

Charter Contract Between the
New Mexico Public Education Commission
And
NEW MEXICO SCHOOL FOR THE ARTS

This Charter Contract, (the "Contract"), is hereby entered into by and between the New Mexico Public Education Commission, (the "Commission"), and New Mexico School for the Arts ("NMSA") (the "School", and, together with the Commission, the "Parties"), a New Mexico Charter School, effective this 1st day of July, 2019.

WHEREAS, the Commission is created pursuant to Article 12, Section 6 of the New Mexico Constitution, with such powers and duties as are provided by law; and,

WHEREAS, the Commission is authorized pursuant to the Charter Schools Act, § 22-8B-1, *et seq.*, New Mexico Statutes Annotated, 1978, as amended and supplemented, (the "Act"), to, *inter alia*, authorize charter applications that meet the requirements of the Act, and to negotiate and execute, in good faith, charter contracts that meet the requirements of the Act with approved charter schools; and,

WHEREAS, the Commission is further authorized pursuant to the Act, to monitor charter schools' compliance with the requirements of the Act, and with the requirements of the charter and Contract for each approved charter school; and,

WHEREAS, the Commission is further authorized pursuant to the Act to determine whether an approved charter school merits suspension, revocation, or nonrenewal; and,

WHEREAS, the Commission approved the charter renewal application for the School on December 12, 2018, (the "Charter"); and,

WHEREAS, pursuant to the Act and the Charter, the Commission and the School wish to enter into this Contract in compliance with the Act, and in order to set out the performance frameworks, as that term is defined in the Act, that define the financial, academic, and operations performance indicators, measures and metrics that will guide the evaluation of the School.

NOW, THEREFORE, for and in consideration of the premises and the mutual promises and covenants herein contained, the Commission and the School agree:

SECTION 1: DEFINITIONS

Capitalized terms defined in this Section 1 shall have the meaning specified in this Section 1 wherever used in this Contract, including the foregoing recitals, unless the context clearly requires otherwise. Capitalized terms defined in the foregoing recitals, if not defined in this Section 1, shall have the same meaning as stated when used in this Contract, unless the context clearly requires otherwise.

"Audit Act" means § 12-6-1 through 12-6-14, NMSA 1978, as amended and supplemented.

"Chair" means the chairperson of the Commission, as elected by the members of the Commission, pursuant to the Act, from time to time.

"Charter Representative(s)" means Bill Beacham and Eric Crites as the person(s) authorized to sign the Contract, and other documents, on behalf of the School, and to legally bind the School to the Contract and other documents as required under the Act.

"Comprehensive Educational Program" means an educational program that meets Department academic standards as identified in this contract.

"Compulsory School Attendance Law" means the compulsory school attendance law set out at § 22-12-1 through 22-12-9, NMSA 1978, as amended and supplemented.

"Corrective Action Plan" means a plan developed by the School and submitted to the Commission to remedy operational, or financial violations or problems.

"Criminal Offender Employment Act" means the criminal offender employment act set out at § 28-2-1, *et seq.*, NMSA 1978, as amended and supplemented.

"Days" means calendar days.

"Department" means the Public Education Department of the State of New Mexico, and its successors.

"Division" means the Charter School Division of the Department, and its successors.

"Effective Date" means the effective date of this Contract, which is July 1, 2019, found on the first page of this Contract.

"Facility" or "Facilities" means the facilities, including without limitation, all buildings classrooms, and other spaces owned or leased by the School, and used by the School, its staff, teachers, and students, for educational and recreational purposes, and other purposes connected with the Mission of the School.

"Governing Body" means the governing body of the School, and any successor thereto.

"Head Administrator" means a Charter Representative, as defined herein, who is also a licensed school administrator.

"Instructional Hours" means mandatory instructional time during which students are engaged in a School-directed program, and for which the School enforces the Compulsory School Attendance Law.

"Mission" means the educational and pedagogical mission of the School, as set out in Section 4.1 herein.

"NMAC" means the New Mexico Administrative Code, as amended and supplemented from time to time.

"NMSA, 1978" means the New Mexico Statutes Annotated, 1978 compilation, as amended and supplemented from time to time.

"Procurement Code" means §13-1-101, *et seq.*, NMSA 1978, as amended and supplemented from time to time.

"Public School Finance Code" means § 22-8-1, *et seq.*, NMSA 1978, as amended and supplemented from time to time.

"School Improvement Plan" means a plan developed by the School and submitted to the Commission to remedy academic performance.

"Secretary" means the Secretary of the Department, and his or her duly appointed successors.

"State" means the State of New Mexico.

"Term" means the term of this Contract, as set forth in Section 3, herein.

SECTION 2: SCOPE

1. This Charter Contract is entered into between the School and the Commission for the purpose of establishing a charter school to operate at the site(s) listed in Section 4.11 of this Contract.
2. The person authorized to sign and act on behalf of the Commission is the Chair, or such person as the Chair may lawfully designate from time to time.

The person(s) authorized to sign on behalf of the Charter School is/are the Charter Representative(s). The Charter Representative(s) affirm(s) as a condition of this Charter, that he/she is (one of) the above-described representative(s) of the Charter School and has the authority to enter into this Charter on behalf of the Charter School.

- i. The Charter School must maintain one or more Charter Representative(s), including one Charter Representative who is a Head Administrator, and provide contact information to the Commission within 30 days of the change of a Charter Representative(s).
 - ii. The Commission shall direct all communication with regard to the Charter and the Contract to the Charter Representative(s).
 - iii. The Charter Representative(s) shall respond to written communication from the Commission within the timeframe specified in the communication, which shall be no less than three business days absent exigent circumstance.
3. The Charter School is a public entity of the State of New Mexico, subject to all laws and regulations applicable to public entities.

SECTION 3: TERM

1. The term of this Contract shall be in full force and effect until June 30, 2024. The Contract will not automatically be renewed or extended; the Contract may be renewed by the Commission upon timely application by the School pursuant to the Act, and upon such terms and conditions as the Commission deems appropriate under the Act.

SECTION 4: REPRESENTATIONS, COVENANTS, AND WARRANTIES

1. **Purpose:** The School shall operate a public school consistent with the terms of the Charter and the Contract, and all applicable laws; shall achieve student outcomes according to the educational standards established by law, this Charter and Contract; and shall be governed and managed in a financially prudent manner.
2. **Mission:** The Charter School shall implement the mission identified below and shall report on the implementation of that mission in the manner described below.
 - i. NMSA provides access to a rigorous mastery arts and academic high school education for youth with passion and aptitude in the arts, leading to post-secondary learning, careers in the arts, and lives that contribute to society.
 - ii. The Charter School shall report on the implementation of its mission in the following manner:
 - a. Annually during the performance review visit required by the Act, as evaluated through the site visit team's observations and the school's response to any such observations;

- b. Annually through any mission specific goals identified in the School's Performance Framework, Attachment A, incorporated herein by reference; and
 - c. At renewal, in the event that the School applies to the Commission for renewal, through a narrative in the renewal application.
- 3. **Enrollment Cap and Authorized Grade Levels:** The School is authorized to serve no more than 300 students in grades 9-12.
 - i. The School may make modifications as to the number of students in any particular grade, and number of students within a class to accommodate staffing decisions that are consistent with the School's programmatic needs; except that, nothing in this Contract shall give the School the authority to combine students from different grade levels into the same classroom unless the school's educational program explicitly provides for mixed grade or age education.
 - ii. The School must annually, prior to beginning the annual enrollment process, establish the number of vacancies by grade level available for student enrollment in that year. That number will govern the enrollment throughout the school year.
 - iii. The School may not exceed the building capacity of the Facility.
 - a. The building capacity of 275 E. Alameda is 1,130.
 - b. The building capacity of 500 Montezuma is 2,118.
- 4. **Partner Organization or Management Company** (~~Attachment B intentionally omitted~~):
 - i. ~~The School has a legal relationship with _____ that is distinct from a relationship with a non-profit foundation described in 4.5 of this contract. The legal agreement governing the relationship between the School and _____ is included as Attachment B, incorporated herein by reference.~~
 - ii. ~~The legal agreement in Attachment B complies with all provisions of New Mexico law and the School is financially independent from _____. The School shall not make any changes to the document set out as Attachment B, or to its legal relationship and agreements with _____ without the approval of the Commission and the Department, which approval shall not be unreasonably withheld.~~
 - iii. ~~The Commission, through its designees and the Department, shall be permitted to review the legal agreement and other relevant school documents and records to determine whether the legal relationship between the School and _____ complies with all provisions of New Mexico law, and to determine that the School is financially independent from _____.~~
- 5. **Relationship with a Non-Profit Foundation**
 - i. The school has a relationship with New Mexico School for the Arts – Art Institute, a non-profit foundation the primary purpose of which is to provide financial support to the school or leases the facility for the charter school
 - ii. The legal agreement or Memorandum of Understanding governing the relationship between the School and the foundation is Attachment C, incorporated herein by reference.
 - iii. The identity of the Board of Directors and Executive Director of foundation with a conflict of interest disclosure from each are provided in Attachment C.

6. **Comprehensive Educational Program of the School:** The School's educational program shall be as described below:

- i. The school will maintain admissions criteria designed to admit students who show exceptional promise or aptitude in the arts and a strong desire to pursue a career in the arts. (NMSA admits students based on passion, promise, and aptitude for the arts.) The admissions process will be conducted in a way that provides equal opportunity for admission to each prospective student regardless of that student's exposure to previous artistic training and without regard to the student's ability to pay residential costs. The board shall ensure, to the greatest extent possible and without jeopardizing admissions standards, that an equal number of students is admitted to the school from each of the state's congressional districts.
- ii. The school shall conduct outreach activities throughout the state to acquaint potential students with the programs offered by the school. The outreach activities shall include programs for middle school students and workshops for teachers. There shall be no admissions criteria established for participation in outreach activities.
- iii. The school, either through a foundation or other private or public funding sources, shall obtain funding to ensure that the school has adequate revenue to pay for all expenses associated with outreach activities provided for in Section 22 - 15F - 6 NMSA 1978 and for room and board costs for those students who are not able to pay the full cost of room and board as provided in Section 22 -15F - 7 NMSA 1978.
- iv. The school shall provide an annual report to the PEC in June as required by 22 - 15F 6.C NMSA that includes:
 - a. non - personally identifiable demographic information about both applicants (to the extent available) and students admitted to the school delineated by counties, congressional districts, socioeconomic status, gender and ethnicity; and
 - b. the number of students who requested financial assistance for room and board, the total amount of financial assistance provided, and the amounts distributed delineated by the source of gifts, grants and donations received by the school.
- v. The school will offer intensive pre - professional instruction in the performing, creative writing, and visual arts combined with a strong academic program that leads to high school diploma.
- vi. Art disciplines of Creative Writing & Literature, Dance, Music, Theater and Visual Arts will be offered.
- vii. The school will offer a Guest Artist Program that augments students' technical skills, provides mentors and real - life examples of what can be achieved, expands imaginations as to what can be dreamt, and supports and inspires the regular teaching staff.

7. **Governance:**

- i. The School shall be governed by a governing body in the manner set forth in the governing body's bylaws, Attachment D, incorporated herein by reference.

- ii. The School's Governing Body shall have at least five members at all times; the number of Governing Body Members shall be specified in the bylaws.
- iii. The School shall notify the Commission of all changes in membership within 30 days of the change.
- iv. The Charter School shall either replace any member who is removed or who resigns, or close the position in conformity with its bylaws, within 45 days of removal, resignation or closure.
- v. No member of the Governing Body shall serve on the governing body of another charter school, unless the School has been granted a discretionary waiver from the Secretary.
- vi. All governing body members shall comply with training requirements established in Section 6.80.5 NMAC, as amended.
- vii. The School shall notify the Chair of the Commission within 15 days of any and all written complaints of inappropriate contact as defined in its school policies with a student or other minor by a member of the Governing Body, and shall notify the Chair of the Commission within 15 days of allegations of, or convictions for, any crime related to the misappropriation of school funds or theft of school property by a member of the Governing Body.
- viii. The members of the Governing Body have a duty to comply with the provisions of this Contract, all applicable laws, including, without limitation, the Act, all regulations, and reporting requirements.
- ix. The Governing Body is responsible for the policy decisions of the School; is responsible for hiring, overseeing, and terminating the Head Administrator of the School; and is entrusted with oversight of expenditure of public funds in accordance with all applicable laws, regulations and rules, including but without limitation any laws or rules pertaining to conflicts of interest, public school finance, and procurement.
- x. The Governing Body shall, at all times, be qualified to act as a qualified board of finance as demonstrated in Attachment E, which is incorporated by reference.
- xi. In order to initially become qualified as a board of finance, the school shall provide:
 - a. The names, home addresses, personal email addresses, and personal phone numbers of each member of the board;
 - b. A statement signed by every member of the Governing Body stating that the Governing Body agrees to consult with the Department on any matter not covered by the manual of accounting and budgeting before taking any action relating to funds held as a board of finance;
 - c. A signed affidavit from each member of the Governing Body member declaring that the member is not a member of the governing body of any other charter school, unless it has been granted a waiver by the Secretary for that purpose, and that the member was not a governing body member of another charter school that was suspended and was not reinstated, or failed to receive or maintain its board of finance designation; and
 - d. An affidavit or affidavits, signed by the School's licensed business official who will be given the responsibility of keeping the financial records of the School,

describing the training completed, professional licensure held and degrees earned by him or her;

- e. A copy of a certificate of insurance that indicates that the person who will be entrusted with handling the funds of the School is adequately bonded.
- xi. Within 30 days of the change to any member of the Governing Body or the School's licensed business official who will be given the responsibility of keeping the financial records of the charter school, the school shall resubmit all information required in Section 4. Subsection 7.xi (a)-(e) above, revised to reflect the changes in staffing or board membership.
- xii. If at any time, the School's qualification as a board of finance is revoked by the Department, the Commission shall, at its next regularly scheduled meeting, consider whether to commence revocation proceedings to revoke the School's Charter. If the Commission decides not to revoke the charter, the School shall be required to develop and successfully implement a Corrective Action Plan to address the conditions and causes of the revocation of the School's qualification as a board of finance.

8. Operation:

- i. The School shall be nonsectarian in its charter school programs, enrollment policies and employment practices and all other operations. Attachment F, incorporated herein by reference, states the School's enrollment policies and procedures.
- ii. The School shall comply with all federal and state laws relating to the education of children with disabilities.
- iii. The School shall comply with applicable federal, state and local rules, regulations and statutes relating to health, safety, civil rights and insurance.
- iv. The School shall, in accordance with the Compulsory School Attendance Act, maintain records to document daily student attendance and shall make such records available for inspection upon request of the Commission and the Department. The School shall comply with the number of overall instructional hours required by statute, based on the grade levels served, which may be verified through budget reporting.
- v. The School shall maintain student records in accordance with all other New Mexico public records retention requirements.
- vi. The School shall allow the Commission and the Department to visit each school site at any reasonable time.
- vii. The School shall allow the Commission and the Department to conduct financial, program or compliance audits and shall hold open for inspection all records, documents and files relating to any activity or program provided by the School relating to the School. All books, accounts, reports, files and other records relating to this Charter and Contract shall be subject, during normal business hours, to inspection and audit by the State for five years after termination of the Charter and the Contract.
- viii. The School shall notify the Chair of the Commission and the Department within 15 days of any and all written complaints of inappropriate contact as defined in the school's policies, or convictions for inappropriate contact with a student or other minor by any staff member, employee, or contractor and shall notify the Chair of the Commission within 15 days of allegations of, or convictions for, any crime related to the misappropriation of school funds or theft of school property by any staff member,

employee or contractor.

- ix. If the School receives federal grant funds that flow through the Department, the School shall timely submit financial and other reports required by the Department for the School's receipt of such funds.
 - x. The School shall comply with applicable federal, state and local rules, regulations and statutes relating to public education unless the School is specifically exempted from the provision of law. All members of the Governing Body shall sign a certificate, in the form attached hereto as Attachment G, certifying their compliance with all federal and state laws governing the organizational, programmatic, and financial requirements applicable to charter schools. Within 30 days of any change to the membership of the Governing Body, the School shall provide a signed certification from any new members in the form of Attachment G, which will be incorporated into this Contract.
 - xi. The School shall identify the non-discretionary waivers the School is utilizing and the discretionary waivers the School has requested from the Secretary in Attachment H, incorporated herein by reference.
 - a. If the school requests from, and is granted a discretionary waiver by the Secretary at any point during the Term, the School shall file a notification within 30 days of approval from the Secretary with the Commission to amend the Contract to reflect such waiver.
 - b. If the School begins making use of any additional non-discretionary waivers at any point during the charter term, the School shall file a notification within 30 days of first use of the waiver with the Commission to amend the contract to reflect the use of such non-discretionary waiver.
9. **Use of Volunteers:** The School covenants and represents that all volunteers it allows access to its students or the Facility will comply with state regulations regarding the use of volunteers set out in Section 6.50.18 NMAC.
10. **Background Checks:** The School shall comply with the requirements of Section 22-10A-5 NMAC 1978, relating to background checks for all staff, instructors, and volunteers, in whatever capacity, working with its students or at the Facility.
- i. The School shall develop and implement policies and procedures to require background checks on an applicant who has been offered employment, and for all volunteers, contractors and contractor's employees with unsupervised access to students at the public school. The School shall comply with the Criminal Offender Employment Act.
 - ii. The Head Administrator of the School shall report to the Department any known conviction of a felony or misdemeanor involving moral turpitude of a licensed or certified school employee.
 - iii. The Head Administrator of the School or their respective designees shall investigate all allegations of ethical misconduct about any licensed or certified school employee who resigns, is being discharged or terminated or otherwise leaves employment after an allegation has been made, or incident occurs. If the investigation results in a finding of wrongdoing, the Head Administrator of the School shall report the identity of the licensed or certified school employee and attendant circumstances of the ethical misconduct on a standardized form to the Department and the licensed or certified school employee within thirty days following the separation from employment. No agreement between a departing licensed or certified school employee and the School shall diminish or eliminate the responsibility of investigating and reporting the alleged

ethical misconduct, and any such provision or agreement to the contrary is void and unenforceable

11. **Sites:** The School shall provide educational services, including the delivery of instruction, at the following location(s):

New Mexico School for the Arts
500 Montezuma Avenue
Santa Fe, NM 87501

The School shall ensure the Facilities meet the charter school facilities standards in Section 22-8B-4.2(A, C, D) NMSA 1978, and shall ensure that the facilities comply with all applicable federal, state and local health and safety standards and other applicable laws, regulations and rules. The School shall provide the Lease(s) or Lease Purchase Agreement(s) for all facilities, which is attached to this contract as Attachment J incorporated herein by reference,

SECTION 5: PERFORMANCE FRAMEWORKS

1. **Performance Framework: Attachment A**, incorporated herein by reference, includes the Charter Performance Review and Accountability System ("Accountability Plan"), which includes Academic Performance Framework, Organizational Performance Framework, and Financial Performance Framework adopted by the Commission. These documents together set forth the academic and operational performance indicators and performance targets that will guide the Commission's evaluation of the School and the criteria, processes and procedures that the Commission will use for ongoing oversight of operational, financial and academic performance of the School.
2. **Academic Performance Indicators and Evaluation:** The School shall:
 - i. Provide a comprehensive educational program that aligns with the state academic standards prescribed by the Department for the grades approved to operate.
 - ii. Participate in the State-required assessments as designated by the Department or the U.S. Department of Education.
 - iii. Timely report student level data for State-required assessments to the Department and report student level data from school administered assessments, as requested by the Commission or on a bi-annual basis if that data is incorporated into the Academic Performance Framework adopted by the Commission.
 - iv. Meet or make substantial progress toward achievement of the Department's standards of excellence.
 - v. Meet or make substantial progress toward achievement of the Department's standards of excellence or the performance standards identified in the Academic Performance Framework as adopted and modified periodically by the Commission.
 - i. The Academic Performance Framework adopted by the Commission allows for the inclusion of additional rigorous, valid and reliable mission specific indicators proposed by a charter school to augment external evaluations of its performance, provided that the Commission approves of the quality and rigor of such proposed indicators and the indicators are consistent with the purposes of the Act. Any such indicators will be incorporated into Attachment A.
 - ii. If the School fails to meet its academic performance indicators in any year it must develop, submit, and begin implementing a School Improvement Plan within 60 days of

the release of the academic performance information. The School Improvement Plan will be submitted to the Commission, but the Commission will not evaluate the quality of, or approve, the plan. The Commission may evaluate implementation of the plan through its annual site visits and provide feedback to the School regarding fidelity of implementation and effectiveness of the plan in improving School performance.

- iii. If the School does not meet the performance standards in the Performance Framework, it shall "make substantial progress" toward achievement of those standards as it is defined in the Commission's Accountability Plan included in Attachment A.
- iv. Failure to meet or make substantial progress toward meeting the performance standards shall be sufficient justification to revoke or non-renew the School's Charter.
- vi. The Commission is not required to allow the school the opportunity to remedy the problem if unsatisfactory review warrants revocation.

3. Organizational Performance Indicators and Evaluation: The School shall:

- i. Comply with applicable federal, state and local rules, regulations and statutes relating to public education unless the School is specifically exempted from the provision of law.
- ii. Timely submit all documentation, financial and other reports required by the Department or the Commission in order to evaluate the School's compliance with applicable federal, state and local rules, regulations and statutes relating to public education.
- iii. Provide a written copy to the Commission, within 15 days of receiving a written notice of complaint filed against the School alleging violations of federal, state, or local law, regulation or rule, or a final determination from another state government division or agency, or state or federal court regarding any such complaint against the School.
- iv. Cooperate with the Commission or authorized representative to enable them to conduct annual site visits and all other auditing visits requested or required by the Commission or the Department.
- v. Meet the organizational performance standards identified in the Organizational Performance Framework as adopted and modified periodically by the Commission.
 - a. If the school fails to meet its organizational performance indicators, the School will be provided notice through the procedures in the Commission's Accountability Plan included in Attachment A.
 - b. The school may be required to develop, submit and implement a Corrective Action Plan to address deficiencies in its organizational performance. All Corrective Action Plans must be submitted to the Commission, but the Commission will not evaluate the quality of, or approve, the plan. The Commission may evaluate implementation of the plan through its site visits and provide feedback to the School regarding fidelity of implementation and effectiveness of the plan in improving school performance.
 - c. Failure to meet the organizational performance standards shall be sufficient justification to revoke or non-renew the School's Charter.
- vi. The Commission is not required to allow the school the opportunity to remedy the problem if unsatisfactory review warrants revocation.

4. Financial Performance Indicators and Evaluation: The School shall:

- i. Meet generally accepted standards of fiscal management which shall include complying with all applicable provisions of the Public School Finance Code, the Procurement Code, and the Audit Act; paying debts as they fall due or in the usual course of business; complying with all federal requirements related to federally funded programs and awards; refraining from gross incompetence or systematic and egregious mismanagement of the School's finances or financial records; and preparing and fairly presenting its financial statements in accordance with accounting principles generally accepted in the United States of America, which include the design, implementation, and maintenance of internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.
- ii. Timely submit all documentation, financial and other reports required by the Department or the Commission. The School shall further timely submit any Corrective Action Plans or additional financial reporting or documentation that may be required by the Department or the Commission.
- iii. Cooperate with the Commission to enable them, or its authorized representative to conduct all auditing visits requested or required by the Commission or the Department.
- iv. Meet the financial performance standards identified in the Financial Performance Framework as adopted and modified periodically by the Commission, or provide an adequate response to explain why the School does not meet the performance standards and demonstrate the school is a financially viable and stable organization.
- v. Failure to meet generally accepted standards of fiscal management shall be sufficient justification to revoke or non-renew the School's Charter.
- vi. The School shall have a designated licensed business official and certified procurement officer. The School shall identify the current individual designated as the certified procurement officer and contains their CPO certification in Attachment I incorporated herein by reference. The school shall notify the Commission of all changes to the designated licensed business official or certified procurement officer within 30 days.
- vii. The Commission is not required to allow the school the opportunity to remedy the problem if unsatisfactory review warrants revocation.

5. Chartering Authority's Duties and Liabilities: The Commission, shall:

- i. Evaluate all applications submitted by this charter school, including properly submitted amendment requests, and act timely on any such applications or requests;
- ii. Monitor the performance and legal compliance of the School, in accordance with the requirements of the Act and the terms of the Charter and Contract;
- iii. Review all relevant information to determine whether the School merits suspension, revocation or nonrenewal. All evaluation and monitoring will be carried out using the processes and criteria established in the Accountability Plan in Attachment A;
- iv. Conduct all its activities in accordance with its chartering policies and practices, which shall be modified from time to time to be consistent with nationally recognized principles and standards for quality charter authorizing in all major areas of authorizing; and
- v. Promptly notify the Governing Body of the School of unsatisfactory fiscal, overall

governance or student performance or legal compliance and provide reasonable opportunity for the governing body to remedy the problem; Any such notice shall be provided in accordance with the Accountability Plan as provided in Attachment A.

- vi. The Commission is not required to allow the school the opportunity to remedy the problem if the unsatisfactory review warrants revocation.

SECTION 6: ADDITIONAL TERMS

1. **Withheld Two-Percent of Program Cost:** The Charter Schools Division of the Department may withhold and use two percent (2%) of the school-generated program cost for administrative support of the School as provided in Section 22-8B-13 NMSA 1978. These funds are to be utilized in the following manner:

- i. New Mexico Public Education Department: The Department shall utilize the funds for the following purposes:
 - a. Funding the staff to conduct work for the Division, which shall include:
 1. Conducting annual site visits and annual evaluations under the Performance Frameworks; receiving, processing, evaluating and making recommendations on new applications, amendment requests, and renewal applications; receiving, processing, and evaluating complaints; making recommendations to revoke charters, as necessary; making recommendations regarding School Improvement and Corrective Action Plans, as necessary; overseeing the closure of charter schools; and making recommendations regarding the development and implementation of authorizing policies and practices to ensure they are consistent with nationally recognized principles and standards for quality charter authorizing in all major areas of authorizing; and
 2. Technical assistance and support work such as providing training for new Governing Board members; providing Governing Body training; maintaining communication with the charter school field to keep them apprised of best practices, opportunities for support from Department, policy changes from the Commission; hosting other training and professional development; and developing other support materials.
 - b. Funding a proportional share of the Department staff to conduct work, as determined by the Department, necessary to support the administrative oversight, approval of budget matters, capital outlay, transportation, special education, federal programs, school evaluation and accountability, annual financial audits, and T&E audits.
 - c. Funding any other staff work necessary to provide professional support or data analysis to the Commission.
 - d. The Commission's reasonable request for funding of any project or service to support the work of the Commission shall not be denied by the Department. The Commission's request for funding of project or service shall take budget priority over the Department's budget priorities or allocations.
 - e. The Commission shall request an annual accounting from the Department on

how the two percent (2%) was utilized and shall provide the information received to the school.

- ii. **New Mexico Public Education Commission:** The New Mexico Public Education Commission shall utilize the funds for the following purposes:
 - a. Funding the travel and per diem expenses of Commissioners when conducting the business of the Commission.
 - b. Funding the administrative expenses of the business of the Commission
- iii. In addition to the above listed items, the Department and the Commission shall have authority to utilize the funds for similar or related costs for administrative support of charter schools and charter school programs.

2. Amendments to the Charter and Changes to the School:

- i. This Contract may be amended by mutual agreement, in writing, of the parties. Processes for submitting requests to amend, or notifications of amendments, as amended from time to time, shall be posted on the Commission's website as an Amendment Request or Notification. The School shall not take action or implement the amendment until approved by the Commission unless the Commission's processes indicate otherwise.
 - a. All amendment requests and notifications shall be submitted pursuant to the procedures developed by the Commission.
 - b. The Commission shall consider and vote on all properly submitted amendment requests and notifications within 60 days of receipt of a complete submission.
- ii. If the Parties cannot agree on an amendment to the terms of the contract, either party may appeal to the Department Secretary pursuant to Section 22-8B-9(A) and (C) NMSA 1978.

3. Insurance:

- i. The School shall obtain and maintain insurance in accordance with the laws of the State.
- ii. The School will participate in the Public School Insurance Authority.
- iii. **Waiver of Rights:** The School and its insurers providing the required coverage shall waive all rights of recovery against the State and the Commission, or the Department, their agents, officials, assignees and employees.
- iv. The School shall maintain insurance coverage as required by law and provide the types, limits, and deductibles in Attachment K.

4. Charter Revocation: The Commission may at any time take action to revoke the Charter and Contract of the School.

- i. **Criteria:** Pursuant to the Act, the Commission may revoke the Charter if the Commission determines that the School:

- a. Committed a material violation of any of the conditions, standards or procedures set forth in the Contract,
- b. Failed to meet or make substantial progress toward achievement of the department's standards of excellence or student performance standards identified in the Contract,
- c. Failed to meet generally accepted standards of fiscal management, or
- d. Violated any provision of law from which the School was not specifically exempted.

ii. **Procedures and Timeline:** The Commission shall utilize the following revocation process:

- a. Notify the school at least 7 days prior to a regularly scheduled meeting that it will be on the agenda for consideration of whether to issue a Notice of Intent to Revoke the Charter.
- b. Issue a written Notice of Intent to Revoke the Charter within 15 days of voting to issue such a notice. The Notice shall:
 - 1. State the legal basis for the potential revocation, and reasonably identify the evidence that the Commission has to support the existence of the legal basis;
 - 2. Identify the date, location, and time at which a revocation hearing will be held;
 - 3. Establish deadlines for the School and the Commission to present written materials and all evidence that will be used during the hearing; and
 - 4. Identify if the hearing will be conducted by the Commission or by an impartial hearing officer. If a hearing officer is to be used, the Notice shall establish the date on which the Commission will consider whether to accept, reject, or modify the hearing officer's findings of facts, conclusions of law, and recommendations.
- c. After a hearing, upon making a final revocation decision, the Commission shall issue a written decision, through the Chair, within 15 days of voting to revoke the charter stating the findings of fact and conclusions of law that support the revocation.

5. **Charter Renewal Processes:** Within the time period established by the Act, the School's Governing Body may submit a renewal application to the Commission using the Commission's renewal application form as it may be amended from time to time. The application shall include all information required by law and necessary for the Commission to determine whether renewal, non-renewal, or a conditional or short-term renewal is most appropriate.

- i. **Criteria:** Pursuant to the Act, the Commission may refuse to renew the Charter if the Commission determines that the school:
 - a. Committed a material violation of any of the conditions, standards or procedures set forth in the Contract,

- b. Failed to meet or make substantial progress toward achievement of the Department's standards of excellence or student performance standards identified in the Contract,
 - c. Failed to meet generally accepted standards of fiscal management, or
 - d. Violated any provision of law from which the School was not specifically exempted.
 - ii. Procedures and Timeline: The Commission shall utilize the following renewal process:
 - a. At least one year prior to the date on which the school will apply for renewal, the Commission's authorized representatives will notify the school of its preliminary renewal profile, as established in the Commission's Accountability Plan which is incorporated herein as Attachment A.
 - b. At least 20 days prior to Commission's meeting at which it will consider the school's renewal application, the Commission's authorized representatives will provide the School with a preliminary application analysis and recommendation. The recommendation shall:
 - 1. State the legal basis for potential non-renewal, and reasonably identify the evidence to support the existence of the legal basis; and
 - 2. Establish deadlines for the School to present its written materials and all evidence that will be used to respond to the recommendation, which shall be not less than 10 days from the date of the delivery of the recommendation.
 - c. No later than seven (7) days prior to the Commission's meeting at which it will consider the school's renewal application, the Commission's authorized representatives will provide the school with a final application analysis and recommendation.
 - d. Upon making a final non-renewal decision, the Commission, through the Chair, shall issue a written decision within 30 days of voting to non-renew the charter stating the findings of fact and conclusions of that support the revocation.
6. **Applicable Law:** The material and services provided by this School under this Charter shall comply with all applicable federal, state, and local laws and shall conform, in all respects, to the educational standards contained in its application and Charter. This Charter shall be governed and interpreted in accordance with the laws of the State.
- i. In the event of any conflict among the documents and practices defining this relationship, it is agreed that:
 - a. The Contract shall take precedence over policies of either Party and the Charter; and
 - b. If a provision in the Performance Framework conflicts with a provision in the Contract, the Contract shall take precedence over the Performance Framework.
 - ii. This Contract shall not take precedence over any applicable provisions of law, rule or regulation.

- iii. In the event of a change in law, regulation, rule, procedure or form affecting the School during the term of this Contract, the Parties shall comply with the change in law, rule, regulation or procedure or utilize the new form, provided.
 - a. If an amendment to this Contract is required to comply with a change in the law or rule, then the Parties shall execute such an amendment.

7. Charter Interpretation:

- i. **Merger:** This Charter and Contract, including all of the attachments, constitute the entire agreement of the Parties. NMSA, Commission policies, and Department policies, and administrative rules and regulations which may be amended from time to time during the course of the Charter, are incorporated into this Charter, along with any amendments which may occur during the term of the Charter, by this reference.
- ii. **Waiver:** Either party's failure to insist on strict performance of any term or condition of the Charter shall not constitute a waiver of that term or condition, even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.
- iii. **Severability:** The provisions of this Charter are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Charter or Contract.
- iv. **Assignment:** Neither party may assign or transfer any right or interest in this Charter and Contract unless authorized by law. No assignment, transfer or delegation of any duty of the School shall be made without prior written permission of the Commission.

8. Indemnification and Acknowledgements: To the extent permitted by law, the Charter School shall indemnify, defend, save and hold harmless the Commission, the State, its departments, agencies, boards, commissions, universities and its officers, officials, agents and employees ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) ("Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the School or any of its directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such School to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree that is applicable to the School. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the School from and against any and all claims. It is agreed that the School will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. This provision shall be subject to annual budget and appropriation by the New Mexico Legislature.

9. Employees and Contractors: This Charter is not an employment contract. No officer, employee, agent, or subcontractor of the School is an officer, employee, or agent of the Commission or the Department.

10. Non-Discrimination: The School shall comply with all applicable federal and state employment laws, rules and regulations, including the Americans with Disabilities Act. The School shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, sexual orientation,

gender identity, spousal affiliation, national origin or disability.

11. **Notices:** Any notice required, or permitted, under the Contract shall be in writing and shall be effective immediately upon personal delivery, upon receipt of electronic mail, or three (3) days after mailing to the following:

Charter School:

Bill Beacham
500 Montezuma Avenue
Santa Fe, NM 87501
505-310-4194
bbeacham@nmschoolforthearts.org

Eric Crites
500 Montezuma Avenue
Santa Fe, NM 87501
505-310-4194 (office)
505-670-0062 (cell)
ecrites@nmschoolforthearts.org

Patricia Matthews
Matthews Fox, PC
1925 Aspen Drive Suite 301A
Santa Fe, NM 87505
505-473-3020
pmatthews@matthewsfox.com

NM Public Education Commission:

Patricia E. Gipson, Chair
300 Don Gaspar Santa Fe, NM 87505
575-405-9135
PEC.DistrictSeven@state.nm.us

The Parties may make changes in the address of its contact person by posting the change(s) on its website.

12. **Dispute Resolution:** Disputes arising out of the interpretation of this Contract shall be subject to the dispute resolution process set forth in this section. Disputes arising out of interpretations of state or federal statute, regulation, or policies of a federal entity or a different state entity, Charter revocation, or Charter renewal shall not be subject to this dispute resolution process.
- i. **Notice of Dispute:** Either party shall notify the other party in writing that a dispute exists between them within 30 days from the date the dispute arises. The notice of dispute shall identify the Paragraph of this Contract in dispute, reasons alleged for the dispute and copies of any documentation that supports the complaining party's position. If the dispute is not timely presented to the other party, the party receiving late notice may elect not to enter into mediation.
 - ii. **Continuation of Contract Performance:** The School and the Commission agree that the existence and details of a dispute notwithstanding, the Parties shall continue without delay their performance of this Contract, except for any performance that may be directly affected by such dispute.
 - iii. **Time limit for response to the notice and cure of the matter in dispute:** Upon receipt of a Notice of Dispute, the Chair of the Commission or the Charter Representative of the Charter School shall have 15 days to respond in writing.
 - a. The written response may:
 1. Propose a course of action to cure the dispute;

2. Propose the parties enter into informal discussions to resolve the matter; or
 3. Require the parties select a neutral third party to assist in resolving the dispute.
- b. If no response is received within 15 days, the Party sending the Notice may invoke the process for selecting a neutral third party to assist in resolving the dispute.
 - c. If the written response proposed a course action or negotiations to resolve the dispute, the party sending the Notice shall respond within 15 days or receiving the response.
 - d. At any point in this informal process, either Party may, in writing, invoke the process for selecting a neutral third party to assist in resolving the dispute.
- iv. **Selection of a neutral third party to assist in resolving the dispute:**
- a. If either Party invokes the process for selecting a neutral third party to assist in resolving the dispute, it shall include in the notice the name of a proposed mediator along with his/her qualifications.
 - b. If the other Party does not agree to the proposed mediator, it shall identify an alternate mediator along with his/her qualifications within 5 business days.
 - c. If the other Party does not agree with the alternate designation, it shall give notice within 5 business days.
 - d. In the event that the Parties cannot agree on a mediator the Parties shall request that the Secretary appoint a mediator. The appointed mediator shall mediate the dispute.
- v. **Apportionment of all costs related to the dispute resolution process:** Each Party shall pay one-half of the reasonable fees and expenses of the mediator. All other fees and expenses of each party, including without limitation, the fees and expenses of its counsel, shall be paid by the Party incurring such costs.
- vi. **Process for Final Resolution of Dispute:** If settlement of the dispute is not reached through mediation or by agreement of the Parties, the Parties shall submit the matter to the Secretary for resolution.

13. Non-Availability of Funds: Every payment obligation of the State under this Charter is conditioned upon the availability of funds continuing to be appropriated or allocated for the payment of such obligations. If funds are not allocated and available for the continuance of this Charter, the Commission may terminate this Charter at the end of the period for which funds are available. No liability shall accrue to the Commission, nor the State, or any of its subdivisions, departments or divisions, in the event this provision is exercised, and neither the Commission nor the State shall be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

14. Release of Funding: A School may not receive state equalization funding until a current NMCI determination, certificate of occupancy, and occupancy permit for educational use are provided for each site listed in Section 4.10 (and each site subsequently approved by the New Mexico Public Education Commission). A School may not receive state equalization funding until the

Commission has determined that the school has satisfied all conditions imposed by the Commission at initial approval and has demonstrated readiness to operate through completion of the Commission's Implementation Year Checklist. Upon request for renewal, the School may not receive state equalization funding until the Commission has determined that the school has satisfied all conditions imposed by the Commission.

