

**LEASE AGREEMENT
CSMH Charter School**

**FOR THE USE OF
Encinal Elementary School
9530 Monterey Rd, Morgan Hill, CA 95037**

This GROUND LEASE (“Agreement”) is made by and between MORGAN HILL UNIFIED SCHOOL District, a school district formed and existing under the laws of the State of California (“the District”), and South Valley Charter School Corporation, a California nonprofit public benefit corporation (“Charter School”), which operates the Charter School of Morgan Hill (“CSMH”). This Agreement includes the terms and conditions of Charter School's use of the Encinal Elementary School site, located at 9530 Monterey Rd., Morgan Hill, CA 95037, and the rehabilitation of public school facilities on the Site using funds provided by the Charter School Facility Program (“CSFP”) administered by the California School Finance Authority (“CSFA”).

RECITALS

WHEREAS, the District is the owner of certain real property, known as Encinal Elementary School campus located at 9530 Monterey Rd, Morgan Hill, CA 95037 (the “Site” or the “Premises”) being defined with more specificity in **Exhibit A-1**;

WHEREAS, Charter School was established in 2001, is accredited by the Western Association of Schools and Colleges (“WASC”), and currently provides educational and recreational activities for students in grades K-8 on the Premises;

WHEREAS, on February 11, 2021, the Board of Education renewed the charter petition for CSMH, authorizing CSMH to continue to serve Grades K-8 through June 30, 2026;

WHEREAS, Charter School requires classrooms and facilities for its in-district students for the purposes of operating its educational program in accordance with CSMH's charter;

WHEREAS, Charter School has received an award of funds through the CSFP under Education Code section 17078.52 *et seq.* to perform improvements to certain portions of the Premises, such improvements identified by the Division of State Architect (“DSA”) as Application #01-119819 and approved on March 14, 2022 (hereafter referred to as “Project”, with the actual improvements to be performed using CSFP funds referred to as “Project Improvements”) being defined with more specificity in **Exhibit A-2**;

WHEREAS, the parties agree that the provisions of Education Code section 17078.52 *et seq* and its implementing regulations only apply to the Project Improvements made and paid for out of funding received by the Charter School under the Charter School Facilities Program;

WHEREAS, this Agreement is entered into by the Parties as an "In-lieu" facilities

Agreement pursuant to the requirements of Education Code section 47614, which allows the District and Charter School to collaborate on the terms for use of the Premises for CSMH, outside of the provisions of Proposition 39 and its implementing regulations (“Proposition 39”);

NOW THEREFORE, in consideration of the covenants and agreements hereinafter set forth, District and Charter School agree as follows:

AGREEMENT

1. USE OF PREMISES

- 1.1 District hereby leases to Charter School, and Charter School hereby leases from District, the Premises for the Term and upon the covenants and conditions set forth in this Agreement. District agrees to allow use of the Premises by Charter School for purposes of operating a public charter school providing educational instruction to public school students and all associated uses (the “Program” or “Activities”), consistent with Charter School's Charter Petition so long as Charter School is the tenant of the Premises.
- 1.2 Use of the Premises shall be for the sole purpose of operating a charter educational program in accordance with all applicable federal, state and local regulations relating to the Premises, and to the operation of the educational program, including associated uses such as summer school and programs procured through third Party entities, e.g. childcare and after-school program providers. Charter School shall not use the Premises for any use other than that specified in this Agreement without the prior written consent of District, which consent shall not be unreasonably withheld, conditioned or delayed.
- 1.3 Charter School shall not commit, or suffer to be committed, any waste upon the Premises, or allow the Premises to be used for any unlawful purpose, or place any loads upon the floor, walls or ceiling which endanger the structure, or knowingly place any harmful liquids in the plumbing, sewer or storm water drainage system of the Premises. No waste materials or refuse shall be dumped upon or permitted to remain upon any part of the Premises except in trash containers designated for that purpose.
- 1.4 Charter School shall prohibit the use of tobacco products, e-cigarettes, alcohol, and unlawful controlled substances on the Premises at all times unless permitted by law.
- 1.5 Charter School shall not intentionally do or permit anything to be done in or about the Premises nor bring or keep anything therein which will in any way increase the District’s existing insurance rate or effect any fire or other insurance upon the Premises, or cause a cancellation of any insurance policy covering the

Premises or any part thereof or any of the contents of the Premises.

- 1.6 Charter School agrees to comply with the provisions of the Civic Center Act (Education Code §§ 38130, *et seq.*) to make the Premises accessible to members of the community. The Parties understand that the Premises are to be used primarily for educational programs and activities and as such, any use of the Premises by the Community shall not interfere with Charter School's educational program. 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. The Charter School shall be 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 Charter School shall be responsible to promptly clean and repair, if necessary, any portion of the Facilities used by members of the community immediately following such use.
- 1.7 All provisions of this Agreement applicable to the Premises shall also apply with equal force to the Project and Project Improvements contained thereon. The provisions of the Charter School Facilities Program shall only apply to the Charter School's Project and Project Improvements.

2. CONDITION OF PREMISES

- 2.1 The Premises are leased to Charter School on an "AS IS" basis. Except as expressly provided herein, District shall not be required to make or construct any alterations including structural changes, additions or improvements to the Premises.
- 2.2 Charter School acknowledges that neither District nor District's agents have made any representation or warranty as to the suitability of the Premises for Charter School's Activities. Any agreements, warranties or representations not expressly contained herein shall in no way bind District, and the Charter School expressly waives all claims for damages by reason of any statement, representation, warranty, promise or agreement, if any, not contained in this Agreement.

3. TITLE TO SCHOOL SITE / CLASSROOM BUILDINGS

- 3.1 The Parties acknowledge that title to the Premises is held by District. All improvements on the Premises at the expiration of the term of this Agreement, or any options or mutually agreed to extensions shall become District's property. The Project Improvements constructed by Charter School shall be DSA approved.

4. TERM

- 4.1 The term (“Initial Term”) of this Agreement shall commence on July 1, 2023, for ten (10) years and shall end on June 30, 2033. The Term may be extended for three additional terms of ten (10) years each upon Charter School's written exercise of option in each case given not less than 180 days before the then-existing Term ends, unless terminated under any provision of this Agreement, including but not limited to the following reasons:
- 4.1.1 Charter School's program ceases to operate after a revocation, nonrenewal or surrender of the charter, or any other termination of the charter, and all administrative (*e.g.*, Education Code 47605 or 47607), nonjudicial appeals have been exhausted;
 - 4.1.2 Charter School fails to commence construction of significant capital outlay improvements on the Premises within five (5) years of the Commencement Date of this Agreement, in which case the term of this Agreement shall only be for five (5) years, until June 30, 2028;
 - 4.1.3 Charter School's default under the terms and conditions herein and Charter School's failure to complete any cure of such default as provided herein.
- 4.2 Charter School at its option, and without any penalties, damages or other compensation to the District, may elect not to proceed with the new construction project contemplated by Article 6 of this Agreement. Charter School acknowledges and understands that if it exercises the option not to proceed with the new construction project contemplated by Article 6, this Agreement shall terminate effective June 30, 2028, provided however, the Parties by mutual agreement may negotiate a new agreement for use of the Encinal Site or the Charter School may submit a timely Prop. 39 request for the 2028-29 school year.
- 4.3 In the event that Charter School determines, in its reasonable judgment, that it is not feasible for Charter School to proceed with the new construction project contemplated by Article 6, then Charter School may elect to terminate this Lease without penalties, damages, or other compensation to the District, by written notice to District provided no later than June 30th and effective the next July 1st.

5. FACILITY USE FEE

- 5.1 For and in consideration of the substantial contribution the Charter School is making to the District's asset, and the ongoing debt service to be paid by the Charter School during the Term, Charter School shall not pay a facility use fee to District. In consideration of the fact that costs to the District in meeting its

obligation under this Agreement are difficult to ascertain, the parties agree that the Charter School's fee for use and occupation of the Premises shall be based upon the Education Code 47613 maximum oversight fee cap for a charter school that has not been provided with rent-free facilities as a benchmark. Charter School shall annually pay one percent (1%) of the revenue of the Charter School as defined under Education Code 47613, for use and occupation of the Premises ("Fee"). The Fee shall be paid quarterly, beginning July 1, 2023, in equal installments based on estimated Local Control Funding Formula ("LCFF") revenues, as follows:

July 1:	Based on Adopted Budget LCFF Total Revenues
October 1:	Based on Adopted Budget LCFF Total Revenues
January 1:	Based on First Interim Budget LCFF Total Revenues
April 1 :	Based on Second Interim Budget LCFF Total Revenues
December 1:	"True-up" of any difference between estimated LCFF Total Revenues and actual LCFF Total Revenues as determined in the Audited Financial Reports

If the State's primary funding formula for public schools is modified significantly, the District and Charter School will meet to review its impact and amend this language if necessary.

5.2 The Charter School shall pay for all utilities charges for the Premises. For purposes of this Agreement, utilities include but are not limited to: water, irrigation, gas, electricity, telephone, security and fire alarm monitoring, data and communication lines and service, trash pick-up, and sewage fees. Charter School shall be responsible, at its sole cost (and expense) for the furnishing of all services and utilities to the Premises, including, but not limited to heating, ventilation and air-conditioning, gas, electricity, water, telephone, trash collection, sewage disposal, janitorial and interior and exterior Premises security services. Charter School shall pay the cost of all utilities and other services directly to the applicable utility or service provider.

5.2.1 Except to the extent the discontinuance, failure or interruption is caused or permitted by the District's negligence or willful misconduct, Charter School agrees that the District shall not be liable for damages, by abatement of rent or otherwise, for the discontinuance, failure or interruption of any utility or other service (including telephone and telecommunication services), or for any diminution in the quality or quantity thereof; and such discontinuance, failure or interruption shall never be deemed to constitute an eviction or disturbance of Charter School's use and possession of the Premises or relieve Charter School from paying rent or other fees, costs or other amounts due and owing under this Agreement. Notwithstanding anything herein to the contrary,

the District shall use its good faith efforts to assist Charter School in restoring such services so long as the District is not required to incur any costs or expenses.

