

To Los Altos School District Families,

On May 7, 2012, Los Altos School District (LASD) and Bullis Charter School (BCS) concluded confidential mediation and reached a conceptual framework for a potential resolution to BCS's long-term facilities demands. It remains our goal to resolve this conflict and put the many years of legal battles behind us. The parties have been working on negotiating a written agreement consistent with that framework. Attached is a copy of the proposed agreement drafted by the LASD negotiating team for your review. LASD also shared this draft with BCS last week. BCS has raised concerns about the agreement, and we are awaiting specifics. We will consider their specific concerns once we receive them.

We fully realize that this agreement will have a short and long term impact on thousands of families and the special communities that make up our schools. Although we are obliged to meet the facilities requirements of BCS under the law, we are also obliged to meet the needs of all members of our community and we rely on your input and support to make appropriate trade-offs. We are sharing this document in order to provide our community with clarity on the arrangement and seek your support in concluding this negotiation successfully.

A critical part of this process is public input. We would like to gain an understanding of the impact of this agreement on our students from a public perspective and look for any suggestions that would both allow us to reach agreement with BCS and insure the continued success of our wonderful program. We also have a practical time limit in that we need to prepare facilities for BCS for 2012-13 by early August. The current framework under discussion also includes a facilities allocation to BCS that will allow us to meet our obligations under the 2012-13 final facilities offer in a timely manner, and a swift conclusion is essential to the District meeting its legal obligations.

In order to reach a negotiated agreement, both sides will need to compromise. BCS is agreeing to constrain themselves to a single site for the duration of this agreement. The District is voluntarily agreeing to various things that Prop. 39 does not require—including a commitment to grant BCS an exclusive site, a commitment to restrict the site location to a narrower range of campuses, and a commitment to house all of BCS's students on the Egan campus instead of using a split with the Blach campus that would be less disruptive to the Egan school. We recognize that this trade-off also has impact on our district families and their students. Whatever agreement we reach can only be entered into voluntarily by both sides, so we are seeking to develop a solution that balances everyone's input, including that of our own school communities, the greater public at large, as well as BCS..

We are holding a public meeting this Monday, May 21 at 7pm in the Covington multipurpose room, and also have a joint meeting with the Los Altos City Council on Monday, May 29 at 5:30 in the city council chambers. Please attend these meetings and provide us with your input to aid us in concluding this process with as much of your input as possible.

Sincerely,

Mark Goines  
President, Los Altos School District Board of Trustees

**CHARTER SCHOOL FACILITIES AGREEMENT BETWEEN  
LOS ALTOS SCHOOL DISTRICT AND BULLIS CHARTER SCHOOL**

THIS CHARTER SCHOOL FACILITIES AGREEMENT ("Agreement") effective upon mutual execution of the parties, is entered into by and between the Los Altos School District (hereinafter referred to as the "District") and the Bullis Charter School (hereinafter referred to as "BCS" or the "Charter School"), which is operated as a nonprofit public benefit corporation.

The District intends to provide facilities to the Charter School, and the Charter School intends to obtain its facilities from the District, in lieu of an allocation of facilities pursuant to California Proposition 39 (Education Code section 47614) and its implementing regulations ("Proposition 39"). The purpose of this Agreement is to provide facilities to the Charter School's students in lieu of the obligations set forth under Proposition 39. Charter School hereby waives any and all rights to obtain facilities from the District under Proposition 39, or any other authority outside of this Agreement, during the duration of this Agreement.

The parties do not intend this Agreement to constitute a lease of real property pursuant to Education Code sections 17455, *et seq.*, or any other provision of law, except as otherwise expressly set forth herein. The District has found that the Charter School's use and occupation of the Facilities as set forth herein in lieu of Proposition 39 are authorized under Education Code section 47614, as implemented by 5 C.C.R. section 11969.1(b).

NOW, THEREFORE, for and in consideration of the covenants and agreements hereinafter set forth to be kept and performed by the Charter School, the District hereby provides facilities to Charter School in lieu of Proposition 39 as described more fully in Section 1 of this Agreement, ("School Site"), subject to and upon all of the terms, covenants, and agreements hereinafter set forth. It is the intent of the parties that this written agreement supersede all previous agreements, written or unwritten, related to the use and occupation of any District facility by the Charter School.

1. SCHOOL SITE:

A. Selection of Site: The District shall grant Charter School the right to use and occupation of one (1) of the following four District School Sites on the delivery date set forth in this Agreement:

- i. Almond Elementary School ("Almond");
- ii. Santa Rita Elementary School ("Santa Rita");
- iii. Gardner Bullis Elementary School ("Gardner Bullis");
- iv. Covington Elementary School ("Covington").

In lieu of selecting one of the school sites identified above, the District reserves the right to place charter school in any newly-constructed or alternative site located within the attendance areas of any of the above-listed schools.

B. The selection of one (1) of the above-named School Sites shall be within the exclusive discretion of the District, and Charter School hereby waives any legal action against the District arising out of the selection of the School Site.

C. The District shall grant Charter School the right to use and occupation of the buildings, grounds and facilities within the perimeter of the School Site, as depicted on the diagrams attached as **Exhibit A** (Almond), **Exhibit B** (Santa Rita), **Exhibit C** (Gardner Bullis), and **Exhibit D** (Covington), except as set forth below for each School Site:

- i. Almond:
  - a. Child Care Facilities, located in Buildings **XXX**.
- ii. Santa Rita:
  - a. Child Care Facilities, located in Buildings **XXX**.
- iii. Gardner Bullis:
  - a. Child Care Facilities, located in Buildings **XXX**.
- iv. Covington:
  - a. Child Care Facilities, located in Buildings **XXX**.
  - b. Areas earmarked for District use, as depicted in **Exhibit D**.

Charter School's right to use and occupation of said School Site shall extend to the areas contained within the right of way available for District use and occupation at the time of delivery of the site. However, Charter School shall allow public access to ingress and egress points on the School Site, as well as shared space on the School Site, consistent with that offered at other District schools, to allow public access to those portions of the School Site available for public use and access.

D. Definitions:

The following terms shall be defined as follows in this Agreement:

- (i) "School Site" means the District school listed in Section 1(B) selected by the District for the location of the Charter School pursuant to this Agreement.
- (ii) "Students" shall refer exclusively to students residing within the Los Altos School District boundaries.
- (iii) "Bond" or "Bond Measure" means any general obligation bond measure subject to approval by voters whose purpose includes raising funds for the construction of a tenth school site in the District.

E. The District will announce which of the four sites above will be the new School Site for the Charter School on a date to be determined. The date of disclosure, and the selection of the School Site shall remain within the sole discretion and election of the District.

