties"). The operative date ("Operative Date") shall be the date of occupancy by ROC which is anticipated to be on or about September 15, 2016 (the "Occupancy Date").

This First Amendment ("Amendment") to the Joint Venture Agreement dated September 15, 2016 ("Agreement") is made and entered into as of July 1, 2022 ("Effective Date") by and between the Sacramento City Unified School District ("District") and River Oak Center for Children ("ROC") (collectively, the "Parties").

WHEREAS, the District owns property at 4625 44th Street in the City of Sacramento which was previously known as Fruit Ridge Elementary School ("Fruit Ridge"); and

WHEREAS, the District and ROC desire to enter into a joint venture and license relationship for the use of the premises at Fruit Ridge described ~~below and the use of a 48' x 40' modular building~~ (collectively, the "Premises"); and

WHEREAS, the purpose of the License is the purpose and goals of the River Oak Center for Children; and

WHEREAS, the Agreement sets forth the terms and conditions for such use.

NOW, THEREFORE, the Parties agree to the following terms and conditions:

ARTICLE I

JOINT VENTURE AND LICENSE USE

1.1 **Joint Venture and License: Premises.** The Parties enter into a joint venture and license relationship for the use of the Premises. The District, as Licensor, hereby grants to ROC, as Licensee, a license (the "License") for the mutual benefit of the community and children served by both the District and ROC. Pursuant to the License, ROC shall have the right to use, subject to the terms and conditions herein, the Premises at Fruit Ridge as more particularly described in Attachment A incorporated herein by this reference. The square footage for the classrooms is approximately 3,855 square feet plus an additional approximate 1,900 square feet for the modular building. The Premises, for the purpose of the License, may be adjusted from year to year. The license year shall be the fiscal year from July 1 to June 30 (the "License Year"). For the first year, the License Year shall commence on September 1, 2016 and shall end on June 30, 2017. The Premises as described in Attachment A shall be the Premises for the first License Year. Thereafter, ~~on an as-needed basis from year to year~~, the Parties will meet to discuss potential decreases in

requested square footage. Potential increases in square footage may only be accommodated and negotiated by reaching an agreement with the District, ROC and the Fruit Ridge Community Collaborative (FRCC). Any adjustments, as described in the Agreement, shall be negotiated at least 90 days before the end of the License Year (the "Negotiation Period") and by the providing of written notice as set forth in section 5.11 below.

1.2 **License Fee.** The initial License Fee shall be \$1.88 per square foot per year for the Premises. ~~For the classrooms described in section 1.4(a), payment of the License Fee shall commence on September 1, 2016. For the modular building described in section 1.4(b), the License Fee shall commence on November 1, 2016. The District shall maintain and make necessary repairs and maintenance of mechanical systems including HVAC and electrical systems supporting the modular building. ROC shall be responsible for all inspections as required by law, including but not limited to, fire and safety inspections and any fees required to be paid for any such inspections. If ROC replaces or modifies any mechanical or electrical systems supporting the modular building, notice shall be given to the District. If any subsequent maintenance requires parts which are not in the usual inventory of the District or which are unique as opposed to District facilities, ROC shall pay or reimburse the District for any such parts required in maintenance of the modular building.~~ After the first License Year, any adjustments to the License Fee may not be increased more than 10% above the prior year's License Fee based upon the costs incurred by the District relating to the Premises and other considerations identified by the District. The License Fee shall be negotiated each year, after the first License Year during the Negotiation Period. The License Fee shall be paid quarterly, and shall be due, beginning in the first License Year, on or before October 15, 2016 (a pro-rated License Fee), January 15, 2017, and April 15, 2017, with a new cycle of quarterly payments for each subsequent License Year beginning thereafter, on or before July 15, and continuing through each quarter thereafter. A late payment fee of \$50 for each week of delinquency after the quarterly payment shall be due and payable plus a 5% interest charge on the principal of the License Fee. Acceptance of payment of a delinquent License Fee, and late payment fee plus interest, shall not waive other remedies of the District to terminate or revoke the License granted herein.

1.3 **License Deposit.** To assure that ROC performs its obligations under the License, and as a source for the payment of any delinquent License Fee due, Licensee agrees to deposit with the District an amount of \$1,000 (the "License Deposit"). The License Deposit shall be made with the District in a fund which will bear interest at the same rate as District funds pursuant to deposit requirements imposed on public school districts. Any unused License Deposit plus interest earned shall be remitted to ROC.

