

**LICENSE AGREEMENT
BETWEEN
MOTHER LODE UNION SCHOOL DISTRICT
AND
THE EL DORADO COUNTY OFFICE OF EDUCATION**

THIS LICENSE AGREEMENT (the "Agreement") is dated and entered into as of July 1, 2019, and is made by and between the Mother Lode Union School District ("Licensor"), and the El Dorado County Office of Education ("Licensee"). Licensor and Licensee are sometimes hereinafter referred to individually as "Party" and collectively as "Parties".

RECITALS

WHEREAS, Licensor is the owner of certain real property located at 6420 Oak Dell Road, Placerville, California 95623, commonly referred to as the Charles Brown Elementary School ("Property"); and

WHEREAS, Licensee desires the use a portion of the Property; and

WHEREAS, Licensor is willing to grant to Licensee a license for the non-exclusive use of that portion of the Property designated in Exhibit "A" ("License Area") in accordance with the terms and conditions of this Agreement. The License Area consists of the entire Property, including Common Areas, with the exception of the athletic fields and rooms 21, 22a, 22b, 24 and 25; and

WHEREAS, the parties desire by this Agreement to provide for the terms and conditions for the use of the License Area and.

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained, the Parties hereto do hereby agree as follows:

AGREEMENT

1. Property:

- A. **Property.** The "Property" refers to the Charles Brown Elementary School campus at 6420 Oak Dell Road, Placerville, California 95623, with the exception of athletic fields and rooms 21, 22a, 22b, 24 and 25.
- B. **Common Areas.** "Common areas" refers to parking lots, teachers' lounges, playgrounds, walking paths, sidewalks, storage units, bathrooms, and all open spaces adjacent to such areas with unrestricted access, or as otherwise agreed to by the Parties.

2. Use Agreement:

- A. **License Fee.** Licensee shall pay a license fee (“License Fee”) of \$225,000, payable by Licensee in equal, successive monthly installments in the amount of \$18,750 due and payable in advance on the 1st day of each month beginning July 1, 2019, for use of the License Area.
- B. **Term.** The term of this Use Agreement shall be for two (2) years, beginning on July 1, 2019, and ending on June 30, 2021.

3. Utilities:

Licensee. Licensee shall pay for all utilities except for water, which shall remain the responsibility of the Licensor.

4. Use of Property:

- A. **Licensee.** In consideration of the License Fee, Licensor grants a non-exclusive license to Licensee to use the License Area for the limited purposes of providing educational opportunities, including but not limited to independent study, general education, early childhood education, and related services (“Program”). Any reference to Licensee’s use of the License Area shall include use by Licensee’s employees, contractors, volunteers or invitees
- B. **Licensor.** Licensor shall retain exclusive rights to use the athletic fields and rooms 21, 22a, 22b, 24 and 25, as identified in Exhibit A. Licensor has the right, but not the obligation, to grant Licensee use of the athletic fields, provided such use does not unreasonably interfere with Licensor’s normal use or operation of the Property. Such use shall be at the sole discretion of the Licensor.

Licensor may request to use portions of the License Area for its own educational purposes from Licensee, provided such use does not unreasonably interfere with Licensee’s normal use or operation of the License Area. Consent to use the property shall not be unreasonably withheld.

5. Duty to Maintain Premises:

- A. **Licensee.** Licensee shall keep the Property in a clean and sanitary condition. If damage to the premises, other than normal wear and tear, is caused by acts or neglect of Licensee, its employees, contractors, volunteers or invitees, Licensee shall repair such damage at its own expense. In the event that Licensee fails to repair or replace the License Area, Licensor may, at Licensor’s sole discretion, undertake any repair or replacement of the License Area and Licensee shall reimburse Licensor for the costs of such repairs or maintenance within thirty (30) days of invoice by Licensor.
- B. **Licensor.** Licensor shall, at its own cost and expense, be responsible for all reasonable and necessary maintenance including, but not limited to, normal wear and tear, as required to keep the License Area and all grounds in good order, repair and neat condition.

6. Custodial:

Licensee. Licensee, at its sole expense, shall provide custodial services, including but not limited

to, restroom, classroom, and office cleaning for the Property. Licensee shall be responsible for the full and complete cleanup of the License Area and any other portion of the Property used by Licensee, its employees, contractors, volunteers or invitees at the close of each and every day, leaving it in a comparable state as existed prior to Licensee's activities. As used herein, the term "cleanup" shall mean putting away equipment and supplies, picking up trash, emptying trash cans, cleaning or sweeping up spills, and similar related activities.

