

Board Office Use: Legislative File Info.	
File ID Number	15-1611
Introduction Date	8/26/2015
Enactment Number	15-1383
Enactment Date	8/26/15 <i>en</i>

OFFICE OF THE GENERAL COUNSEL



OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education

From David Montes, Deputy Chief
Jacqueline P. Minor, General Counsel

Board Meeting Date August 26, 2015

Subject **Amendment No. 2 of the Facilities Letter of Agreement EFC at Achieve Academy**

Action Requested **Approval of Amendment No. 2 to the Facilities Letter of Agreement Education for Change at Achieve Academy**

Background and Discussion Achieve Academy (and World Academy) is located at the former Hawthorne campus located at 1700 28th Avenue, Oakland. The purpose of the amendment is to extend the Agreement to September 30, 2018 as per one of the requirements for EFC to receive California School Facilities Program ("CSFP") to make improvements at the site.

Recommendation **Approval of Amendment No. 2 to the Facilities Letter of Agreement Education for Change at Achieve Academy**

Fiscal Impact Facility Use Fee will continue for an additional year

Attachment Amendment No. 2 to Agreement

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**AMENDMENT NO. 2
TO THE
FACILITIES LETTER OF AGREEMENT
BETWEEN
THE OAKLAND UNIFIED SCHOOL DISTRICT
AND
EDUCATION FOR CHANGE FOR ACHIEVE ACADEMY**


By Enactment Number 12-1384 on June 13, 2012, the Board of Education approved the Facility Use Letter of Agreement with Education for Change on behalf of Achieve Academy (and World Academy) for the use of the Hawthorne campus located at 1700 28th Avenue, Oakland.

The Parties hereby agree to amend said Agreement as follows:


1. The term is extended for one additional year, to expire on September 30, 2018 to meet the requirements of the Facility Use Agreement that supports Education for Change use of California School Facilities Program ("CSFP") funds to capital improvements on the campus;
2. During the period from July 1, 2017 to September 30, 2018, the facilities use fee shall increase by five percent (5%) over the fee paid by EFC in the fiscal year prior to the renewal term under this Amendment 2.
3. Except as expressly provided above, the Agreement is unchanged.

This Amendment No. 2 between Education for Change and the District constitutes the entire understanding and agreement between the Parties. All understandings, agreements, covenants, representations and warranties, express or implied, oral or written between are contained and merged herein. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made by or between the Parties concerning the subject matter hereof. This is an integrated agreement. It may not be altered, modified or otherwise changed in any respect except in a writing signed by each party.


IN WITNESS WHEREOF, the parties hereto agreed to be bound and have executed this Amendment to the Agreement originally approved by the Oakland Unified School District Board of Education on June 13, 2012.



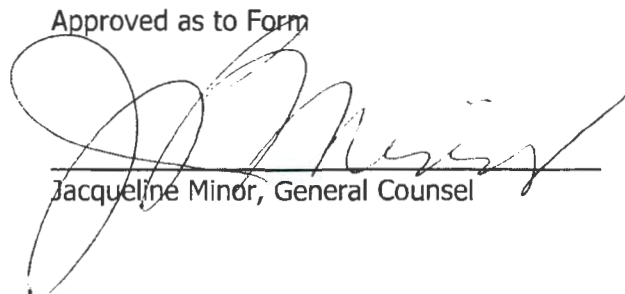
Fabiola Harvey
Chief Operations Officer




President, Board of Education
Oakland Unified School District



Secretary, Board of Education
Oakland Unified School District

Approved as to Form


Jacqueline Minor, General Counsel

File ID Number: 15-1611
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By: 

**OAKLAND UNIFIED SCHOOL DISTRICT
Office of the Superintendent**

June 13, 2012

Legislative File

File ID No.: 12-1577

Introduction Date: 06-13-2012

Enactment No.: 12-1484

Enactment Date: 6-13-12

By

TO: Board of Education

FROM: Dr. Anthony Smith, Superintendent
Timothy E. White, Assistant Superintendent of Facilities Planning and Management,
Building & Grounds, and Custodial Services

SUBJECT: Amendment to Letter of Agreement for Use of District Facilities
by Education for Change World and Achieve Academies

ACTION REQUESTED:

Approve the proposed First Amendment to Letter of Agreement by and between Oakland Unified School District and Education for Change Regarding World Academy and Achieve Academy in order to, among other things, extend the term of the agreement for an additional five years (through June 30, 2017) and to incorporate additional provisions required by District policies and/or applicable California laws and regulations.

SUMMARY:

The District and Education for Change entered into a Letter of Agreement ("Agreement") dated July 1, 2007, for the use of the real property located at 1700 28th Avenue, Oakland, California (Hawthorne campus). That agreement contains an option to renew the agreement for one five (5) year renewal term, under the same conditions as the initial term, with a 5% increase in the facility fee. Education for Change has exercised its option to renew and the proposed first amendment effectuates the renewal, with substitution of a new schedule reflecting the increased base contract fee and re-calculated debt relief payment.

BACKGROUND:

On September 26, 2007, the State Administrator approved Letters of Agreement for use of OUSD facilities for seven (7) charter schools operating within the District. Among those agreements was an agreement for use of OUSD's Hawthorne campus by Education for Change's charter schools World Academy and Achieve Academy. The term of the agreement was for five (5) years effective July 1, 2007.