1.4 **Repairs and Alterations.** ROC accepts occupancy of the Premises in "as is" condition, except that the District shall ensure that mechanical systems such as HVAC and plumbing are in working condition prior to the Occupancy Date. Any repairs or improvements (collectively, "ROC Improvements") shall be submitted to the District for review and approval. The District reserves the right to require, depending on the nature and scope of ROC's Improvements, lien releases, bonding requirements, insurance during construction, and compliance with other legal obligations associated with such improvements on school property. In consideration of the payment of the License Fee, the District shall conduct necessary maintenance of the Premises ("District Maintenance") such as repairing leaks, plumbing, HVAC, and other

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routine maintenance such as repairing windows, minimal landscaping, minimal pest control, and general maintenance, at the discretion of the District, associated with preserving the structures and other improvements at the Premises. District Maintenance will cover anything associated with the general wear and tear of the Premises, not including consumable items such as light bulbs. Additional work above and beyond District Maintenance will be billed to ROC. The District shall have the right to recover any costs caused by any licensee committing waste or causing destruction or dilapidation, normal wear and tear excepted. Request for District

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~~a. Classrooms. ROC accepts occupancy of classrooms 16, 17, 18, and 19 of the Premises in "as is" condition, provided that the District shall ensure that mechanical systems such as HVAC and plumbing are in working condition prior to the Occupancy Date. District shall be responsible for all maintenance and necessary repairs to the classrooms, including all mechanical systems such as HVAC and electrical systems. ROC shall be responsible for all inspections as required by law, including but not limited to, fire and safety inspections and any fees required to be paid for any such inspections. In addition, ROC shall make the improvements as described in Attachment B. Any repairs or improvements, including those described in Attachment B, (collectively, "ROC Improvements") shall be submitted to the District for review and approval. The District reserves the right to require, depending on the nature and scope of ROC's Improvements, lien releases, bonding requirements, insurance during construction, and compliance with other legal obligations associated with such improvements on school property. The District shall have the right to recover any costs caused by any licensee committing waste or causing destruction or dilapidation, normal wear and tear excepted.~~

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~~Modular Building. In addition to classrooms 16, 17, 18, and 19, ROC shall have the right, at its cost, to relocate the modular building on approximately 1,900 square feet located near classroom 19 per the proposed site plan of ROC. The modular building shall be relocated by ROC on temporary wood crib foundations with connections to existing campus utilities. A new ramp, stair and landing would also need to be provided to access both doors of the building. Modest improvements to this building would be required to upgrade the building for current use. The HVAC system would need cleaning and service, the carpet replaced and minor accessible upgrades may be required to the restroom to meet current ADA requirements. Additionally the building would need cleaning, exterior paint, window coverings, signage and data/phone systems. River Oak shall be responsible for all costs regarding the relocation and improvements to the modular building. Thereafter, District shall be responsible for maintenance as set forth in section 1.2.~~

~~Although a preliminary site analysis has been performed and has indicated the proposed location meets all fire and life safety code requirements of the current 2013 California Building Code, ROC shall be responsible for compliance with all codes and regulations to comply with all fire and~~

~~safety requirements. ROC shall be responsible for all approvals by the Division of State Architect ("DSA") and other approvals by the state or local agencies for all inspections as required by law. This analysis took into effect building type, occupancy classifications, construction type and location on property relative to other existing buildings. Additionally, the analysis reviewed at the building location relative to required fire department emergency vehicle access, gates and fire water points of connection. This analysis will be formalized as part of the complete project development requirements and reviewed and approved by the Division of the State Architect (DSA) and local fire authority.~~

~~Since a portion of the Premises and improvements may need to be separately improved by DSA, ROC shall appropriately describe the scope of the use, including project use, that needs to be performed by duly qualified and licensed contractors including any requirement for a general contractor. ROC shall select a duly licensed architect for work, at ROC's expense, for any design and other requirements as required by DSA or local regulation. All costs associated, including but not limited to, fire and safety fees, DSA fees, testing, and other inspections shall be paid by ROC. Sample floor plans are attached as Attachment C.~~

~~Estimated Costs: Savings for Common Area Improvements. Estimated costs incurred by ROC are attached as Attachment D. However, ROC shall be responsible for any and all costs regardless of the estimate. In the event there are cost savings from funds provided through Supervisor Phil Serna, which are estimated to be approximately \$25,000, the funds will be used for improvements in the common area at Fruit Ridge as agreed by the District, ROC, and the FRCC Advisory Board.~~

1.5 **Common Area.** Reservation of any common area space at Fruit Ridge shall be coordinated in accordance with the rules and regulations adopted by Fruit Ridge Community Collaborative ("FRCC").

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1.6 **Premises Inspection: Keys and Codes.** During normal business hours, the District may enter and inspect the Premises for compliance under the License and for compliance by any sublicensee. Such entry shall not unreasonably interfere with the activities being conducted at the Premises. All licensees shall conduct their activities without causing waste, vandalism, or a nuisance at the Premises. ROC waives any claim for damages for injury, inconvenience or interference with ROC's activities, or any loss of occupancy or quiet enjoyment, caused by such entry, except to the extent caused by the gross negligence, recklessness or willful misconduct of District or any person under its explicit direction or control. District shall have keys, or key cards, to unlock all doors on the Premises and the right to enter by any means necessary for entry, including in the event of an emergency. ROC shall provide all such keys, key cards, or other security codes for immediate access as necessary for fire and safety purposes. Any entry to the Premises obtained by District by any means shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into the Premises, or a constructive or actual

ejection of ROC from the Premises or any portion thereof.

ARTICLE II

TERM OF LICENSE

2.1 **Term.** The term ("Term") of the License and Agreement shall commence on the Effective Date and shall terminate, unless terminated earlier below, June 30, ~~2027~~2022 ("Termination Date"). Upon mutual consent, in writing between the Parties, the Term may be extended. Notwithstanding the Termination Date, the License and Agreement may be terminated earlier ("Early Termination Date") as follows:

2.2 **Early Termination for Convenience.** The Agreement may be terminated by either Party for convenience. Notice of such termination shall be given at least ninety (90) days before the end of a License Year and shall be effective at the end of the following License Year.

