

FACILITIES USE AGREEMENT

This Facilities Use Agreement ("Agreement") is made by and between Sacramento City Unified School District ("District") and St. HOPE Public Schools, California non-profit public benefit corporation ("Non-Profit"), which operates Sacramento Charter High School, Public School No. 7, and Oak Park Preparatory School, chartered schools (Singularly or collectively, the "Charter Schools"). The Non-Profit and District are collectively referred to as the "Parties."

RECITALS

- A. WHEREAS, the District and its charter schools are partners in the public education of students and it is the District's intent to ensure that its facilities are shared equally with all of its students, including those students who attend its charter schools housed in District facilities.
- B. WHEREAS, District is the owner of certain real property located at 5201 Strawberry Lane and 2315 34th Street, Sacramento, California ("Sites").
- C. WHEREAS, the Charter Schools are charter schools duly formed and approved by the District under the laws of the Charter Schools Act of 1992 (Education Code §§ 47600, seq) PS7 serves students in grades Kindergarten through 8th grade in the 2012-2013 to

2. Facilities

Use of the Facilities shall be for the purposes set forth in the Charter Schools' charter, and on the terms and conditions set forth therein. The Charter Schools shall not have exclusive use of the Sites. The District grants use to the Non-Profit of the facilities located at the 34th Street S

b. A master scheduling meeting (“Master Scheduling Meeting”) shall occur no later than thirty (30) days prior to the District’s use of the Co-location Space or Shared Use Areas. At the Master Scheduling Meeting, the Parties shall agree upon a master schedule. The Master Scheduling Meeting will consist of the Charter Schools’ Superintendent designee of the schools, and the District’s Chief Accountability Officer or his/her designee. The agreed-upon master schedule will supersede any previously developed schedules.

c. When creating the tentative and master schedules, (i) the Charter Schools will receive priority for regular use of the Shared Use Areas of the field house and locker rooms and the pavilion gym building and locker rooms, but the District would have use for no less than 2 hours per day between 8 a.m. and 3 p.m.; and (ii) the District will receive priority for regular use of the Shared Use Areas of the Annex 1, 2 and 3, the Auditorium building (including Auditorium classrooms 1, 2 and 3), and the Mel Lawson Theater, but the Charter Schools, collectively, would have use for no less than 2 hours per day between 8 a.m. and 3 p.m.. Any remaining time for these Shared Use Areas will be available for third-party use consistent with the District’s procedures and policies.

d. To the extent that there are times when the Shared Use Areas are not scheduled for use by either party, the Shared Use Areas shall be made available on a first-come, first-serve basis from the time a request is submitted. Requests for use of the Shared Use Areas will be submitted by a party in writing to the other party and shall designate the time, date, number of hours, number of participants and type of use of the Shared Use Areas. No requests shall be made more than sixty (60) days in advance. The District shall confirm that the requested use is approved in a timely manner. Under mutual consent, the Parties will open the master calendar for any scheduling exceptions that may occur.

3. Term

The term of this Agreement shall be from July 1, 2012 to June 30, 2017 (“Term”), unless earlier terminated as provided herein.

4. Facilities Use Fee

Each and every school year, NBN Profit shall pay District a Facilities Use Fee. Facilities Use Fees shall be paid out in equal installments each month throughout the respective school year within the Term. Beginning on July 1, 2012, payments shall be payable on or in advance on the first day of each month (“Due Date”) in lawful money of the United States.

The calculation for the 2012-2013 school year and terms of Facilities Use Fee payments, are further described with more particularity in Exhibit C, attached hereto and incorporated herein. These fees will be calculated and adjusted annually by the District.

The Facility Use Fee shall be based on a pro rata cost estimate per square foot for the Facilities provided. The dollar amount to be paid by Non-Profit, per square foot, for use of the Facilities during the Term will be calculated by the District pursuant to Title 5, California Code of Regulations, section 119697. To calculate the fee, the District must determine actual facilities costs and total space figures in the year preceding the fiscal year in which facilities are provided. Such amounts may only become available to the District after each fiscal year ends. Therefore, within ninety (90) days of the beginning of each fiscal year, or as soon as the actual facilities costs and total space figures for the prior fiscal year become available, whichever is later, the District shall provide notice to the Non-Profit of any amended Facilities Use Fee calculations based on the actual data for the prior fiscal year. Amounts owed by the Non-Profit due to this calculation will be credited or added to subsequent remaining monthly installment payments of the Facilities Use Fees.

