



SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item# 11.4

Meeting Date: June 14, 2012

Subject: Approve Facility Use Agreements for Charter Schools

- Information Item Only
- Approval on Consent Agenda
- Conference (for discussion only)
- Conference/First Reading (Action Anticipated: June 21, 2012)
- Conference/Action
- Action
- Public Hearing

Division: Accountability Office

Recommendation: Approve the Facility Use Agreements (FUAs) for:

1. Capitol Collegiate Academy (K-8)
 - Freeport, 2118 Meadowview Road
2. California Montessori Project
 - Thomas Jefferson, 2635 Chestnut Hill Drive
3. St. Hope Public Schools
 - PS7 (K-8)
 - John Muir, 5201 Strawberry Lane
 - Sacramento High, 2315 34th Street
 - Sacramento Charter High School (9-12)
 - Sacramento High, 2315 34th Street
 - Oak Park Prep (7-8)
 - Sacramento High, 2315 34th Street
4. Yav Pem Suab Academy (K-6) (Amendment)
 - Lisbon, 7555 South Land Park Drive

Background/Rationale:

Pursuant to Education code 47614 (Prop 39) public school facilities should be shared fairly among all public school pupils, including those in Charter Schools. This means that the District shall make available to each Charter School operating in the District, facilities sufficient for the district students in conditions reasonably equivalent to those in other public schools in the district. The District may charge the Charter School a pro rata share of those school district facilities costs.

The Charter Schools have submitted Prop 39 requests to the District on November 1, 2011. Within that request were the 2012-2013 enrollments and ADA projections. The District and the Charter Schools have collaboratively worked together to define the specific terms of the Facility Use Agreements for the term of each Charter school.

Financial Considerations:

The District will receive from the Charter Schools the pro rata share of the facilities costs which are outlined in both the Executive Summary and the proposed Facility Use Agreements.

Documents Attached:

1. Executive Summary
2. Facility Use Agreements

Estimated Time of Presentation: 10 minutes

Submitted by: Mary C. Shelton, Chief Accountability Officer

Approved by: Jonathan Raymond, Superintendent

Board of Education Executive Summary



Accountability Office

June 14, 2012

Facility Use Agreements for Charter Schools

I. Overview of Facility Use Agreements:

The District is obligated under Proposition 39 to provide reasonably equivalent facilities to Charter Schools with a minimum of 80 in-District students. This includes providing reasonably equivalent “furnishings and equipment.” “Reasonable equivalence” is measured by the quality and quantity of facilities provided to the charter school. Through a process of negotiation, the District establishes Facility Use Agreements or FUA’s with the Charter Schools.

Currently, the District provides school facilities to seven (7) Independent Charter Schools, including California Montessori Project-Capitol Campus (K-8), Language Academy of Sacramento (K-8), Public School 7 (PS7) (K-8), Sacramento Charter High School (9-12), Sol Aureus College Preparatory (SAC Prep) (K-8), Capital Collegiate Academy (K-8) and Yav Pem Suab Academy (K-6). For the 2012-2013 school year, the District will provide a facility to a new Charter School, Oak Park Prep (7-8), which was authorized in 2011-2012. There is only one Charter School that is not in a District facility, Capitol Heights Academy (K-5).

II. Driving Governance:

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”), provide guidance to the process. Among other things, the Regulations require a written agreement regarding the allocation of facilities under Proposition 39. However, it should be noted that the Regulations also allow for negotiation by the parties to all terms in the course of reaching agreement.

§ Section 47614 reads, in part:

- (a) The intent is that public school facilities should be shared fairly among all public school pupils, including those in charter schools.
- (b) Each school district shall make available, to each charter school operating in the school district, facilities sufficient for the charter school to accommodate all of the charter schools’ in-district students in conditions reasonably equivalent to those in other public schools of the district. Facilities provided shall be contiguous, furnished and equipped, and shall remain the property of the school district. The school district shall make reasonable efforts to provide the charter school with facilities near to where the charter school wishes to locate, and shall not move the charter school unnecessarily.

Board of Education Executive Summary



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Facility Use Agreements for Charter Schools

III. Budget:

State regulations limit the fees charter schools pay to be housed in District facilities. The Charter Schools pay the District "Facilities Use Fees" based on a pro rata share facilities cost *estimated* at \$2.10 per square foot (SF) for the use of District facilities. Based on current estimated projection for 2012-2013, the District's Facilities Use Fees from all the Charter Schools is again \$2.10.

Capitol Collegiate Academy (K-8), Freeport Site, 2118 Meadowview Road

- \$2.10 based on approximately 5,462 square feet \$ 11,470.20

California Montessori Project (K-8), Thomas Jefferson Site, 2635 Chestnut Hill Drive

- \$2.10 based on approximately 38,046 square feet \$ 79,896.60

PS7 (K-8), John Muir, 5201 Strawberry Lane; and Sacramento High, 2315 34th Street

- \$2.10 based on approximately 21,822 square feet \$ 45,826.20

Sacramento Charter High School (9-12), Sacramento High Site, 2315 34th Street

Oak Park Prep (7-8), Sacramento High Site, 2315 34th Street

- \$2.10 based on approximately 237,180 square feet \$ 498,078.00

Yav Pem Suab Academy (K-6), Lisbon Site, 7555 South Land Park Drive (Amendment)

- \$2.10 based on approximately 43,225 square feet \$ 90,772.50

Total \$ 726,043.50

IV. Goals, Objectives and Measures:

The goal of a Facility Use Agreement (FUA) is to finalize agreement with the Charter School to implement the intent of the Proposition 39 regulations to provide "reasonably equivalent" District facilities to the Charter school's students, and to recognize that the District's obligations under the law have been met.

V. Major Initiatives:

The Proposition 39 Implementing Regulations adopted by the State Board of Education on August 29, 2002, and amended on March 29, 2008; require the Charter Schools to make an annual written request for facilities. Title 5 CCS Section 11969.9 (c) (1) specifies the information that must be included in the annual facilities request.

In accordance with the Education Code Section 47614(b)(2) the District is required to allocate school facilities for the following school year based upon a projection of in-District average daily attendance provided by the Charter School and agreed upon by the District.

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Moreover, in Education Code Section 47614(b)(5) the District is obligated to provide facilities for charter schools having identified at least 80 in-District students who are meaningfully interested in enrolling in the charter school for the following year.

VI. Results:

A collaborative process with the Charter Schools resulted in the attached Facilities Use Agreements for the Board's consideration. The facilities remain District properties and the Charter Schools do not have exclusive use of the sites. The District intends to co-locate other educational program(s) at the sites. The District will meet and confer with the Charter Schools before deciding on co-location of program(s).