2.3 **Early Termination for Cause.** The Agreement may also be terminated by either Party at any time for cause. "Cause" shall consist of a breach of any non-technical provision of the Agreement, and the failure of the breaching party to cure the breach within sixty (60) days of being notified of the breach, or such other date as the Parties may agree or a reasonable time to cure the breach not to exceed one hundred and twenty (120) days. If District terminates the Agreement for cause, it may bring an action to recover any damages from ROC including any unpaid License Fee and to revoke the License.

2.4 **Vacation of Premises.** On or before the Termination Date or Early Termination Date, ROC shall return the Premises, including the classrooms and modular building, in a clean condition, ordinary wear and tear excepted. ROC shall be responsible for the cost of any damage caused to the Premises and/or the affected portions of the Premises resulting from ROC's surrender of the Premises. On or before the Termination Date or Early Termination Date, ROC and ROC's agents, officers, employees, volunteers and independent contractors shall immediately vacate the Premises. ROC shall have the right to remove furnishings and equipment without damaging the classrooms or the modular building.

ARTICLE III

ASSESSMENTS, TAXES, FEES, CHARGES, AND UTILITIES

ROC shall pay or cause to be paid, and hold District and the property of District, including the Premises, free and harmless from all assessments, taxes, fees, and charges, including but not limited to, charges for the furnishing of telephone services and other public utilities, including internet access and use. ROC shall be billed quarterly, payable within 30 days, of all utility use incurred by ROC. Utility charges shall be proportional to the share of the utility costs of other users at Fruit Ridge and shall be administered and collected by the District. District shall not be liable in damages or otherwise for any interruption in the supply of any utility services to the Premises nor shall any such

interruption constitute any ground for an abatement of ROC's obligations under the Agreement, unless such is the result of the gross negligence or willful misconduct of District. The use of tax exempt property, such as the Premises, may subject persons or entities occupying the Premises to a "possessory interest tax." To the extent ROC is subject to a possessory interest tax for its use, the tax shall be paid by ROC.

ARTICLE IV

INSURANCE AND SAFETY

4.1 **Insurance Requirements.** ROC shall maintain insurance in the minimum amounts as required by the District. For the first License Year, there shall be a minimum of \$1,000,000 per occurrence for both Premises liability and personal liability. In subsequent License Years, the insurance requirements may be adjusted depending on the scope of uses by ROC. ROC shall submit evidence of such insurance and shall name the District as an additional insured prior to occupancy. As an additional insured, ROC's policy requirements shall: (i) name District as an additional insured and be provided on an occurrence basis; (ii) state that such policy is primary, excess, and non-contributing with any other insurance carried by District; (iii) state that the naming of an additional insured shall not negate any right the additional insured would have had as claimant under the policy if not so named; and (iv) state that not less than 30 days written notice shall be given to District before the cancellation or reduction of coverage or amount of such policy.

A certificate issued by the carrier, or carriers, of the policies described herein shall be delivered to District prior to ROC's, its employees, volunteers and/or its independent contractors first entry onto the Premises. Each such certificate shall set forth the limits, coverage, and other provisions required under this section. A renewal certificate for each of the policies described above shall be delivered to District not less than thirty (30) days before the expiration of the term of such policy. Coverage shall be subject to District's approval and shall carry a rating of A:X or higher and the insurance carrier shall be admitted in California to provide insurance coverage and issue policies.

The policy requirements may be made part of a blanket policy of insurance so long as such blanket policy contains all of the provisions required herein and does not reduce the coverage, impair District's rights under the Agreement, or negate, or decrease, ROC's obligations under the Agreement.

4.2 **Safety.** ROC shall be solely and completely responsible for conditions of the Premises, including safety of all persons and property. The foregoing shall include but not be limited to ensuring that the installation of any improvements to the Premises are adequately secured by ROC to avoid the creation of an attractive nuisance or other hazardous condition. ROC, its agents, employees, invitees, volunteers and independent contractors shall fully comply with all state, federal and other laws, rules, regulations, and orders relating to safety. All materials, equipment, and supplies provided for the Premises and services provided shall fully conform to all applicable State, local and Federal safety laws, rules, regulations, and orders.

4.3 **Occurrence of a Casualty.** If at any time during the Term, the Premises and any related improvements are destroyed in whole or in part by fire, theft, the elements, or any other cause not the fault of District or any person or entity under its explicit direction or control, if caused in whole or in part by ROC, its employees, agents, invitees, guests, vendors, or any other person acting under ROC's control or direction, the Agreement shall continue in full force and effect and ROC, at its sole cost and expense, shall be responsible for repairing and restoring the damaged Premises and related improvements and shall diligently proceed with such repairs and/or restoration until completion. If at any time the Premises and any related improvements are destroyed in whole or in part by fire, theft, the elements, or any other cause not the fault of ROC, its employees, agents, invitees, guests, vendors, or any other person acting under ROC's control or direction, then at its option the District may terminate this License upon written notice to ROC and may at its option proceed with repairs and/or restoration of the Premises.