If any payment is made more than fifteen (15) days after the Due Date, a late fee of one percent (1%) shall apply and interest shall accrue thereafter on such late payment commencing thirty (30) days after the Due Date, provided however that no interest shall accrue on said late fee. The interest charged shall be computed at the then-current discount rate established by the Federal Reserve Bank of San Francisco plus five percent (5%), or the maximum rate permitted by law. The payment by Non-Profit of any late fees or interest shall in no event excuse or constitute default by Non-Profit nor waive District's legal rights and remedies with respect to such default.

The Parties agree that the Facilities Use Fee is in lieu of Non-Profit paying a pro rata share for in-district students and actual costs for out-of-district students.

5. [Not used.]

6. Dispute Resolution

The Parties agree to attempt to resolve all

contents of the Facilities (unless the District gives its prior approval and the Non-Profit pays any increased premium as a result of such acts), or cause a cancellation of any insurance policy covering the Facilities or any part thereof or any of its contents, nor shall the Charter Schools sell or permit to be kept, used, or sold or about the Facilities any articles which may be prohibited by a standard form policy of life insurance. The Charter Schools shall provide adequate and appropriate supervision for Charter School students and employees using the Facilities.

the Non-Profit payment of the Facilities Use Fee to the District pursuant to Section 4 of this Agreement. Within one hundred twenty (20) days after the expiration of each school year, or earlier termination of this Agreement, the District shall provide the Non-Profit with a reconciliation of the Non-Profit's actual utility usage throughout the Term and the cost thereof. The District shall either refund the Non-Profit for any overpayment or shall invoice the Non-Profit for any underpayment. The Non-Profit shall reimburse the District for such underpayment, if any, within thirty (30) days after receipt of said invoice.

The Charter Schools shall comply with all District energy conservation policies in regard to use of the Facilities, as amended from time to time, including, but not limited to, Board Policy 3511 and the District's Energy Education program.

10. Proposition 39/Conditions Reasonably Equivalent

a. Non-Profit acknowledges by execution of the Agreement that the Facilities provided by the Agreement are "reasonably equivalent," that term is defined by Proposition 39. Non-Profit agrees that upon execution of this Agreement, all obligations of the District to the Non-Profit and Charter Schools under Proposition 39 have been satisfied for the Term of the Agreement.

b. Non-Profit acknowledges and agrees that neither the District nor any of its agents have made, and the District hereby disclaims any representations or warranties, express or implied, concerning the premises, the physical environmental condition of the premises or any other property beneath, adjacent or otherwise related to the premises.

11. Custodial Services

Custodial services shall be provided by the District pursuant to the terms and conditions as defined in Exhibit D.

12. Signage

The Charter Schools shall be allowed to place signage on the exterior of the Facilities. The District will keep its own signage exhibited at the Site, identifying the school as operated or formerly operated by the District. The District shall have final approval over the design, content and location of Charter Schools' signage, but shall not unreasonably deny such design, content or location. The Charter Schools must remove the signage upon termination of this Agreement. The Charter Schools must restore the Facilities, following removal of the signage, to the condition existing prior to installation of the signage to District's reasonable satisfaction. All such signage shall be subject to compliance with all applicable laws at Non-Profit

The District may impose, as a condition to the aforesaid consent, such requirements as the District may deem necessary in its sole discretion, including without limitation, the manner in which the work is done, a right of approval of the contractor by whom the work is to be performed, and the time during which it is to be accomplished.

Should the Charter Schools fail to obtain prior written consent of the District's Superintendent or his designee for Improvements, the Charter Schools shall, upon written request by the District, immediately cease making Improvements until such written consent is obtained, and the Charter Schools shall bear any costs, expenses and liabilities associated with the work stoppage.

Should the Charter Schools fail to contract and perform the Improvements in accordance with the Construction Standards or fail to adhere to the conditions to the District's consent as described above, the District may, in its sole option, direct that the Charter Schools immediately cease making such Improvements.

operations do not suffer unreasonable interference. The District agrees to use its best efforts at all times to keep any interference to the academic programs at Charter Schools to a minimum. The Charter Schools waive any claim for damages for any inconvenience to or interference with the Charter Schools' business, any loss or use of quiet enjoyment of the Facilities related to the District's entry for the purposes identified in this Section.