Attached to this Executive Summary are additional items containing further details of the Facility Use Agreements for Charter Schools:

- Maps
- FUAs

VII. Next Steps:

- The District will monitor the implementation of the individual FUA for compliance
- The District will continue to monitor the enrollment of the Charter Schools
- The District will continue to review the utilization of District facilities
- The District will explore program designs and develop options for co-location at sites that have unused spaces

FACILITIES USE AGREEMENT

This Facilities Use Agreement (“Freeport Agreement”) is made by and between Sacramento City Unified School District (“District”) and Capitol Collegiate Academy, a California non-profit public benefit corporation (“Non-Profit”), which operates Capitol Collegiate Academy Charter School, a charter school (“Charter School”). 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, the District is the owner of real property located at 4500 Roosevelt Avenue, Sacramento, California (“Old Site”) and 2118 Meadowview Road, Sacramento, CA 95832 (“Freeport Site”).
- C. WHEREAS, Charter School is a charter school duly formed and approved by the District under the laws of the Charter Schools Act of 1992 (Education Code §§ 47600, *et seq.*) serving students in grades Kindergarten through 1st grade in the 2012-2013 school year, and eventually Kindergarten through 4th grade in the 2015-2016 school year, as the Charter School rolls out a new grade level each school year.
- D. WHEREAS, Non-Profit desired to use certain District facilities located on the Old Site for the Charter School and its public charter school program, and entered into a facilities use agreement for such use (“Original Agreement”) on April 19, 2011.
- E. WHEREAS, the Parties intend this Freeport Agreement to replace the Original Agreement, and to continue to satisfy their obligations 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 under Proposition 39, through and including the 2015-2016 school year.

AGREEMENT

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

1. Recitals.

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

2. Facilities.

The District grants use of portions of the Freeport Site (“Facilities”) for specified school years as described and/or depicted in Exhibits A and B, which are attached hereto and incorporated herein by reference, to the Charter School under the terms and conditions set forth in this Freeport Agreement. The intent of the Parties is to increase the type and space of the Facilities in the second, third and fourth years of this Freeport Agreement, as the Charter School rolls out grade levels to be served at the Charter School. Use of the Facilities shall be for the purposes set forth in the Charter School’s charter and on the terms and conditions set forth herein. The Charter School shall not have exclusive use of the Freeport Site.

3. Term of this Freeport Agreement; Termination of Original Agreement.

The term of this Freeport Agreement shall be from July 1, 2012, to June 30, 2016 (“Term”), unless earlier terminated as provided herein. The Original Agreement shall terminate when the Freeport Agreement’s term commences, and the Freeport Agreement shall supercede the Original Agreement except that neither Party waives its rights to sue the other for any breach of the Original Agreement prior to its termination.

4. Facilities Use Fee.

Each and every school year, Non-Profit shall pay District fees for use of the Facilities (“Facilities Use Fees”). 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 the 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. Over-Allocation.

The District reserves the right to collect over-allocation and other applicable fees and reimbursements from the Charter School, pursuant to Title 5, California Code of Regulations, Section 11969.8. The Charter School's projected in-District Average Daily Attendance ("ADA") for the 2012-2013 school year, and upon which the Facilities are provided, is 115.

6. Dispute Resolution.

The Parties agree to attempt to resolve all disputes regarding this Freeport Agreement, including the alleged violation, misinterpretation, or misapplication of the Freeport Agreement, pursuant to the dispute resolution procedures identified in the Charter School's charter. Notwithstanding the foregoing, those disputes that may result in revocation of Charter School's charter, pursuant to Education Code section 47607, are not required to go through the dispute resolution process.

7. Use.

(a) Public Charter School. The Facilities shall be used and occupied by the Charter School 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 School's 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 School 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 Charter School 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 School 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 School shall provide adequate and appropriate supervision for

Charter School students and employees using the Facilities.

(c) Rights of the District. The Charter School 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 School cause, maintain or permit any nuisance in or about the Facilities. The Charter School shall not commit or suffer to be committed any waste in or upon the Facilities.

(d) Illegal Uses. The Charter School 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 School agrees to comply with its charter as it relates to District Facilities.

(e) Security Badges. The Charter School will provide security badges for its staff. The badges will be pictured with school name, staff names, and titles. The Charter School staff shall wear these badges to use as evidence that they are lawfully on the premises.

(f) Civic Center Act. The Charter School agrees 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. 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 School 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 School shall be forwarded to the District for coordination of use consistent with Board Policy and Administrative Regulations.

(g) Alarms. The Charter School shall have access to activate burglar alarms and intruder alerts corresponding to the Facilities provided at the Freeport Site. The Charter School agrees that in the event that any of Charter School's employees, directors, trustees, officers, agents, students, visitors, or contractors, trigger a false alarm at the Freeport Site, Charter School 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 include sufficient desks, chairs and a white board for each classroom.

The Charter School is responsible for any furnishings and equipment over and above those provided by the District. The Charter School shall return all such furniture, fixtures and equipment to the District in like condition at the termination of this Freeport 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 Charter School 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 Charter School and shall be disposed of according to the provisions of the approved Charter petition.

9. Utilities.

District agrees to furnish or cause to be furnished to the Facilities necessary utilities. Utilities include, but are not limited to, are 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 Freeport Site, the bin capacities and the number of removals per week shall not increase during the Term. 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 Charter School shall reimburse the District for the cost of utilities at the Freeport Site, as charged to the District by its utility providers, pro-rated to reflect use by other users of the Freeport Site. Thirty (30) days prior to the commencement of the 2012-2013 school year, the District shall endeavor to notify the Charter School of its estimated monthly charge for utilities. The Charter School shall pay such charge to the District throughout the Term on a monthly basis concurrent with the Charter School's payment of the Facilities Use Fee to the District pursuant to Section 4 of this Freeport Agreement. Within one hundred twenty (120) days after the expiration or earlier termination of this Freeport Agreement, the District shall provide the Charter School with a reconciliation of the Charter School's actual utility usage throughout the Term and the cost thereof. The District shall either refund the Charter School for any overpayment or shall invoice the Charter School for any underpayment. The Charter School shall reimburse the District for such underpayment, if any, within thirty (30) days after receipt of said invoice.

The Charter School 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) Charter School acknowledges by execution of the Freeport Agreement that the Facilities provided by the Freeport Agreement are “reasonably equivalent,” as that term is defined by Proposition 39. Charter School agrees that upon execution of this Freeport Agreement, all obligations of the District to the Charter School under Proposition 39 have been satisfied for the Term of this Freeport Agreement.

(b) Charter School 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 pursuant to the terms and conditions as defined in Exhibit D, and Charter School shall pay for such services in addition to any other fees or payments required by this Freeport Agreement. The District will not provide gardening services.

12. Signage.

The Charter School shall be allowed to place signage on the exterior of the Facilities. The District will keep its own signage exhibited at the Freeport 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 School’s signage, but shall not unreasonably deny such design, content or location. The Charter School must remove the signage upon termination of this Freeport Agreement. The Charter School 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 Charter School’s sole cost.

13. Operations and Maintenance.

(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 and Exhibit C of the Agreement; and, 2) the costs of custodial services per Section 11 and Exhibit D of the Agreement. The District will invoice the Non-Profit quarterly for these actual costs of the District employed custodian assigned to the Site, and the Non-Profit will pay said invoices within thirty (30) days of receipt.

The District shall be responsible for providing the wiring/MIS infrastructure for Charter School’s use and maintaining it in its condition as of July 1, 2012. In addition, any upgrades or improvements to the wiring/MIS infrastructure shall be the responsibility of

the Charter School, in compliance with Section 14 (“Alterations and Additions”), and the Charter School is responsible for the cost of internet service provided at the commercial rate.

(b) The District shall be responsible for any modifications necessary to maintain the Facility in accordance with Education Code Sections 47610(d) or 47610.5. Projects eligible to be included in the District’s deferred maintenance plan established pursuant to Education Code Section 17582 and the replacement of furnishings and equipment supplied by the District in accordance with the District’s schedules and practices shall remain the responsibility of the District. The Charter School shall comply with the District’s policies regarding the operations and maintenance of the school facility and furnishings and equipment, except to the extent renovation is approved by the District. However, the Charter School need not comply with policies in cases where actual District practice substantially differs from official policies.