4.4 **Indemnity By ROC.** Except to the extent caused by the gross negligence, recklessness or willful misconduct of District or any person or entity under its explicit direction or control, ROC shall indemnify and hold District, its officers, agents, employees, members of its Board of Education free and harmless from any and all liability, claims, loss, damages, or expenses resulting from ROC's occupation and use of the Premises, specifically including, without limitation, any liability, claim, loss, damage, or expense arising by reason of:

4.4.1 The death or injury of any person who is an employee, guest, invitee, or agent of ROC, or by reason of the damages to or destruction of any property, including property owned by ROC or by any person who is an employee or agent of ROC, from any cause whatsoever as a direct result of operating the Program Services or ROC's use and/or occupancy of the Premises while that person or property is in or about the Premises or in any way connected with the Premises or with any of ROC's improvements or personal property on the Premises;

4.4.2 The death or injury of any person, including any person who is an employee, guest, invitee, or agent of ROC, or by reason of the damage to or destruction of any property, including property owned by ROC or any person who is an employee or agent of ROC, caused or allegedly caused by either (1) the condition of the Premises or improvements on the Premises; or (2) any act or omission on the Premises by ROC or any person in or about the Premises with the permission and consent of ROC;

4.4.3 Any work, including alterations, performed on the Premises or materials furnished to the Premises at the instance or request of ROC or any person or entity acting for or on behalf of ROC; and

4.4.4 ROC's failure to perform any provision of the Agreement or to comply with any requirement of applicable law or any requirement imposed on ROC or the Premises by any duly authorized agency or political subdivision.

4.5 **Limitation of Liability.** Neither District, nor any of its officers, agents, employees, and members of its Board of Education, shall be personally liable in any manner or to any extent under or in connection with the Agreement. ROC waives any and all such

personal liability against the District and the individuals stated herein.

ARTICLE V

GENERAL TERMS AND PROVISIONS

5.1 **Entire Agreement.** The Agreement constitutes the sole and entire agreement between the Parties with respect to the subject matter dealt with in the Agreement and all understandings, oral or written, with respect to the subject matter of the Agreement are hereby superseded. Any additional provisions or requirements shall not be binding on the Parties except through an amendment pursuant to section 5.3.

5.2 **Future Assurances.** Each Party hereto shall cooperate and take such actions as may reasonably be required by the other Party hereto in order to carry out the provisions of the Agreement and the transactions contemplated by the Agreement.

5.3 **Amendment of Agreement.** No modification of, deletion from, or addition to the Agreement shall be effective unless made in writing and executed by both District and ROC.

5.4 **Waiver.** The failure by either Party to enforce any term or provision of the Agreement shall not constitute a waiver of that term or provision, or any other term or provision. No waiver by either Party of any term or provision of the Agreement shall be deemed or shall constitute a waiver of any other provision of the Agreement, nor shall any waiver constitute a continuing waiver unless otherwise expressly provided in writing.

5.5 **Severability.** In the event any clause, sentence, term or provision of the Agreement shall be held by any court of competent jurisdiction to be illegal, invalid, or unenforceable for any reason, the remaining portions of the Agreement shall nonetheless remain in full force and effect.

5.6 **Construction of Agreement.** The terms and provisions of the Agreement shall be liberally constructed to effectuate the purpose of the Agreement.

5.7 **Governing Law and Venue.** The Agreement shall be governed by and interpreted under the laws of the State of California applicable to instruments, persons, transactions and subject matter which have legal contacts and relationships exclusively within the State of California. Subject to the alternative dispute resolution provision set forth in section 5.12, any action or proceeding seeking any equitable remedies or remedies at law with respect to the provisions of the Agreement shall be brought in the Superior Court for the County of Sacramento.

5.8 **Assignment.** ROC shall not have the right to assign the Agreement or any interest in the Agreement, without District's prior written consent. Any assignment made without such prior written consent shall be void, and at the option of District, shall terminate the Agreement. No right under the Agreement, nor claim for any money due or to become due hereunder shall be asserted against District, or persons acting for District, by reason of any assignment of the Agreement without District's written consent. Consent to one

assignment, or other transfer shall not be deemed to constitute consent to any subsequent assignment, or other transfer.

5.9 **Binding Effect.** The Agreements, conditions, and provisions contained in the Agreement shall, subject to provisions for assignment, apply to and bind the heirs, executors, administrators, successors, and assigns of the parties to it.

5.10 **Independent Contractor.** ROC is an independent contractor, not an officer, employee or agent of District.

5.11 **Notices.** Any notice required or desired to be given pursuant to the Agreement shall be in writing, duly addressed to the Parties below. By written notice in conformance herewith, either Party may change the address to which notices to said party must be delivered. Any notice deposited with the United States Postal Service shall be deemed to have been duly given upon confirmed receipt, if sent by certified or registered mail, postage prepaid, addressed as set forth below or as changed as set forth herein. Notice may also be given by facsimile with proof of transmission, or by express mail with proof of delivery. Notice sent by any other manner shall be effective only upon actual receipt thereof.