7. Alterations:

No alteration, addition, or improvement shall be made by Licensee in or to the Property without the written consent of Licensor. Such consent shall not be unreasonably withheld, but may be conditioned upon Licensee agreeing to restore the Property to its prior condition upon moving out.

8. Inspection by Licensor:

Licensor, or its agent, may enter the Property at all reasonable times to inspect the Property or to see that no damage is done.

9. Occupancy and Acceptance of Premises:

By entering into and occupying the premises, Licensee shall be deemed to acknowledge that the Property is in good condition and repair and that the Property has been constructed substantially in accordance with the approved plans and specifications and is therefore fit for the purpose of Licensee's use.

10. Licensor's Obligation to Repair:

Licensor shall repair all dilapidations that render the Property untenable, except for dilapidations intentionally or negligently caused by Licensee.

11. Assignment/Subleasing:

Licensee shall not assign this Agreement, sublease or license the License Area, nor any portion thereof, or allow third party organizations to use the License Area without the prior written consent of Licensor, which consent Licensor may withhold in its sole and absolute discretion.

12. Destruction of Property:

If the Property becomes partially or totally destroyed during the term of this Agreement, either party may then terminate this Use Agreement with 60 calendar days written notice.

13. Indemnity:

A. **Licensee.** Licensee agrees to indemnify, defend, and hold Licensor, and Licensor's governing board, employees, agents, and contractors harmless from all liability, penalties, losses, damages, costs, expenses, causes of action, claims, or judgments, including, but not limited to,

attorney's fees and costs, arising by reason of any death, bodily injury, personal injury, or property damage resulting from: (i) any cause occurring in or about or resulting from an occurrence in or about the Property during the term of this Agreement and arising out of and/or relating in any way to Licensee's operations and/or Licensee's use of the License Area and/or any portions of the Property incident thereto; (ii) act, work, or things done or permitted to be done or otherwise suffered, or any omission to act, in or about the Property by Licensee or by any of Licensee's agents, officers, directors, employees, contractors, licensees, and/or invitees; (iii) the negligence or willful misconduct of Licensee or Licensee's agents, employees, invitees, licensees, contractors, and subcontractors, wherever it occurs; or (iv) an Event of Default by Licensee. The provisions of this Section 13.A. shall survive the expiration or sooner termination of this Agreement.

- B. **Licensors.** Licensors agree to indemnify, defend, and hold Licensee, and Licensee's governing board, employees, agents, and contractors harmless from all liability, penalties, losses, damages, costs, expenses, causes of action, claims, or judgments, including, but not limited to, attorney's fees and costs, arising by reason of any death, bodily injury, personal injury, or property damage resulting from: (i) the negligence or willful misconduct of Licensors or Licensors's agents, employees, invitees, licensees, contractors, and subcontractors, wherever it occurs; or (ii) an Event of Default by District. The provisions of this Section 13(b) shall survive the expiration or sooner termination of this Facilities Use Agreement.

14. Insurance:

- A. **Insurance Companies.** It is agreed that any and all policies of insurance to be kept and maintained in force by the Parties shall be obtained from good and solvent insurance companies or JPA, and, as to any insurance required of Licensee, all such forms of insurance coverage shall be written by insurance companies that are reasonably acceptable to Licensors
- B. **Licensee.** Licensee shall maintain in full force throughout the Term insurance coverages of the types described in, and in the amounts stated in, Exhibit attached hereto, including, the liability, property, and workers' compensation coverages described therein (collectively, "**Licensee's Coverages**"). Licensors accept Licensee's Coverages for purposes of Licensee's insurance obligations under this Agreement, including the assurance of coverage and the addition of Licensors and Licensors's agents and employee's as a Covered Party as defined in the Memorandum of Liability Coverage issued by SIA and under which Licensee is insured, and as an additional named insured if Licensee uses a form of Certificate of Liability Insurance (or its substantial equivalent) and a form Sample Endorsement for Additional Insured (or its substantial equivalent). Licensee's Coverages required under this Paragraph 14 shall be maintained at Licensee's sole cost and expense, and require at least thirty (30) days' written notice to Licensors prior to any cancellation, nonrenewal or modification of any of Licensee's Coverages. Licensee shall provide to Licensors evidence that Licensee's Coverages required to be carried by Licensee pursuant to this Paragraph 14, including any endorsement affecting the additional Covered Party and/or additional insured status of Licensors, are in full force and effect and that premiums therefor have been paid. Any limits set forth in this Agreement on the amount or type of coverage required of Licensee shall not limit the liability of Licensee under any provision of this Agreement. Prior to occupancy of the Licensed Area by Licensee, and not