(c) Upon the expiration or earlier termination of this Freeport Agreement, Charter School 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 School 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. Any Improvements to the Facilities made by the Charter School shall be paid for by the Charter School, and shall be contracted for and performed in accordance with all applicable building code standards, including Title 24 of the California Code of Regulations, the Field Act, Americans with Disabilities Act and the Fair Employment and Housing Act.

The District may impose as a condition to the aforesaid consent to 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.

Upon written reasonable request of the District prior to the expiration or earlier termination of the Freeport Agreement, Charter School 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 the Charter School, all property shall be disposed of in accordance with the provision of the approved Charter School’s petition. Unless the Parties agree otherwise in writing on an item by item basis, Charter School maintains its ownership rights in any alterations, additions or improvements and may be allowed to remove at termination of this Freeport 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 School does 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 School 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 School 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 School to a minimum. The Charter School waives any claim for damages for any inconvenience to or interference with the Charter School's 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 School 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 School 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 School's 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 School 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 Charter School's part to be performed under the terms of this Freeport 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 School, its 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 School, its employees, agents, officers and invitees.

The District shall further indemnify, hold harmless, and defend the Charter School 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 Freeport

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 Freeport 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 School 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 Charter School if the cause of the casualty is the negligence or intentional act of the Charter School, 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 Freeport Agreement shall continue in full force and effect, except that Charter School 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 School's business in the Facilities. The District shall provide the Charter School alternative space in the District for any part of the Charter School program that is displaced by the partial damage and/or the repair work of the same. If the Charter School secures 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 Freeport 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 Charter School as soon as reasonable so as to avoid any interruption in the educational program of the Charter School.

20. Liens.

Charter School shall keep the Facilities free from any liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Charter School. Notwithstanding anything stated herein to the contrary, if Charter School 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 Charter School.

21. Holding Over.

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

22. Assignment and Subletting.

The Charter School may not assign its rights under this Freeport Agreement or sublet any portion of the Facilities without the prior written consent of the District.

23. Rules, Regulations and Law.

The Charter School and the Charter School's 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.

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 Charter School.

The occurrence of any one or more of the following events shall constitute a default and material breach of this Freeport Agreement by Charter School:

- (a) The failure by Charter School to utilize the Facilities for the sole purpose of operating a charter school.
- (b) The failure by Charter School to make timely payments required under this Freeport Agreement.
- (c) The failure by Charter School to observe or perform any of the express covenants, conditions or provisions of this Freeport Agreement.
- (d) The revocation or non-renewal of the Charter School's charter. Notwithstanding the foregoing, this Freeport Agreement shall not be terminated pursuant to this provision provided that the Charter School continues to operate in accordance with the terms of this Freeport Agreement and is diligently pursuing a statutory appeal of the revocation or nonrenewal of its charter.
- (e) The failure by Charter School to maintain ADA of eighty (80) or more in-District students as the term "in-District students" is defined in Proposition 39.

In the event of any material default or breach by Charter School, District may, but shall not be obligated to, terminate this Freeport Agreement and Charter School's right to possession of the Facilities upon thirty (30) days written notice thereof to the Charter School 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 Charter School shall not be in default if Charter School 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. Upon termination, District shall retain the right to recover from Charter School, without limitation, any amounts due under this Freeport 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 Charter School's default or breach of this Freeport Agreement, the District shall not be obligated to provide facilities to Charter School pursuant to Proposition 39 for the remainder of that school year.

26. Default by District.

District shall be in default of this Freeport Agreement if District fails to perform any material obligation required by this Freeport Agreement. In the event of any default by District, Charter School may terminate this Freeport Agreement upon 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 Freeport 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 Charter School shall not be deemed to be a waiver of any preceding default by Charter School or District of any term, covenant or condition of this Freeport Agreement, other than the failure of the Charter School 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 Freeport Agreement are not a part of the Freeport 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 Freeport 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 Freeport 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 Freeport Agreement shall be brought solely in the Superior Court of the State of California for the County of Sacramento.

(g) Applicable Law. This Freeport 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 Freeport 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 Freeport 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 Freeport Agreement, the law shall prevail, and any such conflicting terms shall be

severed from this Freeport Agreement and nullified. In the event of a conflict between the terms of the charter and the terms of this Freeport Agreement, the terms of this Freeport Agreement shall prevail and shall be deemed an amendment to the charter, replacing any conflicting terms therein. In the event of a conflict between the terms of the charter and any other agreement between the Charter School and the District, the terms of this Freeport Agreement shall prevail and shall be deemed an amendment to any other such agreement, replacing any conflicting terms therein.

(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 Charter School is a separate legal entity from the District, the Charter School expressly agrees that this Freeport Agreement is a binding obligation on the Charter School and the District agrees that this Freeport Agreement is a binding obligation on the District.

(l) Prior Agreements. This Freeport Agreement contains all of the agreements of the Parties hereto with respect to any matter covered or mentioned in this Freeport 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 Freeport 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 Non-Profit or Charter School shall be sent by United States Mail, postage prepaid, addressed to Non-Profit or Charter School at the address set forth below. All notices and demands by the Charter School 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: Jonathan P. Raymond, Superintendent
5735 47th Avenue
Sacramento, CA 95824
Facsimile 916-643-9480

To Non-Profit or Charter School:

Attn: Penny Schwinn
Capitol Collegiate Academy
4500 Roosevelt Avenue
Sacramento, CA 95820
pschwinn@capitolcollegiate.org
Phone: 916-476-5796

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

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

Non-Profit and Charter School

District

By: _____
Penny Schwinn
Head of School

By: _____
Jonathan P. Raymond,
Superintendent

Date: _____

Date: _____

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

AYES:

NOES:

Abstentions:

Secretary to the Board of Education

Exhibit A –Facilities

The Facilities are limited to the buildings and other property that are listed on the attached spreadsheet and that are further depicted in Exhibit B. The Facilities shall include an increase in space for each subsequent school year per the spreadsheet. Per the spreadsheet, the total square footage of the Facilities for the Charter School's use will be as follows:

- 2012-2013 = 22,325 total square feet;
- 2013-2014 = 24,245 total square feet;
- 2014-2015 = 26,172 total square feet; and
- 2015-2016 = 28,092 total square feet.