16. Employees, Contractors and Independent Contractors

The Charter Schools and the District, its employees, agents, contractors and subcontractors shall comply with the requirements of Education Code Sections 45125.1 and 45125.2 related to access to the Facilities and protection of minor students.

17. Indemnity

The Charter Schools, individually and collectively, shall indemnify, hold harmless, and defend the District, its Board of Trustees, the members of its Board of Trustees, officers, employees and agents against and from any and all claims, demands, actions, suits, losses, liabilities, expenses and costs for any injury, death or damage to any person or property arising from the Charter Schools' use of the Facilities, excepting those claims, demands, actions, suits, losses, liabilities, expenses and costs arising from the negligent or intentional acts of the District, its employees, agents, officers and invitees.

The Charter Schools shall further indemnify, hold harmless, and defend the District, its Board of Trustees, the members of its Board of Trustees, officers, employees and agents against and from any and all claims arising from any breach or default in the performance of any obligation on the individual or collective Charter Schools' part to be performed under the terms of this Agreement, and from all costs, attorney's fees, and liabilities incurred in or about the defense of any such claim or any action or proceeding brought thereon.

The District shall indemnify, hold harmless, and defend the Charter Schools, their trustees, officers, and agents against and from any and all claims, demands, actions, suits, losses, liabilities, expenses and costs for any injury, death or damage to any person or property arising from the District's conduct of business at the Facilities, excepting those claims, demands, actions, suits, losses, liabilities, expenses and costs arising from the negligent or intentional acts of the Charter Schools, their employees, agents, officers and invitees.

The District shall further indemnify, hold harmless, and defend the Charter Schools against and from any and all claims arising from any breach or default in the performance of any obligation on the District's part to be performed under the terms of this Agreement, and from all costs, attorney's fees, and liabilities incurred in or about the defense of any such claim or any action or proceeding brought thereon.

Upon becoming aware of any casualty or accident on the Facilities, each Party to this Agreement shall give prompt written notice thereof to the other Party.

In the event of a third party claim or potential claim covered by these provisions, the Parties agree to take all steps reasonable

areas.

25. Default by Non-Profit.

Agreement, the law shall prevail, and any conflicting terms shall be severed from this Agreement and nullified. In the event of conflict between the terms of the charter and the terms of this Agreement, the terms of this Agreement shall prevail. The Parties shall meet and confer to determine how to correct any conflicts so this Agreement complies with the Charter.

j. No Admission Except as expressly agreed hereinafter, nothing contained herein shall constitute an admission of fact or law.

k. Binding Obligation If and to the extent that the Non-Profit is a separate legal entity from the District, the Non-Profit expressly agrees that this Agreement is a binding obligation on the Non-Profit and the Charter Schools and the District agrees that this Agreement is a binding obligation on the District.

l. 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 a

o. Execution in Counterparts This Agreement may be executed in counterparts, each of which shall constitute an original of the Agreement. Signatures transmitted via facsimile or portable document format ("pdf") to other Parties to this Agreement shall be deemed equivalent to original signatures on counterparts.

p. Warranty of Authority Each of the persons signing this Agreement represents and warrants that such person has been duly authorized to sign this Agreement on behalf of the Party indicated, and each of the Parties by signing this Agreement warrants and represents that such Party is legally authorized and entitled to enter into this Agreement.

Non-Profit and Charter Schools

District

By: _____
Jim Scheible
Superintendent

By: _____
Jonathan P. Raymond,
Superintendent

Date: _____

Date: _____

Approved and ratified this _____ day of _____, 2012, by the Board of Education of the Sacramento City Unified School District by the following vote:

AYES:

NOES:

Abstentions:

Secretary to the Board of Education

Exhibit A – Description and Square Footage of Facilities

School Name: Sacramento High School
 School Code: 550
 Site Area: 26.12 Acres
 Year Built: 1937, 1967 & 1974
 A.P.N. 010-0010-002
 Address: 2315 - 34th Street, Sacramento, CA 95817