NEW MEXICO SCHOOL FOR THE ARTS

Executed this 29th day of May 2019.

By Bill Buchanan

_____, Charter Representative for
New Mexico School for the Arts

NEW MEXICO PUBLIC EDUCATION COMMISSION

Executed this _____ day of _____ 20____.

By _____
Patricia E. Gipson, Chair of the New Mexico Public Education Commission.

Certification of Board Vote


Certificate Of Governing Body Vote

This document certifies that on May 29, 2019 at 3:00 pm a meeting of the Governing Body of New Mexico School for the Arts a New Mexico public charter school, was held at 275 E. Alameda in Santa Fe, NM The meeting and all votes were conducted in compliance with the New Mexico Open Meetings Act.

A quorum of the Governing Body's members being present and voting, it was voted five in favor and zero opposed to approving the 2019-2024 Charter Contract and the PEC Performance Review and Accountability System (including frameworks with mission specific goal on page 19).

The members voting in favor were: Bill Beacham, Dr. Michael Kaplan, Greg Hunt
The members voting in opposition were: none opposed

I, the undersigned, certify that this is a true copy.



Signature of Individual Authorized To Certify the Vote (Secretary or Other Officer)

Dr. Michael Kaplan

Vice-Chair

May 29, 2019



New Mexico Public Education Commission Charter Performance Review and Accountability System

New Mexico School for the Arts

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Introduction

Through charter schools, the Public Education Commission (“PEC”) as Chartering Authority seeks to provide families with effective, quality educational options.

The PEC is responsible for setting and implementing chartering policies that are consistent with New Mexico charter school law, charter agreements established with schools, and nationally recognized principles and standards for quality charter authorizing. The PEC, through its authorized representative(s), will carry out the data collection and monitoring activities described in the Performance Review and Accountability System.

The New Mexico Charter Schools Act purpose:

The Charter Schools Act ... is enacted to enable individual schools to structure their educational curriculum to encourage the use of different and innovative teaching methods that are based on reliable research and effective practices or have been replicated successfully in schools with diverse characteristics; to allow the development of different and innovative forms of measuring student learning and achievement; to address the needs of all students, including those determined to be at risk; to create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site; to improve student achievement; to provide parents and students with an educational alternative to create new, innovative and more flexible ways of educating children within the public school system; to encourage parental and community involvement in the public school system; to develop and use site-based budgeting; and to hold charter schools accountable for meeting the department's educational standards and fiscal requirements. (§22-8B-3 NMSA 1978 *et seq*).

Performance Review and Accountability System Objectives

PEC seeks to establish a Performance Review and Accountability System that strikes the appropriate balance between charter school autonomy and chartering authority intervention. The Performance Review and Accountability System is an adaptive tool subject to continuous review and improvement so that the students in New Mexico public charter schools are effectively served.

The PEC invites New Mexico’s charter schools to be partners in the development and continuous improvement of this Performance Review and Accountability System.

The PEC is committed to providing clear expectations about charter school performance and chartering authority oversight activities. PEC objectives for charter school performance review and accountability include:

- Provide clarity about the process and timeline for collecting performance framework data
- Streamline data collection and decrease the burden on NM charter schools
- Consider overall school academic performance across a range of different indicators, including optional, unique, school-identified measures for evaluating mission-specific goals
- Ensure all data and evidence can be reliably and accurately collected and measures can be reliably and accurately evaluated
- Establish financial metrics that provide clarity about the financial health of charter schools
- Establish clear policies and procedures for how performance frameworks inform PEC actions and decisions, including a range of interventions that PEC will take in response to charter school under performance
- Provide annual performance reports that are publicly available to families and schools

Annual Performance Review Activities

PEC, through its authorized representative(s), evaluates schools on their ability to achieve academic goals with all students while maintaining financial and organizational health. Annual accountability activities are guided by state and federal compliance requirements as well as clear measures of academic progress that allow for a rigorous, state-aligned, fact-based evaluation of school performance.

Charter School Data Submissions

- Throughout the year, charter schools are required to submit academic, financial, and organizational data to PEC, various PED departments, and other governmental entities.
- Submissions are required for PEC accountability oversight and for compliance with state and federal funding and reporting requirements.
- See Appendix B for a schedule of reports consistently required by the PEC and PED; other reporting may be required if the school is notified by PED, PEC, or other government entities.

Annual School Visits

- PEC's authorized representative(s) conduct annual site visits to all schools to collect data for the performance framework evaluation and provide feedback as technical assistance. Site visits may be differentiated based on school performance, including academic, financial, and organizational performance.
- New school visits are conducted within the first 40 days after new school opening to collect data for the performance framework evaluation and to provide early feedback and intervention as technical assistance, if necessary.
- Renewal visits are conducted during the fall of the charter school's renewal year and provide additional insights to inform PEC charter school renewal decisions, especially for schools not meeting performance expectations.
- Visits can include a combination of any of the following: file audits, classroom observations, a facility review, and staff, board, and student and family interviews.
- See Appendix C for a summary of the School Visit Protocols.

Annual Performance Review

- PEC's authorized representative(s) evaluate all schools against the PEC Performance Framework annually, which is comprised of academic, financial, and organizational performance metrics.
- PEC's authorized representative(s) share initial performance framework feedback and evaluations with charter school boards and administrative leaders for review and feedback.
- PEC, through its authorized representative(s), issues any Notices of Concern or Breach related to annual performance reviews.
- PEC approves and publishes Annual Performance Reports for schools.
- See Appendix A for the current PEC Charter School Performance Framework.

Performance Framework

The PEC Charter School Performance Framework sets the academic, fiscal, and organizational standards by which PEC-authorized public charter schools will be evaluated, informing the PEC and charter school about the school's performance and sustainability. See Appendix A for the current PEC Charter School Performance Framework.

The Performance Framework consists of three separate, free standing frameworks. Performance under these three separate frameworks does not get rolled up into one overall evaluation. No one document necessarily carries more weight than any other.

Academic Framework: The academic framework includes measures that allow the PEC to evaluate the school's academic performance and assess whether the academic program is a success and whether the charter school is implementing its academic program effectively. The framework includes measures to evaluate student proficiency, student academic growth, achievement gaps in both proficiency and growth between student subgroups, and for high schools, post-secondary readiness and graduation rate. The PEC considers increases in student academic achievement for all groups of students as one of the most important factors when determining whether to renew or revoke a school's charter. The framework also includes unique, school-identified measures for evaluating mission-specific goals. These goals must be approved by the PEC to insure quality and rigor of proposed indicators and that the indicators are consistent with the purposes of the Charter Schools Act.

Based on performance across the academic indicators and measures, schools receive an overall academic tier rating that is used by the PEC in annual monitoring and renewal decisions. The academic framework has four rating tiers. Schools in Tier 1 are exceeding PEC performance expectations and are on par with or exceed the highest-performing schools in the state. Schools in Tier 4 are consistently failing to meet academic performance expectations.

Organizational Framework: The Organizational Framework primarily lists the responsibilities and duties that charter schools are required to meet through state and federal laws. The organizational framework is the primary focus of the annual school visit process. It was developed pursuant to the New Mexico Charter Schools Act and includes indicators, criteria statements, and metrics related to schools' educational program, financial management, governing body performance, school environment, and employee and student policies, including compliance with all applicable laws, rules, policies, and terms of the charter contract. For each indicator a school receives one of three ratings: "Meets Standard," "Working to Meet Standard" and "Does Not Meet Standard". Indicator ratings are assigned based on evidence that the school is meeting the criteria statement(s).

Based on performance across the organizational indicators and measures, schools receive an overall organizational rating that is used by the PEC in annual monitoring and renewal decisions. The overall rating will be either "Meets Standard" or "Does Not Meet Standard" based on cumulative performance on the organizational indicators. A school will only receive an overall rating of "Does Not Meet Standard" if the school receives "Does Not Meet Standard" ratings for three more indicators.

Financial Framework: The financial framework is currently being revised to include more effective measures of financial health. When a new financial framework is developed, school reported financial data will be evaluated on a quarterly basis and the Performance Framework will be populated with the most recent data. This internal school data is not final, but will be

used by the PEC as a preliminary evaluation for progress monitoring improvements in financial health and/or act as a flag for potential financial problems or concerns.

A final performance framework will be populated after final audited end-of-year cash amounts are available from the annual external audit. The final framework will be used to evaluate whether the school is meeting financial performance expectations for purposes of annual evaluations and renewal decisions.

The current financial framework requires schools to annually, in August, submit a completed and signed self-reported questionnaire. The questionnaire includes a series of questions about organizational performance as it relates to financial management practices. Several of the questions in the current financial framework are included in the revised organizational framework as indicators.

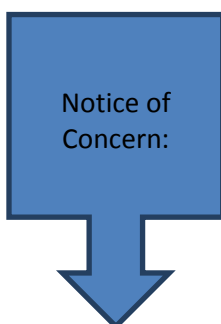
Intervention Ladder

PEC is responsible for holding charter schools accountable for the performance and legal compliance of charter schools under their authority. To meet this obligation, PEC has adopted an intervention ladder to communicate concerns about academic performance, fiscal soundness or legal, contractual, or policy requirements.

In the absence of evidence to the contrary, all schools are considered to be in **Good Standing**. Schools in good standing are expected to participate in routine annual accountability activities and maintain open communication with PEC and its authorized representative(s).

Notice of Concern

Schools may receive a **Notice of Concern** if the PEC and/or its authorized representative receives a verified complaint of significant concern, or if the annual performance review or site visit identifies significant questions or concerns about academic, financial, or organizational performance; such as a Tier 4 rating on the academic framework or a finding of “not meeting expectations” on an organizational indicator. PEC’s authorized representative(s) will communicate with school leaders, parents, and any other necessary stakeholders to verify complaints.

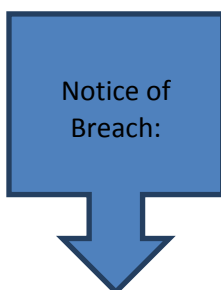


PEC will issue a Notice of Concern at a properly noticed public meeting. PEC’s authorized representative(s) shall provide schools notice that they will be appearing on the PEC’s agenda for the purposes of issuing a Notice of Concern at least 10 days prior to the meeting. As part of issuing a Notice of Concern, the PEC will establish expected outcomes and deadlines¹ that must be met by the school. The deadline established for correction shall be no less than 10 days including holidays and weekends, unless the matter is an emergency matter² in which case the deadline shall be no less than 72 hours.

Upon remedying the concern and complying with the expectations established by the PEC, the school returns to **Good Standing**. If the PEC’s expectations and deadlines are not met, the school progresses to the next level of the intervention ladder.

Notice of Breach

A school can receive a **Notice of Breach** if it fails to correct a Notice of Concern or for certain violations of law that are serious enough to justify a heightened initial response.



PEC will issue a Notice of Breach at a properly noticed public meeting. PEC’s authorized representative(s) shall provide schools notice that they will be appearing on the PEC’s agenda for the purposes of issuing a Notice of Breach at least 10 days prior to the meeting. As part of issuing a Notice of Breach, the PEC will establish expected outcomes and deadlines¹ that must be met by the school. The deadline established for correction shall be no less than 10 days including holidays and weekends, unless the matter is an emergency matter² in which case the deadline shall be no less than 72 hours.

¹ Deadlines will vary depending on the urgency of the matter and the amount of time it takes to reasonably cure the concern.

² An “emergency” refers to unforeseen circumstances that, if not addressed immediately by the public body, will likely result in injury or damage to persons or property or substantial financial loss to the public body

Once a Notice of Breach is issued, schools are required to submit a Corrective Action Plan (financial or organizational performance) or an Improvement Plan (academic performance) that details the actions and timeline that the schools will implement to correct the breach. PEC's authorized representatives will monitor the school's implementation of Corrective Action and Improvement Plans, and regularly update PEC on progress. Once the school has met the Notice of Breach requirements, they return to **Good Standing**. Repeated Notices of Concern or Breach may lead to increased oversight, including additional annual site visits or regular phone calls to discuss key performance indicators.

Revocation Review

Failure to meet the requirements specified in the Notice of Breach, or certain violations of law that are serious enough to justify an initial heightened response, will result in a charter school **Revocation Review**. Schools may also be subject to the Revocation Review if they receive more than one Notice of Breach in the same school year.

PEC will issue a Notice of Revocation Review at a properly noticed public meeting. Unless impractical, PEC's authorized representative(s) shall provide schools notice that they will be appearing on the PEC's agenda for the purposes of issuing a Notice of Revocation Review at least 10 days prior to the meeting. As part of issuing a Notice of Revocation Review, the PEC will establish the actions to be taken by its authorized representative(s) and a deadline for the school to respond to the prospect of revocation. The actions of the PEC's authorized representative may include additional visits to the school, an in-depth audit to assess the school's educational program, and/or financial and organizational health, or other actions appropriate to determine if a revocation hearing is appropriate.

Findings from the revocation review will be presented to the PEC at a properly noticed public meeting, at which will determine whether to issue a Notice of Intent to Revoke, which sends the school into revocation proceedings. In lieu of a Notice of Intent to Revoke, the PEC may decide to grant a Notice of Breach, or a revised Notice of Breach. A revised Notice of Breach will allow a school more time to achieve expected outcomes established in an initial Notice of Breach or adjust the expected outcomes initially established by the PEC.

In extraordinary circumstances, the PEC may forgo the process outlined above and may, with proper statutory notice, consider whether to hold a revocation hearing or hold a revocation hearing.

The table on the following page provides examples regarding triggers and evidence, and actions and consequences; however, the table shall not be considered exclusive.

Revocation Review

Intervention Status	Triggers/Evidence	Actions/Consequences
Notice of Concern	<ul style="list-style-type: none"> • Failure to meet performance standards represented in the performance framework. • Receipt of verified complaint of significant concern. • Evidence of not meeting performance expectations through routine monitoring or school visit. • Failure to comply with terms of the charter. 	<ul style="list-style-type: none"> • Appearance before the Public Education Commission at public meeting. • Letter to school leader and governing board detailing areas of concern and specific outcomes and timeline for correcting the performance gap.
Notice of Breach	<ul style="list-style-type: none"> • Failure to meet objectives identified in a Notice of Concern. • Evidence of material or significant failure to comply with applicable laws. • Actions or operational deficiencies that may endanger the well-being of students and/or staff, or negatively impact the viability of the school. 	<ul style="list-style-type: none"> • Appearance before the Public Education Commission at public meeting. • Letter to school leader and governing board giving notification of breach and outlining additional terms of oversight and monitoring. • School develops, submits, and implements a Corrective Action or Improvement Plan with specific improvements, objectives, timelines, and measures that results in correction of the breach. • PEC, through authorized representative(s), monitors implementation of Corrective Action or Improvement Plan.
Revocation Review	<ul style="list-style-type: none"> • Failure to successfully meet the terms of the Corrective Action or Improvement Plan. • Repeated failure to meet the material terms of the charter agreement. • Illegal behavior, fraud, misappropriation of funds. • Extended pattern of failure to meet performance expectations set forth in the charter agreement. • Repeated failure to comply with applicable law. 	<ul style="list-style-type: none"> • Appearance before the Public Education Commission at public meeting. • The PEC's authorized representative(s) may conduct additional site visits to the school and/or conduct an in-depth audit to assess the school's educational program, and/or financial and organizational health. • The PEC's authorized representative(s) review and preparation of recommendation to revoke, or not to revoke, the charter. • PEC reviews recommendations and makes decision to commence or not commence revocation proceedings.

Charter Renewal

As part of renewal consideration, PEC will consider a schools' annual school performance, school visit reports, information contained in the school's renewal application, and other relevant information in their decisions. Renewal decisions are based on the statutory standards in Section 22-8B-12(K) New Mexico Statutes Annotated.

After the final performance evaluation is completed for each year of its contract, a school will receive notice of whether it is on track for a renewal recommendation for 1) expedited renewal, 2) full renewal, 3) renewal with conditions, or 4) non-renewal. When the school has two years remaining on its contract term, the PEC's authorized representative(s) will provide the school with a Preliminary Notification of Renewal Profile. These notices are based on the school's performance profile over the contract term and the renewal performance profiles on page 11 of this Charter Performance Review and Accountability System. The PEC expects that schools will use these notices to both take action to respond to the potential renewal action by improving performance, as necessary, and to prepare and submit a response to the potential renewal action.

After final school performance data is released for the year prior to the school's renewal year, the school will receive a final notice of its renewal profile. Schools that have an Expedited Renewal Profile will have limited submission requirements and a limited site visit.

Renewal Decision Criteria

PEC decisions on charter school renewal will be based on an analysis of the following questions:

1. Is the school an academic success or making progress toward academic success? (Academic Framework)
2. Is the school an effective, viable organization? (Organizational Framework)
3. Is the school fiscally sound? (Financial Framework)

Staff providing support to the PEC will develop renewal recommendations based on the cumulative performance of the charter school over the contract term. The PEC will consider the following sources of evidence for renewal decisions, including any additional factors highlighted in the charter school renewal application.

Renewal Evidence Sources

- Annual performance reports, which constitute a report on the status in relation to meeting the academic performance, financial compliance and governance responsibilities of the charter school, including achieving the goals, objectives, student performance outcomes, state standards of excellence and other terms of the charter contract, including the accountability requirements set forth in the Assessment and Accountability Act;
- School developed reports, for schools not meeting the above standards, on the progress toward meeting the established standards;
- Evidence gathered that confirms or does not confirm the school developed reports identified above;
- A financial statement that discloses the costs of administration, instruction and other spending categories for the charter school that is understandable to the general public, that allows comparison of costs to other schools or comparable organizations and that is in a format required by the department;
- Petitions of support; and
- Facility assurances.

Renewal Outcomes

Staff providing support to the PEC will recommend one of four renewal outcomes (profiles) for PEC to consider. Although renewal recommendations will be guided by the performance profiles described below, the PEC has ultimate authority to make any renewal decision that is consistent with New Mexico charter school law.

Renewal Decision	Renewal Performance Profile ³	Renewal Terms
Expedited Renewal⁴	Academic <ul style="list-style-type: none"> • Maintain Tier 1 or 2 rating for previous four years of the charter contract 	Five-year term with no additional conditions outside normal charter contract; streamlined renewal application and review process
	Organizational / Financial <ul style="list-style-type: none"> • Meet Expectations for previous four years of the charter contract 	
Full Renewal⁵	Academic <ul style="list-style-type: none"> • Earn no Tier 4 ratings within the past three years, and • Either: <ul style="list-style-type: none"> ○ Maintain Tier 1 or 2 rating for at least three of past four years, or ○ Demonstrate consistently improving Tier rating over the last 3 years 	Five-year term with no additional conditions outside normal charter contract
	Organizational / Financial <ul style="list-style-type: none"> • Meet Expectations for the last two years, or • Meet Expectations for at least three of past four years 	
Renewal with conditions⁶	Academic <ul style="list-style-type: none"> • Earn Tier 4 performance rating for two or more years during the last four years but not in both of the last two years, or • Earn Tier 3 or 4 rating for three of the past four years, or • Earn two or more Tier 3 or 4 ratings and demonstrate declines in Tier rating in any of the last two years 	Three- or five-year renewal term with defined goals for school improvement on academic, organizational, and/or financial frameworks
	Organizational / Financial <ul style="list-style-type: none"> • Earn “did not meet” expectations for two or more years including one of the last two years 	
Non-Renewal⁷	Academic <ul style="list-style-type: none"> • Earn Tier 4 performance rating for past two years, or • Earn Tier 4 performance rating for three or more years during the last four years including the most recent 	Recommendation for non-renewal
	Organizational / Financial <ul style="list-style-type: none"> • Earn “did not meet” expectations for three or more years during the last four years including the most recent year 	

³ PEC renewal decisions will be guided by performance profiles, but PEC has ultimate authority to make any renewal decision that is consistent with New Mexico charter school law.

⁴ When considering schools currently in a contract with a term of less than 5 years, the expedited renewal profile criteria are 1) Maintain Tier 1 academic rating for the contract term, and 2) maintain Meets Expectations for organizational and financial performance for the contract term.

⁵ When considering schools currently in a contract with a term of less than 5 years, the full renewal profile criteria are 1) in the academic framework either a) demonstrate a consistently improving Tier rating over the term of the contract or b) maintain at least Tier 2 rating for the contract term, and 2) earn Meets Expectations for organizational and financial performance for the year prior to the renewal year.

⁶ When considering schools currently in a contract with a term of less than 5 years, the conditional renewal profile is for schools that do not fall into any other renewal profile.

⁷ When considering schools currently in a contract with a term of less than 5 years, the non-renewal profile 1) earned a Tier 4 academic performance rating for the year prior to the renewal year or 2) earn Does Not Meet Expectations for organizational or financial performance for the year prior to the renewal year.

Renewal Process Steps

Renewal Process Steps	Timing (Final Year of Charter Contract)
Final Notice of Renewal Profile	Summer – After School Performance Data Released
Renewal Application by the School	Options: August 1, September 1, or October 1
Renewal Site Visit	Dependent on submission date: August, September, or October
Additional Requests for Information	As needed
Final Renewal Report	At least 5 days before PEC Vote
PEC Renewal Vote	Dependent on submission date: October, November, or December
New Contract Negotiation	Spring

Annual Performance Evaluations

After the final performance evaluation is completed for each year of its contract, a school will receive notice of whether it is on track for a renewal recommendation for 1) expedited renewal, 2) full renewal, 3) renewal with conditions, or 4) non-renewal. At least one year prior to the date the school will apply for renewal, the PEC's authorized representative(s) will provide the school with a Preliminary Notification of Renewal Profile. These notices are based on the school's performance profile over the contract term and the renewal performance profiles on page 11 of this Charter Performance Review and Accountability System. The PEC expects that schools will use these notices to both take action to respond to the potential renewal action by improving performance, as necessary, and to prepare and submit a response to the potential renewal action.

After final school performance data is released for the year prior to the school's renewal year, the school will receive a final notice of its renewal profile. Schools that have an Expedited Renewal Profile will have limited submission requirements and a limited site visit.

Renewal Profile

The first stage of the formal renewal process is the preparation by the PEC's authorized representative(s) of school-specific renewal profiles. The Renewal Profiles are based on the record of the charter school's academic, financial and organizational performance as reported in their **Annual Performance Reports** and in alignment with any prior renewal or approval conditions. Renewal Profiles will be provided to the school in the late summer of the final year of the school's charter term. The profiles are based on evidence collected over the contract term and publicly available information. Schools eligible for expedited renewal will be identified during this phase. At this time in the process, all schools will be aware of the performance profile and thus the renewal recommendations from the staff supporting the PEC. The renewal application will provide the school an opportunity to submit and prepare a response to the potential renewal action.

Renewal Application by the School

The Renewal Application provides schools the opportunity to provide an overview of school progress and a response to the potential renewal action, if performance expectations have not been met during the contract term. It is the goal of the Commission, to the extent possible, to decrease the burden from the preparation of the Renewal Application.

Schools eligible for expedited renewal will not be required to submit some sections of the renewal

application. Annually, the Public Education Commission reviews and, as necessary, revises the renewal application. The current renewal application is available on the PEC website.

Renewal Site Visit

The PEC's authorized representatives will conduct at least one Renewal Site Visit during the renewal process. The purpose of the Renewal Site Visit is to test, verify and/or supplement the information provided in the school's Renewal Application. The information obtained through the Renewal Visit will be considered with all other evidence at the time of the renewal decision by the PEC. Appendix C provides more detailed information regarding site visits.

Schools eligible for expedited renewal may be eligible to receive a site visit that utilizes a modified protocol focused on gathering community feedback and verifying any outstanding performance corrections. Site visits will also be used to investigate any significant concerns that may arise during the renewal period.

Additional Requests for Information

At any time during the renewal process, the PEC and/or its authorized representatives may request additional information from the school in an effort to fully inform the renewal decision.

Final Renewal Report

Staff supporting the PEC will prepare a renewal report once all renewal review activities are completed. The report will be provided to the school at least 5 days before the matter is put to a vote by the PEC so that the school has a final opportunity to prepare and submit a response to the information in the report.

PEC Renewal Vote

The PEC reviews and votes on each Renewal at a properly noticed public meeting. The public may offer comments to the PEC during the public participation section of PEC meeting regarding each renewal. After each decision, the PEC issues a written notice to the school detailing the renewal decision.

New Contract Negotiation

When renewal is granted by the PEC, the PEC, directly or through its authorized representatives, and the school negotiate a contract for the new term. The contract negotiation will address the school mission, any material terms that limit charter activities (e.g., enrollment cap, grade levels) or material terms that establish explicit program requirements (e.g., STEAM, PBL, vocational education). The contract negotiation shall also include additional rigorous, valid and reliable mission specific indicators, which may not to be duplicative of required state assessments but must measure achievement of the school's specific mission.

Expedited Renewal

Schools that have maintained a Tier 1 or 2 rating for previous four years of the charter contract and earned a "met expectations" rating on the organizational and financial frameworks for the previous four years are eligible for an **expedited renewal process**. The expedited process will include all of the renewal activities described above, but will include a modified renewal application and a condensed renewal site visit as appropriate.

Appendix A: Performance Frameworks with Mission Goal(s)

ACADEMIC PERFORMANCE FRAMEWORK

The Academic Performance Framework answers the evaluative question: Is the academic program a success? The framework includes indicators and measures that allow the PEC to evaluate the school's academic performance and was developed pursuant to the New Mexico Charter Schools Act. This section includes indicators, measures and metrics for student academic performance; student academic growth; achievement gaps in both proficiency and growth between student subgroups; and graduation rate and post-secondary readiness measures for high schools. (Section 22-8B-9.1.A. (1-3, 6, 7) NMSA 1978).

The Academic Performance Framework includes three indicators, with several required measures, and allows for the inclusion of additional rigorous, valid and reliable indicators proposed by the school to augment external evaluations of school performance.

Description of Academic Framework Indicators and Measures

Indicator 1: Components from NM System of School Support and Accountability. The PEC considers charter school performance on each of the components of the NM System of School Support and Accountability.		Points	
Measure	Description	Elem	High
1.1 Math and Reading Proficiency	Math and Reading Proficiency is the percentage of students who are proficient on state assessments in math and reading.	30	25
1.2 English Learner Progress Toward English Language Proficiency	English learner progress toward English language proficiency is measured by the WIDA ACCESS assessment given annually to students identified as English learners.	10	5
1.3 Science Proficiency	Science proficiency is the percentage of students who are proficient on state assessments in science.	5	5
1.4 Growth of Highest-Performing Students (Q4)	These growth measures are calculated separately for three student subgroups. The three student subgroups are the lowest-performing students (lowest 25%), the middle-performing students (middle 50%) and the highest-performing students (highest 25%).	5	5
1.5 Growth of Middle performing students (Q2/3)		10	10
1.6 Growth of Lowest-Performing Students (Q1)		25	15
1.7 Graduation Rate	<p>The graduation measure includes 4-year, 5-year, and 6-year cohort graduation rates.</p> <p>Graduation rates are one-year lagged. Meaning, rates that are published in the school report are for the cohort that graduated by August 1 of the prior year. Students are expected to graduate in four years, however rates are calculated for 5- and 6- year graduates. Calculation of 4-year, 5-year, and 6-year cohort graduation rates uses the</p>	N/A	<p>10</p> <p>5 for 4 year, 3 for 5 year, and 2 for 6 year</p>

	<p><i>Shared Accountability</i> method, which gives each school in which the student was enrolled in high school proportional credit for their timely or lack of timely graduation.</p> <p>For schools that qualify as SAM schools, an auxiliary graduation rate is computed using a senior completer method which includes only 12th grade students who are not members of the 4-year cohort.</p>		
1.8 Growth in 4-year Graduation Rate	Improvement in the 4-year graduation rate is based on the slope of the 4-year graduation rates for the past three years. For schools that have a 4-year graduation rate that is over 90%, all points are awarded for graduation growth.	N/A	5
1.9 Career and College Readiness	<p>College and Career Readiness (CCR) scores are determined by the percentage of the prior year 4-year graduation cohort members (this indicator is also one-year lagged) who show evidence of participating in college or career preparation, along with the proportion of those students meeting a benchmark. This indicator is also calculated using the shared accountability model.</p> <p>High school students are expected to participate in at least one college or career readiness program:</p> <ol style="list-style-type: none"> 1) College entrance exams (Accuplacer, ACT, ACT Aspire, Compass, PLAN, PSAT, SAT, or SAT Subject Test); 2) Evidence that the student can pass a college-level course (Advanced Placement, Dual Credit, or IB); or 3) Eligibility for an industry-recognized certification (Career Technical Education). <p>Points are given separately for students' participation and for their success in achieving targets.</p> <p>SAM schools are allowed use of additional indicators including ASVAB, WorkKeys, and TABE.</p>	N/A	10
1.10 Chronic Absenteeism	Schools earn points based on the percentage of students who were not chronically absent. A chronically absent student is one who was absent from school for any reason for at least 10 percent of the days enrolled.	5	5
1.11 Educational Climate Survey, Multicultural Initiatives, and Socio-emotional Learning (SEL)	The Educational Climate survey measures the extent to which classroom teachers demonstrate instructional practices known to facilitate student learning. Students answer survey questions on topics such as classroom teaching and expectations of students.	10	5

<p>Indicator 2: Subgroup Performance</p> <p>Subgroup measures are based on the school's relative performance (statewide percentile rank) compared to all NM public schools serving the same grades. Points assigned for each subgroup are averaged to calculate overall points for measures 2.1, 2.2, and 2.3.</p>	Points
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Measure	Description	Elem	High
2.1 Subgroup Growth of Highest- Performing Students (Q4)	Students are compared to all students statewide serving the same grade levels, based on the Growth results calculated by NM PED for Q4 students.	25	25
2.2 Subgroup Growth of Middle- Performing Students (Q2/3)	Schools are compared to all students statewide serving the same grade levels, based on the Growth results calculated by NM PED for Q2/3 students.	25	25
2.3 Subgroup Growth of Lowest- Performing Students (Q1)	Schools are compared to all students statewide serving the same grade levels, based on Growth results calculated by NM PED for Q1 students.	25	25
2.4 Subgroup Proficiency	Students are compared to all students statewide serving the same grade levels, based on subgroup proficiency rates for all eligible subgroups.	25	25

Indicator 3: School-Specific Goals The performance framework allows for the inclusion of additional rigorous, valid and reliable indicators (as determined by the PEC) proposed by a charter school to augment external evaluations of its performance. (1978 NMSA§22-8B-9.1(C).)		Points	
Measure	Description	Elem	High
School identified Mission Specific Goals, not to exceed two goals.	<p>Charter schools shall propose mission-specific goals that are specific, measurable and rigorous, School-proposed goals are subject to approval by the PEC and are incorporated into charter contracts. Not more than two goals will be used.</p> <p>The goals must appear on the NM Spotlight Dashboard to be measurable as a SMART goal.</p> <p><i>PEC guidance for setting school goals:</i> Use a SMART goal format (Specific, Measureable, Achievable, Relevant, and Time-bound) Include metrics and measures using the following criteria: “Exceeds standards,” “Meets standards,” “Does not meet standards,” and “Falls far below standards.” Set goals that <i>augment external evaluations of school performance</i> and do not duplicate existing framework measures. Goals must be able to be documented and supported using objective, verifiable evidence of results. Mission specific goals must be distinct from ESSA indicators 1 and 2 If using additional assessments: Proficiency and growth targets must be distinct and measured separately. Assessments need to be rigorous and reliable. The data will need to be reported on the NM Spotlight Dashboard, in a format useable by PED.</p>	100	100

	<p>Additional assessments must be aligned to school mission. Reading and math goals are already included within indicators 1 and 2.</p> <p>If two goals are included, the score on this measure will be the average of the two ratings. There are four rating categories:</p> <p>Exceeds = 100 pts Meets = 75 pts Does not meet = 25 pts Falls far below = 0 pts</p>		
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Mission Specific Goal for New Mexico School for the Arts

Goal: All 12th grade students who have attended New Mexico School for the Arts [NMSA] for six or more consecutive semesters will demonstrate proficiency as measured by individual arts department rubrics for a creative, collaborative department project that illustrates competency in their arts discipline, personal expression through their art form, and the ability to produce and carry out a comprehensive project.

Measure Rating Category	1. <u>Description of Target for this Performance Level</u>	Points Assigned
<i>Exceeds Standard</i>	80% or more of those students who have attended NMSA for six or more consecutive semesters will demonstrate proficiency in the students' art form with a passing grade of B (80%) or better.	100
<i>Meets Standard</i>	80% or more of those students who have attended NMSA for six or more consecutive semesters will demonstrate proficiency in the students' art form with a passing grade of C (70%) or better.	75
<i>Does Not Meet Standard</i>	70% to 79% of those students who have attended NMSA for six or more consecutive semesters will demonstrate proficiency in the students' art form with a passing grade of C (70%) or better.	25
<i>Falls Far Below Standard</i>	Less than 70% of those students who have attended NMSA for six or more consecutive semesters will demonstrate proficiency in the students' art form with a passing grade of C (70%) or better.	0

Summary of Indicator Rating System and Assigned Points

Schools receive up to 100 points for each academic measure. The average weighted points across the framework are used to assign the overall rating (tier).

Indicators	Description	Assigned Points	Total Weight?	
			Elem	High
Indicator 1: Components from NM System of School Support and Accountability	The PEC considers charter school performance on each of the components of the NM PED ESSA Plan	The school earns points equal to the school's overall index score from the New Mexico System of School Support and Accountability. (1-100 pts)	35%	37.5%
Indicator 2: Subgroup Performance	Subgroup measures are based on the school's relative performance (statewide percentile rank) compared to all NM public schools serving the same grades.	Points assigned for each subgroup are averaged to calculate overall points for measures 2.1, 2.2, 2.3, and 2.4. (1-100 points)	30%	25%
Indicator 3 Mission Specific Goals	Charter schools shall include mission-specific goals that are Specific, Measurable, Achievable, Relevant and Time-bound.	Points are assigned based on the average of the ratings (if there are two goals) for the goals listed in Indicator 3. (0-100 points)	35%	37.5%

Based on performance across the academic indicators and measures, schools receive an overall academic tier rating that is used by the PEC in annual monitoring and renewal decisions.

Tier 1	<ul style="list-style-type: none">• School is exceeding PEC academic performance framework expectations and is on par with the highest-performing schools in the state.• (Greater than or equal to 80 of the possible total weighted points)
Tier 2	<ul style="list-style-type: none">• School is consistently meeting PEC academic performance framework expectations.• (Greater than or equal to 70 and less than 80 of possible total weighted points)
Tier 3	<ul style="list-style-type: none">• School is not meeting expectations for one or more of the academic indicators. Possible intervention.• (Greater than or equal to 55 and less than 70 of possible total weighted points)
Tier 4	<ul style="list-style-type: none">• School is falling far below academic performance expectations. Intervention; possible revocation.• (Less than 55 of possible total weighted points)

ORGANIZATIONAL PERFORMANCE FRAMEWORK

The Organizational Framework primarily lists the responsibilities and duties that charter schools are required to meet through state and federal laws. It was developed pursuant to the New Mexico Charter Schools Act and includes indicators, criteria statements, and metrics related to schools' educational program, financial management, governing body performance, school environment, and employee and student policies, including compliance with all applicable laws, rules and terms of the charter contract (Section 22-8B-9.1A (4, 5, 9) NMSA 1978).

NACSA Principles & Standards (2012) states that,

"A Quality Authorizer implements an accountability system that effectively streamlines federal, state, and local...compliance requirements while protecting schools' legally entitled autonomy and minimizing schools' administrative and reporting burdens" (p. 16).

The organizational framework is the primary focus of the annual school visit process. The framework is structured into five categories of information. Each category has multiple **indicators** and each indicator includes one or more **criteria statements** that serve as the metric for evaluating organizational performance.

For each indicator a school receives one of three ratings: "Meets Standard," "Working to Meet Standard" and "Does Not Meet Standard" which are defined below. Indicator ratings are assigned based on evidence that the school is meeting the criteria statement(s).

Meets Standard:

The school meets the standard if it satisfies each of the criteria statements described for the indicator OR if the authorizer currently has no evidence or information to indicate the school does not meet the criteria statements.

Working to Meet Standard:

There is evidence to indicate the school does not, or at some point in the school year did not, satisfy the criteria statements described for the indicator AND within 30 days after receiving a notification of non-compliance, the school submitted evidence to demonstrate immediate correction of any outstanding matters AND submitted a corrective action plan to prevent future occurrences of the same concern.

Does Not Meet Standard:

There is evidence to indicate the school does not, or at some point in the school year did not, meet the criteria statements described for the indicator and the school failed to submit evidence of correction and/or a corrective action plan within 30 days of notification OR the school failed to implement the corrective action plan OR the non-compliance is repeated from the prior evaluation.

Schools receive an overall organizational performance rating of either "Meets Standard" or "Does Not Meet Standard". If a school receives "Does Not Meet Standard" ratings for three more indicators, the school will receive an overall organizational framework rating of "Does Not Meet Standard". Fewer than three such ratings will result in an overall rating of "Meets Standard." In addition, if a school receives a "Does Not Meet Standard", on any indicator, CSD and PEC may conduct a closer review the following year on that indicator, and/or the PEC may require the school to submit a corrective action plan in order to specify actions and a timeline to correct the performance deficiency.

Topics and Indicators	Criteria Statements ⁸	Component of Site Visit Evaluation?
1. EDUCATIONAL PROGRAM REQUIRMENTS		
1.a. Is the school implementing the material terms of the approved charter application as defined in the Charter Contract?	<ul style="list-style-type: none"> School's mission is being implemented. <i>Article VIII. Section 8.01.(a)(ii)</i> The school has documentation/evidence that it is implementing its educational programs. <i>Article VIII. Section 8.01.(a)(iii)</i> The school has documentation that demonstrates that it is implementing its parent, teacher and student-focused terms. <i>Article VIII. Section 8.01.(a)(iv), (v), (vi)</i> The school stays within its enrollment cap at all times and serves only the approved grade levels. <i>Article VIII. Section 8.01.(a)(i) and (vii)</i> 	YES
1.b. Does the school comply with state and contractual assessment requirements?	<ul style="list-style-type: none"> The school administers all required state assessments, including but not limited to: <i>NMSA 22-2C-4(E)</i> <ul style="list-style-type: none"> Grade level math and reading assessments Subject based end of course exams Early childhood assessments English Learner screening and progress monitoring assessments National performance assessments, when selected, and Language assessments for bi-lingual programs. The school administers all required contractual assessments (specified in contract/performance framework that are still applicable). The school ensures assessment accommodations are properly administered to all eligible students. The school complies with assessment training requirements: <i>NMAC 6.10.7.8 and 9</i> <ul style="list-style-type: none"> Has an identified District Test Coordinator (DTC) DTC attends all required trainings, and DTC annually provides training for all district personnel involved in test administration, preparation, and security. 	NO

⁸ Criteria statements noted in blue will be evaluated during the site visit. Criteria statements in green will be evaluated using information from PED bureaus, or otherwise available. Criteria statements in red will be evaluated using complaints. Criteria statements in black require the school to report data.