- 5.3 Charter School acknowledges that late payment by Charter School to District of sums due will cause District to incur costs not contemplated by this Agreement, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges. Accordingly, if the District does not receive any installment of monies due under this Section from Charter School within ten (10) business days after such amount is due, Charter School shall pay to District, as additional "late charge" an amount equal to five percent (5%) of such overdue amount or the maximum amount allowed by law, whichever is less. The Parties hereby agree that such late charge represents a fair and reasonable estimate of the costs District will incur by reason of late payment by Charter School.
- 5.4 Charter School shall pay any assessment on the Premises, including on any improvements which Charter School constructs or causes to be constructed on the Premises, whether real estate, general, special, ordinary or extraordinary, or rental levy or tax, improvement bond, and/or fee imposed upon or levied against the Premises or Charter School's legal or equitable interest created by this Agreement, and the taxes assessed against and levied upon Charter School's alterations and utility installations that may be imposed by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Premises address and where the proceeds so generated are applied by the city, county or other local taxing authority having jurisdiction. The provisions of this Section shall survive the expiration or earlier termination of this Agreement.

6. ALTERATIONS

- 6.1 Charter School may at its sole cost and expense, make or perform improvements to the Premises, including the Project Improvements defined with more specificity in **Exhibit A-2**, provided that any Improvements (defined as alterations or changes to the structure, infrastructure or systems of the Premises or costing more than \$75,000) shall require prior written notice and approval of the District, which shall not be unreasonably conditioned, delayed or withheld. If the District fails to respond within thirty (30) days after Charter School's written request for approval of any Improvements, District shall be deemed to have given its approval to such Improvements. For the Project Improvements, Charter School may only make improvements to facilities included within the Project Improvements defined in **Exhibit A-2**, or as specifically required by DSA pursuant to its approvals for the Project Improvements defined in **Exhibit A-2**. Charter School shall be expressly prohibited from making alterations, additions,

improvements, or modifications not exclusively contained within the Project Improvements defined in **Exhibit A-2** except as set forth herein. Improvements shall comply with all applicable legal requirements relating to construction of the Improvements, including, without limitation, Title 24 of the California Code of Regulations, the Education Code (including the Field Act, Education Code §17280, et seq.), the Americans with Disabilities Act, the California Environmental Quality Act and regulations promulgated thereunder. Charter School agrees to bear responsibility for paying for and performing any required upgrades related to disability access triggered by the performance of any work done by Charter School. Charter School shall not uninstall or remove any fixtures or improvements at the Site if such removal or de-installation will materially adversely affect the structure of any of the buildings, without prior written approval of the District.

- 6.2 The Charter School agrees to provide to the District a copy of documentation related to the Project, including requests for proposals, bids/proposals, schematic designs, specifications, work plans, work schedules, change orders, etc. Charter School shall provide and pay for project management for all work performed, subject to compliance and progress reports to the District as requested by the District. Charter School will hire a mutually agreed upon Certified Inspector of Record, at the Charter School's expense, to monitor satisfactory progress and completion of the Project, and to verify that the Project Improvements shall meet applicable requirements of law, contract documents, and District standards and the Charter School's failure to meet these requirements shall be considered a default of its obligations under this Agreement, which the District may enforce through the remedies set forth in Sections 17 and 18 of this Agreement. The District shall hold title to all Improvements and Project Improvements. Charter School shall be responsible for maintaining required fire and smoke detection/alarm systems and all telephone and data communication lines.
- 6.3 All contractors and subcontractors of Charter School, if any, shall be duly licensed in the State of California. Under all circumstances, Charter School must seek and receive approval from the Division of the State Architect for all of Charter School's Improvements to the extent such approval is required by law. The District reserves the right to review Charter School's selection of contractors. Contractors retained by Charter School with respect to the construction or installation of improvements shall be fully licensed and bonded as required by law and must maintain levels of casualty, liability and workers' compensation insurance and performance and payment bonds consistent with construction requirements under the Public Contracts Code. The District shall be named as an additional insured on any applicable insurance policies and bonds. Charter School shall bear full responsibility for ensuring that the construction or installation of improvements shall be performed in a sound and workmanlike manner, in

compliance with all laws applicable to public schools including building codes and prevailing wage laws.

- 6.4 Charter School shall at its own expense obtain all necessary environmental and governmental approvals and permits, including, without limitation, the California Environmental Quality Act ("CEQA"), any necessary approvals from any local authority including any Site, grading, zoning, design review and other required permits or approvals, if applicable, prior to commencing construction and shall provide District with evidence of approval by all applicable governmental agencies. However, the District agrees to act as the Lead Agency for any required CEQA approvals or proceedings, provided, that Charter School shall reimburse District for any reasonable costs associated with serving as Lead Agency. The Parties agree that the Project likely involves the rehabilitation and replacement of existing public school facilities, and to pursue lawful use of the "Class 2" Categorical Exemption from CEQA (14 CCR § 15302). The Parties further agree that it is their intent that the Project shall not increase the original student capacity of the Site by more than twenty-five percent (25%) or ten classrooms, whichever is less, which activity is within the "Class 14" Categorical Exemption from CEQA (14 CCR § 15314), as well as the Class 1 Categorical Exemption (14 CCR § 15301) ("Existing Facilities.") The Parties agree to cooperate in good faith to ensure that the Project remains within the scope of the foregoing Categorical Exemptions to CEQA. The provisions of Article 8 ("Indemnification and Waiver") shall apply without exception in favor of the District to any claims made under CEQA.
- 6.5 Charter School shall be solely responsible for maintaining the Premises and Charter School's Improvements and Project Improvements installed thereon during the Term, including any extensions, and for compliance with all applicable laws or ordinances, rules and regulations. The ongoing daily operations and maintenance of the Premises, Project Improvements, Improvements performed by the Charter School, facilities and equipment on the Site is the responsibility of Charter School. Charter School and Charter School's agents and employees shall observe and comply fully and faithfully with all policies, rules, and regulations adopted by the District for the maintenance, care, protection, and cleanliness, and operation of the Site, Premises, Project Improvements, Improvements performed by the Charter School (except where the District's practice is different from its policies, rules and regulations, in which case the Charter School will comply with the District's practice), and the facilities, furnishings and equipment thereon, and shall comply with all applicable laws. Charter School's students, visitors, and invitees shall observe and comply fully and faithfully with all policies, rules, and regulations adopted by the District for the use and care of the Site.

The Charter School shall bear all major facilities maintenance costs with respect to the buildings and grounds of the Premises. "Major facilities maintenance"

includes but is not limited to all non-routine maintenance, replacement and repair services, including major maintenance and replacement of the plumbing, heating, air-conditioning, electrical, roofing, and floor systems; the exterior and interior painting of school buildings; the inspection, sampling, and analysis of building materials to determine the presence of asbestos-containing materials; the encapsulation or removal of asbestos-containing materials; the inspection, identification, sampling, and analysis of building materials to determine the presence of lead-containing materials; and the control, management, and removal of lead-containing materials.

- 6.6 Charter School shall be solely responsible to make payment for any service or work performed in connection with the design and construction of the Improvements or Project Improvements. Charter School shall be solely responsible for the administration (and resolution) of any claims or disputes that may arise in connection with the design or construction of the Improvements or Project Improvements.
- 6.7 Charter School and any person performing work for construction of the Improvements or Project Improvements shall exercise reasonable precautions to avoid damage and protect persons or property while on the Premises and any adjacent staging area. District assumes no liability for loss or damage to property or injuries to or deaths of agents, contractors, or employees of Charter School by reason of the exercise of privileges given in this section. Charter School shall indemnify and hold District harmless from any damage caused by the Charter School's activities authorized in this section, except to the extent such damage was caused by District's negligence or misconduct. Charter School shall either reimburse the District for any damage or destruction to the Premises, or other property, occurring by reason of the exercise of rights granted, or to replace or restore said property to its preexisting condition.
- 6.8 The Improvements and Project Improvements shall be made by Charter School at its sole expense. The District shall have no obligation to provide to Charter School additional funding for the construction of any Improvements, funding to pay or settle outstanding debts and/or liens attaching to the Improvements or Project Improvements such as, but not limited to, mechanic's liens, taxes or assessments, or funding to operate the charter school.
- 6.9 Within 30 days of the completion of work, Charter School shall cause a Notice of Completion to be recorded in the Office of the Recorder of Santa Clara County in accordance with Section 3093 of the Civil Code or any successor statute, and Charter School shall deliver to the District within 30 days of the recordation of the Notice of Completion a reproducible copy of the "as built" drawings, which will be prepared by the architect to include the initial drawings stamped by the California Division of State Architect plus any subsequent field changes, plus any

subsequent approvals from the California Division of State Architect, if applicable.

6.10 Charter School agrees that all Improvements or Project Improvements constructed under this Article 6, including any mechanical, electrical, plumbing or HVAC facilities or systems shall be in compliance with the Field Act.

6.11 The parties understand that the Premises are owned by the District and therefore are immune to the lien remedies of Civil Code Section 8000 et seq.; the Improvements and Project Improvements are regarded by the Parties as public improvements. Charter School shall, during the term hereof, keep the Premises free from any liens or encumbrances arising out of any work performed, materials furnished or obligations incurred by or on behalf of Charter School, and shall protect, defend, indemnify and hold the District harmless from and against any claims, liabilities, judgments or costs (including, without limitation, reasonable attorneys' fees and costs) arising out of same or in connection therewith. The foregoing indemnity shall survive the expiration or earlier termination of this Agreement for that period of time equivalent to the statute of limitations applicable to any dispute arising under this Agreement.

6.11.1 Charter School shall remove any such lien or encumbrance by bond or otherwise as soon as reasonably possible after receipt of written notice by the District but in any event Charter School shall commence the necessary action to remove such lien or encumbrance within 30 days of Charter School having knowledge of such lien or encumbrance and diligently prosecute to completion the removal of such lien or encumbrance. If Charter School fails to commence the action as required in the foregoing sentence or the District believes that the removal of such lien or encumbrance is not being prosecuted diligently, the District may provide written notice to Charter School and if Charter School cannot cause the lien or encumbrance to be removed within 30 days its receipt of this second notice: (i) the District may pay the amount necessary to remove such lien or encumbrance, without being responsible for investigating the validity thereof; (ii) The amount so paid and the District's actual costs and expenses in handling the matter culminating in the District's payment and release of the lien or encumbrance shall be paid by the Charter School without dispute; and (iii) such lien or encumbrance, regardless of whether it is paid by the District, shall constitute a default under this Agreement (but the remedy for such default shall be solely in damages and such shall not be grounds in itself to terminate this Lease or revoke the Charter School charter). Nothing contained in this Agreement shall authorize Charter School to do any act which shall subject the title to the Premises to any liens or encumbrances whether claimed by operation of law or express or implied contract. Any claim to a lien or

encumbrance upon the Improvements or Project Improvements arising in connection with any such work or respecting the Premises not performed by or at the request of the District shall be null and void, or at the District's option shall attach only against Charter School's interest in the Improvements and shall in all respects be subordinate to the title to the Premises held in trust by the District.