School Name: Freeport Elementary School
 School Code: 114
 Site Area: 10.46 Acres
 Year Built: 1954
 Year Modernized: 1999
 A.P.N. 052-0100-004

CCA FY 12/13 CCA FY 13/14 CCA FY 14/15 CCA FY 15/16 SCUSD

Bldg/Room Code	Bldg/Room No.	Classroom No.	Room Use	Classroom Use	Area	Year Built/Modernized	DSA #
PERMANENT BUILDINGS							
Bldg. 001	C					1960	20604
J001	C9		Janitor		52	1999	67792
O001	C5	1	Classroom	Kindergarten	1,335		
O002	C4	2	Classroom	1st Grade	952		
O003	C3	3	Classroom	1st Grade	952		
O004	C2	4	Classroom	1st Grade	952		
O005	C1	5	Classroom	Teacher Lounge	979		
T001	C8		Toilet (Women)		110		
T01A	C7		Toilet		47		
T01B	C6		Toilet		47		
T002	C10		Toilet (Men)		110		
BUILDING AREA TOTAL					5,536		
COVERED WALKWAYS					868		
CLASSROOMS					5		

52
 1,335
 952
 952
 952
 979
 110
 47
 47
 110
 868

Bldg. 002	B					1954	11831
B001	B3		Heater		214	1999	67792
J001	B1		Closet		63		
J002	B2		Janitor		66		
T001	B4		Toilet (Boys)		226		
T002	B5		Toilet (Girls)		226		
BUILDING AREA TOTAL					795		
COVERED WALKWAYS					208		
CLASSROOMS					0		

214
 63
 66
 226
 226
 208

Bldg. 003	A					1954	11831
C005			Closet		69	1960	2064
O007	A4	7	Classroom	2nd Grade	960		
O008	A3	8	Classroom	2nd Grade	960		
O009	A2	9	Classroom	3rd Grade	960		
O010	A1	10	Classroom	3rd Grade	967		
S005	A7		Storage		178		
S06A	A6		Closet		82		
X006	A5	6	Library		1,118		
BUILDING AREA TOTAL					5,294		

69
 960
 960
 960
 967
 178
 82
 1,118

Bldg/Room Code	Bldg/Room No.	Classroom No.	Room Use	Classroom Use	Area	Year Built/Modernized	DSA #
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941
4

CCA
FY 12/13 941

CCA
FY 13/14

CCA
FY 14/15

CCA
FY 15/16

SCUSD

Bldg. 004	D					1960	20604
	D7		Workroom		105	1999	67792
Z001	D6		Speech		157		
C004	D5		Principal		440		
C005	D4		Health Room		194		
	D2		Rest Area		88		
	D9		Office		216		
	D10		Closet		10		
	D8		Office		260		
H001	D1		Lobby		299		
H002	D1		Administration		295		
T001	D3		Toilet		28		
M001	D11		Storage		41		
S001	D12		Closet		23		
BUILDING AREA TOTAL					2,156		
COVERED WALKWAYS					344		
COVERED WALKWAYS (ENCLOSED)					922		
CLASSROOMS					0		

105
157
440
194
88
216
10
260
299
295
28
41
23

344
922

Bldg. 005	E					1960	20604
T001	E6		Toilet (Mens)		110	1999	67792
T002	E7		Toilet (Womens)		110		
T030	E4		Toilet		85		
T040	E3		Toilet		85		
Y030	E1	30	Classroom	Kindergarten	1,037		
Y040	E5		Workroom		192		
	E2	40	Classroom	Kindergarten	1,037		
	E8		Workroom		192		
BUILDING AREA TOTAL					2,848		
COVERED WALKWAYS					766		
CLASSROOMS					2		

110
110
85
85
1,037
192
1,037
192

766

Bldg. 006	F					1954	11831
J001	F2		Janitor		115	1960	20604
K001	F3		Kitchen		434		
S001	F4		Food Storage		42		
S002	F6		Dry Storage		70		
S003	F3		Storage		128		
S003	F7		Storage		259		
T001	F5		Toilet		43		
U001	F1		Multi-Purpose		2,822		
U002	F8		Platform		809		
BUILDING AREA TOTAL					4,722		
COVERED WALKWAYS					633		
COVERED WALKWAYS (ENCLOSED)					140		

115
434
42
70
128
259
43
2,822
809

633
140

Bldg/Room Code	Bldg/Room No.	Classroom No.	Room Use	Classroom Use	Area	Year Built/Modernized	DSA #
CLASSROOMS							
0							

CCA FY 12/13 CCA FY 13/14 CCA FY 14/15 CCA FY 15/16 SCUSD

Permanent Building Area 21,351
 Permanent Covered Walkways 3,760
 Permanent Covered Walkways (Enclosed) 1,062
 Permanent Classroom 11

PORTABLE BUILDINGS

P01							
O011		11	Classroom		960	1987	48943
O012		12	Classroom		960	1991	55702
O013		13	Classroom		960	1991	55702
O014		14	Classroom		960	1989	51735
O015		15	Classroom		960	1990	53491
TOTAL BUILDING AREA					4,800		
COVERED WALKWAYS					0		
CLASSROOMS					5		

960
960
960
960
960

P02							
O034		34	Classroom		900	1967/1999	28948/67792
O035		35	Classroom		900	1967/1999	28948/67792
TOTAL BUILDING AREA					1,800		
COVERED WALKWAYS					0		
CLASSROOMS					2		

900
900

P03							
O016		16	Classroom		960	2006	02-106237
O017		17	Classroom		960	2006	02-106237
O018		18	Classroom		960	2006	02-106237
O019		19	Classroom		960	2006	02-106237
O020		20	Classroom		960	2006	02-106237
O021		21	Classroom		960	2006	02-106237
O022		22	Classroom		960	2006	02-106237
O023		23	Classroom		960	2006	02-106237
O024		24	Classroom		960	2006	02-106237
			Toilets		480	2006	02-106237
			Toilets		480	2006	02-106237
TOTAL BUILDING AREA					9,600		
COVERED WALKWAYS					0		
CLASSROOMS					9		

960
960
960
960
960
960
960
960
960
960
480
480

P08							
O036		36	Classroom	Health Clinic	900	1970	34230
TOTAL BUILDING AREA					900		
COVERED WALKWAYS					0		
CLASSROOMS					1		

900

P09/P10							
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Bldg/Room Code	Bldg/Room No.	Classroom No.	Room Use	Classroom Use	Area	Year Built/Modernized	DSA #
O001			Classroom	4th R	960	1990	51931
O002			Classroom	4th R	960	1990	51931
TOTAL BUILDING AREA COVERED WALKWAYS CLASSROOMS					1,920		
					0		
					2		

CCA FY 12/13 CCA FY 13/14 CCA FY 14/15 CCA FY 15/16 SCUSD
 960 960

P11	Classroom	Preschool	2001	02-101487
TOTAL BUILDING AREA COVERED WALKWAYS CLASSROOMS	1,440	1,440		
	0	1		

