



March 6, 2015

Binding Letter of Intent to Enter Into In Lieu of Proposition 39 Agreement with Roses in Concrete Community Charter School

The Oakland Unified School District (the "District") affirms its intent to enter into an In Lieu of Proposition 39 Joint Use Agreement ("Agreement") with Roses in Concrete Community Charter School ("RiC"), for the use of the OUSD site located at 4551 Steele Street, Oakland, CA 94619 ("Premises") to commence June 30, 2015. RiC will provide students with a challenging, engaging, and community responsive education that equips them with the knowledge, skills, and community sensibilities they will need to succeed in college, in their careers, and in their contributions as agents of change for communities like East Oakland. RiC will be a lab school that will support the District in its effort to create pipelines of urban teachers and urban leaders to increase the flow of highly qualified educators of color into District schools.

The Parties, in entering into this Binding Letter of Intent, agree as follows:

1. Condition of Premises.

- a. The Premises are leased to RiC on an "AS IS" basis. District shall not be required to make or construct any alterations including structural changes, additions or improvements to the Premises. By entry and taking possession of the Premises pursuant to this Agreement, RiC accepts the Premises in "AS IS" condition.
- b. RiC acknowledges that neither District nor District's agents have made any representation or warranty as to the suitability of the Premises for RiC's Activities.

2. Title to School Site(s) /Classroom Buildings. The Parties acknowledge that title to the Premises is held by District

3. Premises: The OUSD site located at 4551 Steele Street, Oakland, CA 94619, specifically the area designated on Attachment A. The Premises include portables A-K, T, U, V, Y, Z, AA and the four (4) classrooms inside the main building (along with exclusive use of all spaces in the main building and yard).

4. Use: Public Charter School

5. Agreement Term: The Term shall be five (5) years, for the period from June 30, 2015 to July 1, 2020, subject to earlier termination if RiC's program ceases to operate after a revocation, nonrenewal or surrender of the charter to the granting agency, and all appeals have been exhausted. If the Parties wish to renew this Agreement after expiration of the Term, this can only be done by a separate writing executed by the Parties that complies with Education Code section

17534(b) (which requires capital outlay improvements by RiC to exceed the term beyond five (5) years)

6. **Early Occupancy:** The Parties acknowledge that OUSD employees currently occupy the Premises. The District anticipates the employees will be relocated no later than June 15, 2015 and that RiC shall have early access to the Premises no later than June 15, 2015 to conduct deferred maintenance and repairs related to environmental, life and fire safety, and to make minor improvements to finishes, fixtures, wiring and paint, and to install furniture, carpet and equipment. The Parties acknowledge that RiC needs access to the Premises as soon as possible in order to begin needed repairs and maintenance. The District will work with RiC to develop a schedule of staged work such that some identified repairs and maintenance may begin before June 15, 2015.

7. **Agreement Commencement: June 30, 2015**

8. **Facility Use Fee:** \$3.80 per square foot, based upon the square footage per year in the chart below. For year one, the square footage is 29,484. After year one, the square foot usage is as follows:

Year	Square Footage	
2	31,284	(a)
3	34,164	(b)
4	37,044	(c)
5	40,884	(d)

(a) Assuming the library space is available or three new portables must be added in year 2

(b) Assuming three new portables are added in year 3

(c) Assuming three new portables are added in year 4

(d) Assuming four new portables are added in year 5

As provided in Sections 12 a and b below, RiC will receive a credit of four year's Facility Use Fees. The Facility Use Fee payable in Year 5 shall be based on the Prop 39 rate or equivalent then in effect times the Year 5 square footage.

9. **Payment Schedule:** Each year's rent shall be paid in four installments: 25% by October 1, 25% by December 1, 25% by April 1, and 25% by July 1.
10. **Custodial Services:** In consideration for entering into an in lieu Proposition 39 Agreement, RiC may, at its option, self-procure custodial services during the term of this Agreement.
11. **Utilities:** Utility charges are not included in the Facility Use Fee. RiC shall pay for all utility charges. Utility costs may not be deducted from the Facility Use Fee for purposes of Section 12a) below.