- 6.12 When using state bond funds or CSFP, or if specifically required by law, Charter School must follow all applicable procurement laws; issue requests for proposals to obtain competitive pricing; and adhere to prevailing wage laws. Charter School is encouraged to incorporate Collaborative for High-Performing Schools standards into the design of all improvements to the site and shall comply with all editions of the California Green Building Standards Code. Charter School shall also follow all sustainability guidelines under the Division of the State Architect's 7x7x7: Design Energy Water sustainability initiative.

7. HAZARDOUS SUBSTANCES

- 7.1 Charter School shall comply with all applicable Environmental Laws relating to industrial hygiene and environmental conditions on, under or about the Premises, including but not limited to, air, soil, and ground water conditions. Charter School shall not use Hazardous Substances on, under or about the Premises; provided, however, that Charter School may use normal and customary cleaning solutions and office supplies so long as the use of those solutions and supplies are in quantities and in a manner wholly consistent with all applicable Environmental Laws; and further provided that Charter School may use normal and customary chemicals for classroom use so long as the use of those chemicals are in quantities and in a manner wholly consistent with all applicable school standards. Charter School shall not, nor shall Charter School allow any party to, transport, use, store, maintain, generate, manufacture, handle, dispose, release or discharge any Hazardous Substance upon or about the Premises in violation of Environmental Laws, nor permit any subtenant, employee, agent, invitees or contractor to engage in such activities in violation of Environmental Laws upon or about the Premises, during the Term of the Agreement. District represents that the Premises are safe for operations as a TK-8 public school, that there are no Hazardous Substances on the Premises, and District shall be responsible for the remediation of any Hazardous Substances that were present at the Premises prior to Charter School's occupancy thereof.
- 7.2 Charter School will promptly notify District in writing if Charter School has or acquires notice or knowledge that any Hazardous Substance exists prior to construction or has been or is threatened to be, released, discharged, disposed of, transported, or stored on, in, or under or from the Premises in violation of Environmental Laws. District has disclosed in writing, prior to execution of this

Lease, the District's knowledge, if any, of any Hazardous Substance that has been released, discharged, disposed of, transported, or stored on, in, or under or from the Premises or otherwise exists on the Premises as of the date of delivery of possession to Charter School. District will promptly notify Charter School in writing if District acquires new notice or knowledge during the term of this Lease that any Hazardous Substance that has been released, discharged, disposed of, transported, or stored on, in, or under or from the Premises or otherwise exists on the Premises. Charter School shall promptly provide copies to District of all written assessments, complaints, claims, citations, demands, fines, inquiries, reports, violations or notices relating to the conditions of the Premises or compliance with Environmental Laws. Charter School shall promptly supply the District with copies of all notices, reports, correspondence, and submissions made by Charter School to the United States Environmental Protection Agency, the United States Occupation Safety and Health Administration, and any other local, state, or federal authority that requires submission of any information concerning environmental matters or Hazardous Substances pursuant to Environmental Laws. Charter School shall promptly notify District of any liens threatened or attached against the Premises pursuant to any Environmental Laws.

- 7.3 District and District's agents and employees including, without limitation, legal counsel and environmental consultants and engineers retained by District, may (but without the obligation or duty to do so), at any time and from time to time, on not less than three (3) business days' notice to Charter School (except in the event of an emergency, in which case, only such notice as shall be reasonable under the circumstances will be required) inspect the Premises to determine whether Charter School is complying with Charter School's obligations set forth in this Section, and to perform environmental inspections and samplings, during regular business hours (except in the event of an emergency) or during such other hours as District and Charter School may agree.
- 7.4 Charter School shall indemnify, defend, protect, release, save and hold harmless District from and against any and all Claims arising from any breach of Charter School's covenants under this Section, except to the extent caused by the negligence or misconduct of District. District shall indemnify, defend, protect, release, save and hold harmless Charter School from and against any and all Claims arising from any breach of District's covenants under this Section, except to the extent caused by the negligence or willful misconduct of Charter School.

8. INDEMNIFICATION AND WAIVER

- 8.1 Charter School agrees that the District, its Board of Education, officers, employees, agents, consultants and independent contractors (collectively, "the District Parties") shall not be liable for, and are hereby released from any

responsibility for, any death or injury to person or damage to or destruction of property or resulting from the loss of use thereof, which damage is sustained by Charter School or by other persons claiming through Charter School, arising out of Charter School's performance under this Agreement; provided, that the foregoing release shall not apply to the negligence or misconduct of the District Parties or the District's breach of any obligation or warranty under this Agreement.

- 8.2 Charter School shall indemnify, defend, protect, and hold harmless the District Parties from any and all loss, cost, damage, expense and liability (including without limitation court costs and reasonable attorneys' fees) incurred in connection with or arising from any cause in, on or about the Improvements, any violation of any of the requirements, ordinances, statutes, regulations or other laws, including, without limitation, any environmental laws, by Charter School, or any breach of the terms of this Agreement by Charter School either prior to, during, or after the expiration of the Agreement Term; provided that the terms of the foregoing indemnity shall not apply to the negligence or misconduct of the District Parties or the District's breach of any obligation or warranty under this Agreement.
- 8.3 Should the District be named as a defendant in any suit brought against Charter School in connection with or arising out of Charter School's construction of the Improvements or Project Improvements, or its occupancy or use of the Premises, Charter School shall pay to the District its costs and expenses incurred in such suit, including without limitation, its actual reasonable professional fees such as appraisers', accountants' and attorneys' fees; provided, however, that Charter School shall not be liable for any costs or expenses arising from the District's negligence or misconduct or misconduct of the District Parties or the District's breach of any obligation or warranty under this Agreement.
- 8.4 Further, Charter School's agreement to indemnify the District is not intended and shall not relieve any insurance carrier of its obligations under policies required to be carried by Charter School pursuant to the provisions of this Agreement or the requirements and conditions required by the District as the school district approving the petition of Charter School, to the extent such policies cover the matters subject to Charter School's indemnification obligations.
- 8.5 The provisions of this Article 8 shall survive the expiration or sooner termination of this Agreement.

9. **INSURANCE**

- 9.1 Charter School, at its sole cost and expense, shall observe and comply with the insurance requirements set forth in **Exhibit A-3**, attached hereto and

incorporated herein by reference.

10. DAMAGE AND DESTRUCTION

- 10.1 Charter School shall promptly notify the District of any damage to the Premises resulting from fire, earthquake or any other casualty. In the case of damage or destruction, regardless of the nature of the casualty, Charter School, at its sole cost and expense (even if repair costs exceed insurance proceeds) shall restore, repair, replace, rebuild, or alter all aspects of the Premises and improvements located thereon to as nearly as possible to their value, condition and character immediately prior to such damage or destruction. Charter School shall commence such restoration, repairs, replacements, rebuilding or alterations within 90 days following the occurrence of such damage or destruction and prosecute to completion with due diligence and in good faith. The District and the Charter School shall work together as quickly as possible to provide the Charter School with temporary facilities to accommodate the portion of its program displaced by the damage or destruction during the repair.
- 10.2 The District shall not be liable for any inconvenience or annoyance to Charter School or its visitors, or injury to Charter School's business resulting in any way from such damage or the repair thereof; provided, that the foregoing sentence shall not apply to the extent the District's negligence or misconduct is the cause of such damage or destruction. Charter School shall not be entitled to any compensation or damages from the District for loss of use of the whole or any part of the Premises, or Charter School's personal property used or located at the Premises, or for any inconvenience or annoyance occasioned by such damage or destruction; provided, that the foregoing sentence shall not apply to any damage or destruction caused by the negligence or willful misconduct of the District.
- 10.3 All insurance proceeds, from policies obtained and maintained by Charter School, recovered on account of damage or destruction to the Premises (the "Proceeds") shall be applied to the payment of the cost of repairing, restoring, and replacing the Improvements or Project Improvements so damaged or destroyed and for replacing Charter School's personal property damaged or destroyed (the "Reconstruction"). All Proceeds shall be deposited with a depository selected by Charter School and reasonably acceptable to the District and under the exclusive control of Charter School (the "Depository"). If the Proceeds are insufficient to cover the anticipated cost of Reconstruction, then prior to the commencement of any Reconstruction work Charter School may deposit with the Depository funds in the amount of such deficiency ("Charter School's Funds"), or re-scope the repairs so that they can be covered by Proceeds.

The Depository shall disburse the Proceeds and Charter School's Funds, if applicable, during the course of Reconstruction in accordance with customary

construction disbursements, including a percentage retention upon which the Charter School and the District shall mutually agree. If there are funds remaining after the completion of the Reconstruction in accordance with the terms of this Agreement, then such funds (after first deducting from such funds the fees and expenses of the Depository) shall be delivered to Charter School.

- 10.4 If there is destruction of or damage to the Improvements or Project Improvements or any part thereof or the Premises or any part thereof by earthquake, fire or any other cause, and if the reasonably estimated cost to restore and repair the damage is more than 50% of the replacement cost of the entire Premises with Improvements and Project Improvements, and if insurance proceeds are insufficient to pay at least 90% of the reasonably estimated cost of repair and restoration, then by notice in writing to District, Charter School may terminate this Agreement and such termination shall relieve Charter School from any future obligation to pay all fees, premiums, if applicable, charges, Hold Over Rent, if applicable, or other amounts under this Agreement or from any of its other lease obligations under this Agreement. If Charter School so terminates, it shall pay over to District all Proceeds received as a result of the damage or destruction and assign to District all Proceeds to be so received after payment of the remaining debt owed by Charter School to the State under the CSFP.
- 10.5 The provisions of this Agreement, including this Section, constitute an express agreement between the District and Charter School with respect to any and all damage to, or destruction of, all or any part of the Improvements or Project Improvements, and any statute or regulation of the State of California, including, without limitation, Sections 1932(2) and 1933(4) of the California Civil Code, with respect to any rights or obligations concerning damage or destruction in the absence of an express agreement between the parties, and any other statute or regulation, now or hereafter in effect, shall have no application to this Agreement or any damage or destruction to all or any part of the Improvements or Project Improvements.