Bldg/Room Code	Classroom No.	Room Use	Area	Year Built/Modernized	DSA #	<u>St Hope Public Schools</u>	<u>PS 7</u>
Bldg.001	West Wing			1974	36964		
A-13	W-1	Reception	880			880	
A-36B	W-10	Student Center	485			485	
A-36F	W-11	Computer Classroom	449			449	
A-54	W-12	Classroom	1,249				1,249
A-109B	W-13	Storage	56				56
A-110	W-13	Mens	90				90
A-109	W-13	Womens	108				108
757				757			
938				938			
908				908			
908				908			
880				880			
141			141				
142			142				
288			288				
876				876			
A-35	W-31	Classroom	878				878
A-34	W-33	Classroom	881			881	
A-28A	W-34A	Conference Room	288			288	

Bldg/Room Code	Classroom No.	Room Use	Area	Year Built/Modernized	DSA #
A-25	W-7	Classroom	879		
A-26	W-8	Computer Classroom	1,216		
A-32	W-9	Classroom	1,028		
A-107B		Janitor	38		
A-102B		Custodian	50		
A-104		Mens	52		
A-51E		Electrical Room	68		
A-36A		Hallway	69		
A-13B		Vault	74		
A-103		Womens	78		
A-43B		Storage	98		
A-108		Womens	118		
A-36E		Librarian	141		
A-107		Mens	142		
A-51B		Custodian	142		
A-43		Storage	144		
A-36C		Work Room	190		
A-102		Girls	204		
A-36D		A.V. Room	215		
A-51C		MDF Room	238		
A-51A		Clerk	340		
A-101		Boys	399		
A-63		Corridor	493		
A-65		Corridor	579		
A-61C		Corridor	609		
A-62		Corridor	733		
A-66		Corridor	767		
A-61A		Corridor	947		
A-61B		Corridor	1,047		
A-64		Corridor	1,062		
		Unspecified	1,193		
A-36		Media Center/Library	5,398		
A-51		Book Room	1,752		
A-60		Corridor	2,060		
A-51C	W-15A	Reception	93		
A-08	W-4	Office	116		
A-07	W-4	Office	134		
A-51D	W-15B	VP.	142		
A-05	W-4	Parent Center	143		
A-06	W-4	Waiting Room	160		
A-22	W-5	Counselor	164		
A-20	W-5	Counselor	165		
A-21	W-5	Counselor	169		
A-23	W-5	Guidance Counselor	510		
A-30	W-32B	Reception	279		
A-29	W-32A	Principal	297		
BUILDING AREA TOTAL			59,999		
COVERED WALKWAYS			-		
CLASSROOMS			32		

St Hope
Public
Schools

PS 7

879
1,216
1,028
38
50
52
68
69
74
78
98
118
141
142
142
144
190
204
215
238
340
399
493
579
609
733
767
947
1,047
1,062
1,193
5,398
1,752
2,060
93
116
134
142
143
160
164
165
169
510
279
297

93

142

Bldg. 002	Commons			1974	36964
B-1		Multi-use	16,412		
B-2		Storage	181		
B-2		Kitchen	125		
B-2		Storage	92		
B-2		Clock Tower	1,024		
B-2		Serving	1,816		
B-3		Snack Bar	184		
B-4		Scullery	173		
B-5		Storage	25		

16,412
181
125
92
1,024
1,816
184
173
25

Bldg/Room Code	Classroom No.	Room Use	Area	Year Built/Modernized	DSA #
C-50	E-27	Art Classroom	877		
C-52	E-28	Art Classroom	908		
C-53	E-29	Art Classroom	938		
C-51	E-30	Art Classroom	906		
C-46	E-30/E-31	Kiln Room	135		
C-46	E-30/E-31	Storage	154		
C-39	E-31	Ceramic Lab	1,521		
C-26	E-32	Classroom	1,212		
C-07	E-34	Science Lab	1,366		
C-06	E-35	Classroom	907		
C-05	E-36	Science Lab	1,693		
C-03	E-37	Classroom	909		
C-02	E-38	Classroom	910		
C-01	E-39	Classroom	937		
C-41B	E-4	Office	431		
C-09	E-40	Classroom	905		
C-31A	E-42	Office	459		
C-41A	E-5	Office	431		
C-42A		Custodian	25		
C-105A		Women	31		
C-106A		Men	31		
		IDF	52		
C-14A		Custodian	66		
C-45A		Custodian	93		
C-106		Boys	146		
C-105		Girls	147		
C-14C		Girls	149		
C-14B		Boys	171		
C-49		Event Center	6,782		
BUILDING AREA TOTAL			56,433		
COVERED WALKWAYS			1,980		
CLASSROOMS			35		