12. Maintenance, Repairs and Tenant Improvements: The Parties have identified certain maintenance and repairs that are necessary to make the premises usable by RiC for its intended purpose. The repairs are delineated on Attachment B, which is incorporated into this Agreement. With respect to the repairs on Attachment B, the Parties agree as follows:

- a) The District will agree to deduct from the rent an amount not to exceed three year's Facility Use Fee, using the 2015-16 Proposition 39 annual rate, for the costs of improvements identified by RiC as necessary to make the Premises usable by RiC (the "credit"). The credit may be used for tenant improvements, repairs, maintenance, furnishings and technology upgrades, products and services.
- b) The District has identified on Attachment B certain work that the District is responsible for undertaking. The Parties agree that in lieu of the District performing said work, the District will provide RiC a credit of one additional year Facility Use Fee based on the 2018-19 Prop 39 rate and the 2018-19 square footage. The additional credit includes an agreed amount to cover the cost of utilities for Year 1 of the Facility Use Term (the 2015-16 school year) during which the Library will be occupied by one District staff member. In the event RiC does not have the full and exclusive use of the Library by July 1, 2016, the Parties agree to extend the utility credit for the duration of the time the Library is in use by the District.
- c) All improvement work undertaken and completed by RiC against the credit shall be with licensed contractors, selected by RiC and/or by supervised by licensed contractors and performed according to applicable California law. Under all circumstances, RiC must seek and receive approval from the Division of the State Architect for all of RiC's Improvements to the extent such approval is required by law.
- d) All construction must meet code requirements, including fire.
- e) RiC is responsible for compliance with CEQA, if applicable.

13. Maintenance and Repairs during the Term of the Agreement

RiC agrees to provide, at its own cost and expense, any and all maintenance for the Premises. Maintenance to be provided by RiC shall be consistent with the normal maintenance levels and shall insure safe and healthful use. RiC agrees that nothing in either this provision for Maintenance and Repairs or in any other provision of this Agreement shall preclude RiC from participating in any future District policy that may be adopted regarding the administration of District-wide custodial services for District facilities.

14. Indemnification

RiC shall indemnify and hold the District and its Board, administrators, employees, agents, volunteers, and subcontractors ("Indemnities") harmless against all liability, loss, damage and expense (including reasonable attorneys' fees) resulting from or arising out of the maintenance, construction or repair work undertaken by RiC or on behalf of RiC prior to occupancy of the premises, to the extent that such loss, expense, damage or liability was caused by negligence or willful misconduct of RiC, including, without limitation, its agents, employees, subcontractors or anyone employed directly or indirectly by RiC (excluding Indemnities).

15. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary

Exclusion: The District certifies to the best of its knowledge and belief, that it and its principals: Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or CONTRACTOR according to Federal Acquisition Regulation Subpart 9.4, and by signing this contract, verifies that this vendor does not appear on the Excluded Parties List.

<https://www.sam.gov/portal/public/SAM>

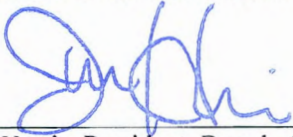
16. Building Access:

RiC shall have access to the Premises for planning and inspection purposes upon execution of the Binding Letter of Intent by the District and RiC, with 24 hours advance notification to the District.

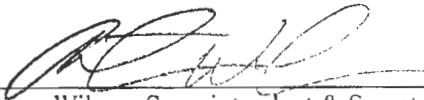
17. Final Agreement

The Parties agree that the Binding Letter of Intent to Enter Into In Lieu of Proposition 39 Agreement with Roses in Concrete Community Charter School shall be executed no later than March 7, 2015 and shall be approved by the OUSD Board of Education at its meeting on March 11, 2015.

OAKLAND UNIFIED SCHOOL DISTRICT



James Harris, President, Board of Education

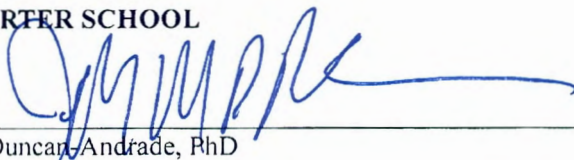


Antwan Wilson, Superintendent & Secretary, Board of Education

APPROVED AS TO FORM:

Jacqueline Minor, General Counsel

CHARTER SCHOOL

By: 
Jeff Duncan-Andrade, RhD

Title: Board Chair

File ID Number: 15-0452
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