11. CONDEMNATION

Charter School hereby waives any and all rights it might otherwise have pursuant to Section 1265.130 of the Code of Civil Procedure.

- 11.1 In the event the Premises is taken by power of eminent domain or condemned by any competent authority for any public or quasi-public purpose, or if the District shall grant a deed or other instrument in lieu of any such taking by eminent domain or condemnation for the Premises (any such events to be referred to herein as a "Full Taking"), this Agreement shall automatically terminate on that date, the Charter School shall be released from any and all payment obligations under Section 5 of this Agreement, and the District will

assume complete financial responsibility for the Premises, whichever shall first occur, when: (i) Charter School completely vacates the Premises and such vacation has been mutually agreed upon by Charter School, the District and the condemning authority; or (ii) a court of competent jurisdiction over the condemnation proceeding issues an Order for Prejudgment Possession ("OPP") or similar order granting possession of the Premises to the condemning entity and the condemning entity exercises its right to possession of the Premises; or (iii) If an OPP is not obtained, the condemnation proceeding is concluded.

11.2 In the event any portion of the Premises is taken by power of eminent domain or condemned by any competent authority for any public or quasi-public purpose, or if any adjacent property or street shall be so taken or condemned, or reconfigured or vacated by such authority in such manner so as to require the use, reconstruction, or remodeling of the Premises, or any portion thereof, or if the District shall grant a deed or other instrument in lieu of any such taking by eminent domain or condemnation for said portion of the Premises (any such events to be referred to herein as a "Partial Taking") the following shall apply:

11.2.1 Any fees and other amounts due and owing to the District under this Agreement shall be abated or reduced as a result of any Partial Taking in direct proportion to the square footage taken by the condemning entity. The abatement or reduction shall not apply to: any insurance premiums or other fees, charges or amounts due and owing that do not correspondingly decrease with the reduction in the size of the Premises.

11.2.2 If the remaining portion of the Premises is such that Charter School cannot reasonably operate its educational programs, Charter School may terminate this Agreement by providing written notice to the District of its intention to do so. Charter School may exercise this right of termination at any time after the condemning entity has commenced action to acquire a portion of the Premises and up to six (6) months after the occurrence of Section 11.1 or 11.2 above. The District discloses that it is allowing Charter School the ability to terminate this Agreement for a period of six (6) months after the occurrence of Section 11.1 or 11.2 to allow Charter School to make a good faith effort to adapt its educational programs to the remaining portion of the Premises. Charter School's written notice of termination shall set forth the date when Charter School shall vacate the remaining portion of the Premises. Charter School's notice of termination shall effectuate a termination of any right to redeem provided in this Agreement.

11.2.3 Award and Payments

11.2.3.1 Regardless of whether it is a Full Taking or Partial Taking, the

District shall be entitled to receive the entire award or payment in connection with the real property underlying the Premises.

11.2.3.2 The District shall receive the entire award or payment in connection with the Premises except that Charter School shall be entitled to any part of the award explicitly designated to compensate it for the unamortized value of its Improvements, including the Project Improvements so that Charter School is able to retire its obligations to the State under the Funding Agreement, to the extent permitted by law.

11.2.3.3 Charter School shall be entitled to any separate award or payment designated by the condemning entity, including, without limitation, for the Full Taking or Partial Taking of Charter School's personal property, interruption to Charter School's business, and relocating expenses, as allowed by law.

12. ASSIGNMENT AND SUBLETTING

12.1 Charter School shall not have the right to assign, mortgage, pledge, hypothecate, encumber, or permit any lien to attach to, or otherwise transfer, this Agreement or any interest hereunder, permit any assignment, or other transfer of this Agreement or any interest hereunder by operation of law, sublet the Premises or any part thereof, or otherwise permit the occupancy or use of the Premises or any part thereof by any persons other than Charter School and its employees and contractors (all of the foregoing are hereinafter sometimes referred to collectively as "Transfers" and any person to whom any Transfer is made or sought to be made is hereinafter sometimes referred to as a "Transferee"), without first procuring the written consent of the District.

12.2 Any Transfer made without the prior written consent of the District shall be null, void and of no effect, and shall constitute a default by Charter School under this Agreement. Any Transferee approved by the District, shall agree at all times to comply with the terms of this Agreement, including, without limitation, the continuous use of the Premises for the purposes set forth in this Agreement. Whether or not the District consents to any proposed Transfer, Charter School shall pay, if applicable, the District's reasonable review and processing fees, as well as any reasonable professional fees (including, without limitation, attorneys', accountants', architects', engineers' and consultants' fees) actually incurred by the party (which shall include the costs or expenses of the Party's employees performing the review and processing if said party does not retain a third party to do so) within 10 business days of Charter School's receipt of the invoice setting forth the expenses.

- 12.3 Charter School shall have the right, with consent from District, to Transfer to an entity meeting the definition, and performing the functions, of an "entity managing a charter school" set forth in Education Code section 47604.1. Nothing in this provision shall preclude Charter School from forming, and transferring to, a California non-profit public benefit corporation or limited liability company whose sole member is a California non-profit public benefit corporation for the purposes of meeting the eligibility requirements under the CSFP (Education Code section 47614.5/SB 740.)
- 12.4 The District shall not unreasonably withhold, condition, or delay its consent to any Transfer upon receipt of request from Charter School.

13. NONWAIVER

- 13.1 No provision of this Agreement shall be deemed waived by either party hereto unless expressly waived in a written instrument signed by a person on behalf of the party waiving the provision. The waiver by either party hereto of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of same or any other term, covenant or condition herein contained.

14. NON-TERMINABILITY

- 14.1 Except as otherwise expressly set forth in this Agreement to the contrary, this Agreement and the rights and obligations of the District or Charter School hereunder shall not be affected by any event or for any reason, including the following: (i) the bankruptcy, insolvency, reorganization, composition, readjustment, liquidation, dissolution or winding-up of, or other proceeding affecting the District, (ii) the exercise of any remedy, including foreclosure, under any mortgage or assignment, (iii) any action with respect to this Agreement (including the disaffirmance hereof) which may be taken by the District, any trustee, receiver or liquidator of the District or any court under the Federal Bankruptcy Code or otherwise, (iv) any interference with Charter School's use of the Premises, provided such interference is not caused or permitted by the District, or (v) market or economic changes.

15. NO MERGER; OWNERSHIP AND REMOVAL OF PERSONAL PROPERTY

- 15.1 The voluntary or other surrender of this Agreement by Charter School, whether accepted by the District or not, or the mutual termination hereof, shall not work as a merger, and at the option of the District shall operate as an assignment to the District of all sub-Agreements or sub-tenancies affecting the Premises or terminate any or all such sublessees or subtenancies.

15.2 Upon the expiration of the Term, or upon any earlier termination of this Agreement, Charter School shall, subject to the provisions of this Article, quit and surrender possession of the Premises to the District in as good order and condition as when Charter School completed the Project Improvements, ordinary wear and tear excepted. Upon such expiration or termination, Charter School shall, without expense to the District, remove or cause to be removed from the Premises all debris and rubbish, and such items of furniture, equipment, business and trade fixtures, free-standing cabinet work, movable partitions and other articles of personal property (including those items attached to the Premises but can easily be removed and the area of attachment repaired) owned by Charter School. Any fixtures or securely attached items may remain.

16. HOLDING OVER

16.1 If Charter School holds over after the expiration of the Term or earlier termination thereof, without the express or implied consent of the District, such tenancy shall be from month-to-month only, and shall not constitute a renewal hereof or an extension for any further term, and in such case rent for such hold over period shall be 110%, of the then current rent for the Premises (the "Hold Over Rent"). Such month-to-month tenancy shall be subject to every other applicable term, covenant and agreement contained herein. Nothing contained in this Section shall be construed as consent by the District to any holding over by Charter School, and the District expressly reserves the right to require Charter School to surrender possession as provided in this Agreement upon the expiration or other termination of this Agreement. If Charter School fails to surrender the Premises upon the expiration or earlier termination of this Agreement, in addition to any other liabilities to the District accruing therefrom, Charter School shall protect, defend, indemnify and hold the District harmless from all losses, costs (including reasonable attorneys' fees) and liability resulting from such failure, including, without limiting the generality of the foregoing, any claims made by any succeeding Charter School or other entity founded upon such failure to surrender and any losses to the District resulting therefrom; provided, that the foregoing indemnification shall not apply to the negligence or willful misconduct of the District.

17. EVENTS OF DEFAULT

The occurrence of any of the following shall constitute a default of this Agreement by Charter School:

17.1 Any failure by Charter School to pay any fee, premium, if applicable, charge or other amounts due and owing under this Agreement, or any part thereof, when due unless such failure is cured within ten (10) calendar days after Charter School's receipt of written notice of default from the District; or

- 17.2 Any failure by Charter School to observe or perform any provision, covenant or condition of this Agreement to be observed or performed by Charter School where such failure continues for 30 days after written notice of default from the District to Charter School; provided, that if the nature of such default is that the same cannot reasonably be cured within a 30 day period, Charter School shall not be deemed to be in default if within said 30 day commences such cure and diligently commences and prosecutes to completion such cure; or
- 17.3 To the extent permitted by law, (i) a general assignment by Charter School or any guarantor of this Agreement for the benefit of creditors, (ii) or the taking of any corporate action in furtherance of bankruptcy or dissolution whether or not there exists any proceeding under an insolvency or bankruptcy law, (iii) or the filing by or against Charter School or any guarantor of any proceeding under an insolvency or bankruptcy law, unless in the case of a proceeding filed against Charter School or any guarantor the same is dismissed within 60 days, (iv) or the appointment of a trustee or receiver to take possession of all or substantially all of the assets of Charter School or any guarantor, unless possession is restored to Charter School or such guarantor within 60 days, (v) or any execution or other judicially authorized seizure of all or substantially all of Charter School's assets located upon the Premises or of Charter School's interest in this Agreement, unless such seizure is discharged within 60 days; or
- 17.4 Abandonment of all or 80% of the indoor spaces other than the gymnasium on the Premises by Charter School during the school year; or
- 17.5 The failure by Charter School to maintain a current and active charter following written notice of default and the time provided in Section 17.2 to cure (after exhaustion of all appeals and remedies).
- 17.6 The District shall bear no financial responsibility for either the Charter School's or the State's financial obligations, including but not limited to payment of the Charter School's Local Matching Share Obligations, or the State's 50% obligation to pay grant funding under the CSFP.

