

Board Office Use: <b>Legislative File Info.</b>	
File ID Number	22-0563
Introduction Date	3-23-22
Enactment Number	22-0535
Enactment Date	3-23-2022 CJH



# Board Cover Memorandum

**To** Board of Education

**From** Kyla Johnson-Trammell, Superintendent  
Curtiss Sarikey, Chief of Staff  
Kelly Krag-Arnold, Deputy Director, Office of Charter Schools

**Meeting Date** March 23, 2022

**Subject** First Addendum to Charter School Facilities Program Use Agreement For Education for Change Public Schools – Lazear Charter Academy

---

**Ask of the Board** Approval by the Board of Education of the First Addendum to Charter School Facilities Program Use Agreement For education for Change Public Schools – Lazear Charter Academy

**Background** Lazear Charter School is in a 20-year Prop 51 lease, with two 10-year extensions at the option of Lazear, which began on July 1, 2015, at the Lazear Campus, located at 824 29<sup>th</sup> Avenue. The lease was approved by the OUSD Board on November 4, 2015.

The lease states that following the completion of the Prop 51 construction, Lazear and OUSD will renegotiate the annual rent for the remaining years of the lease. All Prop 51 construction on the campus is now complete. To pay for this construction, Lazear took out a \$2,700,000 loan from the State, which was matched by a State grant for \$2,700,000. Lazear will begin to pay back the loan upon completion of construction. The total cost of construction for Lazear was approximately \$17,800,000.

**Discussion** The fee structure in this addendum is very similar to the fee structure that the Board previously approved for Achieve, Aspire Berkeley Maynard, and LPS R&D.

**Fiscal Impact** Through Prop 51, the charter school invested approximately \$17,800,000 in construction costs at the Lazear site. The District continues to hold the title to the property.

Anticipated revenue of \$24,339.88 for 2022-23, calculated as 0.50% of the 2020-21 LCFF of \$4,867,976.00.

The payment structure in the addendum for the remainder of the lease is as follows:

School Year	Lease Years	Fees Paid for In-District Students	Fees Paid for Out-of-District Students (if >10% of enrollment)
2021-22 to 2029-30	Years 7-15	0.50% of revenue	0.95% of revenue
2030-31 to 2039-40	Years 16-25	0.75% of revenue	1.20% of revenue
2040-41 to 2049-50	Years 26-35	1.00% of revenue	1.45% of revenue
2050-51 and beyond	Years 36+	2.00% of revenue	2.45% of revenue

**Attachment(s)**

- First Addendum

FIRST ADDENDUM TO CHARTER SCHOOL FACILITIES PROGRAM  
USE AGREEMENT FOR  
EDUCATION FOR CHANGE PUBLIC SCHOOLS – LAZEAR CHARTER ACADEMY

The 2015 Charter School Facilities Program Use Agreement (“Use Agreement”), ratified on November 4, 2015, by and between OAKLAND UNIFIED SCHOOL DISTRICT (“OUSD” or “District”) and EDUCATION FOR CHANGE PUBLIC SCHOOLS – LAZEAR CHARTER ACADEMY, a charter school authorized by the Alameda County Board of Education (“Charter School”), is hereby modified and amended as follows. All other terms of the Use Agreement remain unchanged and in full force and effect and apply to the terms set forth in this First Addendum. All defined terms herein shall have the same meaning set forth in the Use Agreement.

This First Addendum confirms the Parties’ compliance with Provision 3.1.2 of the Use Agreement, to “meet to fairly renegotiate an annual rent for the remaining years” of the Use Agreement, and memorializes the negotiated terms of the Parties.

Charter School shall pay “rent” as a facilities use fee, payable to the District’s general fund.

