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File ID Number	14-1131
Introduction Date	May 28, 2014
Enactment Number	14-0921
Enactment Date	5-28-14



OAKLAND UNIFIED  
SCHOOL DISTRICT

Community Schools, Thriving Students

# Memo

**To** Board of Education

**From** Dr. Gary Yee, Superintendent  
Jacqueline Minor, General counsel

**Board Meeting Date** May 28, 2014

**Subject** **AGREEMENT FOR THE REHABILITATION OF HAWTHORNE CAMPUS**

**Action Requested** **APPROVAL OF AGREEMENT FOR THE REHABILITATION OF HAWTHORNE CAMPUS**

**Background**  
*A one paragraph explanation .*

Education for Change ("EFC") is requesting authorization from the District to submit an application for California School Facility Program ("CSFP") funds to rehabilitate the Hawthorne campus which is currently used by EFC to accommodate Achieve Academy. Specifically, EFC desires to rehabilitate the existing portables numbered from 41-49 and the three portables currently occupied by the East Bay Agencies for Children and one portable occupied by La Clinica de Rosa, and to replace the portables with interconnected modular buildings where feasible or a stand-alone modular building where not feasible. Under State law, , a charter school applying to the CSFP on its own behalf must submit an agreement between the school district and the charter school for the use of the facilities to be rehabilitated. The agreement must also be discussed and approved by the Board of Education at a noticed, public board meeting.

**Discussion** If EFC's application is approved, the preliminary timeline for the project is as follows:

- CSFP applications due on Friday, May 30, 2014
- OPSC staff to review applications for completeness and additional information if needed, June 1-August 31, 2014
- CSFA to review for financial soundness, June 1- August 31, 2014
- OPSC to issue 15-day letter, September 1, 2014
- Charter to respond to any outstanding items, September 15, 2014
- State Allocation Board Approval of preliminary apportionments, December 3, 2014



- Charter has 4 years, with one year extension available, to obtain DSA, CDE, DTSC, and CEQA approvals, December 3, 2019
- Charter must submit full funding application for construction apportionment no later than December 3, 2019.

This is a long term effort. In addition, the agreement provides for District approval of design and construction plans.

**Recommendation**

**APPROVAL OF AGREEMENT FOR THE REHABILITATION OF THE HAWTHORNE CAMPUS**

**Fiscal Impact**

No funds involved

**Attachments**

- **AGREEMENT FOR THE REHABILITATION OF THE HAWTHORNE CAMPUS**

## **AGREEMENT FOR THE REHABILITATION AGREEMENT OF HAWTHORNE CAMPUS**

This Agreement is made by and between Oakland Unified School District, a school district duly formed and existing under the laws of the State of California ("District") and Education for Change ("EFC"), a California non-profit public benefit corporation that operates Achieve Academy, that formed and approved by the District Board of Education under the laws of the Charter School Act of 1992 (Education ("Ed") Code §§ 47600 et seq.) (the "Act").

### **RECITALS**

**WHEREAS**, the Charter School Facilities Program, California Education Code section 17078.52 et seq. ("CSFP") provides funding to charter schools for permanent school facilities;

**WHEREAS**, the passage of Propositions 47, 55 and 1D have made \$900-million available to charter schools for the construction of new facilities or rehabilitation of existing school district facilities through the state-funded California School Facility Program ("CSFP"), which is jointly administered by the California School Finance Authority and the Office of Public School Construction;

**WHEREAS**, the District is the title holder and owner of the property located at 1700 28<sup>th</sup> Avenue, Oakland, California 94601 ("1700 28<sup>th</sup>"), known as the Hawthorne campus, in the City of Oakland, County of Alameda;

**WHEREAS**, EFC notified the District of its desire to submit an application for CSFP funds to rehabilitate 1700 28<sup>th</sup>, which is currently used by EFC to accommodate Achieve Academy, as permitted by its charter petition and its facilities use agreement. Specifically, EFC desires to rehabilitate the existing portables numbered from 41-49 and the three portables currently occupied by the East Bay Agencies for Children and one portable occupied by La Clinica de Rosa, and to replace the portables with interconnected modular buildings where feasible or a stand-alone modular building where not feasible;

**WHEREAS**, if EFC's application is approved, the preliminary timeline for the project is as follows:

- CSFP applications due on Friday, May 30, 2014
- OPSC staff to review applications for completeness and additional information if needed, June 1-August 31, 2014
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- Charter must submit full funding application for construction apportionment no later than December 3, 2019.