18. REMEDIES UPON DEFAULT

- 18.1 Upon the occurrence of any event of default by Charter School and after the expiration of all notice and cure periods as provided in this Agreement, the District shall have, in addition to any other remedies available to the District at law or in equity, the option to pursue any one or more of the following remedies:
- 18.1.1 Terminate this Agreement, in which event Charter School shall immediately surrender the Premises to the District, and if Charter School

fails to do so, the District may, without prejudice to any other remedy which it may have for possession or arrearages, enter upon and take possession of the Premises and expel or remove Charter School and any other person who may be occupying the Premises or any part thereof, without being liable for prosecution or any claim or damages therefor.

18.1.2 The District shall have the remedy described in California Civil Code Section 1951.4 (lessor may continue Agreement in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has the right to sublet or assign, subject only to reasonable limitations). Accordingly, if the District does not elect to terminate this Agreement on account of any default by Charter School, the District may, from time to time, without terminating this Agreement, enforce all of its rights and remedies under this Agreement, including the right to recover all rent as it becomes due.

18.1.3 The District shall at all times have the rights and remedies (which shall be cumulative with each other and cumulative and in addition to those rights and remedies available hereinabove, or any law or other provision of this Agreement), without prior demand or notice except as required by applicable law, to seek any declaratory, injunctive or other equitable relief, and specifically enforce this Agreement, or restrain or enjoin a violation or breach of any provision hereof.

19. REMEDIES FOR OVERALLOCATION OR UNDERUTILIZATION

19.1 If the Charter School's Average Daily Attendance ("ADA") drops below 400 students in any given school year ("Relevant Year"), the District shall be entitled, in the following school year, to use any over allocated space for its own programs. "Overallocated space" shall not include the Project Improvements or other buildings placed on the Site at the Charter School's expense and shall be defined as follows:

- (a) For Teaching Stations, a number of classrooms determined from the following formula: 400 minus Charter School's actual ADA at the end of the Relevant Year, divided by the District's teaching station to ADA ratio as calculated pursuant to Title 5, California Code of Regulations Section 11969.3(b)(1).
- (b) For Specialized and Non-Teaching Station space, determined by the following formula: 400 minus Charter School's actual ADA at the end of the Relevant Year, multiplied by the square feet to ADA ratio of each kind of specialized and non-teaching station space on the District's comparison school campuses as calculated pursuant to Title 5, California Code of

Regulations Section 11969.3(b)(2) and (3).

- (c) The Charter School and the District shall work together collaboratively to identify the classrooms to be used by the District, and the schedule of specialized and non-teaching station space to be shared, with the goal of minimizing the disruption to both programs.

19.2 If the Charter School's ADA subsequently rises above 400, the Charter School shall be entitled to reclaim the space used by the District for its exclusive use until and if its ADA falls below 400 again, in which case the process set forth in Section 19.1 shall be triggered again.

20. COVENANT OF QUIET ENJOYMENT

20.1 The District covenants that Charter School shall, during the Term, exclusively, peaceably and quietly have, hold and enjoy the Premises subject to the terms, covenants, conditions, provisions and agreements hereof without interference by any persons lawfully claiming by or through the District.

21. COMPLIANCE WITH LAW

21.1 Charter School shall not do anything or suffer anything to be done in or about the Premises which will in any way conflict with any applicable law, statute, ordinance or other governmental or quasi-governmental rule, regulation or requirement now in force or which may hereafter be enacted or promulgated, including, but not limited to, (i) any such measures promulgated by the Department of State Architect, the Department of Toxic Substance Control, and/or the State Department of Education, (ii) any such measures promulgated under the California Environmental Quality Act ("CEQA") or arising from any CEQA proceedings, and (iii) any such measures which relate to Charter School's use of the Premises as a school or which are applicable to the Premises by reason of Charter School being an educational institution. At its sole cost and expense, Charter School shall promptly comply with all such governmental measures, regardless of whether such measures may require structural or non-structural alterations or Improvements to the Premises. Should any standard or regulation now or hereafter be imposed on the District or Charter School in connection with the Premises by a state, federal or local governmental body charged with the establishment, regulation and enforcement of occupational, health or safety standards for employers, employees, school districts or charter schools, then Charter School agrees, at its sole cost and expense, to comply promptly with such standards or regulations. Charter School shall be responsible, at its sole cost and expense, for making all improvements and alterations to the Premises as are required to comply with any applicable law, statute, ordinance or other governmental or quasi-governmental rule, regulation or requirement now in

force or which may hereafter be enacted or promulgated.

22. SIGNAGE

22.1 Charter School may install signage at the Site including, but not limited to, one electronic marquee sign at the Charter School's main entrance stating the Charter School name and other pertinent information, a sign indicating the main office of the Charter School, and other directional signs as appropriate. All other permanent signage larger than six (6) feet by six (6) feet must be approved by the District. At the termination of this Agreement, Charter School shall remove any signs which it has placed on the Site and shall repair any damage caused by the installation or removal of those signs.

23. MISCELLANEOUS PROVISIONS

23.1 No Air Rights. No rights to any view or to light or air over any property, whether belonging to the District or any other person, are granted to Charter School by this Agreement.

23.2 Modification of Agreement. This Agreement may only be modified or amended by written instrument executed by Charter School and the District.

23.3 Time of Essence. Time is of the essence with respect to the performance of every provision of this Agreement in which time of performance is a factor.

23.4 No Warranty. In executing and delivering this Agreement, Charter School has not relied on any representations, warranties or statements of the District which is not set forth herein or in one or more of the exhibits attached hereto.

23.5 Entire Agreement. It is understood and acknowledged that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement constitutes the parties' entire agreement with respect to the use and occupancy of the Premises and supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between the parties hereto or displayed by the District to Charter School with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this Agreement.

23.6 Force Majeure. Notwithstanding anything to the contrary contained in this Agreement, any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain services, labor, or materials or reasonable substitutes therefor, governmental actions, civil commotions, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform (collectively, a "Force Majeure") shall excuse the

performance of such party for a period equal to any such prevention, delay or stoppage and, therefore, if this Agreement specifies a time period for performance of an obligation of either party, that time period shall be extended by the period of any delay in such party's performance caused by a Force Majeure; provided, however, that this Force Majeure exception to timely performance shall not apply to any obligations imposed with regard to amounts due under this Agreement to be paid by Charter School. The delay due to Force Majeure will be calculated using historical data for the site location, general area or similar businesses.

- 23.7 Authority. If Charter School is a corporation, trust or partnership, each individual executing this Agreement on behalf of Charter School hereby represents and warrants that Charter School is a duly formed and existing entity qualified to do business in California and that Charter School has full right and authority to execute and deliver this Agreement and that each person signing on behalf of Charter School is authorized to do so. In such event, Charter School shall, within ten (10) days after execution of this Agreement, deliver to the District satisfactory evidence of such authority and, if a corporation, upon demand by the District, also deliver to the District satisfactory evidence of (i) good standing in Charter School's state of incorporation and (ii) qualification to do business in California.
- 23.8 Drug-Free Workplace. Charter School's employees shall comply with the District's policy of maintaining a drug free workplace by enacting its own policy to maintain a drug free workplace. Neither Charter School nor Charter School's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S.C. § 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at the Site. If Charter School or any employee of Charter School is convicted or pleads nolo contendere to a criminal drug statute violation occurring at the Site, Charter School within five (5) days thereafter shall notify the District. Violation of this provision shall constitute a material breach of this Agreement, but District's remedies for such a violation shall be limited to damages reasonably incurred and shall not result in dispossession of Charter School or termination of this Agreement.
- 23.9 Inspection of Premises. District shall have the right to enter the Premises as set forth in Section 7.3 to conduct inspections of the Premises to insure that proper pest management control and maintenance is being conducted on the Premises. District will act reasonably during the course of any access of the Premises to not disrupt Charter School's classroom and instructional activities.
- 23.10 Notice. Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served and received if given in writing and personally delivered or either deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight

delivery service, email or facsimile transmission, addressed as follows:

District:

Superintendent
Morgan Hill Unified School District
15600 Concord Circle
Morgan Hill, CA 95037
Garciacarmen@mhusd.org

With copy to:

John Yeh
Burke, Williams, & Sorenson, LLP
60 South Market Street, Suite 1000
San Jose, CA 95113
jyeh@bwslaw.com

Charter School:

Executive Director
Charter School of Morgan Hill
9530 Monterey Road
Morgan Hill, CA 95037
pcisewski@csmh.org

With copy to:

Sarah Kollman
Young Minney & Corr, LLP
655 University Avenue, Suite 150
Sacramento, CA 95825
skollman@mycharterlaw.com

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

22.11 Proposition 39. In consideration of the District entering into this multi-year agreement in full satisfaction of the provisions of Proposition 39, Charter School hereby agrees to waive any further right to petition the District for additional space under Proposition 39 for all school years during which the Charter School

occupies the Premises. If this Agreement is terminated, including pursuant to the provisions of Section 10 and Section 11, the District and the Charter School shall work together to provide as quickly as possible the Charter School with alternative, reasonably equivalent facilities to accommodate the Charter School's entire in-District ADA until such time as the Charter School is able to submit a Proposition 39 request for the next cycle, and receive and occupy a District facility pursuant to Proposition 39.

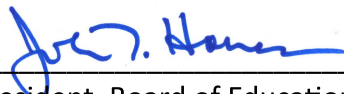
23.12 California Law. This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in Santa Clara County.

23.13 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion. The District certifies to the best of its knowledge and belief that it and its officials are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and Charter School, by signing this contract, certifies that Charter School does not appear on the Excluded Parties List. <https://www.sam.gov/portal/public/SAM>.