1440

Portable Building Area Covered Walkways
 20,460
 0
 20

TOTAL BUILDING AREA TOTAL COVERED WALKWAYS TOTAL COVERED WALKWAYS (ENCLOSED) TOTAL CLASSROOMS
 41,811
 3,760
 1,062
 31

SITE TOTAL

TOTAL 22,325 1,920 1,927 1,920 18,540

Total Shared Space 0

Total CCA Space FY 12/13 22,325

Total CCA Space FY 13/14 24,245

Total CCA Space FY 14/15 26,172

Total CCA Space FY 15/16 28,092

Total District Space 18,540

CCA Site Ratio FY 12/13 47.87%

CCA Site Ratio FY 13/14 51.99%

CCA Site Ratio FY 14/15 56.12%

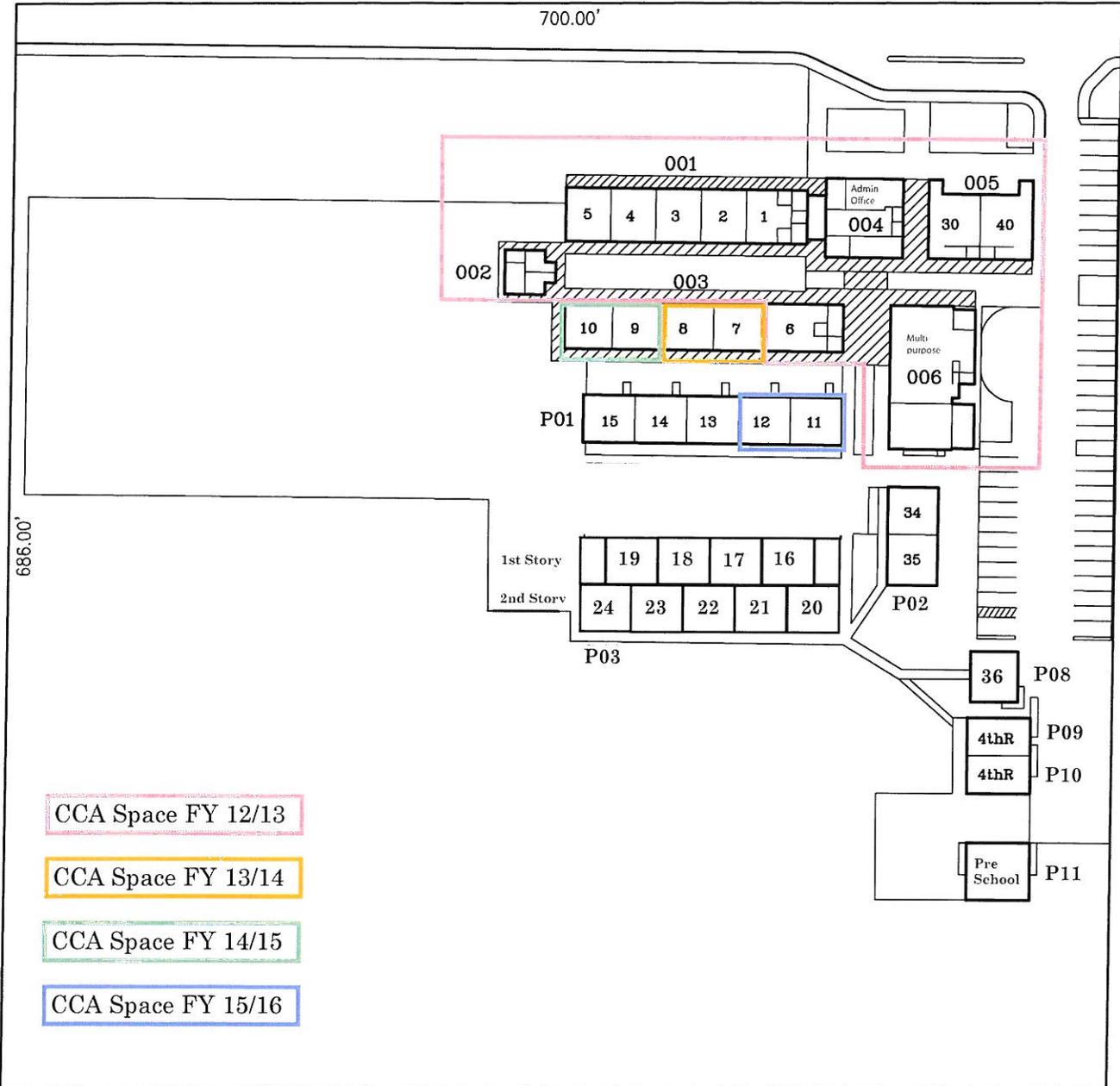
CCA Site Ratio FY 15/16 60.24%

Exhibit B – Map of Facilities/ Buildings and Other Property

The Facilities are limited to the buildings and other property that are marked on the attached color-coded “Existing Site Diagram.”

MEADOWVIEW RD.

700.00'



NORTH

Scale 1"=100'

SITE AREA: 10.46 ACRES
A.P.N. 052-0100-004

Freeport Elementary School (114)
2118 Meadowview Road
SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

EXISTING SITE DIAGRAM

Exhibit C – Facilities Use Fee

For the 2012-2013 school year, Non-Profit shall pay District an initial estimated Facilities Use Fee of Forty-Six Thousand Eight Hundred Eighty-Two Dollars and Fifty Cents (\$46,882.50) based on a pro rata Facilities cost estimate of Two Dollars and Ten Cents (\$2.10) per square foot for the use of twenty-two thousand three hundred twenty-five square feet (22,325) square feet of the Freeport Site (the Facilities) during that time. The Facilities Use Fee shall be paid out in twelve equal monthly installments of Three Thousand Nine Hundred Six Dollars and Eighty-Eight Cents (\$3,906.88) throughout the fiscal year. Beginning on July 1, 2012, the monthly installment 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.

For the 2013-2014 school year, the above 2012-2013 school year Facilities Use Fee terms apply except that the Facilities Use Fee shall be based on the revised cost per square foot per Section 4 of this Freeport Agreement, and based on the Charter School’s increase in size of the Facilities to twenty-four thousand two hundred forty-five square feet (24,245) square feet.

For the 2014-2015 school year, the above 2012-2013 school year Facilities Use Fee terms apply except that the Facilities Use Fee shall be based on the revised cost per square foot per Section 4 of this Freeport Agreement, and based on the Charter School’s increase in size of the Facilities to twenty-six thousand one hundred seventy-two square feet (26,172) square feet.

For the 2015-2016 school year, the above 2012-2013 school year Facilities Use Fee terms apply except that the Facilities Use Fee shall be based on the revised cost per square foot per Section 4 of this Freeport Agreement, and based on the Charter School’s increase in size of the Facilities to twenty-eight thousand ninety-two square feet (28,092) square feet.

Exhibit D – Custodial Services

The Charter School shall pay the District for custodial services for the Facilities. Said services shall result in a level of performance consistent with custodial services maintained by the District for its other District schools. The Charter School will reimburse the District for the actual costs, including time and labor (including salary, benefits and payroll taxes), to provide custodial services for the Facilities. For the 2012-2013 school year, the said reimbursement for actual costs will be for 3.5 hours per day of custodial services (0.4375 FTE). The Charter School will not reimburse the District for custodial costs for the month of July, and the District will not provide custodial services to the Charter School for the month of July. Said reimbursement shall also include actual costs to the District for any cleaning supplies and tools necessary for those personnel to provide custodial services, including but not limited to toilet paper, soap, and paper towels. The District will invoice the Charter School quarterly for the costs of these custodial services, supplies and tools. The Charter School will pay said invoice within thirty (30) days of receipt.

For the 2013-2014, 2014-2015, and 2015-2016 school years, the Charter School will reimburse the District for increased amounts of services, supplies and tools caused by the increase in the Facilities and/or the increase in the Charter School's use of the Facilities. The Parties shall meet and confer at least sixty (60) days before July 1 of each of these school years to determine the necessary increase in the hours of daily custodial service for that school year. Should the Parties be unable to agree on the necessary increase, the District may increase the hours a reasonable necessary amount to correspond with the increased amount of Facilities provided to the Charter School on an annual basis..

Additional Services: Should the Charter School require additional custodial services above the District's standard practices and policies, or for special events, those costs to the Charter School will be assessed separately as requested.

FACILITIES USE AGREEMENT

This Facilities Use Agreement (“Agreement”) is made by and between Sacramento City Unified School District (“District”) and California Montessori Project, a California non-profit public benefit corporation (“Non-Profit”), which operates California Montessori Project-Capitol Campus, a charter school (“Charter School”). 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 2635 Chestnut Hill Drive, Sacramento, California (“Site”).
- C. WHEREAS, Charter School is a charter school duly formed and approved by the District under the laws of the Charter Schools Act of 1992 (Education Code §§ 47600, *et seq.*) serving students in grades Kindergarten through 8th grade in the 2012-2013 to 2015-2016 school years.
- D. WHEREAS, Charter School desires to use certain District facilities located on the Site for its public charter school program.
- E. WHEREAS, the Parties intend this Agreement to satisfy their obligations for the 2012-2013 to 2015-2016 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 School 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 School’s charter and on the terms and conditions set forth herein. The Charter School shall not have exclusive use of the Site. The District grants use of the following facilities (“Facilities”) located on the Site as described and/or depicted in Exhibits A and B, which

are attached hereto and incorporated herein by reference, to the Charter School under the terms and conditions set forth in this Agreement.