**WHEREAS**, pursuant to Section 1859.163.4, Title 2, Division 2, Chapter 3, Subchapter 4, Subgroup 3.5 of the California Code of Regulations, a charter school applying to the CSFP on its own behalf must submit an agreement between the school district and the charter school for the use of the facilities to be rehabilitated. The agreement must have been discussed and approved by the Board of Education at a noticed, public board meeting;

**NOW, THEREFORE**, for the covenants and other good consideration had and received, the parties hereto agree as follows:

1. EFC represents it will submit to the State of California (“State”) Office of Public School Construction an application requesting CSFP funding for rehabilitation of 1700 28<sup>th</sup>. EFC further acknowledges and agrees that EFC is responsible for the required match, which is equal to the entitlement awarded.

2. Subject to prior District approval of design and construction plans and Department of State Architect approval of the same if applicable, the District agrees with, grants permission for, and approves of the rehabilitation of 1700 28<sup>th</sup> that is contemplated by this Agreement and for which EFC intends to submit an application to the State to request CSFP funding, and approves EFC’s submission of its application to the State to request CSFP funding for the purposes outlined herein.

3. Waiver. The waiver by the District and/or EFC of any term, covenant or condition herein contained shall not be deemed to be a waiver of any other term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained.

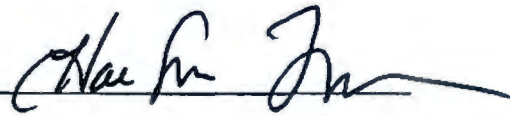
4. No Assignment. EFC shall not assign any of its rights or delegate any of its obligations under this Agreement to any individual or entity without the prior written consent of the District, which consent may be given or withheld in the District’s sole discretion.

5. Prior Agreements. This Agreement contains all of the agreements of the Parties hereto with respect to any matter covered or mentioned in this Agreement, and no prior agreements or understanding pertaining to any such matters shall be effective for any purpose. No provision of this Agreement may be amended or added to except by an agreement in writing signed by the Parties hereto or their respective successors in interest. This Agreement shall not be effective or binding on any party until fully executed by both Parties hereto. Nothing in this Agreement shall supersede or modify the Charter or any MOU between the Parties.

6. Severability. Any provision of this Agreement that proves to be invalid, void, or illegal shall in no way affect, impair or invalidate any other provision hereof and such other provision shall remain in full force and effect.


DISTRICT AND EFC have signed this Agreement on the dates set forth below.

**Education for Change**

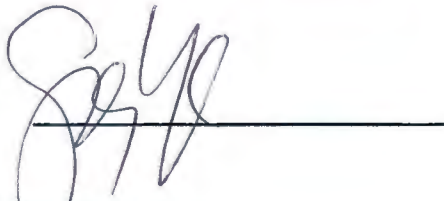
By: 

Name: Hae-Sin Thomas  
(Print)  
Title: CEO

**Oakland Unified School District**

By: 


Name: David Kakishiba  
Title: President, Board of Education

By: 

Name: Dr. Gary Yee  
Title: Superintendent & Board Secretary



Approved as to Form

  
Jacqueline P. Minor  
General Counsel

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By:

**AGREEMENT FOR THE REHABILITATION AGREEMENT OF HAWTHORNE  
CAMPUS**



Approved this 28<sup>th</sup> day of May, 2014 by the Governing Board of the Oakland Unified School District by the following vote:

YES: 6 Jody London, Jumoke Hinton Hodge, Roseann Torres,  
Christopher Dobbins, Vice President James Harris  
and President David Kakishiba

NOES: 0 None

Abstentions: 0 None

Absent: 1 Anne Campbell Washington

  
\_\_\_\_\_  
Superintendent and Secretary to the Governing Board