Included in the approved Letter of Agreement for the World and Achieve Academies is a clause providing an option to renew for one (1) additional five (5) year term, which reads as follows:

EFC shall have the right to renew this Agreement for one (1) five (5) year renewal term. To exercise this option EFC shall provide written notice to OUSD no later than the expiration of the term of the Agreement. Unless agreed otherwise, the renewed term shall be under the same conditions as the initial term, except, that in the absence of a mutually agreeable facilities fee increase, OUSD shall be allowed to increase the facilities fee by five percent (5%) over the fee paid by EFC in the fiscal year prior to the renewal term. The parties may negotiate new terms in good faith after the initial five year term of the LOA and the one 5-year renewal term.

Education for Change has duly exercised its option for an extension of the term of the facility agreement. The proposed amendment documents the extension and substitutes a new fee schedule consistent with the terms of the agreement.

RECOMMENDATION:

Staff recommends approval of the First Amendment to Letter of Agreement by and between Oakland Unified School District and Education for Change Regarding World Academy and Achieve Academy.

**FIRST AMENDMENT
TO
LETTER OF AGREEMENT BY AND BETWEEN OAKLAND UNIFIED SCHOOL DISTRICT AND EDUCATION FOR CHANGE
REGARDING WORLD ACADEMY AND ACHIEVE ACADEMY**

This First Amendment To Letter of Agreement ("Amendment") is made and entered into June 13, 2012, between Oakland Unified School District, a public school district of the State of California ("District") and Education for Change known as World Academy and Achieve Academy, (collectively "Charter School").

RECITALS

A. District and Charter School entered into a Letter Agreement ("Agreement") date July 1, 2007, for the Charter School's use of the real property located at 1700 28th Avenue, Oakland, California ("Premises").

B. District and Charter School intend to amend the Agreement to, among other things, extend the term of the Agreement, and to incorporate additional provisions required by District policies and/or applicable California laws and regulations, subject to the terms and conditions set forth herein.

AGREEMENT

NOW THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, District and Charter School agree as follows:

1. **Extension of Term.** District and Charter School hereby agree to renew the term of the Agreement for an additional five (5) year term, commencing July 1, 2012, and expiring June 30, 2017 ("Extended Term"), subject to all the terms and conditions of the Agreement as hereby amended.

2. **Components of Annual Fees.** During the Extended Term, Charter School shall pay District an annual Contract Fee for the use of facilities and certain overarching services provided by District. The annual Contract Fee for the Extended Term is attached hereto as Table 1.

3. **Board Approval.** In accordance with Education Code Section 17604, this Amendment is not valid or an enforceable obligation against the District until approved or ratified by motion of the governing board duly passed and adopted.

4. **Amendments to Agreement.**

a. Paragraph VIII. Option to Renew Term in the Agreement is hereby deleted in its entirety.

b. Table 1- OUSD Annual Fees attached to the Agreement is hereby deleted in its entirety and replaced.

5. **Miscellaneous.** This Amendment may be executed in any number of counterparts all of which when taken together shall constitute one and the same document. Except as expressly modified by this Amendment, all other terms and provisions of the Agreement are in full force and effect. In the event of any inconsistency between the terms of this Amendment and the Agreement, the terms of this Amendment shall govern and control. This Amendment shall be governed and construed in accordance with the laws of the State of California.

The parties hereto have executed this Amendment as of the date set forth above.

The parties hereto have executed this Amendment as of the date set forth above.

OAKLAND UNIFIED SCHOOL DISTRICT

Jody London
Jody London, President, Board of Education

6/19/12
Date

Edgar Rakestraw, Jr.
Edgar Rakestraw, Jr., Secretary, Board of Education

6/19/12
Date

EDUCATION FOR CHANGE

Fabiola Harvey
By: Fabiola Harvey
Its: Chief operating officer

6/8/12
Date

APPROVED AS TO FORM:

Jacqueline Minor
Jacqueline Minor, General Counsel

6/19/12
Date

OUSD or the District verifies that
the Contractor does not appear on
the Excluded Parties List
at www.epls.gov/epls/search.do

File ID Number: 12-1577
Introduction Date: 6-13-12
Enactment Number: 12-1484
Enactment Date: 6-13-12
By: dz

FIRST AMENDMENT TO LETTER OF AGREEMENT

Table I – OUSD Annual Fees

**EFC- World Academy and Achieve Academy
1700 28th Avenue, Oakland California 94601**

	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017
<i>Components of Annual Fees</i>					
Square Footage	59,443	59,443	59,443	59,443	59,443
Annual Rate per Square Foot	\$1.05	\$1.05	\$1.05	\$1.05	\$1.05
Total Base Contract Fee	\$62,415.15	\$62,415.15	\$62,415.15	\$62,415.15	\$62,415.15
Enrollment In Space¹	710	710	710	710	710
Debt Relief Payment per ADA	\$165.65	\$165.65	\$165.65	\$165.65	\$165.65
Total Debt Relief Payments	\$117,611.50	\$117,611.50	\$117,611.50	\$117,611.50	\$117,611.50
TOTAL ANNUAL FEE	\$180,026.65	\$180,026.65	\$180,026.65	\$180,026.65	\$180,026.65

¹Estimates; actual figures to be adjusted per section IV.A.3.
Revised May 2012