3. Term. The term of this Agreement shall be from July 1, 2012 to June 30, 2016 ("Term"), unless earlier terminated as provided herein.
4. Facilities Use Fee. Each and every school year, Charter School 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 Charter School, 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 Charter School of any amended Facilities Use Fee calculations based on the actual data for the prior fiscal year. Amounts owed to or by the Charter School 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 Charter School of any late fees or interest shall in no event excuse or cure any default by Charter School 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 Charter School paying a pro rata share for in-district students and any actual costs for out-of-district students.

5. Over-Allocation. The District reserves the right to collect over-allocation and other applicable fees and reimbursements from the Charter School, pursuant to Title 5, California Code of Regulations, Section 11969.8. The Charter School's projected in-

District Average Daily Attendance (“ADA”) upon which the Facilities are provided is 170.43.

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, pursuant to the dispute resolution procedures identified in the Charter School’s charter. Notwithstanding the foregoing, those disputes that may result in revocation of Charter School’s charter, pursuant to Education Code section 47607, are not required to go through the dispute resolution process.

7. Use.

(a) Public Charter School. The Facilities shall be used and occupied by the Charter School 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 School’s 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 School 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 Charter School 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 School 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 School shall provide adequate and appropriate supervision for Charter School students and employees using the Facilities.

(c) Rights of the District. The Charter School 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 School cause, maintain or permit any nuisance in or about the Facilities. The Charter School shall not commit or suffer to be committed any waste in or upon the Facilities.

(d) Illegal Uses. The Charter School 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 School agrees to comply with its charter as it relates to District Facilities.

(e) Security Badges. The Charter School will provide security badges for its staff. The badges will be pictured with school name, logo, staff names, and titles. The Charter School staff shall wear these badges at all times that they are at the Site.

(f) Civic Center Act. The Charter School agrees 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. 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 School 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 School shall be forwarded to the District for coordination of use consistent with Board Policy and Administrative Regulations.

(g) Alarms. The Charter School shall have access to activate burglar alarms and intruder alerts corresponding to the Facilities provided at the Site. The Charter School agrees that in the event that any of Charter School's employees, directors, trustees, officers, agents, students, visitors, or contractors, trigger a false alarm at the Site, Charter School 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 include sufficient desks, chairs and a white board for each classroom. The Charter School is responsible for any furnishings and equipment over and above those provided by the District. The Charter School 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 Charter School 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 Charter School and shall be disposed of according to the provisions of the approved Charter petition.
9. Utilities. District agrees to furnish or cause to be furnished to the Facilities necessary utilities. Utilities include, but are not limited to, are 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), the bin capacities and the number of removals per week shall not increase during the Term. 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 Charter School shall reimburse the District for the cost of utilities at the Site, as charged to the District by its utility providers, pro-rated to reflect use by other users of the Site. 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 Charter School of its estimated monthly charge for utilities. The Charter School shall pay such charge to the District throughout the Term on a monthly basis concurrent with the Charter School's 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 Charter School with a reconciliation of the Charter School's actual utility usage throughout the Term and the cost thereof. The District shall either refund the Charter School for any overpayment or shall invoice the Charter School for any underpayment. The Charter School shall reimburse the District for such underpayment, if any, within thirty (30) days after receipt of said invoice.

The Charter School 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) Charter School acknowledges by execution of the Agreement that the Facilities provided by the Agreement are "reasonably equivalent," as that term is defined by Proposition 39. Charter School agrees that upon execution of this Agreement, all obligations of the District to the Charter School under Proposition 39 have been satisfied for the Term of this Agreement.

(b) Charter School 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 pursuant to the terms and conditions as defined in Exhibit D.

12. Signage. The Charter School 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 School's signage, but shall not unreasonably deny such design, content or location. The Charter School must remove

the signage upon termination of this Agreement. The Charter School 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 Charter School's sole cost.

13. Maintenance and Repairs

a. The District shall maintain the Facilities, furnishings and equipment, in good order, condition, and repair. The Charter School 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 Charter School will be the sum total of: 1) The Facilities Use Fee of Section 4 of the Agreement, and, 2) the actual costs, including salary and benefits, of one District employed Plant Manager assigned to the Site. The District will invoice the Charter School quarterly for the actual costs including salary and benefits, of the District employed Plant Manager assigned to the Site. The Charter School will pay said invoice within thirty (30) days of receipt.

b. The Charter School will provide reasonable workspace for the Plant Manager assigned to the Site.

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. Projects eligible to be included in the District's deferred maintenance plan established pursuant Education Code section 17582, and the replacement of furnishings and equipment supplied by the District in accordance with the District's schedules and practices, shall remain the responsibility of the District.

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 School, in compliance with Section 14 ("Alterations and Additions"). The Charter School is responsible for the cost of internet services provided at the commercial rate.

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

14. Alterations and Additions. The Charter School 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 School shall be paid for by the Charter School, 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 or

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

Should the Charter School 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 School 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 School 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 School has 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 School 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 the Charter School, all property shall be disposed of in accordance with the provision of the approved Charter School's petition. Unless the Parties agree otherwise in writing on an item by item basis, Charter School maintains its 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 School does 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 School 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 School 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 School to a minimum. The Charter School waives any claim for damages for any inconvenience to or interference with the Charter School's 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 School 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 School 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 School's 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 School 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 Charter School'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.

The District shall indemnify, hold harmless, and defend the Charter School, its 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 School, its employees, agents, officers and invitees.

The District shall further indemnify, hold harmless, and defend the Charter School 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 School 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 Charter School if the cause of the casualty is the negligence or intentional act of the Charter School, 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 School 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 School's business in the Facilities. The District shall provide the Charter School alternative space in the District for any part of the Charter School program that is displaced by the partial damage and/or the repair work of the same. If the Charter School secures 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 Charter School as soon as reasonable so as to avoid any interruption in the educational program of the Charter School.

20. Liens. Charter School shall keep the Facilities free from any liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Charter School.

Notwithstanding anything stated herein to the contrary, if Charter School 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 Charter School.

21. Holding Over. Charter School 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 Charter School holds over, the Charter School shall pay the monthly Facilities Use Fee plus all other charges payable required by this Agreement. Any holdover by Charter School requires the Charter School 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 School at any time after the expiration of the Term or termination of this Agreement.
22. Assignment and Subletting. The Charter School 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 School and the Charter School's 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.
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 Charter School. The occurrence of any one or more of the following events shall constitute a default and material breach of this Agreement by Charter School:
 - (a) The failure by Charter School to utilize the Facilities for the sole purpose of operating a charter school.
 - (b) The failure by Charter School to make timely payments required under this Agreement.
 - (c) The failure by Charter School to observe or perform any of the express covenants, conditions or provisions of this Agreement.
 - (d) The revocation or non-renewal of the Charter School's charter. 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.

(e) The failure by Charter School to maintain ADA of eighty (80) or more in-District students as the term "in-District students" is defined in Proposition 39.