less than thirty (30) days prior to expiration of any Licensee's Coverages thereafter, Licensee shall, in the manner set forth in this Paragraph 14, furnish to Licensor written evidence that Licensee's Coverages required by this Paragraph 14 are in force, accompanied by an endorsement showing Licensor's required status as an additional Covered Party and additional insured satisfactory to Licensor in substance and form. Notwithstanding the requirements of this Paragraph 14, Licensee shall at Licensor's request provide to Licensor a certified copy of Licensee's Coverages required to be in force at any time pursuant to the requirements of this Agreement or its Exhibits. Licensee agrees to maintain and keep in force all required insurance under the laws of the State of California, and such other insurance as may be necessary to protect Licensor against any other liability to person or property arising under this Agreement by operation of law, whether such law be now in force or adopted subsequent to the execution of this Agreement.

- C. **Licensor;** Licensor shall maintain in full force throughout the Term, those coverages of the types mentioned and in the amounts stated in the Summary of Coverage issued by Schools Insurance Authority ("**SIA**"), and the Memorandum of Liability Coverage executed by SIA, true and correct copies of which are attached hereto as **Exhibit B**. Licensee accepts the coverages under the attached SIA form coverage for purposes of Licensor's obligations under this Agreement.

15. Termination of Use Agreement:

This Agreement may be terminated immediately by Licensee or Licensor if (1) Licensee or Licensor is in material breach of this Agreement, (2) if Licensor or Licensee determines there are unsafe and/or dangerous conditions, threats to life or property posed by Licensee's business operations and/or other activities, or Licensor's use of the licensed area and/or other activities (3) in the event that a natural disaster or emergency makes it necessary for the Licensor to use the Property for alternative purposes, (4) any act by Licensee exposing Licensor to liability to others for personal injury or property, notification from a public authority that all or a substantial part of the Property must be closed to public use. Either Party may terminate the Agreement without cause upon one hundred eighty (180) days written notice.

Upon termination of this Agreement, Licensee shall vacate the Property, remove all its property, and leave the premises as clean as it found it, normal wear and tear excepted.

16. Holding Over:

No holding over and continuation of any programs, classes, or activities by Licensee after the expiration of the term of this Agreement shall be considered to be a renewal or extension unless written approval of such holding over and a definite agreement to such effect is signed by Licensor defining the length of such additional term. Any holding over without the consent of Licensor shall be considered to be a day-to-day tenancy.

17. Arbitration:

Any dispute, claim, or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation, or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, shall be determined by arbitration in Placerville, California before one arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures pursuant to JAMS' Streamlined Arbitration Rules and Procedures. Judgment on the Award may be entered in any court having jurisdiction. This clause shall not preclude Parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

18. Notices:

All notices regarding this Use Agreement shall be in writing and shall be given to the other party as follows:

A. **Licensors.** 3783 Forni Road, Placerville, CA 95667

B. **Licensee.** 6767 Green Valley Road, Placerville, CA 95667

19. Prior Agreements:

All prior agreements, understandings, representations, oral agreements, and writings relating to Licensee's use of the Property, including without limitation, the Memorandum of Understanding for Facility Use Between El Dorado County Office of Education and Mother Lode Union School District, are expressly superseded hereby and are of no further force and effect, and the Parties expressly agrees that are not relying on any representations that are not contained in this Agreement.

20. Severability:

If any provision of this Agreement is held to be void, voidable, or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect.

21. Cooperation:

Each Party agrees that it will cooperate fully in executing any additional documents and taking any additional actions necessary to give effect to this Agreement.

22. Governing Law:

This Agreement is entered into and governed by the laws of the State of California.

23. Effective Date:

The Effective Date of this Agreement shall be the final date this Agreement is signed by all Parties.

24. Knowledge of Parties; Binding Contract:

The Parties are entering into this Agreement knowingly and voluntarily. The Parties further acknowledge that they have been provided with an opportunity to consider this Agreement and to consult with counsel.

25. Entire Agreement:

The Parties agree that this Agreement contains the entire agreement between the Parties with respect to its subject matter. All prior agreements, understandings, representations, oral agreements, and writings, if any, are expressly superseded hereby and are of no further force and effect.

26. Scope of Use Agreement:

This Agreement may not be modified except by an agreement in writing signed by the Party against whom the enforcement of any waiver, change, modification, or discharge is sought.

27. Hazardous Materials:

Under no circumstances during the term of this Agreement shall Licensee use or cause to be used in the License Area any hazardous or toxic substances or materials, and under no circumstance during the term of this Agreement shall Licensee store or dispose of any such substances or materials in the License Area. Notwithstanding the foregoing, Licensee may use, at its own risk, in compliance with any applicable laws and Licensor policies, any ordinary and customary materials reasonably required to be used in the normal course of Licensee's Program, such as ordinary office supplies, educational science lab materials/supplies, and common household cleaning materials. Licensee shall be responsible to store and dispose with respect to SIA requirements.

