

# New Mexico Public Education Commission



## 2023 Charter School Renewal Application Part E: Facilities

Charter Schools Division  
Public Education Department  
300 Don Gaspar Ave.  
Santa Fe, NM 87501  
(505) 827-6909  
[charter.schools@ped.nm.gov](mailto:charter.schools@ped.nm.gov)

Approved by the Public Education Commission: March 18, 2022

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## Instructions

Please read the entire Charter School Renewal Application Kit before preparing documents. In an effort to help applicants understand the requirements of the Renewal Application, the CSD will hold a minimum of two technical assistance workshops. Applicants will be notified of the dates, times, and locations of the workshops.

Enter applicant responses in boxes below. Answer all questions unless the question indicates that applicants should answer only under certain conditions (e.g., rating on a Performance Framework indicator requires explanation, etc.). Narrative responses should be verifiable through documents submitted or observable evidence at the renewal site visit.

## School Information

|                        |                                       |
|------------------------|---------------------------------------|
| <b>Name of School:</b> | <b>New Mexico School for the Arts</b> |
|------------------------|---------------------------------------|

## Facilities Narrative

Provide a description of the charter school facilities. Enter applicant response in box below:

|                  |
|------------------|
| School response: |
|------------------|

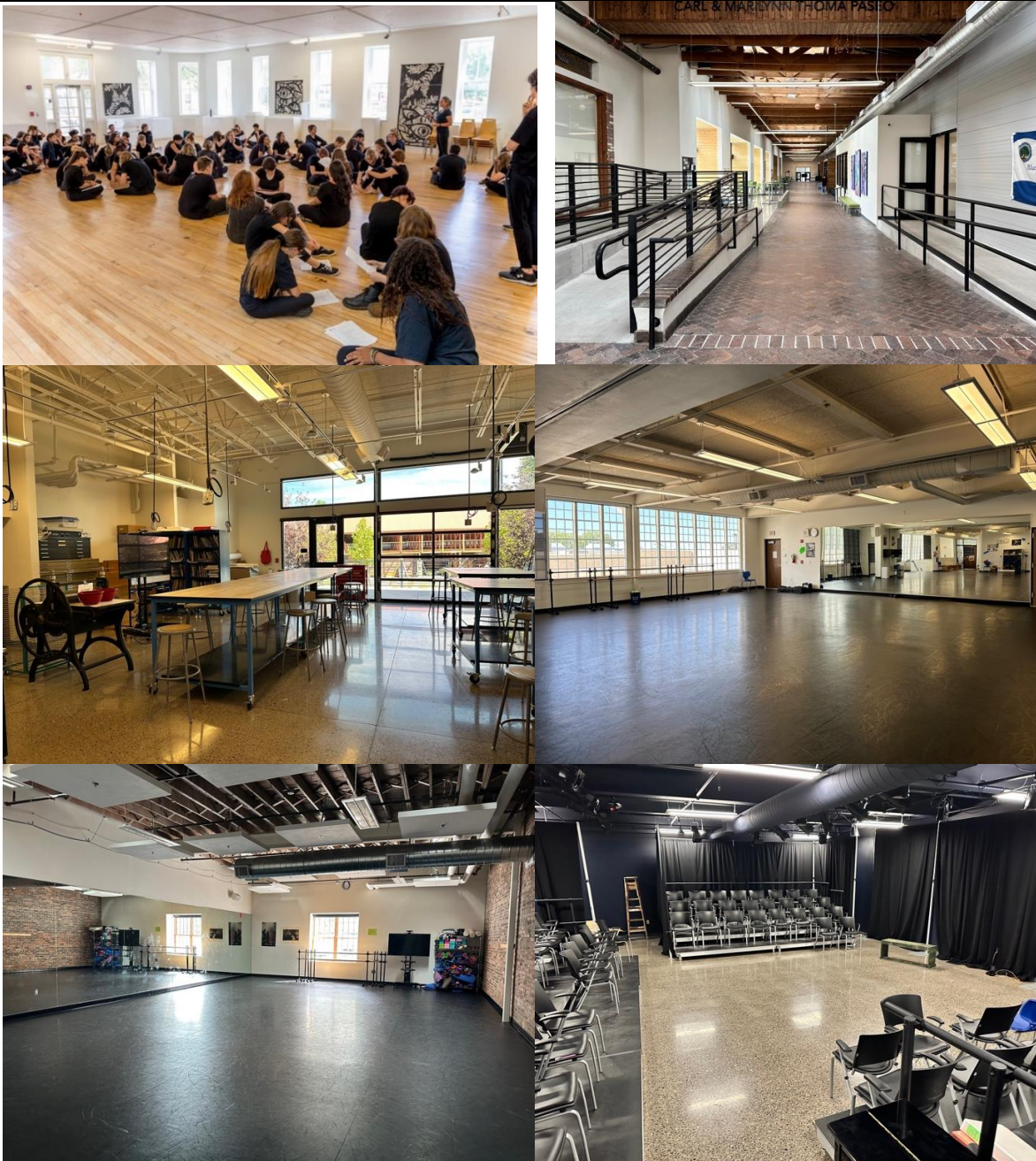


On Monday, August 12, 2019, New Mexico School for the Arts (NMSA) opened its new campus in the old Sanbusco shopping center next to the Santa Fe Railyard with 250 high school students from across the state enrolled in programs for dance, music, theatre, visual arts, creative writing and literature. NMSA had previously occupied the former St. Francis Cathedral School building on East Alameda Street in Santa Fe. The campus address is 500 Montezuma Avenue, Santa Fe, NM 87501

The new campus has allowed the school to expand, both in the number of students it serves and the kinds of classes it is able to offer. On June 12th of 2020, the Public Education Commission approved an enrollment cap increase to allow NMSA to serve up to 500 students in the new facility. The 2023-2024 school year launched with 342+ students. Almost every room in the building was designed as a multi-use space that can be transformed to meet the needs of the school that offers an academic program in the morning and an arts mastery program in the afternoon—both equally demanding.



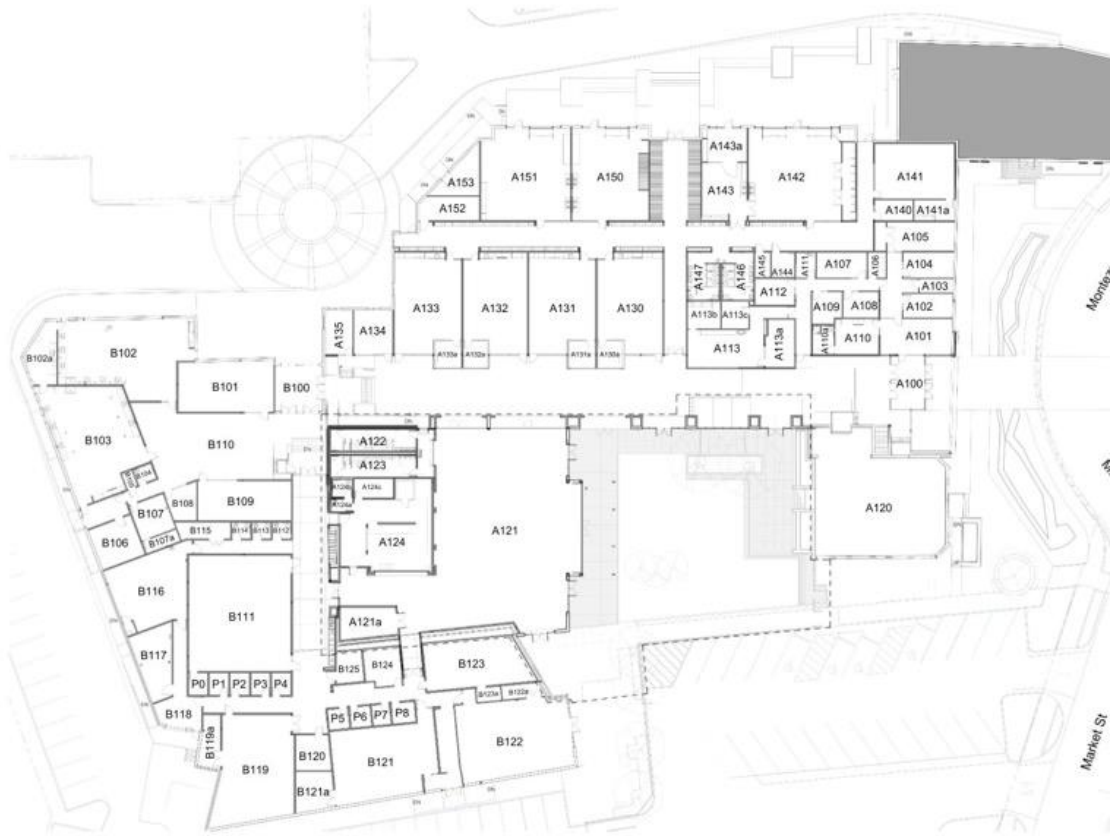




Founded concurrently in 2010, NMSA and the NMSA-Art Institute (The Art Institute) have successfully partnered in supporting the school's academic program and its arts education program. As a state-authorized charter school, NMSA funds the high school college-readiness academics program, a portion of the arts programming, and the costs of operating the school facility. The Art Institute, a 501(c)3 nonprofit, supports the balance of in-school arts education (as well as the residential program and the statewide outreach program) through fundraising. In addition, The Art Institute successfully raised \$30 million in private donations to cover construction costs and renovations to the Sanbusco building, which has been transformed into a modern facility filled with specialized rooms and equipment for all its students' artistic endeavors. The charter school owns the cafeteria, courtyard, and the new residence building (currently under construction). The school leases the remainder of the campus from the NMSA-Art Institute. School buildings are identified as A, B, and C.



Floor plans of buildings A, B and C are included below. Building A and B house math, science, health, world languages, visual arts, creative writing & literature, and music classes, as well as the cafeteria, kitchen, and support/administrative offices.



Building C houses English, social studies, physical education, theatre, and dance classes.



Between 2019-2022, the school completed demolition and construction of a new cafeteria/kitchen and adjacent courtyard. The project was funded by capital outlay to the school from the State of New Mexico. The cafeteria was designed to be a multi-purpose space that is used for eating and gathering, as well as for instruction and performances. The cafeteria is equipped with state-of-the-art lighting and sound equipment, as well as a mobile stage. The full-service kitchen provides universal free breakfast and lunch, as well as dinner preparation for the residential students. The courtyard was designed to accommodate performances as well, with a concrete stage on one end.

Cafeteria:





Courtyard, adjacent to cafeteria and new dormitory construction:



The school supports access to arts education through the Residential Program which allows students from across the state of New Mexico to attend NMSA. The Residential Program currently houses 38 students in leased space off-site, at the former Immaculate Heart of Mary Retreat Center/Modern Elder Academy at 50 Mt. Carmel Road. The lease and operations of the Residential Program are currently funded entirely by the NMSA-Art Institute.



On October 24, 2022, NMSA held a celebratory groundbreaking on a new 19,500 sq. foot Residential Program building on the main campus. This expansion was made possible by capital outlay funding



committed by the State of New Mexico. The new building will house up to 60 students and will expand current operations from five days a week to seven, thereby allowing more students from the furthest parts of the state to attend NMSA without the necessity to commute on weekends. The construction project is scheduled for completion in December 2023, with students moving into the new dormitory at the start of the second semester in January 2024. Photos of construction, architectural renderings (street and angle views), and a dormitory floor plan are included below.





NMSA DORMITORY  
H-35 VIEW FROM MARKET STREET AT MONTEZUMA INTERSECTION  
November 15, 2022

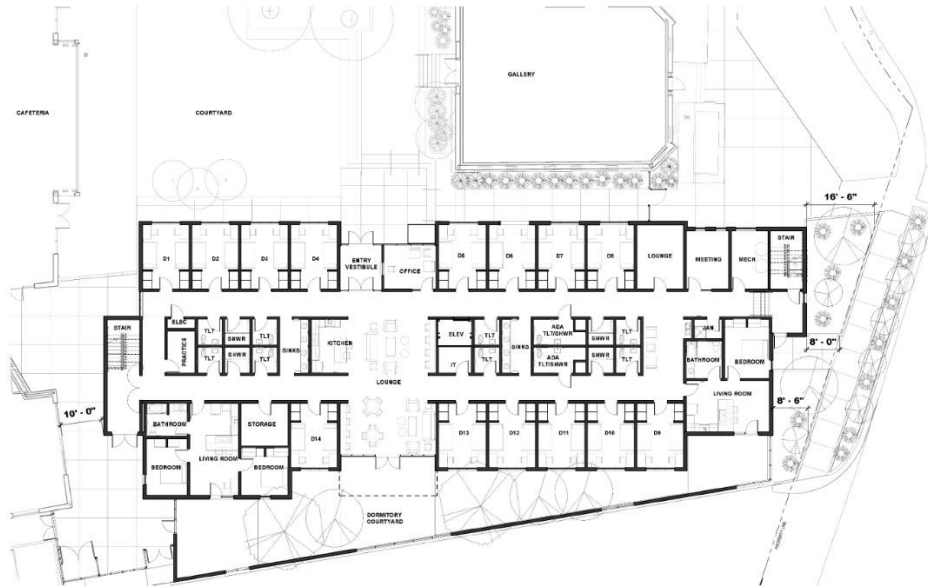
**SMPC**architects  
215 Oak Hill Road, Madison, WI 53713 | 608.224.8888 | www.smpcarchitects.com



NMSA DORMITORY  
H-23 VIEW FROM MARKET STREET  
November 15, 2022

**SMPC**architects  
215 Oak Hill Road, Madison, WI 53713 | 608.224.8888 | www.smpcarchitects.com

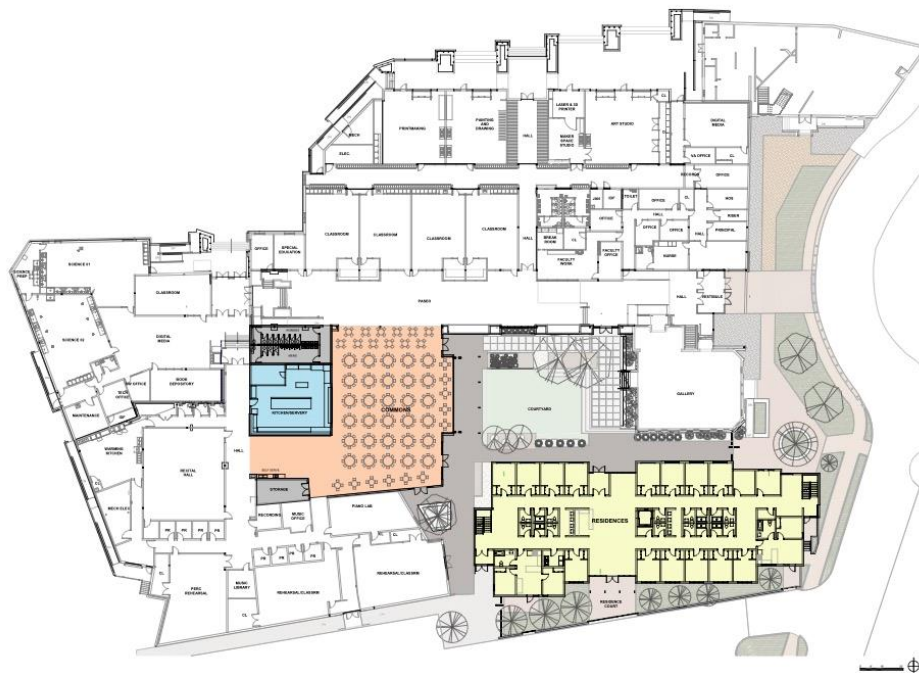




NMSA DORMITORY  
H-G FLOOR PLAN - LEVEL 1  
Version 0.002



Here, the new cafeteria is shown in orange; the new courtyard in green; and the new dorm in yellow:



2020-04-15 Phase II - Schematic Design





NMSA's current, approved Facilities Master Plan (2018-2023) is attached as Appendix E-3. The school will submit an updated Facilities Master Plan to PSFA for approval in January 2024.

## Appendices

Include the following appendices as PDFs, using the following naming conventions. In place of "School Name" please use a short form of the school's name, with the same form used consistently for all appendices.

|            | <b>File Name</b>              | <b>Documentation</b>                                  |
|------------|-------------------------------|---|
| <b>E-1</b> | E-1 E-Occupancy NMSA          | E-Occupancy Certificate                               |
| <b>E-2</b> | E-3 Lease Agreement NMSA      | A copy of the facility lease agreement, if applicable |
| <b>E-3</b> | E-4 Facility Master Plan NMSA | Facility Master Plan                                  |



# CITY OF SANTA FE

No 0935

## LAND USE DEPARTMENT – INSPECTIONS & ENFORCEMENT DIVISION

200 Lincoln Avenue, Santa Fe, New Mexico 87501

P. O. Box 909, Santa Fe, NM 87504-0909 • (505) 955-6150 • www.santafenm.gov



# ◆◆◆ CERTIFICATE OF OCCUPANCY ◆◆◆

PERMANENT

**NON-RESIDENTIAL**

TEMPORARY \_\_\_\_\_  
EXPIRATION DATE

THE FOLLOWING BUILDING OR PORTION THEREOF HAS BEEN INSPECTED FOR COMPLIANCE WITH THE REQUIREMENTS OF OCCUPANCY GROUP A-3, DIVISION Type III B Const. AS SPECIFIED BY THE NEW MEXICO BUILDING CODE AS ADOPTED BY THE CITY OF SANTA FE AND FOR COMPLIANCE WITH THE APPLICABLE CHAPTERS OF THE CITY OF SANTA FE MUNICIPAL CODE. USE OF THIS BUILDING OTHER THAN AS ALLOWED BY THE OCCUPANCY GROUP SPECIFIED HEREON IS PROHIBITED BY LAW.

500 Montezuma Ave  
BUILDING ADDRESS

NM SA - Act Institute  
NAME & ADDRESS OF OWNER

Klinger Constructors LLC  
NAME(S) OF LICENSED NEW MEXICO CONTRACTOR(S)

\_\_\_\_\_  
LICENSE TYPE & NUMBER

17-786  
CITY CONSTRUCTION PERMIT NUMBER

Area A & B  
PORTION OF BUILDING

Bob [Signature]  
NAME OF CITY INSPECTOR

7-31-19  
ISSUE DATE

COMMENTS:  
\_\_\_\_\_

**NOTE: THIS CERTIFICATE IS NOT A BUSINESS LICENSE. EACH BUSINESS WITHIN THIS BUILDING MUST REGISTER WITH THE CITY OF SANTA FE BEFORE COMMENCEMENT OF BUSINESS OPERATIONS. OPERATION OF A BUSINESS WITHIN THIS BUILDING WITHOUT APPROVAL OF THE CITY OF SANTA FE IS PROHIBITED BY LAW.**



# CITY OF SANTA FE

No 0374

## LAND USE DEPARTMENT – INSPECTIONS & ENFORCEMENT DIVISION

200 Lincoln Avenue, Santa Fe, New Mexico 87501

P. O. Box 909, Santa Fe, NM 87504-0909 • (505) 955-6150 • www.santafenm.gov



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PERMANENT

**NON-RESIDENTIAL**



TEMPORARY

\_\_\_\_\_  
EXPIRATION DATE

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500 Montezuma  
BUILDING ADDRESS

NMSA - Art Institute  
NAME & ADDRESS OF OWNER

Klinger Construction LLC  
NAME(S) OF LICENSED NEW MEXICO CONTRACTOR(S)

17-286  
CITY CONSTRUCTION PERMIT NUMBER

Beth...  
NAME OF CITY INSPECTOR

LICENSE TYPE & NUMBER

Complete, A+B and C  
PORTION OF BUILDING

9-13-19  
ISSUE DATE

COMMENTS:

**NOTE: THIS CERTIFICATE IS NOT A BUSINESS LICENSE. EACH BUSINESS WITHIN THIS BUILDING MUST REGISTER WITH THE CITY OF SANTA FE BEFORE COMMENCEMENT OF BUSINESS OPERATIONS. OPERATION OF A BUSINESS WITHIN THIS BUILDING WITHOUT APPROVAL OF THE CITY OF SANTA FE IS PROHIBITED BY LAW.**



STATE OF NEW MEXICO  
REGULATION AND LICENSING DEPARTMENT  
CONSTRUCTION INDUSTRIES DIVISION  
GENERAL CONSTRUCTION BUREAU

29252

\_\_\_\_\_  
✓ \_\_\_\_\_ THIS BUILDING HAS BEEN OCCUPIED BEFORE A FINAL INSPECTION HAS BEEN CONDUCTED.  
PERMANENT \_\_\_\_\_ TEMPORARY, \_\_\_\_\_  
EXPIRATION DATE

~CERTIFICATE OF OCCUPANCY~

THE FOLLOWING BUILDING OR PORTION THEREOF HAS BEEN INSPECTED FOR COMPLIANCE WITH THE REQUIREMENTS OF  
OCCUPANCY GROUP E-VB AS SPECIFIED BY THE NEW MEXICO BUILDING CODE.