St Hope
Public
Schools

877
908
938
906
135
154
1,521
1,212
1,366
907
1,693
909
910
937
431
905
459
431
25
31
31
52
66
93
146
147
149
171
6,782
1,980

PS 7

Bldg. 004	Auditorium		1937	2772
1st Floor				
		Corridors	2,258	2,258
		Foyer	260	260
		Stairs	433	433
		Stage	4,248	4,248
		Assembly	6,390	6,390
		Storage	3,177	3,177
		Toilets	573	573
		Practice Room	613	613
	Aud 303	Classroom	1,044	1,044
	Aud 301	Classroom	1,044	1,044
Subtotal 1st Floor			20,040	
Mezzanine Level				
		Corridors	165	165
		Stairs	156	156
		Toilets	330	330
		Storage	165	165
Subtotal Mezzanine Level			816	
2nd Floor				
		Stairs	366	366
		Foyer	230	230
		Storage	500	500



Bldg/Room Code	Classroom No.	Room Use	Area	Year Built/Modernized	DSA #
TW60		Toilet (Men)	247		
ZBX1		Tickets	88		
CR0P		Storage	445		
		Refreshments	231		
SS86		Storage	179		
R010		Dressing Rm	325		

St Hope
Public
Schools

PS 7

247

88

445

231

179

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Bldg/Room Code	Classroom No.	Room Use	Area	Year Built/Modernized	DSA #
		Corridor	1,933		
J703		Custodian	73		
G700		Gymnasium	7,651		
		Unaccounted	230		
BUILDING AREA TOTAL			25,450		
COVERED WALKWAYS			-		
CLASSROOMS			-		

<u>St Hope</u>	<u>PS 7</u>
<u>Public</u>	
<u>Schools</u>	
1,933	
73	
7,651	
230	
-	

Bldg. 008 Pool Building 1967 29154

Locker Rooms	1,748	1,748
Toilets	520	520
Showers	923	923
Office	871	871



Exhibit B – Map of Sacramento High School Campus Facilities/Buildings and Other Property