23.14 Memorandum of Lease/Further Identification of Premises. Following execution of this Lease, the parties agree that Charter School will, at its sole cost and expense, prepare, and the parties will thereafter execute, acknowledge and record (at Charter School's expense) in the Official Records of Santa Clara County a short form or memorandum of this Lease in form satisfactory to both the District and the Charter School, setting forth the required information relating to the Lease and attaching the property description.

SOUTH VALLEY CHARTER SCHOOL CORPORATION: MORGAN HILL UNIFIED SCHOOL DISTRICT:

Chair, Board of Directors
South Valley Charter School Corporation



President, Board of Education
Morgan Hill Unified School District

Date:

Date: November 1, 2022

EXHIBIT A-1

LEGAL DESCRIPTION OF PREMISES

EXHIBIT A

The land referred to is situated in the County of Santa Clara, City of Morgan Hill, State of California, and is described as follows:

Parcel One:

Beginning at a point marked R at the intersection of the Easterly line of the Monterey Road with the line between lands of Maria Ramelli and lands of William Moir, said point of beginning being North 39° West 20 chs. from the intersection of the Easterly line of the Monterey Road with the line between lands formerly belonging to Williams and lands formerly belonging to Cipriano Fisher; thence along the line between lands of William Moir and lands of Maria Ramelli North 51° 54' East 6.32 chs. to a stake; thence South 39° East 3.1625 chs. to a stake; thence South 51° 54' West 6.32 chs. to a stake in the East line of the Monterey Road; thence North 39° West 3.1625 chs. along the East line of said road to the place of beginning. And being in the most Westerly part of that certain forty acre tract conveyed by deed from S. Albertoli to J. Ramelli, dated [December 4, 1880 and recorded in Book 57 of Deeds, page 550](#), Records of Santa Clara County, California.

Excepting therefrom all that portion conveyed to the State of California by deed recorded [December 28, 1938 in Book 908, Page 395](#), Official Records, and more particularly described as follows:

A portion of that certain 2.00 acre parcel of land in the Rancho La Laguna Seca conveyed to the Encinal School District of Santa Clara County, California, by Mary Ramelli, et al, by deed dated June 29, 1907 and recorded [July 27, 1907 in Book 320 of Deeds, at page 152](#), Records of Santa Clara County, described as follows:

Commencing at the point of intersection of Easterly line of Monterey Road with the line common to the aforesaid 2.00 acre parcel of land and the lands now or formerly of Charles O. Bocks, distant North 51° 47' East 24.46 feet from Engineer's Station 670 + 86.88 of the Department of Public Works' Survey for the relocation of the State Highway from Coyote to Morgan Hill Road IV-SCI-2-B; thence along said common line North 51° 47' East 32.55 feet to a line parallel to and Northeasterly 57.00 feet, measured at right angles, from the center line of said survey; thence along said parallel line South 39° 17' East 209.28 feet to the line common to the said 2.00 acre parcel of land and the lands now or formerly of Ramelli Ranch, Incorporated; thence along the last said common line South 51° 49' West 32.55 feet to the said Easterly line of Monterey Road; thence along said Easterly line North 39° 17' West 209.26 feet to the point of commencement.

Parcel Two:

Beginning at the point of intersection of the Northeasterly line of Monterey Road, as established in the deed from Charles O. Bocks to the State of California, dated February 17, 1938 and recorded [March 10, 1938 in Book 865 of Official Records, at page 261](#), with the Southeasterly line of that certain 38.65 acre tract of land conveyed by Charles O. Bocks, to M. G. Vasey by deed dated November 21, 1911 and recorded [November 21, 1911 in Book 379 of Deeds, at](#)

[page 272](#); thence along said line of Monterey Road North 39° 20' West 100 feet; thence leaving said line of Monterey Road and running parallel with the Southeasterly line of said 38.65 acre tract North 51° 43' East 400 feet; thence parallel with said line of Monterey Road South 39° 20' East 100 feet to the Southeasterly line of said 38.65 acre tract; thence along said Southeasterly line South 51° 43' West 400 feet to the point of beginning and being a portion of the aforementioned 38.65 acre tract of land in the Rancho Laguna Seca.

Parcel Three:

Beginning at a point of intersection of the Northeasterly line of the Monterey Road, as said line was established by a deed from Ramelli Ranch, Inc., a corporation, to State of California by deed dated April 21, 1938 and recorded [June 20, 1938 in Book 879 Official Records, page 403](#), Santa Clara County Records, with the Southeasterly line of that certain 2.00 acre tract of land conveyed by Maria Ramelli, et al, to Encinal School District of Santa Clara County by deed dated June 29, 1907 and recorded [July 27, 1907 in Book 320 of Deeds, page 152](#), Santa Clara County Records, running thence along said Northeasterly line of the Monterey Road South 39° 20' East 188.23 feet; thence leaving said line of the Monterey Road and running North 48° 53' 30" East 578.60 feet; thence North 39° 15' West 368.40 feet to a point on the Southeasterly line of that certain 38.65 acre tract of land conveyed by M. G. Vasey, an unmarried man, to Charles O. Bocks, by deed dated November 21, 1911 and recorded [November 21, 1911 in Book 379 of Deeds, page 272](#); running thence along said Southeasterly line of the 38.65 acre tract South 51° 43' West 214.17 feet to the intersection thereof with the Northeasterly line of the said 2.0 acre tract; thence along said Northeasterly line of the 2.0 acre tract South 39° 20' East 208.72 feet to the most Easterly corner of said 2.0 acre tract; running thence along said Southeasterly line of the 2.0 acre tract South 51° 43' West 364.77 feet to the point of beginning, and being a portion of the Rancho La Laguna Seca.

Parcel Four:

Beginning at a buried 1 inch iron pipe in the Northeasterly line of the State Highway at the most Southerly corner of that certain 3.335 acre parcel of land conveyed to the Encinal School District by deed [recorded in Volume 2398, at page 114](#), Official Records of Santa Clara County, and running thence along the Southeasterly line of said 3.335 acre parcel North 48° 53' 30" East 578.60 feet to a buried 1 inch iron pipe at the most Easterly corner thereof; thence along the Northeasterly line of said 3.335 acre parcel North 39° 15' West 368.40 feet to a buried 1 inch iron pipe at the most Northerly corner thereof in the Northwesterly line of that certain tract of land described in [Book 57 of Deeds, at page 550](#), Santa Clara County Records; thence along said Northwesterly line North 51° 43' East 406.95 feet to a buried 1 inch iron pipe at the most Westerly corner of that certain 33.47 acre parcel of land described in the deed recorded in [Volume 143, at Page 233](#), Official Records of Santa Clara County; thence along the Southwesterly line of said 33.47 acre tract South 66° 20' 48" East 158.39 feet to a 1 inch iron bar (at 0.73 feet on this course is a 1 inch iron bar); thence continuing along said Southwesterly line South 71° 09' East 281.95 feet to a buried 1 inch iron pipe from which a 1 inch iron bar bears South 71° 09' East 70.79 feet; thence South 50° 40' West 1206.93 feet to a buried 1 inch iron pipe in the Northeasterly line of the State Highway as established in the deed to the State of California recorded in [Volume 879, at Page 403](#), Official Records; thence along said Northeasterly highway line North 39° 20' West 40.02 feet to the point of beginning.

APN: 725-12-014



OLD REPUBLIC
TITLE COMPANY

17485 Monterey Street, Ste. 101
Morgan Hill, CA 95037
(408) 779-2166 Fax: (408) 779-0695

PRELIMINARY REPORT

INTERO REAL ESTATE SERVICES
175 E. Main Avenue
Morgan Hill, CA 95037

Attention: KAREN NELSEN

Our Order Number 0625013188-HC

Customer Reference 9530 Monterey Road

When Replying Please Contact:

Heather Cooney
HCooney@ortc.com
* Direct Line (408) 445-3715
(408) 779-2166

Property Address:

9530 Monterey Road, Morgan Hill, CA 95037

In response to the above referenced application for a policy of title insurance, OLD REPUBLIC TITLE COMPANY, as issuing Agent of Old Republic National Title Insurance Company, hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said Policy or Policies are set forth in Exhibit I attached. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the Homeowner's Policy of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Exhibit I. Copies of the Policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit I of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

Dated as of December 5, 2018, at 7:30 AM

OLD REPUBLIC TITLE COMPANY
For Exceptions Shown or Referred to, See Attached

OLD REPUBLIC TITLE COMPANY
ORDER NO. 0625013188-HC

The form of policy of title insurance contemplated by this report is:

CLTA Standard Coverage Policy -1990. A specific request should be made if another form or additional coverage is desired.

The estate or interest in the land hereinafter described or referred or covered by this Report is:

Fee

Title to said estate or interest at the date hereof is vested in:

Morgan Hill Unified School District

The land referred to in this Report is situated in the County of Santa Clara, City of Morgan Hill, State of California, and is described as follows:

Parcel One:

Beginning at a point marked R at the intersection of the Easterly line of the Monterey Road with the line between lands of Maria Ramelli and lands of William Moir, said point of beginning being North 39° West 20 chs. from the intersection of the Easterly line of the Monterey Road with the line between lands formerly belonging to Williams and lands formerly belonging to Cipriano Fisher; thence along the line between lands of William Moir and lands of Maria Ramelli North 51° 54' East 6.32 chs. to a stake; thence South 39° East 3.1625 chs. to a stake; thence South 51° 54' West 6.32 chs. to a stake in the East line of the Monterey Road; thence North 39° West 3.1625 chs. along the East line of said road to the place of beginning. And being in the most Westerly part of that certain forty acre tract conveyed by deed from S. Albertoli to J. Ramelli, dated [December 4, 1880 and recorded in Book 57 of Deeds, page 550](#), Records of Santa Clara County, California.