F. Once possession of the School Site is delivered to Charter School, Charter School's right to use and occupation of the site shall extend throughout its instructional year, from the hours of 8:00 a.m. to 3:30 p.m., subject to the provisions governing community usage of the School Site contained in Section 12 of this Agreement.

G. Prior to delivery of the selected School Site to Charter School, the District will build out the site to accommodate the number of Charter School in-District K-8 students projected for the Charter School's first school year on the School Site; provided, however, that in no event shall the District be obligated to build out the site in excess of a capacity of 615 students. The number, size, and potential placement of additional buildings at each of the sites are depicted in the diagram attached as **Exhibit A** (Almond), **Exhibit B** (Santa Rita), **Exhibit C** (Gardner Bullis) or **Exhibit D (Covington)**. The District shall install the additional buildings in time for use and occupation by the Charter School no later than ten (10) calendar days prior to the first day of instruction on the Charter School's calendar.

H. During the term of this Agreement, for every 25 additional students enrolling in Charter School in excess of 615, the District shall bear the cost of installing one additional portable classroom building of 960 sq. ft. In the event that Charter School elects, in lieu of the addition of a portable classroom building, to install a two-story portable building and/or permanent building, Charter School shall pay the difference in cost between installing a one-story portable building and a two-story portable or permanent building. Any such improvements to the School Site made by Charter School shall be subject to Paragraph 8 of this Agreement. The location of any and all buildings added by the District pursuant to this paragraph or the preceding paragraph shall be subject to the District's sole discretion. Charter School may change the location of the buildings, but shall do so at its own expense and in compliance with all applicable legal requirements, and in consideration of neighborhood concerns. Charter School shall also bear the cost of any and all improvements made to the School Site, other than those provided for in this paragraph.

Any portable buildings added by the District under this paragraph shall be subject to removal by the District should Charter School's enrollment fall by 25 students. The District shall be entitled to remove one (1) portable for every 25 students lost.

I. The methodology for determining the enrollment growth or decline of the Charter School is contained in Sections 4(B) and (C) of this Agreement.

J. Charter School shall be allowed limited access to the School Site prior to the date of delivery set forth in Section 2 of this Agreement during the summer prior to the date of delivery for the limited purpose of moving the Multi Purpose Room built by the Charter School at Egan Jr High to the selected School Site, under the direct supervision of the District.

K. The following terms shall only apply in the event that the District elects to place the Charter School at Covington:

i. The District would be entitled to operate any lawful program in the portion of the Covington site not earmarked for use and occupation by Charter School, as depicted on **Exhibit D**.

ii. In the event that the District operates any District program at Covington, it would make good faith efforts to take any steps under the California Environmental Quality Act ("CEQA"), California Public Resources Code § 21000 et seq., and its implementing regulations, necessary for the lawful operation of both the District and Charter School programs at the site.

iii. Charter School students would have the right to gain access to the portion of the Covington site earmarked for use and occupation by Charter School from Rosita Park. Section 1(C) of this Agreement shall apply to Charter School's use and occupation of the School Site in the event that the District selects Covington.

iv. The District would allow Charter School to increase enrollment up to the maximum approved site capacity for Covington, and the District would use reasonable efforts to take action under CEQA to accommodate Charter School's increased enrollment. However, nothing in this provision shall be construed to constitute a warranty, representation or guarantee by the District that the District would be able to obtain the necessary clearances under CEQA to accommodate the Charter School's desired enrollment at Covington.

L. Charter School agrees that the District is only obligated to deliver, and otherwise provide, to the Charter School one School Site as set forth above. Charter school expressly waives any right to facilities on any additional School Site other than the School Site selected and provided by the District under this Agreement.

M. The parties acknowledge that title to the selected School Site is held by the District and shall remain in the District at all times. Charter School waives any right, title or interest to the Site other than the rights to use and occupation expressly set forth in this Agreement. Charter School also expressly waives any and all right, title and interest to any improvements made to the Site, and to the land on which such improvements are located, including but not limited to improvements which the Charter School has subsidized, even if those improvements are approved by the District in writing before installation. Charter School shall remove any improvements made on the School Site upon the termination of this Agreement, or any subsequent five-year option,

at its own expense. The District may, at its sole election, retain the improvements. The Charter School shall not uninstall or remove any fixtures or improvements made at the Site without prior written approval of the District.

N. In the event that, at any time subsequent to the execution of this Agreement, Almond, Santa Rita, Gardner Bullis or Covington school sites become encumbered in a manner that would impede the District's ability to deliver possession of such school site to Charter School as contemplated under this Agreement, or in the event that any of the aforementioned schools are converted into charter status under Education Code section 47605(a)(2), the parties shall meet and confer in good faith to identify an alternative set of schools to constitute the potential School Sites under this Agreement.

## 2. TERM AND DATE OF DELIVERY:

The District shall deliver possession of the School Site to pursuant to Section 1 of this Agreement as follows:

A. If the District passes a bond in the November, 2012 election, the District shall deliver possession of the School Site to Charter School no later than ten (10) days prior to the first day of instruction during the 2013-2014 school year.

B. If the District does not pass a bond in the November, 2012 election, or does not place a bond on the November, 2012 ballot, the District shall deliver possession of the School Site to Charter School no later than ten (10) days prior to the first day of instruction during the, 2014-2015 school year.

C. Nothing in this Agreement shall obligate the District to place a bond measure on the ballot if it determines within its exclusive discretion not to do so.

D. For a bond measure calling for the construction of a tenth District site, the District will identify the amount needed for capital improvements for each of its nine campuses prior to the adoption of this Agreement and prior to the submission of the bond measure to the voters. If the measure calling for the construction of a tenth District site passes, the amount of funds left after expenditures for building out a new school or expanding capacity shall be divided pro rata between the remaining campuses according to each campus' percentage of the capital improvements need previously identified. The funds allocated to the campus eventually selected for the Charter School will be expended on making such capital improvements according to the pro rata allocation, consistent with the terms of the bond measure approved by the District's voters, and in compliance with the procedures for proper allocation of bond funds required by law.

E. The end term of this Agreement shall be June 30 of the tenth year following Charter School's initial occupation of the School Site. Therefore, should

Charter School initially occupy the site ten (10) days prior to the first day of instruction during the 2013-2014 school year, the term of this Agreement shall run through June 30, 2023. Should Charter School initially occupy the site ten (10) days prior to the first day of instruction during the 2014-2015 school year, the term of this Agreement shall run through June 30, 2024.