District:

Chief **Business & Operations** Officer
Sacramento City Unified School District
5735 47th Avenue
Sacramento, CA 95824
Ph: (916) 643-9055

River Oak Center for Children:

Chief Executive Officer
5445 Laurel Hills Drive
Sacramento, CA 95841
Ph: (916) 609-5100

If facsimile transmission is made, each Party shall supply a fax number to the other Party.

5.12 **Alternative Dispute Resolution.** In the event of any dispute regarding the provisions of the Agreement, the Parties shall attempt to mediate a resolution. If mediation is not successful, the Parties agree to submit their dispute to binding arbitration with an acceptable third party, or if the Parties cannot agree, with either the American Arbitration Association ("AAA") or JAMS in Sacramento County. Each Party shall share the cost of the mediator/arbitrator and each Party shall bear their respective attorneys fees and costs.

5.13 **Incorporation of Attachments.** Attachment A is incorporated in the Agreement as though set forth fully and at length herein. Any subsequent attachments through amendments shall be deemed to be incorporated herein by reference.

5.14 **Headings and References.** The headings of the Agreement are for purposes of reference only and shall not limit or define the meaning of the provisions of the

Agreement.

5.15 **Signature In Counterparts.** The Agreement may be executed in any number of counterparts, all of which, taken together, shall constitute the same instrument. A copy, original or facsimile with all signatures appended together shall be deemed a fully executed Agreement. Electronic signatures, and copies of all signatures, shall have the same force and effect as original signatures.

5.16 **Remedies.** The remedies of the District shall not be exclusive but shall be cumulative and in addition to all remedies now or hereafter available at law or in equity.

5.17 **Warranty of Authority.** The signatories of ROC warrant they have full authority to bind the corporation known as River Oak Center for Children and to execute and deliver the Agreement on behalf of the corporation.

IN WITNESS WHEREOF, the Parties have executed the Agreement as of the Effective Date.

Date.

DISTRICT:

Sacramento City Unified School District

ROC:

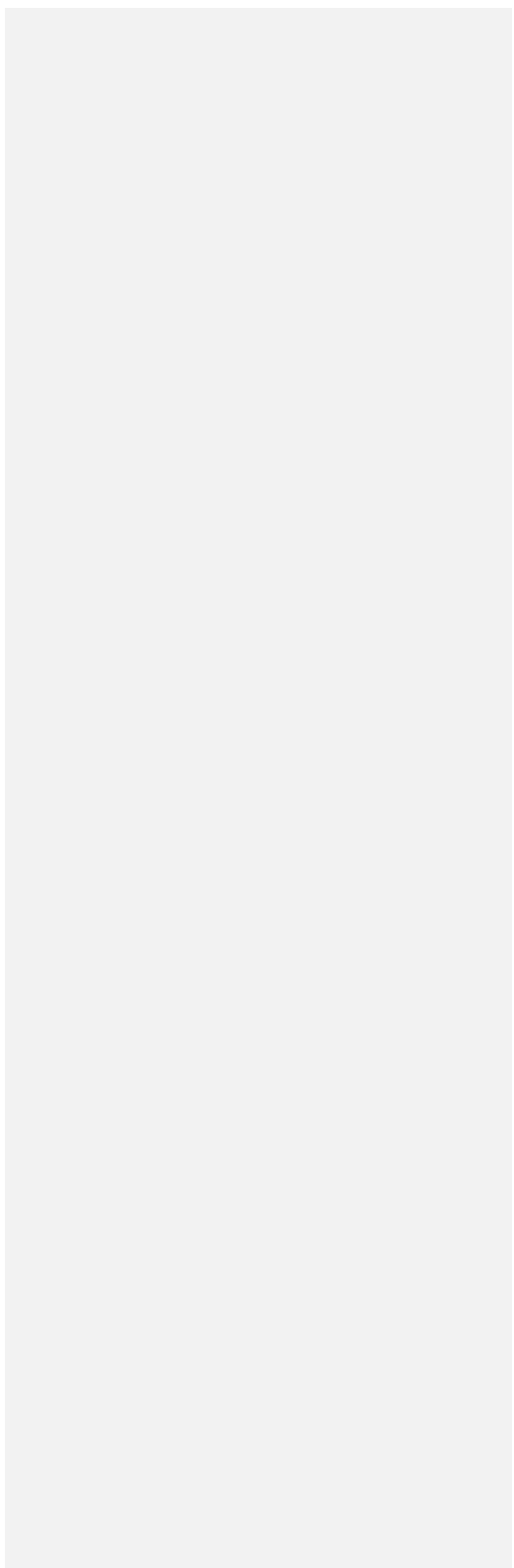
River Oak Center for Children

By: _____
Jorge Aguilar
Its: Superintendent

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

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JOINT VENTURE AND LICENSE AGREEMENT
BETWEEN SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
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WHEREAS, the District owns property at 4625 44th Street in the City of Sacramento which was previously known as Fruit Ridge Elementary School ("Fruit Ridge"); and

WHEREAS, the District and ROC desire to enter into a joint venture and license relationship for the use of the premises at Fruit Ridge described (collectively, the "Premises"); and

WHEREAS, the purpose of the License is the purpose and goals of the River Oak Center for Children; and

WHEREAS, the Agreement sets forth the terms and conditions for such use.