Topics and Indicators	Criteria Statements ⁸	Component of Site Visit Evaluation?
1.c. Is the school protecting the rights of students with special needs? <i>(Note: These provisions include only students with disabilities.)</i>	<ul style="list-style-type: none"> The school is in 100% compliance with the Special Education Bureau identified indicators. (<i>34 CFR § 300.600 (a)(2) and Subsection F of 6.31.2.9 NMAC.</i>) The school has not been the subject of a due process hearing that resulted in a finding of noncompliance during the current school year. The school has not been cited for noncompliance with applicable federal and state special education rules and regulations as the result of a state-level parental complaint during the current school year. The school is in compliance with all terms of any corrective action plan that resulted from a state-level complaint. The school has received no OCR complaints determined to be valid and demonstrate a students' rights were violated. (<i>NMSA 22-8B-4</i>) 	NO
1.d. Is the school protecting the rights of English Learner students?	<ul style="list-style-type: none"> The school has no complaints that have been evaluated and found to be valid complaints that indicate an EL student's or families' rights have been violated. (<i>NMSA 22-8B-4 (A)</i>) The school does not have a major discrepancy (>5%) between ELs identified and assessed as monitored by the Language and Culture Bureau, or is able to provide appropriate documentation and explanation for such a discrepancy. All EL students must be provided services as evidenced by STARS data reporting for services coded as 1062 (ESL) or 1063 (ELA/ELD), or must be coded as a parent refusal and have documentation to support the refusal as monitored by the Language and Culture Bureau. The school has received no OCR complaints determined to be valid that demonstrate a students' rights were violated. (<i>NMSA 22-8B-4</i>) 	NO
1.e. Does the school comply with federal and state grant program requirements?	<ul style="list-style-type: none"> Annually the school meets program requirements for all PED and federal grant programs it implements. (e.g., Perkins, K-3 plus, truancy coaches, 4RFuture, Title funding, etc.) The school is responsive to findings of non-compliance in accordance with deadlines. 	NO

Topics and Indicators	Criteria Statements ⁸	Component of Site Visit Evaluation?
1.f. Does the school implement an Educational Plan for Student Success (NMDASH)?	<ul style="list-style-type: none"> The school has an active core team engaged in the DASH process. The school is implementing their annual and 90-day plans, as evaluated through reviewing evidence and school/adult actions during the site visit. <p><i>Only applicable for schools rated as Tier 3 or Tier 4 on the Academic Performance Framework evaluation or meeting criteria to be identified as TSI, CSI, or MRI or schools that are required to implement an NMDASH plan by a PEC Corrective Action Plan.</i></p>	YES
2. FINANCIAL MANAGEMENT AND OVERSIGHT		
2.a. Is the school meeting financial reporting and compliance requirements?	<ul style="list-style-type: none"> The school submits all budget request documents and budget approval documents to the PED according to PED's established deadlines. (NMSA 22-8-6.1 and 10.) The school submits quarterly (or monthly) reports according to PEDs established deadlines and without frequent, repeated errors. All required reports are posted to the school's website. (NMSA 22-8-6.1 and 10) The school submits an Audit CAP to the PED Audit Bureau within 30 days of the release of the audit. The school responds to all requests by the PED Audit Bureau regarding the CAP in accordance with deadlines. The school, if subject to a T&E audit, has no more than a .06 difference in reported and audited T&E. 	NO
2.b. Is the school following Generally Accepted Accounting Principles?	<ul style="list-style-type: none"> The school received an unmodified audit opinion for the last audit. The school's last audit opinion is devoid of significant findings, material weaknesses, significant internal control weaknesses, or findings related to waste, fraud, or abuse. 	NO
2.c. Is the school responsive to audit findings?	<ul style="list-style-type: none"> The school's last audit is devoid of any multi-year repeat findings. School implements Audit CAP as submitted, as evaluated through reviewing evidence and school/adult actions during the site visit. 	YES
2.d. Is the school managing grant funds responsibly?	<ul style="list-style-type: none"> The school submits, at a minimum, RfRs to the PED on a monthly basis. The school expends at least 99% of grant funds for all accounts without reversion and submits expenditures that are allowable with at least 90% aligned to the specific categories in the grant application budget 	NO

Topics and Indicators	Criteria Statements ⁸	Component of Site Visit Evaluation?
2.e. Is the school adequately staffed to ensure proper fiscal management?	<ul style="list-style-type: none"> The school has a licensed business manager at all times during the school year; and demonstrates stability in this position (no more than 1 change within a year). The school has a certified State Procurement Officer and all changes are reported to the State Purchasing Agent in accordance with deadlines. (NMSA 13-1-95.2) The governing council's audit committee and finance subcommittee are properly constituted and meet as required. (NMSA 22-8-12.3) 	NO
2.f. Is the school meeting their obligations timely and with appropriate internal controls?	<ul style="list-style-type: none"> Bills, invoices, or other liabilities are paid in a timely fashion and the accounts payable transaction cycle meets standards for internal controls 	
3. GOVERNANCE AND REPORTING		
3.a. Is the school complying with governance requirements?	<ul style="list-style-type: none"> The governing body meets membership requirements: NMSA 22-8B-4; PEC policy <ul style="list-style-type: none"> Maintains at least 5 members Complies with governance change policy Notifies PEC of board membership changes within 30 days, with complete documentation, and Fills all vacancies within 45 days, or 75 days, if extension is requested by school. All members of the governing body complete all training requirements in accordance with established deadlines. (NMAC 6.80.5.8 and 9) The school's governing council independently oversees the school's finances according to law Governing council policies and procedures, minutes or other documents ensure that required financial reports are being presented to the governing council on a monthly basis The governing council demonstrates in board meetings that it is analyzing the financial position of the school The charter school maintains a Board of Finance or has the capabilities to have a Board of Finance, and maintained the Board of Finance during the contract term The governing body has not received any OMA complaints (by the AG's office) that were evaluated and found to be verified complaints of OMA violations. (NMSA 10-15-1 and 3) 	NO

Topics and Indicators	Criteria Statements ⁸	Component of Site Visit Evaluation?
3.b. Is the school complying with nepotism and conflict of interest requirements?	<ul style="list-style-type: none"> The school is free of nepotism concerns regarding the governing board and demonstrates compliance with nepotism statute and the school's own nepotism policy, as verified through file reviews on the site visit or when otherwise necessary. The school is free of conflict of interest concerns and demonstrates compliance with conflict of interest statute and the school's own conflict of interest policy, as verified through site visit file reviews or when otherwise necessary. 	YES
3.c. Is the school meeting reporting requirements?	<ul style="list-style-type: none"> The school complies with reporting deadlines from the PED, PEC, and other state agencies. 	NO
4. STUDENTS AND EMPLOYEES		
4.a. Is the school protecting the rights of all students?	<ul style="list-style-type: none"> The school has received no complaints determined to be valid that demonstrate the school's lottery, admission, and enrollment practices are unfair, discriminatory, or legally non-compliant and a review of lottery, admission, and enrollment policies demonstrates compliance with legal requirements. (<i>Contract Section 8.03 (a)-(e)</i>) The school has received no complaints determined to be valid that demonstrate the school's discipline hearings and practices are not conducted in accordance with law and due process. (<i>NMAC 6.11.2. 1, et seq.</i>) The school has received no complaints determined to be valid that demonstrate the school fails to respect students' privacy, civil rights, and constitutional rights, including the First Amendment protections and the Establishment Clause restrictions prohibiting schools from engaging in religious instruction. The school has received no complaints determined to be valid that demonstrate the school fails to comply with the requirements of the McKinney Vento Act and protects the rights of students in the foster care system. The PED has no information to indicate that the school does not have a board-approved complaint policy and dispute resolution process per 6.10.3D NMAC 	NO
4.b. Does the school meet attendance, retention, and recurrent enrollment goals for students?	<ul style="list-style-type: none"> The school meets the 95% average daily attendance goal, or is able to demonstrate successful efforts to improve attendance among student body. The school maintains at least 80% retention of enrolled students from date of enrollment until the end of the school year, or students who leave prior to the end of the year are classified as graduates, completers, or have earned their GEDs. The school retains at least 70% of students eligible to reenroll between school years. 	YES

Topics and Indicators	Criteria Statements ⁸	Component of Site Visit Evaluation?
4.c. Is the school meeting teacher and other staff credentialing requirements?	<ul style="list-style-type: none"> • All employees of the school are appropriately licensed as required by law. (<i>NMSA 22-10A-3</i>) <ul style="list-style-type: none"> - All employees hold licensure or have submitted a licensure application within 30 days of beginning employment with the school - The school employs a licensed administrator at all times - The school does not have any licensure discrepancies that are repeated from the one reporting period to any subsequent reporting period. - Discrepancies from the first reporting period are cleared by submitting all required licensure waivers within first 40 days of school year, or from the beginning of employment. • School meets the requirements of all licensure waiver plans and alternative licensure plan requirements. (<i>NMSA 22-10A-14</i>) • The school has not employed, with pay, any teacher without licensure beyond 90 days. (<i>NMSA 22-10A-3</i>) • The school accurately reports all staff to the PED, as verified through site visit reviews. 	YES
4.d. Is the school respecting employee rights?	<ul style="list-style-type: none"> • The school completes and submits all NMTEACH evaluations and observations annually in accordance with deadlines. <ul style="list-style-type: none"> - Teacher attendance data is submitted in accordance with deadlines. - Teacher observations are completed by a NMTEACH certified administrator in accordance with deadlines. - Accuroster data is verified in accordance with deadlines to ensure appropriate student data is reported. • Teachers are provided comprehensive NMTEACH report and reports are maintained in personnel files. Signed NMTEACH reports (all pages) are available in staff files from the prior year. • The school maintains teacher contracts in all staff files. (<i>NMSA 22-10A-21</i>) • The school complies with the minimum teacher salaries. (<i>NMSA 22-10A-7, 10, 11</i>) • The school does not have any verified complaints regarding violations of teacher rights under the school personnel act, FMLA, ADA, etc. (<i>NMSA 22-10A-1 et seq.</i>) • The school does not have any verified complaints regarding lack of adequate mentorship for novice teachers. 	YES

Topics and Indicators	Criteria Statements ⁸	Component of Site Visit Evaluation?
4.e. Is the school completing required background checks and reporting ethical violations?	<ul style="list-style-type: none"> The school maintains legally compliant background checks in all staff files including evidence of background checks for substitutes, all contracted service providers, and anyone with unsupervised access to students. (<i>NMSA 22-10A-5</i>) The school reports incidents of violations of teacher/licensed staff ethical rules or criminal convictions to the PED pursuant to the School Personnel Act. (<i>NMAC 6.60.8.8 and NMSA 22-10A-5</i>) 	YES
5. SCHOOL ENVIRONMENT		
5.a. Is the school complying with facilities requirements?	<ul style="list-style-type: none"> The school meets PSFA occupancy, NMCI and ownership requirements. (<i>NMSA 22-8B-4.</i>) The school has an e-occupancy certificate. The school has PSFA letter verifying condition index. The school is in a building that is: <ul style="list-style-type: none"> A publicly owned building Is leased to the school by a foundation formed for the purpose of providing a facility to the school, the foundation maintains the building at no cost to the school Is leased by a private owner and there is no acceptable public facility available, the owner maintains the building at no cost to the school. The school notifies the PEC prior to any change in facilities. There are no verified complaints that demonstrate buildings, grounds or facilities do not provide a safe and orderly environment for public use. (<i>Subsection P of 6.29.1.9 NMAC</i>) <ul style="list-style-type: none"> safe, healthy, orderly, clean and in good repair in compliance with the Americans with Disabilities Act-Part III and state fire marshal regulations, Sections 59A-52-1 through 59A-52-25 NMSA 1978 Written records of pesticide applications will be kept for three years at each school site and be available upon request to parents, guardians, students, teachers and staff. 	YES
5.b. Is the school complying with transportation requirements?	<ul style="list-style-type: none"> If the school owns a school bus or otherwise provides student transportation, the school complies with applicable statutes, regulations, or policies related to providing transportation. 	NO

Topics and Indicators	Criteria Statements ⁸	Component of Site Visit Evaluation?
5.c. Is the school complying with health and safety requirements?	<ul style="list-style-type: none"> • The school conducts all required emergency drills and practiced evacuations. (<i>NMSA 22-13-14 and NMAC6.29.1.9(O)</i>) <ul style="list-style-type: none"> - at least once per week during the first four weeks of the school year, and at least once per month during the remainder of the school year; - two of these drills shall be shelter-in-place drills; - one of these drills shall be an evacuation drill; - nine of these drills shall be fire drills, with one emergency drill required each week during the first four weeks of school; - in locations where a fire department is maintained, a member of the fire department shall be requested to be in attendance during the emergency drills for the purpose of giving instruction and constructive criticism. • The school submits school wellness and safety plans, and all required revisions, in accordance with deadlines to the PED. (NMAC 6.12.6.8) • The school has evidence that it complies with 24-5-2 NMSA 1978 and provides satisfactory evidence of immunization, is actively in the immunization process, or properly exempted from immunization. • The school demonstrates compliance with all facility corrective requirements from the most recent inspection from any other state entity (e.g., NMPSIA, DOH, PSFA, Fire Marshall, POSHA).. 	YES
5.d. Is the school handling information appropriately?	<ul style="list-style-type: none"> • There are no verified complaints that demonstrate the school has failed to comply with FERPA requirements. • There are no verified complaints that demonstrate the school does not obtains, maintains, and transfers cumulative files as required by law. 	NO

FINANCIAL PERFORMANCE FRAMEWORK

Under Development

Appendix B: Annual School Reporting Calendar

Under Development

Appendix C: Summary of Site Visit Protocol

Protocols under development.

The purpose of the school visit is to evaluate whether schools are in compliance with their legal and contractual requirements and to provide technical assistance including evaluative feedback, legal references and citations, and guidance manuals and resources. The goal of this visit is to evaluate compliance in key areas and observe the program of instruction in action, as described in the charter contract and Performance Framework. There are three types of school visits conducted by the PEC's authorized representatives:

- 1.** New school visits – Within the first four months of opening, the PEC's authorized representatives visit all new schools.
- 2.** Annual visits – All schools are visited annual, generally between November and May. Annual site visits may be differentiated based on school performance, including academic, financial, and organizational performance.
- 3.** Renewal visits – In the fall of the renewal year, the PEC's authorized representatives visit schools as part of renewal activities.

Two to four staff members who are the PEC's authorized representatives will participate in site visits. Site visits generally do not last longer than a day, but the time required depends on school performance and availability of necessary data, records, and staff time. Schools will be notified in advance as to the timing of site visits.

Appendix D: Glossary of Terms

Annual Notice of Renewal Profile – is an annual notice that will be sent to the school leader and all members of the school governing body. The notice will identify the renewal profile(s) the school is on track to fall within based on its performance under the current charter term. The PEC expects that schools will use these notices to both take action to respond to the potential renewal action by improving performance, as necessary, and to prepare and submit a response to the potential renewal action.

Chartering Authority Intervention – is action taken by the Commission or its authorized representatives to notify a school that it is failing to meet its legal and contractual requirements, to prompt the school to take action to correct its own failure to meet its legal and contractual requirements, and/or to revoke or non-renew a school that has demonstrated the inability or unwillingness to meet its legal and contractual requirements. Intervention may include providing findings of non-compliance during or after a site visit, issuing a Notice of Concern, a Notice of Breach, or a Notice of Revocation Review or Intent to Revoke, monitoring the implementation of an improvement plan or corrective action plan, or not-renewing a charter school.

Chartering Authority Oversight – is action taken by the Commission or its authorized representatives to evaluate whether a charter school is meeting its legal and contractual requirements. This may include evaluating submissions from the school, investigating complaints or allegations, conducting site visits or audits, evaluating data about the school's performance, or completing performance evaluations.

Charter School Autonomy – is the right of all charter schools to determine the methods by which they achieve their legal and contractual requirements, including all performance standards. Charter School Autonomy reflects the additional flexibilities granted through any non-discretionary or discretionary waivers as defined in statute, regulation, and policy.

Intervention Ladder – is the process by which the Public Education Commission will communicate to charter schools its concerns about academic performance, fiscal soundness or legal, contractual, or policy requirements.

Final Notice of Renewal Profile – is the notice provided to the school after the final performance profile prior to renewal is released. This notice will identify the renewal recommendation the school will receive and will notify any schools of their eligibility for expedited renewals.

Legal and Contractual Requirements – are the obligations a charter school must meet based on state and federal statutes, regulations and policies, and the terms of the charter contract. These requirements include the performance expectations established in the Performance Review and Accountability System, which consists of the PEC's Academic, Organizational and Financial Performance Frameworks, Intervention Ladder, Renewal Process, and Site Visit Protocols.

Mission-Specific Goals – are required indicators that are incorporated into the Academic Performance Framework. These goals should be outcome based measures of the school's effectiveness in implementing its mission. Goals are weighted as 35% (elem/middle) or 37.5% (high) of the Academic Performance Framework

Notice of Breach – a formal, written notice issued pursuant to a vote of a majority of Commission members at a properly noticed public meeting that a school is not meeting performance expectations or has failed to comply with legal or contractual requirements and, as a result, is in breach of the contract. This notice will often, but not always, be issued after a school has been issued a Notice of Concern and has failed to meet the requirements of the prior notice. In the notice, the Commission will establish expected outcomes and deadlines that must be met by the school. Deadlines will vary depending on the urgency of the matter and the amount of time it takes to reasonably cure the concern. Once a Notice of Breach is issued, schools are required to submit a Corrective Action Plan (financial or organizational performance) or an Improvement Plan (academic performance) that details the actions and timeline that the schools will implement to correct the breach. PEC’s authorized representatives will monitor the school’s implementation of Corrective Action and Improvement Plans, and regularly update PEC on progress.

Notice of Concern – a formal, written notice issued pursuant to a vote of a majority of Commission members at a properly noticed public meeting that a school is not meeting performance expectations or has failed to comply with legal or contractual requirements. In the notice, the Commission will establish expected outcomes and deadlines that must be met by the school. Deadlines will vary depending on the urgency of the matter and the amount of time it takes to reasonably cure the concern.

Performance Review and Accountability System – consists of the PEC’s Academic, Organizational and Financial Performance Frameworks, Intervention Ladder, Renewal Process, and Site Visit Protocols. It is an adaptive tool subject to continuous review and improvement so that the students in New Mexico public charter schools are effectively served. New Mexico’s charter schools are invited to be partners in the development and continuous improvement of this Performance Review and Accountability System.

Preliminary Notification of Renewal Profile – is the annual notice provided to the school at least one year prior to the date on which it must apply for renewal. The notice will identify the renewal profile(s) the school is on track to fall within based on its performance under the current charter term and will act as notice to schools that are likely to be eligible for expedited renewal. The PEC expects that schools will use these notices to both take action to respond to the potential renewal action by improving performance, as necessary, and to prepare and submit a response to the potential renewal action.

Reliability - is a demonstration that an assessment or other measure is an externally, national- or state-normed metric (e.g. ACT, SAT, ACCESS for ELLs, Spanish IPT).

Revocation Review – is the process by which a charter school is considered for revocation of their charter. The revocation review can arise as a result of the school’s failure to meet requirements specified in a Notice of Breach, receipt of multiple Notices of Breach in the same school year, or as a result of a violation of law that is significant enough to justify immediate revocation. A Notice of Revocation Review is issued at a properly noticed public meeting and established the actions to be taken by its authorized representative(s) and a deadline for the school to respond to the prospect of revocation.

Rigor – is the demonstration that a performance goal is an ambitious but realistic target that has been established using a valid benchmark (e.g. comparison to national/state average, improvement from school historic performance).

Student Academic Growth – is the measurement of student level improvement within a school year as compared to their performance peers’ improvement in the same year on the state’s annual academic

assessments in math and reading.

Student Proficiency – is performance at grade level on the state’s annual academic assessments in math and reading. This may also include performance at grade level on other state assessments including Science, and end-of-course assessments.

Substantial Progress – is related only to academic performance, is reflected in a school’s “Renewal Performance Profile,” and makes a school eligible for full renewal. This is defined as “consistently improving performance over the last 3 years.” Inconsistent performance over the last three years shall demonstrate that a school is not making “substantial progress.”

Support – is making charter schools aware of PED resources and programs available to support their improvement or excellent performance. This may also include sharing information between charter schools about effective or best practices being implemented at effective and successful schools. This shall not include providing recommendations on the method by which the school must/can/should achieve its legal or contractual requirements, as charter schools are granted the autonomy to determine the methods they will utilize to meet their legal or contractual requirements.

Technical Assistance – is information provided to make a school aware of, or to help a school understand, its legal or contractual requirements. This can include information about why the school is not currently meeting its legal or contractual requirements. Technical assistance shall not include providing recommendations on the method by which the school must achieve its legal or contractual requirements, as charter schools are granted the autonomy to determine the methods they will utilize to meet their legal or contractual requirements.

AMENDED MEMORANDUM OF UNDERSTANDING

New Mexico School for the Arts - High School New Mexico School for the Arts - Art Institute

This Memorandum of Understanding is made by the New Mexico School for the Arts - Charter School, a state high school ("High School") and New Mexico School for the Arts – Art Institute, a tax-exempt arts educational institution ("Art Institute"). The High School and the Art Institute are collectively and referred to as the "Schools".

1. RECITALS.

1.1 The High School. The High School is a public high school for students who show exceptional promise or aptitude in the arts and a strong desire to pursue a career in the arts. The goal of the High School is to graduate highly educated students who are specially prepared to pursue a post secondary education at excellent colleges, universities and arts institutions and careers in the arts. The High School will meet all of the curriculum, faculty and reporting requirements of a public high school in New Mexico.

1.2 The Art Institute. The Art Institute is a tax exempt arts educational institution created to provide (1) intensive pre-professional and professional arts instruction to high school students in New Mexico who show exceptional promise or aptitude in the arts and a strong desire to pursue a career in the arts, (2) housing and food services for eligible students and (3) outreach and arts enrichment instruction and programs in communities around the State of New Mexico.

1.3 Collaboration and Cooperation. The High School and the Art Institute agree to collaborate and cooperate with each other in connection with curricula and the administration of classes and programs in order to give New Mexico students who demonstrate exceptional promise, aptitude and passion for the arts the opportunity to access pre-professional arts training and to earn a New Mexico high school diploma. Students of the Schools engage in the highest standards of artistic and academic learning and prepare for competing on a national level for post secondary education and/or professional careers in the arts.

2. SEPARATE GOVERNANCE.

2.1 The High School. The High School will operate in accordance with the New Mexico Charter Schools Act, Sections 22-8B.1, et seq., NMSA 1978, as amended (the "Act") and the Charter issued by the New Mexico State Public Education Commission. Under the Act and its Charter, the High School is responsible for its operations and has the power to carry out its educational mission.

2.2 The Art Institute. The Art Institute will operate as a nonprofit tax-exempt educational institution in accordance with the purposes set forth in its Articles of Organization. The Art Institute is responsible for its operations and has the power to carry out its educational mission.

2.3 The High School and Art Institute. The High School and the Art Institute are separate legal entities, having different and separate operations and responsibilities and they have agreed to collaborate and coordinate administration, and curricula in order to fulfill the mission and educational philosophy of the High School and Art Institute. The collaborative efforts include the following:

- (1) Defining the mission, vision and guiding principles;
- (2) Developing and creating a structure that recognizes and preserves the independent governance of the High School by its governing council and the independent governance of the Art Institute by its board of trustees and at the same time ensures a coordinated and collaborative administrative and curricular structure;
- (3) Establishing protocols whenever possible to ensure consistent institutional cultures, programming, and staffing at both Schools;
- (4) Coordinating the development and implementation of strategic planning and long and short-term plans for both Schools;
- (5) Admitting students who will succeed in the enhanced art curriculum offered by the Art Institute;
- (6) Selecting administrators, faculty, artists, and staff; and
- (7) Developing and implementing a plan that integrates and coordinates the curriculum of the High School and the curriculum of Art Institute that will meet rigorous standards and graduate highly educated and experienced students who can readily pursue post secondary education and/or careers in the arts.

3. ACTIVITIES AND PROGRAMS. The collaborative activities and programs of the High School and Art Institute will include the following:

3.1 Faculty Training and Advanced Professional Development. The Schools will work together to develop and implement programs to provide faculty training and advanced professional development that coordinate between the state licensed faculty who teach at the High School and the professional teacher/artists who teach at the Art Institute.

3.2 Advancement. The Schools will work together to develop and implement coordinated and collaborative fundraising efforts to gain both public and private support for the Art Institute so that it can provide housing, food service, enhanced arts instruction, student life programs for eligible students and outreach and arts enrichment instruction in communities around the State of New Mexico.

3.3 Student Selection. The Art Institute will develop and implement student selection procedures and conduct auditions and portfolio reviews based upon admission assessment criteria to identify New Mexico students with exceptional promise, aptitude and passion for the arts and a strong desire to pursue a career in the arts for admission in both Schools. The Art Institute will follow the Student Selection Policies of both Schools in administering the student selection process.

3.4 Programs. The Schools will work together to develop, adopt and carry out coordinated schedules for classes and programs in order to fulfill their educational mission and enhance the educational experience of the students.

4. FINANCIAL INDEPENDENCE.

The High School and the Art Institute are separate entities and each of them, independent of the other, will follow acceptable accounting procedures, maintain appropriate financial records, obtain audit reports that are necessary or desirable, and timely file all tax forms and financial reports that are required of each of them. The High School will strive to comply with all required financial reporting required of a public charter high school. The Art Institute will strive to comply with all required financial reporting required of a tax exempt educational institution. Both Schools agree that all financial information that either of them may receive about the other shall be kept confidential and not be disclosed to any other person without the express consent of the other except to the extent required by law.

Neither the High School nor the Art Institute assumes any responsibility for the debts, obligations or financial responsibilities of the other. The High School and the Art Institute are separate legal entities and their agreement to collaborate with each other shall not interfere with the independent nature of their financial operations and the financial records of each of them shall be fully segregated and kept separate and apart from each other.

5. EMPLOYEES. The High School and Art Institute agree to work together to the extent practicable to hire the same person to perform the duties of Head of School of the High School and Director of the Art Institute. When this is not possible, a structure will be implemented to ensure that the two leaders are focused on collaboration and coordination to ensure that the mission and goals for both Schools are met.

6. FACILITIES AND STUDENT SERVICES. The High School and Art Institute will work together in selecting appropriate sites for their operations, including facilities that will provide appropriate spaces such as classrooms and facilities for studios, practice rooms and other arts instruction facilities. The Art Institute will provide housing facilities and food service for eligible residential students and will be solely responsible for these operations.

7. STUDENT LIFE. The High School and Art Institute will work together to develop coordinated procedures and rules of conduct for their students.

8. STUDENT RECORDS. All records created by the High School and Art Institute shall be maintained in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g (“FERPA”) and all applicable federal and state laws. To the extent that waivers are needed to share student records between staff of the High School and Art Institute who have a reason or need to know certain information, the parents will be asked to sign such waivers to ensure consistent treatment and coordination between the two organizations on student issues.

9. LIABILITY AND INSURANCE.

9.1 Liability. The High School and Art Institute each will be responsible for claims or damages arising from personal injury or damage to persons or property to the extent those claims or damages result from negligence of their own board members, officers, employees or agents. The liability of the High School shall be subject in all cases to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1 et seq., NMSA 1978 as amended, and nothing in this agreement is a waiver of any such immunity.

9.2 Insurance. The High School and Art Institute each will be responsible for obtaining their own insurance coverage for their respective facilities and operations.

This amended Memorandum of Understanding was adopted by resolution of the Board of Trustees of the Art Institute and the Governing Council of the High School, effective as of January 10, 2017.

New Mexico School for the Arts - High School

Attest:



Bill Beacham, Chair
of the Governing Council



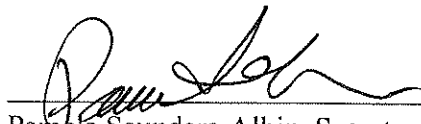
Paula Tackett, Secretary
of the Governing Council

New Mexico School for the Arts - Art Institute

Attest:



Ned W. Bennett, Chair
of the Board of Trustees



Pamela Saunders-Albin, Secretary
of the Board of Trustees

Adopted: May 1, 2009

Amended: May 5, 2010

Amended: May 20, 2011

Amended: February 5, 2013

Amended: January 6, 2015

Amended: February 10, 2016

Amended: January 10, 2017

**SECOND AMENDED AND RESTATED
BYLAWS OF THE
NEW MEXICO SCHOOL FOR THE ARTS – HIGH SCHOOL
(A New Mexico Public High School)**

These Amended and Restated Bylaws for the New Mexico School for the Arts – High School (the “School”), a New Mexico public high school, are effective November 14, 2018.

**ARTICLE 1
OFFICE**

The main office of the School shall be located in Santa Fe, New Mexico. The School may have such other offices, either within or without the State of New Mexico, as the business of the School may require from time to time.

**ARTICLE 2
GOVERNING
COUNCIL**

2.1 General Powers. The business and affairs of the School shall be managed by the Governing Council (the “Council”) who shall serve the function of the board of directors of the School in accordance with state and federal laws and regulation, including the New Mexico Public School Code.

2.2 Number, Tenure and Qualifications. The Governing Council shall have not less than five (5) members. Subject to that limitation, the number of Council members shall be fixed by these Bylaws at nine (9), that that number may be increased or decreased from time to time by action of the Governing Council without the necessity of an amendment to these Bylaws. No decrease shall have the effect of shortening the term of any incumbent Council member. The members of the Governing Council shall be divided into three (3) classes and each member of a class of shall be elected and hold office for a term of three (3) years and until a successor has been elected and qualified. A Council member shall not serve on the governing body of another charter school.

2.3 Duties and Powers. The Governing Council shall have control and be responsible for the management of the business and affairs of the School. The Governing Council shall in all cases act as a Council, regularly convened and in the transaction of business, the act of a majority of the Governing Council who are present at a meeting in which a quorum is present shall be the act of the Council, except as otherwise provided by law, these Bylaws or the School Charter. The Governing Council may adopt rules and regulations for the conduct of its meetings and the management of the School which it deems proper and which are not inconsistent with law or these Bylaws

2.4 Meetings. The date, time and place of the meetings of the Governing Council shall be set by the Council. A regular meeting of the Governing Council shall be held during either the last or first calendar quarter of each fiscal year for the purpose of electing or appointing members of the Governing Council and officers for the coming year and for the transaction of any other business which may come before the meeting. The Governing Council may provide by resolution the time and place, for the holding of additional regular meetings without notice other than such resolution.

2.5 Special Meetings. Special meetings of the Governing Council may be called by or at the request of the Chair of the Council (the "Chair") at any time. The Chair shall call a special meeting after the receipt of a written request for a special meeting made by at least one-half of the members of the Governing Council. Notice and the time, date, and place of a special meeting shall be set in accordance with applicable law and regulations and the terms of these Bylaws.

2.6 Meetings by Telephone Conference Calls. Members of the Governing Council may participate in a meeting of the Governing Council or any members of any committee designated by the Governing Council may participate in a meeting of such committee by conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in such a meeting by such means shall constitute presence in person at such meeting.

2.7 Notice. Notice of meetings of the Governing Council shall be given in compliance with applicable law, including the Open Meetings Act and the Charter Schools Act.

2.8 Quorum. A quorum for the transaction of business at any regular or special meeting shall consist of no less than one-half (1/2) plus one of the number of Council members. A quorum, once attained at a meeting, shall be deemed to continue until adjournment notwithstanding a voluntary withdrawal of enough Council members to leave less than a quorum. The act of the majority of the Council members present at a meeting at which a quorum is present, unless otherwise provided by law, these Bylaws or the Charter, shall be the act of the Governing Council. If less than a majority of the Council members are present at any meeting, a majority of the Council members present may adjourn the meeting from time to time without further notice.

2.9 Manifestation of Dissent. When a Council member who is present at a meeting of the Governing Council dissents from a proposed action, that member may call for a roll call to be taken and reflected in the minutes of the meeting. The right to dissent shall not apply to a Council member who voted in favor of such action.

2.10 Vacancies. Subject to the Charter, any vacancy occurring in the Governing Council or any position to be filled by reason of an increase in the number of members of the Governing Council may be filled by the affirmative vote of a majority of the members of the Governing Council. A Council member elected to fill a vacancy shall be elected for the unexpired term of the vacant office. Any position to be filled by reason of an increase in the number of members of the Governing Council shall be filled by the Governing

Council for a term of office continuing only until the expiration of the term of the class of members of the Governing Council to which the position is assigned.

2.11 Resignation and Removal. Any Council member may resign from office at any time by delivering a written notice of resignation to the office of the School and such resignation will take effect immediately without acceptance. Any Council member may be removed from office at a meeting of the Governing Council called expressly for that purpose, with or without cause, by a vote of a three-fourths (3/4) majority of the Council Members.

2.12 Committees. Subject to applicable provisions of the Charter Schools Act and the Open Meetings Act, the Governing Council may designate one or more committees, appoint the members of the committee and their terms as the Governing Council from time to time determines is in the best interests of the School. The Governing Council also may designate advisory committees and appoint advisory committee members to serve on Council committees or advisory committees. Advisory committees and advisory committee members shall not have the authority or power to act on behalf of the Governing Council. All committees shall have and exercise the authority granted them in the resolution adopted by the Governing Council, except as limited by the terms of this Section and these Bylaws. Committee members shall not include a quorum of the members of the Governing Council unless expressly designated by the Governing Council and in such event meetings of such committee are subject to the applicable provisions of the Open Meetings Act.

No committee nor any committee created under these Bylaws shall have the authority of the Governing Council to sell, lease, exchange or make other disposition of all of substantially all the property and assets of the School; to voluntarily dissolve the School or revoke any such dissolution; to amend the Bylaws of the School; to elect, appoint or remove any member of any committee or any Council member or officer of the School; to adopt a plan for the distribution of the assets of the School; or to alter or repeal any resolution or action of the Governing Council of the School. The designation of any committee and the delegation of authority to any committee shall not operate to relieve the Governing Council or any member thereof of any responsibility imposed by law.

2.13 No Compensation. No member of the Governing Council shall receive any compensation for serving as a member of the Council, and no committee member shall receive any compensation for serving as a member of a committee. The School may reimburse a Council member or committee member for reasonable expenses incurred in the performance of services as a member of the Governing Council or committee member in accordance with the financial policies of the School. Nothing in these Bylaws, however, shall be construed so as to preclude a Council member or a committee member from serving the School in any other capacity, such as an employee, agent, or otherwise, and receiving compensation for such service; provided that all of the terms of the Conflict of Interest Policy are satisfied.

ARTICLE 3 OFFICERS

3.1 Officers and Qualifications. The officers of the School shall consist of the Chair, Vice Chair, Secretary, Treasurer and such other officers, as are determined by the Governing Council from time to time, each of whom shall be elected by the Governing Council at the time and in the manner prescribed by these Bylaws. Any two or more offices may be held by the same person, except that the Chair and the Vice-Chair shall not be held by the same person. All officers of the School as between themselves and the School shall have the authority and perform the duties in the management of the School as provided in these Bylaws or as determined by the resolution of the Governing Council not inconsistent with these Bylaws.

3.2 Term of Office. All officers of the School shall be elected for a two Year term unless the Governing Council by resolution fixes a different term for any of the officers of the School. Each officer shall hold office until his or her successor has been duly elected and qualified, or until removed as hereinafter provided.

3.3 Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Governing Council for the unexpired portion of the term. Vacancies may be filled or new offices created and filled at any meeting of the Governing Council.

3.4 Removal. Any officer or agent may be removed by the Governing Council whenever in its judgment the best interest of the School will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person removed. Election or appointment of an officer shall not of itself create contract rights.

3.5 Duties of the Chair. The Chair shall preside over the meetings of the Governing Council, be an ex-officio member of the committees designated by the Governing Council, provide leadership to the Council and perform such other duties as may be designated by the Council. In the absence of the Chair, the duties of the Chair will be performed by the Vice-Chair.

3.6 Duties of the Secretary. The Secretary shall perform the duties incident to the office of Secretary so that the Charter records of the School are kept current, including minutes of all meetings and all required notices of meetings and when authorized shall execute, attest and deliver documents of the School, and shall perform such other duties as may be designated by the Governing Council.

3.7 Duties of the Treasurer. The Treasurer shall perform the duties incident to the office of Treasurer so that the charter records of the School accurate and complete and the budget process is properly conducted and shall perform such other duties as may be designated by the Governing Council.

3.8 Duties of Other Officers. Other officers shall perform such duties and have such powers as may be designated by the Governing Council.

ARTICLE 4 FISCAL YEAR

The School shall have a fiscal year that begins on July 1 and ends twelve months later on June 30.

ARTICLE 5 NOTICE

The School shall provide notice of meetings in accordance with Open Meetings Act. Any other notice, request, consent or other communication required or permitted to be given under these Bylaws shall be given in writing in accordance with applicable state law and regulations by personal delivery, facsimile or electronic transmission with confirmation requested, reputable overnight courier service which provides receipts of deliveries or prepaid US certified mail (return receipt requested) addressed to the appropriate party at the then current address or facsimile number or electronic transmission address on file at the office of the School.

ARTICLE 6 PROHIBITED ACTIVITIES

6.1 No Inurement. No part of the earnings of the School shall inure to the benefit of or be payable to any Council member, officer or any other private organization or individual, except that the School shall be authorized and empowered to pay reasonable compensation for services rendered and to make reasonable payments and distribution in furtherance of the mission and purposes of the School in accordance with School policies, including the Conflict of Interest Policy and with applicable federal and state laws and regulations.

6.4 Non-Discrimination Policy. The School shall not discriminate in any manner on the basis of race, color, national or ethnic origin, sex, gender identity, sexual orientation, culture, disability and religion.