Starting in the 2021-22 fiscal year and continuing through the 2054-55 fiscal year, Charter School shall pay the following facilities use fee on a yearly basis:

- (a) Starting in the 2021-2022 fiscal year, Charter School shall pay a fee in the amount of 0.5% of the yearly revenue of the Charter School, as defined in Education Code section 47613, subdivision (f).
- (b) Starting in the 2030-31 fiscal year, Charter School shall pay a fee in the amount of 0.75% of the yearly revenue of the Charter School, as defined in Education Code section 47613, subdivision (f).
- (c) Starting in the 2040-41 fiscal year, the Charter School shall pay a fee in the amount of 1% of the yearly revenue of the Charter School, as defined in Education Code section 47613, subdivision (f).
- (d) Starting in the 2050-51 fiscal year, the Charter School shall pay a fee in the amount of 2% of the yearly revenue of the Charter School, as defined in Education Code section 47613, subdivision (f).

However, for any school year in which the percentage of out-of-district students enrolled at Charter School is greater than ten percent (10%) on “Census Day” of that school year, the yearly facilities use fee shall be calculated as follows: 1) Fees shall be calculated pursuant to (a) through (d), above, for the percentage of enrollment that comprise in-District students, and 2) Fees shall be calculated pursuant to (e) through (h), below, for the percentage of enrollment that comprise out of District students.

- (e) Starting in the 2021-2022 fiscal year, Charter School shall pay a fee in the amount of 0.95% of the yearly revenue of the Charter School, as defined in Education Code section 47613, subdivision (f).
- (f) Starting in the 2030-2031 fiscal year, Charter School shall pay a fee in the amount of 1.2% of the yearly revenue of the Charter School, as defined by Education Code section 47613, subdivision (f).
- (g) Starting in the 2040-2041 fiscal year, Charter School shall pay a fee in the amount of 1.45% of the yearly revenue of the Charter school, as defined by Education Code section 47613, subdivision (f).

(h) Starting in the 2050-2051 fiscal year, Charter School shall pay a fee in the amount of 2.45% of the yearly revenue of the Charter School, as defined by Education Code section 47613, subdivision (f).

As an example but not as a limitation, if in the 2025-26 school year the Charter School's enrollment is comprised of 80% in-District enrollment and 20% out of District enrollment, the Charter School's yearly facilities use fee shall be calculated by 1) multiplying the yearly revenue of the Charter School, as defined by Education Code section 47613, subdivision (f), for the 80% of students who are in-District by .5%, 2) multiplying the yearly revenue of the Charter School, as defined by Education Code section 47613, subdivision (f) for the 20% of students who are out of District by .95%, and 3) adding these two amounts together.

Notwithstanding the facilities use fees specified pursuant to (a) through (h) above or the percentage of out-of-district students enrolled at Charter School, if, during the term of the Use Agreement, the Charter School has fully repaid its debt to the State of California through the CSFP, Charter School shall pay to OUSD a yearly facilities use fee of 2% of the yearly revenue of the Charter School, as defined in Education Code section 47613, subdivision (f), for all in-district enrollment attending Charter School (prorated accordingly), and shall pay to OUSD a facilities use fee on a yearly basis of 2.45% of the yearly revenue of the Charter School, as defined in Education Code section 47613, subdivision (f), for all out-of-district enrollment attending Charter School (prorated accordingly).

The payments described in above shall be made in quarterly installments payable, upon invoice by OUSD, as follows:

- July 1st
- October 1st
- January 1st
- April 1st

Notwithstanding the payment schedule above, for the 2021-2022 fiscal year, Charter School will make its 2021-22 payment in two installments, upon invoice by OUSD, on February 1st and July 1st, 2022.

IN WITNESS WHEREOF, the PARTIES hereto agree and execute this First Addendum and to be bound by its terms and conditions:

**CHARTER SCHOOL/EDUCATION FOR CHANGE**

Name: Sundar Chari Signature: 

Position: Chief Strategy Officer Date: 03.07.2022

**OUSD**

Name: Gary Yee Signature: 

Position: Board President Date: 3-24-2022

Name: Kyla Johnson-Trammell Signature: 

Position: Secretary, Board of Education Date: 3-24-2022

  
Approve as to form by  
Joshua Daniels on March 18, 2022