NOW, THEREFORE, the Parties agree to the following terms and conditions:

ARTICLE I

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an agreement with the District, ROC and the Fruit Ridge Community Collaborative (FRCC). Any adjustments, as described in the Agreement, shall be negotiated at least 90 days before the end of the License Year (the "Negotiation Period") and by the providing of written notice as set forth in section 5.11 below.

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1.3 **License Deposit.** To assure that ROC performs its obligations under the License, and as a source for the payment of any delinquent License Fee due, Licensee agrees to deposit with the District an amount of \$1,000 (the "License Deposit"). The License Deposit shall be made with the District in a fund which will bear interest at the same rate as District funds pursuant to deposit requirements imposed on public school districts. Any unused License Deposit plus interest earned shall be remitted to ROC.

1.4 **Repairs and Alterations.** ROC accepts occupancy of the Premises in "as is" condition, except that the District shall ensure that mechanical systems such as HVAC and plumbing are in working condition prior to the Occupancy Date. Any repairs or improvements (collectively, "ROC Improvements") shall be submitted to the District for review and approval. The District reserves the right to require, depending on the nature and scope of ROC's Improvements, lien releases, bonding requirements, insurance during construction, and compliance with other legal obligations associated with such improvements on school property. In consideration of the payment of the License Fee, the District shall conduct necessary maintenance of the Premises ("District Maintenance") such as repairing leaks, plumbing, HVAC, and other routine maintenance such as repairing windows, minimal landscaping, minimal pest control, and general maintenance, at the discretion of the District, associated with preserving the structures and other improvements at the Premises. District Maintenance will cover anything associated with the general wear and tear of the Premises, not including consumable items such as light bulbs. Additional work above and beyond District Maintenance will be billed to ROC. The District shall have the right to recover any costs caused by any licensee committing waste or causing destruction or dilapidation, normal wear and tear excepted. Request for District

1.5 **Common Area.** Reservation of any common area space at Fruit Ridge shall

be coordinated in accordance with the rules and regulations adopted by Fruit Ridge Community Collaborative ("FRCC").

1.6 **Premises Inspection: Keys and Codes.** During normal business hours, the District may enter and inspect the Premises for compliance under the License and for compliance by any sublicensee. Such entry shall not unreasonably interfere with the activities being conducted at the Premises. All licensees shall conduct their activities without causing waste, vandalism, or a nuisance at the Premises. ROC waives any claim for damages for injury, inconvenience or interference with ROC's activities, or any loss of occupancy or quiet enjoyment, caused by such entry, except to the extent caused by the gross negligence, recklessness or willful misconduct of District or any person under its explicit direction or control. District shall have keys, or key cards, to unlock all doors on the Premises and the right to enter by any means necessary for entry, including in the event of an emergency. ROC shall provide all such keys, key cards, or other security codes for immediate access as necessary for fire and safety purposes. Any entry to the Premises obtained by District by any means shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into the Premises, or a constructive or actual ejection of ROC from the Premises or any portion thereof.

ARTICLE II

TERM OF LICENSE

2.1 **Term.** The term ("Term") of the License and Agreement shall commence on the Effective Date and shall terminate, unless terminated earlier below, June 30, 2027 ("Termination Date"). Upon mutual consent, in writing between the Parties, the Term may be extended. Notwithstanding the Termination Date, the License and Agreement may be terminated earlier ("Early Termination Date") as follows:

2.2 **Early Termination for Convenience.** The Agreement may be terminated by either Party for convenience. Notice of such termination shall be given at least ninety (90) days before the end of a License Year and shall be effective at the end of the following License Year.

2.3 **Early Termination for Cause.** The Agreement may also be terminated by either Party at any time for cause. "Cause" shall consist of a breach of any non-technical provision of the Agreement, and the failure of the breaching party to cure the breach within sixty (60) days of being notified of the breach, or such other date as the Parties may agree or a reasonable time to cure the breach not to exceed one hundred and twenty (120) days. If District terminates the Agreement for cause, it may bring an action to recover any damages from ROC including any unpaid License Fee and to revoke the License.

2.4 **Vacation of Premises.** On or before the Termination Date or Early Termination Date, ROC shall return the Premises, including the classrooms and modular building, in a clean condition, ordinary wear and tear excepted. ROC shall be responsible for the cost of any damage caused to the Premises and/or the affected portions of the Premises resulting from ROC's surrender of the Premises. On or before the Termination Date or Early

Termination Date, ROC and ROC's agents, officers, employees, volunteers and independent contractors shall immediately vacate the Premises. ROC shall have the right to remove furnishings and equipment without damaging the classrooms or the modular building.

ARTICLE III

ASSESSMENTS, TAXES, FEES, CHARGES, AND UTILITIES

ROC shall pay or cause to be paid, and hold District and the property of District, including the Premises, free and harmless from all assessments, taxes, fees, and charges, including but not limited to, charges for the furnishing of telephone services and other public utilities, including internet access and use. ROC shall be billed quarterly, payable within 30 days, of all utility use incurred by ROC. Utility charges shall be proportional to the share of the utility costs of other users at Fruit Ridge and shall be administered and collected by the District. District shall not be liable in damages or otherwise for any interruption in the supply of any utility services to the Premises nor shall any such interruption constitute any ground for an abatement of ROC's obligations under the Agreement, unless such is the result of the gross negligence or willful misconduct of District. The use of tax exempt property, such as the Premises, may subject persons or entities occupying the Premises to a "possessory interest tax." To the extent ROC is subject to a possessory interest tax for its use, the tax shall be paid by ROC.