500 Montezuma Ave Santa Fe NM 87501  
BUILDING ADDRESS

New Mexico School for the Arts 500 Montezuma Ave Santa Fe  
NAME AND ADDRESS OF OWNER NM 87501

Klinger Const.  
NAME(S) OF LICENSED NEW MEXICO CONTRACTOR(S)

IF NO LICENSED CONTRACTOR, NAME(S) OF OWNER-BUILDER(S)

2021018847  
BUILDING PERMIT NUMBER

PORTION OF BUILDING

[Signature]  
INSPECTOR'S NAME

04-05-2022  
DATE

COMMENTS



STATE OF NEW MEXICO  
REGULATION AND LICENSING DEPARTMENT  
CONSTRUCTION INDUSTRIES DIVISION  
GENERAL CONSTRUCTION BUREAU

29252

\_\_\_\_\_  
✓ \_\_\_\_\_ THIS BUILDING HAS BEEN OCCUPIED BEFORE A FINAL INSPECTION HAS BEEN CONDUCTED.  
PERMANENT \_\_\_\_\_ TEMPORARY, \_\_\_\_\_  
EXPIRATION DATE

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500 Montezuma Ave Santa Fe NM 87501  
BUILDING ADDRESS

New Mexico School for the Arts 500 Montezuma Ave Santa Fe  
NAME AND ADDRESS OF OWNER NM 87501

Klinger Const.  
NAME(S) OF LICENSED NEW MEXICO CONTRACTOR(S)

IF NO LICENSED CONTRACTOR, NAME(S) OF OWNER-BUILDER(S)

2021018847  
BUILDING PERMIT NUMBER

PORTION OF BUILDING

[Signature]  
INSPECTOR'S NAME

04-05-2022  
DATE

COMMENTS

**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 (30<sup>th</sup>) 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 (25<sup>th</sup>) 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 (25<sup>th</sup>) 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, 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 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 30<sup>th</sup> of the Fiscal Year in which an event described in Subsection (a) hereof occurs (or June 30<sup>th</sup> 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 (30<sup>th</sup>) 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: Nel W. Bennett

Name: Nel W. Bennett

Title: Chair, Board of Directors

**EXHIBIT A to Lease  
Premises**





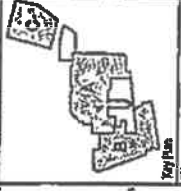
STUDIO  
**SW ARCHITECTS**  
 ARCHITECTS  
 2000 BROADWAY, SUITE 1000, NEW YORK, NY 10014  
 TEL: 212 677 1000 FAX: 212 677 1001  
 WWW.SWARCHITECTS.COM  
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DATE: 01/11/10  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 PROJECT NO: [Number]  
 SHEET NO: [Number]



NEW MEXICO SCHOOL  
 FOR THE ARTS - PHASE 1

500 - 500 Montrose Ave  
 Santa Fe, NM 87501

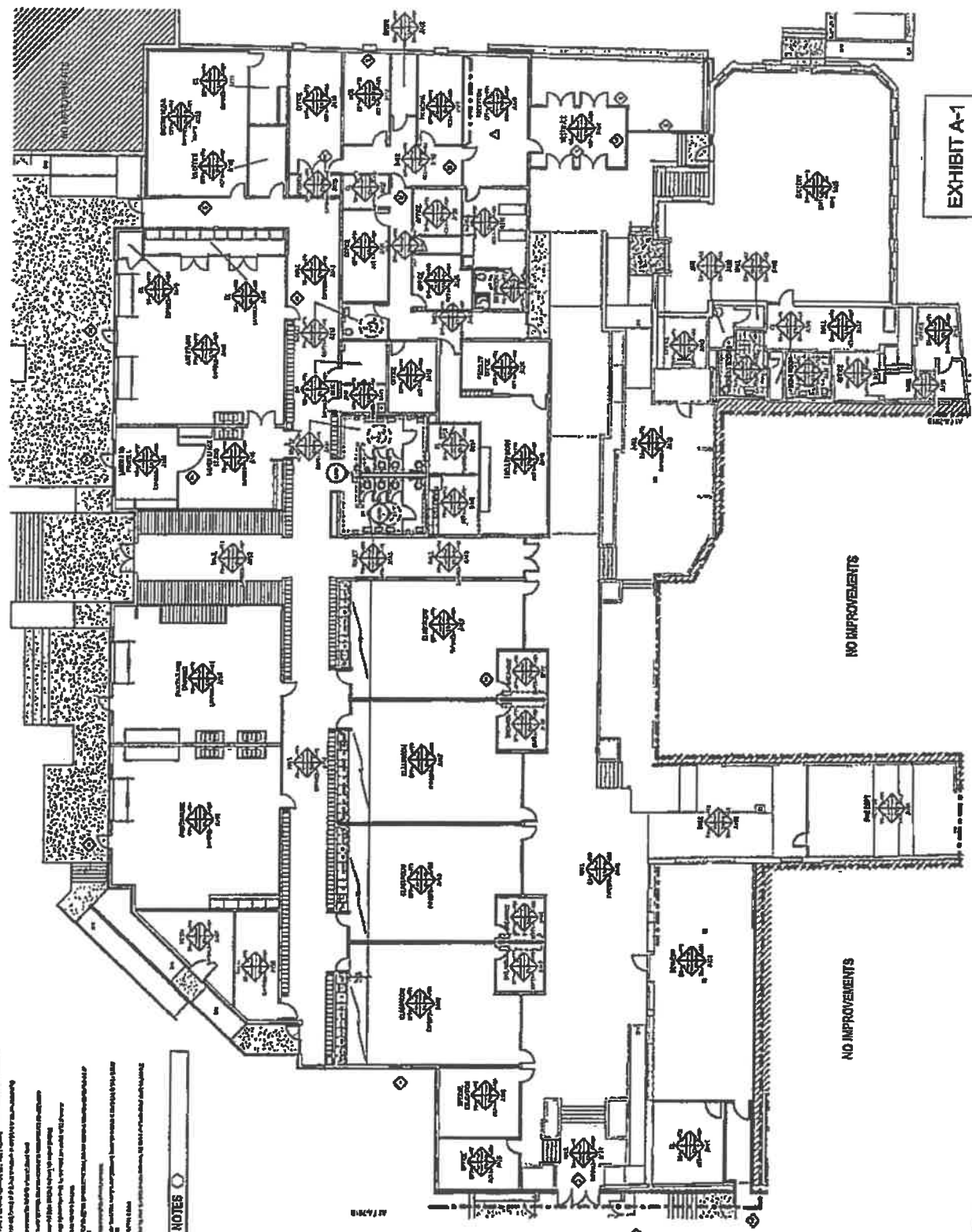


Key Plan

| NO. | DATE     | DESCRIPTION        |
|-----|----------|--------------------|
| 1   | 01/11/10 | ISSUED FOR PERMITS |
| 2   | 01/11/10 | ISSUED FOR PERMITS |
| 3   | 01/11/10 | ISSUED FOR PERMITS |
| 4   | 01/11/10 | ISSUED FOR PERMITS |
| 5   | 01/11/10 | ISSUED FOR PERMITS |
| 6   | 01/11/10 | ISSUED FOR PERMITS |
| 7   | 01/11/10 | ISSUED FOR PERMITS |
| 8   | 01/11/10 | ISSUED FOR PERMITS |
| 9   | 01/11/10 | ISSUED FOR PERMITS |
| 10  | 01/11/10 | ISSUED FOR PERMITS |

FINISH PLAN - BLDG A

A-701A.R17



- GENERAL NOTES**
1. FINISHES TO BE SHOWN ON THIS PLAN ARE TO BE USED UNLESS OTHERWISE NOTED.
  2. FINISHES TO BE SHOWN ON THIS PLAN ARE TO BE USED UNLESS OTHERWISE NOTED.
  3. FINISHES TO BE SHOWN ON THIS PLAN ARE TO BE USED UNLESS OTHERWISE NOTED.
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- KEYED NOTES**
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  10. FINISHES TO BE SHOWN ON THIS PLAN ARE TO BE USED UNLESS OTHERWISE NOTED.

(A1) FLOOR FINISH PLAN - BLDG A



STUDIO  
**SW**  
 ARCHITECTS  
 1100 UNIVERSITY AVENUE, SUITE 100  
 ALBUQUERQUE, NEW MEXICO 87102  
 TEL: 505-243-1100 FAX: 505-243-1101  
 WWW.SWARCHITECTS.COM

CHALLENGE  
 TO PROVIDE A FINISH PLAN FOR THE ARTS PHASE 3 OF THE NEW MEXICO SCHOOL FOR THE ARTS. THE FINISH PLAN SHALL INCLUDE ALL FINISHES, MATERIALS, AND CONDITIONS FOR THE ENTIRE PROJECT. THE FINISH PLAN SHALL BE SUBMITTED TO THE ARCHITECT FOR REVIEW AND APPROVAL. THE FINISH PLAN SHALL BE SUBMITTED TO THE ARCHITECT FOR REVIEW AND APPROVAL. THE FINISH PLAN SHALL BE SUBMITTED TO THE ARCHITECT FOR REVIEW AND APPROVAL.



NEW MEXICO SCHOOL  
 FOR THE ARTS - PHASE 3  
 500-550 UNIVERSITY AVE  
 SUITE 100, ALBUQUERQUE, NM 87101



| NO. | DATE     | DESCRIPTION             |
|-----|----------|-------------------------|
| 1   | 10/15/11 | ISSUED FOR PERMIT       |
| 2   | 11/15/11 | ISSUED FOR CONSTRUCTION |
| 3   | 12/15/11 | ISSUED FOR FINISH PLAN  |

| NO. | DATE     | DESCRIPTION             |
|-----|----------|-------------------------|
| 1   | 10/15/11 | ISSUED FOR PERMIT       |
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| 3   | 12/15/11 | ISSUED FOR FINISH PLAN  |

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| 1   | 10/15/11 | ISSUED FOR PERMIT       |
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|-----|----------|-------------------------|
| 1   | 10/15/11 | ISSUED FOR PERMIT       |
| 2   | 11/15/11 | ISSUED FOR CONSTRUCTION |
| 3   | 12/15/11 | ISSUED FOR FINISH PLAN  |

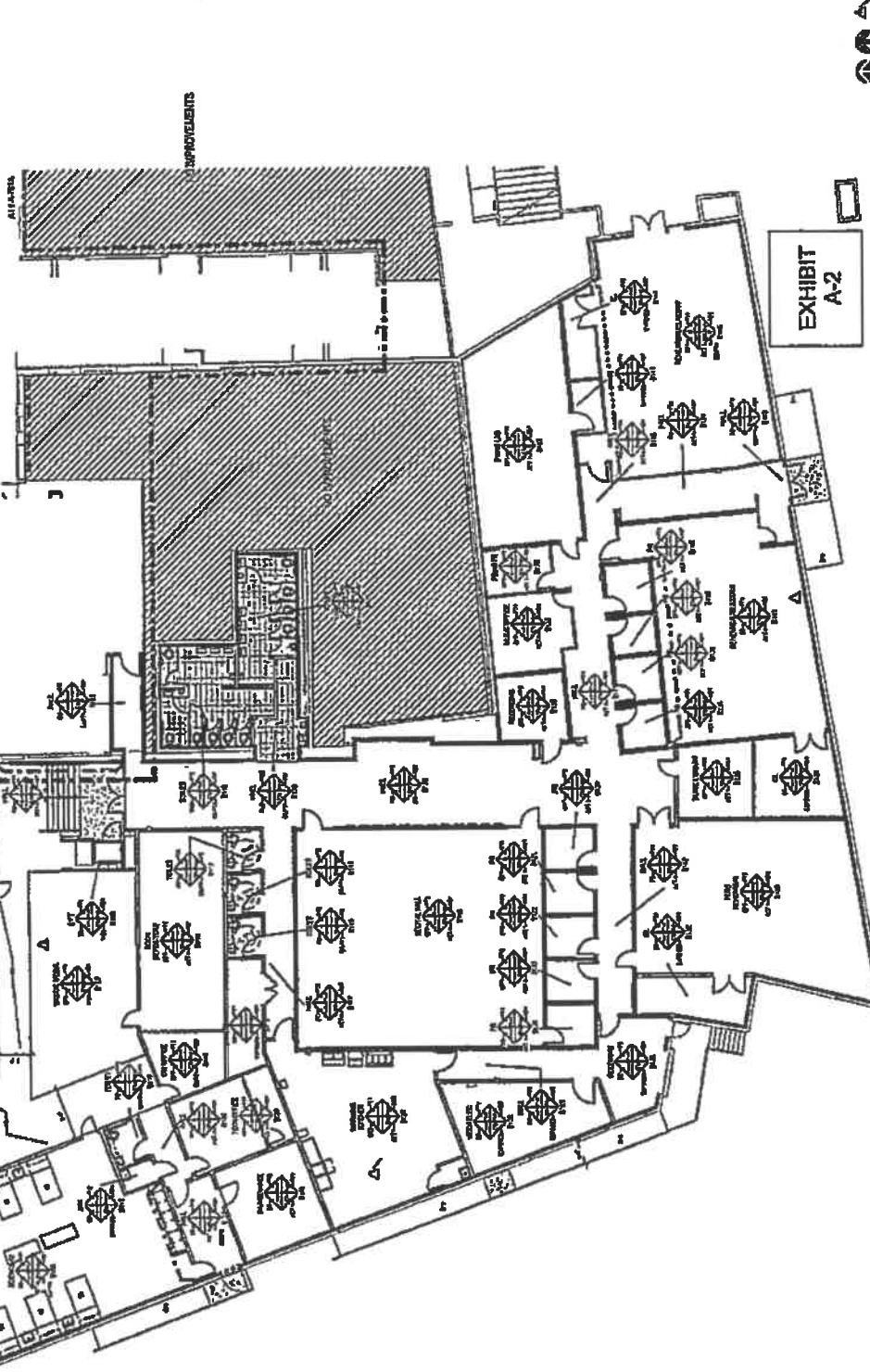
FINISH PLAN - BLDG B  
**A-701B.R17**

**GENERAL NOTES**

1. ALL FINISHES SHALL BE AS SHOWN ON THE FINISH PLAN.
2. ALL FINISHES SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.
3. ALL FINISHES SHALL BE INSTALLED IN ACCORDANCE WITH THE ARCHITECT'S SPECIFICATIONS.
4. ALL FINISHES SHALL BE INSTALLED IN ACCORDANCE WITH THE ARCHITECT'S SPECIFICATIONS.
5. ALL FINISHES SHALL BE INSTALLED IN ACCORDANCE WITH THE ARCHITECT'S SPECIFICATIONS.
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9. ALL FINISHES SHALL BE INSTALLED IN ACCORDANCE WITH THE ARCHITECT'S SPECIFICATIONS.
10. ALL FINISHES SHALL BE INSTALLED IN ACCORDANCE WITH THE ARCHITECT'S SPECIFICATIONS.

**KEYED NOTES**

○



**(A) FLOOR FINISH PLAN - BLDG B**

1000 W. 10th Street, Suite 100  
Denver, CO 80202  
Tel: 303.733.1000  
Fax: 303.733.1001  
www.swstudio.com

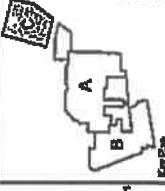
**GENERAL NOTES**

1. CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS OF EXISTING WORK.
2. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND STANDARDS.
3. ALL MATERIALS AND METHODS SHALL BE APPROVED BY THE ARCHITECT PRIOR TO INSTALLATION.
4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.
5. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
6. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT AREAS AT ALL TIMES.
7. ALL WORK SHALL BE COMPLETED IN ACCORDANCE WITH THE SCHEDULED WORK PROGRAM.
8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING WORK AND UTILITIES.
9. ALL WORK SHALL BE COMPLETED IN ACCORDANCE WITH THE ARCHITECT'S INTENT.
10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.



**NEW MEXICO SCHOOL FOR THE ARTS - PHASE 1**

Site: 5501 Montebello Ave.  
Denver, CO 80221



| NO. | DATE     | DESCRIPTION             |
|-----|----------|-------------------------|
| 1   | 10/15/12 | ISSUED FOR PERMITTING   |
| 2   | 10/15/12 | ISSUED FOR CONSTRUCTION |
| 3   | 10/15/12 | ISSUED FOR OCCUPANCY    |

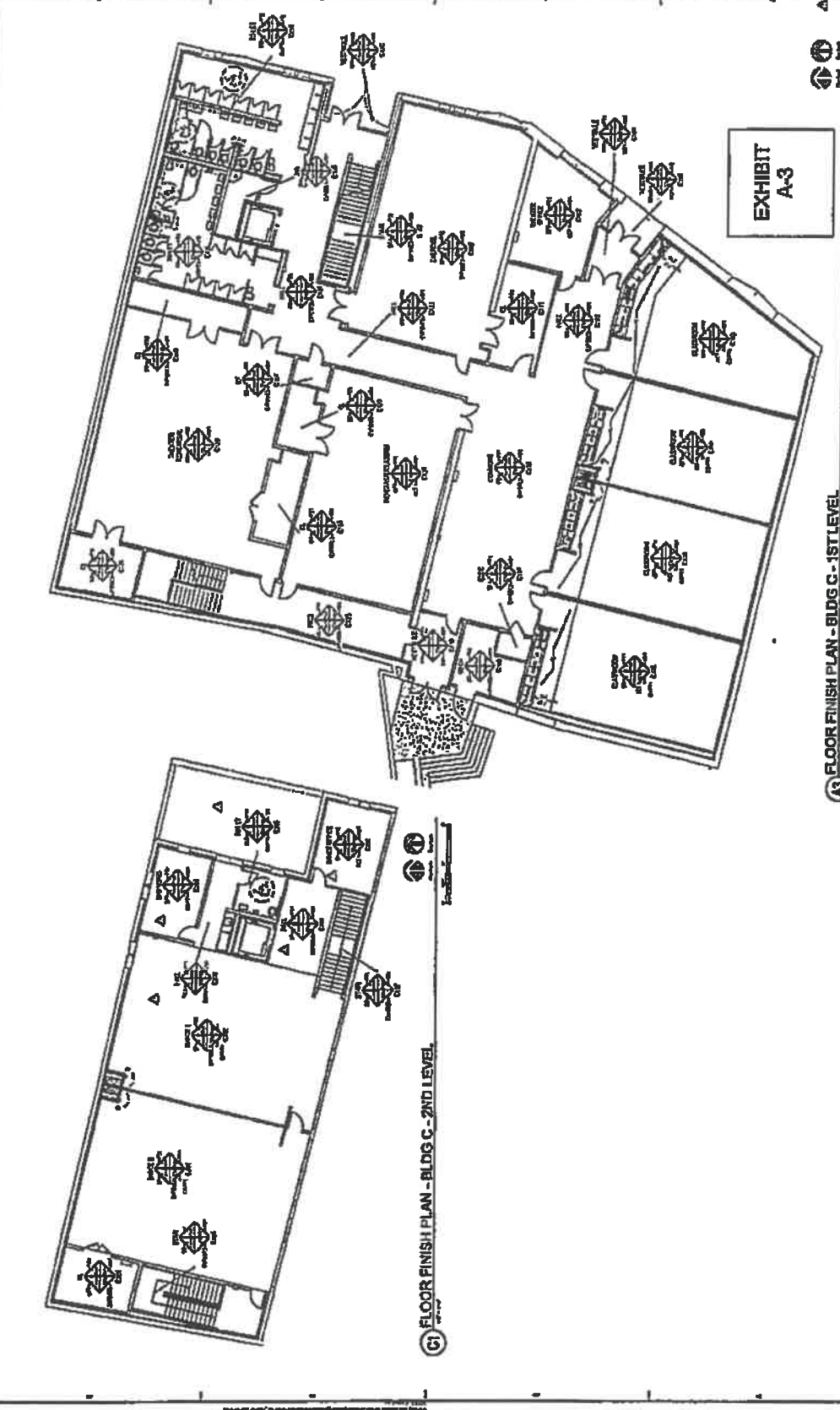
**FINISH PLAN - BLDG C**

**A-701C.R17**

**GENERAL NOTES**

1. CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS OF EXISTING WORK.
2. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND STANDARDS.
3. ALL MATERIALS AND METHODS SHALL BE APPROVED BY THE ARCHITECT PRIOR TO INSTALLATION.
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9. ALL WORK SHALL BE COMPLETED IN ACCORDANCE WITH THE ARCHITECT'S INTENT.
10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.

**KEYED NOTES**



**(G) FLOOR FINISH PLAN - BLDG C - 2ND LEVEL**

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

**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,



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

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 case 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 Lease Agreement with Option to Purchase - Page 21 of 28

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 or 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

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

Lease Agreement with Option to Purchase - Page 24 of 28



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.

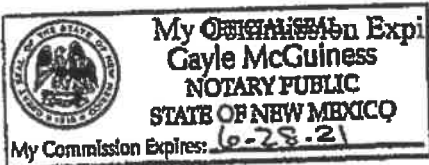
Lessor:  
New Mexico School for the Arts Art Institute

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



My Commission Expires: 6-28-21

Lessee:  
New Mexico School for the Arts

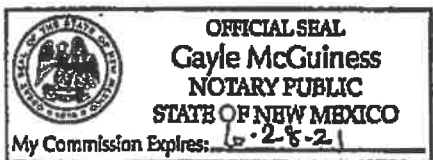
By: [Signature]  
Name: Bill Beacham  
Title: Chair, GOVERNING COUNCIL

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**

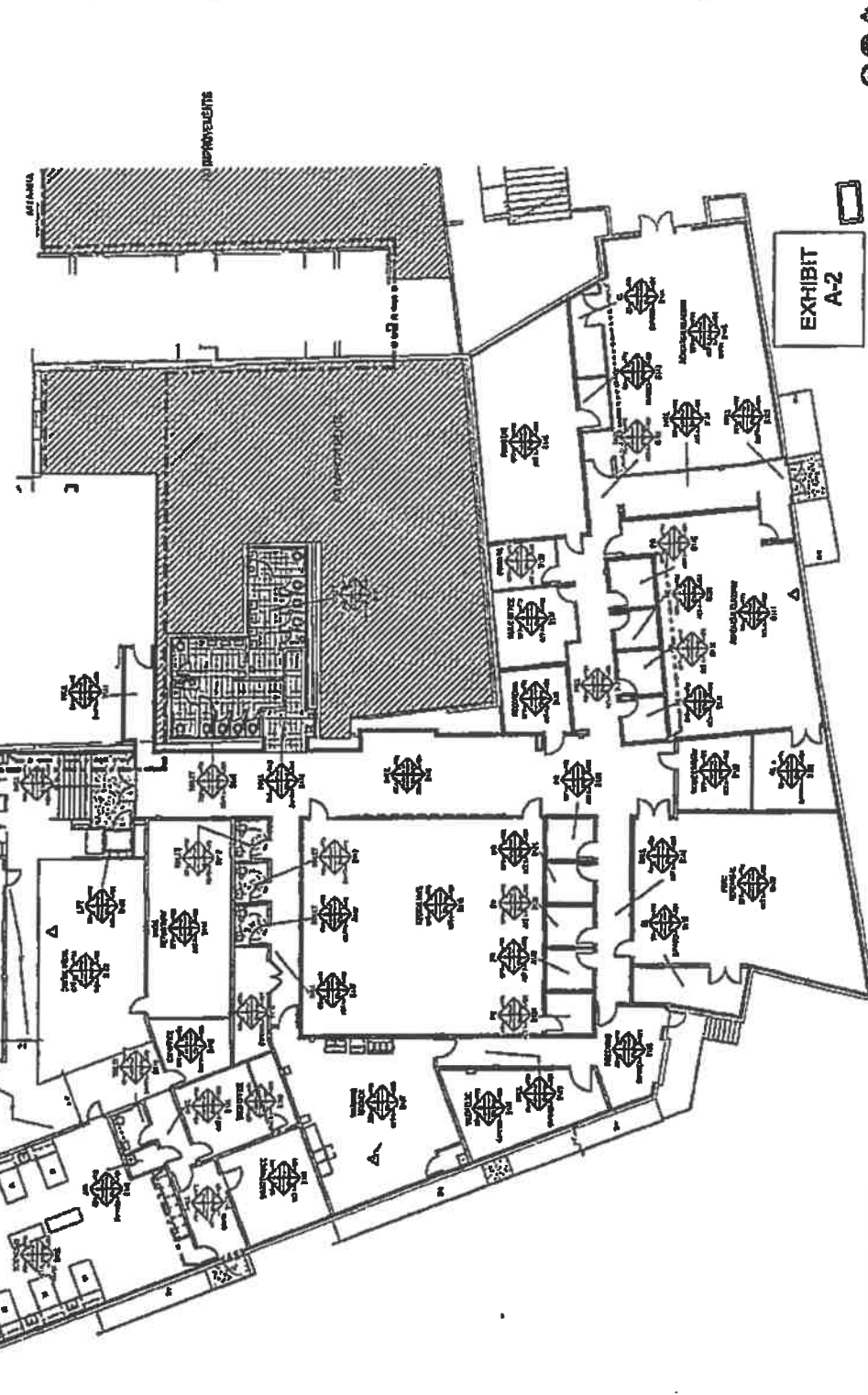




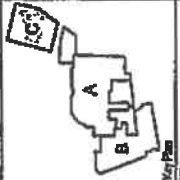
**GENERAL NOTES**

1. REFER TO ALL FINISH SCHEDULES FOR FINISHES.
2. ALL FINISHES SHALL BE AS SHOWN ON THE FINISH SCHEDULES.
3. ALL FINISHES SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.
4. ALL FINISHES SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S MAINTENANCE INSTRUCTIONS.
5. ALL FINISHES SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S WARRANTY REQUIREMENTS.
6. ALL FINISHES SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S SAFETY REQUIREMENTS.
7. ALL FINISHES SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S ENVIRONMENTAL REQUIREMENTS.
8. ALL FINISHES SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S HEALTH AND SAFETY REQUIREMENTS.
9. ALL FINISHES SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S PERFORMANCE REQUIREMENTS.
10. ALL FINISHES SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S DURABILITY REQUIREMENTS.