Excepting therefrom all that portion conveyed to the State of California by deed recorded [December 28, 1938 in Book 908, Page 395](#), Official Records, and more particularly described as follows:

A portion of that certain 2.00 acre parcel of land in the Rancho La Laguna Seca conveyed to the Encinal School District of Santa Clara County, California, by Mary Ramelli, et al, by deed dated June 29, 1907 and recorded [July 27, 1907 in Book 320 of Deeds, at page 152](#), Records of Santa Clara County, described as follows:

Commencing at the point of intersection of Easterly line of Monterey Road with the line common to the aforesaid 2.00 acre parcel of land and the lands now or formerly of Charles O. Bocks, distant North 51° 47' East 24.46 feet from Engineer's Station 670 + 86.88 of the Department of Public Works' Survey for the relocation of the State Highway from Coyote to Morgan Hill Road IV-SCI-2-B; thence along said common line North 51° 47' East 32.55 feet to a line parallel to and Northeasterly 57.00 feet, measured at right angles, from the center line of said survey; thence along said parallel line South 39° 17' East 209.28 feet to the line common to the said 2.00 acre parcel of land and the lands now or formerly of Ramelli Ranch, Incorporated; thence along the last said common line South 51° 49' West 32.55 feet to the said Easterly line of Monterey Road; thence along said Easterly line North 39° 17' West 209.26 feet to the point of commencement.

Parcel Two:

Beginning at the point of intersection of the Northeasterly line of Monterey Road, as established in the deed from Charles O. Bocks to the State of California, dated February 17, 1938 and recorded [March 10, 1938 in Book 865 of Official Records, at page 261](#), with the Southeasterly line of that certain 38.65 acre tract of land

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conveyed by Chares O. Bocks, to M. G. Vasey by deed dated November 21, 1911 and recorded [November 21, 1911 in Book 379 of Deeds, at page 272](#); thence along said line of Monterey Road North 39° 20' West 100 feet; thence leaving said line of Monterey Road and running parallel with the Southeasterly line of said 38.65 acre tract North 51° 43' East 400 feet; thence parallel with said line of Monterey Road South 39° 20' East 100 feet to the Southeasterly line of said 38.65 acre tract; thence along said Southeasterly line South 51° 43' West 400 feet to the point of beginning and being a portion of the aforementioned 38.65 acre tract of land in the Rancho Laguna Seca.

Parcel Three:

Beginning at a point of intersection of the Northeasterly line of the Monterey Road, as said line was established by a deed from Ramelli Ranch, Inc., a corporation, to State of California by deed dated April 21, 1938 and recorded [June 20, 1938 in Book 879 Official Records, page 403](#), Santa Clara County Records, with the Southeasterly line of that certain 2.00 acre tract of land conveyed by Maria Ramelli, et al, to Encinal School District of Santa Clara County by deed dated June 29, 1907 and recorded [July 27, 1907 in Book 320 of Deeds, page 152](#), Santa Clara County Records, running thence along said Northeasterly line of the Monterey Road South 39° 20' East 188.23 feet; thence leaving said line of the Monterey Road and running North 48° 53' 30" East 578.60 feet; thence North 39° 15' West 368.40 feet to a point on the Southeasterly line of that certain 38.65 acre tract of land conveyed by M. G. Vasey, an unmarried man, to Charles O. Bocks, by deed dated November 21, 1911 and recorded [November 21, 1911 in Book 379 of Deeds, page 272](#); running thence along said Southeasterly line of the 38.65 acre tract South 51° 43' West 214.17 feet to the intersection thereof with the Northeasterly line of the said 2.0 acre tract; thence along said Northeasterly line of the 2.0 acre tract South 39° 20' East 208.72 feet to the most Easterly corner of said 2.0 acre tract; running thence along said Southeasterly line of the 2.0 acre tract South 51° 43' West 364.77 feet to the point of beginning, and being a portion of the Rancho La Laguna Seca.

Parcel Four:

Beginning at a buried 1 inch iron pipe in the Northeasterly line of the State Highway at the most Southerly corner of that certain 3.335 acre parcel of land conveyed to the Encinal School District by deed [recorded in Volume 2398, at page 114](#), Official Records of Santa Clara County, and running thence along the Southeasterly line of said 3.335 acre parcel North 48° 53' 30" East 578.60 feet to a buried 1 inch iron pipe at the most Easterly corner thereof; thence along the Northeasterly line of said 3.335 acre parcel North 39° 15' West 368.40 feet to a buried 1 inch iron pipe at the most Northerly corner thereof in the Northwesterly line of that certain tract of land described in [Book 57 of Deeds, at page 550](#), Santa Clara County Records; thence along said Northwesterly line North 51° 43' East 406.95 feet to a buried 1 inch iron pipe at the most Westerly corner of that certain 33.47 acre parcel of land described in the deed recorded in [Volume 143, at Page 233](#), Official Records of Santa Clara County; thence along the Southwesterly line of said 33.47 acre tract South 66° 20' 48" East 158.39 feet to a 1 inch iron bar (at 0.73 feet on this course is a 1 inch iron bar); thence continuing along said Southwesterly line South 71° 09' East 281.95 feet to a buried 1 inch iron pipe from which a 1 inch iron bar bears South 71° 09' East 70.79 feet; thence South 50° 40' West 1206.93 feet to a buried 1 inch iron pipe in the Northeasterly line of the State Highway as established in the deed to the State of California recorded in [Volume 879, at Page 403](#), Official Records; thence along said Northeasterly highway line North 39° 20' West 40.02 feet to the point of beginning.

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At the date hereof exceptions to coverage in addition to the Exceptions and Exclusions in said policy form would be as follows:

1. Taxes and assessments, general and special, which are a lien, whether due, payable, delinquent or otherwise.

NOTE: An examination of these matters is not being done at this time. Upon a specific request to do so, we will supplement our report accordingly.

2. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Section 75, et seq., of the Revenue and Taxation Code of the State of California.

3. EASEMENTS as disclosed by off-record information, as follows:

- A. Anchor easement and Service Lines over the most Northerly portion of said land.
- B. Pole easement, Telephone lines and Anchor easement over the most Northwesterly corner
- C. Service Lines across the Southwesterly portion
- D. Pole easement and Telephone lines along a portion of the Northwesterly and Southwesterly boundaries

4. Lease upon the terms, covenants, and conditions contained therein,

Lessor : Morgan Hill Unified School District
Lessee : Morgan Hill Unified School District School Building, a corporation
Dated : December 1, 1991
Recorded : [December 18, 1991 in Book L971 of Official Records, Page 1839 under Recorder's Serial Number 11170150](#)

Affects this and other property.

NOTE: Modification/amendment of the terms of said lease,

Executed
By and Between : Morgan Hill Unified School District Building Corporation and
Morgan Hill Unified School District
Dated : May 1, 1992
Recorded : [May 27, 1992 in Book M209 of Official Records, Page 1832 under Recorder's Serial Number 11379065](#)

OLD REPUBLIC TITLE COMPANY
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NOTE: Modification/amendment of the terms of said lease,

Executed

By and Between : Morgan Hill Unified School District and Morgan Hill Unified
School District School Building Corporation

Dated : July 1, 1993

Recorded : [July 7, 1993 in Book M871 of Official Records, Page 1909 under
Recorder's Serial Number 11984408](#)

NOTE: The present ownership of said leasehold or leaseholds and other matters
affecting the interest of the lessee or lessees are not shown herein.

5. Lease upon the terms, covenants, and conditions contained therein,

Lessor : Morgan Hill Unified School District

Lessee : Morgan Hill Unified School District School Building, a corporation

Dated : December 1, 1991

Recorded : [December 18, 1991 in Book L971 of Official Records, Page 1853
under Recorder's Serial Number 11170151](#)

Affects this and other property.

Assignment Agreement by and between Morgan Hill Unified School District and Union
Bank recorded December 1, 1991 under [Recorder's Serial Number 11170152](#).

NOTE: Modification/amendment of the terms of said lease,

Executed

By and Between : Morgan Hill Unified School District Building Corporation and
Morgan Hill Unified School District

Dated : May 1, 1992

Recorded : [May 27, 1992 in Book M209 of Official Records, Page 1859
under Recorder's Serial Number 11379066](#)

OLD REPUBLIC TITLE COMPANY
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NOTE: Modification/amendment of the terms of said lease,

Executed

By and Between : Morgan Hill Unified School District and Morgan Hill Unified
School District School Building Corporation

Dated : July 1, 1993

Recorded : [July 7, 1993 in Book M871 of Official Records, Page 1934 under
Recorder's Serial Number 11984409](#)

First Amendment to Assignment Agreement by and between Morgan Hill Unified
School District School Building Corporation and Union Bank recorded [July 7, 1993
under Recorder's Serial Number 11984410](#)

NOTE: The present ownership of said leasehold or leaseholds and other matters
affecting the interest of the lessee or lessees are not shown herein.

6. Any claims of lien that may be recorded against said land by reason of an improvement
thereon or design services provided, as disclosed by Notice of Completion

Recorded : [February 1, 2018 in Official Records under Recorder's Serial Number
23860153](#)

7. Any facts, rights, interests or claims which are not shown by the public records, but which
could be ascertained by making inquiry of the adjacent land owners and those in possession
thereof.

8. Any unrecorded and subsisting leases.

9. Facts which would be disclosed by a comprehensive survey of the premises herein described.

10. Rights or claims of easements not recorded in the public records.

----- **Informational Notes** -----

A. The applicable rate(s) for the policy(s) being offered by this report or commitment appears to be section(s) 1.1 and 2.1.

B. The above numbered report (including any supplements or amendments thereto) is hereby modified and/or supplemented to reflect the following additional items relating to the issuance of an American Land Title Association loan form policy:

NONE

NOTE: Our investigation has been completed and there is located on said land a commercial building known as 9530 Monterey Road, Morgan Hill, CA 95037.

The ALTA loan policy, when issued, will contain the CLTA 100 Endorsement and 116 series Endorsement.

Unless shown elsewhere in the body of this report, there appear of record no transfers or agreements to transfer the land described herein within the last three years prior to the date hereof, except as follows:

NONE

C. NOTE: The last recorded transfer or agreement to transfer the land described herein is as follows:

Instrument

Entitled : Quitclaim Deed
By/From : Morgan Hill Unified School District, who acquired title as Encinal School District of Santa Clara County, State of California, a body politic and corporate
To : Morgan Hill Unified School District
Recorded : [May 27, 1992 in Official Records under Recorder's Serial Number 11379058](#)

D.

NOTICE: FinCEN COMPLIANCE

Closing the residential purchase and/or issuing title insurance contemplated by this Preliminary Report may be subject to compliance with the recently issued Confidential Geographic Targeting Order (GTO) from the US Treasury's Financial Crimes Enforcement Network (FinCEN). The GTO requires Old Republic National Title Insurance Company to report information about certain transactions involving residential property.