ARTICLE IV

INSURANCE AND SAFETY

4.1 **Insurance Requirements.** ROC shall maintain insurance in the minimum amounts as required by the District. For the first License Year, there shall be a minimum of \$1,000,000 per occurrence for both Premises liability and personal liability. In subsequent License Years, the insurance requirements may be adjusted depending on the scope of uses by ROC. ROC shall submit evidence of such insurance and shall name the District as an additional insured prior to occupancy. As an additional insured, ROC's policy requirements shall: (i) name District as an additional insured and be provided on an occurrence basis; (ii) state that such policy is primary, excess, and non-contributing with any other insurance carried by District; (iii) state that the naming of an additional insured shall not negate any right the additional insured would have had as claimant under the policy if not so named; and (iv) state that not less than 30 days written notice shall be given to District before the cancellation or reduction of coverage or amount of such policy.

A certificate issued by the carrier, or carriers, of the policies described herein shall be delivered to District prior to ROC's, its employees, volunteers and/or its independent contractors first entry onto the Premises. Each such certificate shall set forth the limits, coverage, and other provisions required under this section. A renewal certificate for each of the policies described above shall be delivered to District not less than thirty (30) days before the expiration of the term of such policy. Coverage shall be subject to District's approval and shall carry a rating of A:X or higher and the insurance carrier shall be admitted in California to provide insurance coverage and issue policies.

The policy requirements may be made part of a blanket policy of insurance so long as such blanket policy contains all of the provisions required herein and does not reduce the coverage, impair District's rights under the Agreement, or negate, or decrease, ROC's obligations under the Agreement.

4.2 **Safety.** ROC shall be solely and completely responsible for conditions of the Premises, including safety of all persons and property. The foregoing shall include but not be limited to ensuring that the installation of any improvements to the Premises are adequately secured by ROC to avoid the creation of an attractive nuisance or other hazardous condition. ROC, its agents, employees, invitees, volunteers and independent contractors shall fully comply with all state, federal and other laws, rules, regulations, and orders relating to safety. All materials, equipment, and supplies provided for the Premises and services provided shall fully conform to all applicable State, local and Federal safety laws, rules, regulations, and orders.

4.3 **Occurrence of a Casualty.** If at any time during the Term, the Premises and any related improvements are destroyed in whole or in part by fire, theft, the elements, or any other cause not the fault of District or any person or entity under its explicit direction or control, if caused in whole or in part by ROC, its employees, agents, invitees, guests, vendors, or any other person acting under ROC's control or direction, the Agreement shall continue in full force and effect and ROC, at its sole cost and expense, shall be responsible for repairing and restoring the damaged Premises and related improvements and shall diligently proceed with such repairs and/or restoration until completion. If at any time the Premises and any related improvements are destroyed in whole or in part by fire, theft, the elements, or any other cause not the fault of ROC, its employees, agents, invitees, guests, vendors, or any other person acting under ROC's control or direction, then at its option the District may terminate this License upon written notice to ROC and may at its option proceed with repairs and/or restoration of the Premises.

4.4 **Indemnity By ROC.** Except to the extent caused by the gross negligence, recklessness or willful misconduct of District or any person or entity under its explicit direction or control, ROC shall indemnify and hold District, its officers, agents, employees, members of its Board of Education free and harmless from any and all liability, claims, loss, damages, or expenses resulting from ROC's occupation and use of the Premises, specifically including, without limitation, any liability, claim, loss, damage, or expense arising by reason of:

4.4.1 The death or injury of any person who is an employee, guest, invitee, or agent of ROC, or by reason of the damages to or destruction of any property, including property owned by ROC or by any person who is an employee or agent of ROC, from any cause whatsoever as a direct result of operating the Program Services or ROC's use and/or occupancy of the Premises while that person or property is in or about the Premises or in any way connected with the Premises or with any of ROC's improvements or personal property on the Premises;

4.4.2 The death or injury of any person, including any person who is an employee, guest, invitee, or agent of ROC, or by reason of the damage to or destruction of any property, including property owned by ROC or any person who is an employee or agent

of ROC, caused or allegedly caused by either (1) the condition of the Premises or improvements on the Premises; or (2) any act or omission on the Premises by ROC or any person in or about the Premises with the permission and consent of ROC;

4.4.3 Any work, including alterations, performed on the Premises or materials furnished to the Premises at the instance or request of ROC or any person or entity acting for or on behalf of ROC; and

4.4.4 ROC's failure to perform any provision of the Agreement or to comply with any requirement of applicable law or any requirement imposed on ROC or the Premises by any duly authorized agency or political subdivision.

4.5 **Limitation of Liability.** Neither District, nor any of its officers, agents, employees, and members of its Board of Education, shall be personally liable in any manner or to any extent under or in connection with the Agreement. ROC waives any and all such personal liability against the District and the individuals stated herein.