**KEYED NOTES**



**(A1) FLOOR FINISH PLAN - BLDG B**

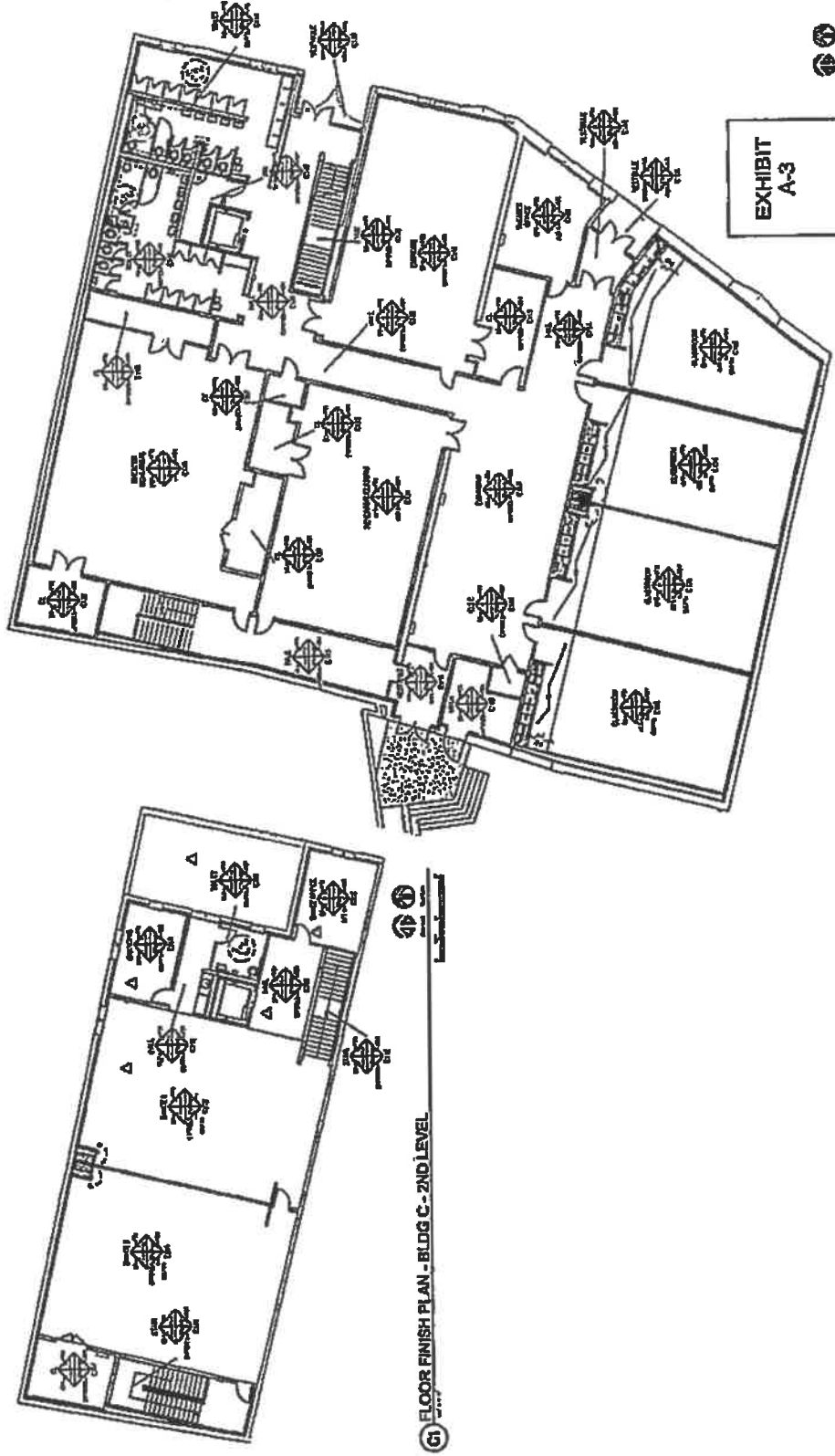


| NO. | REVISION           | DATE     |
|-----|--------------------|----------|
| 1   | ISSUED FOR PERMITS | 11/11/17 |
| 2   | ISSUED FOR PERMITS | 11/11/17 |
| 3   | ISSUED FOR PERMITS | 11/11/17 |
| 4   | ISSUED FOR PERMITS | 11/11/17 |
| 5   | ISSUED FOR PERMITS | 11/11/17 |
| 6   | ISSUED FOR PERMITS | 11/11/17 |
| 7   | ISSUED FOR PERMITS | 11/11/17 |
| 8   | ISSUED FOR PERMITS | 11/11/17 |
| 9   | ISSUED FOR PERMITS | 11/11/17 |
| 10  | ISSUED FOR PERMITS | 11/11/17 |

**GENERAL NOTES**

1. ALL FINISHES TO BE AS SHOWN ON THESE PLANS.
2. ALL FINISHES TO BE APPROVED BY THE ARCHITECT PRIOR TO INSTALLATION.
3. ALL FINISHES TO BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.
4. ALL FINISHES TO BE INSTALLED IN ACCORDANCE WITH THE NATIONAL BUILDING CODES AND LOCAL ORDINANCES.
5. ALL FINISHES TO BE INSTALLED IN ACCORDANCE WITH THE PROJECT SPECIFICATIONS.
6. ALL FINISHES TO BE INSTALLED IN ACCORDANCE WITH THE PROJECT SCHEDULE.
7. ALL FINISHES TO BE INSTALLED IN ACCORDANCE WITH THE PROJECT BUDGET.
8. ALL FINISHES TO BE INSTALLED IN ACCORDANCE WITH THE PROJECT QUALITY.
9. ALL FINISHES TO BE INSTALLED IN ACCORDANCE WITH THE PROJECT SAFETY.
10. ALL FINISHES TO BE INSTALLED IN ACCORDANCE WITH THE PROJECT ENVIRONMENT.

**KEYED NOTES**



**G) FLOOR FINISH PLAN - BLDG C - 2ND LEVEL**

**A) FLOOR FINISH PLAN - BLDG C - 1ST LEVEL**

**EXHIBIT A-3**

**EXHIBIT B**  
**Base Lease Payment Schedule**



## **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.  $\times$  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.

**FIRST AMENDMENT TO LEASE WITH RIGHT OF CONVERSION DATED JUNE 1, 2019**

June 30, 2020  
cm

**This First Amendment to Lease with Right of Conversion Dated June 1, 2019 (“Lease”) is made by and between the New Mexico School for the Arts-Art Institute (“Lessor”) and the New Mexico School for the Arts (“Lessee”), (collectively (Parties”) and is effective as of July 1, 2020.**

- A. The Parties agree that Lease Exhibit C “Base Rent Payment Schedule” shall be amended to state:

**EXHIBIT C**

**Base Rent Payment Schedule 2020-2021 Fiscal Year**

1. **“Annual Base Rent”** for second Extended Term: \$4.00/sq. ft. x 60,442 net “useable square feet” = \$241,768.00 “annual base rent”, (\$20,147.33) estimated monthly rent from July 1, 2020 to June 30, 2021.
2. **Base Rent Adjustment:** For each successive annual Extended Term beginning July 1, 2020 and ending June 30, 2021, and thereafter: the annual base rent shall be adjusted based on anticipated increases, if any, in unrestricted budgeted funds appropriated due to increases in student enrollment, plus any increases, if any, in state lease payment assistance based on the lease payment assistance distribution program then in effect. The School shall notify Lessor in writing on the later of May 30th of each year or within 3 business days after the date that the Lessee’s final approved appropriation for the fiscal year applicable to the Lease is reported to Lessee from the Public Education Department/Public Schools Facilities Authority (collectively, “PED”). The dollar amount of any incremental distributions agreed to between the Lessor and the Lessee and approved by PED shall be added to the annual Base Rent amount for the lease term beginning July 1 of that year.
3. **State Funding Adjustments.** The total useable square footage of Units 1, 3 and 4 leased by the NMSA for the second extended term equals 60,442 square feet. The base lease payments for the second extended term of the lease shall not exceed the amount of lease reimbursement assistance approved by the state, plus an amount up to four percent (4%) of the School's funding for operational expenses.
4. **Definitions.**
  - a. **“Annual Base Rent”** for purposes of the second Extended Term means the amount estimated in section 1 subject to sufficiency of appropriations approved by the legislature for the 2020-2021 fiscal year.
  - b. **“Usable square feet”** means the square footage of Units 1,3 and 4 occupied by the Lessee pursuant to the Lease less: 1) the square feet reserved by the Lessor for any extended term of the Lease for Lessor’s administrative and other Lessor direct program operations (for the 2020-2021 extended lease term, the Lessors’ reserved square footage is 6,982 sq. ft.) and 2) any other spaces transferred to the Lessee for development of a cafeteria and dormitory pursuant to other agreements with the Lessor.

- B. Except as amended in this First Amendment, the terms of the Lease shall remain in full force and effect.
- C. This First Amendment may be simultaneously executed in several counterparts and on different dates but each of which shall be an original and all of which shall constitute but one and the same instrument.

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

**LESSOR**

**NEW MEXICO SCHOOL FOR THE ARTS –ART INSTITUTE**  
a New Mexico nonprofit corporation

By: Carl Thoma  
Name: Carl Thoma  
Title: Chair, Board of Directors

**LESSEE**

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

By: Bill Becham  
Name: Bill Becham  
Title: President, Governing Council

**SECOND AMENDMENT TO LEASE WITH RIGHT OF CONVERSION DATED  
JUNE 1, 2019**

**This Second Amendment to Lease with Right of Conversion Dated June 1, 2019 (“Lease”) is made by and between the New Mexico School for the Arts-Art Institute (“Lessor”) and the New Mexico School for the Arts (“Lessee”), (collectively (Parties”) and is effective as of July 1, 2021.**

- A. The Parties agree that Lease Exhibit C “Base Rent Payment Schedule” shall be amended to state:

**EXHIBIT C**

Base Rent Payment Schedule 2021-2022 Fiscal Year

1. “Annual Base Rent” for second Extended Term: \$4.00/sq. ft x 60,442 net “useable square feet” and \$265,493.00 “annual base rent”, (\$22,124.41) estimated monthly rent from July 1, 2021 to June 30, 2022.
2. Base Rent Adjustment: For each successive annual Extended Term beginning July 1, 2021 and ending June 30, 2022, and thereafter: the annual base rent shall be adjusted based on increases, if any, in unrestricted budgeted funds appropriated due to increases in student enrollment, plus any increases, if any, in state lease payment assistance based on the lease payment assistance distribution program then in effect. The School shall notify Lessor in writing on the later of May 30th of each year or within 3 business days after the date that the Lessee’s final approved appropriation for the fiscal year applicable to the Lease is reported to Lessee from the Public Education Department/Public Schools Facilities Authority (collectively, “PED”). The dollar amount of any incremental distributions agreed to between the Lessor and the Lessee and approved by PED shall be added to the annual Base Rent amount for the lease term beginning July 1 of that year.
3. State Funding Adjustments. The total useable square footage of Units 1, 3 and 4 leased by the NMSA for the second extended term equals 60,442 square feet. The base lease payments for the second extended term of the lease shall not exceed the amount of lease reimbursement assistance approved by the state, plus an amount up to four percent (4%) of the School’s funding for operational expenses as reflected in the 910-B5 submitted to the School by the PED.
4. Lease Adjustments. If the School experiences a substantial increase or decrease in the State Equalization Guarantee (based on unit value or membership) during the term of this lease in excess of 5%, the parties shall enter into good faith negotiations to make appropriate pro rata adjustment to the lease payment for the current year, subject to the 4% limitation.
5. Definitions.

a. **“Annual Base Rent”** for purposes of the second Extended Term means the amount estimated in section 1 subject to sufficiency of appropriations approved by the legislature for the 2021-2022 fiscal year.

b. **“Usable square feet”** means the square footage of Units 1,3 and 4 occupied by the Lessee pursuant to the Lease less: 1) the square feet reserved by the Lessor for any extended term of the Lease for Lessor’s administrative and other Lessor direct program operations (for the 2021-2022 extended lease term, the Lessors’ reserved square footage is 6,982 sq. ft.); and 2) any other spaces transferred to the Lessee for development of a cafeteria and dormitory pursuant to other agreements with the Lessor.

B. Except as amended in this Second Amendment, the terms of the Lease shall remain in full force and effect.

C. This Second Amendment may be simultaneously executed in several counterparts and on different dates but each of which shall be an original and all of which shall constitute but one and the same instrument.

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

**LESSOR**

**NEW MEXICO SCHOOL FOR THE ARTS–ART INSTITUTE**

a New Mexico nonprofit corporation

By: Carl Thoma

Name: Carl Thoma

Title: Chair, Board of Trustees

**LESSEE**

**NEW MEXICO SCHOOL FOR THE ARTS**

a New Mexico public charter school

By: Bill Beacham

Name: Bill Beacham

Title: President, Governing Council \_\_\_\_\_

**THIRD AMENDMENT TO LEASE WITH RIGHT OF CONVERSION DATED  
JUNE 1, 2019**

**This Third Amendment to Lease with Right of Conversion Dated June 1, 2019 (“Lease”) is made by and between the New Mexico School for the Arts-Art Institute (“Lessor”) and the New Mexico School for the Arts (“Lessee”), (collectively (Parties”) and is effective as of July 1, 2022.**

- A. The Parties agree that Lease Exhibit C “Base Rent Payment Schedule” shall be amended to state:  
**EXHIBIT C**

Base Rent Payment Schedule 2022-2023 Fiscal Year

1. **“Annual Base Rent”**: for third Extended Term: \$5.43/sq. ft x 69,306 net “useable square feet” and \$376,245 “annual base rent” (\$31,353.75 estimated monthly rent) from July 1, 2022 to June 30, 2023.

The annual base rent equals the lease assistance payment plus an amount up to four percent (4%) of the School's funding for operational expenses as reflected in the 910-B5 submitted to the School by the PED. The lease assistance payment is based on \$742 per student allocation based on the average 80/120 day membership.

$\$793.94$  (per student amount) X  $317.43$  (membership) +  $\$124,225$  (4% SEG) =  $\$376,245$

2. **Base Rent Adjustment**: For each successive annual Extended Term beginning July 1, 2022 and ending June 30, 2023, and thereafter: the annual base rent shall be adjusted based on increases, if any, in unrestricted budgeted funds appropriated due to increases in student enrollment, plus increases, if any, in state lease payment assistance based on the lease payment assistance distribution program then in effect. The School shall notify Lessor in writing on the later of May 30th of each year or within 3 business days after the date that the Lessee’s final approved appropriation for the fiscal year applicable to the Lease is reported to Lessee from the Public Education Department/Public Schools Facilities Authority (collectively, “PED”). The dollar amount of any incremental distributions agreed to between the Lessor and the Lessee and approved by PED shall be added to the annual Base Rent amount for the lease term beginning July 1 of that year.

3. **State Funding Adjustments**. The total useable square footage of Units 1, 3 and 4 leased by the NMSA for the third extended term equals 69,306 square feet. The base lease payments for the third extended term of the lease shall not exceed the amount of lease reimbursement assistance approved by the state, plus an amount up to four percent (4%) of the School's funding for operational expenses as reflected in the 910-B5 submitted to the School by the PED .

4. **Lease Adjustments**. If the School experiences a substantial increase or decrease in the State Equalization Guarantee (based on unit value or membership) during the term of this lease in excess of 5%, the parties shall enter into good faith negotiations to make appropriate pro rata adjustment to the lease payment for the current year, subject to the 4% limitation.

5. Definitions.

- a. **“Annual Base Rent”** for purposes of the third Extended Term means the amount estimated in section 1 subject to sufficiency of appropriations approved by the legislature for the 2022-2023 fiscal year.
- b. **“Usable square feet”** means the square footage of Units 1,3 and 4 occupied by the Lessee pursuant to the Lease less: 1) the square feet reserved by the Lessor for any extended term of the Lease for Lessor’s administrative and other Lessor direct program operations (for the 2022-2023 extended lease term, the Lessors’ reserved square footage is 6,982 sq. ft.); and 2) any other spaces transferred to the Lessee for development of a cafeteria and dormitory pursuant to other agreements with the Lessor.

- B. Except as amended in this Third Amendment, the terms of the Lease shall remain in full force and effect.
- C. This Third Amendment may be simultaneously executed in several counterparts and on different dates but each of which shall be an original and all of which shall constitute but one and the same instrument.

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

**LESSOR**

**NEW MEXICO SCHOOL FOR THE ARTS –ART INSTITUTE**

a New Mexico nonprofit corporation

By: Carl Thoma

Name: Carl Thoma

Title: Chair, Board of Trustees

**LESSEE**

**NEW MEXICO SCHOOL FOR THE ARTS**

a New Mexico public charter school

By: Bill Beacham

Name: Bill Beacham

Title: President, Governing Council



**FOURTH AMENDMENT TO LEASE WITH RIGHT OF CONVERSION DATED  
JUNE 1, 2019**

**This Fourth Amendment to Lease with Right of Conversion Dated June 1, 2019 ("Lease") is made by and between the New Mexico School for the Arts-Art Institute ("Lessor") and the New Mexico School for the Arts ("Lessee"), (collectively (Parties")) and is effective as of July 1, 2023.**

A. The Parties agree that Lease Exhibit C "Base Rent Payment Schedule" shall be amended to state:

**EXHIBIT C**

Base Rent Payment Schedule 2023-2024 Fiscal Year

1. "Annual Base Rent": for third Extended Term: \$5.86/sq. ft x 69,306 net "useable square feet" and \$406,423 "annual base rent" (\$33,868.58 estimated monthly rent) from July 1, 2023 to June 30, 2024.

The annual base rent equals the lease assistance payment plus an amount up to four percent (4%) of the School's funding for operational expenses as reflected in the 910-B5 submitted to the School by the PED. The lease assistance payment is based on \$742 per student allocation based on the average 80/120 day membership.

\$282,198 (Preliminary Lease Assistance Amount FY 2024) + \$124,225 (4% FY 2023 SEG) = \$406,423

2. Base Rent Adjustment. For each successive annual Extended Term beginning July 1, 2023 and ending June 30, 2024, and thereafter: the annual base rent shall be adjusted based on increases, if any, in unrestricted budgeted funds appropriated due to increases in student enrollment, plus increases, if any, in state lease payment assistance based on the lease payment assistance distribution program then in effect. The School shall notify Lessor in writing on the later of May 30th of each year or within 3 business days after the date that the Lessee's final approved appropriation for the fiscal year applicable to the Lease is reported to Lessee from the Public Education Department/Public Schools Facilities Authority (collectively, "PED"). The dollar amount of any incremental distributions agreed to between the Lessor and the Lessee and approved by PED shall be added to the annual Base Rent amount for the lease term beginning July 1 of that year.
3. State Funding Adjustments. The total useable square footage of Units 1, 3 and 4 leased by the NMSA for the fourth extended term equals 69,306 square feet. The base lease payments for the fourth extended term of the lease shall not exceed the amount of lease reimbursement assistance approved by the state, plus an amount up to four percent (4%) of the School's funding for operational expenses as reflected in the 910-B5 submitted to the School by the PED.
4. Lease Adjustments. If the School experiences a substantial increase or decrease in the State Equalization Guarantee (based on unit value or membership) during the term of this lease in excess of 5%, the parties shall enter into good faith negotiations to make appropriate pro rata adjustment to the lease payment for the current year, subject to the 4% limitation.


5. Definitions

- a. **"Annual Base Rent"** for purposes of the third Extended Tenn means the amount estimated in section 1 subject to sufficiency of appropriations approved by the legislature for the 2023-2024 fiscal year.
  - b. **"Usable square feet"** means the square footage of Units 1, 3 and 4 occupied by the Lessee pursuant to the Lease less: 1) the square feet reserved by the Lessor for any extended term of the Lease for Lessor's administrative and other Lessor direct program operations (for the 2023-2024 extended lease term, the Lessors' reserved square footage is 6,982 sq. ft.); and 2) any other spaces transferred to the Lessee for development of a cafeteria and dormitory pursuant to other agreements with the Lessor.
- B. Except as amended in this Fourth Amendment, the terms of the Lease shall remain in full force and effect.
- C. This Fourth Amendment may be simultaneously executed in several counterparts and on different dates but each of which shall be an original and all of which shall constitute but one and the same instrument.

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

**LESSOR**

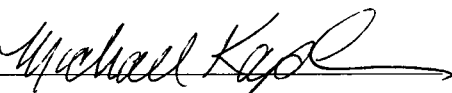
**NEW MEXICO SCHOOL FOR THE ARTS - ART INSTITUTE**  
a New Mexico nonprofit corporation

By: 

Name: Carl Thoma  
Title: Chair, Board of Directors

**LESSEE**

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

By: 

Name: Michael Kaplan  
Title: Chair, Governing Council

**EXTENSION OF LEASE AGREEMENT**  
**50 Mount Carmel Road, Santa Fe, NM 87505**  
**SAN JUAN HALL**

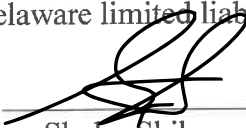
**THIS AMENDMENT TO THE LEASE AGREEMENT** made this 1st day of August 2023, by and between Santa Fe RC 2, LLC, a Delaware limited liability company (“**Landlord**”) and New Mexico School of the Arts, a New Mexico state charter high school (“**Tenant**”) with reference to the following facts:

- A. Landlord and Tenant are parties to that certain Lease Agreement made as of August 3, 2021 (the “**Lease**”), concerning certain premises known as San Juan Hall.
- B. The parties now wish to extend the term of the Lease to December 31, 2023.