STREET

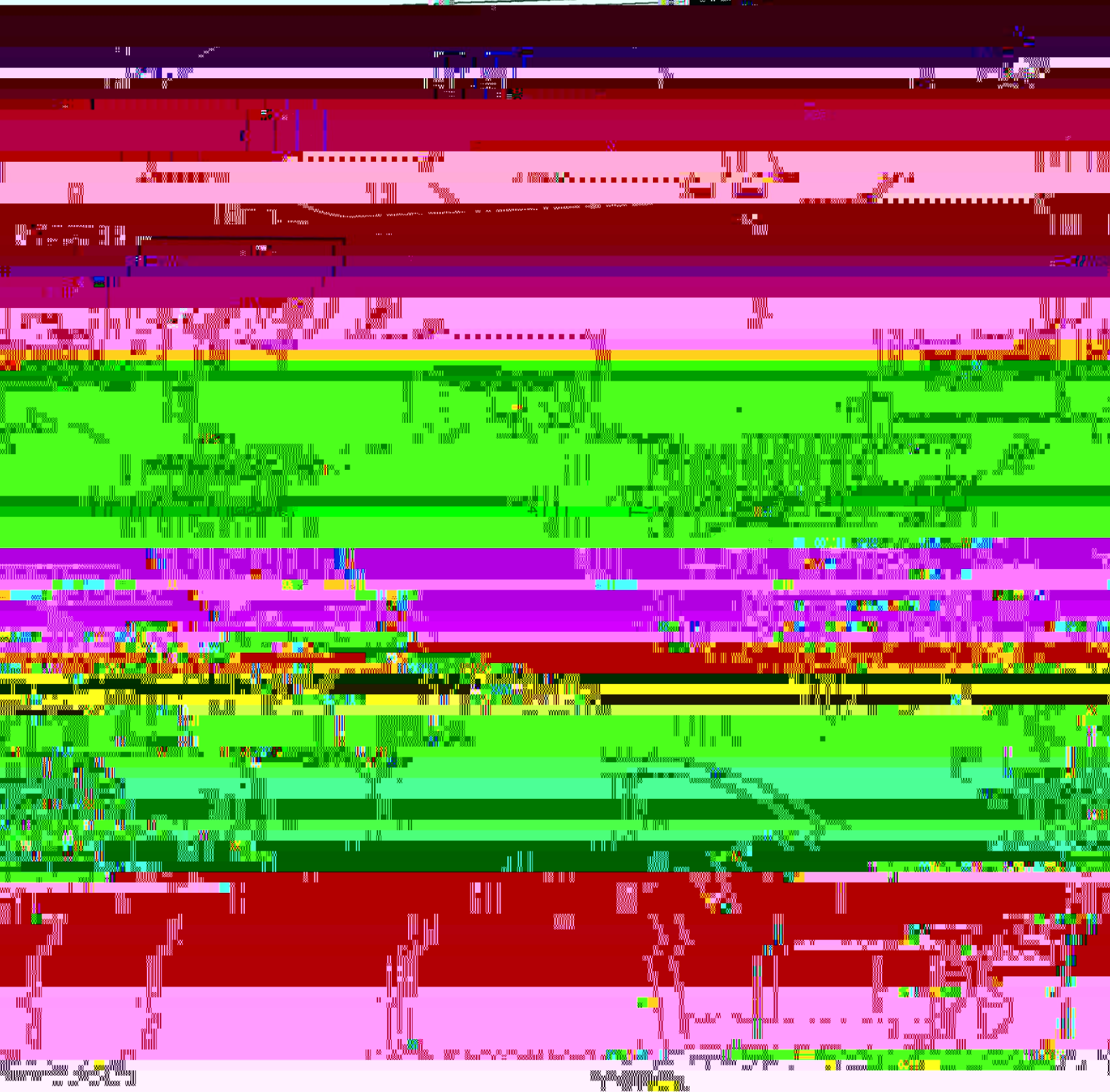


Exhibit C – Facilities Use Fee

For the 2012-2013 school year, Noroff shall pay District an initial estimated Facilities Use Fee of Five Hundred Forty-Three Thousand Nine Hundred Four Dollars and Twenty Cents (\$543,904.20) based on a pro rata Facilities estimate of Two Dollars and Ten Cents (\$2.10) per square foot for the use of approximately Two Hundred Fifty Nine Thousand and Two (259,002) square feet of the Facilities (237,180 square feet at Sacramento High School site plus 21,822 square feet at the Strawberry Site) during that time. The Facilities Use Fee shall be paid out in equal installments of Forty-Five Thousand Three Hundred Twenty-Five Dollars and Thirty-Five Cents (\$45,325.35) each month throughout the fiscal year. Beginning on July 1, 2012, payments shall be payable on or in advance of the first day of each month ("Due Date"), without deduction, offset, prior notice or demand, in lawful money of the United States.

The District will re-calculate and adjust these fees annually for the remaining fiscal years for the Term of this Agreement.

In the event that there are adjustments made to the allocation of space, the Facilities Use Fee will be calculated according to the square feet allocated.

Exhibit D – Custodial Services

a. Routine Services The District shall be responsible for providing the “routine” or regularly scheduled daily or weekly custodial services for the Strawberry Lane facility. The level of said services will be consistent with the District’s standard practices and policies. The District’s standard policies will be provided to the Charter Schools. Said services will be provided by District employees, and Charter Schools have the right to report dissatisfaction with the custodial services so the District will take any corrective action that may be appropriate. Charter Schools shall have the right to direct the custodian to perform specific duties that are within the scope of the custodian’s job duties. The Charter Schools will reimburse the District for the actual costs, including time and labor (including salary, benefits and payroll taxes), to provide custodial services for the Strawberry Lane facility. In order to provide more comprehensive coverage of services, Charter Schools will employ two (2) full-time custodians on separate shifts.

Said reimbursement shall also include actual costs to the District for any cleaning supplies and tools necessary for those District personnel providing Custodial Services, including but not limited to toilet paper, soap and paper towels. The District will invoice the Charter Schools quarterly for these services. The Charter Schools will pay said invoice within thirty (30) days of receipt.