F. Upon the termination of this agreement, Charter School shall have the option of extending the terms of this Agreement for no more than four (4) additional, separate terms of five (5) years duration. Charter School shall deliver written notice of its intent to exercise this option no less than one (1) year prior to the last day of the term of this Agreement, or of the last day of the term of the additional, five-year option. Such notice shall be hand-delivered and addressed as follows:

Superintendent of Schools  
Los Altos School District  
201 Covington Road  
Los Altos, CA 94024

Board President  
Los Altos School District  
201 Covington Road  
Los Altos, CA 94024

Charter School shall only be entitled to exercise one (1), five-year option at a time. In the event that Charter School timely exercises an option, the terms of this Agreement shall automatically roll over for the five-year term of the option, unless the Agreement is terminated before such time by mutual agreement of the parties, or under the terms of this Agreement. Failure of the Charter School to timely exercise an option shall constitute a waiver of such option.

G. This agreement, or any option exercised after the completion of the original term, terminates automatically upon revocation, nonrenewal or termination of the Bullis Charter School charter, but not before Charter School has exhausted its administrative (non-judicial) appeals process from such nonrenewal/revocation set forth under Education Code section 47607. This agreement shall not continue in operation while Charter School exercises any judicial challenges to any such nonrenewal/revocation. The parties, by mutual agreement only, may provide that the Agreement shall be extended to allow Charter School use and occupation of the School Site only through the end of the instructional year in which termination of the charter occurs.

H. Upon termination of this Agreement for any reason, Charter School shall quit the School Site and remove its possessions therefrom as of the effective date of termination, or upon the expiration of this Agreement or any exercised option. Charter School shall return all facilities on the School Site to their original condition, excepting normal wear and tear.

I. This Agreement constitutes the exclusive obligation of the District to provide facilities to the Charter School during the entire duration in which this Agreement, or any subsequent options, are in effect. Charter School agrees to waive its right to seek facilities from the District in addition to those set forth herein, under

Education Code section 47614 (“Proposition 39”), or upon any other basis, during the duration of this Agreement, and during the term of any option exercised pursuant to Section 2(E) above. Charter School agrees to waive any right to challenge the School Site, or any facilities thereon, selected by the District, on the basis of “Reasonable Equivalence” obligations, location requirements or procedure set forth in Education Code section 47614, its implementing regulations, or interpreting case law. Charter School agrees to waive any and all claims, causes of action, and other legal actions against the District arising out of its occupation of the facilities and School Site cited therein, whether such claims be based on Proposition 39 or not, except to enforce the terms of this Agreement. Charter School represents and warrants that it has the legal capacity to waive such claims on behalf of its officers, directors, employees, parent and students. Nothing in this provision shall bar the application of Section 8 (“Indemnification”) of this Agreement.

J. Subsequent to the termination of this Agreement for any reason prior to the end date set forth in Section 2(D) of this Agreement, or prior to the termination of any five-year option set forth in Section 2(E) of this Agreement, Charter School agrees not to seek facilities from the District, under Proposition 39, or any other legal authority for any school year occurring prior to the expiration term of this Agreement, or subsequent five-year option, unless mutual written consent is granted by the District.

K. Upon the termination of this Agreement at the end date set forth in Section 2(D) without the Charter School’s exercise of a subsequent five-year option, or upon the expiration of a five-year option without Charter School’s election of a subsequent five-year option, the District shall have no obligation to provide any School Site or facilities to Charter School under the terms set forth in this Agreement. Charter School shall be subject to the request procedure for facilities under Proposition 39, or whatever legal authority may exist at that time, if any, should it wish to request facilities from the District.

L. These provisions of this Agreement apply to the Bullis Charter School, as well as any program operated by the Bullis Charter School Governing Board, as well as any charter school or educational program operated pursuant to a charter held by the 501(c)(3) nonprofit public benefit corporation holding the Bullis Charter School charter.

M. This Agreement will also automatically terminate within thirty (30) calendar days in the event that either of the following occur: 1) Proposition 39 is rescinded, revoked, amended, revised, modified or adjudged in any manner so as to absolve the District from the obligation to provide facilities to charter schools operating in the District; 2) Another charter is granted by any agency calling for the physical location of a charter school within District boundaries. The parties, by mutual agreement only, may provide that the Agreement shall be extended to allow Charter School use and occupation of the School Site only through the end of the instructional year in which termination of the charter occurs.



3. CHARTER SCHOOL FACILITIES PRIOR TO DELIVERY OF SCHOOL SITE:

A. Until such time that the School Site is delivered as provided in Section 2 of this Agreement, Charter School shall have use and occupation a subset of the facilities located at Egan Jr High School.

B. Charter School shall have rights to use and occupation of the same facilities at Egan Jr High School to which it had use and occupation during the 2011-2012 school year, with the addition of the following facilities:

- 1) 2 additional classroom units (960 sq. ft. each) for grades K-6;
- 2) 1 additional classroom unit (960 sq. ft. each) for grades 7-8;
- 3) 1 unit of Small Group Space (480 sq. ft.);
- 4) 2 additional classroom units (960 sq. ft. each or the equivalent amount of space) for music;
- 5) 1.5 units for a science portable as designed;
- 6) Large Event Room constructed by District;
- 7) 3 weeks use of the home economics room at Egan (Use by 6,7,8 grades only after X:XX a.m.);
- 8) 2 weeks use of the Woodworking room at Egan (use by 6,7,8 grades only after X:XX a.m.)

Charter School agrees that the District's provision of the above-described facilities at Egan Jr High School shall not be subject to the "Reasonable Equivalence" obligations, location requirements or procedure set forth in Education Code section 47614, its implementing regulations, or interpreting case law, and shall be governed only by the terms of this Agreement.

The additional facilities listed above shall be located in accordance with the diagram attached as **Exhibit E** or in a location to be mutually agreed upon.

4. CHARTER SCHOOL'S OBLIGATIONS:

A. Minimum Enrollment: Charter School shall maintain a minimum enrollment at all times during which this Agreement is in effect. In the event that the Charter School's enrollment falls below 400 students, the District shall have the sole and exclusive election of either of the following remedies:

1. Automatic Termination of Agreement: The District may terminate the Agreement upon 30 days written notice. Upon termination of the Agreement, the parties' rights shall be determined by the terms of Proposition 39, provided that it is in effect, or any other law then in effect specifically governing the provision of facilities to charter schools by school districts. Should this Agreement terminate during the course of the Charter School's instructional year, this Agreement shall be terminated, but the District and Charter School may reach an interim agreement by which the Charter School is permitted continued use and occupation of the selected School Site for the remainder of the instructional year.

2. Recovery of Facilities: The District, at its sole and exclusive discretion and election, may choose to recover grounds and facilities from the Charter School as follows:

a. Classroom, Specialized Teaching and Non-Teaching Facilities:

The District shall have the right to recover such facilities according to the following formula:

$$\frac{(\text{Maximum Charter School Enrollment during term of Agreement} - \text{Minimum Charter School Enrollment during term of Agreement})}{25} = \text{Number of Units Recoverable by District.}$$

b. Square Footage of Blacktop and Play Space:

$$(\text{Maximum Charter School Enrollment during term of Agreement} - \text{Minimum Charter School Enrollment during term of Agreement}) \times \text{Sq Ft. per Student Ratio calculated at time of Maximum Charter School Enrollment during term of Agreement}$$

After five school years of use and occupation of the School Site, the Charter School's minimum enrollment triggering the above remedies will be 500 students.