**NOW, THEREFORE**, the parties hereto agree as follows:

- A. The term of the Lease is hereby extended to December 31, 2023.
- B. The rent during such extended term shall be revised to \$11,625 per month.
- C. At the end of the term, Tenant shall return premises to Landlord in broom clean condition.

SANTA FE RC 2, LLC  
a Delaware limited liability company

By:   
Skylar Skikos  
Its: authorized representative

NEW MEXICO SCHOOL OF THE ARTS  
a New Mexico state charter high school

By:   
Its: 

**IMMACULATE HEART OF MARY RETREAT AND CONFERENCE CENTER LEASE  
AGREEMENT WITH NEW MEXICO SCHOOL FOR THE ARTS**

This Lease Agreement is made and entered into this 3 day of August, 2021, by and between the Roman Catholic Church of the Archdiocese of Santa Fe, a corporation sole, ("Landlord") debtor and debtor-in-possession in Case No. 18-13027 – t11 , pending in the United States Bankruptcy Court for the District of New Mexico (the "Court") and the New Mexico School for the Arts ("Tenant"), a New Mexico state charter high school.

In consideration of the covenants and obligations contained herein and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**1. LEASED PREMISES.** The leased premises (the "Premises") consists of the entire San Juan Building (the "Building") of the Immaculate Heart of Mary Retreat Center ("IHM") including the Monte Sol Room containing approximately 14,119 square feet, and includes all bedrooms, bathrooms, and lounges in the Building.

**2. COMMENCEMENT DATES:** The parties hereby agree to commence this Lease Agreement beginning the 1st day of August 2021. To terminate tenancy, the Landlord or the Tenant must give the other party a written thirty (30) days' notice of Lease non-renewal. The Tenant may only terminate the Lease on the last day of any month and the Landlord must receive a written notification of non-renewal at least thirty (30) days prior to the last day of that month. If the Tenant plans to leave on or after the first day of any month, Tenant is responsible for that month's full rent. If the Tenant does not provide the Landlord with a written thirty (30) days' notice, Tenant shall forfeit the full deposit amount. Termination of the Lease in accordance with this paragraph may be for any or no reason and no reason for termination need be given by the terminating party. Tenant acknowledges that Landlord is actively marketing IHM, and that the Lease terminates without notice upon Court approval of a sale of IHM. Tenant is responsible for negotiating with any purchaser of IHM for a new lease agreement for the Premises.

**3. RENT PAYMENTS:** The rent shall be payable as outlined, with no increase through May, 2025: The monthly rent payment shall be \$9,300.00 (ninety-three hundred dollars). The first full rent payment under this Lease Agreement is due on the 1st day of August, 2021. The following utilities are included with the rent: water, refuse, sewer, electricity, and natural gas. Any and all other utilities, such as phone, internet, and cable TV service, will be the responsibility of the Tenant. Tenant may not cause any encumbrances to be placed upon the Premises for any reason.

**4. DEFAULT.** The following provisions are understood and agreed to between Landlord and Tenant, subject to the provisions of paragraph 2:

**A.** If rent specified above, or any part thereof, shall be in arrears or unpaid on the day of the payment then Landlord will give Tenant five (5) days written notice to cure such default.



B. If default shall be made in any of the covenants or agreements contained in this Lease then Landlord will give Tenant fifteen (15) days written notice to cure such default.

C. If Tenant remains in possession of the Premises after the above required notice period it shall be lawful for the Landlord to declare the said term ended, and re-enter the Premises to expel, remove, or put out the Tenant; to repossess and enjoy the same Premises again as in its first and former state; and to seize for any rent that may be due any property belonging to Tenant. It is the intent of the parties to recognize in the Landlord a valid first lien as provided by the laws of the State of New Mexico, upon any goods, chattels, and other property belonging to Tenant and located on the Premises as security for the payment of rent and fulfillment of the faithful performance of the agreements and covenants in this Lease.

D. If at any time the term shall be declared ended at such election of Landlord, Tenant agrees to surrender and deliver the Premises peaceably to the Landlord. If Tenant remains in possession of the Premises after the required notice period specified above, Tenant shall be deemed guilty of a forcible entry and unlawful detainee of the Premises under the laws of the State of New Mexico and shall be subject to eviction and removal under the due process of law. If at any time after such termination Landlord may re-lease the Premises or any part thereof, for such term and on such conditions as Landlord, in its sole direction may determine, and may collect and receive the rent thereafter.

E. Termination of this Lease shall not relieve Tenant of its liabilities and obligations under this Lease and such liabilities and obligations will survive any such termination. In the event of any such termination, whether or not the Premises have been re-leased, the total remaining balance of the rent which would be due and payable for the remainder of the term of this Lease, less the net proceeds of any re-leasing affected by the Landlord shall become due and payable as liquidated damages of Tenants default. Net proceeds shall be calculated as the gross dollar amount of the new lease less any expenses Landlord incurred in re-leasing the Premises including but not limited to all repossession costs, brokerage commissions, legal and attorney fees, alteration costs, and expense of preparation for such re-leasing.

F. Tenant will pay all costs, attorney's fees and expenses incurred by Landlord in enforcing the covenants and terms of this Lease. If legal action is brought by any party to this Lease, to enforce the covenants and terms of this Lease, the prevailing party shall be entitled to reasonable attorney fees and costs assessed by the court.

#### 5. MISCELLANEOUS. During the term of this Lease:

A. Tenant, its boarding students, and Resident Directors/Assistants shall have access to the Monte Sol Room for purposes of large-group gatherings, including but not limited to breakfast meals and community activities. Except in the case of emergencies (in which case notice shall be provided to Tenant as soon as possible) or to perform routine cleaning as described in the Lease, Landlord shall not enter the Premises without prior notice to Tenant and Tenant's written consent, which consent shall not be unreasonably withheld but may be subject to reasonable conditions.



B. Tenant will provide all cleaning personnel and will establish a cleaning schedule that includes:

i) dorm rooms & breakfast room will be vacuumed, dusted, and trash containers emptied as often as needed but at least every Saturday,

ii) lobby areas, corridors, and bathrooms will be cleaned every Tuesday, Thursday, and Saturday.

iii) carpeting throughout the Building will be steam-cleaned once a year,

iv) window cleaning prior to the start of each school term and in early spring of each school term.

v) Tenant shall indemnify and defend Landlord for any claim, expense, cost, suit or damage related to or caused by Tenant's cleaning vendors or personnel, which shall include attorneys' fees and court costs in connection therewith.

C. No meals will be provided by Landlord.

D. Tenant shall provide an additional washing machine to be located in the washroom in the basement; students may use all washing machines and dryers in the room to wash their clothes as well as their bed linens.

E. Landlord's chapel will during the term and any extension terms continue to be available for New Mexico School for the Arts Choir and Instrumental practices and occasional performances at times agreed by Landlord and Retreat and Conference Center Director, such approval not to be unreasonably withheld or delayed, and at no charge.

F. The maximum number of students allowed to be housed in the Premises will be up to 40.

90  
8/2/21  
C.M.W.  
8-1-2021

G. Tenant will have access to the Premises 24 hours per day, 7 days per week.

H. The dormitory rooms are intended to be occupied by students during the school year terms only. Tenant's adult Resident Directors/Advisor may occupy their rooms year round while the Lease is in place.

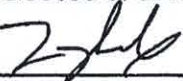
I. Tenant agrees that students will be restricted to the area of IHM campus east of the Chapel only.

J. STORAGE: Tenant may continue to use for year-round storage the room in the basement of the Building that it is currently used for such purpose. In addition, Tenant shall have the use of one room on the first floor of the Premises and one room on the second floor of the Premises for storage of personal property during the summer period when Tenant is not using the Premises for dormitory purposes. These rooms shall be selected by Tenant and subject to the reasonable approval of Landlord which approval shall not be unreasonably delayed.

All parties are in agreement with these terms, indicated by their signature below:

LANDLORD:

Roman Catholic Church of the  
Archdiocese of Santa Fe, a New Mexico corporation sole

By:   
Tony Salgado  
Executive Director of Finance

8-4-2021  
Date

TENANT:

New Mexico School for the Arts

By: 

8-3-21  
Date



**EXTENSION OF LEASE AGREEMENT**  
**50 Mount Carmel Road, Santa Fe, NM 87505**  
**SAN JUAN HALL**

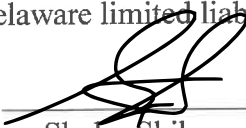
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SANTA FE RC 2, LLC  
a Delaware limited liability company

By:   
\_\_\_\_\_  
Skylar Skikos  
Its: authorized representative

NEW MEXICO SCHOOL OF THE ARTS  
a New Mexico state charter high school

By:   
\_\_\_\_\_  
Its: *Governing Council Chair*



# New Mexico School for the Arts

## Charter Five-Year Facility Master Plan/ Ed Specification Dated 2018-2023

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“Talent never exists by itself. Talent only exists because of opportunity.”

- Joel Fan

Approved by NMSA Governance Council on June 22, 2018

**Note: The NMSA FMP will be revised before the beginning of SY 2019-2020 to reflect its anticipated change in locations.**

Leased Facility is located at 275 East Alameda, Santa Fe, NM 87501.

Lease ends July 31, 2019 and with an option to extend through July, 2020.

Charter Approved: September 13, 2008  
First Charter Renewal: January 2014  
Second Charter Renewal Application: October 2018  
Charter Approved for 300 students.  
First Year of Operation: August 2010

School Contact: Eric Crites, Head of School  
Phone: (505) 310-4194 x105  
Art Institute Contact: Cindy Montoya, President  
Phone: (505) 216-7888 x 7 (505) 795 8202 cellular

**Acknowledgements:**

NMSA-Charter School Governing Council

|                      |                            |
|----------------------|----------------------------|
| Bill Beacham, Chair  | Michael Kaplan, Vice Chair |
| Greg Hunt, Treasurer | Paula Tackett, Secretary   |
| Cynthia Nava, Member | Neil Heighberger, Member   |

Head of School

Eric Crites

Business Manager

Liza Romero

Assistant Principal

Chelamia Quintana

Assistant Business Manager

Gayle McGuinness

Registrar & Operations

Cecile Hemez

IT Manager

Ruben Desangles

New Mexico School for the Arts- Art Institute

Cindy Montoya, President

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## **Introduction**

- Students, parents and teachers in New Mexico expressed the need to keep creative youth in state to further their artistic abilities. Why send our talent away when we can build opportunities at home? Why

import talent from other states in the arts economies when we can cultivate it here in an arts-based high school?

- Artists, educators, philanthropists and policy makers responded to this need, proposing the creation of NMSA. They were supported by hundreds of New Mexico citizens.
- In 2008, the Legislature passed and the Governor signed a bill establishing the first legislatively-created public arts school in the State's history—New Mexico School for the Arts. Over 100 legislators voted to establish the legislation for the School.
- The Public Education Commission of New Mexico (PEC) approved the School's charter application on September 13, 2008.
- The charter was renewed for the first time in January 2014.
- A second charter renewal application will be submitted in October of 2018.

NMSA opened its doors in the leased St. Francis Cathedral School on August 16, 2010, with 138 students from across New Mexico studying core and advanced academics coupled with mastery level Dance, Music, Theater or Visual Arts. Its location, in Santa Fe, affords students walking-distance access to Santa Fe's finest museums, performing arts spaces, and cultural institutions to further their learning in the arts.

In August of 2018, NMSA will open its doors for the ninth time with an enrollment of 221 students. NMSA is limited to 221 students due to the size of the current location.

The Public School Capital Outlay Council (PSCOC) and the Public School Facilities Authority (PSFA) require that all New Mexico public charter schools have a five-year Facility Master Plan and Educational Specifications (FMP/EDSpec) as a prerequisite for eligibility to receive public school capital outlay fund assistance. It requires a document to guide capital planning decisions that support the School's educational mission and meet minimum state adequacy standards.

NMSA is established under the New Mexico School for the Arts Act (Chapter 22, Article 15F NMSA 1978) as a statewide residential state-chartered charter high school for grades nine through twelve. For New Mexico students who have demonstrated artistic abilities and potential,



NMSA provides an educational opportunity to pursue a career in the arts and a strong academic program that leads to a New Mexico diploma of excellence.

The School is currently housed in a leased facility, Cathedral School, on the corner of Alameda and Paseo de Peralta, in Santa Fe. Its current lease extension ends in July 2019. It has an option to extend through July 2020.

This report follows the format required by the Public School Facilities Authority (PSFA) and is comprised of the following sections:

- Introduction
- Section 1. Goals/Mission
- Section 2. Existing and Projected Conditions
- Section 3. Facility Requirements (Ed Spec)
- Section 4. Capital Plan
- Section 5. Master Plan Support Material
- Appendices

As part of the process in developing the New Mexico School for the Arts Facilities Master Plan/Educational Specification, the Statewide Adequacy Standards NMAC 6.27.30 and Charter-Alternative School Statewide Adequacy Standard Variance table was reviewed when creating the first plan.

NOTE: As the administrative team updated the FMP, information changed to reflect a better understanding of the required information or reflects actual rather than projected data.

## **1. GOALS/MISSION**

### **1.1.1 Mission and Statement of Purpose**

#### **Mission**

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.

#### **Statement of Purpose**

NMSA's purpose is to provide the highest standards of excellence in preparing New

Mexico's artistically talented students to compete in the national arena for post-secondary and/or professional careers in the arts, regardless of home location. NMSA offers pre-professional instruction in the performing and visual arts along with rigorous academics leading to a high school diploma.

### **1.1.2 General Educational Philosophy**

As explained in the School's Charter, the focus on "art, heart and smart" will allow the School to achieve its mission:

Art -- First, the School will focus on artistic studies as well as introduce the students to the wider arts market and industries, since many art high school graduates nationwide pursue careers in the arts industry, not as practicing artists. Many students learn in non-traditional ways that have drawn them to their artistic interest. When alignment happens between arts and education for passionate art students, the students excel. Art schools are natural integration schools. In fact the term "magnet school" was first used to describe the phenomenon that occurred at the Houston art school in that it acted as a "magnet" for students of all ethnic backgrounds at a time when the educational system in Houston was otherwise ethnically divided. Passion for the arts transcends factors that frequently divide communities.

Heart -- Second, the School will focus on personal discipline, social, emotional and physical health in the students' lives, so that the students will carry forward personal health, balance and discipline in their lives.

Smart -- Finally, the School will prepare the students for college, and the School will align its academic curricula to meet college admission requirements.

NMSA will accomplish these ends by:

- Providing access to mastery arts education and rigorous academics.
- Establish a caring community of artistic learners nurtured and engaged in self-discipline, citizenship, continuous improvement, and joyful learning in and through the arts.
- Provide innovative and creative curricula in arts and academics based on fundamental skills, including exposure to New Mexico arts and culture.

### **1.1.3 Serving the Community**

- Jobs are available in many art markets both for the artists themselves and in other art-related fields in places like museums, the film industry, and the visual arts markets throughout the state.
- NMSA Charter School has formed a public/private partnership with NMSA-Art Institute, a nonprofit art educational institution to provide specialized arts programs. This alternative means of providing these programs supplements state funds in educating the students. Through partnerships, collaborations and programming, the School intends to serve as a statewide arts education leader working to encourage arts education throughout the state. The NMSA-Art Institute offers outreach through intensives and master classes in Dance, Music, Theater and Visual Arts for young people across New Mexico, regardless of their ability to pay. The Art Institute also provides the funding for the residential and outreach programs.
- Some examples of NMSA students participation in the community include Lencic Interns and SITE Santa Fe Young Curators. Students perform with the Santa Fe Youth Symphony and Pro Musica.

## **1.2 Process**

### **1.2.1 Data Gathering and Analysis**

Even before NMSA opened its doors to students in the leased St. Francis Cathedral School on the corner of Alameda and Paseo de Peralta, the Governing Council had been looking for a permanent home. Ad hoc committees and the Building Committee have been searching for potential sites within the Santa Fe area.

It focused on Santa Fe in order to:

- Take advantage of Santa Fe's fine museums, performing arts spaces, and cultural institutions to further students' learning in the arts.
- Benefit from skills of the local professional artists.
- Utilize the end of the Rail Runner line and public transportation to transport students from other areas of the state
- Rent the residences at New Mexico School for the Deaf to board students from around the state. The residential program has since moved to the Immaculate Heart of Mary Retreat Center.

To ensure wide input, in June 2011, NMSA utilized the services of a professional planner, Toby Herzlich, to moderate a full day retreat. Participants included board

and council members, staff and faculty, community members, volunteers and parents. The agenda was to revisit original assumptions and surface big questions the planning process needs to address, such as, what does the School want to become and be known for.

Out of that retreat came five “Areas of Focus” to support the core overall focus of arts mastery:

1. **Excellence in both Arts and Academics** - “Transformative educational experience that nurtures creative and critical minds.”
2. **Facilities** - publicly and privately funded facilities and campus.
3. **Partners**- “We create reciprocal relationships with social and economic drivers.” Those relationships should be statewide, connect with the business of the arts through effective alliances and partnerships with arts professionals and venture partners.
4. **Funding** - Sustainable funding from multiple sources, public and private, including an endowment.
5. **Students and Alumni** - “Preparation, guidance and graduation of world-class achievers.”

These ideals were refined by a Strategic Planning Committee into a statement titled, *Mission, Statement of Purpose, Goals and Critical Success Factors - December 2011*. These ideals have been reviewed annually and continue to guide NMSA.

To be efficient with the dollars and time of all involved, NMSA retained its former Business Manager, Charles Galbraith, to assist in developing the 2013-2018 report. *The 2018-2023 report has been revised and reviewed by the administrative team.*

The decision to employ Mr. Galbraith was based on his experience with the complexity of the School’s undertaking and the personal relationships with the administration, staff, and governing council. Furthermore, his prior experience in teaching, school business management and school construction in both public school and private boarding school made him uniquely suited to assist in documenting current conditions and future needs.

***NMSA has chosen to remain at this site through SY 2018-2019 when it will relocate to 500 Montezuma Avenue, Santa Fe, the site of its new location. The NMSA-Art Institute has purchased and is in the process of renovating the former Sanbusco***

*Market with the intention of entering into a lease purchase arrangement for the charter school. A Facility Master Plan will be developed before SY 2018-2019.*

While keeping the Principal, Director, and Business Manager informed, Mr. Galbraith met with faculty members, registrar, IT, maintenance, and members of the building committee to gather data and perform preliminary analysis for this report. Other charter FMP's were also reviewed.

Findings were presented to and deliberated with the Building Committee.

*The 2018-2023 report was revised by the NMSA administrative team and presented to the Governing Council.*

#### **Sites Investigated:**

*To date, in a search for a permanent home, over 18 sites have been visited, and due diligence has been performed on seven. The School has identified a site that satisfies programmatic and economic goals. The School anticipates that In 2019 required documents will be processed with the goal of moving to the former Sanbusco Market location currently under renovation by the Art Institute.*

#### **1.2.2 Authority and Facilities Decision Making**

The "New Mexico School for the Arts Act" (22-15F-5 NMSA 1978) states the "school shall be governed by a board of at least five members constituted as provided in the school's application for charter. No member of the board shall serve as a member of another charter school. The board shall have such powers and perform such duties as required by state and federal law and the school's charter..."

The Governing Board governs the affairs of the School, ensuring that the charter's mission and goals are carried out by overseeing the administration of the School. The Governing Council exercises its leadership by forming and adopting policy as well as hiring, establishing duties and evaluating the principal. The Governing Council also reviews and approves the budget submitted by the head of school and approves those items required by New Mexico Statutes.

The enabling legislation for the School requires the School to form a public/private partnership to accomplish its mission. The Governing Council informs its decisions through collaboration with the New Mexico School for the Arts - Art Institute, a non-profit educational organization that aligns and collaborates with the Charter School.

Before the school opened its doors and before students were enrolled in the school, a Building Committee was formed to research, advise and recommend on the selection of School facilities. It was comprised of members of the Governing Council of the Charter School and members of the Board of the Art Institute. There is also representation of the arts and business communities.

### **Acronyms and Definitions**

Ed. Spec. - Educational Specification

FMP - Facilities Master Plan

GSF - Gross square feet, or the sum of net assignable square feet plus all other building areas that are not assignable (the area remaining is called “tare,” which includes areas such as hallways, mechanical areas, restrooms, and the area of interior and exterior walls)

NMPED - New Mexico Public Education Department

NMSA-AI - New Mexico School for the Arts- Art Institute

NMSA (1978) - New Mexico Statutes Annotated

PEC - Public Education Commission

PED - Public Education Department

PSCOC - Public School Capital Outlay Council

PSFA - New Mexico Public School Facilities Authority

## **2. EXISTING AND PROJECTED CONDITIONS**

### **2.1 Programs and Delivery Methods**

#### **2.1.1 Programs and Delivery Methods**

To prepare New Mexico's artistically talented students to compete in the national arena for post-secondary education and/or professional careers in the arts, NMSA offers pre-professional instruction in the performing and visual arts in combination with rigorous academics leading to a New Mexico diploma and acceptance at college.

The academic courses comply with NMPED (New Mexico Public Education Department) standards to ensure every child meets the requirements for a high school diploma. The specific academic courses a NMSA student may take in a given year will be highly dependent on what level they have achieved in their schooling prior to enrollment at NMSA.

Currently, NMSA offers specialized arts training in the fields of dance, music, theater and visual arts. Its long-term goal is to add programs in Creative Writing & Literature and Cinematic Media Arts.

Each arts discipline is rooted in a classic core that serves as a platform for further study or entry into the profession.

The weekly schedule involves an extended school day, structured to provide several hours of advanced arts training in each student's area of focus that includes technical, creative and historical instruction.

NMSA helps the student find the path to cultivating his or her artistic voice. We seek the student's broad intellectual development so that in addition to developing strong technique, our students will begin to refine their personal artistic vision and purpose, and the means to communicate that vision through their art.

To achieve this goal, the NMSA experience includes a rich array of in-class coursework, studio work, in-the-field learning, presentations, performances and exhibitions. Guest artists, master teachers and partnerships with other arts institutions in the area are used to complement the instruction provided by the School's faculty.

Grade levels are configured in the traditional academic grades 9 - 12. In their arts education, students' program assignments are based on mastery.

Schedule approach:

NMSA uses a two-block day: Academic Block and Arts Block. Academic block is from



9:20 to 2:00 and includes three class periods and lunch on an alternating A/B block schedule (six academic periods per student total). Arts Block runs from 2:05 to 4:45. Arts departments organize their block around the needs of their program.

In order to accommodate students traveling from Albuquerque by the Rail Runner, the school day begins at 9:20. Some commuting students arrive as early as 7:30. The time in between is used for teacher office hours, study halls, and dual credit classes.