FinCEN has the authority to compel this reporting under the USA PATRIOT Act. FinCEN prohibits Old Republic from disclosing the specific terms of the GTO. You may wish to contact the FinCEN Resource Center directly at (800) 767-2825 for more information.

The failure and/or refusal of a party to provide information for a "covered transaction" will preclude Old Republic from closing the transaction and/or issuing title insurance.

O.N.

EXHIBIT A-2

MAP OF THE PROJECT IMPROVEMENTS

THE BARN/AG CR

BUILDING N

DA DRINKING FOUNTAIN
DSA #01-119819

BUILDING R

(E) DA RESTROOM RR
DSA #01-108975

(E) STORAGE CONTAINER 'S1'

DA DRINKING FOUNTAIN
DSA #01-119819

DA DRINKING FOUNTAIN
DSA #01-119819

(E) PLAY STRUCTURE TO REMAIN

(E) PUMP HOUSE

MUSIC

(E) BUILDING H-1
DSA #01-109765

(E) BUILDING H-2
DSA #01-109765

PARKING LOT 'B'

ENRICHMENT

ART

TECH/INNOVATION

DA DRINKING FOUNTAIN
(E) DA DRINKING FOUNTAIN
DSA #01-119819
DSA #66993

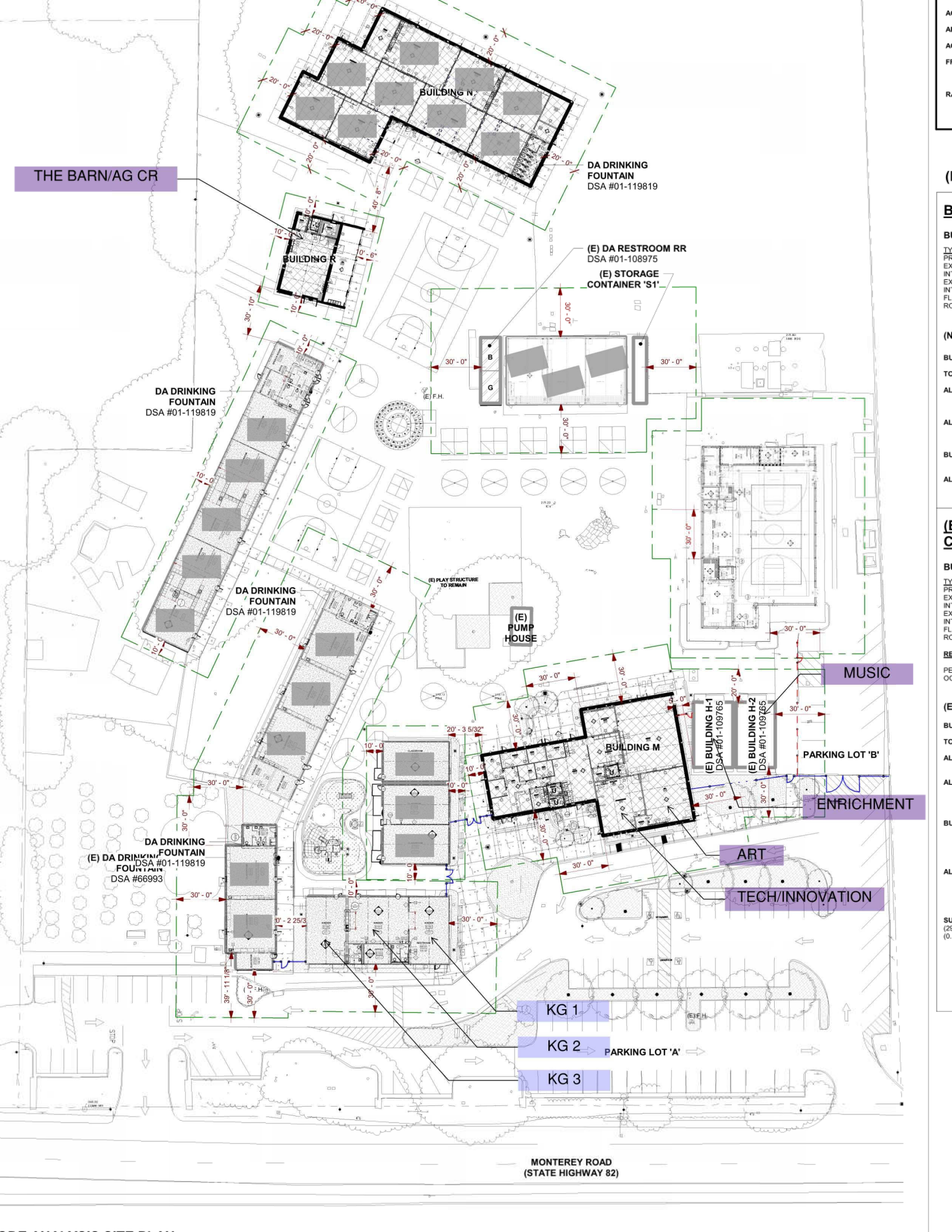
KG 1

KG 2

PARKING LOT 'A'

KG 3

MONTEREY ROAD
(STATE HIGHWAY 82)



9 - New Prop 51 funded CRs, replacing 9 eligible demo'd portables**

1 - New self-funded Ag. Building CR (enrichment)

5 - (E) CRs and support space**





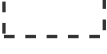
3 - (E) CRs and support space**

1 - (E) CR (Relocated)

2 - (E) CRs and support space**

** (E) Admin + 1 CR converted to: **3 CRs (2 New CRs)**

MONTEREY ROAD

	Prop. 51 Replacements (New Buildings)
	Prop. 51 Modernization (E Buildings)
	Existing Buildings to Remain
	(E) Buildings to be Relocated
	(E) Buildings to be Demolished

Demo'd + Existing CRs 15 + 18 = 33 TOTAL
New + Converted + Existing CRs 12 + 3 + 18 = 33 TOTAL

9 - Demo'd CRs

(E) Relocated Restroom Building

3 - (E) CRs

(E) Gym

2 - Demo'd CRs

2 - (E) CRs

New Prop 51 funded Admin, Library + **2 New CRs**

(E) Library + 1 CR (Relocated) converted to: **2 CRs (1 New CR)**

4 - Demo'd CRs & support space

Demo'd Storage Building

**9 + 13 = 22 (see SAB 50-09)



SCHEMATIC DEVELOPMENT PLAN

CHARTER SCHOOL OF MORGAN HILL

387 S. 1st Street, Suite 300
San Jose, CA., 95113

tel: (408) 300 - 5160
fax: (408) 300 - 5121

JOB NO.

2020008

DATE

11/04/21

EXHIBIT A-3

INSURANCE

- A. Throughout the Term of the Agreement, Charter School shall secure and maintain, as a minimum, all of the insurance as set forth below with a joint powers authority or insurance companies acceptable to the District.
1. Worker's Compensation Insurance in accordance with provisions of the California Labor Code, adequate to protect Charter School from claims under Workers' Compensation Acts which may arise from its operations, including Employers Liability limits of \$1,000,000 per accident/\$1,000,000 per policy/\$1,000,000 per employee.
 2. Commercial General Liability coverage of not less than \$5,000,000 for each occurrence. The policy shall be endorsed to name the District and the Board of Education of the Morgan Hill Unified School District as additional insureds and shall provide specifically that any insurance carried by the District which may be applicable to any claims or loss shall be deemed excess and Charter School's insurance primary despite any conflicting provisions in Charter School's policy. Coverage shall be maintained with no self-insured retention above \$25,000 without approval of the District.
 3. Commercial Auto Liability coverage with limits of \$1,000,000 combined single limit unless Charter School operates bus services for students; provided, that if Charter School is providing any bus services for students, Charter School shall maintain coverage limits not less than \$5,000,000 combined single limit.
 4. Professional Educators Errors and Omissions liability coverage including sexual molestation and abuse coverage (if that coverage is not afforded elsewhere in the CGL or by separate policy) with minimum limits of \$3,000,000 per occurrence.
 5. Insurance covering the loss, damage or destruction of the Premises for 100% of the full replacement cost of the Premises, which shall provide protection against all perils including, but not limited to, fire, extended coverage, vandalism, malicious mischief and causes of loss special form.
- B. Charter School agrees that the following terms and conditions shall also apply to its obligations to secure and maintain insurance coverage during the Term of the Agreement:
1. Charter School understands and agrees that the District may review the insurance coverage maintained by Charter School and/or the insurance requirements of this **Exhibit A-3** at any time during the Term of the Agreement, and may adjust the insurance requirements as the District, in its reasonable discretion, deems appropriate but shall in no case require coverage that is greater than the District provides for itself, as adjusted proportionally for the Charter School's size. Upon receipt of written notice of any

adjustment in the insurance coverage required under this Agreement, Charter School shall deliver evidence of compliance with said insurance requirements within 10 days of Charter School's receipt of the written notice.

2. No coverage shall be provided to Charter School by the District under any of the District's self-insured programs or commercial insurance policies. The District shall not have any obligation to secure insurance coverage for Charter School.
3. Charter School's insurance coverage shall be primary and any insurance carried by the District that may be applicable to any claims or loss shall be deemed excess despite any conflicting provisions in the insurance coverages maintained by Charter School.
4. Coverages and limits of insurance may be accomplished through individual primary policies or through a combination of primary and excess policies.
5. Within 10 days of Charter School's execution of the Agreement, Charter School shall furnish to the District's Business Services evidence of insurance in compliance with this **Exhibit A-3**. If Charter School fails to submit evidence of insurance in compliance with this **Exhibit A-3** or the District determines the Charter School has not complied with the Insurance requirements set forth in this **Exhibit A-3**, the District and/or the State may deny the occupancy and use of the Premises until Charter School provides satisfactory evidence of compliance or the District and/or the State may declare Charter School in default of the Agreement.

Thereafter, Charter School shall furnish to the District within 30 days of all new policies inception, renewals or changes, certificates of such insurance signed by an authorized representative of the insurance carrier.

6. Nothing in this **Exhibit A-3** shall prohibit Charter School, at its sole cost and expense, from purchasing and maintaining additional insurance coverage for damage or theft to the Premises, personal property, business interruption, employee or student property, for student accident or any other type of insurance coverage not listed above in 1 through 5, inclusive, of Section A.