ARTICLE 7 INDEMNIFICATIONS

7.1 Indemnification. A Council member shall not be personally liable for any acts or omissions of the School. To the maximum extent permitted by law, the School shall have the power to indemnify any member of the Governing Council or officer or former member of the Governing Council or officer of the School against reasonable expenses, costs and attorneys' fees actually and reasonably incurred by him in connection with the defense of any action, suit or proceeding, civil or criminal, in which he is made a party by reason of being or having been a member of the Governing Council or officer. The indemnification may include any amounts paid to satisfy a judgment or to compromise or settle a claim. The

Council member or officer shall not be indemnified if he shall be adjudged to be liable on the basis that he has breached or failed to perform the duties of his office and the breach or failure to perform constitutes willful misconduct or recklessness. To the extent permitted by law, advance indemnification may be allowed of a Council member or officer for reasonable expenses to be incurred in connection with the defense of the action, suit or proceeding provided that the Council member or officer must reimburse the School if it is subsequently determined that the Council member or officer was not entitled to indemnification. The School may make any other indemnification permitted by law if authorized by resolution adopted after notice by the members of the Governing Council who are entitled to vote.

7.2 Insurance. To the extent permitted by law, the School shall maintain insurance, at its expense, or provide alternative financial arrangements, including but not limited to self-insurance, to protect itself and members of the Governing Council, officers, employees or agents of the School or another entity affiliated with the School officers, employees or agents of the School or another entity affiliated with the School (including an employee benefit plan or trust) against any such expense, liability or loss.

ARTICLE 8 RULES OF ORDER

The rules contained in the current edition of Robert's Rules of Order shall govern the conduct of meetings of the School in all cases to which they are applicable and in which they are not inconsistent with these Bylaws and any special rules of the School.

ARTICLE 9 AMENDMENTS

These Bylaws may be altered, amended, or repealed, and new Bylaws may be adopted by a majority of the Governing Council present at any regular or special meeting of the Council at which a quorum is attained.

We hereby certify that the above and foregoing Third Amended and Restated Bylaws of the Institute for the Arts – High School, a New Mexico public, statewide, residential, state chartered, high school, are the Bylaws of this School, adopted by the Governing Council, effective as of November 14, 2018.



Bill Beacham, Chair



Paula Tackett, Secretary

STATEMENT OF GOVERNING BODY TO CONSULT WITH PED

We, the undersigned, make up the governing body of New Mexico School for the Arts, located in Santa Fe, New Mexico.

In accordance with 6.80.4.16 NMAC, we agree to consult with the New Mexico Public Education Department on any matter not covered by the manual of accounting and budgeting before taking any action related to funds held as a board of finance.

We make this statement as part of New Mexico School for the Arts' application to the Public Education Commission for status as a board of finance under 6.80.4.16 NMAC.

We understand that we must retain or hire a Licensed School Business Manager as soon as financial feasible and, thereafter, notify the New Mexico Public Education Commission within 30 days of hiring and/or changing in a Licensed School Business Manager for the school, and a new, signed "Affidavit of Financial Custodian" must be submitted.

We understand that we must submit an Affidavit of Governing Body Member to the Public Education Commission within 60 days of a change in membership of our governing body.

THE FOLLOWING MEMBERS OF NEW MEXICO SCHOOL FOR THE ARTS GIVE THE FOREGOING STATEMENT THIS 14 DAY OF AUGUST, 2018

1. 
[signature]

Bill Beacham

[print]

3. 
[signature]


Greg Hunt

[print]

5. 
[signature]


Cynthia Nava

[print]

2. 
[signature]

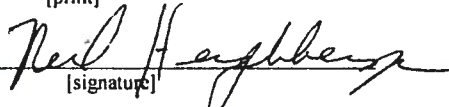
Dr. Michael Kaplan

[print]

4. 
[signature]

Paula Tackett

[print]

6. 
[signature]

Neil Heighberger


[print]

AFFIDAVIT OF GOVERNING BODY MEMBER

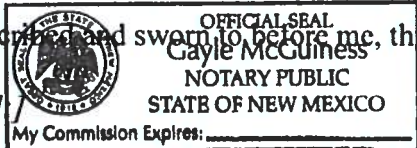
STATE OF NEW MEXICO)
)
COUNTY OF SANTA FE)


I, Dr. Michael Kaplan, after being duly sworn, state as follows:

1. My name is Dr. Michael Kaplan and I reside in Santa Fe, New Mexico.
2. I am a member of the governing body of the New Mexico School for the Arts charter school located in Santa Fe, New Mexico.
3. I am not currently a member of any governing body of any other charter school.
4. I have never been a member of any governing body of any other charter school that was suspended or failed to receive or maintain their board of finance designation.
5. I have read the school's conflict of interest policy and I assure that the school will be in compliance with state and federal law when administering grants and entering into contracts.


MICHAEL KAPLAN
Member of Governing Body of
New Mexico School for the Arts Charter School

8-14-18
DATE

Subscribed and sworn to before me, this 14 day of AUGUST, 2018.
[Notary Seal] 
OFFICIAL SEAL
Gayle McGuinness
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: _____


NOTARY PUBLIC
My commission expires: 6-28-21

AFFIDAVIT OF GOVERNING BODY MEMBER

STATE OF NEW MEXICO)
)
COUNTY OF SANTA FE)

I, Bill Beacham, after being duly sworn, state as follows:

1. My name is Bill Beacham and I reside in Santa Fe, New Mexico.
2. I am a member of the governing body of the New Mexico School for the Arts charter school located in Santa Fe, New Mexico.
3. I am not currently a member of any governing body of any other charter school.
4. I have never been a member of any governing body of any other charter school that was suspended or failed to receive or maintain their board of finance designation.
5. I have read the school's conflict of interest policy and I assure that the school will be in compliance with state and federal law when administering grants and entering into contracts.

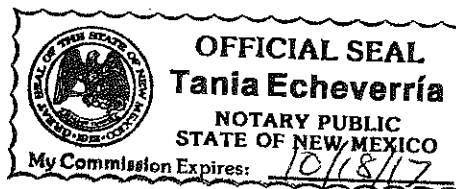
Bill Beacham
BILL BEACHAM
Member of Governing Body of
New Mexico School for the Arts Charter School

9/23/15
DATE

Subscribed and sworn to before me, this 23rd day of Sept, 2015.

[Notary Seal:]

Tania Echeverria
NOTARY PUBLIC
My commission expires: 10/18/17

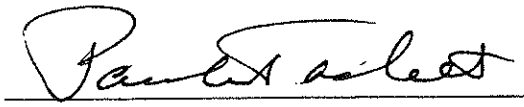


AFFIDAVIT OF GOVERNING BODY MEMBER

STATE OF NEW MEXICO)
)
COUNTY OF SANTA FE)

I, Paula Tackett, after being duly sworn, state as follows:

1. My name is Paula Tackett and I reside in Santa Fe, New Mexico.
2. I am a member of the governing body of the New Mexico School for the Arts charter school located in Santa Fe, New Mexico.
3. I am not currently a member of any governing body of any other charter school.
4. I have never been a member of any governing body of any other charter school that was suspended or failed to receive or maintain their board of finance designation.
5. I have read the school's conflict of interest policy and I assure that the school will be in compliance with state and federal law when administering grants and entering into contracts.

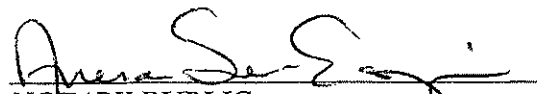


PAULA TACKETT
Member of Governing Body of
New Mexico School for the Arts Charter School

5/16/13
DATE

Subscribed and sworn to before me, this 16 day of May, 2013.

[Notary Seal:]




NOTARY PUBLIC
My commission expires: 01-08-16

AFFIDAVIT OF GOVERNING BODY MEMBER

STATE OF NEW MEXICO)
)
COUNTY OF SANTA FE)

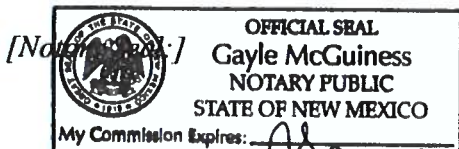
I, Greg Hunt, after being duly sworn, state as follows:

1. My name is Greg Hunt and I reside in Santa Fe, New Mexico.
2. I am a member of the governing body of the New Mexico School for the Arts charter school located in Santa Fe, New Mexico.
3. I am not currently a member of any governing body of any other charter school.
4. I have never been a member of any governing body of any other charter school that was suspended or failed to receive or maintain their board of finance designation.
5. I have read the school's conflict of interest policy and I assure that the school will be in compliance with state and federal law when administering grants and entering into contracts.


GREG HUNT
Member of Governing Body of
New Mexico School for the Arts Charter School

8-14-2018
DATE

Subscribed and sworn to before me, this 14 day of August 2018.



NOTARY PUBLIC

My commission expires: 6-28-21

AFFIDAVIT OF GOVERNING BODY MEMBER

STATE OF NEW MEXICO)
)
COUNTY OF SANDOVAL)

I, Cynthia Nava, after being duly sworn, state as follows:

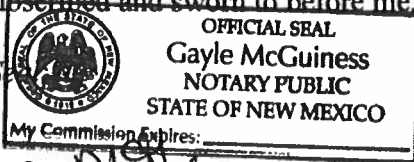
1. My name is Cynthia Nava and I reside in Corrales, New Mexico.
2. I am a member of the governing body of the New Mexico School for the Arts charter school located in Santa Fe, New Mexico.
3. I am not currently a member of any governing body of any other charter school.
4. I have never been a member of any governing body of any other charter school that was suspended or failed to receive or maintain their board of finance designation.
5. I have read the school's conflict of interest policy and I assure that the school will be in compliance with state and federal law when administering grants and entering into contracts.

Cynthia Nava
CYNTHIA NAVA
Member of Governing Body of
New Mexico School for the Arts Charter School

DATE Aug 14, 2018

Subscribed and sworn to before me, this 14 day of August, 2018.

[Notary Seal]



Gayle McGuinness
NOTARY PUBLIC
My commission expires: 6-28-21

AFFIDAVIT OF FINANCIAL RECORD CUSTODIAN

STATE OF NEW MEXICO)

COUNTY OF Taos)

I, Elizabeth Romero, [affiant] after being duly sworn, state:

1. I live in the City of Vadito, County of Taos, New Mexico.

2. In accordance with 6.80.4.16 NMAC, I agree to accept the responsibility of keeping the financial records of the charter school and recognized that I am in charge of maintaining public funds with fidelity and in accordance to public finance laws, rules and regulations.

3. I have completed the following training in the maintenance of financial records:

- a)
- b)
- c)

4. Attached is a certificate of insurance that indicates that I am adequately bonded to take this responsibility.

5. I have earned the following certificates, licensures and/or degrees:

Certificate, licensure or degree	Educational Institution	Date	Current Yes/No
B.B.A.	NM Highlands University	December 2000	Yes

FURTHER AFFIANCE SAYETH NAUGHT.

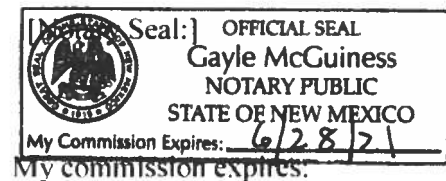
Elizabeth Romero
[Signature of Affiant]

5/15/18
Date

Elizabeth Romero
[Print Name of Affiant]

VERIFICATION

The forgoing Affidavit of Financial Records Custodian was subscribed and sworn to before me, this 15 day of MAY, 2018.



Gayle McGuinness
NOTARY PUBLIC

My commission expires: _____, 20____.

STATE OF NEW MEXICO



*In Recognition of
The Fulfillment of the Requirements for
School Personnel Licensure
this*

LEVEL TWO PROFESSIONAL SCHOOL BUSINESS OFFICIAL LICENSE

is issued to

ELIZABETH RENEE ROMERO

Effective from July 1, 2011 to June 30, 2020

Licensure Number: 333561

Shanna Flinders
Secretary of Education

NEW MEXICO SCHOOL FOR THE ARTS
HIGH SCHOOL

STUDENT SELECTION POLICY

New Mexico School for the Arts, Art Institute (the “Art Institute”), is a tax-exempt arts educational institution created to provide (1) intensive pre-professional and professional arts and programming (2) housing and food services for eligible students and (3) outreach and arts enrichment instruction and programs in communities around the State of New Mexico.

New Mexico School for the Arts High School (the “High School”), a statewide public high school, provides access to a rigorous mastery arts and academic high school education for youth with passion and aptitude in the arts, leading to post-secondary learning, careers in the arts, and lives that contribute to society.

As stated in the Memorandum of Understanding between the High School and the Art Institute, the organizations agree to collaborate and cooperate with each other to provide the arts education program for the high school. Therefore, the High School and Art Institute agree to collaborate on the student selection process even though this is the policy of the Art Institute.

The High School is the only public school in the state permitted to choose its students following an audition or portfolio review and based on published assessment criteria. There is no lottery involved. The primary principles underlying the student selection policy are exceptional promise, aptitude and passion for the arts.

To the greatest extent possible without jeopardizing admission standards, students shall be admitted in equal numbers from each of the State’s three congressional districts.

See the Transfer Credit Policy regarding awarding of credits.

Admission Criteria

Students wishing to attend the High School must apply for and be selected for admission through the audition process.

Students attending the High School must be New Mexico residents. Students are welcome to apply for admission from outside New Mexico but they must have proof of New Mexico residency on the first day of school.

Students seeking admission to the 9th grade must produce the necessary evidence that they have successfully completed all of the requirements for promotion from 8th grade to 9th grade. Students seeking admission to grades 10 or 11 must submit a transcript showing that they have successfully completed and earned the required credits to be placed in grades 10 or 11.

Admission to a particular grade level is not complete until the High School has received an official transcript that shows evidence of successful completion of the required credits for that specific grade level.

NEW MEXICO SCHOOL FOR THE ARTS HIGH SCHOOL

The selection process for the High School ensures access and nondiscrimination. The authorizing legislation (SB 34, 2008) states that: "admissions criteria shall be designed to admit students who show exceptional promise or aptitude in the arts and a strong desire to pursue a career in the arts." Students who attend the High School will be selected following an audition or portfolio review based upon admissions assessment criteria. The Legislation makes it clear that the School's admissions and recruitment activities must reach out to the widest feasible audience of New Mexico's students, encouraging applications from those who meet the broad criteria, attempting to "eliminate barriers to prospective students in the application process."

Admission Process

Admission information will be updated annually and is available on the High School's website at <http://www.nmschoolforthearts.org>. A hard copy can be requested by calling the High School.

The recruitment practices and admissions procedures are described in detail on the High School's website. Published material will also be available in various formats.

The admissions panels for each of the High School's arts departments are comprised of working artists, arts educators, and school faculty, primarily from New Mexico, who conduct the individual and group auditions, rate each applicant according to the published criteria and rubrics and submit their final recommendations to the Head of School and the Director of the Art Institute.

It is possible that a real or perceived conflict of interest may arise involving a panel member and an applicant. If a panelist has a direct or indirect relationship to an applicant, whether by family or professional association, the panelist must disclose this fact to the other members of the panel. Knowing or having taught an applicant shall not necessarily be considered a conflict. If a conflict of interest does exist, the panelist will recuse him/herself from filing a report on that particular applicant.

Recommendations and audition records will remain confidential and are the property of the High School and the Institute. These materials will not be shared with applicants or their families.

Most applicants are selected for admission in early spring for the upcoming School Year.

A rolling admissions procedure exists to allow the High School and Art Institute to audition and accept students throughout the year.

Students wishing to change departments need to reapply during the admission cycle. A Re-admission Request Form must also be completed. The form can be found online at our website: www.nmschoolforthearts.org/admissions

The Head of School together with the Director of the Art Institute make the determination of students to be admitted or declined. Their decision is final and not subject to review.

NEW MEXICO SCHOOL FOR THE ARTS
HIGH SCHOOL

Non-discrimination

The selection process for the High School ensures access and non-discrimination. The High School subscribes to all federal and state standards with respect to both students and staff in this regard.

Its frequently published policy statement is as follows: *The New Mexico School for the Arts admits students of any race, color, national or ethnic origin, gender, sexual orientation, sexual preference, culture, and religion or with any disability to all of the rights, privileges, programs and activities generally accorded or made available to its students. The New Mexico School for the Arts does not discriminate on the basis of race, color, national or ethnic origin, gender, sexual orientation, sexual preference, culture, disability and religion in administration of its educational policies, admissions policies, financial aid programs, arts and other programs.*

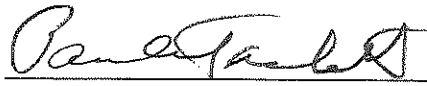
The Governing Council of the New Mexico School for the Arts amended this Student Selection Policy, effective December 2, 2014.

NEW MEXICO SCHOOL FOR THE ARTS

ATTEST;



SHERRY THOMPSON, Chair
of the Council



PAULA TACKETT, Secretary
of the Council

CERTIFICATE OF ASSURANCES

My name is Greg Hunt and I reside in Santa Fe. I am a member of the governing body for New Mexico School for the Arts a charter school which is located at 275 E Alameda SE. I certify that the CHARTER SCHOOL complies with all applicable federal and state laws governing the organizational programmatic, and financial requirements applicable to charter schools, including:

1. The CHARTER SCHOOL'S admission processes are in compliance with Section 22-15F-4 NMSA 1978 (New Mexico School for the Arts Act).
2. The CHARTER SCHOOL'S admission process do not discriminate against anyone regarding race, color, age, religion, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, physical or mental disability, or serious medical condition.
3. The CHARTER SCHOOL is a nonsectarian and non-religious public school.
4. Except as otherwise provided in Sections 22-12-5(C) or 22-15F-6 NMSA 1978 the Public School Code, the CHARTER SCHOOL does not charge tuition or have admission requirements.
5. The CHARTER SCHOOL complies with all state and federal health and safety requirements applicable to public schools, complies with Sections 22-8B-4.2(A), (C), and (D) NMSA 1978, and must produce an E-Occupancy certificate for all school facilities.
6. The governing body does not and will not contract with a for-profit entity for the management of the CHARTER SCHOOL.
7. The CHARTER SCHOOL complies with all applicable state and federal laws and rules related to identifying and providing special education services.
8. The CHARTER SCHOOL complies with provisions regarding public property identified in the Public School Code, the New Mexico Procurement Code, and the New Mexico Prohibited Sales Act, the Internal Revenue Code, and other applicable federal and state regulations.
9. The CHARTER SCHOOL ensures that criminal background checks are conducted on all employees and applicable reporting is completed in accordance with Section 22-10A-5 NMSA 1978.
10. The CHARTER SCHOOL ensures that it complies with state regulations regarding the use of volunteers set out in Section 6. 50.18 NMAC.
11. The CHARTER SCHOOL complies with the Age Discrimination Act of 1975, Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Individuals with Disability Education Act.
12. The CHARTER SCHOOL provides equitable access to and participation in its federally assisted program for students, teachers, and other program beneficiaries with special needs.
13. Meetings of the CHARTER SCHOOL Governing Body comply with the New Mexico Open Meetings Act, Sections 10-15-1 et seq., NMSA 1978 and the Inspection of Public Records Act, Section 14-2-1 et seq., NMSA 1978.

14. The CHARTER SCHOOL complies with all requirements of The Family Educational Rights and Privacy Act (FERPA) 20 U.S.C. § 1232g; 34 CFR Part 99.
15. The CHARTER SCHOOL has and will adopt all policies and procedures required by the Public School Code, the New Mexico Administrative Code, and the Public Education Commission.
16. The Governing Body or head administrator of the CHARTER SCHOOL recognizes and works with employee labor representatives, if any.
17. The CHARTER SCHOOL has and will develop personnel policies that comply with all applicable federal and state labor laws, regulations and rules implementing them.
18. The CHARTER SCHOOL had and will develop a curriculum that is aligned to the New Mexico State Standards found in Title 6 Chapter 29 of the New Mexico Administrative Code, as amended.

Gregory X. Hunt
Printed Name


Signature

6-5-2019
Date

CERTIFICATE OF ASSURANCES

My name is Paula Tackett and I reside in Santa Fe, N.M.. I am a member of the governing body for The New Mexico School for the Arts a charter school which is located at 275 E Alameda. I certify that the CHARTER SCHOOL complies with all applicable federal and state laws governing the organizational programmatic, and financial requirements applicable to charter schools, including:

1. The CHARTER SCHOOL'S admission processes are in compliance with Section 22-15F-4 NMSA 1978 (New Mexico School for the Arts Act).
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16. The Governing Body or head administrator of the CHARTER SCHOOL recognizes and works with employee labor representatives, if any.
17. The CHARTER SCHOOL has and will develop personnel policies that comply with all applicable federal and state labor laws, regulations and rules implementing them.
18. The CHARTER SCHOOL had and will develop a curriculum that is aligned to the New Mexico State Standards found in Title 6 Chapter 29 of the New Mexico Administrative Code, as amended.

Paula Tackett
Printed Name

Paula Tackett
Signature

4/5/19
Date

CERTIFICATE OF ASSURANCES

My name is Bill Beacham and I reside in Santa Fe. I am a member of the governing body for NM School for the Arts a charter school which is located at 215 E. Alameda, Santa Fe. I certify that the CHARTER SCHOOL complies with all applicable federal and state laws governing the organizational programmatic, and financial requirements applicable to charter schools, including:

1. The CHARTER SCHOOL'S admission processes are in compliance with Section 22-15F-4 NMSA 1978 (New Mexico School for the Arts Act).
2. The CHARTER SCHOOL'S admission process do not discriminate against anyone regarding race, color, age, religion, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, physical or mental disability, or serious medical condition.
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16. The Governing Body or head administrator of the CHARTER SCHOOL recognizes and works with employee labor representatives, if any.
17. The CHARTER SCHOOL has and will develop personnel policies that comply with all applicable federal and state labor laws, regulations and rules implementing them.
18. The CHARTER SCHOOL had and will develop a curriculum that is aligned to the New Mexico State Standards found in Title 6 Chapter 29 of the New Mexico Administrative Code, as amended.

Bill Beacham
Printed Name

Bill Beacham
Signature

6/6/19
Date

Waiver Notification Form

School Name: **New Mexico School for the Arts**

Date: **2019-2024**

Instructions:

- (1) Identify all non-discretionary waivers that will be utilized and discretionary waivers that will be requested.
- (2) Specifically identify statutes or state rules for which a waiver is requested.
- (3) Describe how the school's practice and **how it varies** from statutory requirements.

Non-Discretionary Waivers			
NMSA 1978 § 22-8B-5(C) Waiver	Utilized	Specific provision of relevant statute to which waiver is applied.	Description the school's practice and how it varies from statutory requirements.
Individual class load	<input type="checkbox"/>	<p style="text-align: center;">Statute and Description not required per Chairwoman Gipson (NMSA provided the attached document)</p>	
Teaching load	<input checked="" type="checkbox"/>		
Length of school day	<input type="checkbox"/>		
Staffing pattern	<input type="checkbox"/>		
Subject areas	<input checked="" type="checkbox"/>		
Purchase of instructional materials	<input type="checkbox"/>		
Evaluation standards for school personnel	<input checked="" type="checkbox"/>		
School principal duties	<input checked="" type="checkbox"/>		
Drivers education	<input type="checkbox"/>		
Discretionary Waivers			
Statute for which Waiver Requested under NMSA 1978 § 22-2-2.1	Specific provision of relevant statute for which waiver is sought.	Description of how the school's practice will vary from statutory requirements.	
Click here to enter text.		Click here to enter text.	
Click here to enter text.		Click here to enter text.	

Exhibit 2: Waivers for New Mexico School for the Arts Charter School

<u>Section</u> <u>4.01(f)(i)</u> Automatic Waivers	<u>Waiver</u>	<u>Alternative Proposed</u>
	Individual Class Load	
	Teaching Load	The School may have any number of students in any grade, provided that the total enrollment does not exceed the approved cap on the enrollment.
	Length of School Day	
	Staffing Pattern	
	Subject Area	<p>Waiver approved 2/9/2012 by Secretary Skandera.</p> <p>Students in the dance department are allowed to earn the 1.0 physical education credit, required for graduation, through the dance curriculum.</p>
	Purchase of Instructional Materials	
	Evaluation standards for school personnel	NMSA is waived from the NMPED standard teacher / principal /head administrator evaluation system to the extent permitted by law. .
	School Principal duties	<p>Waiver approved 7/7/2010 by Secretary Susanna M. Murphy.</p> <p>Because of New Mexico School for the Arts' ("NMSA") unique position as an arts school that has a relationship with a tax exempt organization, School for the Arts-NM ("SA-NM"), and because of its statewide residential status, the Board has added the following elements to the job description and added an additional three evaluation domains:</p> <p>Job Description Additions:</p> <ol style="list-style-type: none"> 1. Establish, execute and evaluate a process to identify, train, assign and support the use of unlicensed content-area experts as resources in classrooms, team

		<p>teaching, online instruction, curriculum development, residence hall management and other purposes,</p> <p>2. Establish, execute, and evaluate procedures that ensure constant communication with the staff of the residential program to guarantee student safety, communication between SA-NM and NMSA staff, student wellness, and overall student achievement.</p> <p>Additional Evaluation Domains:</p> <p>1. Governing Council, including communication, maintaining positive relationships, and compliance with all policies;</p> <p>2. Fiscal management, including budget planning and oversight, and long range financial planning;</p> <p>3. Policies, Procedures, Regulations, and Compliance, including development of necessary additional policies.</p> <p>NMSA's principal will not report to the local superintendent of schools, but rather to the Charter School's governing body.</p>
	Driver education	
<u>Section 4.01(f)(ii)</u> Discretionary Waivers that the Charter proposes, and the rationale for these waivers	Waiver None	<i>Rationale for Request</i>

The CPO certification is valid for two years. Ms. Quintana took the training in Spring 2019 to renew and is awaiting her certificate from GSD. She is registered as the school's designated CPO on the State Purchasing website, dated 5/24/19.



NEW MEXICO
GENERAL SERVICES DEPARTMENT

Chelamia Quintana

*Who has satisfactorily pursued the certification training program and
passed the required examination*

in accordance with the requirements established pursuant to

NMSA 13-1-95.2

is hereby awarded on this 23rd day of May, 2017

Chief Procurement Officer Certification

Certificate No. CPO-2017-00000-01522



Lawrence O. Maxwell

State Purchasing Agent

Lease with conversion right to LPA

LEASE AGREEMENT

By and Between

The New Mexico School for the Arts-Art Institute, A New Mexico non-profit corporation,

and

The New Mexico School for the Arts, A New Mexico public charter school

DATED AS OF JUNE 1, 2019

LEASE AGREEMENT

This Lease Agreement (this "Lease" or "Agreement") is entered into by and between the New Mexico School for the Arts Art Institute, a New Mexico nonprofit corporation (the "Lessor"), as lessor, and the New Mexico School for the Arts, a New Mexico public charter school, (the "School" or "Lessee"), as lessee, effective as of June 1, 2019.

RECITALS

THE PARTIES HERETO enter into this Lease on the basis of the following facts, understandings, and intentions:

A. Lessor is a nonprofit corporation organized, existing and in good standing under the Nonprofit Corporation Act, Chapter 53, Article 8 NMSA 1978; is an organization described in Section 501(c)(3) of Title 26 of the Internal Revenue Code; is duly qualified to do business in the State of New Mexico; and is authorized under its articles of incorporation, bylaws, official action of its board of directors and applicable law to own and manage its properties, to conduct its affairs in the State of New Mexico, to lease the School Premises to Lessee, and to otherwise act in the manner provided herein.

B. The Lessor was organized to support the School and for the purpose of providing a school facility for the School pursuant to Section 22-8B-4.2(D)(2)(b)(2) NMSA 1978, the New Mexico School for the Arts Act, NMSA 1978, Sections 22-15F-1, et seq. ("Arts Act") and the Public Schools Lease Purchase Act, NMSA 1978, Sections 22-26A-1, et seq. The Lessor has acquired title to the Property described in Exhibit "A" and Premises described in Exhibit "A-1" hereto, and commonly known as the Sanbusco Center for the Arts, a Condominium, 500 Montezuma Street, Santa Fe, New Mexico and has redeveloped it for the use of Lessee pursuant to the terms of this Agreement. Upon occupancy by Lessee under this Agreement, and upon the approval of the New Mexico Public School Facilities Authority ("PSFA"), the school facility leased to Lessee pursuant to this Agreement ("School Premises") will meet educational occupancy standards required by applicable New Mexico construction codes, and be in compliance with applicable statewide adequacy standards developed pursuant to the Public School Capital Outlay Act, Chapter 22, Article 24 NMSA 1978.

C.. Lessee is a public charter school authorized by the New Mexico Public Education Commission and duly organized and validly existing under the Charter Schools Act, Sections 22-8B-1 through 22-8B-17.1, NMSA 1978 (the "Act") and the Arts Act. Lessee is authorized by Section 22-8B-4.2 (D) (2)(b)(2) NMSA 1978, to contract with a nonprofit entity specifically organized for the purpose of providing a facility for the School.

D. In order to, among other things, finance the cost of acquiring, renovating and equipping the Property and School Premises for use as an educational facility, Lessor has entered into a Construction Loan Agreement, Commercial Security Agreement and Construction Mortgage (collectively hereafter, the "Loan and Security Agreements"), with the New Mexico Bank and Trust, a state chartered bank ("Lender") pursuant to which the Lender has funded a construction loan to Lessor for the construction, renovation and remodeling of the condominium units and limited common areas comprising the School Premises as more particularly described

on Exhibit "A" hereto and has been granted a first lien on the property. In addition there is an existing promissory note secured by a mortgage granted by the Lessor's predecessor in interest, Sanbusco 2015, LLC, to Garrett Thornburg, Trustee of the Garrett Thornburg Revocable Trust as amended and restated under the Fifteenth Amendment to and complete Restatement of Garrett Thornburg Revocable Trust dated March 31, 2015 ("Thornburg Trust Mortgage"), which is a subordinated lien, pursuant to which Sanbusco 2015, LLC, was loaned the purchase money necessary to acquire the Property. Collectively, hereafter, the Loan and Security Agreements and Thornburg Trust Mortgage are referred to as ("Prior Liens").

E. Pursuant to the Loan and Security Agreements, the Lessor has (a) assigned to the Lender all of the Lessor's right, title and interest in, to and under this Lease; (b) granted a security interest to the Lender in the School Premises; and (c) granted a first lien on and encumbered the School Premises for repayment of amounts due under the Loan and Security Agreements for the benefit of the Lender and its successors and assigns.

F. The Base Rent and Operating Expenses (both as hereinafter defined) payable by the School hereunder shall constitute currently appropriated expenditures of the School and shall not constitute a debt or multiple fiscal year direct or indirect obligation whatsoever of the School or a mandatory charge or requirement against the School in any Fiscal Year (as hereinafter defined) beyond the Fiscal Year for which such payments have been appropriated.

G. The School desires to have and the Lessor agrees to extend to the School a right to enter a Lease with Option to Purchase pursuant to the Public Schools Lease Purchase Act, NMSA 1978 §§22-26A-1, *et seq.*, and substantially in the form attached hereto as Exhibit B subject to approval by the Public Education Department.

H. The execution, delivery and performance of this Lease by the School are in the best interest of the School, serve a public purpose and have been duly authorized by the governing board of the School.

I. The Lessor desires to lease the School Premises to the School and the School desires to lease the Property from the Lessor, pursuant to the terms and conditions and contingencies and for the purposes set forth in this Lease, subject in all respects to the liens evidenced by the Loan Agreement and the Deed of Trust.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants and promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Definitions. The following terms shall have the meaning set forth below:
 - a. "Agreement" means this Lease Agreement.

b. "Agreement Payment" means any payment due from Lessee to Lessor under this Agreement.

c. "Base Rent" means the amount of total base rent as shown on Exhibit C hereto for each month of this Lease.

d. "Business Day" means any day other than a Saturday, Sunday or a day on which banking institutions in the State of New Mexico are authorized to be closed.

e. "Capital Outlay Act" has the meaning ascribed to it in the Recitals.

f. "Department" means the New Mexico Public Education Department.

g. "Event of Default" shall have the meaning ascribed to it in Section 28.

h. "Event of Nonappropriation" shall have the meaning ascribed to it in Section 7.

i. "Extended Term" means, in the first instance, the period of time from the Possession Date until the following June 30, and thereafter, the twelve month period, commencing July 1 of each year and ending on June 30 of the following calendar year, for which the School renews the Lease.

j. "Fiscal Year" means the School's fiscal year, which begins on July 1 of any year and ends on June 30 of the following year.

k. "Force Majeure" means acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or of the State or any of their departments, agencies, or officials or any civil or military authority; insurrection; riots; landslides; earthquakes; fires; storms; droughts; floods; explosions; breakage or accidents to machinery, transmission pipes or canals; or any other causes not within the control of the School or the Lessor.

l. "Full Possession Date" shall mean the date on which all Improvements mutually agreed between the Lessor and the School have been substantially completed and a certificate of occupancy has been issued for the entire School Premises.

m. "Improvements" means Unit 1 and Units 3-4 and other facilities in or under the School Premises and includes the School's rights as to development rights on Tract A-1, the Common Elements and Limited Common Elements in Sanbusco Center, a Condominium.

n. "Initial Term" shall have the meaning ascribed to it in Section 5.

o. "Lease" means this Lease Agreement, dated as of June 1, 2019, by and between the Lessor and the Lessee and any amendments or supplements hereto, including all exhibits hereto and thereto.

- p. "Loan and Security Agreements" shall have the meaning ascribed to it in the Recitals.
- q. "Net Proceeds" means, when used with respect to any insurance payment or condemnation award, the gross proceeds thereof less the expenses (including attorneys' fees) incurred in the collection of such gross proceeds.
- r. "Operating Expenses" shall have the meaning ascribed to it in Section 10.
- s. "Option to Purchase" shall have the meaning ascribed to it in Section 35 of this Agreement.
- t. "Partial Possession Date" shall have the meaning ascribed to it in Section 3.
- u. "Property" shall have the meaning ascribed to it in Exhibit "A".
- v. "Requirements of Law" means any material federal, state, or local statute, ordinance, rule, or regulation, any judicial or administrative order (whether or not on consent), request or judgment, any applicable common-law doctrine, any provision or condition of any permit required to be obtained or maintained, or any other binding determination of any governmental authority relating to the ownership or operation of property, including any of relating to environmental, health, or safety matters.
- w. "School Premises" means the real property described in Exhibit "A-1" attached hereto as condominium Unit 1 and Units 3-4 and related common elements, restricted common elements and future development rights as described in the Amended and Restated Condominium Declaration of Sanbusco Center for the Arts, a Condominium recorded as Instrument# 1852389 on March 15, 2018 in the records of the Santa Fe County Clerk which is the subject of this Agreement.
- x. "State" means the State of New Mexico.
- y. "Thornburg Trust Mortgage" shall have the meaning ascribed to it in the Recitals.

2. Demise. The Lessor hereby leases the School Premises to the School, and the School hereby leases the School Premises from the Lessor. The Lessor shall not interfere with the quiet use and enjoyment of the School Premises by the School during the Initial Term (and any Extended Terms) of this Lease so long the School is not in default under the terms of this Lease.

3. Possession. Notwithstanding the above Section 2, the School may take partial possession of the School Premises by occupying Unit 1 or Units 3-4 located at 500 Montezuma St., Santa Fe, New Mexico ("Partial Possession Property") prior to all of the Improvements being substantially completed provided a certificate of occupancy has been issued for each unit. As of the date that the School occupies the Partial Possession Property ("Partial Possession Date"), the School shall pay (i) a prorated portion of the Base Rent and that will be based on the ratio of the number of students to occupy the Partial Possession Property to the full number of students

enrolled at the School and (ii) all Operating Expenses associated with the Partial Possession Property.

4. Need. The School hereby declares its current need for the School Premises and further determines and declares its expectation that the School Premises will (so long as it is subject to the terms hereof) adequately serve the needs for which it is being leased throughout the stated term of this Lease. The School hereby agrees and determines that the Base Rent during the Initial Term (and any Extended Terms) and the obligation to pay Operating Expenses (for any Extended Terms) of this Lease represents not more than the fair market value of the use of the School Premises during such year. In making such declarations and determinations, the School has given consideration to the uses and purposes for which the School Premises will be employed by the School, the benefit to the School by reason of the School Premises, and the use and occupancy of the School Premises pursuant to the terms and provisions of this Lease. It is hereby declared to be the present intention and expectation of the School that this Lease, or the Lease with Option to Purchase, will be continued through all Extended Terms, but this declaration shall not be construed as contractually obligating or otherwise binding the School.

5. Initial Term. The Initial Term of this Lease shall be for a period commencing on July 1, 2019 and ending on the Full Possession Date, ("Initial Term"), unless sooner terminated pursuant to any provision of this Lease. This Lease is contingent upon sufficient appropriations being made by the State of New Mexico for performance of this Lease. If sufficient appropriations and authorization are not made by the State of New Mexico, this Lease may terminate prior to the end of the term. During the Initial Term, the School shall have no obligation to pay any Operating Expenses under this Lease, except where Operating Expenses are due under Section 3 of this Lease. The School shall, however, be obligated to pay Base Rent during the Initial Term, to the extent applicable, from revenues allocable to the Partial Possession Property following the Partial Possession Date.

6. Extended Terms. The Lease shall be extended beyond the Initial Term for thirty-one (31) additional terms with the first extended term commencing on the Full Possession Date and ending on the next following June 30, and each subsequent additional Extended Term being one (1) year in duration unless one of the following occurs:

- (a) An Event of Nonappropriation has occurred prior to June 30; or
- (b) An Event of Default and termination of this Lease by the Lessor.

7. Non-renewal Due to Nonappropriation.

(a) An "Event of Nonappropriation" shall be (i) a failure by the legislature to appropriate sufficient funds to the School to make the Base Rent and Operating Expenses payments required by this Lease; (ii) a failure by the School to have sufficient money available to meet the current lease payments; or (iii) a failure by the School to appropriate sufficient amounts to proceed under Section 27(c) following the occurrence of an event described in Section 27(a).