### Daily Schedule

|            |             |
|------------|-------------|
| Period 1   | 9:20-10:40  |
| Period 2   | 10:45-12:05 |
| Lunch      | 12:05-12:40 |
| Period 3   | 12:40-2:00  |
| Arts Block | 2:05-4:45   |

### Joint-use facilities:

The dance program uses leased space at the National Dance Institute-New Mexico.

Student performances have been held at the Lensic, James A Little Theater on the New Mexico School for the Deaf Campus, Warehouse 21, NDI-NM, and St. Francis Auditorium (Museum of NM). Exhibits are held at various local galleries and public spaces.

Other anticipated curricular and extracurricular activities to be accommodated in the facility are adult continuing education programs in art and art teacher training programs.

### **2.1.2 Anticipated Changes in Programs**

In addition to increased enrollment, NMSA anticipates the following changes in the future:

- ② Addition of a Cinematic Media Arts program and Creative Writing & Literature program to the existing four arts programs.
- ② Continued changes in technology and pedagogy requiring flexibility in space.
- ② Greater statewide enrollment, necessitating increased residential enrollment.

## **2.2 Enrollment**

### 2.2.1 Historic, Current Enrollment and Projected Enrollment

Since its inception, NMSA has had strong student demand and has met its projections made to PED. The chart below shows annual enrollment.

The current charter calls for a maximum enrollment of 300. NMSA has been unable to reach its cap due to the space limitations of the current location.

#### Enrollment History

|                 | Grade 9 | Grade 10 | Grade 11 | Grade 12 | Total |
|-----------------|---------|----------|----------|----------|-------|
| <b>SY1011</b>   | 54      | 46       | 35       | NA       | 135   |
| <b>SY1112</b>   | 45      | 60       | 48       | 30       | 183   |
| <b>SY1213</b>   | 45      | 53       | 55       | 38       | 191   |
| <b>SY1314</b>   | 53      | 54       | 47       | 47       | 201   |
| <b>SY1415</b>   | 51      | 51       | 53       | 41       | 196   |
| <b>SY1516</b>   | 60      | 56       | 49       | 45       | 210   |
| <b>SY1617</b>   | 60      | 60       | 54       | 47       | 221   |
| <b>SY1718</b>   | 58      | 55       | 58       | 51       | 222   |
| <b>SY1819 *</b> | 57      | 60       | 51       | 54       | 222   |

Source: STARS Membership Reports 40D

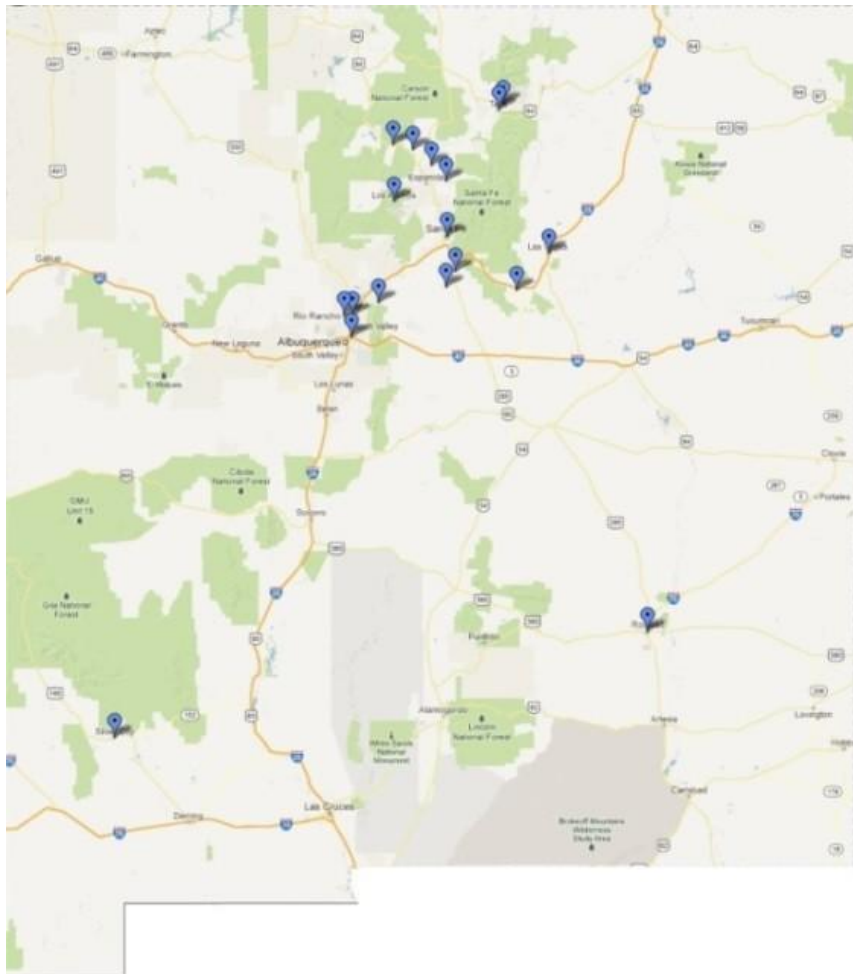
The arts program follows a different enrollment pattern and needs to be analyzed because of its impact on space and program. NMSA is studying alternative delivery methods and spaces for the Arts Program. This is discussed further in Section 3 - Facility Requirements. The following chart shows enrollment history by department.

### 2.2.2. Enrollment History by Arts Program

|                 | Dance | Music | Theater | Visual Arts | Total |
|-----------------|-------|-------|---------|-------------|-------|
| <b>SY1011</b>   | 20    | 37    | 38      | 40          | 135   |
| <b>SY1112</b>   | 28    | 50    | 52      | 53          | 183   |
| <b>SY1213</b>   | 28    | 52    | 53      | 58          | 191   |
| <b>SY1314</b>   | 30    | 51    | 55      | 65          | 201   |
| <b>SY1415</b>   | 27    | 51    | 59      | 59          | 196   |
| <b>SY1516</b>   | 27    | 57    | 65      | 61          | 210   |
| <b>SY1617</b>   | 26    | 63    | 69      | 63          | 221   |
| <b>SY1718</b>   | 26    | 64    | 67      | 65          | 222   |
| <b>SY1819 *</b> | 26    | 70    | 65      | 61          | 222   |

### 2.2.3 Student Origination

As a statewide charter school, NMSA has no local attendance boundaries. With a statewide mandate, there must be consideration of transportation needs as well as a residential program to house students. A number of students take the Rail Runner daily from Albuquerque. Other students commute daily from Taos, Las Vegas, Los Alamos, Pojoaque Valley, Espanola, and Abiquiu. The School also provides a five-night residential program from Sunday afternoon to Friday afternoon.



### 2.2.4 Classroom Loads/Sizes

The academic classroom loading policy varies but does not exceed statutory limits of 30:1 in any class with sizes varying between 10 and 30 students.

The arts programs vary by program:

**Dance:** varies from solo performance to large ensembles

**Music:** varies from 1-to-1 instruction to ensembles as large as 25

**Theater:** generally class sizes of 16

**Visual Arts:** generally class sizes of 16

### **2.2.5 Classroom Needs**

Appendix B (Classes Needed) shows the derivation of academic classroom needs based upon projected student enrollment by grade level.

This spreadsheet is a helpful management tool for illustrating the importance of enrollment management and the fallacy of simply dividing enrollment by class size to determine the number of classrooms.

Based upon a maximum class size of 25, there can be 8 regular classrooms needed if there are 200 students in the school with 50 in each grade. But, if there are 204 students, there can be 12 classrooms needed given the same constraints.

Based upon judgment and practical sense, 10 regular classrooms and 2 science labs are needed for the 300 charter capacity.

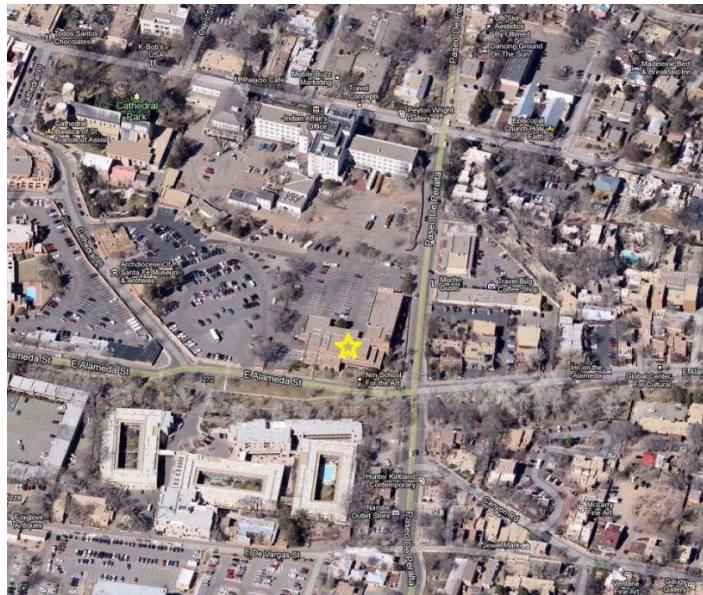
This does not include space for the arts mastery program which will be provided by alternative means. Also, the School is evolving its curriculum to a blended learning approach with could have space implications with respect to number of classrooms and size of classrooms.

The “Classes Needed” model attempts to strike a balance between usefulness and complexity.

## **2.3 Site and Facilities**

### **2.3.1 Current Location**

The yellow star on the map below indicates the St. Francis Cathedral School, current home of NMSA, at the corner of West Alameda and Peralta in Santa Fe.



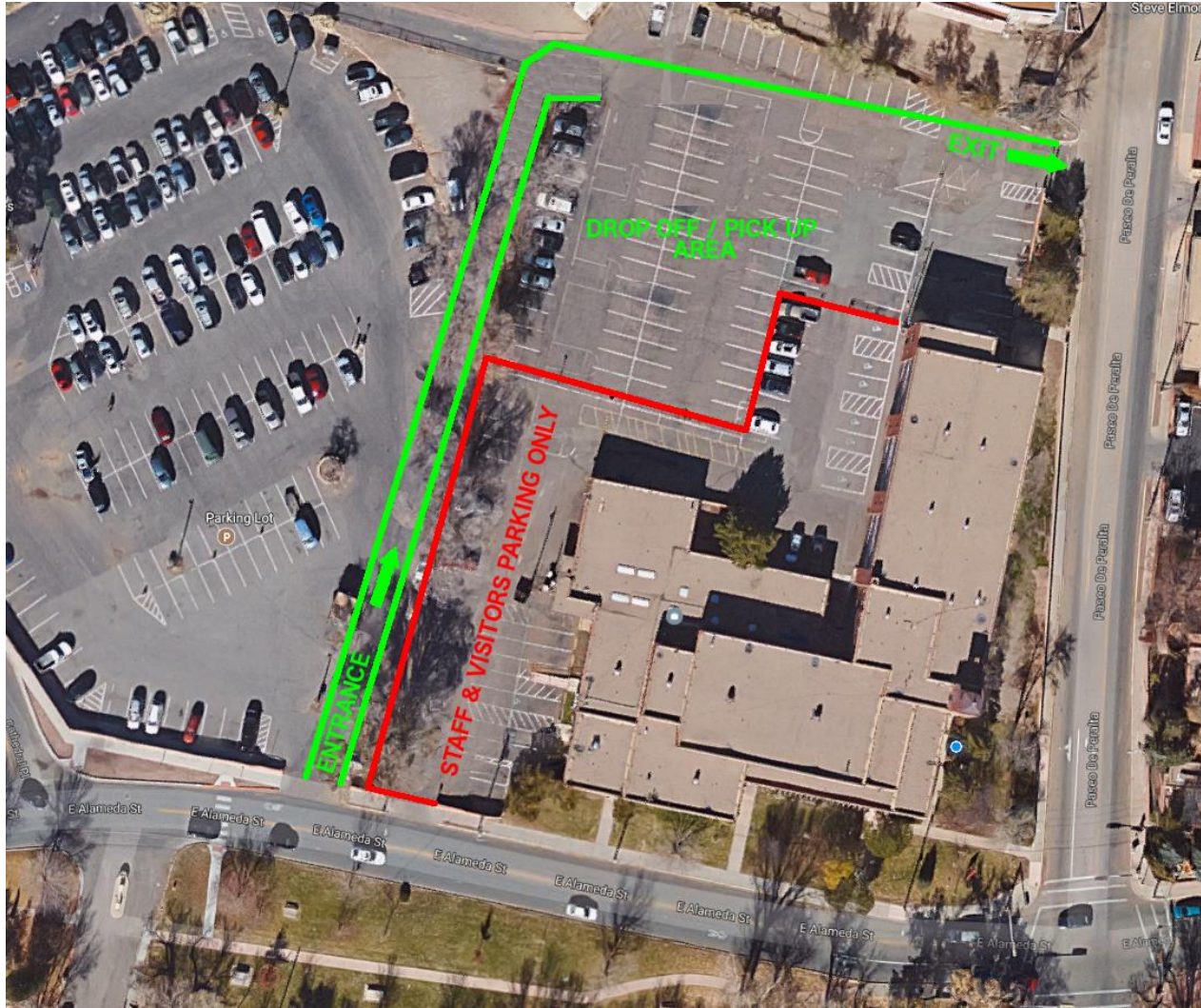
### 2.3.2 Current Site

The map below is a closer aerial view of the site. The red line outlines the area of lease with the landlord and indicates the location of a chain-link fence. The parking area outside the red line is public parking managed by Michael's Valet company. This area is used for student drop-off and pick-up. Staff and visitors park within the area outlined in red.

Staff and visitor traffic enters and exits on Alameda.

Student drop-off traffic enters from Alameda and proceeds in the direction of the green arrow along a through-lane into a drop-off area in the public lot. This traffic then exits through a gate onto Peralta. Traffic calming signs and bumps are being utilized.





### 2.3.3 Facility

The current facility was originally built in 1948 with subsequent additions. St. Francis Cathedral School served grades K to 6 and closed in 2005. Between 2005 and 2010, it was used for Church special events. Enough renovations were made by the landlord to bring the building up to code prior to the opening of the School in August 2010.

### 2.3.4 Facility Evaluation

- Roof replaced 2002. Occasional leaks at gutters.
- Roof repairs have been made annually since 2010.
- Original single-pane windows.
- Heat - The original building has 1983 Peerless Steam Boiler. Natural gas, 2.5 million BTU. 3 zones. This distribution system produces significant uneven

heating causing some rooms to be hot and other cold.

There are four gas forced hot air units providing heat to additions. They were all installed in 1998. They are located in the Business Office (71,000 BTU), Kitchen (89,000 BTU) and in a room outside the music area (2 @ 124,000 BTU).

*In June 2018, single-room heaters were installed in rooms 107 and 108.*

- The two hot water heaters are one 98 gallon 7,800 BTU heater located in basement near boiler (has label 1991 code compliant) and one located in kitchen.
- Electric panels are 200 amps but changing distribution through solid concrete walls creates need for expensive conduit.
- Most of the lighting in the original building and gym are 300 watt incandescent bulbs.
- There are no showers or locker rooms so students who change for their programs do so in bathrooms.

### **2.3.5 Statewide Adequacy Standards**

New Mexico's statewide adequacy standards (NMAC 6.27.30) provide standards for public school districts to "...provide and sustain the environment to meet the needs of public schools." They are intended to create a minimum facility standard to establish equity among all educational facilities serving New Mexico public school students. Charter schools are permitted to seek a variance for facilities, since they do not necessarily conform to the programs, delivery methods, and facility needs and budgets on which these standards are based. In such cases, schools meet the intent of the facility requirements through "alternative methods." However, alternative and charter schools are required to provide the minimum square footage allowances for general classroom spaces, as identified in the adequacy standards.

## **2.4 Utilization and Capacity**

### **2.4.1 Utilization: Identify special factors that influence facility use.**

The demands of the mastery arts program influence facility use in multiple ways:

- There is no space to house the current dance program. As an alternate



method, at the end of the academic school day students are transported to National Dance Institute - New Mexico, where space is rented.

- Dedicated spaces, like “wet” visual arts areas for painting and sculpture, limit other uses for those spaces.
- Accommodating long arts blocks at the end of the day and having to transport to dance students limits scheduling flexibility. A better solution to scheduling has yet to be found.
- There are no locker rooms available for students to change clothes to participate in theater activities and physical education. Bathrooms are being used.
- Music requires a large number of individual practice spaces, individual instruction spaces and sound attenuation. Currently, students are seen practicing in halls and almost every other space. Although this may enhance the amazing energy felt upon entering the School, sound attenuation is lacking.

Since the facility is leased, the School is prohibited from making capital investments to remedy the above with public funds. There were past discussions to consider purchasing the existing St. Francis Cathedral School property and additional surrounding property.

## **Visual Arts Classroom**



#### **2.4.2 Capacity**

The School realizes that based on the current 220 student enrollment, even with additional space necessary for dance, the current facility is at its current functional student capacity. The primary cause of this is the mastery arts program which requires dedicated spaces for “wet” art projects, choral risers, piano practice rooms and drama spaces. These dedicated mastery arts spaces, along with the program split between academics in the beginning of the day and arts at the end of the day, creates poor space utilization as indicated by the NMPSFA - FMP Utilization Spreadsheet (Appendix C). The School is mindful of this. It is also mindful of the need to attract and retain exceptional teachers who are proficient in their areas.

### **2.5 Technology – Overview of Tech plan and needed equipment**

NMSA’s approved Technology Plan is summarized below.

The technology vision is: “All our students learning today for tomorrow - NMSA students will have the technology skills needed to be successful in the world in which they will live and work.”

Technology Mission Statement: NMSA believes:

- Technology can be a tool to enhance our teaching technique and a means for modernizing our approach to academic and mastery arts education.
- Advanced technology will allow us to redefine the curriculum itself and allow

us to integrate curriculum across subject areas.

- Technology can provide a bridge between academics and the arts. For example, the physics of light could be explored through photography and three-dimensional imaging or polarization. By combining traditional subjects with what our students are passionate about, we hope to motivate students to participate fully in their own academic growth.
- Using and understanding technology will allow students to become critical thinkers who use technology now to understand and shape their world.
- Students must understand the ethical use of social networking sites in order to join the global discussion by presenting their own artwork and ideas. Technology can provide students with an unprecedented medium for expression and communication.

NMSA's long-term strategy is to move from a total time-based, presence-required mode of education to a blended learning model that frees students and teachers from some of the time and geographical constraints. For example, NMSA is a member of NM-PED Blended Learning and BYU and can offer courses to students online. NMSA also host its own LMS allowing students anytime access to most of their class content from anywhere. This may have significant facility implications. NMSA is currently researching the implications of blended learning on its programs and future facilities. Its Education Committee is taking the lead on this.

#### Current Technology.

NMSA hired an IT director and created a Mac Media Center designed to support academic and art education. It contains 30 iMacs, three professional photography printers, one high-speed laser printer, and two scanners. The room is also air conditioned by necessity. NMSA also has over 300 Chromebooks with charging carts throughout the school, providing in class access to technology to all our students.

Bandwidth has been upgraded to 200Mbps download/200Mbps upload (Comcast fiber line). This is solely dedicated to internet and media use. NMSA also has secondary internet line of 50Mbps for student personal devices and a dedicated 4.5Mbps line for our digital phone system.

The current site has geographical constraints because the city has old infrastructure limiting bandwidth.

Technology concerns for new facility:

- Power - plenty of outlets for recharging in classrooms (floor plugs by desks which eliminate extension cord hazard) and common areas. Capacity to wire the whole facility. (Media Arts needs in-house capacity and infrastructure to handle their large bandwidth and storage requirements. Two locations are needed for backup - the second space can be small.
- Theater performance space has very high electrical demand for lighting and technical support.

## **2.6 Energy Management – of existing or proposed facilities.**

The existing building has poor energy management. As detailed in section 2.3.4, old single pane windows combined with antiquated systems in the original building cause energy waste.

For proposed facilities, the School anticipates as “green” a facility as possible.

## **3. FACILITY REQUIREMENTS**

### **3.1 Facility Goals and Concepts**

#### **3.1.1 Facility Goals**

- Create physical spaces to meet the program requirements for 300 students.
- Create physical spaces that allow accomplished artists to offer pre-professional instruction in creative writing, dance, media arts, music, theater, and visual arts.
- Provide dormitory space for 40 students (with potential to expand to 60).
- Locate in Santa Fe to take advantage of artistic resources.
- Locate near public transportation services to meet statewide mandate.
- Support a learning environment that emphasizes collaboration, interactive learning and creative problem solving.
- Balance the need to meet New Mexico Adequacy Standards for public schools with the goals above along with the charge for charter schools to be innovative.

NMSA’s original charter was approved in 2008, re-approved in 2013, and anticipated to be renewed in 2018. One of our top priorities is to move the School into a permanent location. To date, NMSA has explored over 18 potential properties. It is NMSA’s goal to be in a permanent location by 2019 in accordance with statute 22-8B-4.2.

NMSA has a Building committee which meets regularly to ensure that the move to the

Sanbusco site is on track for SY 2019-20 . The Building Committee has successfully:

- 1) Found an available property that meets space and location needs,
- 2) Professionally explored and gathered detailed information regarding location and acquired a property
- 3) Determined what requirements NMSA must meet to be in compliance with NM PED with respect to a new location,
- 4) Secured and PSFA approved Ed Specs Plan.
- 5) Created a plan that not only includes a lease purchase agreement,projected maintenance for years to come, but also indirect costs associated with a new location such as need for increased security, transportation, equipment and furniture, etc.

### 3.1.2 Concepts

- Provide flexible spaces to permit student collaboration. This includes dedicated small spaces.
- Anticipate increasing role of technology as well as blended learning.
- Anticipate a move toward competency/mastery-based education model.
- Create a building that is energy efficient, low on maintenance and efficiently utilized.

## Space Requirements

### 3.2.1 Space Summary

In order to show the alternative means of providing efficiencies of tax dollar use, the space needs are broken down into two sections. Section A shows the space requirement for the Charter School and Section B shows the space requirement for the Art Institute:

#### Section A: Charter Academic Space Summary

| <b>300 Students (charter max.)</b> |                       |
|------------------------------------|-----------------------|
|                                    | <b>Square Footage</b> |
| Academic                           | 12,590                |
| Physical Education                 | 7,600                 |
| Cafeteria                          | 5,430                 |

|                          |        |
|--------------------------|--------|
| Admin. And Counseling    | 1,380  |
| Parent Workspace         | 150    |
| Gen. Storage             | 300    |
| Commons (above adequacy) | 1,900  |
| Subtotal                 | 29,350 |
| TARE 28%                 | 8,218  |
| Total Academic           | 37,568 |

The relationship between the Commons, Phys. Ed., and the Dance program needs further study and depends upon the ultimate selection of a facility. The Cafeteria and a Dining Space for Residential Students needs further study.