28. Non-Interference with Licensor Activities:

This Agreement shall not grant Licensee, its employees, contractors, volunteers or invitees the right to interfere with any activities of Licensor, as determined by the Licensor in its sole discretion.

29. Conduct of Licensee, Employees, Contractors, Volunteers and Invitees:

Licensee shall ensure that all employees, contractors, volunteers, invitees, and all others in attendance adhere to proper standards of public conduct. There is to be no consumption of intoxicating liquors or other controlled substances, smoking, gambling, quarreling, fighting, use of profane language, or indecent exposure on or near the License Area. Licensee shall insure that all employees, contractors, volunteers, invitees, and all others in attendance remain within the License Area designated for use in this Agreement only.

30. Program Supervision and Safety:

Licensee is solely responsible for the safety and security of its employees, students, contractors,

volunteers and invitees at all times.

31. Locks - Keying and Access Authorization:

The lock style, types of gates, and key/code authorization to be utilized at the License Area will be coordinated in such a manner as to allow dual access while maintaining the safety and security of people and property. Licensor shall retain sole discretion and authority to determine lock style, types of gates, and key/code authorization at the License Area. The Licensor's representative shall provide Licensee's representative with one (1) set of keys necessary to access the License Area. Licensor may require that Licensee return keys at any time.

32. Parking:

Parking in the parking lot shall not be reserved and shall be limited to standard-sized automobiles, except in specifically designated areas. No vehicles shall be parked in driveways, loading areas, or other areas not specifically designated for parking.

33. Compliance With Law:

Licensee shall comply with all laws, ordinances, zoning, rules, and regulations applicable to the License Area, enacted or promulgated by any public or governmental authority or agency, including without limitation Licensor, having jurisdiction over the License Area. Licensee shall be responsible for obtaining and maintaining throughout the Term of the Agreement all permits, licenses, approvals, including a Conditional Use Permit if necessary, from any local, state or federal agency necessary for the Program and/or use of the License Area. Licensee shall comply with requirements of state law regarding fingerprinting, background checks, and health screening, as applicable. All compliance shall be at the sole cost of the Licensee.

Licensor has made no representation or warranty as to the suitability of the Property and/or the License Area for Licensee's Program, and Licensee waives any implied warranty that the Property and/or the License Area are suitable for Licensee's intended purposes. Prior to the commencement date of the Program, Licensee shall have taken the appropriate steps and made the appropriate inquiries to confirm that Licensee is or will be as of the commencement date of the Program in compliance with all laws, ordinances, zoning, rules, and regulations applicable to the Program and Licensee's operation of the Program, enacted or promulgated by any public or governmental authority or agency and will maintain compliance throughout the duration of the Term.

Pursuant to Penal Code section 626.9, unless otherwise authorized under the law, neither Licensee nor any of their respective agents, employees and consultants shall be permitted to possess or discharge a firearm and/or ammunition within 1,000 feet of school grounds. Any person found to have violated this provision shall be referred to the appropriate authority and punished to the fullest extent of the law.

Pursuant to Penal Code section 626.10, unless otherwise authorized under the law, neither Licensee nor any of their respective agents, employees and consultants shall be permitted to bring

or possess a dirk, dagger, ice pick, knife having a blade longer than 2 1/2 inches, folding knife with a blade that locks into place, razor with an unguarded blade, taser, or stun gun, as defined in subdivision (a) of Section 244.5, any instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO2 pressure, or spring action, any spot marker gun, razor blade or box cutter on school grounds. Any person found to have violated this provision shall be referred to the appropriate authority and punished to the fullest extent of the law.

34. No Licensor Affiliation/Endorsement:

Licensee shall not imply, indicate or otherwise suggest that Licensee's use and/or any related activities are connected or affiliated with, or are endorsed, favored or supported by, or are opposed by the Licensor. No signage, flyers or other material may reference the Licensor or any school name, logo or mascot without the Licensor's prior consent except to as needed to identify location of site/program.

35. Board Approval:

This Agreement is not valid or an enforceable obligation against the Licensor until approved or ratified by motion of the Licensor's Board of Trustees duly passed and adopted

WHEREFORE, We, the undersigned do hereby agree to this Use Agreement.

MOTHER LODE UNION
SCHOOL DISTRICT

EL DORADO COUNTY OFFICE OF
EDUCATION

Marcy Guthrie, Ed.D., Superintendent

Robbie Montalbano, Deputy Superintendent

Date

Date