(b) In the event that the School shall determine, for any reason, to not exercise its annual right to renew this Lease through an Event of Nonappropriation, effective on June 30 of any Fiscal Year, the School shall give written notice to such effect to the Lessor not later than May 1 of the Fiscal Year; provided, however, that a failure to give such notice shall not constitute an Event of Default, nor prevent the School from choosing not to renew this Lease, nor result in any liability on the part of the School. The exercise of the School's annual option to not renew this Lease shall be conclusively determined by the School's failure, for any reason, (a) to appropriate by June 30 of each Fiscal Year sufficient amounts authorized and directed to be used to pay all Base Rent and Operating Expenses due in the next ensuing Fiscal Year or (b) upon the occurrence of any of the other events described in the definition of Event of Nonappropriation herein.

(c) Any decision not to renew this Lease shall be made solely by the governing authority of the School and not by any other department, agency or official of the School. The School shall in any event furnish the Lessor proof of appropriation relating to Base Rent and Operating Expenses under this Lease promptly upon the adoption thereof by the School as evidenced by a resolution of the School made and delivered to the Lessor no later than May 31 of each Fiscal Year. Such resolution shall be signed by an authorized representative of the School, provided that this Lease has not been previously terminated and that the School is not in default under the terms of this Lease at the time of each extension.

(d) In the event that during any Fiscal Year, any Operating Expenses shall accrue in excess of amounts included in a duly enacted appropriation for the payment of Operating Expenses, then, in the event that moneys are not specifically authorized and directed by the School to be used to pay such Operating Expenses by the earlier of the last Business Day of the Fiscal Year in which such Operating Expenses accrue or 90 days subsequent to the date upon which such Operating Expenses accrue, an Event of Nonappropriation shall be deemed to have occurred, upon notice by the School to the Lessor to such effect.

(e) If an Event of Nonappropriation occurs, the School shall not be obligated to pay the Base Rent or Operating Expenses or any other payments provided for herein beyond the amounts specifically appropriated by the School for the Fiscal Year during which such Event of Nonappropriation occurs; provided, however, the School shall continue to be liable for Base Rent and Operating Expenses, to the extent payable from legally available moneys, allocable to any period during which the School shall continue to occupy or retain possession of the School Premises.

(f) The School shall in all events vacate the School Premises and surrender any personal property included in the School Premises to the Lender by the thirtieth (30th) calendar day following an Event of Nonappropriation.

8. Use. The School Premises shall be used and occupied only for educational and related purposes, and for no other purpose. No portion of the School Premises shall be used primarily for pervasively sectarian purposes. The School will comply with all applicable state and federal laws concerning discrimination on the basis of race, creed, color, gender, national origin, or religious belief.

9. Possession; Rent Commencement. The School shall begin paying partial Operating Expenses in accordance with Section 3 of this Lease on the Partial Possession Date, if applicable, and the School shall begin paying the full Operating Expenses on the Full Possession Date in accordance with the provisions of Section 12 of this Lease. The School shall pay Base Rent at all times in accordance with Section 5 of this Lease.

10. Absolute Net Lease. The School shall pay as additional rent during any Extended Terms of this Lease as herein provided all expenses related to possession, maintenance and operation of the School Premises. Commencing with the Partial Possession Date, if applicable or the Full Possession Date, this Lease is intended to be and shall be construed consistently with it being an absolute net lease with the School paying all expenses related to the School Premises, including without limitation, (i) the cost of insurance premiums for insurance required by this Lease or the Loan Agreement or otherwise deemed necessary or desirable; (ii) the cost of taxes, utility charges, maintenance, upkeep, and repair costs; (iii) all other costs associated with operation, repair and maintenance of the School Premises; and (iv) all costs of the Lessor for administering this Lease and the cost of an annual audit of the Lessor's financial statements to the extent allocable to Lessor's activities directly relating to the School Premises and as permitted by law. All or any portion of such operating expenses may be paid by the School directly to the third parties who are owed the amounts included in Operating Expenses (e.g. insurance companies, taxing authorities, utility companies). All such expenses described in this Section 10 shall be defined as "Operating Expenses". Notwithstanding the foregoing, nothing in this section shall be interpreted as a waiver or release of Lessor's obligation to comply with NMSA 22-8B-4.2 D.2 (a) during the term of this Lease.

11. Nature of Payment. The School and the Lessor acknowledge and agree that the Base Rent and Operating Expenses hereunder shall constitute currently appropriated expenditures of the School and may be paid from any legally available funds. The School's obligations under this Lease shall not constitute a mandatory charge or requirement for payment of any amounts in excess of amounts appropriated for any Fiscal Year beyond the Fiscal Year for which such appropriation has been made. No provision of this Lease shall be construed or interpreted as creating a debt or multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the School within the meaning of any constitutional or statutory limitation or requirement. No provision of this Lease shall be construed or interpreted as creating a delegation either of governmental powers or as a donation by or a lending of the credit of the School within the meaning of any constitutional or statutory limitation or requirement. This Lease does not directly or indirectly obligate the School to make any payments beyond those appropriated for any Fiscal Year for which such payments have been appropriated.

12. Manner of Payment.

(a) From and after the Partial Possession Date, if applicable, or the Full Possession Date during all Extended Terms of this Lease, the School shall pay Base Rent directly to the Lessor or to a person or entity designated by the Lessor as the Lessor's representative for rent collection purposes, on the twenty-fifth (25th) day of each month of an Extended Term from any and all legally available sources of revenue, including per pupil operating revenues payable to the School. The Base Rent for this Lease and any Extended Term shall be in the amounts set forth on Exhibit C hereto. Prior to the Full

Possession Date, the School shall be obligated to pay the Base Rent as set forth in Sections 3 and 5.

(b) Operating Expenses owed to third parties by the School shall be paid directly from the School to such third parties as and when due. Commencing on the Partial Possession Date, if applicable, or the Full Possession Date, any Operating Expenses payable to the Lessor shall be paid directly to the Lessor or to a person or entity designated by the Lessor as the Lessor's representative for rent collection purposes, on the twenty-fifth (25th) day of each month of an Extended Term from any and all legally available sources of revenue, including per pupil operating revenues payable to the School.

(c) The obligation of the School to pay the Base Rent and Operating Expenses required under this Lease shall not be abated through accident or unforeseen circumstances. The School shall, during the Initial Term (and any Extended Terms) of this Lease, make all payments of Base Rent and Operating Expenses when due and shall not withhold any Base Rent or Operating Expenses nor shall the School assert any right of set-off or counter-claim against its obligation to make such payments required hereunder; provided, however, that the making of such payments shall not constitute a waiver by the School of any rights, claims, or defenses which the School may assert. No action or inaction on the part of the Lessor shall affect the School's obligation to pay Base Rent and Operating Expenses of this Lease.

(d) The Base Rent has been set at the amount necessary to pay annual debt service on the Prior Liens, and that amount necessary to pay such annual debt service shall be allocated for that purpose prior to base rent payments being applied to other purposes by Lessor.

13. Budgeting. In any Fiscal Year that this Lease shall be in effect, such officer of the School responsible for the preparation of the annual budget shall include in the budget proposal for the ensuing Fiscal Year an amount equal to one-hundred percent (100%) of the Base Rent and one-hundred five percent (105%) of the estimated Operating Expenses hereunder for such ensuing Fiscal Year, provided that the decision whether to extend the term of this Lease and whether to appropriate such amounts shall remain solely within the discretion of the School.

14. Representations of the School. The School represents as follows:

(a) The School is a public charter school duly organized and validly existing under the Act and the Arts Act and will use its best efforts to comply with said Act. The School is authorized: (i) to lease the School Premises from the Lessor pursuant to this Lease and (ii) to execute, deliver, and perform its obligations under this Lease.

(b) The execution, delivery, and performance of this Lease has been duly authorized by the School and this Lease is enforceable against the School in accordance with its terms, subject only to bankruptcy, insolvency, reorganization, moratorium, and

other similar laws affecting creditors' rights generally and equitable principles, whether considered at law or in equity.

(c) Nothing in this Lease shall be construed as diminishing, unlawfully delegating, or otherwise restricting any legal authority of the School.

(d) The execution, delivery, and performance of this Lease are in the best interests of the School and serve a public purpose. The School Premises is necessary and essential to the School's operations, and the school will recognize economic and other benefits by leasing the School Premises.

(e) None of the execution and delivery of this Lease, the fulfillment of or compliance with the terms and conditions of this Lease, or the consummation of the transactions contemplated by this Lease, conflicts with or results in a breach of the terms, conditions, or provisions of any material restriction or any agreement or instrument to which the School is now a party or by which the School is bound, or constitutes a default under any of the foregoing or, except as specifically provided in this Lease, results in the creation or imposition of a lien or encumbrance whatsoever upon any of the School Premises or assets of the School.

(f) There is no litigation or proceeding currently pending or, to the knowledge of the School, threatened against the School or any other person affecting the right of the School to execute and deliver this Lease, the ability of the School to make the payments required hereunder, or the ability of the School otherwise to comply with its obligations under this Lease.

(g) The School Premises will be operated in accordance with all Requirements of Law.

(h) The School is reliably informed that prior to the inception of this Lease: (i) the Property has at all times been operated in substantial compliance with all Requirements of Law; (ii) all permits required by Requirements of Law in respect of the Property have been obtained and are in full force and effect; (iii) there is no pending litigation, investigation, administrative or other proceeding of any kind before or by any governmental authority or other person or entity relating to, or alleging, any violation of any Requirements of Law in connection with the Property and there are no grounds on which any such litigation, investigation or proceedings might be commenced; (iv) the Property is not subject to any judgment, injunction, writ, order, or agreement respecting any Requirements of Law; (v) there is no hazardous substance (as those terms are defined in the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. § 9601, *et seq.*, any applicable state law or regulations promulgated under either), solid or hazardous waste (as defined in the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901, *et seq.*, any applicable state law or regulations promulgated under either), special waste, petroleum or petroleum derived substance, radioactive material or waste, polychlorinated biphenyls, asbestos or any constituent of any of the foregoing located on, in, or under the Property in violation of any Requirements of Law; (vi) there has been no disposal of any of the items referred to in

clause (v) on, from, into, or out of the Property in violation of any Requirements of Law; and (vii) there has been no spillage, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, disposing, depositing, or dispersing of any of the items referred to in clause (v) into the indoor or outdoor environment from, into, or out of the Property including the movement of any such items through or in the air, soil, surface water, ground water from, into, or out of the Property or the abandonment or discard of barrels, containers, or other open or closed receptacles containing any such items from, into, or out of the Property in violation of any Requirements of Law.

(i) The School will observe and perform all conditions and agreements on its part to be performed in the Loan Agreement, as well as in all other documents and agreements related to the Loan (as defined in the Loan Agreement) to which the School is a party.

15. Representations of the Lessor. The Lessor represents as follows:

(a) The Lessor is a nonprofit corporation duly organized, existing, and in good standing under the laws of the State, is duly qualified to do business in the State, is possessed of full power to purchase, own, hold, and lease (as owner and landlord) real and personal property, has all necessary power to lease the School Premises to the School pursuant to this Lease, and to execute, deliver, and perform its obligations under this Lease and has duly authorized the execution, delivery, and performance of its obligations under this Lease.

(b) The Lessor shall at all times maintain its corporate existence and will use its best efforts to maintain, preserve, and renew its tax exempt status and all the rights and powers provided to it under its articles of incorporation, bylaws, action of its board of directors, and applicable law.

(c) This Lease is enforceable against the Lessor in accordance with its respective terms, subject only to bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors' rights generally and equitable principles, whether considered at law or in equity.

(d) The improvements on the Premises will be constructed to educational occupancy standards, will meet all applicable state adequacy standards, and at the time of completion of construction of such improvements, the School Premises will meet or exceed the statewide condition index for public schools maintained by the New Mexico Public Schools Facilities Authority ("PSFA") or will meet or exceed the condition index within 18 months of the School's occupancy of the School Premises. The Lessor will maintain such improvements to statewide adequacy standards at no additional cost to the School or the State of New Mexico during the term of this Lease.

(e) The execution and delivery of this Lease, or the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions, and provisions of any restriction or any agreement or instrument to

which the Lessor is now a party or by which the Lessor is bound or constitutes a default under any of the foregoing.

(f) Except as specifically provided in this Lease, the Lessor will not assign the Lease, its rights to payments from the School or its duties and obligations hereunder or thereunder to any other person, firm, or corporation so as to impair or violate the representations, covenants, and warranties contained herein.

(g) To the knowledge of the Lessor, there is no litigation or proceeding pending or threatened against the Lessor or any other person affecting the right of the Lessor to execute and deliver this Lease, or the ability of the Lessor otherwise to comply with its obligations under this Lease.

(h) To the knowledge of the Lessor: (i) the Property has at all times been operated in substantial compliance with all Requirements of Law; (ii) all permits required by Requirements of Law in respect of the Property have been obtained and are in full force and effect; (iii) there is no pending litigation, investigation, administrative or other proceeding of any kind before or by any governmental authority or other person or entity relating to, or alleging, any violation of any Requirements of Law in connection with the Property and there are no grounds on which any such litigation, investigation or proceedings might be commenced; (iv) the Property is not subject to any judgment, injunction, writ, order, or agreement respecting any Requirements of Law; (v) there is no hazardous substance (as those terms are defined in the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. § 9601, *et seq.*, any applicable state law or regulations promulgated under either), solid or hazardous waste (as defined in the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901, *et seq.*, any applicable state law or regulations promulgated under either), special waste, petroleum or petroleum derived substance, radioactive material or waste, polychlorinated biphenyls, asbestos or any constituent of any of the foregoing located on, in, or under the Property in violation of any Requirements of Law; (vi) there has been no disposal of any of the items referred to in clause (v) on, from, into, or out of the Property in violation of any Requirements of Law; and (vii) there has been no spillage, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, depositing, or dispersing of any of the items referred to in clause (v) into the indoor or outdoor environment from, into, or out of the Property including the movement of any such items through or in the air, soil, surface water, ground water from, into, or out of the Property or the abandonment or discard of barrels, containers, or other open or closed receptacles containing any such items from, into, or out of the Property in violation of any Requirements of Law.

(i) The Lessor will observe and perform all covenants, conditions and agreements on its part to be performed in the Loan Agreement, as well as in all other documents and agreements related to the Loan (as defined in the Loan Agreement) to which the Lessor is a party.

16. Title to the Property. The Lessor is the title holder of the Property.

17. Liens and Encumbrances. The School shall not permit any mechanic's or other lien to remain against the Property; provided that if the School shall first notify the Lessor of the intention of the School so to do, the School may in good faith contest any mechanic's or other lien filed or established against the Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom unless the Lessor shall notify the School that, in its reasonable judgment, the Lessor's interest in the Property or title to the Improvements may be materially endangered, or the Property or any part thereof will be subject to loss or forfeiture, in which event the School shall promptly pay and cause to be satisfied and discharged all such unpaid items; provided, however, that such payment shall not constitute a waiver by the School of the right to continue to contest such items. The Lessor will reasonably cooperate fully with the School in any such contest, upon the request and at the expense of the School, to the extent that Operating Expenses which have been specifically appropriated by the School are available for the payment of such expenses. The School shall not directly or indirectly create, incur, or assume any mortgage, pledge, lien, charge, encumbrance, or claim on or with respect to the Property.

18. Compliance with Law. The School shall at all times operate the School Premises, or cause the School Premises to be used and operated, such that (a) the School Premises at all times shall be operated in substantial compliance with all Requirements of Law; (b) all permits required by Requirements of Law in respect of the School Premises shall be obtained and maintained in full force and effect and the School shall substantially comply with the material terms and conditions of such permits; (c) there shall be no hazardous substance, pollutant or contaminant (as those terms are defined in the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. § 9601, *et seq.*, any applicable state law or regulations promulgated under either), solid or hazardous waste (as defined in the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901, *et seq.*, any applicable state law or regulations promulgated under either), special waste, petroleum or petroleum derived substance, radioactive material or waste, polychlorinated biphenyls, asbestos or any constituent of any of the foregoing located on, in or under the School Premises in violation of any Requirements of Law; (d) there shall be no disposal of any of the items referred to in clause (c) on, from, into or out of the Property or on, from, into or out of the Improvements in violation of any Requirements of Law; and (e) there shall be no spillage, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, disposing, depositing, or dispersing of any of the items referred to in clause (c) into the indoor or outdoor environment from, into, or out of the Property including the movement of any such items through or in the air, soil, surface water, ground water from, into or out of the Property or the abandonment or discard of barrels, containers, or other open or closed receptacles containing any such items from, into or out of the Property in violation of any Requirements of Law.

19. Maintenance. The parties acknowledge that during the Initial Term of this Lease, the Lessor will commence and complete the construction of any Improvements mutually agreed to by the Lessor and the School, and, therefore, during the Initial Term the Lessor agrees that it will maintain, preserve, and keep the School Premises or cause the School Premises to be maintained, preserved, and kept, with the appurtenances and every part and parcel thereof, in good repair, working order, and condition, subject to normal wear and tear, and that the Lessor will from time to time make or cause to be made all necessary and proper repairs, where applicable. Thereafter, for any Extended Term, the School agrees to maintain, preserve, and keep the School Premises or

cause the School Premises to be maintained, preserved, and kept, with the appurtenances and every part and parcel thereof, in good repair, working order, and condition, subject to normal wear and tear, and that the School will from time to time make or cause to be made all necessary and proper repairs except to the extent as required to be maintained by the Lessor. The Lessor shall be required to provide extraordinary maintenance and replacement of capital assets and shall be required to keep the facility in compliance with statewide adequacy standards, including but not limited to replacement of equipment, roof or other structural components, exterior painting and the replacement of the heating, air conditioning, plumbing and electrical equipment during any Extended Term of this Lease. Except as expressly set forth in this Section 19, the Lessor shall not have any responsibility in any of these matters or for the making of any additions, modifications, or replacements to the School Premises or the Improvements during any Extended Term of this Lease.

20. Modifications. During any Extended Term of this lease, with the Lessor's prior written consent, the School may remodel or make substitutions, additions, modifications, or improvements to the School Premises, at its own cost and expense, and the same (if permanently affixed) shall be part of the School Premises, subject to, and shall be included under the terms of this Lease; provided, however, that (i) such remodeling, substitutions, additions, modifications, and improvements shall not in any way damage the School Premises or the Property; and (ii) the School Premises, as remodeled, improved, or altered, upon completion of such remodeling, or such making of substitutions, additions, modifications, and improvements, shall be of a value not less than the value of the School Premises immediately prior to such remodeling or such making of substitutions, additions, modifications, and improvements.

21. Equipment. The School may, from time to time in its sole discretion and at its own expense, install equipment and personal property on the School Premises. All such equipment and personal property shall remain the sole property of the School in which the Lessor shall not have any interest; provided, however, that any such equipment and personal property which becomes permanently affixed to the Property shall become part of the Improvements, subject to this Lease and shall be included under the terms of this Lease.

22. Initial Term -Taxes and Assessments. During the Initial Term, if the School Premises or any portion thereof shall, for any reason, be deemed subject to taxation, assessments, or charges lawfully made by any governmental body, the Lessor shall pay the amount of all such taxes, assessments, and governmental charges then due. With respect to special assessments or other governmental charges that may be lawfully paid in installments over a period of years, the Lessor shall be obligated to provide only for such installments as are required to be paid during the Initial Term. The Lessor shall not allow any liens for taxes, assessments, or governmental charges to exist with respect to the Property or Improvements or any portion thereof.

23. Extended Term -Taxes and Assessments. For any Extended Term, if the School Premises or any portion thereof shall, for any reason, be deemed subject to taxation, assessments, or charges lawfully made by any governmental body, the School shall pay the amount of all such taxes, assessments, and governmental charges then due, but only to the extent that amounts for Operating Expenses which have been specifically appropriated by the School are available for the payment of such costs. With respect to special assessments or other governmental charges that may

be lawfully paid in installments over a period of years, the School shall be obligated to provide only for such installments as are required to be paid during Extended Terms of this Lease. The School shall not allow any liens for taxes, assessments, or governmental charges to exist with respect to the School Premises or Improvements or any portion thereof (including any taxes levied thereon which, if not paid, will become a charge on the rentals and receipts from the Property or any portion thereof, or any interest therein, including the interest the Lessor) or the rentals and revenues derived therefrom or hereunder. If the School shall first notify the Lessor of the intention of the School to do so, the School may, at the expense and in the name of the School, in good faith contest any such tax, assessment, and other charges and, in the event of any such contest, may permit the tax, assessment, or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Lessor shall notify the School that, in the opinion of independent counsel, whose reasonable fees shall be paid by the School, but only to the extent that amounts which have been specifically appropriated by the School are available for the payment of such costs, by nonpayment of any such items the Property or the Improvements or any portion thereof will be subject to loss or forfeiture, or the Lessor will be subject to liability, in which event such tax, assessment, or other charges shall, to the extent that amounts for Operating Expenses which have been specifically appropriated by the School are available for the payment thereof, be paid promptly or secured by posting a bond with the Lessor in form satisfactory to the Lessor (provided, however, that such payment shall not constitute a waiver of the right to continue to contest such tax, assessment, or other charges).

24. Utilities. During the Initial Term of the Lease, the Lessor shall pay for all gas, water, steam, electricity, heat, power, utility, and other charges incurred in the maintenance and upkeep of the Property. For any Extended Term, the School shall pay, as the same respectively become due, all gas, water, steam, electricity, heat, power, utility, and other charges incurred in the maintenance and upkeep of the Property and the Improvements, and the School shall place all such utilities in its name.

25. Insurance - Initial Term. During the Initial term, the Lessor shall, at its own expense, obtain and maintain or cause its contractor to obtain and maintain the following policies of insurance. The insurance policies required by this Section shall meet the following conditions: (i) any insurance policy may have a deductible clause in an amount not to exceed \$20,000; (ii) each insurance policy shall be so written or endorsed as to make losses, if any, payable to the Lessor and the School as their respective interests may appear; (iii) each insurance policy shall contain a provision to the effect that the insurance company shall not cancel the policy or modify it materially and adversely to the interest of the Lessor or the School without first giving written notice thereof to the Lessor and the School at least thirty (30) days in advance of such cancellation or modification; (iv) each insurance policy, or each certificate evidencing such policy, shall be deposited with the School upon request; (v) full payment of insurance proceeds under any insurance policy up to the dollar limit required by this Section in connection with damage to the Property or the Improvements shall, under no circumstance, be contingent on the degree of damage sustained at other property owned or leased by the School; and (vi) to the extent the Lessor can control the terms of each insurance policy, each insurance policy shall explicitly waive any coinsurance penalty. The Lessor may, in its discretion, provide any of the insurance required by this Section under blanket insurance policies which insure not only the risks required to be insured hereunder but also other similar risks.

(a) Casualty and property damage insurance with respect to the School Premises and the Improvements in an amount equal to the greater of (i) the full replacement value of the School Premises and the Improvements or (ii) the aggregate principal amount of Prior Liens then outstanding, unless the insurable value is less than the aggregate principal amount of the Prior Liens, in which event in an amount equal to the full replacement value of the School Premises.

(b) Commercial general liability insurance against claims arising in, on, or about the Improvements, including in, on, or about the sidewalks, parking lots, or premises adjacent to the Improvements so long as on the School Premises, providing coverage limits not less than the coverage limits customarily carried by owners or operators of facilities of similar size and character within the State.

(c) Fidelity insurance or bonds on those of its officers and employees who handle funds of the Lessor, both in such amounts and to such extent as are customarily carried by organizations similar to the Lessor and operating properties similar in size and character to the Improvements.

(d) Such other forms of insurance as the Lessor, is required by law to provide with respect to the Improvements, including any legally required worker's compensation insurance and disability benefits insurance.

26. Insurance - Extended Terms. For any Extended Term of the Lease, the School shall, at its own expense, obtain and maintain the following policies of insurance which shall meet the following conditions, to the extent allowed by state law or the School's required insurer, the New Mexico Public Schools Insurance Authority ("NMPSIA"): (i) any insurance policy may have a deductible clause in an amount not to exceed \$20,000; (ii) each insurance policy shall be so written or endorsed as to make losses, if any, payable to the School and the Lessor, as their respective interests may appear; (iii) each insurance policy shall contain a provision to the effect that the insurance company shall not cancel the policy or modify it materially and adversely to the interest of the School and the Lessor without first giving written notice thereof to the School and the Lessor at least thirty (30) days in advance of such cancellation or modification; (iv) each insurance policy, or each certificate evidencing such policy, shall be deposited with the Lessor upon request; (v) full payment of insurance proceeds under any insurance policy up to the dollar limit required by this Section in connection with damage to the School Premises or the Improvements shall, under no circumstance, be contingent on the degree of damage sustained at other property owned or leased by the School; and (vi) to the extent the School can control the terms of each insurance policy, each insurance policy shall explicitly waive any coinsurance penalty. The School may, in its discretion, provide any of the insurance required by this Section under blanket insurance policies which insure not only the risks required to be insured hereunder but also other similar risks. The School agrees to pay the premiums for any insurance required by the Lessor, as part of the Operating Expenses.

(a) Casualty and property damage insurance with respect to the School Premises and the Improvements in an amount equal to the greater of (i) full replacement value of the School Premises and the Improvements or (ii) the aggregate principal

amount of the Prior Liens then outstanding, unless the insurable value is less than the aggregate principal amount of the Prior Liens, in which event in an amount equal to the full replacement value of the School Premises.

(b) Commercial general liability and automobile liability insurance against claims arising in, on, or about the Improvements, including in, on, or about the sidewalks, parking lots, or premises adjacent to the Improvements so long as on the School Premises, providing coverage limits not less than the coverage limits allowed by NMPSIA or customarily carried on public school facilities of similar size and character within the State.

(c) Fidelity insurance or bonds on those of its officers and employees who handle funds of the School, both in such amounts and to such extent as are customarily carried by organizations similar to the School and operating properties similar in size and character to the Improvements.

(d) Rental value insurance covering all risks as to which insurance is required pursuant to Subsection (a) above, in an amount equal to not less than the amounts required to be paid as Base Rent and Operating Expenses for a period of not less than twelve (12) months.

(e) Such other forms of insurance as the School is required by law to provide with respect to the Improvements, including any legally required worker's compensation insurance and disability benefits insurance.

(f) The School shall pay the premiums for any insurance required by the Loan and Security Agreements and Thornburg Trust Mortgage as part of the Operating Expenses.

26. Damage, Destruction, or Condemnation; Use of Net Proceeds.

(a) *Damage, Destruction, or Condemnation.* If, during the term (and any extended terms) of this Lease, (i) the School Premises or any portion thereof shall be destroyed (in whole or in part), or damaged by fire or other casualty; (ii) title to, or the temporary or permanent use of, the School Premises or any portion thereof or the estate of the School or the Lessor in the School Premises or any portion thereof, shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm, or corporation acting under governmental authority; (iii) breach of warranty or any material defect with respect to the School Premises shall become apparent; or (iv) title to or the use of all or any portion of the School Premises shall be lost by reason of defect in the title thereto, then, the School shall be obligated, subject to the provisions of Subsection (c) hereof, to continue to pay the amounts specified in Subsection (b) hereof and, to the extent of amounts specifically appropriated by the School, to pay Base Rent and Operating Expenses.

(b) *Repair and Replacement.* To the extent not contrary to applicable law, subject to the provisions of Subsection (c) hereof, the School (and, to the extent such Net Proceeds are within their control, the Lessor) shall cause such Net Proceeds to be

deposited in a separate trust fund held by the Lessor. Except as set forth in Subsection (c) hereof, all Net Proceeds of any insurance, performance bonds, or condemnation awards owed to either the School or the Lessor shall be applied to the prompt repair, restoration, modification, improvement, or replacement of the Improvements may be, by the School upon receipt of requisitions acceptable to the Lessor setting forth: (i) the requisition number; (ii) the name and address of the person, firm, or corporation to whom payment is due or has been made; (iii) the amount to be paid or reimbursed; and (iv) that each obligation mentioned therein has been properly incurred, is a proper charge against the separate trust fund and has not been the basis of any previous withdrawal and specifying in reasonable detail the nature of the obligation, accompanied by a bill or a statement of account for such obligation. The Lessor shall cooperate with the School in the administration of such fund and shall not unreasonably withhold its approval of requisitions under this Section. Any repair, restoration, modification, improvement, or replacement paid for in whole or in part out of Net Proceeds shall be the property of the Lessor, subject to this Lease, and shall be included as part of the School Premises or the Improvements under this Lease.

(c) *Insufficiency of Net Proceeds for School Premises.* If there occurs an event described in Subsection (a) hereof, and if any Net Proceeds received as a consequence of such event shall be insufficient to pay in full the cost of any repair, restoration, modification, improvement, or replacement of the School Premises required under Subsection (b) hereof, the School shall elect one of the following options:

(i) The School may, to the extent permitted by law, in accordance with Subsection (b) hereof, repair, restore, modify, or improve the School Premises or replace the School Premises (or portion thereof) with property of a value equal to or in excess of the School Premises, and pay as Operating Expenses any cost in excess of the amount of the Net Proceeds, to the extent the amounts for Operating Expenses which have been specifically appropriated by the School are available for the payment of such costs, and the School agrees that, if by reason of any such insufficiency of the Net Proceeds, the School shall make any Operating Expenses payments pursuant to the provisions of this paragraph, the School shall not be entitled to any reimbursement therefor from the Lessor, nor shall the School be entitled to any diminution of the Base Rent and Operating Expenses. Notwithstanding the forgoing, the Lessor may in its discretion reimburse the School for all or part of such Operating Expenses.

(ii) If, by June 30th of the Fiscal Year in which an event described in Subsection (a) hereof occurs (or June 30th of any subsequent Fiscal Year in which the insufficiency of Net Proceeds to repair, restore, modify, improve, or replace the School Premises become apparent), the School has not appropriated amounts sufficient to proceed under clause (i) of this Subsection, the School shall proceed in accordance with Section 7, and the Lessor may then pursue remedies as provided in Sections 7 and 29, as applicable.

(d) *Cooperation.* The parties to this Lease shall cooperate fully with the other in filing any proof of loss with respect to any insurance policy or performance bond

covering the events described in Subsection (a) hereof, in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the School Premises or the Improvements or any portion thereof, and in the prosecution of any action relating to defaults or breaches of warranty under any contract relating to the School Premises or the Improvements. In no event shall either party voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim, performance or payment bond claim, prospective or pending condemnation proceeding, or any action relating to defaults or breaches of warranty under any contract relating to the School Premises or the Improvements or any portion thereof without the written consent of the other party. Each party shall be responsible for their respective fees and expenses incurred under this section.

28. Events of Default. Any one of the following shall constitute an "Event of Default" under this Lease:

(i) failure by the School to pay any specifically appropriated Base Rent during the Initial Term (and any Extended Terms) of this Lease on, before, or within five (5) days of the applicable due date or to pay Operating Expenses which becomes due during any Extended Terms of this Lease as and when due, up to the amount specifically appropriated for the payment of Operating Expenses in accordance with the provisions hereof;

(ii) failure by the School to timely pay any other amounts due by the School under the terms of this Lease within ten (10) days' written demand therefore by the Lessor;

(iii) failure by the School to observe and perform any covenant, condition, or agreement on its part to be observed or performed, for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied shall be given to the School by the Lessor, unless the party giving such notice shall agree in writing, prior to the expiration of the thirty-day period, to an extension of no more than ninety (90) days; provided, however, that if the failure stated in the notice cannot be corrected within the original thirty-day period, the party giving such notice shall not withhold their consent to an extension of up to ninety (90) days if corrective action shall be instituted by the School within such time period and diligently pursued until the default is corrected;

(iv) failure by the School to maintain its charter under the Act with applicable appeals periods having run and all appeals taken during an applicable appeals period having been completed;

(v) failure by the School to vacate the School Premises by the thirtieth calendar day following an Event of Nonappropriation;

(vi) School shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding

commenced against it, or shall make a general assignment for the benefit of its creditors, or shall fail to pay its debts as they become due, or shall take any action in furtherance of any of the foregoing;

(vii) an involuntary case or other proceeding shall be commenced against the School seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary lease or other proceeding shall remain undismissed and unstayed for a period of 120 days; or

(viii) the estate or interest of School in the School Premises shall be levied upon or attached in any proceeding and such process shall not be vacated or discharged within 90 days after such levy or attachment, unless School shall be contesting such levy or attachment in accordance with the requirements of this Lease. The foregoing provisions of this Section are subject to the following limitations: (i) the School shall be obligated to pay the Base Rent and Operating Expenses only during the Initial Term (and any Extended Terms) of this Lease, except as otherwise expressly provided in this Lease; and (ii) if, by reason of Force Majeure, the School shall be unable in whole or in part to carry out any agreement on its part herein contained, other than the obligations on the part of the School contained herein and until the termination or end of the Initial Term (and any Extended Terms) of this Lease, the School shall not be deemed in default during the continuance of such inability.

The School agrees, however, to remedy, as promptly as legally and reasonably possible, and subject to the sufficiency of available appropriations, the cause or causes preventing the School from carrying out its agreement; provided that the settlement of strikes, lockouts, and other industrial disturbances shall be entirely within the discretion of the School.

29. Remedies on Default. Whenever any Event of Default shall have happened and be continuing, the Lessor may, without any further demand or notice, take one or any combination of the following remedial steps:

(a) Terminate the Initial Term (and any Extended Terms) of this Lease and give notice to the School to vacate the School Premises within one-hundred twenty days (120) days from the date of such notice.

(b) without further demand or notice, to reenter and take possession of the School Premises, repossess the same, expel the School and those claiming through or under the School, and remove the effects of both or either, using such force for such purposes as may be lawful and necessary, without being liable for prosecution, without being deemed guilty of any manner of trespass, and without prejudice to any remedies for arrears of Base Rent, Operating Expenses or other amounts payable under this Lease or as a result of any preceding breach of covenants or conditions;

(c) to pursue any and all other rights and remedies available under New Mexico law, in law or in equity;

(d) lease all or any portion of the real property included in the School Premises;

(e) Recover from the School: (i) to the extent the recovery thereof is permitted by law, the fair rental value of the use of the School Premises during any period beyond the thirtieth (30th) day following the occurrence of the Event of Default; and (ii) Base Rent and Operating Expenses, to the extent amounts for such Operating Expenses have been specifically appropriated in accordance with the provisions of hereof, which would otherwise have been payable by the School hereunder during the remainder, after the School vacates the School Premises, of the Fiscal Year in which such Event of Default occurs.

(f) Take whatever action at law or in equity may appear necessary or desirable to enforce its rights in and to the School Premises and Property under this Lease.

30. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Lessor is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall be construed to be a waiver thereof; but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Lessor to exercise any remedy it shall not be necessary to give any notice, other than such notice as may be required in this Lease.

31. Further Assurances and Corrective Instruments. The Lessor and the School agree that so long as this Lease is in full force and effect and no Event of Default shall have occurred, the Lessor and the School shall have full power to carry out the acts and agreements provided herein and they will, so far as it may be authorized by law, from time to time, execute, acknowledge, and deliver or cause to be executed, acknowledged, and delivered such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the School Premises or the Improvements hereby leased or intended so to be, or for otherwise carrying out the intention of or facilitating the performance of this Lease.

32. Compliance with Requirements of Law. During the Initial Term (and any Extended Terms) of this Lease, the School and the Lessor shall observe and comply promptly with all current and future Requirements of Law applicable to the Property (including those set forth in Section 22-8B-4D of the Act) and the Improvements or any portion thereof and all current and future requirements of all insurance companies written policies covering the School Premises, Property or any portion thereof.

33. Binding Effect. This Lease shall inure to the benefit of and shall be binding upon the Lessor and the School and their respective successors and permitted assigns.

34. No Individual Liability. All covenants, stipulations, promises, agreements, and obligations of the School or the Lessor, as the case may be, contained herein shall be deemed to be the covenants, stipulations, promises, agreements, and obligations of the School or the Lessor, as the case may be, and not of any member, director, officer, employee, or other agent of the School or the Lessor in his or her individual capacity, and no recourse shall be had on account of any such covenant, stipulation, promise, agreement, or obligation, or for any claim based thereon or hereunder, against any member, director, officer, employee, or other agent of the School or the Lessor or any natural person executing this Lease or any related document or instrument.

35. Conversion to Lease With Option to Purchase Agreement. At the discretion and option of the School, the parties agree that this Lease may be superseded by a Lease with Option to Purchase Agreement, provided approval of the Lease with Option to Purchase Agreement has been approved by the necessary regulatory authorities in the Public Schools Lease Purchase Act, NMSA 1978 §§22-26A-1 et seq. The Lease with Option to Purchase Agreement between the School and the Lessor shall be substantially in the form and upon the terms attached as Exhibit B hereto with any changes or additional provisions required by the New Mexico Public Education Department to approve the form of the Lease with Option to Purchase.

36. Waiver. No term of this Lease shall be deemed waived unless such waiver is in writing signed by the party granting the waiver. No delay or omission by either party in exercising or enforcing any right or power hereof shall impair such right or power or be construed to be a waiver thereof. No custom or practice that may evolve between the parties shall be construed to lessen the right of a party to require the performance of the other party in strict accordance with the terms of this Lease. A waiver by one party of a failure of the other party to fully comply with any of the terms of this Lease shall not be construed to be a waiver of any subsequent failure to comply or any other failure to comply.

37. Assignment and Subletting by School. This Lease may not be assigned by the School for any reason, whether by operation of law or pursuant to any contract. However, the School Premises may be leased, as a whole or in part, by the School, with the consent of the Lessor, which consent will not be unreasonably withheld; subject, however, to each of the following conditions: (i) this Lease, and the obligations of the School hereunder, shall, at all times during the Initial Term (and any Extended Terms) of this Lease, remain direct obligations of the School; (ii) no additional lease shall change the use of the School Premises; and (iii) the form and substance of the lease agreement is approved by the Lessor, not to be unreasonably withheld.

38. Subordination; Non-Disturbance; Attornment. Upon the written request of the Lessor the School agrees to deliver a Subordination, Non-Disturbance and Attornment Agreement to the holder of the Loan and Security Agreements, the Thornburg Trust Mortgage or to any other holder of any debt incurred in connection with a refinancing of the debt evidenced by the Loan Agreement and the Indenture

39. Amendments, Changes, and Modifications. This Lease shall not be altered, changed, or amended other than by a written instrument executed by the parties.

40. Notices. All notices and communications required or permitted under this Lease (including change of address and facsimile or telephone number set forth below) shall be in writing

and shall be deemed given to, and received by, the receiving party: (i) when hand-delivered to the street address of the receiving party set forth below; (ii) when sent by facsimile transmission to the facsimile number of the receiving party set forth below with a receipt showing delivery; (iii) when sent by electronic mail to the email address set forth below with a receipt showing delivery; (iv) one (1) day after deposit with a national overnight courier addressed to the receiving party at the street address set forth below; or (v) three (3) days after deposit in the U. S. mail, certified mail, return receipt requested, postage prepaid, addressed to the receiving party at the mailing address set forth below.