In the event of any material default or breach by Charter School, District may, but shall not be obligated to, terminate this Agreement and Charter School's right to possession of the Facilities upon thirty (30) days written notice thereof to the Charter School 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 Charter School shall not be in default if Charter School 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. Upon termination, District shall retain the right to recover from Charter School, 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 Charter School's default or breach of this Agreement, the District shall not be obligated to provide facilities to Charter School 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 terminate this Agreement upon 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 Charter School shall not be deemed to be a waiver of any preceding default by Charter School or District of any term, covenant or condition of this Agreement, other than the failure of the Charter School 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 and shall be deemed an amendment to the charter, replacing any conflicting terms therein. In the event

of a conflict between the terms of the charter and any other agreement between the Charter School and the District, the terms of this Agreement shall prevail and shall be deemed an amendment to any other such agreement, replacing any conflicting terms therein.

(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 Charter School is a separate legal entity from the District, the Charter School expressly agrees that this Agreement is a binding obligation on the Charter School 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 Non-Profit or Charter School shall be sent by United States Mail, postage prepaid, addressed to Non-Profit or Charter School at the address set forth below. All notices and demands by the Charter School 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:

California Montessori Project
Attn: Gary Bowman, Executive Director
5330-A Gibbons Drive, Suite 700
Carmichael, CA. 95608

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 School

District

By: Gary Bowman
Gary Bowman
Executive Director

By: _____
Jonathan P. Raymond,
Superintendent

Date: APRIL 10, 2012

Date: _____

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

AYES:

NOES:

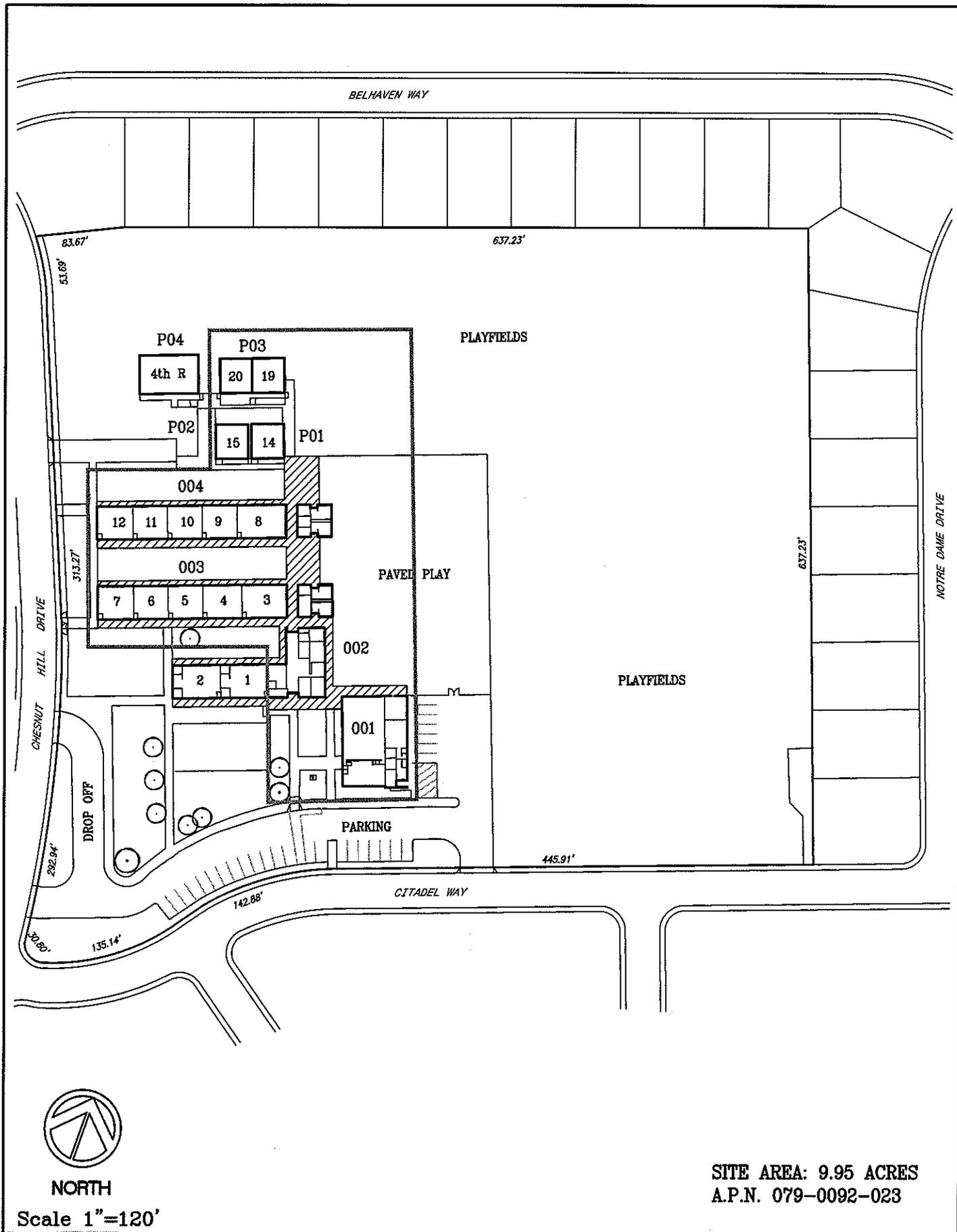
Abstentions:

Secretary to the Board of Education

Exhibit A –Facilities

The Facilities are limited to the buildings and other property that are listed herein and further depicted in Exhibit B. The entire Thomas Jefferson site except room 1, 2, and preschool playground.

Exhibit B – Map of Facilities/ Buildings and Other Property



Thomas Jefferson Elementary School
 2635 Chesnut Street
 SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

EXISTING SITE DIAGRAM
 DECEMBER 2003

Exhibit C – Facilities Use Fee

For the 2012-2013 school year, Charter School shall pay District an initial estimated Facility Use Fee of Seventy-Nine Thousand, Eight Hundred Ninety-Six Dollars and Sixty Cents (\$79,896.60), based on a pro rata Facilities cost estimate of Two Dollars and Ten Cents (\$2.10) per square foot for the use of approximately Thirty-Eight Thousand, Forty-Six (38,046) square feet of the Facilities during that time. The initial estimated Facility Use Fee shall be paid out in equal installments of Six Thousand, Six Hundred Fifty-Eight Dollars and Five Cents (\$6,658.05) each month throughout each and every 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 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 Facilities. The level of said services will be consistent with the District’s standard practices and policies. Said services will be provided by District employees. The Charter School will reimburse the District for the actual costs, including time and labor, to provide custodial services for the Facilities. The District will invoice the Charter School quarterly for these services. The Charter School will pay said invoice within thirty (30) days of receipt. The Charter School shall provide any cleaning supplies and tools necessary for those personnel to provide custodial services, including but not limited to toilet paper, soap, and paper towels.

b. “Deep Cleaning” Services. The Parties also understand that, from time to time, additional custodial services may be required for “deep cleaning”. These services may occur on a bi-annual, annual or semi-annual basis and include, but are not limited to: refinishing the gymnasium floors, high dusting, power washing, cleaning bleachers, detailing locker rooms and lockers and de-gumming surfaces. The Charter School will reimburse the District for these services in the same manner as “Routine” services as outlined above.

c. Additional Services. Should the Charter School require additional custodial services above the District’s standard practices and policies, or for special events, those costs to the Charter School will be assessed separately as requested.