B. Charter School's enrollment shall be calculated by the actual Charter School enrollment reported to the State to calculate the Charter School's ADA during the P-1 or P-2 reporting periods. The remedies under this subsection of the Agreement shall be invoked whenever the Charter School reports a total enrollment of under 400 in-District students (or 500 in-District students, after five years of use and occupation of the School Site) during either the P-1 or P-2 reporting periods.

C. To effectuate the provisions of this subdivision, Charter School shall provide to the District a complete list of currently enrolled students (both in-District and out- of-District), along with their addresses of residency, no less than ten school days

following the first day of instruction each school year, as well as no less than ten school days following the submission of data in connection with the P-1 and P-2 reporting periods.

D. Charter School shall support any and all District bond campaigns during the duration of this Agreement. A Charter School representative shall serve as co-chair of the District's bond campaign, if so requested by the District. The Charter School Board shall take no action in opposition to the passage of the bond campaign, or in derogation of the District's efforts to pass the bond.

E. The parties expressly waive recovery from each other of any and all claims for attorneys' fees and court costs incurred at any time up to and including the effective date of this agreement. Specifically, the Charter School and District waive any and all claims to recovery of attorneys' fees and costs from each other in the matter *Bullis Charter School v. Los Altos School District*, Santa Clara County Superior Court Case No. 109 CV 144569.

5. ALLOCATION OF RESPONSIBILITY:

A. Condition of School Site: The District is not aware of any defect in or condition of any of the potential School Sites that would prevent their use for the Charter School's purposes. The District has not received any notices nor is it aware of any violation of statute, ordinance, regulation, order or holding from any state or federal agency with jurisdiction over any of the potential School Sites that calls into question their appropriateness or sufficiency of the School Sites for their intended purpose.

B. Compliance: The parties agree that, through this agreement, they: (1) are not committing to a specific location or School Site for the Charter School at this time; (2) will evaluate their obligations under CEQA prior to selecting a specific School Site for the Charter School; and (3) the District retains its full discretion to approve, at a later time, any of the four potential School Sites identified above, and impose mitigation measures that may be necessary to reduce site-specific impacts.

C. Costs of Compliance: Charter School agrees that it will bear the full cost incurred by the District necessary to achieve compliance with CEQA and any other applicable law, including but not limited to legal and consultant fees and staff time. Charter School shall indemnify, hold harmless, and defend the District, its trustees, officers, employees and agents against and from any and all claims, demands, actions, suits, losses, liability, expenses and costs arising out of the location of Charter School at the selected School Site.

6. USE:

A. Independence of Operation: The District acknowledges that the Charter School is governed by the Charter School's own board of directors, which has the sole

responsibility for determining the policies and operations of the Charter School in accordance with its charter, and subject to the oversight of the Santa Clara County Office of Education.

B. Use: The School Site shall be used and occupied by Charter School for the sole purpose of operating a California public charter school and all its related school activities and for no other purpose without the prior written consent of District.

C. Uses Prohibited:

(i) Charter School shall not do or permit anything to be done in or about the School Site nor bring or keep anything therein which will in any way increase the existing insurance rate or affect any fire or other insurance upon the School Site or any of its contents, or cause a cancellation of any insurance policy covering said School Site or any part thereof or any of its contents, nor shall Charter School sell or permit to be kept, used, or sold in or about said School Site any articles which may be prohibited by a standard form policy of fire insurance. Nothing in this provision shall be construed to prevent Charter School from adding portable buildings to the School Site in compliance with the terms of this Agreement and applicable law.

(ii) Neither party shall do or permit anything to be done in or about the School Site that will in any way obstruct or interfere with the rights of the other party or injure or annoy the other party or use or allow the School Site to be used for any unlawful or objectionable purpose nor shall either party cause, maintain or permit any nuisance in or about the School Site. Neither party shall not commit or suffer to be committed any waste in or upon the School Site.

(iii) Charter School shall not use the School Site or permit anything to be done in or about the School Site that will in any way conflict with any applicable law, statute, ordinance or governmental rule, or regulation now in force or which may hereafter be enacted or promulgated, or with the Charter School's charter. Charter School shall comply with District policies and/or procedures and practices regarding the operations and maintenance of the facilities, furnishings and equipment.

7. FURNISHINGS AND UTILITIES:

A. District's Obligations: The District agrees to provide furnishings and equipment present at the School Site at the time of delivery. The School Site and any furnishing and equipment provided to the Charter School shall remain the property of the District. The District's inventory of all District property that is located on the School Site will be listed in the inventory that will be attached to this Agreement as **Exhibit F**. If any additional furnishings and/or equipment are provided to the Charter School by the District during the Term of this Agreement, such furnishings and equipment shall be added to the District's inventory and shall remain the property of the District. Nothing herein shall be construed to obligate the District to provide additional furnishings and

equipment above current (i.e., at the time of delivery of the School Site to the Charter School) levels during the term of this Agreement, and Charter School hereby waives its right to seek such furnishings and equipment for the pendency of this Agreement.

The District shall make arrangements for the Charter School to have access to the electricity, water, natural gas and sewage on the School Site. The Charter School shall be responsible for installing, paying for, and maintaining required fire and smoke detection/alarm systems.

B. Charter School's Obligation: Charter School shall pay for all utilities consumed by Charter School on the School Site, including but not limited to, gas, electric, water, sewage, natural gas, and for any and all connection charges. The Charter School shall also be responsible for wiring/MIS infrastructure improvements. The Charter School will be responsible to make arrangements for and to pay for garbage, internet, telephone, electric and gas service and any related connection charges. The Charter School shall be required to, and be responsible for installing, paying for, and maintaining any security system.

In the event that the Charter School is placed at Covington, the Charter School shall pay for all utilities on a pro-rata basis based on its enrollment and that of any District program operating at the portion of the Covington School Site not earmarked for use and operation of the Charter School.

## 8. MAINTENANCE AND REPAIRS; ALTERATIONS AND ADDITIONS:

A. Maintenance and Repairs: Facilities and furnishings and equipment provided to the Charter School shall remain the property of the District. However, the District shall have no ongoing obligation for the replacement of furnishings and equipment supplied by the District, or for the provision of additional furnishings and equipment. The ongoing operations and maintenance of the facilities and equipment is the responsibility of the Charter School. The school district may require that the Charter School comply with school district policies regarding the operations and maintenance of the School Site facility and furnishings and equipment. The Charter School may purchase operations and maintenance services from the District as provided in a separate written agreement, though the District shall not be obligated to provide such services.