To Lessor: **New Mexico School for the Arts-Art Institute**
 Attention: President
 500 Montezuma, Suite 200,
 Santa Fe 87501
 505-216-7888

With a copy to:

To Lessee: **New Mexico School for the Arts**
 Attention: Head Administrator
 275 East Alameda St.
 Santa Fe, NM 87501
 505 310 4194

With a copy to

41. Calculation of Time. Any time period herein calculated by reference to "days" means calendar days, *i.e.*, including Saturdays, Sundays, and holidays as observed by the State of New Mexico; provided, however, that if the last day for a given act falls on a Saturday, Sunday, or such observed holiday, the day for such act shall be first day following such Saturday, Sunday, or observed holiday that is not a Saturday, Sunday, or such observed holiday.

42. Interpretation. The captions and paragraph headings of this Lease are not necessarily descriptive, or intended or represented to be descriptive, of all the terms thereunder, and shall not be deemed to limit, define, or enlarge the terms of this Lease. Whenever used herein, unless otherwise indicated by the context, the singular shall include the plural, the plural shall include the singular, the use of any gender shall include all genders, and the use of the

words "include" and "including" shall be construed as if the phrases "without limitation" or "but not [be] limited to" were annexed thereafter. The parties were, or had ample opportunity to be, represented by counsel, and as such this Lease shall not be interpreted for or against either party based on authorship.

43. Incorporation. Each and all of the recitals set forth at the beginning of this instrument, and any exhibits referenced herein and attached hereto, are incorporated herein by this reference.

44. Applicable Law. Each party shall perform its obligations hereunder in accordance with all applicable laws, rules, and regulations now or hereafter in effect. This Lease shall be governed by the laws of the State of New Mexico (without giving effect to the State of New Mexico's choice of law provisions). All legal proceedings arising from unresolved disputes under this Lease shall be brought in Santa Fe before the First Judicial District Court of the State of New Mexico.

45. Severability. In the event that any provision of this Lease, other than the requirement of the School to pay Base Rent and Operating Expenses, the requirement of the Lessor to provide quiet enjoyment of the School Premises, and the requirement that the obligations of the School to pay Base Rent and Operating Expenses under this Lease are conditioned upon the prior specific appropriation by the School of amounts for such purposes in accordance with the requirements of State law, shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof

46. Counterparts. This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Signatures on following page]

IN WITNESS WHEREOF, the parties have entered into this Lease effective as of the date first written above.

THE SCHOOL

NEW MEXICO SCHOOL FOR THE ARTS,
a New Mexico public charter school

By: Bill Beacham

Name: Bill Beacham

Title: CHAIR, Governing Council

THE LESSOR

NEW MEXICO SCHOOL FOR THE ARTS
a New Mexico nonprofit corporation

By: Ned W. Bennett

Name: Ned W. Bennett

Title: Chair, Board of Directors

Lease with conversion right to LPA

**EXHIBIT A to Lease
Premises**

GENERAL NOTES

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND SPECIFICATIONS.
2. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE CITY ENGINEER.
3. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
4. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED BUDGET.
5. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED QUALITY STANDARDS.
6. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED SAFETY STANDARDS.
7. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED ENVIRONMENTAL STANDARDS.
8. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED ACCESSIBILITY STANDARDS.
9. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED HISTORIC PRESERVATION STANDARDS.
10. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED ARCHITECTURAL STANDARDS.

KEYED NOTES

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND SPECIFICATIONS.
2. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE CITY ENGINEER.
3. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
4. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED BUDGET.
5. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED QUALITY STANDARDS.
6. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED SAFETY STANDARDS.
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8. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED ACCESSIBILITY STANDARDS.
9. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED HISTORIC PRESERVATION STANDARDS.
10. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED ARCHITECTURAL STANDARDS.

STUDIO SW ARCHITECTS
ARCHITECTS

1000 BROADWAY, SUITE 1000
NEW YORK, NY 10003
TEL: 212-512-1234
WWW.SWARCHITECTS.COM

CONTRACT

NEW MEXICO SCHOOL FOR THE ARTS - PHASE 1

500 - 500 University Ave
Santa Fe, NM 87501

DATE

10/1/2024

PROJECT NUMBER

1000

CLIENT

NEW MEXICO SCHOOL FOR THE ARTS

ARCHITECT

STUDIO SW ARCHITECTS

SCALE

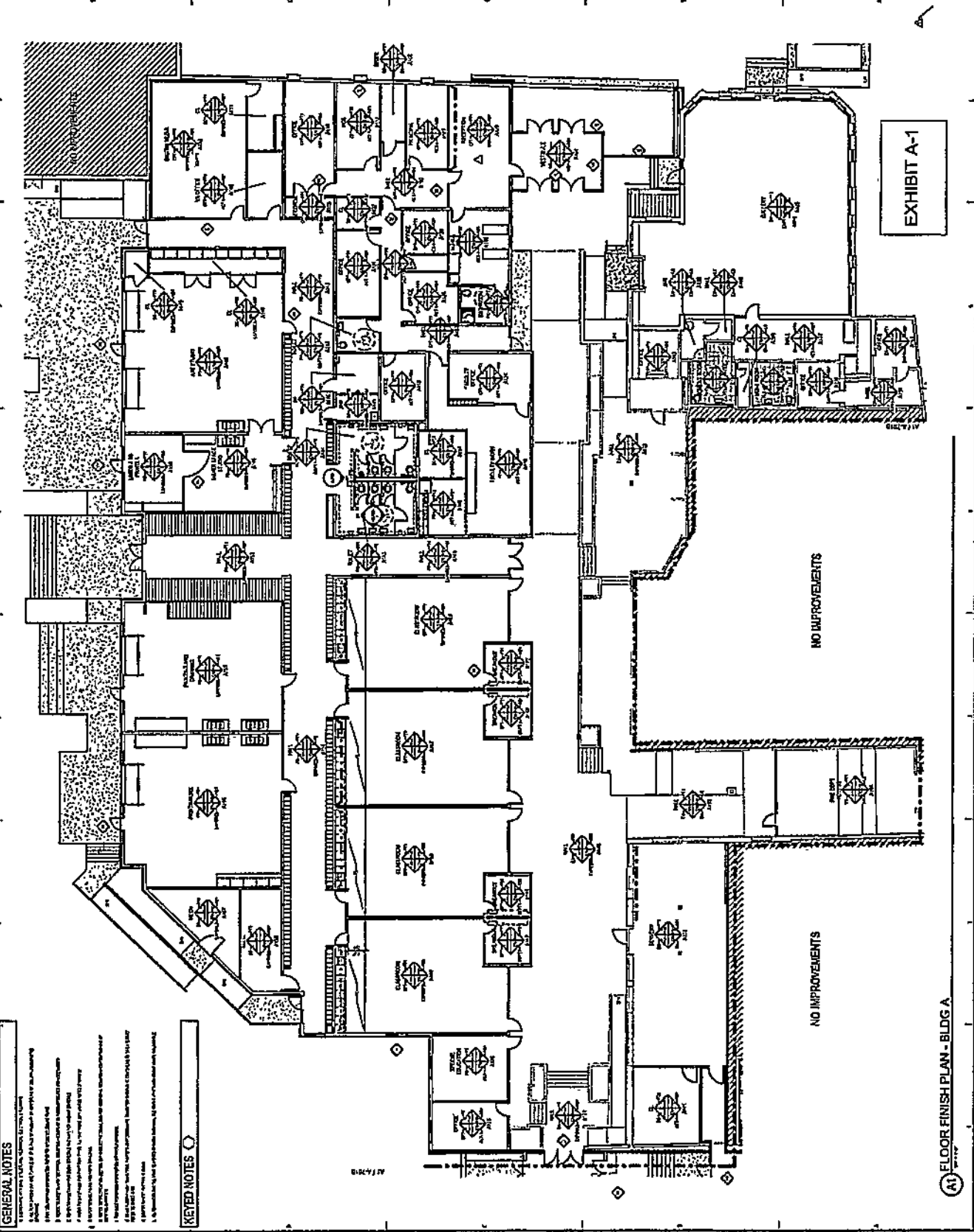
1/8" = 1'-0"

DATE

10/1/2024

FINISH PLAN - BLDG A

A-701A.R17



STUDIO



STUDIO ARCHITECTS, INC.
1000 UNIVERSITY AVENUE, SUITE 100
ANN ARBOR, MI 48106-1500
TEL: 734/769-1000
FAX: 734/769-1001
WWW.STUDIOARCHITECTS.COM

GENERAL NOTES

1. SEE EXHIBIT A-2 FOR FINISH SCHEDULE.
2. FINISHES ARE TO BE INSTALLED IN ACCORDANCE WITH THE FINISH SCHEDULE.
3. FINISHES ARE TO BE INSTALLED IN ACCORDANCE WITH THE FINISH SCHEDULE.
4. FINISHES ARE TO BE INSTALLED IN ACCORDANCE WITH THE FINISH SCHEDULE.
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10. FINISHES ARE TO BE INSTALLED IN ACCORDANCE WITH THE FINISH SCHEDULE.

KEYED NOTES

1. SEE EXHIBIT A-2 FOR FINISH SCHEDULE.
2. FINISHES ARE TO BE INSTALLED IN ACCORDANCE WITH THE FINISH SCHEDULE.
3. FINISHES ARE TO BE INSTALLED IN ACCORDANCE WITH THE FINISH SCHEDULE.
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9. FINISHES ARE TO BE INSTALLED IN ACCORDANCE WITH THE FINISH SCHEDULE.
10. FINISHES ARE TO BE INSTALLED IN ACCORDANCE WITH THE FINISH SCHEDULE.

LAKE PLANO
CONSTRUCTION
1000 UNIVERSITY AVENUE, SUITE 100
ANN ARBOR, MI 48106-1500
TEL: 734/769-1000
FAX: 734/769-1001
WWW.STUDIOARCHITECTS.COM



NEW MEXICO SCHOOL
FOR THE ARTS - PHASE 1

500-550 UNIVERSITY AVENUE
SANTA FE, NM 87501

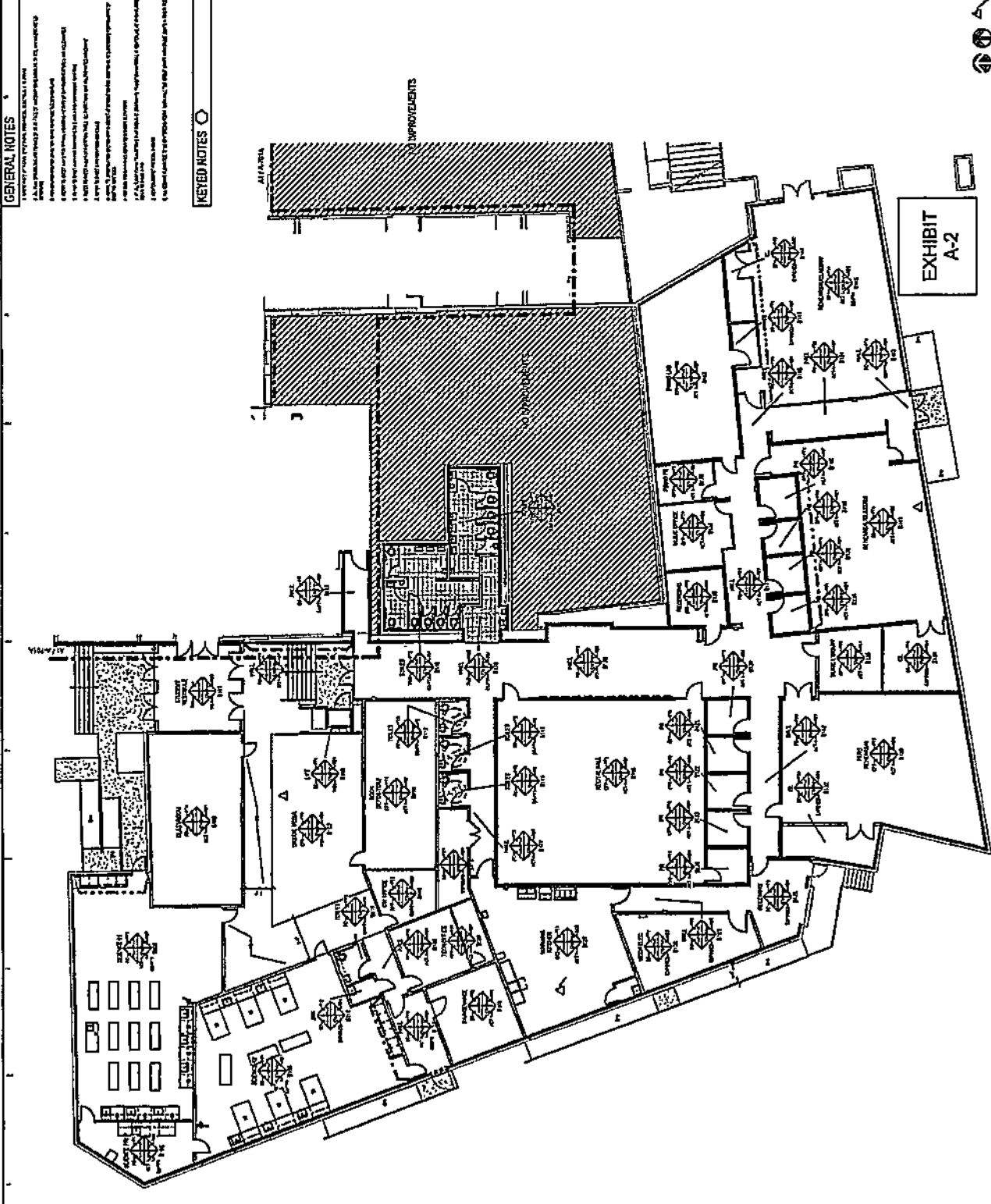


Key Plan

NO.	DATE	DESCRIPTION
1	10/1/00	ISSUED FOR PERMIT
2	10/1/00	ISSUED FOR PERMIT
3	10/1/00	ISSUED FOR PERMIT
4	10/1/00	ISSUED FOR PERMIT
5	10/1/00	ISSUED FOR PERMIT
6	10/1/00	ISSUED FOR PERMIT
7	10/1/00	ISSUED FOR PERMIT
8	10/1/00	ISSUED FOR PERMIT
9	10/1/00	ISSUED FOR PERMIT
10	10/1/00	ISSUED FOR PERMIT

FINISH PLAN - BLDG B

A-701B.R17



(A) FLOOR FINISH PLAN - BLDG B

STUDIO

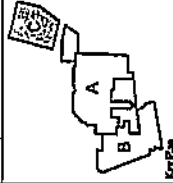
SW
ARCHITECTS

STUDIO ARCHITECTS, INC.
10000 N. 10TH AVENUE, SUITE 100
DENVER, CO 80231
TEL: 303.733.1000
WWW.STUDIOARCHITECTS.COM

PROJECT NO. 10000
DATE: 10/10/2010
DRAWN BY: J. HARRIS
CHECKED BY: J. HARRIS
APPROVED BY: J. HARRIS

SCALE: 1/8" = 1'-0"

LAKE FLAHOE
NEW MEXICO SCHOOL
FOR THE ARTS - PHASE 1
5201-5209 Alameda Ave
Santa Fe, NM 87501



NO.	REVISION	DATE
1	ISSUED FOR PERMIT	10/10/2010
2	REVISED PER COMMENTS	10/10/2010
3	REVISED PER COMMENTS	10/10/2010
4	REVISED PER COMMENTS	10/10/2010
5	REVISED PER COMMENTS	10/10/2010
6	REVISED PER COMMENTS	10/10/2010
7	REVISED PER COMMENTS	10/10/2010
8	REVISED PER COMMENTS	10/10/2010
9	REVISED PER COMMENTS	10/10/2010
10	REVISED PER COMMENTS	10/10/2010

FINISH PLAN - BLDG C

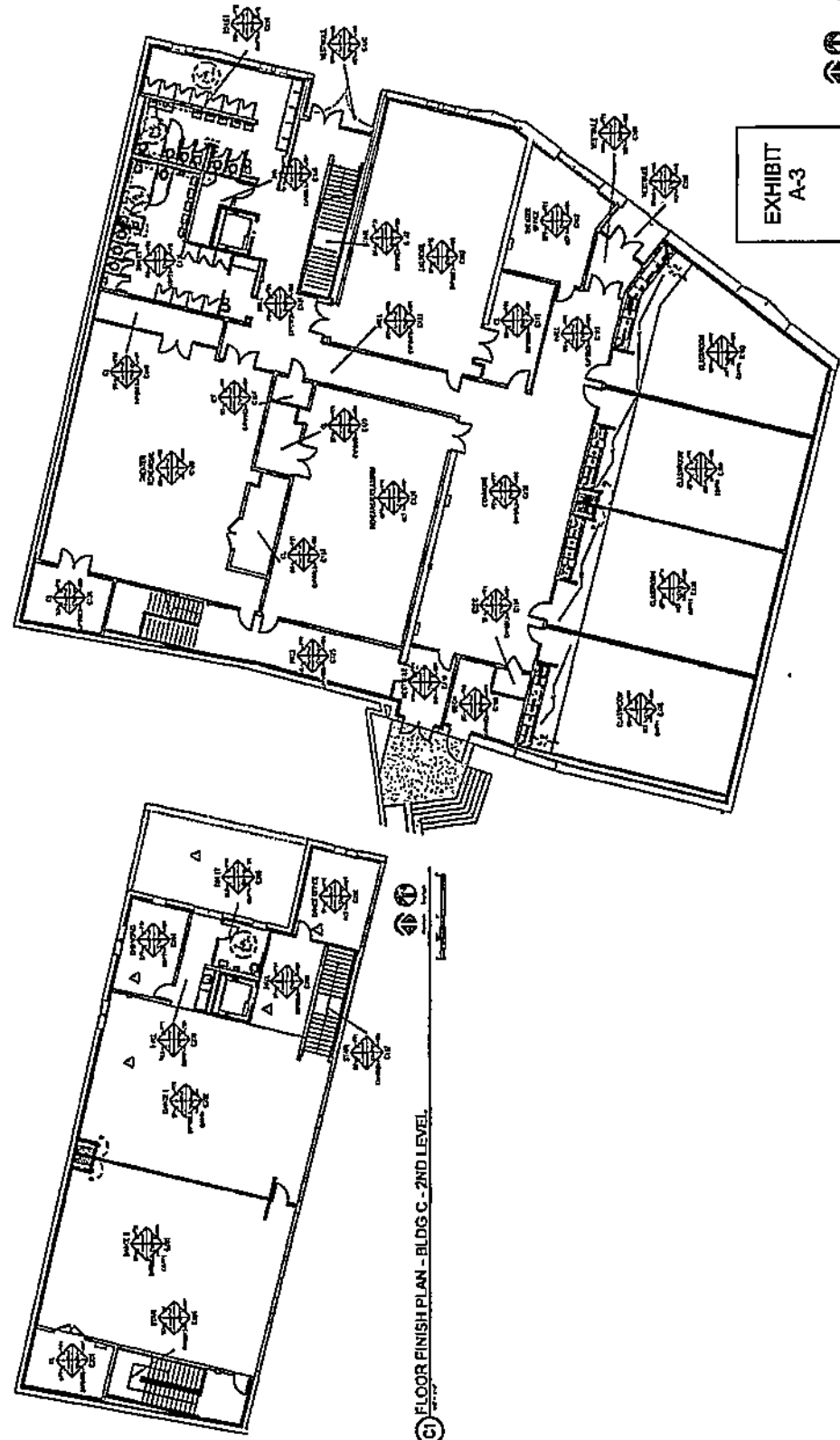
A-701C.R17

GENERAL NOTES

1. EXISTING FINISHES SHALL BE MAINTAINED WHERE POSSIBLE.
2. ALL NEW CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE 2006 INTERNATIONAL BUILDING CODE (IBC) AND THE 2006 INTERNATIONAL PLUMBING CODE (IPC).
3. ALL NEW CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE 2006 INTERNATIONAL ELECTRICAL CODE (IEC) AND THE 2006 INTERNATIONAL MECHANICAL CODE (IMC).
4. ALL NEW CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE 2006 INTERNATIONAL FIRE CODE (IFC) AND THE 2006 INTERNATIONAL SAFETY CODE (ISC).
5. ALL NEW CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE 2006 INTERNATIONAL SPOKE CODE (ISC) AND THE 2006 INTERNATIONAL WELDING CODE (IWC).
6. ALL NEW CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE 2006 INTERNATIONAL PIPELINE CODE (IPC) AND THE 2006 INTERNATIONAL RAILROAD CODE (IRC).
7. ALL NEW CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE 2006 INTERNATIONAL AIRCRAFT CODE (IAC) AND THE 2006 INTERNATIONAL MARINE CODE (IMC).
8. ALL NEW CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE 2006 INTERNATIONAL SPACE CODE (ISC) AND THE 2006 INTERNATIONAL THERMAL CODE (ITC).
9. ALL NEW CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE 2006 INTERNATIONAL VEHICLE CODE (IVC) AND THE 2006 INTERNATIONAL WAREHOUSE CODE (IWC).
10. ALL NEW CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE 2006 INTERNATIONAL WAREHOUSE CODE (IWC) AND THE 2006 INTERNATIONAL WAREHOUSE CODE (IWC).

KEYED NOTES

1. SEE KEY PLAN FOR LOCATION OF BUILDING.
2. SEE KEY PLAN FOR LOCATION OF BUILDING.
3. SEE KEY PLAN FOR LOCATION OF BUILDING.
4. SEE KEY PLAN FOR LOCATION OF BUILDING.
5. SEE KEY PLAN FOR LOCATION OF BUILDING.
6. SEE KEY PLAN FOR LOCATION OF BUILDING.
7. SEE KEY PLAN FOR LOCATION OF BUILDING.
8. SEE KEY PLAN FOR LOCATION OF BUILDING.
9. SEE KEY PLAN FOR LOCATION OF BUILDING.
10. SEE KEY PLAN FOR LOCATION OF BUILDING.



A3 FLOOR FINISH PLAN - BLDG C - 1ST LEVEL

G1 FLOOR FINISH PLAN - BLDG C - 2ND LEVEL

EXHIBIT
A-3

Lease with conversion right to LPA

EXHIBIT B
FORM OF
Lease with Option to
Purchase Agreement

EXHIBIT B

THIS LEASE AGREEMENT WITH OPTION TO PURCHASE (this "Agreement"), is made and entered into this ___ day of _____, by and between the New Mexico School for the Arts Art Institute, a New Mexico nonprofit corporation ("Lessor") and New Mexico School for the Arts, a New Mexico public charter school ("Lessee").

RECITALS

A. The New Mexico School for the Arts Art Institute was organized to support New Mexico School for the Arts, specifically for the purpose of providing a school facility for Lessee pursuant to Section 22-8B-4.2(D)(2)(b)(2) NMSA 1978. Upon occupancy by Lessee under this Agreement, and upon the approval of the New Mexico Public School Facilities Authority ("PSFA"), the school facility leased to Lessee pursuant to this Agreement will meet educational occupancy standards required by applicable New Mexico construction codes, and be in compliance with applicable statewide adequacy standards developed pursuant to the Public School Capital Outlay Act, Chapter 22, Article 24 NMSA 1978.

B. Lessee is a public charter school authorized by the New Mexico Public Education Commission and duly organized and validly existing under the Charter Schools Act, Sections 22-8B-1 through 22-8B-17.1 NMSA 1978 (the "Act") and Sections 22-15F-1, et seq. NMSA 1978 and Lessee is authorized by Section 22-8B-4(D) NMSA 1978 to contract with any third party for the use of a school facility.

C. Lessor is a nonprofit corporation organized, existing and in good standing under the Nonprofit Corporation Act, Chapter 53, Article 8 NMSA 1978; is an organization described in Section 501(c)(3) of Title 26 of the Internal Revenue Code; is duly qualified to do business in the State of New Mexico; and is authorized under its articles of incorporation, bylaws, official action of its board of directors and applicable law to own and manage its properties, to conduct its affairs in the State of New Mexico, to lease the School Premises to Lessee, and to otherwise act in the manner provided herein.

D. In order to, among other things, finance the cost of acquiring, renovating and equipping condominium units located at the Sanbusco Center for the Arts, a Condominium located at 500 Montezuma Street in Santa Fe, New Mexico for use as an educational facility, Lessor has entered into a Construction Loan Agreement, Commercial Security Agreement and Construction Mortgage (collectively hereafter, the "Loan and Security Agreements"), with the New Mexico Bank and Trust, a state chartered bank, (Lender) pursuant to which the Lender has funded a construction loan to Lessor for the construction, renovation and remodeling of the condominium units and limited common areas more particularly described on Exhibit "A" hereto ("School Premises"). In addition there is an existing promissory note secured by a mortgage granted by the Lessor's predecessor in interest, Sanbusco 2015, LLC, to Garrett Thornburg, Trustee of the Garrett Thornburg Revocable Trust as amended and restated under the Fifteenth Amendment to and complete Restatement of Garrett Thornburg Revocable Trust dated March 31, 2015, ("Thornburg Trust"), which is a subordinated lien, pursuant to which Sanbusco 2015, LLC was loaned the purchase money necessary to acquire the School Premises.

E. Lessor, as the holder of a lease purchase arrangement within the meaning of Section 22-26A-3(A) NMSA 1978, has assigned all of this Agreement to the Lender consistent with Section 22-26A-5.1(A) NMSA 1978, prior to the approval of this Agreement by the Department pursuant to Section 22-26A-4(B) NMSA 1978, and by the PSFA pursuant to Section 22-20-1(A)(2) NMSA 1978.

G. The Base Lease Payment and Operating Expenses (both as hereinafter defined) payable by Lessee hereunder shall constitute currently appropriated expenditures of Lessee and shall not constitute a debt or a multiple Fiscal Year direct or indirect obligation whatsoever of Lessee or a mandatory charge or requirement against Lessee in any Fiscal Year (as hereinafter defined) beyond the Fiscal Year for which such payments have been appropriated.

H. The execution, delivery and performance of this Agreement by Lessee are in the best interest of Lessee, serve a public purpose and have been duly authorized by the governing body of Lessee.

I. Lessor desires to lease the School Premises to Lessee and Lessee desires to lease the School Premises from Lessor, pursuant to the terms and conditions and contingencies and for the purposes set forth in this Agreement, subject to the liens evidenced by the Loan and Security Agreements.

ARTICLE I DEFINITIONS AND EXHIBITS

Section 1.1. Definitions. Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Agreement and all appertaining exhibits and documents, have the meanings herein specified.

“Agreement” means this Lease Agreement with Option to Purchase.

“Agreement Payment” means any payment due from Lessee to Lessor under this Agreement.

“Base Lease Payment” means the amount of total Base Lease Payment as shown on Exhibit B hereto for each month of this Agreement.

“Capital Outlay Act” means the Public School Capital Outlay Act, Chapter 22, Article 24 NMSA 1978.

“Department” means the New Mexico Public Education Department.

“Event of Default” shall have the meaning ascribed to it in Section 11.1 of this Agreement.

“Event of Non appropriation” shall have the meaning ascribed to it in Section 4.3 of this Agreement.

"Fiscal Year" means Lessee's fiscal year, which begins on July 1 of each year and ends on June 30 of the following year.

"Improvements" means the building and other facilities in on or under the School Premises.

"Land" means the real property described in Exhibit A hereto.

"Lessee's Representative" means the president of Lessee's governing body or other designated person delegated the authority to act on behalf of Lessee under or with respect to this Agreement as evidenced by a document conferring such authority executed by Lessee's governing body and delivered to Lessor or Lessor's Representative.

"Lessor's Representative" means the person acting with proper authority to administer and transfer property with respect to this Agreement as evidenced by a document conferring such authority executed by an officer of Lessor, given to Lessee or a Lessee Representative.

"Loan and Security Agreements" shall have the meanings ascribed to them in the above recitals.

"Net Proceeds" means any insurance proceeds or condemnation award paid with respect to the School Premises, remaining after payment therefrom of all costs and expenses incurred in the collection thereof.

"Operating Expenses" shall have the meaning ascribed to it in Section 7.1 of this Agreement.

"Option Date" shall have the meaning ascribed to it in Section 6.2 of this Agreement.

"Option to Purchase" means the right of Lessee to purchase the School Premises in accordance with the terms of Article VI of this Agreement and the relevant provisions of the Public School Lease Purchase Act.

"Capital Outlay Council" means the New Mexico Public School Capital Outlay Council.

"PSFA" shall have the meaning ascribed to it in the above recitals.

"Purchase Price" shall have the meaning ascribed to it in Section 6.5 of this Agreement.

"Requirements of Law" means any material federal, state, or local statute, ordinance, rule, or regulation, any judicial or administrative order (whether or not on consent), request or judgment, any applicable common law doctrine, any provision or condition of any permit required to be obtained or maintained, or any other binding determination of any governmental authority relating to the ownership or operation of property, including any relating to environmental, health, or safety matters.

“School Premises” means the condominium units and reserved development rights as described in Exhibit A and the Improvements thereon.

“Statewide Adequacy Standards” means the standards set forth in 6.27.30 NMAC (09/01/2002, as amended through 08/31/2005), and any subsequent amendments thereto promulgated by the Capital Outlay Council, applicable to the School Premises, and any variances from those standards granted to Lessee by the Capital Outlay Council in accordance with Section 22-8B-4.2(F)(2) NMSA 1978.

“Term” means the term of this Agreement set forth in Section 4.1 hereof.

Section 1.2 Exhibits.

The following Exhibits are attached to and by reference made a part of this Agreement:

Exhibit A - Legal Description of School Premises

Exhibit B - Base Lease Payment Schedule

Exhibit C - Statement of Source of Funds

Exhibit D - Copies of the Department’s and the PSFA’s separate approvals of this Agreement.

ARTICLE II REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 2.1. Representations, Warranties and Covenants of Lessee. Lessee represents, warrants and covenants as follows:

(a) Lessee is a public charter school duly organized and validly existing under the Charter Schools Act, and so long as the Loan and Security Agreements are outstanding, Lessee will use its best efforts to comply with the Charter Schools Act. Lessee is authorized: (i) to lease the School Premises from Lessor pursuant to this Agreement, and (ii) to execute, deliver and perform its obligations under this Agreement, in accordance with the relevant sections of the Public School Lease Purchase Act, Chapter 22, Article 26A NMSA 1978, and with the provisions of other New Mexico statutes applicable to a lease purchase arrangement, as this term is defined in Section 22-26A-3(A) NMSA 1978.

(b) The execution, delivery, and performance of this Agreement has been duly authorized by Lessee and this Agreement is enforceable against Lessee in accordance with its terms and the laws of the State of New Mexico, subject only to bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors’ rights generally and equitable principles, whether considered at law or in equity.

(d) The execution, delivery, and performance of this Agreement are in the best interests of Lessee and serve a public purpose. The School Premises is necessary and essential to Lessee's operations, and Lessee will recognize economic and other benefits by leasing the School Premises.

(e) To the knowledge of Lessee, there is no litigation or proceeding currently pending or threatened against Lessee or any other person affecting the right of Lessee to execute and deliver this Agreement, the ability of Lessee to make the payments required hereunder, or the ability of Lessee otherwise to comply with its obligations under this Agreement.

(f) The School Premises will be operated in accordance with all Requirements of Law.

(g) To the knowledge of Lessee: (i) the School Premises has at all times been operated in substantial compliance with all Requirements of Law; (ii) all permits required by Requirements of Law in respect of the School Premises have been obtained and are in full force and effect; (iii) there is no pending litigation, investigation, administrative or other proceeding of any kind before or by any governmental authority or other person or entity relating to, or alleging, any violation of any Requirements of Law in connection with the School Premises and there are no grounds on which any such litigation, investigation or proceedings might be commenced; (iv) the School Premises is not subject to any judgment, injunction, writ, order, or agreement respecting any Requirements of Law; (v) there is no hazardous substance (as those terms are defined in the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. § 9601, *et seq.*, any applicable state law or regulations promulgated under either), solid or hazardous waste (as defined in the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901, *et seq.*, any applicable state law or regulations promulgated under either), special waste, petroleum or petroleum derived substance, radioactive material or waste, polychlorinated biphenyls, asbestos or any constituent of any of the foregoing located on, in, or under the School Premises in violation of any Requirements of Law during Lessee's actual possession of the School Premises; (vi) there has been no disposal of any of the items referred to in clause (v) on, from, into, or out of the School Premises in violation of any Requirements of Law; and (vii) there has been no spillage, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, depositing, or dispersing of any of the items referred to in clause (v) into the indoor or outdoor environment from, into, or out of the School Premises including the movement of any such items through or in the air, soil, surface water, ground water from, into, or out of the School Premises or the abandonment or discard of barrels, containers, or other open or closed receptacles containing any such items from, into, or out of the School Premises in violation of any Requirements of Law.

(h) Lessee agrees to keep the School Premises in: (a) as reasonably safe condition as the operations there permit; and (b) good repair and in good operating condition, making from time to time all necessary repairs thereto (including external and structural repairs) and renewals and replacements thereof, as required by the Loan and Security Agreements, to which written agreement Lessee is not a party, or under which it is not an obligor.

(i) Lessee's governing body has complied fully with all the provisions in Section 22-26A-6 NMSA 1978 and those in the Open Meetings Act, Chapter 10, Article 15 NMSA 1978

applicable to the actions of Lessee with respect to this Agreement and acquisition of the School Premises through a lease purchase arrangement.

(j) Except as provided in Section 6.13 of this Agreement and Section 22-26A-5(K) NMSA 1978, Lessee will not transfer, lease, assign, mortgage or encumber this Agreement or the School Premises.

(k) Lessee will use and occupy the School Premises for the primary purpose of a public school and activities directly related thereto and for such other public purposes as may be authorized or permitted by Lessee under the laws of the State of New Mexico.

(l) Lessee will conform and comply with all applicable municipal, state and federal ordinances, laws, rules and regulations in using the School Premises, and Lessee will not use or suffer to be used the School Premises in any manner which contravenes any applicable municipal, state or federal ordinance, law, rule or regulation, so as to create or cause to exist any nuisance or hazardous condition.

(m) Notwithstanding any other provisions of this Agreement, Lessee's governing body represents, and warrants and covenants that it has not directly or indirectly undertaken Lessor's debt under the Loan and Security Agreements, nor has Lessee pledged, transferred, or granted a security interest in, or assigned to any private third party, public funds, monies, grants, or other distributions received, or to be received, by Lessee from or through the State of New Mexico, for the purpose of securing the payment of Lessor's financial obligations under the Loan and Security Agreements, in violation of Article IX, Section 14 of the New Mexico Constitution, or in violation of Article IX, Section 11 of the New Mexico Constitution.

Section 2.2. Representations, Warranties and Covenants of Lessor. Lessor represents, warrants and covenants as follows:

(a) Lessor is a nonprofit corporation duly organized, existing and in good standing under the laws of the State of New Mexico and has full and complete power to enter into this Agreement and to enter into and carry out the transactions contemplated hereby, and to carry out its obligations under this Agreement; and is possessed of full power to own and hold real and personal property, and to lease the same and has duly authorized the execution and delivery of this Agreement.

(b) Neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or will result in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which Lessor is now a party.

(c) Lessor warrants that it is in good standing pursuant to the terms of any underlying mortgage or financial obligations affecting title to or ownership of the School Premises.

(d) To the best of Lessor's knowledge, Lessor has not received any notice that the School Premises and/or the present use and condition of the School Premises violates any applicable deed restrictions or other covenants, restrictions or agreements, mortgages or conditions of title

Lease Agreement with Option to Purchase - Page 6 of 28

or ownership, Premises plan approval, zoning or subdivision regulations, urban development plans, the laws statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions or requirements of any authorities governing or regulating the use and operation, or otherwise applicable to the School Premises.

(e) Except as specifically provided in this Agreement, Lessor will not assign this Agreement, its rights to payments from Lessee or its duties and obligations hereunder or thereunder to any other person, firm, or corporation so as to impair or violate the representations, warranties and covenants contained herein.

(f) Lessor will not incur additional indebtedness, other than that directly related to the Loan and Security Agreements, for the purpose of financing the construction, renovation and remodeling of the School Premises.

(g) To the knowledge of Lessor: (i) the School Premises has at all times been operated in substantial compliance with all Requirements of Law; (ii) all permits required by Requirements of Law in respect of the School Premises have been obtained and are in full force and effect; (iii) there is no pending litigation, investigation, administrative or other proceeding of any kind before or by any governmental authority or other person or entity relating to, or alleging, any violation of any Requirements of Law in connection with the School Premises and there are no grounds on which any such litigation, investigation or proceedings might be commenced; (iv) the School Premises is not subject to any judgment, injunction, writ, order, or agreement respecting any Requirements of Law; (v) there is no hazardous substance (as those terms are defined in the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. § 9601, *et seq.*, any applicable state law or regulations promulgated under either), solid or hazardous waste (as defined in the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901, *et seq.*, any applicable state law or regulations promulgated under either), special waste, petroleum or petroleum derived substance, radioactive material or waste, polychlorinated biphenyls, asbestos or any constituent of any of the foregoing located on, in, or under the School Premises in violation of any Requirements of Law; (vi) there has been no disposal of any of the items referred to in clause (v) on, from, into, or out of the School Premises in violation of any Requirements of Law; and (vii) there has been no spillage, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, disposing, depositing, or dispersing of any of the items referred to in clause (v) into the indoor or outdoor environment from, into, or out of the School Premises including the movement of any such items through or in the air, soil, surface water, ground water from, into, or out of the School Premises or the abandonment or discard of barrels, containers, or other open or closed receptacles containing any such items from, into, or out of the School Premises in violation of any Requirements of Law.

ARTICLE III AUTHORIZATION OF AGREEMENT

Section 3.1. Agreement. Lessor hereby leases the School Premises to Lessee, and Lessee hereby leases the School Premises from Lessor with an option to purchase it, upon the terms and conditions set forth in this Agreement, and in accordance with the laws of the State of New Mexico. This Agreement, once fully executed, supersedes any prior Lease Agreement for the School Premises, between the parties.

Section 3.2. Possession and Enjoyment. Lessor covenants with respect to the School Premises, to provide Lessee during the Term with quiet use and enjoyment of the School Premises, and Lessee shall during the Term peaceably and quietly have and hold and enjoy the School Premises, without suit, trouble or hindrance from Lessor, except as expressly set forth in this Agreement.