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

District

By: _____

Jim Scheible
Superintendent

By: _____

Jonathan P. Raymond,
Superintendent

Date: _____

Date: _____

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

AYES:

NOES:

Abstentions:

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		

St Hope
Public
Schools

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

Bldg/Room Code	Classroom No.	Room Use	Area	Year Built/ Modernized	DSA #
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		
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		

**St Hope
Public
Schools**

430
908
908
908
938
908
908
908
878
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

Bldg/Room Code	Classroom No.	Room Use	Area	Year Built/ Modernized	DSA #
A-29	W-32A	Principal	297		
BUILDING AREA TOTAL			59,999		
COVERED WALKWAYS			-		
CLASSROOMS			32		

St Hope
Public
Schools

297

-

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		
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			-		

16,412

181

125

92

1,024

1,816

184

173

25

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		

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

Bldg/Room Code	Classroom No.	Room Use	Area	Year Built/ Modernized	DSA #
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		
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		

**St Hope
Public
Schools**

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
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

Bldg/Room Code	Classroom No.	Room Use	Area	Year Built/Modernized	DSA #
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BUILDING AREA TOTAL 56,433
COVERED WALKWAYS 1,980
CLASSROOMS 35

St Hope
Public
Schools

1,980

Bldg. 004	Auditorium			1937	2772
1st Floor					
		Corridors	2,258		2,258
		Foyer	260		260
		Stairs	433		433
		Stage	4,248		4,248
		Assembly	6,390		6,390
		Storage	3,177		3,177
		Toilets	573		573
		Practice Room	613		613
	Aud 303	Classroom	1,044		1,044
	Aud 301	Classroom	1,044		1,044
	<i>Subtotal 1st Floor</i>		20,040		
Mezzanine Level					
		Corridors	165		165
		Stairs	156		156
		Toilets	330		330
		Storage	165		165
	<i>Subtotal Mezzanine Level</i>		816		
2nd Floor					
		Stairs	366		366
		Foyer	230		230
		Storage	500		500
	Aud 302	Classroom	1,925		1,925
		Assembly	4,779		4,779
	<i>Subtotal 2nd Floor</i>		7,800		

BUILDING AREA TOTAL 28,656
COVERED WALKWAYS 188
CLASSROOMS 3

188

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

1,140
945
3,182
394
225
324

BUILDING AREA TOTAL 6,210
COVERED WALKWAYS 948
CLASSROOMS 3

948

Bldg/Room Code	Classroom No.	Room Use	Area	Year Built/ Modernized	DSA #
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St Hope
Public
Schools

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		
TW60		Toilet (Men)	247		
ZBX1		Tickets	88		
CR0P		Storage	445		
		Refreshments	231		
SS86		Storage	179		
R010		Dressing Rm	325		
R011		Lockers	622		
C0F7		Gym	12,648		
T10S		Shower	75		
T11S		Shower	112		
SH60		Lounge	117		
SE60		Storage	80		
T10T		Toilet	58		

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

Bldg/Room Code	Classroom No.	Room Use	Area	Year Built/ Modernized	DSA #
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**

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		
		Corridor	1,933		
J703		Custodian	73		
G700		Gymnasium	7,651		
		Unaccounted	230		

BUILDING AREA TOTAL 25,450

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
1,933
73
7,651
230

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.

FIRST AMENDMENT TO FACILITIES USE AGREEMENT

This FIRST AMENDMENT TO FACILITIES USE AGREEMENT ("First Amendment") is entered into by and between the SACRAMENTO CITY UNIFIED SCHOOL DISTRICT ("District"), and the URBAN CHARTER SCHOOLS COLLECTIVE, a California non-profit public benefit corporation, which operates Yav Pem Suab Academy ("Charter School"). District and Charter School may be referred to collectively herein as the "Parties." All capitalized terms used in this First Amendment shall have the same meanings given such terms in the Original Agreement (as hereinafter defined), unless expressly superseded by the terms of this First Amendment.

RECITALS

A. On or about June 2, 2011, District and Charter School entered into that certain Facilities Use Agreement ("Original Agreement"), pursuant to the terms of which District, in satisfaction of its obligations under Education Code section 47614 and Title 5 of the California Code of Regulations section 11969, et seq., granted to Charter School the right to use those certain facilities located at Lisbon Elementary School, 7555 South Land Park Drive, Sacramento, California ("Site"), as such facilities are more particularly described in the Original Agreement.

B. District and Charter School now desire to amend the Original Agreement as hereinafter set forth.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Effective Date. The effective date of this First Amendment is July 1, 2012 ("Effective Date").

2. Facilities. Notwithstanding anything stated in the Original Agreement to the contrary, as of the Effective Date, Charter School shall have the right to use two additional classrooms located at the Site, specifically Rooms 19 and 31. These two rooms are comprised of approximately one thousand nine hundred and twenty (1,920) square feet. Charter School shall use Rooms 19 and 31 solely for the purposes set forth in the Charter School's charter and on the terms and conditions set forth in the Original Agreement. From and after the Effective Date, the term "Facilities", as such term is defined in the Original Agreement, shall include Rooms 19 and 31.

3. Facilities Use Fee. The parties agree and acknowledge that with the addition of Rooms 19 and 31, the total square footage of the Facilities shall be approximately forty-three thousand and two hundred and twenty-five (43,225) square feet. From and after the Effective Date, District shall use forty-three thousand and two hundred and twenty-five (43,225) square feet to calculate Charter School's monthly Facilities Use Fee pursuant to Section 4 of the Original Agreement.

4. Custodial Services. The Charter School shall be responsible for providing and paying directly for custodial services for the Facilities. Said services shall result in a level of performance consistent with custodial services maintained by the District for its other District schools. The Charter School shall bear the cost of such custodial services, including the salary and benefits of the Custodian and the cost of any cleaning supplies and tools necessary for the Custodian to provide services. The Charter School shall purchase, store and provide all consumable materials which the custodian shall use in provisioning the facilities' restrooms, including but not limited to toilet paper, soap, and paper towels. In the event that Charter School fails to meet these standards, the District may, at its sole option, provide custodial services for the Facilities, and the Charter School will become responsible for the salary and benefits of the District-supplied custodian and materials used by the custodian.

5. Subject to Approval by Governing Board. This First Amendment confers no legal or equitable rights until it is approved by the District's Governing Board at a lawfully conducted public meeting.

6. Binding Effect. This First Amendment shall inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns.

7. Severability. If any provision of this First Amendment shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this First Amendment.

8. Governing Law. This First Amendment shall be governed by and construed in accordance with the laws of the State of California and venue shall be in the appropriate court in Sacramento County, California.

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

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

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

11. Miscellaneous. Except as set forth in this First Amendment, all of the terms and provisions of the Original Agreement shall remain unmodified and in full force and effect.

IN WITNESS WHEREOF, the Parties have caused this First Amendment to be duly executed by their duly authorized representatives as of the last date set forth below.

DISTRICT:

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

By: _____
Jonathan P. Raymond
Superintendent

Date: _____, 2012

CHARTER SCHOOL:

URBAN CHARTER SCHOOLS COLLECTIVE,
a California non-profit public benefit corporation

By: Dennis Mah
Dennis Mah
Superintendent

Date: May 15, 2012

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

AYES: _____

NOES: _____

Abstentions: _____

Secretary to the Board of Education