Detail for the above is in Appendix D.

**Section B: Arts Program Space Summary - with goal to provide through alternative means.**

|                  | Square Footage |
|------------------|----------------|
| Dance            | 9,910          |
| Music            | 7,020          |
| Theater          | 8,696          |
| Visual Arts      | 5,850          |
| Creative Writing | 900            |
| Media Arts       | 900            |
| Subtotal         | 33,276         |
| TARE 28%         | 9,317          |
| Total Arts       | 42,593         |

| <b>Residential (40 students)</b> |                       |
|----------------------------------|-----------------------|
|                                  | <b>Square Footage</b> |
| Residential Area                 | 10,000                |
| TARE 28%                         | 2,800                 |
| <b>Total Residential</b>         | <b>12,800</b>         |

Detailed support for the above is in Appendix E.

There are potential shared economies by using academic space for Music depending on location of facilities. Music requires a large number of individual practice spaces. Creative Writing & Literature and Cinematic Media Arts can be in academic spaces as well.

### **3.2.2 Site Requirements**

**Adequacy standards call for the following:**

|                                | <b>300 Students</b> |
|--------------------------------|---------------------|
| Site                           |                     |
| Parking 1.5 spaces/staff 30,38 | 45                  |
| Parking 1 space/four HS        | 75                  |
| Secure (fence/drop off/flow)   |                     |
| Multipurpose play surface      |                     |

### **3.2.3 Space Needs**

Appendix D and Appendix E provide a detailed analysis of space needs that support Section 3.2.1

### **3.3 Implementation of Space Needs**

The statewide mandate of the school which has a residential component and mastery arts component makes implementation of space needs particularly complex compared to other charter schools, as do financial constraints, which all schools share.



Here are major considerations/alternatives which can affect implementation:

- The current lease at St. Francis School, with options, will allow that facility to be used through July 2019, with an option for a one-year extension to July 2020. This lease can be ended, with notice any time after July 2014. With the 222 student enrollment and requirements of mastery art space, this facility is at its capacity.
- Obtaining space away from the School for more of the mastery arts program, as is being done currently for Dance, can free up space for the academic program. However, downtown Santa Fe space is expensive to rent. Modular classrooms for the existing historical district site have approval hurdles and implementation would be expensive given the eventual move of the School. It should also be kept in mind that some students travel daily from Albuquerque and other distant locations. Adding an additional commute from St. Francis to another location compounds their daily travel time. Multiple locations also make supervision more difficult, particularly for emergencies.
- The location of the residential component is another variable the school needs to consider, particularly if students have to travel to and from the school.

### **3.3.1 Scenarios for Implementation - identify phasing strategies for meeting required needs with projected growth.**

The Art Institute had purchased and has begun construction on a location that will accommodate both the academic and arts mastery programs.

## **4. CAPITAL PLAN**

### **4.1 Capital Funding**

#### **4.1.1 Historic and Current Funding**

Beginning its first operating year, NMSA-Charter School has received lease assistance from the PSCOC Lease Assistance program. This grant is applied for annually and the amount funded cannot not exceed the annual lease payments for classroom space; or \$700 multiplied by the MEM of the prior year. The rate is indexed and currently \$733.

| Fiscal Year   | Fiscal Year Lease Expense | PSCOC Lease Assistance              | Local Share paid through SEG |
|---|---------------------------|-------------------------------------|------------------------------|
| 7/1/10-6/30/11  | \$150,000                 | \$95,279                            | \$54,721                     |
| 7/1/11-6/30/12  | \$150,000                 | \$95,702                            | \$54,298                     |
| 7/1/12-6/30/13  | \$150,000                 | \$129,803                           | \$20,197                     |
| 7/1/13-6/30/14  | \$150,000                 | \$137,631                           | \$12,369                     |
| 7/1/14-6/30/15  | \$150,000                 | \$148,730                           | \$1,270                      |
| 7/1/15-6/30/16  | \$150,000                 | \$143,937                           | \$6063                       |
| 7/1/16-6/30/17  | \$185,500                 | \$152,036                           | \$33,464                     |
| 7/1/17-6/30/18  | \$185,500                 | \$150,885                           | \$34,615                     |
| 7/1/18-6/30/19  | \$188,375                 | Between and \$120,000 and \$150,885 | \$68,375 and \$37,490        |
| <b><u>FINAL ALLOCATIONS NOT AVAILABLE</u></b> We have been advised of a possible 20% decrease |                           | <b><u>Estimates</u></b>             | <b><u>Estimates</u></b>      |

#### 4.1.2 Current Capital Expenses

Since NMSA leases its facility from a non-public entity, it is prohibited from making capital improvements to the facility. The facility was built in 1948 and its age is showing. The school is receiving SB-9 funding that is being used for technology equipment. The annual amount is approximately \$150,000.

**Lease term and Expense:** The original \$150,000 annual lease for St. Francis Cathedral School ended on July 31, 2014. NMSA obtained an options to extend the lease, currently through July 31, 2019, with an option for another one-year extension through July 31, 2020, with the right to terminate with 120 day notice. The rent will increase to \$188,374.00 annually for 2018-19. At the time of this update, the PSCOC had not allocated lease reimbursements for 2018-2019.

#### 4.1.3 Potential Future Sources of Revenue

Much of the material in this section is drawn from *NMPED Capital Outlay Bureau 2013 Reference Data Report*.

There are three general sources of funding for public school capital projects in New Mexico:

1. Direct Legislative Appropriations.
2. Standards Based Process under the Public School Capital Outlay Act.
3. Locally based revenues. Districts can generate revenue from the sale of bond, direct tax levies, earnings from investments, rents and sales of real property and equipment.

### **1. Direct Legislative Appropriations:**

Direct Legislative Appropriations for capital outlay project funding are targeted for specific projects within the school district. Specific legislators sponsor these projects and are funded by the general fund or proceeds of the sale of severance tax bonds.

NMSA received two separate severance bond appropriations for planning, designing and building a new site.

### **2. Standards Based - Public School Capital Outlay Act.**

This standards based funding mechanism is administered through the Public School Facilities Authority, the staff of the Public School Capital Outlay Council. It uses a statewide database which ranks the condition of every school building relative to statewide adequacy standards. The schools with the greatest needs will be addressed first; however, local participation is required. State charters' percentage of participation is that of the district they are in. Santa Fe is one of the districts with the highest local share, 90%. For comparison, the local share of Albuquerque is 46%, Los Alamos 61% and Socorro 25%. There are also offsets for Direct Appropriations for projects.

The provisions of this act are complex.

According to the NMPED Capital Outlay Bureau 2012 Reference Data Report, if the PSCOC determines that the state-charter school does not have the resources to pay all or a portion of the total cost of the capital outlay project that is not funded with grant assistance from the fund, to the extent that money is available in the charter school capital outlay fund, the council shall make an award from that fund for the remaining amount necessary to pay for the project. The council may establish, by rule, a procedure for determining the amount of resources available to the charter school and the amount needed from the charter school capital outlay fund.

### **3. Locally Based Revenues:**

**Public School Buildings Act (HB33):** This act allows districts to impose a tax not to exceed 10- mills for a maximum of six years on the net taxable value of property upon approval of qualified voters. In the Act, "Capital Improvements" means expenditures, including payments made with respect to lease-purchase arrangements as defined by the Educational Technology Equipment Act (6-15A-1). It excludes debt service expenses. After July 1, 2007, a resolution submitted to the qualifying electors pursuant to Subsection A of 22-26-3 NMSA 1978 shall include capital improvements funding for a locally or state-chartered charter school located within the school district if:

- the charter provides timely information regarding the capital improvements for which the revenue will be used and
- the capital improvements are included in the districts five-year facilities plan. NMSA would be eligible for the ratio of its MEM to the total Santa Fe MEM.

### **The Public School Capital Improvements Act (SB-9 or the “two-mill levy”):**

The district can ask local voters to approve levy of up to 2 mills for maximum of six years. NMSA has been included in Santa Fe’s elections and based on its MEM currently receives approximately funding. These funds cannot be used for debt service expenses (see lease purchase provision) but can be used to:

- Erect, remodel, make additions to or provide equipment for public school buildings.
- Purchasing or improving public school grounds.
- Maintenance.
- Purchase activity vehicles for transporting students to extracurricular activities.
- Purchase computer software and hardware for student use in public school classrooms.

Capital improvements can only be made on a public building. Since NMSA is not currently in a public building, these capital funds cannot be used to improve the building. Consequently, for the February 2012 election, NMSA specified that the funds are to be used to purchase computer software and hardware for student use in public school classrooms.

**Educational Technology Note:**

The district can ask local voters to approve a levy for the specific purposes of provisioning schools with technology. NMSA has been included in Santa Fe’s elections and based on its MEM currently receives funding to purchase technology products and/or services.

**Local General Obligation Bonds: DOES NOT APPLY**  
**STATE CHARTER SCHOOLS ARE NOT INCLUDED IN THIS REVENUE STREAM**

NMSA 22-18-1 says that general obligation bonds can be used for erecting, remodeling, making additions and furnishing, or purchasing or improving grounds. Also, they can provide matching funds for capital outlay projects funded pursuant to the Public School Capital Outlay Act (see below). It also says that the priorities for the school district’s capital needs as shown by the facility assessment database maintained by the public school facilities authority needs to be considered.

A district’s ability to sell bonds is limited to 6% of assessed valuation. There is a four-year period in which the bonds may be sold from a particular approved resolution.

**The Public School Lease Purchase Act:**

Although the Public School Lease Purchase Act is not a source of funds, it declares that a financing agreement by a charter for leasing a building or other real property with an option to purchase for a price that is reduced according to the payments made pursuant to the financing agreement is not a debt if:

1. There is no legal obligation for the charter school to continue the lease from year to year or to purchase the real property;
2. The agreement provides that the lease shall be terminated if sufficient money is not available to meet the current lease payments.

The charter Emay apply any legally available funds to the payments.

**Other:** E-Rate: NMSA has participated in this program each year of operation. Based on free and reduced eligibility it is not entitled to capital funding, but NMSA does receive funding for approximately 50% of its telephone and internet service costs.

**4.1.4 PSCOC Capital Outlay Funding (addressed above)**

**4.2 Capital Needs**

The School’s capital needs are a permanent facility. After performing due diligence on seven sites (and considering a total of 18), the final site has been purchased, the planning has been completed, and construction of the new facility has begun. The school has also been developing its programs (it received an “A” as its PED school grade in each of the last six years) and fundraising capacity.

Appendix H is a five-year capital plan outline that is partially completed. It breaks the capital needs of the School into three sections: Academic, Art and Residential and Residential Program. It specifies potential sources of revenue as well as needs. Once a site is selected an architectural firm will be employed to provide more specificity. There are too many variables to complete it at this time.

## **5. MASTER PLAN SUPPORT MATERIAL**

### **5.1 Sites and Facilities Data Table**

|                             |                                  |
|-----------------------------|----------------------------------|
| State identification number | 509-001                          |
| Physical Address            | 275 E. Alameda St., Santa Fe, NM |
|                             | 87501                            |

Date of Opening: August, 2010

Dates of major additions/renovations: DNA

Facility Condition Index and NMCI NA

Site owned or leased Leased

Total building area gross sq/ft. 38,029

Site acreage 1.7 acres

Total number of permanent general classrooms 10

Total number of specialty classrooms 8 incl. Science,  
Mac Lab, Vis Arts Total number of portable classrooms 0

Total number of classrooms 18

Percentage portable classrooms to total: 0

Total enrollment current year (40<sup>th</sup> day) 221

Number of gross sq. ft. per student 172 (includes specialized art spaces for students)

## **5.2 Site Plan**

**5.3 Floor Plan - Scaled school floor plan with room numbers to match inventory See Appendix F1, F2, and F3.**

**5.4 Facility Inventory - Room use and square footage of each room. See Appendix G**

**5.5 Photographs (min 1 exterior and 1 interior)**

**5.6 Facility Evaluation - report not completed at this time. I think this is done.**

**5.7 FAD Update**

**5.8 Detailed Space and Room Requirements (Ed Spec), if applicable**

**5.8.1 Technology and Communications Criteria**

Network:

- 200Mbps to 300Mbps download/upload capability would meet the needs of anticipated programs.
- All offices, classrooms and common spaces should have network computer access (Wi-Fi or Ethernet) for mobile laptops and sufficient electrical power in every classroom.
- Instructional spaces shall have wireless network capacity to support 30 computers at least 54Mbps. See electrical section for electrical requirements.
- Secure, air-conditioned server room centrally located within the building.
- Secure closet with outside wall for communication line entrance from service providers.

Devices:

- Each instructional space, office and support space will have at least two jacks capable of voice/data.
- Each instructional space, student areas and office areas will have an intercom connection.
- All instructional spaces and meeting rooms shall have projection capability and A/V screen.
- Security cameras mounted on exterior door, parking areas and common areas, with two monitoring areas.

**5.8.2 Power Criteria**

Classrooms:



- Minimum of 3 duplex outlets on every wall. To provide power to students at desks, additional overhead or floor outlets desired to avoid extension cords on floor as trip hazard.
- Outlet for wall clock
- Power for wall-mounted devices projection devices
- Surge suppression
- GFCI for science classrooms and any wet areas Offices and support spaces:  
Meet code for outlet distribution

### **5.8.3 Lighting and daylighting criteria**

Day lighting of occupied spaces:

Provide exterior apertures to achieve a minimum glazing factor of at least 2% in all instructional spaces and a daylight illumination level of 25 foot candles, and in other occupied spaces as feasible. Glazing Factor = (Window Area /Floor Area x Window Geometry Factor x (Actual Tvis/Minimum Tvis) x Window Height Factor.

Classroom Lighting:

- A light level of at least 50 foot candles is required at each instructional space, measured at a work surface located in the approximate center of the classroom, between clean light fixtures
- All fixtures to have 2-level switching
- Light fixtures in spaces of day lighting will have dimmable lamps controlled by occupancy sensors and photocells

### **5.8.4 Environmental Conditioning Criteria**

Classroom Temperature:

- Each general and specialty classroom shall have a heating, ventilation and air conditioning (HVAC) system capable of maintaining a temperature between 68 and 75 degrees Fahrenheit with full occupancy.
- The temperature shall be measured at a work surface in the approximate center of the classroom.

Classroom Air Quality:

- Each classroom shall have an HVAC system that continually moves air and is capable of maintaining a CO2 level of not more than 1,200 parts per million.
- The air quality shall be measured at a work surface in the approximate center of the classroom.

### **5.8.5 Classroom Acoustics Criteria**

- The sound level of each general and specialty classroom shall be a one-hour, A-weighted Noise Criteria of less than 55 decibels
- The sound level shall be measured at a work surface in the approximate center of the classroom
- Reverberation times in the classroom shall be within a range of 0.4 - 0.6 seconds
- All other occupied spaces shall maintain a background sound level of less than 55 decibels

### 5.8.6 Furnishing and Equipment Criteria

Each classroom shall have the following furniture:

- Student work surfaces to accommodate 30 students, teacher's desk, chair and file cabinet, whiteboards, etc.
- Chairs need to be comfortable, durable and movable.
- Tables should have durable surfaces and be movable for a variety of group configurations.

### 5.8.7 Table types

The following three table types are in current use at the School and provide flexibility to meet many needs.

Type 1 has a plastic top and seats two students on either side. It is used in the cafeteria and various classrooms. The work surface measures 6 feet by 2.5 feet. It is light and easily movable.



Type 2 has a laminate top and seats two students. The legs are on the outside. They are easily moved to a large rectangle where students can see all of the other students and can be moved to create groups of 4. The work surface measures 5 feet by 2 feet.



Type 3 is in the science lab. It was built in-house. It has a Chemguard top surface and storage as part of the inner pillar. Note that there are no perimeter legs so students can easily draw their stools close. At the end of the table is gas service and sink. They measure 8 feet by 38in.

### 5.8.8 Storage types

Classrooms shall have upper and lower cabinets with work counter.

### 5.8.9 Criteria Sheets - provide as appropriate to support space recommendations

|   |   |                           |
|---|---|---------------------------|
| <b>NAME OF SPACE:</b>                     |   | <b>General Classrooms</b> |
| Program:                                  | Instruction   |                           |
| Number of Occupants:                      | 26- 30 students and instructor                                  |                           |
| <b>ACTIVITIES AND FUNCTION:</b>           |   |                           |
| Educational                               | Student Instruction Area  |                           |
| Operational                               | Flexible space for multiple subjects and seating arrangements   |                           |
| Community                                 | Possible meeting, music practice, creative writing space        |                           |
| <b>FUNCTIONAL ADJACENCY REQUIREMENTS:</b> |   |                           |
| Direct Access                             |   |                           |
| Indirect/Near                             | Other classrooms  |                           |
| Not Adjacent/Separate                     | Phys Ed, Kitchen, Loading Areas                                 |                           |
| <b>ENVIRONMENT:</b>                       |   |                           |
| Temperature                               | 70-78   |                           |
| Acoustic                                  | Acoustic separation from common/assembly space                  |                           |
| Lighting                                  | Natural lighting desired; non-glared, 50-70fc across space      |                           |
| HVAC                                      | AC + natural ventilation desired                                |                           |
| Aesthetic                                 | studio - instructional, conducive to instruction and group work |                           |

| <b>FURNISHINGS/INSTRUCTIONAL AIDS:</b> |   |
|--|---|
| Marker Boards/Tackable Surfaces        | Marker Boards and Tackable Surfaces                                 |
| Movable Furniture                      | 26 - 30 student chairs, movable 2 person tables, teacher desk/chair |
| Projection Surfaces                    | Projection Whiteboard (Smart board)                                 |
| Storage                                | Lockable - closet preferred   |
| Cabinetry                              |   |
| Equipment                              | Wall mounted projection   |

| <b>INTERIOR FINISHES:</b> |  |
|---------------------------|--|
| Flooring                  | Hard surface with carpet tile                    |
| Walls                     | 9'-0" min; painted finish                        |
| Ceiling                   | Acoustical Tile                                  |
| <b>WINDOWS:</b>           |  |
|                           | Operable?                      Shades?           |
| Exterior                  | Yes                                      Yes     |
| Interior                  | in door                                      Yes |

| <b>TECHNOLOGY:</b> |  |
|--------------------|--|
| Voice              | Telephone; handset w/intercom            |
| Data               | LAN access; wireless                     |
| Audio/Visual       | NEC Wall mounted projector or equivalent |
| Clock/Intercom     | Standard Clock, Intercom                 |
| Security           | Lockable Door with View Panel            |
| Fire Alarm         | Smoke detector as required by Code       |

| <b>SPECIAL NOTES:</b> |  |
|-----------------------|--|
|                       |  |

| <b>NAME OF SPACE:</b> | <b>Science Classrooms</b>       |
|-----------------------|---------------------------------|
| Program:              | Instruction                     |
| Number of Occupants:  | 16 - 30 students and instructor |

| <b>ACTIVITIES AND FUNCTION:</b> |                                     |
|---------------------------------|-------------------------------------|
| Educational                     | Student Instruction Area            |
| Operational                     | Instruction and science experiments |
| Community                       |                                     |

| <b>FUNCTIONAL ADJACENCY REQUIREMENTS:</b> |   |
|---|---|
| Direct Access                             | Prep room in between two science classrooms |
| Indirect/Near                             |   |
| Not Adjacent/Separate                     |   |

| <b>ENVIRONMENT:</b> |  |
|---------------------|--|
| Temperature         | 70-78  |
| Acoustic            | Acoustic separation from common/assembly space             |
| Lighting            | Natural lighting desired; non-glared, 50-70fc across space |

|           |   |
|-----------|---|
| HVAC      | Natural ventilation desired, separate AC, air ducts |
| Aesthetic | Scientific, safe                                    |

|  |
|--|
| <b>FURNISHINGS/INSTRUCTIONAL AIDS:</b> |
|--|

|                                 |  |
|---------------------------------|--|
| Marker Boards/Tackable Surfaces | Marker Boards and Tackable Surfaces                            |
| Movable Furniture               | 30 stud chairs, 2 person tables, teacher desk, see notes below |
| Projection Surfaces             | Projection Whiteboard  |
| Storage                         | Lockable - closet preferred                                    |
| Cabinetry                       | Storage base cabinets lab tables                               |
| Equipment                       | Wall mounted projection  |

|                           |
|---------------------------|
| <b>INTERIOR FINISHES:</b> |
|---------------------------|

|          |                           |
|----------|---------------------------|
| Flooring | Hard surface              |
| Walls    | 9'-0" min; painted finish |

|         |                 |
|---------|-----------------|
| Ceiling | Acoustical Tile |
|---------|-----------------|

|                 |  |           |         |
|-----------------|--|-----------|---------|
| <b>WINDOWS:</b> |  | Operable? | Shades? |
| Exterior        |  | Yes       | Yes     |
| Interior        |  | in door   | No      |

|                    |
|--------------------|
| <b>TECHNOLOGY:</b> |
|--------------------|

|                |                                    |
|----------------|------------------------------------|
| Voice          | Telephone; handset w/intercom      |
| Data           | LAN access; wireless               |
| Audio/Visual   | TV Video Input (jack)              |
| Clock/Intercom | Standard Clock, Intercom           |
| Security       | Lockable Door with View Panel      |
| Fire Alarm     | Smoke detector as required by Code |

|                       |
|-----------------------|
| <b>SPECIAL NOTES:</b> |
|-----------------------|

7 lab tables 8' x 38" plus sink at end (chemical traps) and natural gas access.  
Safety shower/eyewash

|                       |                                |
|-----------------------|--------------------------------|
| <b>NAME OF SPACE:</b> | <b>Tech Lab and Media Arts</b> |
|-----------------------|--------------------------------|

|          |             |
|----------|-------------|
| Program: | Instruction |
|----------|-------------|

|                      |  |
|----------------------|--|
| Number of Occupants: |  |
|----------------------|--|

|                                 |
|---------------------------------|
| <b>ACTIVITIES AND FUNCTION:</b> |
|---------------------------------|

|             |  |
|-------------|--|
| Educational |  |
| Operational |  |
| Community   |  |

|   |
|---|
| <b>FUNCTIONAL ADJACENCY REQUIREMENTS:</b> |
|---|

|               |                                    |
|---------------|------------------------------------|
| Direct Access | IT Office with workbench & storage |
| Indirect/Near |                                    |

|  |  |
|--|--|
| Not Adjacent/Separate                  |  |
| <b>ENVIRONMENT:</b>                    |  |
| Temperature                            | 66-72 Note: Cooler than classrooms                         |
| Acoustic                               | Acoustic separation from common/assembly space             |
| Lighting                               | Natural lighting desired; non-glared, 50-70fc across space |
| HVAC                                   | AC only. High AC load.                                     |
| Aesthetic                              |  |
| <b>FURNISHINGS/INSTRUCTIONAL AIDS:</b> |  |
| Marker Boards/Tackable Surfaces        | Marker Boards and Tackable Surfaces                        |
| Movable Furniture                      | 26 student chairs, movable 2 person tables                 |
| Projection Surfaces                    | Projection Whiteboard                                      |
| Storage                                | Lockable - closet preferred                                |
| Cabinetry                              |  |
| Equipment                              | Wall mounted projection                                    |
| <b>INTERIOR FINISHES:</b>              |  |
| Flooring                               | Hard surface with carpet tile                              |
| Walls                                  | 9'-0" min; painted finish                                  |

|                 |                 |         |
|-----------------|-----------------|---------|
| Ceiling         | Acoustical Tile |         |
| <b>WINDOWS:</b> | Operable?       | Shades? |
| Exterior        | Yes             | Yes     |
| Interior        | in door         | Yes     |

|                    |                                    |
|--------------------|------------------------------------|
| <b>TECHNOLOGY:</b> |                                    |
| Voice              | Telephone; handset w/intercom      |
| Data               | LAN access; wireless               |
| Audio/Visual       | TV Video Input (jack)              |
| Clock/Intercom     | Standard Clock, Intercom           |
| Security           | Lockable Door with View Panel      |
| Fire Alarm         | Smoke detector as required by Code |