Section 3.3. Lessor's Access to School Premises. Lessee agrees that during the Term of this Agreement, Lessor shall have the right during Lessee's normal working hours on Lessee's normal working days, upon compliance with any security requirements imposed by Lessee and upon reasonable notice, to enter on and examine and inspect the School Premises for the purpose of assuring that the School Premises is being properly maintained, preserved and kept in good repair and condition. Lessee further agrees that Lessor shall have such rights of access to the School Premises as may be reasonably necessary to cause the proper maintenance of the School Premises in the event of failure by Lessee to perform its obligations hereunder, provided that at no time shall Lessor be compelled or required to make any improvements, alterations or additions to the School Premises.

Section 3.4. Need for School Premises. Lessee hereby declares its current need for the School Premises and further determines and declares its expectation that the School Premises will adequately serve the needs for which it is being leased throughout the stated term of this Agreement. Lessee hereby agrees and determines that the Base lease Payment and the obligation to pay Operating Expenses during the Term of this Agreement represents not more than the fair market value of the use of the School Premises during the Term. In making such declarations and determinations, Lessee has given consideration to the uses and purposes for which the School Premises will be employed by Lessee, the benefit to Lessee by reason of the School Premises, and the use and occupancy of the School Premises pursuant to the terms and provisions of this Agreement.

Section 3.5 Use of School Premises. The School Premises shall be used and occupied only for education and related purposes and for no other purpose. No portion of the School Premises shall be used for sectarian or religious purposes, except as provided in the Equal Access Act of 1984, 20 U.S.C. § 4071, *et seq.*, or in any other pertinent federal law. Lessee shall comply with all applicable state and federal laws and constitutional provisions prohibiting discrimination on the basis of disability, physical or mental handicap, serious medical condition, race, creed, color, sex, gender identity, sexual orientation, spousal affiliation, national origin, religion, ancestry or need for special education services.

ARTICLE IV TERM OF AGREEMENT

Section 4.1. Term of Agreement. The Term of this Agreement shall commence upon the later of _____ 2019, or the date on which Lessee receives approval from both the Department and the PSFA (the "Commencement Date"), with a final lease payment date hereunder not exceeding thirty (30) years after the date of execution of this Agreement, unless this Agreement is terminated earlier pursuant to Section 4.2 hereof.

Section 4.2. Termination of Agreement. This Agreement shall terminate upon the occurrence of the first of the following events:

(a) the purchase of the School Premises by Lessee pursuant to Article VI of this Agreement;

(b) a default by Lessee and Lessor's election to terminate this Agreement pursuant to Article XI hereof;

(c) a default by Lessor and Lessee's election to terminate this Agreement pursuant to Article XI hereof; or

(d) an Event of Nonappropriation and notice from Lessee in accordance with Section 4.3 hereof.

(e) Lessee's determination, in any Fiscal Year, not to continue this Agreement from year to year or to purchase the School Premises, in accordance with Section 22-26A-5(I) NMSA 1978. Lessee shall give Lessor notice of such determination no later than May 1st in each year of the remaining term.

Section 4.3. Termination Due to Nonappropriation.

(a) An "Event of Nonappropriation" shall be (i) if sufficient money is not available to meet any current lease payment under this Agreement; or (ii) a failure by Lessee to appropriate sufficient amounts to proceed under Section 8.3 hereof, following the occurrence of an event described in Section 8.1 hereof.

(b) In the event that during any Fiscal Year, any Operating Expenses shall accrue in excess of amounts included in a duly authorized appropriation for the payment of Operating Expenses, then, in the event that monies are not specifically authorized and directed by this Agreement to be used to pay such Operating Expenses by the earlier of the last Business Day of the Fiscal Year in which such Operating Expenses accrue or ninety (90) days subsequent to the date upon which such Operating Expenses accrues, an Event of Nonappropriation shall be deemed to have occurred, upon due notice to such effect by Lessee to Lessor.

(c) If this Agreement terminates due to an Event of Nonappropriation, effective on June 30 of any Fiscal Year, Lessee shall give written notice of such determination to Lessor not later than May 1 of the Fiscal Year.

(d) Any decision to terminate this Agreement shall be made solely by Lessee's governing body and not by any other department, agency or official of Lessee, except through the exercise of the powers or duties, whether general or specific, of the Secretary of Public Education or the Department, or both, under the Public School Code, Chapter 22 [except Article 5A] NMSA 1978. Lessee shall in any event furnish Lessor proof of appropriation relating to Base lease Payment and Operating Expenses under this Agreement promptly upon the adoption thereof by Lessee as evidenced by a resolution of Lessee made and delivered to Lessor no later than May 31 of each Fiscal Year. Such resolution shall be signed by an authorized representative of Lessee,

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provided that this Agreement has not been previously terminated and that Lessee is not in default under the terms of this Agreement at the time.

(e) If an Event of Nonappropriation occurs, Lessee shall not be obligated to pay the Base lease Payment or Operating Expenses or any other payments provided for herein beyond the amounts specifically appropriated by Lessee for the Fiscal Year during which such Event of Nonappropriation occurs; provided, however, Lessee shall continue to be liable for Base lease Payment and Operating Expenses, to the extent payable from legally available monies, allocable to any period during which Lessee continues to occupy or retain possession of the School Premises.

(f) Lessee shall in all events vacate the School Premises and surrender the School Premises to Lessor by the thirtieth (30th) calendar day following an Event of Nonappropriation.

Section 4.4. Effect of Termination of Agreement. Upon termination of this Agreement:

(a) All unaccrued obligations of Lessee hereunder shall terminate, but all obligations of Lessee that have accrued hereunder prior to such termination shall continue until they are discharged in full, subject to Section 22-2-2(C) NMSA 1978 under which the Department's School Budget and Finance Analysis Bureau has both the authority and responsibility to immediately take over the control and management of Lessee's assets and finances, as well as the powers and duties of Lessee's governing body designated as a board of finance under Section 22-8B-6(L)(4) NMSA 1978; and

(b) If the termination occurs because of an Event of Nonappropriation or an Event of Default as set forth in Article XI of this Agreement, (i) Lessee's right to possession of the School Premises hereunder shall terminate; (ii) Lessee shall, within ninety (90) days, vacate the School Premises; and (iii) if and to the extent Lessee has appropriated funds for payment of Base lease Payment and Operating Expenses payable during, or with respect to Lessee's use of the School Premises during, the period between termination of the Term and the date the School Premises is vacated, Lessee shall pay such Base lease Payment and Operating Expenses to Lessor or, in the case of Operating Expenses, the other person entitled thereto, subject to the provisions of Section 22-8B-12.1(C) NMSA 1978, and those of Section 22-2-2(C) NMSA 1978, under which the Department may assume control and management of Lessee's assets and finances, and over the powers and duties of Lessee's governing body designated as a board of finance under Section 22-8B-6(L)(4) NMSA 1978. If termination occurs because of non-renewal or revocation of Lessee's charter, Base lease Payment shall be paid through the last day of occupancy, as provided herein.

Section 4.5. Continuation of Agreement. In accordance with Article IX, Section 11 of the New Mexico Constitution and Sections 22-26A-5(I) and (J) NMSA 1978, Lessor acknowledges and agrees that there is no legal obligation for Lessee to continue this Agreement from year to year or to purchase the School Premises, and that this Agreement shall be terminated if sufficient money is not available to meet any current lease payments.

Section 4.6. Budgeting. In any Fiscal Year that this Agreement is in effect, such officer of Lessee responsible for the preparation of the annual budget shall include in the budget proposal Lease Agreement with Option to Purchase - Page 10 of 28

for the ensuing Fiscal Year an amount equal to one hundred percent (100%) of the Base lease Payment and one-hundred five percent (105%) of the estimated Operating Expenses hereunder for such ensuing Fiscal Year, provided that the decision whether to extend the term of this Agreement and whether to appropriate such amounts shall remain within the sole discretion of Lessee's governing body.

Section 4.7. Access to Records, The public financial records of the Charter School shall, upon reasonable prior request, be made available to the Lessor for inspection and copying in accordance with Lessor's right of access to the Premises and Lessee's obligations for budgeting, insurance and other financial obligations pursuant to this Lease.

ARTICLE V LEASE PAYMENTS

Section 5.1. Lease Payments.

(a) Lessee agrees to pay Lessor and Lessor agrees to accept as full lease payment for the School Premises a sum equal to the total Base Lease Payments as provided in Exhibit B, payable monthly on the twenty-fifth (25th) day of the first month following the Commencement Date and each succeeding month throughout the term of this Agreement. Any partial month will be calculated on a pro rata basis.

(b) A portion of each payment of Base Lease Payment is paid as, and represents payment of, interest as shown on Exhibit B hereto, which sets forth the principal and interest component of each lease payment, in accordance with Section 22-26A-5(F) NMSA 1978. Upon receipt by Lessor of each payment of Base Lease Payment, Lessor shall apply the amount of each Base Lease Payment to principal and interest as shown on Exhibit B, thereby reducing the purchase price to be paid on and after the Option Date. Lessor and Lessee agree that the interest component of each payment and the net effective interest rate shall not exceed the maximum permitted by the Public Securities Act, Sections 6-14-1 through 6-14-3 NMSA 1978.

(c) The parties both agree that the periodic lease payments to be made by Lessee to Lessor as the holder of this Agreement under Section 22-26A-3(A) NMSA 1978 are sufficient to secure a release of the security interest held by the Authority or its assignee in the School Premises, and to transfer title to the School Premises to Lessee for nominal consideration, after either (i) the final periodic lease payment, or (ii) payment of the Option Price as set forth in Section 6.4 of this Agreement, together with Lessee's payment of the expenses of transfer of title under Section 6.6 hereof.

Section 5.2. Manner of Payment.

(a) From and after the Commencement Date, Lessee shall pay Base Lease Payment to Lessor or to a person or entity (i) designated by Lessor as Lessor's representative for lease payment collection purposes, or (ii) assigned the right to collect such Base Lease Payment, on the twenty-fifth (25th) day of each month during the Term from legally available funds, including per pupil operating revenues payable to Lessee.

(b) Operating Expenses owed to third parties by Lessee shall be paid directly from Lessee to such third parties as and when due. Any Operating Expenses payable to Lessor shall be paid directly to Lessor or to a person or entity designated by Lessor as Lessor's representative for lease payment collection purposes, on the twenty-fifth (25th) day of each month of the Term from any and all legally available funds, including per pupil operating revenues payable to Lessee.

(c) The obligation of Lessee to pay the Base Lease Payment and Operating Expenses required under this Agreement shall not be abated through accident or unforeseen circumstances. Lessee shall, during the Term, make all payments of Base Lease Payment and Operating Expenses when due and shall not withhold any Base Lease Payment or Operating Expenses nor shall Lessee assert any right of set off or counter claim against its obligation to make such payments required hereunder; provided, however, that the making of such payments shall not constitute a waiver by Lessee of any rights, claims, or defenses which Lessee may assert. No action or inaction on the part of Lessor shall affect Lessee's obligation to pay Base lease Payment and Operating Expenses of this Agreement.

(d) Periodically, at the sole discretion of Lessor, Lessor shall reimburse Lessee any excess funds resulting from the collection of more funds than required to pay the Operating Expenses.

Section 5.3. Nature of Lease Payments. Lessor and Lessee acknowledge and agree that the Base Lease Payment and Operating Expenses hereunder shall constitute currently appropriated expenditures of Lessee and may be paid from any legally available funds as set forth in Section 22-26A-7 NMSA 1978. Lessee's obligations under this Agreement shall not constitute a mandatory charge or requirement for payment of any amounts in excess of amounts appropriated for any Fiscal Year beyond the Fiscal Year for which such appropriation has been made. No provision of this Agreement shall be construed or interpreted as creating a debt or multiple Fiscal Year direct or indirect debt or other financial obligation whatsoever of Lessee within the meaning of any constitutional or statutory limitation or requirement. No provision of this Agreement shall be construed or interpreted as creating a delegation either of governmental powers or as a donation by or a lending of the credit of Lessee within the meaning of any constitutional or statutory limitation or requirement. This Agreement does not directly or indirectly obligate Lessee to make any payments beyond those appropriated for any Fiscal Year for which such payments have been appropriated.

ARTICLE VI OPTION TO PURCHASE

Section 6.1. Option to Purchase. Lessor grants to Lessee the option to purchase the School Premises at the time, for the consideration, and upon the terms and conditions set forth in this Agreement.

Section 6.2. Accelerated Sale and Transfer. Lessee may purchase the School Premises at any time on or after the Option Date. The term "Option Date" shall mean July 1, 20__, or any date on which the Loan and Security Agreements are subject to pre-payment in full without penalty.

Section 6.3. Notice of Sale and Transfer. Lessee's election to proceed to sale and transfer of the School Premises on or after the Option Date must be evidenced by a written notice addressed to Lessor, sent by registered or certified mail to Lessor's office or to any other place designated by Lessor by written notice to Lessee. Such written notice must be given not less than twelve (12) months before the date on which the option is to be exercised and sale and transfer is to occur.

Section 6.4. Option Price. The Option Price shall be the greater of \$1.00 or the remaining balance of the agreed upon Purchase Price as defined in Section 6.5 of this Agreement.

Section 6.5. Purchase Price on Exercise of Option. The price to be paid by Lessee to Lessor for the School Premises on or after the Option Date shall be the unpaid principal balance of the Loan and Security Agreements as of the date of the closing on the transfer of the School Premises, plus any accrued and unpaid interest, and expenses described in Section 6.6 hereof (the "Purchase Price").

Section 6.6. Expenses of Transfer. The Purchase Price to be paid to Lessor, as provided above, shall include all expenses in connection with the transfer of the School Premises, including, but not limited to, title insurance, recording fees, documentary stamps, and all other closing costs and shall be paid by Lessee unless otherwise agreed to between Lessor and Lessee. The Purchase Price shall be paid by Lessee in cash to Lessor concurrently with the conveyance of the School Premises by Lessor to Lessee.

Section 6.7. Transfer of Title. Except as provided below, at closing Lessor shall convey the School Premises to Lessee free and clear of any mortgage, indenture or other encumbrances. Any such transfer shall be effectuated by a special warranty deed from Lessor to Lessee.

Section 6.8. Prior Mortgage Liens. Lessee's rights under this option are and shall be subject to any mortgage (including a consolidated mortgage), indenture or deed of trust under which Lessor is the sole obligor or which was a lien of record at the date Lessor was conveyed title to the School Premises, or any part thereof, whether such mortgage, indenture or deed of trust has heretofore been, or may hereafter be, placed upon the School Premises to secure Lessor's indebtedness to any savings bank, bank, trust company, or other institutional lender, private or public for the purchase of the School Premises and the construction of the Improvements on the Land, and to any renewal, modification, consolidation, replacement, or extension of any such mortgage or deed of trust. This subordination is limited and relates only to a prior recorded mortgage securing an indebtedness that will not at any time on after the Option Date exceed the price at which this option may then be exercised on that date, as herein provided. This subordination shall be self-operative and no further instrument of subordination shall be required. Lessor will cause any such mortgage or deed of trust to contain provisions requiring the holder of the indebtedness secured by mortgage or deed of trust to mail to Lessee by registered mail, addressed to Lessee at its office as set forth in this Agreement, a copy of each notice of breach of covenant, default, or foreclosure given under such mortgage or deed of trust to Lessor. Notwithstanding the provisions of Section 6.2 hereof, Lessee may, upon receiving notice of breach of covenant, default, or foreclosure under any such mortgage or deed of trust as

herein provided exercise this option by paying the then-outstanding principal amount of the debt secured by the mortgage, indenture or deed of trust plus any accrued and unpaid interest.

Section 6.9. Performance of Lease. The right to exercise this option is conditioned upon the faithful performance by Lessee of all its covenants, conditions, and agreements under this Agreement, and the payment by Lessee of all Base Lease Payment, Operating Expenses and other special payments as provided in this Agreement to the date of the completion of the purchase of the School Premises by Lessee.

Section 6.10. Adjustments. Adjustments and proration of taxes, water rents, insurance premiums, and similar items shall be made as of the date of the closing of title, in accordance with the practice approved by the parties.

Section 6.11. Security Deposit. The parties stipulate that no security deposit was paid by Lessee as part of this agreement and none is required.

Section 6.12. Priority. During the term of the Lease, this option shall be a covenant running with the land described above, and no conveyance, transfer, easement, or encumbrance of such land shall defeat or adversely affect this option. Upon exercise of Lessee's option or upon termination of the Lease by either party, the covenant shall automatically terminate without the necessity for any additional action.

Section 6.13. Assignment of Option, Binding Effect. With the prior written approval of Lessor, which shall not be unreasonably withheld, the option to purchase under this Agreement is assignable, without cost to Lessee, and with all of the rights and benefits of its predecessor in interest being transferred to the assignee, to another charter school, a school district, the State of New Mexico or one of its institutions, instrumentalities or other political subdivisions.

ARTICLE VII MAINTENANCE AND INSURANCE

Section 7.1. Absolute Net Lease. Lessee shall pay as additional rent during the Term of this Agreement as herein provided all expenses related to possession, maintenance and operation of the School Premises. This Agreement is intended to be and shall be construed consistently with it being an absolute net lease with Lessee paying all expenses related to the School Premises, including without limitation, (i) the cost of insurance premiums for insurance required by this Agreement or otherwise deemed necessary or desirable; (ii) the cost of taxes, utility charges, maintenance, upkeep, and repair costs; (iii) all other costs associated with operation, repair and maintenance of the School Premises; and (iv) all costs of Lessor for administering this Agreement, to the extent permitted by law. All or any portion of such operating expenses may be paid by Lessee directly to the third parties who are owed the amounts included in Operating Expenses (e.g., insurance companies, taxing authorities, utility companies). All such expenses described in this Section 7.1 shall be defined as "Operating Expenses."

Section 7.2. Removal of Improvements. Lessee hereby agrees and covenants with Lessor that any and all alterations, additions, and improvements, except moveable furniture, equipment, portable or modular buildings and such other items of personal property that are removable from Lease Agreement with Option to Purchase - Page 14 of 28

the wall, ceiling and floor surfaces without causing damage to such surfaces, shall become a permanent part of the School Premises at the termination of this Agreement, if not removed by Lessee. Lessee agrees that if such Improvements are removed at the termination hereof, it will repair or restore the area of such surface, if removal of Lessee's personal property creates an unsightly condition, by capping any electrical outlets and concealing any surface areas where personal property, such as counters or shelving, may have been stabilized by attachment to such surfaces.

Section 7.3. Lessee's Insurance Obligations.

(a) Liability Insurance. Beginning upon the Commencement Date, Lessee shall procure and maintain or cause to be carried and maintained in full force and effect during the term of this Agreement and any extension thereof at Lessee's sole cost and expense and as additional rent above the Base Lease Payment hereunder, such public liability insurance covering bodily injury, disease, illness or death and property damage liability, as is available from and provided by the New Mexico Public Schools Insurance Authority ("NMPSIA") or its successor with limits of coverage not less than \$300,000 for each person for all past and future medical and medically-related expenses arising out of a single occurrence and \$400,000 in the aggregate for all claims other than medical or medically-related expenses arising out of a single occurrence, and \$100,000 for each accident for property damage liability for the benefit of both Lessee and Lessor as protection against all liability claims arising from activities on the School Premises, causing Lessor to be named as an additional-named insured on such policy of insurance, and delivering a copy thereof to Lessor upon the commencement of the term of this Agreement. Lessee shall adjust such minimum coverage limits annually or as necessary to conform to the minimum coverage limits required for local public bodies pursuant to Sections 41-4-19 and 41-4-20 NMSA 1978, and Sections 22-29-1 through 22-29-11 NMSA 1978.

(b) Property Insurance. Subject to the availability of such coverage from NMPSIA, Lessee shall also carry and maintain or cause to be carried and maintained in full force and effect during the term of this Agreement and any renewal thereof, at Lessee's sole cost and expense, fire and extended coverage insurance upon the School Premises, including all buildings, alterations, additions and improvements in an amount equal to their replacement values. Lessor shall be named as additional insured and loss payee on the property insurance policy and shall be provided with a copy of this policy annually on the anniversary date of the policy. In the event that the School Premises should be destroyed or substantially damaged in whole or in part, and such loss is covered by fire and extended coverage insurance, Lessee shall have the option to either continue this Agreement and use the insurance proceeds to replace or repair the School Premises and on Lessor's behalf, or terminate this Agreement and tender to Lessor all such insurance proceeds attributable to the loss or damage to the School Premises. If for any reason Lessee is prohibited by law or regulation from carrying such insurance, Lessor may obtain such insurance, and Lessee shall pay the premiums of such insurance as Operating Expenses.

Section 7.4. Worker's Compensation Insurance. If required by New Mexico state law as of the Commencement Date, Lessee shall carry worker's compensation insurance covering all of its respective employees on, in, near or about the School Premises and upon request, shall furnish certificates to Lessor evidencing such coverage.

Section 7.5. Liens. Except as otherwise expressly provided in this Agreement, neither Lessee nor Lessor shall directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Improvements, other than the respective rights of Lessor and Lessee as herein provided. Except as otherwise expressly provided in this Article and Section 9.3 hereof, Lessor and Lessee shall promptly, at its own expense, take such action as may be necessary duly to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time, during the respective party's control of the School Premises and each party shall reimburse the other for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim which arose during the control of the School Premises.

ARTICLE VIII DAMAGE, DESTRUCTION, OR CONDEMNATION; USE OF NET PROCEEDS

Section 8.1 Damage, Destruction or Condemnation. If, during the Term, (i) the School Premises or any portion thereof shall be destroyed in whole or in part, or damaged by fire or other casualty; (ii) title to, or the temporary or permanent use of, the School Premises or any portion thereof or the estate of Lessee or Lessor in the School Premises or any portion thereof, shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm, or corporation acting under governmental authority; (iii) breach of warranty or any material defect with respect to the School Premises shall become apparent; or (iv) title to or the use of all or any portion of the School Premises shall be lost by reason of defect in the title thereto, then, Lessee shall be obligated, subject to the other provisions in this Agreement, to continue to pay the amounts specified in Section 8.2 hereof and, to the extent of amounts specifically appropriated by Lessee, to pay Base Lease Payment and Operating Expenses.

Section 8.2. Repair and Replacement. To the extent not contrary to applicable New Mexico law, Lessors shall cause such Net Proceeds to be deposited in a separate trust fund held by Lessor. All Net Proceeds of any insurance, performance bonds, or condemnation awards owed to either Lessee or Lessor shall be applied to the prompt repair, restoration, modification, improvement, or replacement of the Improvements. Any repair, restoration, modification, improvement, or replacement paid for in whole or in part out of Net Proceeds shall be the property of Lessor, subject to this Agreement, and shall be included as part of the School Premises under this Agreement.

Section 8.3. Insufficiency of Net Proceeds for School Premises. If there occurs an event described in Section 8.1 hereof, and if any Net Proceeds received as a consequence of such event are insufficient to pay in full the cost of any repair, restoration, modification, improvement, or replacement of the School Premises required under Section 8.2 hereof, Lessee shall elect one of the following options:

(a) Lessee may, to the extent permitted by law, in accordance with Section 8.2 hereof, repair, restore, modify, or improve the School Premises or replace the School Premises (or portion thereof) with property of a value equal to or in excess of the School Premises, and pay as Operating Expenses any cost in excess of the amount of the Net Proceeds, to the extent the amounts for Operating Expenses which have been specifically appropriated by Lessee are available for the payment of such costs, and Lessee agrees that, if by reason of any such Lease Agreement with Option to Purchase - Page 16 of 28

insufficiency of the Net Proceeds, Lessee shall make any Operating Expenses payments pursuant to the provisions of this paragraph, Lessee shall not be entitled to any reimbursement therefor from Lessor, nor shall Lessee be entitled to any diminution of the Base Lease Payment and Operating Expenses. Notwithstanding the forgoing, Lessor may in its discretion reimburse Lessee for all or part of such Operating Expenses.

(b) If, by June 30th of the Fiscal Year in which an event described in Section 8.1 hereof occurs (or June 30th of any subsequent Fiscal Year in which the insufficiency of Net Proceeds to repair, restore, modify, improve, or replace the School Premises become apparent), Lessee has not appropriated amounts sufficient to proceed under clause (i) of this Subsection, Lessee shall proceed in accordance with Section 4.4 hereof, and Lessor may then pursue remedies as provided in Sections 4.4 and 11.2 hereof, as applicable.

Section 8.4. Cooperation. Lessor and Lessee shall cooperate fully with each other in filing any proof of loss with respect to any insurance policy or performance bond covering the events described in Section 8.1 hereof, in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the School Premises or any portion thereof, and in the prosecution of any action relating to defaults or breaches of warranty under any contract relating to the School Premises. In no event shall either party voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim, performance or payment bond claim, prospective or pending condemnation proceeding, or any action relating to defaults or breaches of warranty under any contract relating to the School Premises or any portion thereof without the written consent of the other party. Each party shall be responsible for their respective fees and expenses incurred under this section.

ARTICLE IX

LESSEE'S IMPROVEMENTS, EQUIPMENT AND WARRANTIES

Section 9.1. Improvements to School Premises. Lessee, at its own expense and subject to the written approval of Lessor, which approval shall not be unreasonably withheld,, may remodel, or make additions, modifications or improvements to, the School Premises, provided that (a) such remodeling, modifications and additions (i) shall not in any way damage the School Premises as it existed prior thereto, and (ii) shall become part of the School Premises, subject to the provisions of Section 9.3 hereof; (b) the value of the School Premises after such remodeling, modifications and additions shall be at least as great as the value of the School Premises prior thereto; and (c) the School Premises, after such remodeling, modifications and additions, shall continue to be used as provided in and shall otherwise be subject to the terms of this Agreement. If Lessee makes and pays for improvements to the School Premises, there shall be no additional financial obligations to Lessee without written approval by the Department, in accordance with Section 22-26A-5(L) NMSA 1978.

Section 9.2. Installation of Lessee's Equipment. Lessee may at any time and from time to time in its sole discretion and at its own expense, install items of movable machinery, standard office partitions, railings, doors, gates, counters, cabinets, lighting fixtures, signs and such other furnishings and equipment as may in Lessee's judgment be necessary for its purposes in or upon the School Premises. All such items shall remain the sole property of Lessee, in which Lessor shall have no interest, and may be modified or removed by Lessee at any time provided that

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Lessee shall repair and restore any and all damage to the School Premises resulting from the installation, modification or removal of any such items upon termination of this Agreement for any reason other than purchase of the School Premises by Lessee. Nothing in this Agreement shall prevent Lessee from purchasing items to be installed pursuant to this Section under a conditional sale or lease purchase contract, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof, provided that no such lien or security interest shall attach to any part of the School Premises.

Section 9.3. Lien on Improvements by State, School District or Lessee. In accordance with Section 22-26A-5(H) NMSA 1978, if the State of New Mexico's, the Santa Fe Public School's or Lessee's funds, above those required for lease payments, are used to construct or acquire improvements, the cost of the improvements shall constitute a lien on the School Premises in favor of the Santa Fe Public Schools or Lessee and then, if this Agreement is terminated prior to the final payment and the release of the security interest or the transfer of title, at the option of the school district or charter school: (1) the State or Lessee may foreclose on the real estate lien; or (2) the current market value of the School Premises at the time of termination, as determined by an independent appraisal certified by the New Mexico Taxation and Revenue Department, in excess of the outstanding principal due under this Agreement shall be paid to the State Public Schools or Lessee, in proportion to their respective lienhold interests.

Section 9.4. Warranties. Upon acceptance and purchase of the School Premises by Lessee pursuant to Article VI hereof, Lessor will assign to Lessee, all of its interest, if any in all warranties and guarantees or other contract rights against architects, builders, contractors, subcontractors, suppliers, materialmen or manufacturers for the School Premises, express or implied, issued on or applicable to the School Premises, and Lessor hereby authorizes Lessee to obtain the customary services furnished in connection with such warranties and guarantees at Lessee's expense. Lessee's sole remedy for the breach of such warranties and guarantees shall be against the provider of such work, service, equipment or materials made to or on the School Premises and not against Lessor, nor shall such matter have any effect whatsoever on the rights of Lessor with respect to this Agreement, including the right to receive full and timely payments hereunder.

Section 9.5. Disclaimer of Warranties. Upon acceptance of the School Premises by Lessee, Lessor makes no warranty or representation except as stated in Section 9.4 hereof, either express or implied, as to the value, design, condition, merchantability or fitness for any particular purpose or fitness for the use contemplated by Lessee of the School Premises, or any other representation or warranty with respect to the School Premises. In no event shall Lessor be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Agreement or the existence, furnishing, functioning or Lessee's use of any portion of the Improvements provided for in this Agreement.

ARTICLE X

ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING

Section 10.1. Assignment. Subject to the other provisions in this Agreement, neither party shall assign its interests in this Agreement without the prior written consent of the other party which consent shall not be unreasonably withheld or delayed. Any consent by a party to any Lease Agreement with Option to Purchase - Page 18 of 28

assignment shall not operate as consent to any further assignment, and any further assignment shall be subject to the prior written consent of the other party in accordance with the provisions of Section 10.1 hereof. Unless otherwise agreed in writing, no assignment permitted hereunder shall relieve a party from liability for the performance of its obligations under this Agreement for the remainder of the then current term.

Notwithstanding any other provisions in this Agreement, with the prior approval of Lessor, which shall not be unreasonably withheld, this Agreement is assignable, without cost to Lessee, and with all of the rights and benefits of its predecessor in interest being transferred to the assignee, to: (1) a school district or charter school; or (2) the State of New Mexico or one of its institutions, instrumentalities or other political subdivisions, all in accordance with Section 22-26A-5(K) NMSA 1978.

Nothing in Section 10.1 herein shall be deemed to prohibit, limit or restrict Lessee's ability to enter into joint powers agreements for shared use of the School Premises, provided that each party to such agreement is a "public agency" as defined in the Joint Powers Agreement Act, Sections 11-1-1 through 11-1-7 NMSA 1978, and that both public agencies are authorized by their legislative or other governing bodies to jointly exercise any power common to the contracting parties as provided by law.

Section 10.2. Restriction on Mortgage or Sale of School Premises by Lessee. Prior to closing on the purchase of the School Premises, Lessee will not mortgage, sell, assign, transfer or convey the School Premises or any portion thereof without the written consent of Lessor, which consent shall not be unreasonably withheld or delayed.

Section 10.3. Conditional Consent to Assignment; Subordination of Statutory Lien. Lessee consents to the assignment by Lessor to the New Mexico Bank and Trust, pursuant to the Loan and Security Agreements, respectively, of all rights, title and interest of Lessor in, to and under this Agreement; provided, however, that in the event that Lessee's consent under this section is in conflict with or contrary to any provision of this Agreement, the Public School Lease Purchase Act or other applicable statutory or common law in the State of New Mexico, Lessee's consent hereunder shall be null and void in all respects, and shall be of no further force or effect, either at law or in equity.

Section 10.4. Statutory Lien. The statutory lien arising under this Agreement shall be subordinate to the liens of the Loan and Security Agreements and any liens or security interests created under the Construction Mortgage and any other mortgage, deed of trust (now or hereafter placed upon the School Premises) and to any and all advances made under any mortgage or deed of trust and to all renewals, modifications, replacements or extensions thereof; provided, however, that in the event of foreclosure on the Construction Mortgage caused by Lessor's default under this Agreement, Lessee shall continue to have the right to possess the School Premises or otherwise enjoy its rights under this Agreement provided that it fully performs its obligations hereunder.

ARTICLE XI

EVENTS OF DEFAULT AND REMEDIES

Section 11.1. Events of Default. Any one of the following shall constitute an "Event of Default" under this Agreement: (i) failure by Lessee to pay any specifically appropriated Base Lease Payment during the Term of this Agreement on, before, or within five (5) days of the applicable due date or to pay Operating Expenses which become due during the Term of this Agreement as and when due, up to the amount specifically appropriated for the payment of Operating Expenses in accordance with the provisions hereof; (ii) failure by Lessee to timely pay any other amounts due by Lessee under the terms of this Agreement within ten (10) days' written demand therefore by Lessor; (iii) failure by Lessee to observe and perform any covenant, condition, or agreement on its part to be observed or performed, for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied shall be given to Lessee by Lessor, unless Lessor shall agree in writing, prior to the expiration of the thirty-day period, to an extension of no more than ninety (90) days; provided, however, that if the failure stated in the notice cannot be corrected within the original thirty-day period, Lessor shall not withhold its consent to an extension of up to ninety (90) days if corrective action shall be instituted by Lessee within such time period and diligently pursued until the default is corrected; (iv) failure by Lessee to maintain its charter under the Charter Schools Act, with all appeals taken within the proscribed time period having been determined; (v) failure by Lessee to vacate the School Premises by the thirtieth (30th) calendar day following an Event of Nonappropriation; (vi) Lessee shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of its creditors, or shall fail to pay its debts as they become due, or shall take any action in furtherance of any of the foregoing; (vii) an involuntary case or other proceeding shall be commenced against Lessee seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary lease or other proceeding shall remain undismissed and unstayed for a period of one hundred twenty (120) days; or (viii) the estate or interest of Lessee in the School Premises shall be levied upon or attached in any proceeding and such process shall not be vacated or discharged within ninety (90) days after such levy or attachment, unless Lessee shall be contesting such levy or attachment in accordance with the requirements of this Agreement.

The foregoing provisions of this Section are subject to the following limitations: (i) Lessee shall be obligated to pay the Base Lease Payment and Operating Expenses during the Term of this Agreement, except as otherwise expressly provided in this Agreement; and (ii) if, by reason of force majeure, Lessee is unable in whole or in part to carry out any of its obligations under this Agreement and until the termination or end of the Term of this Agreement, Lessee shall not be deemed in default during the continuance of such inability. Lessee agrees, however, to remedy, as promptly as legally and reasonably possible, and subject to the sufficiency of available appropriations, the cause or causes preventing Lessee from carrying out such obligations; provided that the settlement of strikes, lockouts, and other industrial disturbances shall be entirely within the discretion of Lessee.

Section 11.2. Remedies on Default. Whenever any Event of Default shall have happened and be continuing, Lessor may, without any further demand or notice, take one or any combination of the following remedial steps:

(a) terminate this Agreement and give notice to Lessee to vacate the School Premises within one-hundred twenty days (120) days from the date of such notice.

(b) without further demand or notice, reenter and take possession of the School Premises, repossess the same, expel Lessee and those claiming through or under Lessee, and remove the effects of both or either, using such force for such purposes as may be lawful and necessary, without being liable for prosecution, without being deemed guilty of any manner of trespass, and without prejudice to any remedies for arrears of Base Lease Payment, Operating Expenses or other amounts payable under this Agreement or as a result of any preceding breach of covenants or conditions;

(c) pursue any and all other rights and remedies available under New Mexico law, at law or in equity;

(d) lease all or any portion of the real property included in the School Premises;

(e) recover from Lessee: (i) to the extent the recovery thereof is permitted by New Mexico law, the fair rental value of the use of the School Premises during any period beyond the thirtieth (30th) day following the occurrence of the Event of Default; and (ii) Base Lease Payment and Operating Expenses, to the extent amounts for such Operating Expenses have been specifically appropriated in accordance with the provisions of hereof, which would otherwise have been payable by Lessee hereunder during the remainder, after Lessee vacates the School Premises, of the Fiscal Year in which such Event of Default occurs.

(f) take whatever action at law or in equity may appear necessary or desirable to enforce its rights in and to the School Premises under this Agreement.

Section 11.3. Force Majeure. The provisions of Sections 11.1 and 11.2 of this Agreement are subject to the following limitations: if by reason of force majeure Lessee or Lessor is unable in whole or in part to carry out its obligations under this Agreement, Lessor or Lessee shall not be deemed in default during the continuance of such inability or during any other delays which are a direct consequence of the force majeure inability. The term "force majeure" as used herein shall mean, without limitation, the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or any of its departments, agencies or officials, or any civil or military authority other than Lessee or Lessor; insurrections; riots; earthquakes; fires; storms; drought; floods; explosions; breakage or accident to machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of Lessor or Lessee and not resulting from the negligence of the party claiming a force majeure event. Lessor and Lessee agree, however, to remedy with all reasonable dispatch the cause or causes preventing them from carrying out their respective obligation under this Agreement; provided that the settlement of strikes, lockouts and other industrial disturbances shall not be required if in the judgment of the party raising the

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defense of force majeure, acceding to the demands of the person or persons creating the strike, lockout or industrial disturbance, would be injurious to such party.

Section 11.4. Remedies Cumulative. The above-provided rights and remedies are cumulative, and not exclusive, of all other rights and remedies to which a party may be entitled in the event of breach or threatened breach by a party in default of any of the terms, conditions and provisions contained herein.

Section 11.5. No Additional Waiver Implied by One Waiver. The failure, neglect or omission of a non-defaulting party to terminate this Agreement for any breach or default shall not be deemed a consent by the non-defaulting party of such breach or default and shall not stop, bar or prevent the non-defaulting party from thereafter terminating this Agreement, either for such violation of for prior or subsequent violation of any covenant hereof. In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 11.6. Dispute Resolution. The parties shall endeavor to resolve all disputes arising as to this Agreement by mediation before a mutually agreed mediator the cost of which shall be shared by the parties. In the event mediation is unsuccessful, arbitration in accordance with the terms of this Section shall be used to resolve any and all claims, disputes or disagreements arising under this Agreement, except for (i) matters requiring immediate exigent relief, including without limitation unlawful detainer; and (ii) all claims by either party which (y) seek anything other than enforcement of rights under this Agreement, or (z) are primarily founded upon matters of fraud, willful misconduct or any other allegations of tortious action, and seek the award of punitive or exemplary damages, which disputes shall be resolved by suit filed in the First Judicial District Court, Santa Fe County, New Mexico, the decision of which court shall be subject to appeal pursuant to applicable law. The parties hereby agree to conduct themselves in strict, full, complete and timely accordance with the terms of this Section.

(a) Any dispute to be arbitrated pursuant to the provisions of this Section shall be determined by binding arbitration before a single arbitrator (the "Arbitrator") under the auspices of the New Mexico Uniform Arbitration Act, Sections 44-7A-1, et seq., NMSA 1978. Such arbitration shall be initiated by either party, within thirty days after either party sends written notice (the "Arbitration Notice") of a demand to arbitrate by registered or certified mail to the other party and to AAA. The Arbitration Notice shall contain a description of the subject matter of the arbitration, the dispute with respect thereto, the amount involved, if any, and the remedy or determination sought. The parties may agree on the selection of an Arbitrator.