The Charter School shall bear financial responsibility for the routine and major maintenance of the facilities used by Charter School. For purposes of this section, "major maintenance" includes the major repair or replacement of plumbing, heating, ventilation, air conditioning, electrical, roofing, and floor systems, exterior and interior painting, and any other items considered deferred maintenance under Education Code section 17582. All other kinds of maintenance shall be considered routine maintenance. The major maintenance and projects eligible to be included in the District deferred maintenance plan established pursuant to Education Code section 17582 shall be the

responsibility of the Charter School. While the District shall retain exclusive control over the performance of routine and major maintenance at the School Site, Charter School shall reimburse the District for performing such maintenance.

B. Alterations and Additions:

(i) Charter School shall make no alterations, additions, or improvements (“alterations, additions, or improvements” are defined as changes that would be deemed to be a “fixture” in accordance with California Civil Code section 660) to the School Site or any part thereof without obtaining the prior written consent of District.

(ii) District has the sole discretion to impose as a condition to the aforesaid consent any requirements the District may deem necessary, including but not limited to, the manner in which the work is done, a right of approval of the contractor by whom the work is to be performed, the times during which the work is to be accomplished, and the requirement that upon written request of District prior to the expiration or earlier termination of the Agreement, Charter School will remove any and all alterations, additions or improvements to the School Site installed by the Charter School pursuant to this provision. The District reserves the right to require approval of all terms, including but not limited to construction schedule, work hours, and modifications, as well as requiring licensing and bonding of contractors (including performance and payment bonds), as well as compliance with prevailing wage laws, as well as any and all laws, rules, regulations and ordinances applicable to school buildings.

(iii) All such alterations, additions or improvements that were permitted to be made consistent with Section 6(B)(ii) and (iii) shall at the expiration or earlier termination of the Agreement become the property of District and remain upon and be surrendered with the School Site, unless the District requests its removal as specified in Section 1(M) above, or unless the parties agree otherwise in writing.

(iv) All articles of personal property owned by Charter School or installed by Charter School at its expense in the School Site shall be and will remain the property of Charter School and may be removed by Charter School at any time during the Agreement term. All Charter School personal property must be removed by Charter School at the time it ends occupancy of the facilities.

(v) The Charter School shall be allowed to post signs that identify its location and name on the School Site in a manner that is customary and equivalent to what other District School Sites have established.

9. ENTRY BY DISTRICT:

District reserves the right to enter the School Site to inspect the same, to supply any service to be provided by District to Charter School hereunder, and to alter, improve

or repair the School Site, and may erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed, providing always that the entrance to the School Site shall not be blocked thereby, and further providing that the business of Charter School shall not be unreasonably interfered with. Charter School hereby waives any claim for damages for any injury or inconvenience to or interference with Charter School's business, any loss or occupancy or quiet enjoyment of the School Site. For each of the aforesaid purposes District shall at all times have and retain a key with which to unlock all of the doors in, upon and about the School Site, excluding Charter School's vaults and safes, and District shall have the right to use any and all means which District may deem proper to open said doors in an emergency, in order to obtain entry to the School Site, and any entry to the School Site obtained by District by any of said means, or otherwise, shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into or a detainer of the School Site, or an eviction of Charter School from the School Site or any portion thereof.

10. INDEMNITY:

Charter School shall indemnify, hold harmless, and defend the District, its trustees, officers, employees and agents against and from any and all claims, demands, actions, suits, losses, liability, expenses and costs for any injury, death or damage to any person or property occurring in, on or about the School Site after District delivers possession of the School Site to the Charter School, arising from the Charter School's use of the School Site or from the conduct of its business or from any activity, work, or other things done, permitted or suffered by Charter School in or about the School Site; provided, however, that Charter School shall not have any obligation to indemnify, hold harmless or defend the District, its trustees, officers, employees and agents against and from any and all claims, demands, actions, suits, losses, liability, expenses and costs for any injury, death or damage to any person or property occurring in, on or about the Site after District delivers possession of the School Site to the Charter School, resulting from or arising out of the sole negligence or willful malfeasance of the District, its trustees, officers, employees and agents or any person or entity not subject to the Charter School's control and supervision.

District shall indemnify, hold harmless, and defend Charter School, its trustees, officers, employees and agents against and from any and all claims, demands, actions, suits, losses, liability, expenses and costs for any injury, death or damage to any person or property occurring in, on or about the School Site after District delivers possession of the School Site to the Charter School, arising from the District's use of the School Site or from the conduct of its business or from any activity, work, or other things done, permitted or suffered by District in or about the School Site; provided, however, that District shall not have any obligation to indemnify, hold harmless or defend Charter School, its trustees, officers, employees and agents against and from any and all claims, demands, actions, suits, losses, liability, expenses and costs for any injury, death or damage to any person or property occurring in, on or about the School Site after District

delivers possession of the Site to the Charter School, resulting from or arising out of the sole negligence or willful malfeasance of the Charter School, its trustees, officers, employees and agents or any person or entity not subject to the District's control and supervision.

11. INSURANCE:

A. Coverage. Charter School will obtain its own insurance coverage and supply the District certificates of insurance, with proof of insurance of at least the types and amounts recommended by the District's insurer based upon the standard coverage for a school of similar size and location, as follows:

i. Comprehensive or commercial general liability insurance with limits not less than Two Million Dollars (\$2,000,000) each occurrence combined single limit for bodily injury and property damage.

ii. Comprehensive or Business Automobile Liability Insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence Combined Single Limit for Bodily Injury and Property Damage including coverage for Owned, Non-owned and Hired Vehicles, as applicable.

The District reserves the right to require Charter School to maintain limits required of other tenants on District property.

iii. Workers' Compensation, with Employer's Liability limits not less than One Million Dollars (\$1,000,000) each.

iv. Professional Liability (Errors and Omissions or Directors and Officers) Insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence.

v. If any policies are written on a claims-made form, Charter School agrees to maintain such insurance continuously in force for three years following termination or revocation or termination of the Charter or extend the period for reporting claims for three years following the termination or revocation of the Charter to the effect that occurrences which take place during this shall be insured.

vi. Charter School shall be responsible, at its sole expense, for separately insuring its personal property.

vii. Charter School shall add the District as a named additional insured on all of its insurance policies and shall provide the District with certificates of insurance and endorsement page no later than 30 days prior to the commencement of instruction.



The District shall maintain property insurance insuring the structures contained on the site with terms and policy limits commensurate to those maintained on other comparable District structures.