**SPECIAL NOTES:**  
 Adjacent IT Office with workbench and storage.

|                                 |                         |
|---------------------------------|-------------------------|
| <b>NAME OF SPACE:</b>           | <b>Faculty Workroom</b> |
| Program:                        | Instructional Support   |
| Number of Occupants:            | Varies                  |
| <b>ACTIVITIES AND FUNCTION:</b> |                         |
| Educational                     |                         |

|   |   |
|---|---|
| Operational<br>Community                          |   |
| <b>FUNCTIONAL ADJACENCY REQUIREMENTS:</b>         |   |
| Direct Access                                     | Small room next to the Head of School office, off main corridor |
| Indirect/Near                                     |   |
| Not Adjacent/Separate                             |   |
| <b>ENVIRONMENT:</b>                               |   |
| Temperature                                       | 70-78   |
| Acoustic  | Acoustic separation from common/assembly space                  |
| Lighting  | Natural lighting desired; non-glared, 50-70fc across space      |
| HVAC  | AC + natural ventilation desired                                |
| Aesthetic   |   |
| <b>FURNISHINGS/INSTRUCTIONAL AIDS:</b>            |   |
| Marker Boards/Tackable Surfaces                   | Marker Boards and Tackable Surfaces                             |
| Movable Furniture                                 | Tables and chairs for eating/working                            |
| Projection Surfaces                               |   |
| Storage   | Lockable - closet preferred                                     |
| Cabinetry   |   |
| Equipment   |   |
| <b>INTERIOR FINISHES:</b>                         |   |
| Flooring  | Hard surface with carpet tile                                   |
| Walls   | 9'-0" min; painted finish                                       |
| Ceiling   | Acoustical<br>Tile  |
| <b>WINDOWS:</b>                                   | Operable?                      Shades?                          |
| Exterior  | Yes                                      Yes                    |
| Interior  | in door                                No                       |
| <b>TECHNOLOGY:</b>                                |   |
| Voice   | Telephone; handset w/intercom                                   |
| Data  | LAN access; wireless  |
| Audio/Visual                                      | TV Video Input (jack)   |
| Clock/Intercom                                    | Standard Clock, Intercom  |
| Security  | Lockable Door with View Panel                                   |
| Fire Alarm  | Smoke detector as required by Code                              |
| <b>SPECIAL NOTES:</b>                             |   |
| Open mail-boxes, fridge, microwave, toaster oven. |   |
| <b>NAME OF SPACE:</b>                             | <b>Administrative Office Space</b>                              |
| Program:  | Administration  |
| Number of Occupants:                              | 3   |



|   |  |
|---|--|
| <b>ACTIVITIES AND FUNCTION:</b>           |  |
| Educational                               |  |
| Operational                               |  |
| Community                                 |  |
| <b>FUNCTIONAL ADJACENCY REQUIREMENTS:</b> |  |
| Direct Access                             | Administration   |
| Indirect/Near                             |  |
| Not Adjacent/Separate                     |  |
| <b>ENVIRONMENT:</b>                       |  |
| Temperature                               | 70-78  |
| Acoustic                                  | Acoustic separation from common/assembly space             |
| Lighting                                  | Natural lighting desired; non-glared, 50-70fc across space |
| HVAC                                      | AC + natural ventilation desired                           |
| Aesthetic                                 | Professional   |
| <b>FURNISHINGS/INSTRUCTIONAL AIDS:</b>    |  |
| Marker Boards/Tackable Surfaces           | Marker Boards and Tackable Surfaces                        |
| Movable Furniture                         | 26 student chairs, movable 2 person tables                 |
| Projection Surfaces                       | Projection Whiteboard                                      |
| Storage                                   | Lockable - closet preferred                                |
| Cabinetry                                 |  |
| Equipment                                 |  |
| <b>INTERIOR FINISHES:</b>                 |  |
| Flooring                                  | Carpet   |
| Walls                                     | 9'-0" min; painted finish                                  |
| Ceiling                                   | Acoustical Tile  |
| <b>WINDOWS:</b>                           | Operable? Shades?  |
| Exterior                                  | Yes Yes  |
| Interior                                  | in door Yes  |
| <b>TECHNOLOGY:</b>                        |  |
| Voice                                     | Telephone; handset w/intercom                              |
| Data                                      | LAN access; wireless                                       |
| Audio/Visual                              |  |
| Clock/Intercom                            | Standard Clock, Intercom                                   |
| Security                                  | Lockable Door with View Panel                              |
| Fire Alarm                                | Smoke detector as required by Code                         |
| <b>SPECIAL NOTES:</b>                     |  |

|   |  |   |         |
|---|--|---|---------|
| <b>NAME OF SPACE:</b>                     |  | <b>Administrative Offices (Typical)</b> |         |
| Program:                                  | Administration/Student Support   |   |         |
| Number of Occupants:                      | 3  |   |         |
| <b>ACTIVITIES AND FUNCTION:</b>           |  |   |         |
| Educational                               |  |   |         |
| Operational<br>Community                  | School/Instruction Leadership, Parental Communication,<br>Interface with parents, students, IEP meetings |   |         |
| <b>FUNCTIONAL ADJACENCY REQUIREMENTS:</b> |  |   |         |
| Direct Access                             | Administrative Assistants  |   |         |
| Indirect/Near                             | Conference Room, School Entrance   |   |         |
| Not Adjacent/Separate                     |  |   |         |
| <b>ENVIRONMENT:</b>                       |  |   |         |
| Temperature                               | 70-78  |   |         |
| Acoustic                                  | Acoustic separation from common/assembly space   |   |         |
| Lighting                                  | Natural lighting desired; non-glared, 50-70fc<br>across<br>space   |   |         |
| HVAC                                      | AC + natural ventilation desired   |   |         |
| Aesthetic                                 | Open and inviting  |   |         |
| <b>FURNISHINGS/INSTRUCTIONAL AIDS:</b>    |  |   |         |
| Marker Boards/Tackable Surfaces           | Tackable Surface   |   |         |
| Movable Furniture                         | 1 staff Desk; 3 guests   |   |         |
| Projection Surfaces                       |  |   |         |
| Storage                                   | Cabinets   |   |         |
| Cabinetry                                 | Fireproof file storage, 2 drawer and 4 drawer  |   |         |
| Equipment                                 | Computer, printer  |   |         |
| <b>INTERIOR FINISHES:</b>                 |  |   |         |
| Flooring                                  | Carpet   |   |         |
| Walls                                     | 9'-0" min; painted finish  |   |         |
| Ceiling                                   | Acoustical<br>Tile   |   |         |
| <b>WINDOWS:</b>                           |  | Operable?                               | Shades? |
| Exterior                                  | Yes  | Yes                                     | Yes     |
| Interior                                  | in door  | Yes                                     | Yes     |
| <b>TECHNOLOGY:</b>                        |  |   |         |
| Voice                                     | Telephone; handset w/intercom  |   |         |
| Data                                      | LAN access; wireless   |   |         |
| Audio/Visual                              |  |   |         |

|                |                                    |
|----------------|------------------------------------|
| Clock/Intercom | Standard Clock, Intercom           |
| Security       | Lockable Door with View Panel      |
| Fire Alarm     | Smoke detector as required by Code |

**SPECIAL NOTES:**

Office for security near reception if the School retains a security officer.

**NAME OF SPACE: Cafeteria/Kitchen**

Program: Student Support

Number of Occupants: 221

**ACTIVITIES AND FUNCTION:**

Educational Student Support

Operational  
Community

**FUNCTIONAL ADJACENCY REQUIREMENTS:**

Direct Access Loading dock or ramp

Indirect/Near

Not Adjacent/Separate

**ENVIRONMENT:**

Temperature 70-78

Acoustic Acoustic separation from classrooms, kitchen

Lighting Natural lighting desired; non-glared, 50-70fc across space

HVAC AC + natural ventilation desired. Kitchen well vented.

Aesthetic Sanitary

**FURNISHINGS/INSTRUCTIONAL AIDS:**

Marker Boards/Tackable Surfaces

Movable Furniture Light weight plastic tables (Type 1)

Projection Surfaces Projection screen for large groups. Ceiling mount.

Storage Refrigeration, dry food storage, separate cleaning supplies.

Cabinetry Cash register at egress of serving area.

Equipment Standard Clock, Intercom, Kitchen Equipment

**INTERIOR FINISHES:**

Flooring Surface easily cleanable (vinyl tile cafeteria, sealed kitchen)

Walls 9'-0" min; painted finish

Ceiling Acoustical Tile - Cafeteria Painted - Kitchen

| <b>WINDOWS:</b> | Operable? | Shades? |
|-----------------|-----------|---------|
| Exterior        | Yes       | Yes     |
| Interior        |           |         |

| <b>TECHNOLOGY:</b> |  |
|--------------------|--|
| Voice              | Telephone; handset w/intercom                            |
| Data               | LAN access; wireless                                     |
| Audio/Visual       |  |
| Clock/Intercom     | Standard Clock, Intercom - loud enough to be heard - two |
| Security           | Lockable Door with View Panel                            |
| Fire Alarm         | Smoke detector as required by Code                       |

| <b>SPECIAL NOTES:</b>   |
|---|
| Required for Federal School Lunch Program, Food Prep and storage regulated by State and Federal.    |
| Storage for tables, floor drains kitchen, grease traps, fire suppression. Kitchen manager's office. |
| Relation for residence food service yet to be determined. Investigating alternative means.          |

| <b>ACTIVITIES AND FUNCTION:</b> |  |
|---------------------------------|--|
| Educational                     | Phys Ed (may be provided through alt. means Dance) |
| Operational                     |  |
| Community                       |  |

| <b>FUNCTIONAL ADJACENCY REQUIREMENTS:</b> |                                    |
|---|------------------------------------|
| Direct Access                             | Storage, Bathrooms, Water fountain |
| Indirect/Near                             | Parking                            |
| Not Adjacent/Separate                     | Classrooms, Administrative Offices |

| <b>ENVIRONMENT:</b> |   |
|---------------------|---|
| Temperature         | 68-72                                     |
| Acoustic            |   |
| Lighting            | Protected lighting desired; High windows. |
| HVAC                | AC + natural ventilation desired          |
| Aesthetic           | Light, airy                               |

| <b>FURNISHINGS/INSTRUCTIONAL AIDS:</b> |   |
|--|---|
| Marker Boards/Tackable Surfaces        | Tackable Surfaces, Marker Board         |
| Movable Furniture                      | Athletic equip.- Volleyball, basketball |
| Projection Surfaces                    |   |
| Storage                                | Lockable - closet preferred             |
| Cabinetry                              |   |
| Equipment                              |   |

|                           |              |
|---------------------------|--------------|
| <b>INTERIOR FINISHES:</b> |              |
| Flooring                  | Wood surface |
| Walls                     |              |

|         |                 |
|---------|-----------------|
| Ceiling | Acoustical Tile |
|---------|-----------------|

|                 |              |           |         |
|-----------------|--------------|-----------|---------|
| <b>WINDOWS:</b> |              | Operable? | Shades? |
| Exterior        | High Windows | Yes       | Yes     |
| Interior        |              | in door   | No      |

|                    |                                    |
|--------------------|------------------------------------|
| <b>TECHNOLOGY:</b> |                                    |
| Voice              | Telephone; handset w/intercom      |
| Data               | LAN access; wireless               |
| Audio/Visual       | TV Video Input (jack)              |
| Clock/Intercom     | Standard Clock, Intercom           |
| Security           | Lockable Door with View Panel      |
| Fire Alarm         | Smoke detector as required by Code |

|   |  |
|---|--|
| <b>SPECIAL NOTES:</b>   |  |
| Full opening double doors   |  |
| Two locker rooms with showers and two offices. Lockers - more female than male. |  |

|                       |                        |
|-----------------------|------------------------|
| <b>NAME OF SPACE:</b> | <b>Business Office</b> |
| Program:              | Administration         |
| Number of Occupants:  | 2 plus visitors area   |

|                                 |   |
|---------------------------------|---|
| <b>ACTIVITIES AND FUNCTION:</b> |   |
| Educational                     | Support   |
| Operational<br>Community        | Accounting, Purchasing, Payroll, Personnel, Benefits, |

|   |  |
|---|--|
| <b>FUNCTIONAL ADJACENCY REQUIREMENTS:</b> |  |
| Direct Access                             |  |
| Indirect/Near                             |  |
| Not Adjacent/Separate                     |  |

|                     |  |
|---------------------|--|
| <b>ENVIRONMENT:</b> |  |
| Temperature         | 70-78  |
| Acoustic            | Acoustic separation from common/assembly space             |
| Lighting            | Natural lighting desired; non-glared, 50-70fc across space |
| HVAC                | AC + natural ventilation desired                           |
| Aesthetic           | Office, Efficient Record Storage                           |

|  |  |
|--|--|
| <b>FURNISHINGS/INSTRUCTIONAL AIDS:</b> |  |
|--|--|

|                                 |  |
|---------------------------------|--|
| Marker Boards/Tackable Surfaces | Marker Board and Tackable Surface                          |
| Movable Furniture               | 3 work spaces, space for visitor to fill out paperwork     |
| Projection Surfaces             |  |
| Storage                         | Lockable, Fireproof File Storage. Meet record keeping req. |
| Cabinetry                       |  |
| Equipment                       |  |

|                           |  |
|---------------------------|--|
| <b>INTERIOR FINISHES:</b> |  |
|---------------------------|--|

|          |        |
|----------|--------|
| Flooring | Carpet |
|----------|--------|

|         |                           |
|---------|---------------------------|
| Walls   | 9'-0" min; painted finish |
| Ceiling | Acoustical Tile           |

|                 |           |         |
|-----------------|-----------|---------|
| <b>WINDOWS:</b> | Operable? | Shades? |
| Exterior        | Yes       | Yes     |
| Interior        | N         | No      |

|                    |  |
|--------------------|--|
| <b>TECHNOLOGY:</b> |  |
|--------------------|--|

|                |                                    |
|----------------|------------------------------------|
| Voice          | Telephone; handset w/intercom      |
| Data           | LAN access; wireless               |
| Audio/Visual   |                                    |
| Clock/Intercom |                                    |
| Security       | Lockable Door with View Panel      |
| Fire Alarm     | Smoke detector as required by Code |

|                       |  |
|-----------------------|--|
| <b>SPECIAL NOTES:</b> |  |
|-----------------------|--|

|                          |  |
|--------------------------|--|
| Operational<br>Community | Maintenance Office, Custodial Supplies |
|--------------------------|--|

|   |  |
|---|--|
| <b>FUNCTIONAL ADJACENCY REQUIREMENTS:</b> |  |
|---|--|

|                       |                                |
|-----------------------|--------------------------------|
| Direct Access         | Major circulation - Janitorial |
| Indirect/Near         | Support areas                  |
| Not Adjacent/Separate | Reception, entry               |

|                     |  |
|---------------------|--|
| <b>ENVIRONMENT:</b> |  |
|---------------------|--|

|             |  |
|-------------|--|
| Temperature | 70-78  |
| Acoustic    | Acoustic separation from common/assembly space |

|           |  |
|-----------|--|
| Lighting  | Natural lighting desired; non-glared, 50-70fc across space |
| HVAC      | Ventilated   |
| Aesthetic | Organized storage area                                     |

|  |
|--|
| <b>FURNISHINGS/INSTRUCTIONAL AIDS:</b> |
|--|

|                                 |  |
|---------------------------------|--|
| Marker Boards/Tackable Surfaces | One tackable surface, white board in maintenance             |
| Movable Furniture               | Open storage, metal shelving                                 |
| Projection Surfaces             |  |
| Storage                         | Open shelving,   |
| Cabinetry                       | Wall mounted storage shelving, racks for mops, broom, vacuum |
| Equipment janitorial            | Chemical dispenser for cleaning supplies in                  |

|                           |
|---------------------------|
| <b>INTERIOR FINISHES:</b> |
|---------------------------|

|          |                           |
|----------|---------------------------|
| Flooring | Hard surface              |
| Walls    | 9'-0" min; painted finish |
| Ceiling  | Acoustical Tile           |

| <b>WINDOWS:</b> | Operable? | Shades? |
|-----------------|-----------|---------|
| Exterior        | No        | No      |
| Interior        | No        | No      |

|                    |
|--------------------|
| <b>TECHNOLOGY:</b> |
|--------------------|

|                |                                    |
|----------------|------------------------------------|
| Voice          | Voice Maintenance Desk             |
| Data           | LAN access Maintenance Desk        |
| Audio/Visual   |                                    |
| Clock/Intercom |                                    |
| Security       | Lockable Door                      |
| Fire Alarm     | Smoke detector as required by Code |

|                       |
|-----------------------|
| <b>SPECIAL NOTES:</b> |
|-----------------------|

Maintenance desk inside shop area for repairs.  
 Separate janitorial closets on each floor. Room on outside for snow shovels, lawnmower.

|                       |                      |
|-----------------------|----------------------|
| <b>NAME OF SPACE:</b> | <b>Health Office</b> |
|-----------------------|----------------------|

|                      |                                     |
|----------------------|-------------------------------------|
| Program:             | Health                              |
| Number of Occupants: | 1 Staff Desk, student waiting, exam |

|                                 |
|---------------------------------|
| <b>ACTIVITIES AND FUNCTION:</b> |
|---------------------------------|

|             |                                     |
|-------------|-------------------------------------|
| Educational | Professional Office, Administrative |
|-------------|-------------------------------------|



|   |   |         |
|---|---|---------|
| Operational<br>Community                  | Health Screening, sick student care, medication<br>disbursement<br>Interacts with community - parents |         |
| <b>FUNCTIONAL ADJACENCY REQUIREMENTS:</b> |   |         |
| Direct Access                             | Single Bathroom   |         |
| Indirect/Near                             |   |         |
| Not Adjacent/Separate                     | Cafeteria   |         |
| <b>ENVIRONMENT:</b>                       |   |         |
| Temperature                               | 70-78   |         |
| Acoustic                                  | Acoustic privacy  |         |
| Lighting                                  | Natural lighting desired; non-glared, 50-70fc across<br>space   |         |
| HVAC                                      | AC + natural ventilation desired  |         |
| Aesthetic                                 | Comforting, friendly, warm and cool colors  |         |
| <b>FURNISHINGS/INSTRUCTIONAL AIDS:</b>    |   |         |
| Marker Boards/Tackable Surfaces           | Tackable Surface  |         |
| Movable Furniture                         | Executive desk, staff chair, 3 guest chairs   |         |
| Additional Furniture                      | 2 Student cots, ceiling mounted privacy curtain   |         |
| Storage                                   | File Storage, Lockable medicine cabinet   |         |
| Cabinetry                                 | Lockable countertop over base cabinets, overhead<br>cabinets  |         |
| Equipment                                 | Computer, Printer, Refrigerator   |         |
| <b>INTERIOR FINISHES:</b>                 |   |         |
| Flooring                                  | Hard surface  |         |
| Walls                                     | 9'-0" min; painted finish   |         |
| Ceiling                                   | Acoustical Tile   |         |
| <b>WINDOWS:</b>                           | Operable?   | Shades? |
| Exterior                                  |   |         |
| Interior                                  |   |         |
| <b>TECHNOLOGY:</b>                        |   |         |
| Voice                                     | Telephone; handset w/intercom   |         |
| Data                                      | LAN access; wireless  |         |
| Audio/Visual                              |   |         |
| Clock/Intercom                            | Standard Clock, Intercom  |         |
| Security                                  | Lockable Door   |         |
| Fire Alarm                                | Smoke detector as required by Code  |         |
| <b>SPECIAL NOTES:</b>                     |   |         |

Ambulance access.

### 5.9 Capital Improvement Plan (CIP), if available.

#### Summary table of priority capital improvement for the next 5

years and project cost details. (See Appendix H)

**Appendices**

**Appendix B - Classrooms Needed**

Shows varying impact of enrollment on academic classroom needs.

|                 | Grade 9 | Grade 10 | Grade 11 | Grade 12 | Total |
|-----------------|---------|----------|----------|----------|-------|
| <b>SY1011</b>   | 54      | 46       | 35       | NA       | 135   |
| <b>SY1112</b>   | 45      | 60       | 48       | 30       | 183   |
| <b>SY1213</b>   | 45      | 53       | 55       | 38       | 191   |
| <b>SY1314</b>   | 53      | 54       | 47       | 47       | 201   |
| <b>SY1415</b>   | 51      | 51       | 53       | 41       | 196   |
| <b>SY1516</b>   | 60      | 56       | 49       | 45       | 210   |
| <b>SY1617</b>   | 60      | 60       | 54       | 47       | 221   |
| <b>SY1718</b>   | 58      | 55       | 58       | 51       | 222   |
| <b>SY1819 *</b> | 57      | 60       | 51       | 54       | 222   |

Average Class Size =

|                                      |           |           |           |           |           |           |           |
|--------------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| English                              | 10        | 8         | 12        | 10        | 11        | 12        | 16        |
| Math                                 | 10        | 8         | 12        | 10        | 11        | 12        | 16        |
| Science                              | 10        | 8         | 12        | 10        | 11        | 12        | 16        |
| Social Studies                       | 10        | 8         | 12        | 10        | 11        | 12        | 16        |
| Spanish                              | 10        | 8         | 12        | 10        | 11        | 12        | 16        |
| Art - Provided by Arts Program       |           |           |           |           |           |           |           |
| Other (Health,Career)                | 6         | 6         | 6         | 6         | 6         | 12        | 12        |
| <b>Total Classes Held.</b>           | <b>56</b> | <b>46</b> | <b>66</b> | <b>56</b> | <b>61</b> | <b>72</b> | <b>92</b> |
| <b>Classroom need/period - 6 PER</b> | <b>10</b> | <b>8</b>  | <b>11</b> | <b>10</b> | <b>11</b> | <b>12</b> | <b>16</b> |
| Less Science                         | 1         | 2         | 2         | 2         | 2         | 2         | 2         |
| <b>General Classrooms - 6 PER</b>    | <b>9</b>  | <b>6</b>  | <b>9</b>  | <b>8</b>  | <b>9</b>  | <b>10</b> | <b>14</b> |
| Actual per utilization spreadsheet   | 9         |           |           |           |           |           |           |

**Appendix C: Utilization**

NMSA uses 100% of the classroom, large rehearsal hall, cafeteria, foyer and common areas for both the academic and arts blocks. Students arrive for the academic day at 9:15 each day for a 9:20 start. Students move into the arts block beginning at 2:10 pm and finish at 4:45pm.