(b) The arbitration shall be conducted in Santa Fe County metropolitan area and, unless otherwise agreed by the parties must be completed within 180 days. Any party may be represented by counsel or other authorized representative. In rendering a decision, the Arbitrator shall determine the rights and obligations of the parties according to the substantive and procedural laws of New Mexico and the terms and provisions of this Agreement. The decision shall be conclusive and binding, and it may thereafter be confirmed as a judgment by the First Judicial District Court, Santa Fe County, New Mexico in accordance with the New Mexico Uniform Arbitration Act. The Arbitrator may award costs, including without limitation,

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attorney's fees (but solely to the extent permitted by law against Lessee), and expert and witness costs, to the prevailing party, if any as determined by the Arbitrator in his or her discretion. A party shall be determined by the Arbitrator to be the prevailing party if its proposal for the resolution of the dispute in the discretion of the Arbitrator was closest to that adopted by the Arbitrator.

ARTICLE XII TITLE; TAX-EXEMPT STATUS OF BONDS

Section 12.1. Public Property. Upon approval of this Agreement by the Department and the PSFA, and execution of this Agreement by the parties, the School Premises shall be considered to be a public property pursuant to Section 22-26A-5.1(B) NMSA 1978.

Section 12.2. Subject to the other provisions of this Agreement, the parties hereby covenant and agree as follows:

a. Upon execution of this Agreement, Lessee, a governmental entity as this term is used in the relevant sections of the Internal Revenue Code (Part III of Subchapter B of Chapter 1 of Subtitle A of Title 26 of the United States Code), will acquire an equitable ownership interest in the School Premises, and Lessor thereafter will hold bare legal title to the School Premises, and then only to the extent of Lessee's lease payments obligations hereunder.

(b) Lessor will not claim depreciation or any federal or state tax credit with respect to the School Premises.

(e) Lessor and Lessee shall facilitate the transfer of all of Lessee's right, title and interest in the School Premises to a school district or charter school; or the state or one of its institutions, instrumentalities or other political subdivisions of the state in the event that Lessee ceases to operate as a charter school as this term is defined in Section 22-1-2(B) NMSA 1978, in the manner and to the extent allowed under the Charter Schools Act or other applicable law..

ARTICLE XIII HAZARDOUS MATERIALS LAWS

Section 13.1. Compliance with all Hazardous Materials Laws. As of the Commencement Date, Lessee, shall at all times keep and maintain the School Premises in compliance with and shall not cause or permit the School Premises or any activities conducted thereon to be in violation of any federal, state or local law, ordinance or regulation relating to commercial or industrial hygiene, environmental safety or the environmental conditions on, under or about the School Premises, including, but not limited to, air, soil, subsurface and ground water conditions. Neither party shall permit any subtenant or other occupant of the School Premises, except in accordance with applicable Hazardous Materials laws as hereinafter defined, to use, generate, manufacture, store, produce, release, discharge, dispose of or otherwise permit the presence of, on, under or about the premises or transport to or from the School Premises any explosives (flammable or otherwise), radioactive materials, pollutants, contaminants, hazardous wastes, hazardous air pollutants, toxic substances or related materials, including, without limitation, any

Lease Agreement with Option to Purchase - Page 23 of 28

substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "hazardous pollutants" or "toxic substances" under any applicable federal or state laws or regulations (collectively referred to hereinafter as "Hazardous Materials"). Hazardous materials shall include petroleum products. Upon request of either party, the other party will prepare and provide such reports as will evidence compliance by the party with Hazardous Materials laws, and which will evidence that the School Premises and the uses thereon are in compliance with Hazardous Materials Laws. Either party shall immediately advise the other party in writing of its discovery of or receipt of notice of (i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened pursuant to any applicable federal, state or local laws, ordinances, regulations, orders or publications relating to any Hazardous Materials affecting the School Premises ("Hazardous Materials Laws"); (ii) any use, generation, manufacture, production, release, discharge, storage or disposal of Hazardous Materials, or substantial threat of any of the foregoing, on, under or about the School Premises; (iii) all claims made or threatened by any third party against a party or the School Premises relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in clauses (i) and (iii) above are hereinafter referred to as "Hazardous Materials Claims"); and (iv) any occurrence or condition on any property adjoining or in the vicinity of the School Premises that could cause the School Premises to be subject to any restrictions on the ownership, completion, transferability or use of the premises under any Hazardous Materials Law.

Section 13.2. Lessee's Responsibility. Lessee shall be solely responsible to pay or otherwise satisfy any claim, written notice or demand, penalty, fine, settlement, loss, damage, cost, expense or liability made against Lessor or Lessee directly or indirectly arising out of or attributable to the violation by Lessee of any Hazardous Materials Law, orders, written notice or demand of governmental authorities, or the use, generation, manufacture, storage, release, threatened release, discharge, disposal, production, abatement or presence of Hazardous Materials on, under or about the premises including, without limitation: the costs of any required or necessary investigation, repair, cleanup or detoxification of the School Premises, and the preparation and implementation of any closure, abatement, containment, remedial or other required plan and shall to the extent allowable by law applicable to public schools, indemnify Lessor and hold Lessor harmless from any such claim, demand, penalty, fine, settlement, loss, damage, cost, expense or liability subject to the limitations and waivers contained in the New Mexico Tort Claims Act and any insurance coverage issued pursuant thereto.

Section 13.3. Remedial Action Required. Without the other party's prior written consent, which shall not be unreasonably withheld, a party shall not take any remedial action in response to the presence of any Hazardous Materials on, under, or about the School Premises, nor enter into any settlement agreement, consent decree, or other compromise in response to any Hazardous Materials claim, which remedial action, settlement, consent or compromise might, in the other party's reasonable judgment, impair the value of party's fee interest in the School Premises; provided, however, that prior consent shall not be necessary in the event that: (i)(a) the presence of Hazardous Materials on, under, or about the School Premises either poses an immediate threat or is of such a nature that an immediate remedial response is necessary; or (b) any delay in taking such remedial action would result in the imposition of periodic or daily fines; and (c) such action is required by government order; and (ii) it is not possible to obtain the other party's consent before taking such action; provided that in such event notice shall be given as

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soon as practicable of any action so taken. Each party agrees not to withhold its consent, where such consent is required hereunder, if either (i) a particular remedial action is ordered by a court of competent jurisdiction, or (ii) the party establishes to the reasonable satisfaction of the other party that there is no reasonable alternative to such remedial action that would result in less impairment to the value of the party's interest in the School Premises.

Section 13.4. Survival of Lessee's Obligations and Liabilities. Lessee's obligations and liabilities hereunder with respect to Hazardous Materials Claims arising from Lessee's actions shall survive the expiration or other termination of this Agreement.

ARTICLE XIV LIMITATION OF LIABILITY

Section 14.1. Limitation of Liability. Neither party shall be liable for special or consequential damages arising from a breach of this Agreement.

ARTICLE XV THIRD-PARTY RIGHTS

Section 15.1. Third-Party Rights. Unless otherwise expressly provided in this Agreement, nothing herein is intended to confer any rights or remedies on anyone other than the parties to this Agreement and their respective successors, representatives and assigns. The provisions of this Agreement shall not entitle any person not a signatory to this Agreement to any rights as a third-party beneficiary, or otherwise, it being the specific intention of the parties to this Agreement to preclude any and all non-signatory parties from any such third-party beneficiary rights, or any other rights of any nature.

ARTICLE XVI ORDER OF PRECEDENCE; CONFLICT BETWEEN PROVISIONS

Section 16.1. Order of Precedence; Conflict between Provisions. Neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, shall conflict with or result in a breach of the terms, conditions, or provisions of any material restriction or any agreement or instrument to which Lessee is a party; provided, however, that in the event of any conflict or inconsistency between the provisions of this Agreement and those in any of the Loan Documents, the provisions of this Agreement shall govern in all respects, and shall be construed as to not result in any material breach by Lessee of the terms and conditions of this Agreement.

Section 16.2. Nothing in this Agreement shall be construed as diminishing, unlawfully delegating, or otherwise restricting any legal authority of Lessee or its governing body under the laws of the State of New Mexico, including the Public School Lease Purchase Act, the New Mexico School for the Arts Act and the Charter Schools Act.

ARTICLE XVII ADMINISTRATION PROVISIONS

Section 176.1. Notices. All notices required under this Agreement shall be in writing, signed by the party or agent sending them, and (i) delivered personally, (ii) sent by registered or certified mail, (iii) sent by a recognized overnight express mail carrier, or (iv) sent by facsimile or electronic mail, if a copy is sent by one of methods (i), (ii) or (iii) as soon as practicable thereafter, addressed to Lessor or Lessee, as the case may be, at the following addresses (or such other addresses as either party may give by notice conforming with this Section 15.1), and such notices shall be effective on the date of receipt thereof.

Lessor:

New Mexico School for the Arts Art Institute,

Santa Fe, New Mexico 8750__

Attn: President

Facsimile No.: 505-_____

Email: _____

With a copy to:

Attention: _____

Email/Facsimile: _____

Lessee:

New Mexico School for the Arts

Santa Fe, New Mexico, 8750__

Attn: Head Administrator

Facsimile: (505) _____

Email: _____

With a copy to:

Attn: _____

Email/Facsimile: _____

Section 17.2. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective administrators, successors and assigns.

Section 17.3. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect. Nothing in this section shall in any way limit or affect the right of the parties to amend this Agreement.

Section 17.4. Amendments, Changes and Modifications. This Agreement may be amended or any of its terms modified only by a written amendment authorized and executed by

both Lessee and Lessor. Amendments to this Agreement shall be approved by the Department as may be required under Section 22-26A-5(L) NMSA 1978.

Section 17.5. Further Assurances and Corrective Instruments. Lessor and Lessee agree that they will, if necessary, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed purpose of this Agreement.

Section 17.6. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 17.7. Governing Law. This Agreement shall be governed and interpreted in accordance with the laws of the State of New Mexico, without regard to conflict of laws rules.

Section 17.8. Lessor and Lessee Representatives. Whenever under the provisions of this Agreement the approval of Lessor or Lessee is required, or Lessor or Lessee is required to take some action at the request of the other, such approval of such request may be given for Lessor by a Lessor Representative and for Lessee by a Lessee Representative, and any party hereto shall be authorized to rely upon any such approval or request.

Section 17.9. Integration. This Agreement contains all of the agreements of Lessee and Lessor respecting the subject matters hereof, and all prior negotiations are merged herein.

Section 17.10. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Agreement.

Section 17.11. Business Days. If the day upon which any action required by the Agreement shall fall on a Saturday, Sunday or banking holiday, then such actions shall be deemed timely if made or taken on the next succeeding business day.

Section 17.12. Memorandum of Lease with Option to Purchase. Either party may record a memorandum of this Agreement in the real property records of Santa Fe County, New Mexico, and the other party will cooperate in signing such a memorandum for recordation.

IN WITNESS WHEREOF, Lessor has caused this Agreement to be executed in its corporate name by its duly authorized officer, and Lessee has caused this Agreement to be executed in its name by its duly authorized officer, as of the date first written above.

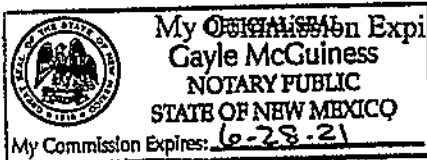
Lessor:
New Mexico School for the Arts Art Institute

By: [Signature]
Name: Ned W. Bennett
Title: Chair B of D

STATE OF NEW MEXICO)
) SS.
COUNTY OF SANTA FE)

This instrument was acknowledged before me this 13 day of MAY 2019
by NED BENNETT as CHAIR of the New Mexico School for the Arts Art
Institute, a New Mexico nonprofit corporation.

[Signature]
Notary Public



Lessee:
New Mexico School for the Arts

By: [Signature]
Name: Bill Beacham
Title: Chair, GOVERNING COUNCIL

STATE OF NEW MEXICO)
) SS.
COUNTY OF SANTA FE)

This instrument was acknowledged before me this 13 day of
MAY 2019, by BILL BEACHAM as CHAIR, GOVERNING of New Mexico School for
the Arts, a New Mexico public charter school. COUNCIL

[Signature]
Notary Public

My Commission Expires: 6-28-21

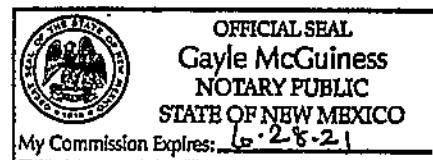


EXHIBIT A
Legal Description of School Premises

EXHIBIT A-1

NO IMPROVEMENTS

STUDIO

SW
ARCHITECTS

ARCHITECTS
ARCHITECTS, INC.
1000 UNIVERSITY AVENUE, SUITE 100
ALBUQUERQUE, NEW MEXICO 87102
TEL: (505) 243-1100
FAX: (505) 243-1101
WWW.SWARCHITECTS.COM

DATE: 01/11/2017
BY: [Signature]
CHECKED: [Signature]
APPROVED: [Signature]

PROJECT: NEW MEXICO SCHOOL FOR THE ARTS - PHASE 1
SHEET: 17 OF 17

NEW MEXICO SCHOOL FOR THE ARTS - PHASE 1
SHEET 17 OF 17



NEW MEXICO SCHOOL FOR THE ARTS - PHASE 1

500-550 Montano Ave
Santa Fe, NM 87501



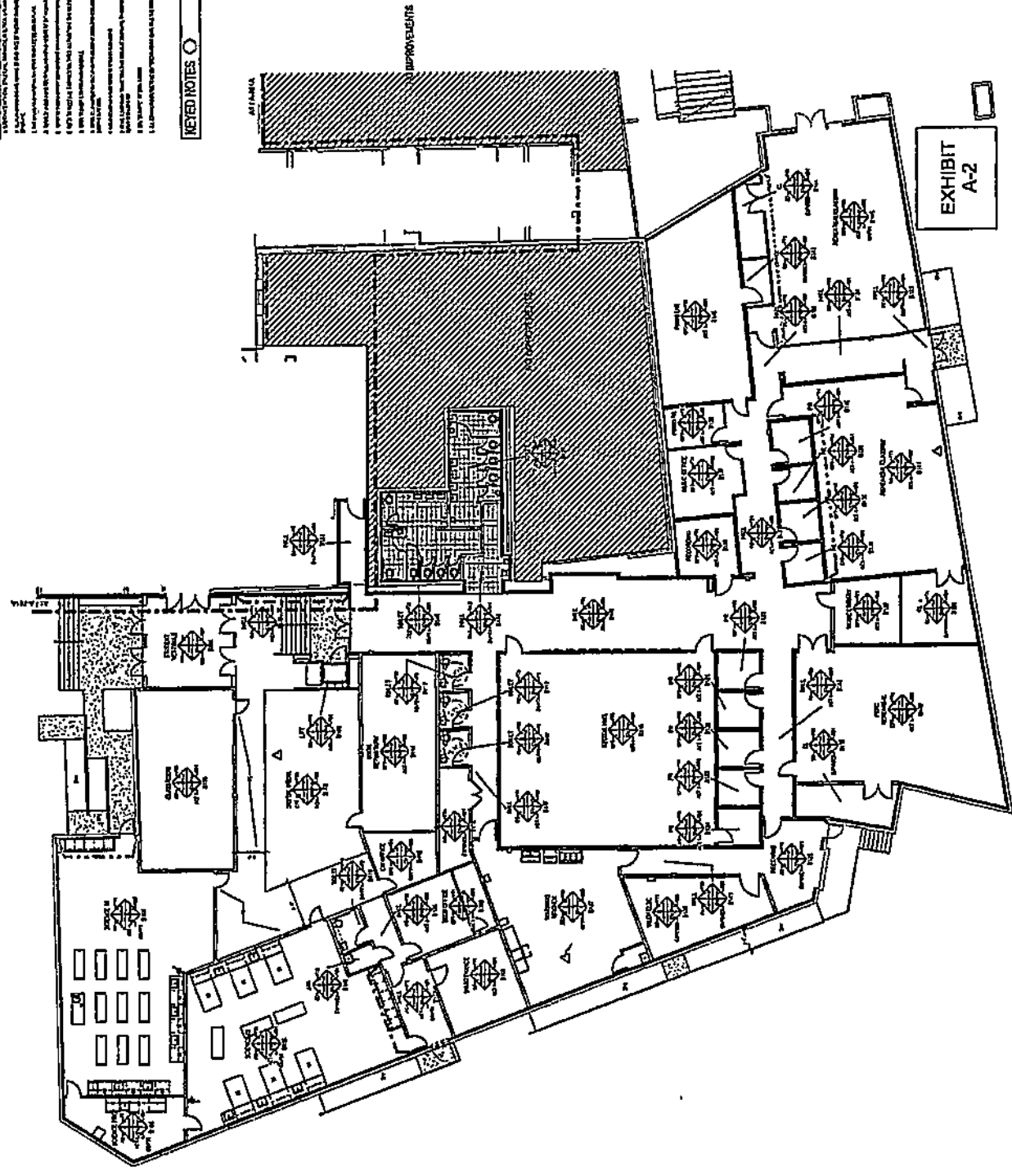
NO.	REVISION	DATE	BY	CHKD	APP'D
1	ISSUED FOR PERMIT	01/11/2017	[Signature]	[Signature]	[Signature]
2	ISSUED FOR CONSTRUCTION	01/11/2017	[Signature]	[Signature]	[Signature]
3	ISSUED FOR CONSTRUCTION	01/11/2017	[Signature]	[Signature]	[Signature]
4	ISSUED FOR CONSTRUCTION	01/11/2017	[Signature]	[Signature]	[Signature]
5	ISSUED FOR CONSTRUCTION	01/11/2017	[Signature]	[Signature]	[Signature]
6	ISSUED FOR CONSTRUCTION	01/11/2017	[Signature]	[Signature]	[Signature]
7	ISSUED FOR CONSTRUCTION	01/11/2017	[Signature]	[Signature]	[Signature]
8	ISSUED FOR CONSTRUCTION	01/11/2017	[Signature]	[Signature]	[Signature]
9	ISSUED FOR CONSTRUCTION	01/11/2017	[Signature]	[Signature]	[Signature]
10	ISSUED FOR CONSTRUCTION	01/11/2017	[Signature]	[Signature]	[Signature]
11	ISSUED FOR CONSTRUCTION	01/11/2017	[Signature]	[Signature]	[Signature]
12	ISSUED FOR CONSTRUCTION	01/11/2017	[Signature]	[Signature]	[Signature]
13	ISSUED FOR CONSTRUCTION	01/11/2017	[Signature]	[Signature]	[Signature]
14	ISSUED FOR CONSTRUCTION	01/11/2017	[Signature]	[Signature]	[Signature]
15	ISSUED FOR CONSTRUCTION	01/11/2017	[Signature]	[Signature]	[Signature]
16	ISSUED FOR CONSTRUCTION	01/11/2017	[Signature]	[Signature]	[Signature]
17	ISSUED FOR CONSTRUCTION	01/11/2017	[Signature]	[Signature]	[Signature]

GENERAL NOTES

1. ALL FINISHES SHALL BE IN ACCORDANCE WITH THE 2015 NEW MEXICO BUILDING CODE.
2. ALL FINISHES SHALL BE IN ACCORDANCE WITH THE 2015 NEW MEXICO BUILDING CODE.
3. ALL FINISHES SHALL BE IN ACCORDANCE WITH THE 2015 NEW MEXICO BUILDING CODE.
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12. ALL FINISHES SHALL BE IN ACCORDANCE WITH THE 2015 NEW MEXICO BUILDING CODE.
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14. ALL FINISHES SHALL BE IN ACCORDANCE WITH THE 2015 NEW MEXICO BUILDING CODE.
15. ALL FINISHES SHALL BE IN ACCORDANCE WITH THE 2015 NEW MEXICO BUILDING CODE.
16. ALL FINISHES SHALL BE IN ACCORDANCE WITH THE 2015 NEW MEXICO BUILDING CODE.
17. ALL FINISHES SHALL BE IN ACCORDANCE WITH THE 2015 NEW MEXICO BUILDING CODE.

KEYED NOTES

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AT FLOOR FINISH PLAN - BLDG B

A-701B.R17

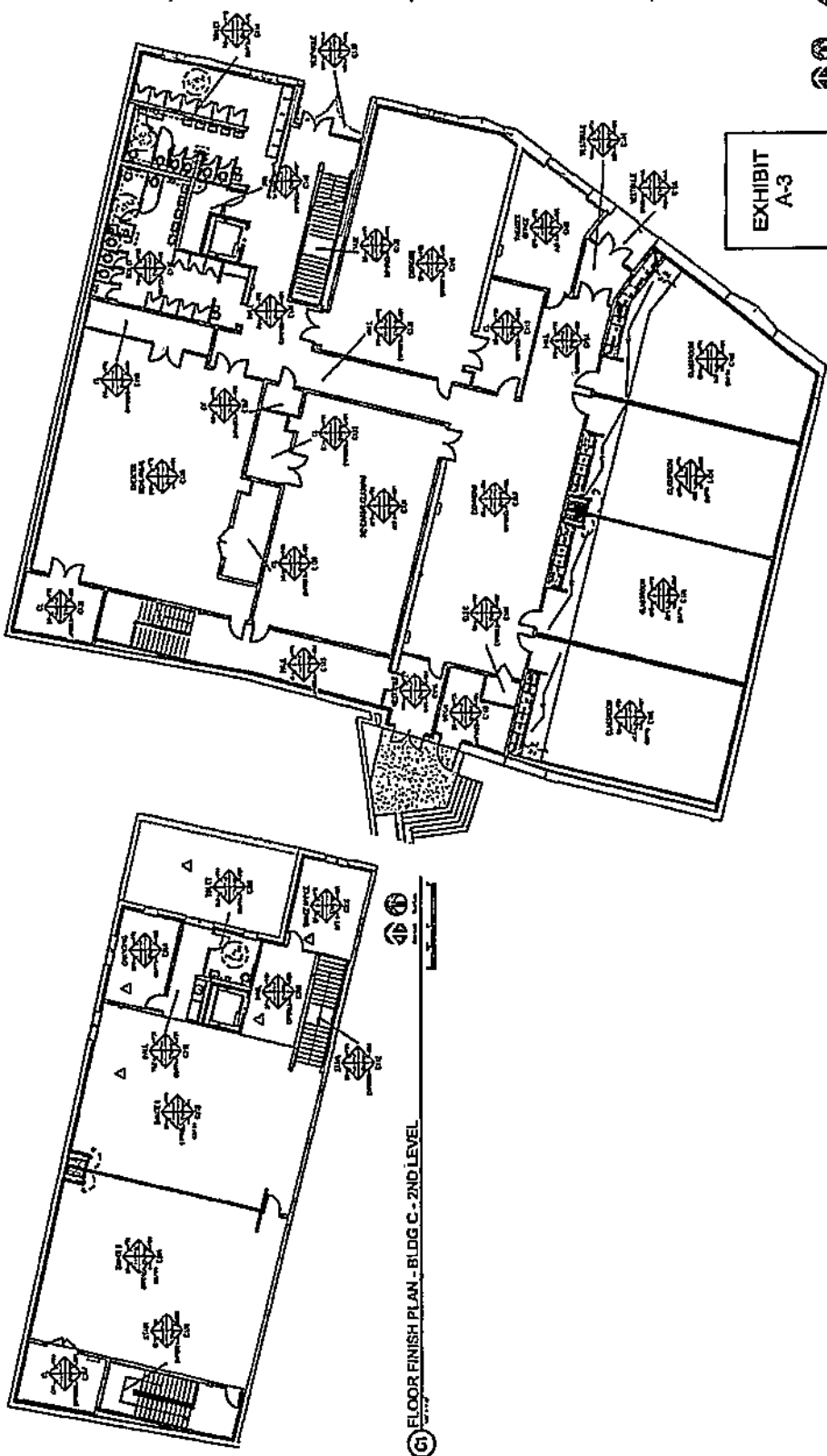


GENERAL NOTES

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES OF NEW MEXICO.
2. ALL MATERIALS AND METHODS OF CONSTRUCTION SHALL BE APPROVED BY THE ARCHITECT PRIOR TO INSTALLATION.
3. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
4. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES OF NEW MEXICO.
5. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
6. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES OF NEW MEXICO.
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9. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
10. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES OF NEW MEXICO.

KEYED NOTES

○



(A3) FLOOR FINISH PLAN - BLDG C - 1ST LEVEL

(G1) FLOOR FINISH PLAN - BLDG C - 2ND LEVEL

EXHIBIT A-3

CONSULTANT

SW ARCHITECTS, P.C.

10000 1st Avenue, Suite 100

Albuquerque, NM 87112

Phone: (505) 261-1111

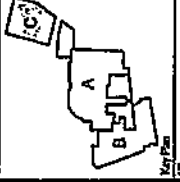
Fax: (505) 261-1112

www.swarchitects.com



NEW MEXICO SCHOOL FOR THE ARTS - PHASE 1

1000 1st Avenue, Suite 100
Albuquerque, NM 87112



NO.	DESCRIPTION	DATE
1	REVISION	10/1/00
2	REVISION	10/1/00
3	REVISION	10/1/00
4	REVISION	10/1/00
5	REVISION	10/1/00
6	REVISION	10/1/00
7	REVISION	10/1/00
8	REVISION	10/1/00
9	REVISION	10/1/00
10	REVISION	10/1/00

FINISH PLAN - BLDG C

A-701C.R17

EXHIBIT B
Base Lease Payment Schedule

Period Ending	Principal	Monthly Principal	Monthly Interest	Total Monthly P & I	Total Debt Service (Mortgage)	Capitalized Interest Fund Reserve Fund	Debt Service	Net Debt Service	Annual Net D/S	Mortgage Expenses Included in Operating				Par Amount Outstanding
										Fee: _____ %	Annual Fee: \$ _____	Annual Fee: \$ _____	Monthly Trustee Fee: \$ _____	
											PFA Monthly Fee	Monthly C/C Total	Monthly RAF Payment	

EXHIBIT C

SOURCE OF FUNDS

1. In accordance with NMSA 1978, § 22-26A-6 (B) (4), the source of funds which the Lessee will utilize are any current appropriations of legally available funds including any combination of the following:
 - a. money from the Lessee's general fund;
 - b. investment income actually received from investments;
 - c. proceeds from taxes authorized at the Albuquerque Public Schools Public School Special Public Schools Building Tax Election on February 2, 2016, imposed pursuant to the Public School Buildings Act [Chapter 22, Article 26 NMSA 1978] and allocated to the School;
 - d. loans, grants or lease payments received from the public school capital outlay council pursuant to the Public School Capital Outlay Act [Chapter 22, Article 24 NMSA 1978];
 - e. state distributions to the School pursuant to the Public School Capital Improvements Act, if any;
 - f. fees or assessments received by the Lessee;
 - g. proceeds from the sale of real property and rental income received from the rental or leasing of Lessee's property;
 - h. grants from the federal government as assistance to those areas affected by federal activity authorized in accordance with Title 20 of the United States Code, commonly known as "PL 874 funds" or "impact aid";
 - i. revenues from the tax authorized pursuant to Sections 22-26A-8 through 22-26A-12 NMSA 1978, if proposed by the local school board and approved by the voters; and
 - j. legislative appropriations,

provided that, excluded from the foregoing are: state funding under the Charter Schools Act which is specifically dedicated to the payment of expenses of the School which do not include the payment of amounts due under the Lease, and all such operating funds of the Charter School required under State or federal laws to provide required educational program expenditures.

EXHIBIT D
Copy of New Mexico Public Education Department's and
Public School Facilities Authority's Approval

EXHIBIT C

Base Rent Payment Schedule

1. Annual Base Rent for first Extended Term: \$4.00/sq. ft. x 64,776 net useable square feet = \$259,104.00; Monthly rent from July 1, 2019 to Full Possession Date equals \$18,959.25; including offset for allocation of space in Unit 1 for Lessor's administrative and other unusable space in Unit 1.
2. Base Rent Adjustment: For each successive annual Extended Term beginning July 1, 2020 and ending June 30, 2021, and thereafter: the annual rent of \$259,104.00 (\$21,592.00) shall be adjusted based on anticipated increases in unrestricted budgeted funds appropriated due to increases in student enrollment, and to increases in state lease payment assistance based on the prior year's enrollment numbers reflected in the 80th and 120th day count. The School shall notify lessor in writing, no later than May 30th of each year of the increases in the state equalization guarantee distribution based on increased student enrollment and the anticipated increase lease payment assistance distribution, for the upcoming year. The dollar amount of the incremental distributions agreed to between the Lessor and the Lessee shall be added to the annual Base Rent amount for the lease term beginning July 1 of that year.
3. The total gross square footage of Units 1, 3 and 4 leased by the NMSA equals 72,065.31 square feet. The base lease payments for the initial year of the lease shall not exceed the amount of lease reimbursement assistance approved by the state plus an amount not to exceed four percent (4%) of the School's funding for operational expenses, but in no event an amount greater than \$260,000.



May 28, 2019

New Mexico Public Education Department
Options for Parents/Charter Schools Division
300 Don Gawpar, Room 301
Santa Fe, New Mexico 87501

Re: New Mexico School for the Arts
Fiscal Year Audit Ending June 30, 2019

Dear PED:

In accordance with a request from New Mexico School for the Arts, we provide the following information:

1. Policies in force during the period **7/1/18 through 6/30/19**

PROPERTY INSURANCE

Lexington Insurance Company
Policy Number MOC NO. P0021

\$149,500,000 each occurrence, excess of \$750,000 Self-Insured Retention (Self-Insured Retention is the responsibility of New Mexico Public Schools Insurance Authority).

Covers buildings, contents, equipment and vehicles of New Mexico School for the Arts subject to a \$1,000 deductible each occurrence, which is the responsibility of the district. The Named Insured is New Mexico School for the Arts, and 202 additional members of the New Mexico Public Schools Insurance Authority.

LIABILITY INSURANCE

Great America Reinsurance
Policy Number MOC NO. L0021

\$9,500,000 excess of \$750,000 Self-Insured Retention, each occurrence (Self-Insured Retention is the responsibility of New Mexico Public Schools Insurance Authority)

Coverage is provided for General, Automobile, Civil Rights and other miscellaneous liabilities up to the limits provided for under the Tort Claims Act. Additional limit is available for liability incurred in foreign jurisdictions. The Named Insured is New Mexico School for the Arts, its employees, board members, volunteers and others whom the district may be contractually obligated to name as an insured. The policy also provides coverage for 202 other members of the New Mexico Public Schools Insurance Authority. Refer to the Summary of Coverage for more detail as to coverage and limits.

The combined annual premium for Property and Liability: \$ 19,344



WORKERS' COMPENSATION INSURANCE

Safety National Casualty Corporation

Policy Number SP 4055030

Statutory coverage applies excess of the \$750,000 Self-Insured Retention, which is the responsibility of the New Mexico Public Schools Insurance Authority.

There is no Member deductible.

The annual premium: \$ 18,110

EQUIPMENT BREAKDOWN INSURANCE

Liberty Mutual Company

Policy Number YB2-L9L-465931-018

Coverage provided for mechanical and other perils related to boilers, heating and air conditioning equipment, electrical apparatus, etc. up to a limit of \$50,000,000 each occurrence and \$2,500 deductible.

The annual premium: \$ NOT APPLICABLE

STUDENT ACCIDENT MANDATORY CATASTROPHIC INSURANCE

Ace American Insurance Company

Mandatory Catastrophic Insurance

Coverage is provided for students participating in New Mexico Activities Association (NMAA) sponsored events from Grades 7-12.

For the 2018/2019 policy, there is a \$5,000,000 limit per accident, **subject to a \$25,000 deductible.**

The annual premium: NOT APPLICABLE

STUDENT ACCIDENT VOLUNTARY CATASTROPHIC INSURANCE

Ace American Insurance Company

Policy Number **NOT APPLICABLE**

This coverage provides the opportunity for schools to extend the catastrophic insurance to all students for all other school activities during the school year. For the 2018/2019 policy, there is a \$5,000,000 limit per accident, **subject to a \$25,000 deductible.**

The annual premium: \$ NOT APPLICABLE



EXCESS EMPLOYEE FIDELITY/FAITHFUL PERFORMANCE INSURANCE

Berkley Regional Insurance Company
Policy Number BGOV-45001509-23
Excess Fidelity Insurance Coverage

Excess Fidelity Insurance Coverage covers losses caused by failure of any employee to faithfully perform his or her duties as prescribed by law as well as losses caused by forgery or alteration of checks, drafts, promissory notes or orders to pay moneys that are drawn upon your accounts by someone acting as your agent. \$2,250,000 limit subject to a \$250,000 deductible.

The annual Premium: \$ NO COST TO MEMBER

2. New Mexico School for the Arts is not entitled to any refunds or rebates on the above policies; there are no assessments or other amounts (including premium amounts) due for this period.
3. See attached claims information (if applicable) for the policy period of July 1, 2018 to June 30, 2019.

If you need any further information, please do not hesitate to contact us directly.

Sincerely,


Jessie Monterrosa-Torres, CISR
Senior Account Manager
Risk Services Department

cc: Patrick Sandoval, NMPSIA



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

04/01/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Poms & Associates Insurance Brokers CA License #0814733 5700 Canoga Ave. #400 Woodland Hills CA 91367	CONTACT NAME: Risk Services PHONE (A/C, No, Ext): (800) 578-8802 E-MAIL ADDRESS: rservices@pomsassoc.com FAX (A/C, No): (818) 449-9449
INSURED New Mexico Public Schools Insurance Authority Member: NM School for the Arts 410 Old Taos Highway Santa Fe NM 87501	INSURER(S) AFFORDING COVERAGE INSURER A: New Mexico Public Schools Insurance Authority INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES**CERTIFICATE NUMBER:** NM School for Arts**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Owners Contractors <input type="checkbox"/> Protective Liability GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			MOC NO. L0021	07/01/2018	07/01/2019	EACH OCCURRENCE \$ Tort Limit
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$ Tort Limit
							MED EXP (Any one person) \$ Tort Limit
							PERSONAL & ADV INJURY \$ Tort Limit
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						GENERAL AGGREGATE \$ Tort Limit
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						PRODUCTS - COMP/OP AGG \$ Tort Limit
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y / N If yes, describe under DESCRIPTION OF OPERATIONS below						MAXIMUM LIABILITY \$ 1,050,000
							COMBINED SINGLE LIMIT (Ea accident) \$
							BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							EACH OCCURRENCE \$
							AGGREGATE \$
							PER STATUTE OTH-ER
							E.L. EACH ACCIDENT \$
							E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Self-Insured Retention for Liability is \$750,000. See attached New Mexico Tort Claims Act Section 41-4-19: Maximum Liability Summary.

Evidence of Coverage.

CERTIFICATE HOLDER**CANCELLATION**

City of Santa Fe 200 Lincoln Ave Santa Fe NM 87501	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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COMMENTS/REMARKS

Summary of New Mexico Tort Claims Act Section 41-4-19: Maximum Liability
Governmental entities and agencies, including public schools, public charter schools and
community colleges and universities are granted immunity from liability.
Commercial General Liability
Products and Completed Operations
Professional Liability
Contractual Liability
Imposed by New Mexico Tort Claims Act [NMSA 1975 §41-4-1 through 41-4-29]
\$400,000 Bodily Injury Per Person
\$200,000 Property Damage Per Property Address
\$300,000 Medical
\$750,000 Per Occurrence
\$1,050,000 Combined Limit/Maximum Liability



CERTIFICATE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)
05/28/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

PRODUCER Poms & Associates Insurance Brokers CA License #0814733 5700 Canoga Ave. #400 Woodland Hills CA 91367	CONTACT NAME: Risk Services PHONE (A/C, No, Ext): (800) 578-8802 FAX (A/C, No): (818) 449-9449 E-MAIL ADDRESS: rservices@pomsassoc.com PRODUCER CUSTOMER ID: 00016280
INSURED New Mexico Public Schools Insurance Authority Member: New Mexico School for the Arts 410 Old Taos Highway Santa Fe NM 87501	INSURER(S) AFFORDING COVERAGE INSURER A: Berkley Regional Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES **CERTIFICATE NUMBER:** NM School for the Arts **REVISION NUMBER:**

LOCATION OF PREMISES / DESCRIPTION OF PROPERTY (Attach ACORD 101, Additional Remarks Schedule, if more space is required)


THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	COVERED PROPERTY	LIMITS
	<input type="checkbox"/> PROPERTY					
	<input type="checkbox"/> CAUSES OF LOSS	<input type="checkbox"/> DEDUCTIBLES			<input type="checkbox"/> BUILDING	\$
	<input type="checkbox"/> BASIC	<input type="checkbox"/> BUILDING			<input type="checkbox"/> PERSONAL PROPERTY	\$
	<input type="checkbox"/> BROAD	<input type="checkbox"/> CONTENTS			<input type="checkbox"/> BUSINESS INCOME	\$
	<input type="checkbox"/> SPECIAL				<input type="checkbox"/> EXTRA EXPENSE	\$
	<input type="checkbox"/> EARTHQUAKE				<input type="checkbox"/> RENTAL VALUE	\$
	<input type="checkbox"/> WIND				<input type="checkbox"/> BLANKET BUILDING	\$
	<input type="checkbox"/> FLOOD				<input type="checkbox"/> BLANKET PERS PROP	\$
					<input type="checkbox"/> BLANKET BLDG & PP	\$
					<input type="checkbox"/> Contents	\$
	<input type="checkbox"/> INLAND MARINE	TYPE OF POLICY				\$
	<input type="checkbox"/> CAUSES OF LOSS					\$
	<input type="checkbox"/> NAMED PERILS	POLICY NUMBER				\$
A	<input checked="" type="checkbox"/> CRIME				<input checked="" type="checkbox"/> Employee Theft	\$ 2,000,000
	TYPE OF POLICY	BGOV-45001509-23	07/01/2018	07/01/2019	<input checked="" type="checkbox"/> Forgery or Alteration	\$ 2,000,000
					<input checked="" type="checkbox"/> Faithful Performanc	\$ 1,000,000
	<input type="checkbox"/> BOILER & MACHINERY / EQUIPMENT BREAKDOWN					\$
						\$
						\$
						\$

SPECIAL CONDITIONS / OTHER COVERAGES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Evidence of Insurance

CERTIFICATE HOLDER **CANCELLATION**

Evidence of Insurance	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

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