B. Waiver of Subrogation. To the extent permitted by Charter School's insurance carriers, Charter School hereby waives any and all rights of recovery against the District or against the District's officers, employees, agents, and representatives, on account of loss or damage occasioned to the Charter School or its property or the property of others under its control to the extent that such loss or damage is insured against under any fire and extended coverage insurance policy which either may have in force at the time of such loss or damage. Charter School shall, upon obtaining the policies of insurance required under this Agreement, give notice to the insurance carrier or carriers that the foregoing waiver of subrogation is contained in this Agreement.

## 12. ASSIGNMENT AND SUBLETTING:

Charter School may not assign its rights or sublet any portion of the School Site without the written consent of District.

Although Charter School shall have the use of the School Site provided for in this agreement, the provisions of the Civic Center Act (Education Code section 38131 et seq.) shall apply in the event of a request to use the facilities on the School Site. The District's Governing Board shall have exclusive authority in considering all requests by third parties to use the facilities at the School Site. Charter School shall forward all third-party requests to use the facilities to the District within three (3) business days of receipt.

## 13. DEFAULT; REMEDIES:

A. Default. The occurrence of any of the following shall constitute a default and breach of this Agreement by Charter School:

(i) Any failure by the Charter School to use and occupy the School Site for the operation of a Charter School as required by this Agreement;

(ii) The abandonment of the entire School Site by Charter School;

(iii) Any failure by the Charter School to maintain insurance on the School Site as outlined herein or to provide evidence of insurance as required by this Agreement, and where the failure continues for 10 days after receiving written notice of the failure to make payment or cancellation of insurance;

(iv) Any failure by the Charter School to observe and perform any other provision of this Agreement to be observed or performed by Charter School, where such failure continues for 30 days after receipt of written notice thereof by District

to Charter School, unless, however, the nature of the default is such that the same cannot reasonably be cured within said 30 day period. Charter School shall not be deemed to be in default if Charter School shall within the 30 day period commence such cure, and by determination of the District, diligently prosecute the cure to completion. In the event that the District has to issue written notice to the Charter School for violation of the same obligation or provision of this Agreement on three or more occasions, the District may commence legal proceedings to terminate this Agreement, or take any other remedy provided in this Agreement, without the necessity of providing written notice to the Charter School.

(v) If the Charter School's charter is not renewed, or is revoked, or terminated for any reason, after exhaustion of all statutory, nonjudicial appeals under Education Code section 47607, or the Charter School ceases to use the School Site for a charter school purpose. This provision is not subject to the cure provision set forth in Section 13(A)(iv) of this Agreement.

(vi) The making by Charter School of any general assignment or general arrangement for the benefit of creditors; the filing by or against Charter School of a petition to have Charter School adjudged bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Charter School, the same is dismissed within 60 days); the appointment of a trustee or receiver to take possession of substantially all of Charter School's assets located at the School Site or of Charter School's interest in this Agreement, where possession is not restored to Charter School within 30 days; or the attachment execution or other judicial seizure of substantially all of Charter School's assets located at the School Site or of Charter School's interest in this Agreement, where such seizure is not discharged within 30 days

(vii) The failure of the charter school to perform, in the judgment of the District, any of the obligations set forth in Section 4 of this Agreement, subject to the cure provision set forth in this Agreement.

(iix) Charter School's violation of the Waiver provision in Section 20 of this Agreement.

(ix) The terms and conditions set forth in Section 2(M) of this Agreement are expressly incorporated into this provision, and are not subject to the cure provision set forth in Section 13(A)(iv) of this Agreement.

B. District Default and Charter School Remedies: District shall not be in material breach and default unless District fails to perform obligations required of District within a reasonable time, but in no event later than 30 days after receipt of written notice by Charter School to District specifying wherein District has failed to perform such obligations; provided, however, that if the nature of the District's obligation is such that more than 30 days are required for performance, then the District shall not be in default

if the District commences performance within such 30 day period and thereafter diligently prosecutes the same to completion.

C. Remedies. If the Charter School commits any default or breach, including but not limited to the obligations set forth in Section 4 of this Agreement, then District may, at any time thereafter without limiting District in the exercise of any right or remedy at law or in equity which District may have by reason or such default or breach:

(i) Maintain this Agreement in full force and effect and recover any monetary or consequential damages as they become due, without terminating Charter School's right to possession irrespective of whether Charter School shall have abandoned the School Site. If District elects not to terminate the Agreement, then District shall have the right to attempt to lease the School Site at such rent and upon such conditions and for such a term, and to do all acts necessary to maintain or preserve the School Site as District deems reasonable and necessary without being deemed to have elected to terminate the Agreement, including removal of all persons and property from the School Site; such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Charter School. If any such re-letting occurs, then this Agreement shall terminate automatically.

(ii) Terminate Charter School's right to possession by any lawful means, in which case this Agreement shall terminate automatically and Charter School shall immediately surrender possession of the School Site to District. In such event District shall be entitled to recover from Charter School all damages incurred by District by reason of Charter School's default. Upon any such re-entry District shall have the right to make any reasonable repairs, alterations or modifications to the School Site, which District in its sole discretion deems reasonable and necessary.

C. No remedy conferred or reserved to the District is intended to be exclusive and every remedy shall be cumulative and in addition to every other remedy given under this Agreement or existing at law or in equity. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. The District is entitled to exercise any remedy reserved to it in this section without giving any notice other than such notice as is required under the Agreement. All remedies reserved to the District shall survive the termination of the Agreement.

#### 14. MISCELLANEOUS:

A. Transfer of District's Interest. If the District sells or conveys its interest in the School Site (other than a transfer for security purposes only), then District shall be relieved from and after the date specified in any such notice of transfer of all obligations and liabilities accruing thereafter on the part of District, provided that any funds in the hands of District at the time of transfer in which Charter School has an interest, shall be

delivered to the successor of District. This Agreement shall not be affected by any such sale, transfer or conveyance. Charter School agrees to attorn to the purchaser or assignee provided all District's obligations hereunder are assumed in writing by the transferee.

B. Captions; Attachments; Defined Terms, Amendments.

(i) The captions of the paragraphs of this Agreement are for convenience only and shall not be deemed to be relevant in resolving any question of interpretation or construction of any section of this Agreement.

(ii) Exhibits attached hereto, and addenda and schedules initialed by the parties, are deemed by attachment to constitute part of this Agreement and are incorporated herein.

(iii) This Agreement may only be amended in a writing that specifically indicates its intent to modify and/or amend this Agreement. All amendments shall only be effective if executed by both parties.

C. Entire Agreement. This instrument, along with any exhibits and attachments hereto, constitutes the entire agreement between District and Charter School relative to the School Site. District and Charter School agree hereby that all prior or contemporaneous oral or written agreements between and among themselves and their agents or representatives relative to the leasing of the School Site are superseded by this Agreement.