ARTICLE V

GENERAL TERMS AND PROVISIONS

5.1 **Entire Agreement.** The Agreement constitutes the sole and entire agreement between the Parties with respect to the subject matter dealt with in the Agreement and all understandings, oral or written, with respect to the subject matter of the Agreement are hereby superseded. Any additional provisions or requirements shall not be binding on the Parties except through an amendment pursuant to section 5.3.

5.2 **Future Assurances.** Each Party hereto shall cooperate and take such actions as may reasonably be required by the other Party hereto in order to carry out the provisions of the Agreement and the transactions contemplated by the Agreement.

5.3 **Amendment of Agreement.** No modification of, deletion from, or addition to the Agreement shall be effective unless made in writing and executed by both District and ROC.

5.4 **Waiver.** The failure by either Party to enforce any term or provision of the Agreement shall not constitute a waiver of that term or provision, or any other term or provision. No waiver by either Party of any term or provision of the Agreement shall be deemed or shall constitute a waiver of any other provision of the Agreement, nor shall any waiver constitute a continuing waiver unless otherwise expressly provided in writing.

5.5 **Severability.** In the event any clause, sentence, term or provision of the Agreement shall be held by any court of competent jurisdiction to be illegal, invalid, or unenforceable for any reason, the remaining portions of the Agreement shall nonetheless remain in full force and effect.

5.6 **Construction of Agreement.** The terms and provisions of the Agreement shall be liberally constructed to effectuate the purpose of the Agreement.

5.7 **Governing Law and Venue.** The Agreement shall be governed by and interpreted under the laws of the State of California applicable to instruments, persons, transactions and subject matter which have legal contacts and relationships exclusively within the State of California. Subject to the alternative dispute resolution provision set forth in section 5.12, any action or proceeding seeking any equitable remedies or remedies at law with respect to the provisions of the Agreement shall be brought in the Superior Court for the County of Sacramento.

5.8 **Assignment.** ROC shall not have the right to assign the Agreement or any interest in the Agreement, without District's prior written consent. Any assignment made without such prior written consent shall be void, and at the option of District, shall terminate the Agreement. No right under the Agreement, nor claim for any money due or to become due hereunder shall be asserted against District, or persons acting for District, by reason of any assignment of the Agreement without District's written consent. Consent to one assignment, or other transfer shall not be deemed to constitute consent to any subsequent assignment, or other transfer.

5.9 **Binding Effect.** The Agreements, conditions, and provisions contained in the Agreement shall, subject to provisions for assignment, apply to and bind the heirs, executors, administrators, successors, and assigns of the parties to it.

5.10 **Independent Contractor.** ROC is an independent contractor, not an officer, employee or agent of District.

5.11 **Notices.** Any notice required or desired to be given pursuant to the Agreement shall be in writing, duly addressed to the Parties below. By written notice in conformance herewith, either Party may change the address to which notices to said party must be delivered. Any notice deposited with the United States Postal Service shall be deemed to have been duly given upon confirmed receipt, if sent by certified or registered mail, postage prepaid, addressed as set forth below or as changed as set forth herein. Notice may also be given by facsimile with proof of transmission, or by express mail with proof of delivery. Notice sent by any other manner shall be effective only upon actual receipt thereof.

District:

Chief Business & Operations Officer
Sacramento City Unified School District
5735 47th Avenue
Sacramento, CA 95824
Ph: (916) 643-9055

River Oak Center for Children:

Chief Executive Officer
5445 Laurel Hills Drive
Sacramento, CA 95841
Ph: (916) 609-5100

If facsimile transmission is made, each Party shall supply a fax number to the other Party.

5.12 **Alternative Dispute Resolution.** In the event of any dispute regarding the provisions of the Agreement, the Parties shall attempt to mediate a resolution. If mediation is not successful, the Parties agree to submit their dispute to binding arbitration with an acceptable third party, or if the Parties cannot agree, with either the American Arbitration Association ("AAA") or JAMS in Sacramento County. Each Party shall share the cost of the mediator/arbitrator and each Party shall bear their respective attorneys fees and costs.

5.13 **Incorporation of Attachments.** Attachment A is incorporated in the Agreement as though set forth fully and at length herein. Any subsequent attachments through amendments shall be deemed to be incorporated herein by reference.

5.14 **Headings and References.** The headings of the Agreement are for purposes of reference only and shall not limit or define the meaning of the provisions of the Agreement.

5.15 **Signature In Counterparts.** The Agreement may be executed in any number of counterparts, all of which, taken together, shall constitute the same instrument. A copy, original or facsimile with all signatures appended together shall be deemed a fully executed Agreement. Electronic signatures, and copies of all signatures, shall have the same force and effect as original signatures.

5.16 **Remedies.** The remedies of the District shall not be exclusive but shall be cumulative and in addition to all remedies now or hereafter available at law or in equity.

5.17 **Warranty of Authority.** The signatories of ROC warrant they have full authority to bind the corporation known as River Oak Center for Children and to execute and deliver the Agreement on behalf of the corporation.

IN WITNESS WHEREOF, the Parties have executed the Agreement as of the Effective

Date.

DISTRICT:

Sacramento City Unified School District

By: _____

Jorge Aguilar

Its: Superintendent

ROC:

River Oak Center for Children

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____