D. Severability. If any term or provision of this Agreement shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, then the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valued and be enforceable to the fullest extent permitted by law.

E. Binding Effect; Choice of Law, Venue. The parties hereto agree that all provisions hereof are to be construed as both covenants and conditions as though the words importing such covenants and conditions were used in each separate paragraph hereof. Subject to any provisions hereof restricting assignment or subletting by Charter School, all of the provisions hereof shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns. The laws of the State of California shall govern this Agreement.

F. Waiver The waiver by any party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

G. Smoking. The School Site shall be non-smoking and no smoking shall be allowed in or on the School Site, including but not limited to all balconies, courtyards, walkways, and parking areas. Charter School shall also ensure that the School Site shall remain drug and alcohol free.

H. Notices. All Notices or demands of any kind required or desired to be given by District or Charter School hereunder shall be in writing and shall be deemed delivered upon depositing the notice or demand in the United States mail, certified or registered, postage prepaid, addressed to the District or Charter School respectively at the following addresses:

Superintendent of Schools  
Los Altos School District  
201 Covington Road  
Los Altos, CA 94024

Board President  
Los Altos School District  
201 Covington Road  
Los Altos, CA 94024

President  
Bullis Charter School  
Board of Directors/  
102 West Portola Avenue  
Los Altos, CA 94022

Superintendent/Principal  
Bullis Charter School  
102 West Portola Avenue  
Los Altos, CA 94022

Upon delivery of the School Site to the Charter School, the parties shall amend this Agreement to reflect the new address for the Charter School.

I. Corporate Authority. Each individual executing this Agreement on behalf of the Charter School represents and warrants that he is duly authorized to execute and deliver this Agreement on behalf of the Charter School in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the Bylaws of said corporation, and that this Agreement is binding upon said corporation in accordance with its terms. Charter School shall, within fifteen (15) days after execution of this Agreement, deliver to District a certified copy of a resolution of the Board of Directors of the Charter School authorizing or ratifying the execution of this Agreement.

15. HAZARDOUS MATERIALS DISCLOSURE:

A. Lead: Charter School shall assume that all ceramic tile and painted or varnished surfaces in the School Site contain detectable levels of lead which may trigger compliance with California Code of Regulations, Title 8, Sections 1532.1. In addition, waste products from these materials could contain lead at levels that are subject to the hazardous waste requirements in the California Code of Regulations, Title 22, Sections 66260.1-66263.12 and 66268.1-66268.124 and the Health and Safety Code Section 25163, subdivision (c). Should Charter School perform work that disturbs

these materials, it is Charter School's responsibility to handle and dispose of these materials in accordance with the regulations. If the Charter School fails to comply with these regulations in performing work and this results in a site or worker contamination, then Charter School will be held solely responsible for all costs involved in any required corrective action, and shall indemnify the District against all claims arising therefrom in accordance with the indemnity provision of this Agreement.

B. Asbestos: Charter School shall be responsible to review the site Asbestos Report. The District shall provide a copy of the site Asbestos Report to the Charter School at the time of execution of this Agreement. Charter School is responsible for complying with all applicable laws pertaining to the safe handling of asbestos-containing material (ACM) if the Charter School is performing any modifications to the School Site. Should Charter School perform work that disturbs these materials, it is Charter School's responsibility to handle and dispose of these materials in accordance with the regulations. If failure to comply with these regulations results in a site or worker contamination, then Charter School will be held solely responsible for all costs involved in any required corrective action, and shall indemnify the District against all claims arising therefrom in accordance with the indemnity provision of this Agreement.

C. Charter School, at its expense, shall comply with all applicable laws, regulations, rules and orders with respect to its use and occupancy of the Site, including, without limitation, those relating to health, safety, noise, environmental protection, waste disposal, and water and air quality. The Charter School shall be responsible for any and all environmental conditions that existed as a result of the Charter School's occupancy of the Site, except as otherwise provided in Section 5 of this Agreement. The Charter School shall assume responsibility for compliance with ADA and FEHA access rights and other applicable building code standards to the extent of any modifications or improvement made by, or triggered by the use or occupancy of the Charter School.

Should any discharge, leakage, spillage, emission, or pollution of any type occur upon or from the Site due to the Charter School's use and occupancy thereof, Charter School, at its expense, shall be obligated to clean all the property affected, to the satisfaction of District and any governmental agencies having jurisdiction over the Site.

#### 16. DESTRUCTION OF SCHOOL SITE:

A. Partial Damage: If the Site is damaged by any casualty which is covered by insurance carried by District and the Charter School still has access to at least 60% of the usable classroom space, then District shall restore such damage provided insurance proceeds are available to pay 70% or more of the cost of restoration and provided such restoration can be completed within 120 days after the commencement of the work in the opinion of a registered architect or engineer appointed by District. In such event this Agreement shall continue in full force and effect. The District shall

provide the Charter School temporary housing on the Site, for any part of the Charter School program that is displaced by the partial damage and/or the repair work of the same. If the Charter School secures acceptable alternative space then there shall be a comparable mitigation in the District's duties under this subdivision.

If more than 40% of the usable classroom space of the Site is damaged: (a) by a risk not covered by District's insurance; (b) the proceeds of available insurance are less than 70% of the cost of restoration; (c) or if the restoration cannot be completed within 120 days after the commencement of work in the opinion of the registered architect or engineer appointed by District, then District shall have the option either to (1) with the mutual agreement of the Charter School, and an acceptable provision of alternative space for the Charter School, repair or restore such damage, this Agreement continuing in full force and effect, or (2) give notice to Charter School at any time within 30 days after such damage terminating this Agreement as of a date to be specified in such notice, which date shall be not less than 30 nor more than 60 days after giving such notice. If District gives such notice then the District shall make reasonable efforts to provide alternate school facility to the Charter School as soon as possible so as to avoid any interruption in the educational program of the Charter School.

B. Total Destruction: If the Site is totally destroyed (defined as the destruction of more than 60% of the usable classroom space) or the Site cannot be restored as required herein under applicable laws and regulations, notwithstanding the availability of insurance proceeds, then this Agreement shall be terminated effective the date of the damage.

## 17. CONDEMNATION

If all or any part of the Site shall be taken or appropriated for public or quasi-public use by right of eminent domain, with or without litigation, then the Charter School shall have the right at its option exercisable within 30 days of receipt of notice of such taking to terminate this Agreement as of the date possession is taken by the condemning authority, provided, however, that before Charter School may terminate this Agreement by reason of taking or appropriation as provided hereinabove, such taking or appropriation shall be of such an extent and nature as to impede or impair Charter School's use of more than 30% of the classroom space at the Site. No temporary taking (defined as a taking of less than 90 days) of the Site and/or of Charter School's rights therein or under this Agreement shall terminate this Agreement. If the Charter School exercises its right to terminate this Agreement as provided in this Section, or if the Charter School suffers a partial or temporary taking, the District shall make reasonable efforts to provide alternative space, if available, in direct proportion to the reduction in use by the taking.

## 18. DISPUTE RESOLUTION

Disputes between the Charter School in the District regarding the alleged violation, misinterpretation, or misapplication of this Agreement shall be resolved using the dispute resolution process identified below.

The party initiating the dispute resolution process shall prepare and send to the other party a notice of dispute that shall include the following information: (1) the name, addresses and phone numbers of designated representatives of the party; (2) a statement of the facts of the dispute, including information regarding the parties attempts to resolve the dispute; (3) the specific sections of the Agreement that are in dispute; and (4) the specific resolution sought by the party. Within five days from receipt of the notice of dispute the representatives from the Charter School shall meet with representatives from the District in an informal setting to try to resolve the dispute.

If the informal meeting fails to resolve the dispute the party initiating the dispute resolution process shall notify the other party (the responding party) in writing that it intends to proceed to mediation of the dispute, and the parties shall mutually agree to a mediator. The parties and the mediator shall attempt to meet as soon as possible but not later than 30 days after receipt of the request for appointment. The party initiating the dispute shall forward a copy of the notice of the dispute to the appointed mediator. The responding party shall file a written response with the mediator and serve a copy on the initiating party within seven days of the first scheduled mediation, or as soon as is practicable. The mediation procedure shall be entirely informal in nature; however, copies of exhibits upon which either party bases its case shall be shared with the other party in advance of the mediation. The relevant facts should be elicited in a narrative fashion to the extent possible, rather than through examination and cross examination of witnesses. The rules of evidence will not apply and no record of the proceedings will be made. If an agreement is reached, the agreement shall be reduced to writing and shall be signed by the school district and the charter school.

This dispute resolution procedure shall not apply to any request for equitable or injunctive relief prior to the mediation to preserve the status quo pending the completion of that process. Except for such an action to obtain equitable or injunctive relief, neither party may commence a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session, or 45 days after the date of filing the written request for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the parties so desire.

Nothing in this provision shall be interpreted to abrogate, impair or waive Charter School's agreement to waive any rights during the duration of this Agreement, and any subsequent options, to seek facilities from the District in addition to those set forth herein, under Proposition 39, or upon any other basis, during the duration of this Agreement, and during the term of any option exercised pursuant to Section 2(E) above. Nothing in this provision shall be interpreted to abrogate, impair or waive Charter School's agreement to waive any right to challenge the School Site, or any facilities



thereon, selected by the District, on the basis of “Reasonable Equivalence” obligations set forth in Education Code section 47614, its implementing regulations, or interpreting case law.

19. RELATIONSHIP BETWEEN PARTIES:

Both parties agree that to ensure that all children in the District receive a quality education, it is important to spend more time and resources on educating children instead of time consuming Proposition 39 negotiations and litigation. Therefore, the parties agree that they will work in good faith to resolve future issues without resort to the courts, they will communicate openly and honestly to avoid disputes.

20. WAIVER AND RELEASE OF CLAIMS:

Charter School agrees to waive any and all claims against the District related to the parties’ respective rights and obligations under Proposition 39 for the duration of the agreement. Charter School agrees never to commence, prosecute, or cause, permit, advise or assist to be commenced or prosecuted, any action or proceeding based upon any claims, demands, causes of action, obligations, damages or liabilities which are released pursuant to this Agreement. Charter School agrees that this term constitutes a material term of this Agreement and its violation of it would constitute an event of default under Section 13(A) of this agreement.

The parties release and forever discharge each other and their respective present and former officers, directors, employees, agents, attorneys, representatives, successors and assigns, and each of them, from any and all claims, demands, causes of action, obligations, damages and liabilities of any nature whatsoever, whether legal or equitable, before any administrative body or court, whether or not known, suspected or claimed, which they ever had, now have, or in the future may have, by reason of, on account of, or arising out of any act or failure to act by any person, or any course of conduct, policy or practice, condition or state of events, including the drafting and contents of this Agreement, arising out of or related in any way to the provision of facilities by the District to Charter School prior to the execution of this Agreement.

The parties understand and expressly agree that this Agreement extends to all claims as against all other parties of every nature and kind, known or unknown, suspected or unsuspected, past or present, arising out of the transactions or occurrences which are the subject of or are in any way related to the provision of facilities by the District to Charter School prior to the execution of this Agreement. This Agreement shall be a complete bar to any claims asserted in contravention of it, no matter the forum. The parties acknowledge that any and all rights granted to the parties under section 1542 of the California Civil Code or any analogous state or federal law or regulation are hereby expressly waived. Section 1542 of the California Civil Code reads as follows:

**A general release does not extend to claims the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.**

It is understood and agreed that this Agreement is a compromise of disputed claims and that nothing in this Agreement shall be construed as an admission of liability by any party.

During this Agreement the Charter School shall not be required to file annual Proposition 39 requests.

21. ENFORCEMENT:

Charter School shall file the required notice with the Santa Clara County Superior Court in the matter *Bullis Charter School v. Los Altos School District*, Santa Clara County Superior Court Case No. 109 CV 144569, no later than twenty (20) calendar days of full execution of this Agreement, notifying the Court that judgment entered in that matter has been satisfied in full.

The parties agree that the terms of this Agreement shall be enforceable in the Santa Clara County Superior Court as a Settlement Agreement under Code of Civil Procedure section 664.6.

IN WITNESS WHEREOF, District and Charter School execute this Agreement effective the date and year first above written.

DATED: June \_\_, 2012

\_\_\_\_\_  
Mark Goines, President

\_\_\_\_\_  
Doug Smith, Vice President

\_\_\_\_\_  
Tamara Logan, Clerk

\_\_\_\_\_  
Bill Cooper, Member

\_\_\_\_\_  
Steve Taglio, Member

On Behalf of the Los Altos School District  
Governing Board

This Agreement was approved by the on June \_\_, 2012 by the Los Altos School District  
Governing Board

DATED: June \_\_, 2012

\_\_\_\_\_  
Peter Evans

\_\_\_\_\_  
Andrea Eyring

\_\_\_\_\_  
Anne Marie Gallagher

\_\_\_\_\_  
Janet Medlin

\_\_\_\_\_  
Francis LaPoll

\_\_\_\_\_  
Ken Moore, Board Chair

\_\_\_\_\_  
John Phelps

On Behalf of the Bullis Charter School  
Board of Directors

This Agreement was approved by the Bullis  
Charter School Board of Directors on June \_\_,  
2012