**Appendix D. Space Needs (Academic and Arts)**

| <b>Academic Program (300 Students)</b> |                       |
|--|-----------------------|
|  | <b>Square Footage</b> |
| General Classrooms                     | 5,400                 |
| General Classroom Storage              | 400                   |
| Science Classrooms                     | 2,400                 |
| Science Prep                           | 80                    |
| Special Education                      | 200                   |
| Media Arts                             | 1,800                 |
| IT Office/Storage                      | 260                   |
| Career Ed - Arts                       | 1,200                 |
| Faculty Workspace                      | 300                   |
| Administrative Space                   | 300                   |
| <b>Subtotal</b>                        | <b>12,420</b>         |
| Physical Education                     | 6,500                 |
| Dressing Rooms (x2)                    | 800                   |
| Offices (x2)                           | 300                   |
| <b>Subtotal</b>                        | <b>7,600</b>          |
| Dining                                 | 2,400                 |
| Kitchen (HS 1,700 minimum)             | 2,100                 |
| Serving                                | 700                   |
| Staff Restroom                         | 150                   |
| Office                                 | 80                    |

|   |               |
|---|---------------|
| Subtotal  | <b>5,430</b>  |
| Head of School's Office                         | 150           |
| Assistant Principal's Office                    | 120           |
| Dean of Students Office                         | 120           |
| Additional Office (Counselor - Student Support) | 120           |
| Reception/Administrative Support                | 200           |
| Conference                                      | 200           |
| Registrar                                       | 120           |
| Business Office (includes storage)              | 350           |
| Parent Workspace                                | 400           |
| General Storage                                 | 600           |
| Commons   | 2,000         |
| Subtotal  | <b>4,380</b>  |
| TARE (28%)                                      | 8,330         |
| <b>Total</b>                                    | <b>38,080</b> |

**Appendix E. Arts Program Space Needs**

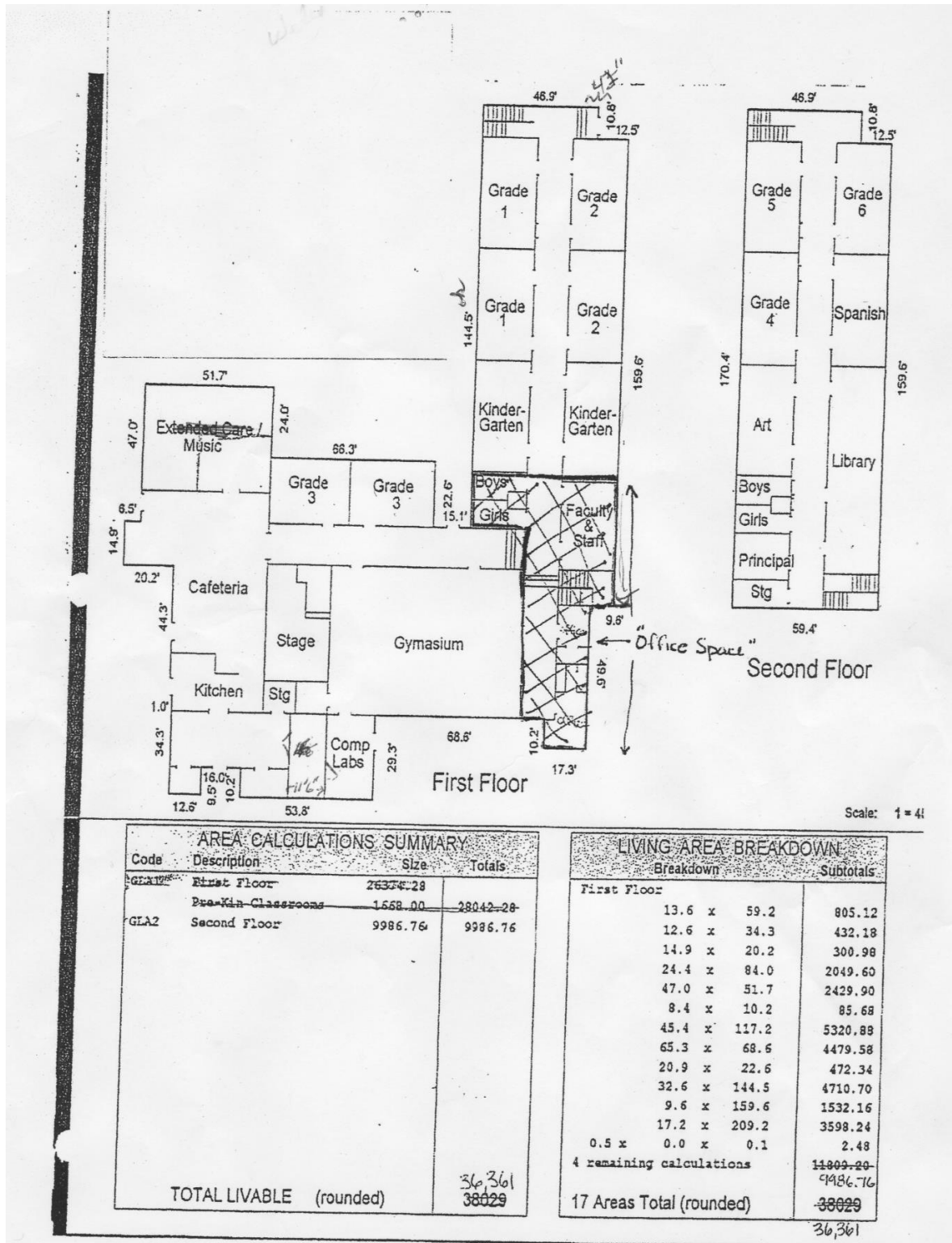
| <b>Arts Program (300 students)</b> |                       |
|------------------------------------|-----------------------|
|                                    | <b>Square Footage</b> |
| <b>Dance</b>                       |                       |
| Locker Rooms                       | 800                   |

|  |               |
|--|---------------|
| NDI Studio A (house 68 x 62)                   | 4,216         |
| NDI Studio B (stage 68 x 42)                   | 2,856         |
| Small Studio A (34 x 26)                       | 884           |
| Small Studio B (40 x 30) 7 to 10 kids          | 1,200         |
| Department Head Office                         | 100           |
| Staff Room                                     | 154           |
| Storage  | 500           |
| Subtotal                                       | <b>10,710</b> |
| <b>Music</b>                                   |               |
| Choral Room with Risers                        | 1,000         |
| Orchestra Practice Room                        | 1,200         |
| Piano Lab Practice Room                        | 720           |
| Large Music Teaching Studios (x3)              | 1,200         |
| Small Music Teaching Studios (x5)              | 600           |
| Individual Practice Rooms Wenger Lg & sm (x20) | 1,600         |
| Office Department Chair                        | 100           |
| Music Staff Room w/Music Library Space         | 300           |
| Subtotal                                       | <b>6,720</b>  |
| <b>Theater</b>                                 |               |
| Instruction                                    | 750           |
| Large Classrooms (32 x 32) x4                  | 4,096         |
| Dressing Rooms                                 | 400           |
| Make-up  | 400           |
| Department Chair                               | 100           |
| Department Office                              | 150           |

|   |               |
|---|---------------|
| Performance Space                       | 2,000         |
| Storage (shared with dance)             | 500           |
| Lobby, Concessions                      | 300           |
| Subtotal                                | <b>8,696</b>  |
| <b>Visual Arts</b>                      |               |
| Classrooms (1:16 classroom:students) x4 | 4,000         |
| Storage x4                              | 400           |
| Department Chair Office                 | 100           |
| Department Space                        | 150           |
| Woodshop with Theater                   | 1,000         |
| Artist in Residence Space               | 200           |
| Subtotal                                | <b>5,850</b>  |
| Creative Writing Classrooms             | 900           |
| Media Arts/Computer Lab                 | 900           |
| Arts Total                              | 31,976        |
| TARE (28%)                              | 8,953         |
| Total Arts                              | <b>40,929</b> |
| Residential                             | 10,000        |
| TARE (28%)                              | 2,500         |
| Residential Total                       | <b>12,500</b> |
| Development Director                    | 150           |
| Development Officer                     | 100           |
| Expansion                               | 200           |
| Assistant                               | 100           |
| Research                                | 100           |

|                            |               |
|----------------------------|---------------|
| Conference                 | 300           |
| Bathroom                   | 200           |
| Kitchenette                | 50            |
| Storage                    | 50            |
| Subtotal                   | <b>1,250</b>  |
| <b>Total Art Institute</b> | <b>54,679</b> |

Appendix F 1. Floor plan in lease with gross square feet.



| AREA CALCULATIONS SUMMARY |                    |          |          |
|---------------------------|--------------------|----------|----------|
| Code                      | Description        | Size     | Totals   |
| GLA1                      | First Floor        | 26374.28 |          |
|                           | Pre-Kin Classrooms | 1558.00  | 28042.28 |
| GLA2                      | Second Floor       | 9986.76  | 9986.76  |
| TOTAL LIVABLE (rounded)   |                    |          | 36361    |
|                           |                    |          | 38029    |

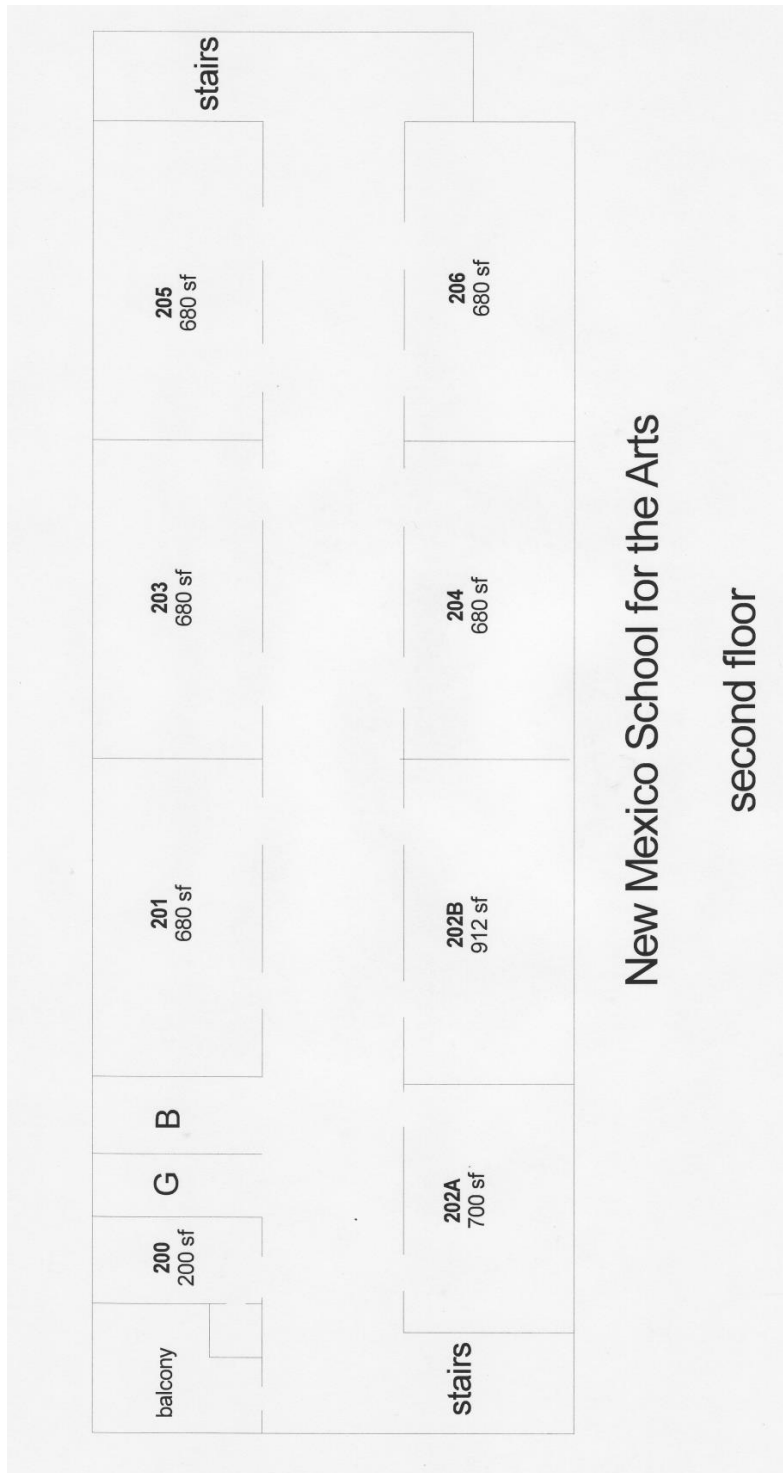
| LIVING AREA BREAKDOWN    |       |     |           |
|--------------------------|-------|-----|-----------|
| Breakdown                |       |     | Subtotals |
| First Floor              |       |     |           |
| 13.6 x                   | 59.2  |     | 805.12    |
| 12.6 x                   | 34.3  |     | 432.18    |
| 14.9 x                   | 20.2  |     | 300.98    |
| 24.4 x                   | 84.0  |     | 2049.60   |
| 47.0 x                   | 51.7  |     | 2429.90   |
| 8.4 x                    | 10.2  |     | 85.68     |
| 45.4 x                   | 117.2 |     | 5320.88   |
| 65.3 x                   | 68.6  |     | 4479.58   |
| 20.9 x                   | 22.6  |     | 472.34    |
| 32.6 x                   | 144.5 |     | 4710.70   |
| 9.6 x                    | 159.6 |     | 1532.16   |
| 17.2 x                   | 209.2 |     | 3598.24   |
| 0.5 x                    | 0.0 x | 0.1 | 2.48      |
| 4 remaining calculations |       |     | 11809.20  |
| 17 Areas Total (rounded) |       |     | 36361     |

EXHIBIT A





**Appendix F 3. Second Floor Floor Plan.**



| Rm # | Storage SF (a.) | Program SF | Primary Use |          |           |       |         |       |
|------|-----------------|------------|-------------|----------|-----------|-------|---------|-------|
|      |                 |            | Admin       | Core Ac. | Vis. Arts | Music | Theater | Dance |
| 101  | 115             | 680        |             |          | 680       |       |         |       |
| 102  | 115             | 680        |             | 680      |           | 680   |         |       |
| 103  | 115             | 680        |             | 680      |           |       | 680     |       |
| 104  | 115             | 680        |             | 680      |           | 680   |         |       |
| 105  | 115             | 680        |             | 680      |           | 680   |         |       |
| 106  | 115             | 680        |             |          |           | 680   |         |       |
| 107  | 100             | 759        |             |          |           | 759   |         |       |
| 108  | 154             | 759        |             |          |           | 759   |         |       |
| 109  | 119             | 1,215      |             | 1,215    |           | 1,215 |         |       |
|      |                 | 540        |             |          |           | 540   |         |       |
| 112  |                 | 819        |             |          |           |       | 819     |       |
| 113  | 156             | 4,247      |             |          |           |       | 4,247   |       |
|      |                 | 560        |             |          |           |       | 560     |       |
|      |                 | 153        |             |          |           |       | 153     |       |
|      | 500             |            |             |          |           |       |         |       |
| 201  | 115             | 680        |             |          | 680       |       |         |       |
| 202A |                 | 700        |             | 700      |           |       |         |       |
| 202B |                 | 912        |             | 912      | 912       |       |         |       |
| 203  | 115             | 680        |             | 680      |           |       |         |       |
| 204  | 115             | 680        |             | 680      |           |       |         |       |
| 205  | 115             | 680        |             | 680      |           | 680   |         |       |
| 206  | 115             | 680        |             |          | 680       |       |         |       |
|      | 375             |            |             |          |           | 220   |         |       |
| 100B |                 | 364        |             | 364      |           |       |         |       |
| 100A |                 | 425        |             | 425      |           |       |         |       |
| 116  |                 | 210        |             | 210      |           |       |         |       |
| 114  |                 | 232        | 232         |          |           |       |         |       |
| 115  |                 | 152        | 152         |          |           |       |         |       |
|      |                 | 77         |             |          |           |       |         |       |
| 200  | 16              | 200        | 200         |          |           |       |         |       |
| 111  |                 | 326        | 326         |          |           |       |         |       |
|      |                 | 100        |             |          |           |       |         | 100   |
|      |                 | 407        |             |          |           |       |         |       |
| 110  |                 | 1,456      |             | b.       |           | b.    |         |       |

|  |       |        |     |       |       |       |       |       |
|--|-------|--------|-----|-------|-------|-------|-------|-------|
|  | 375   | 524    |     |       |       |       |       |       |
|  | 3,060 | 22,617 | 910 | 8,586 | 2,952 | 6,893 | 6,458 | 100   |
|  |       | 9,390  |     |       |       |       |       | 9,390 |

## Appendix G. Facility Inventory

Ceramics/Visual Art

English

Math

Music - Electronic

Pianos Music - Chorale

Music (incl. large closet)

Science and Prep (Storage) Practice Rooms by Science

Small Reher. /Gp. Meetings Gym/Auditorium/Theater Stage

Theater Office

Theater Storage Below

Stage Painting

History, Sci., 9th Grade Academic Seminar

Media Lab/Visual Arts

MacLab Social Studies/Language Language

Social Studies

Visual Arts - 3 D lab.

Basement Music Practice

### Support Spaces

Counseling/Dean of

Students Faculty Work

Space/Lounge Reception

Head of School

Assistant Principal

School Record Storage

Safe Registrar/IT small

bathroom

Business Office incl.

Storage Dance Office

Kitchen Prep Area/Freezer

Cafeteria

Practice Rooms/Storage

NDI leased space for dance

## Appendix H. Capital Outlay Revenue

New Mexico School for the Arts

Projected Capital Resources for Building Purchase

| June 2018                                       |                |                     |                  |              |             |      |
|---|----------------|---------------------|------------------|--------------|-------------|------|
| Fund  | Initial Amount | Actual Expenditures | Remaining Amount | Date Expires | Allowed Use | Note |
| Educational Technology - 31900                  |                |                     |                  |              |             |      |
| 2015  | \$29,581       | \$1,272             | \$28,309         |              |             |      |
| 2016  |                | \$9,103             | \$19,206         |              |             |      |
| 2017  | \$152,935      | \$24,975            | \$147,166        |              |             |      |
| 2018  | \$161,158      | \$18,513            | \$289,811        |              |             |      |
|   |                |                     |                  |              |             |      |
| SB-9 - 31700 - State (included local to FY2016) |                |                     |                  |              |             |      |
| 2010  |                |                     |                  |              |             |      |
| 2011  |                |                     |                  |              |             |      |
| 2012  | \$2,871        | \$2,871             | \$-              |              |             |      |
| 2013  | \$160,739      | \$66,228            | \$94,511         |              |             |      |
| 2014  | \$167,655      | \$100,071           | \$162,095        |              |             |      |
| 2015  | \$158,529      | \$74,039            | \$244,486        |              |             |      |

|                      |           |          |           |  |  |   |
|----------------------|-----------|----------|-----------|--|--|---|
| 2016                 | \$150,331 | \$41,977 | \$9,520   |  |  |   |
| 2016                 | \$-       | \$-      | \$352,839 |  |  | Cash balance re-classified to fund 31701  |
| 2017                 | \$5,274   | \$9,520  | \$5,274   |  |  |   |
| 2018                 | \$5,427   | \$-      | \$10,701  |  |  |   |
| SB-9 - 31701 - Local |           |          |           |  |  |   |
| 2016                 | \$-       |          | \$-       |  |  |   |
| 2017                 | \$158,494 | \$39,480 | \$471,853 |  |  | Initial Amount is projected revenue. Remaining Amount is current cash balance plus projected revenue. |
| 2018                 | \$167,915 | \$47,823 | \$591,945 |  |  |   |
| HB-33 - 31600        |           |          |           |  |  |   |
| 2010                 |           | \$-      |           |  |  |   |
| 2011                 |           | \$-      |           |  |  |   |
| 2012                 |           | \$-      |           |  |  |   |
| 2013                 |           | \$-      |           |  |  |   |
| 2014                 |           | \$-      |           |  |  |   |

|                 |           |         |           |         |  |   |
|-----------------|-----------|---------|-----------|---------|--|---|
| 2015            |           | \$-     |           |         |  |   |
| 2016            | \$106,554 | \$1,066 | \$105,489 |         |  |   |
| 2017            | \$117,765 | \$1,178 | \$222,076 |         |  |   |
| 2018            | \$125,904 | \$2,621 | \$345,359 |         |  | Initial Amount is projected revenue. Remaining Amount is current cash balance plus projected revenue. |
| Cap Outlay      |           |         |           |         |  |   |
| Special Leg 14  | \$210,000 | \$-     | \$148,289 | 6/30/18 |  |   |
| Special Leg 15  | \$100,000 | \$-     | \$100,000 | 6/30/18 |  | Needs to be renewed during the 2019 legis session   |
| GO Bond Library |           |         |           |         |  |   |
| 2010            |           |         |           |         |  |   |
| 2011            |           |         |           |         |  |   |
| 2012            | \$5,118   | \$5,118 | \$-       |         |  | Fund 27105 & 27106  |
| 2013            | \$-       | \$-     | \$-       |         |  | Fund 27105 & 27106  |
| 2014            | \$3,216   | \$-     | \$3,216   |         |  |   |

|      |         |         |         |         |  |  |
|------|---------|---------|---------|---------|--|--|
| 2015 | \$3,216 | \$-     | \$3,216 |         |  |  |
| 2016 | \$6,744 | \$3,216 | \$3,528 | 6/30/17 |  |  |
| 2017 | \$3,528 | \$-     | \$3,528 | 6/30/17 |  |  |
| 2018 | \$-     | \$-     | \$3,528 |         |  | Initial amount is prior year balance. There is no current year allocation yet. |

TO BE UPDATED IN THE NEXT REVISION OF THE FMP AS IT IS TIED TO THE NEW SITE

| <b>Residential Program</b>                     | <b>2018-19</b> | <b>2019-20</b> | <b>2020-21</b> | <b>2021-22</b> | <b>2022-23</b> |
|--|----------------|----------------|----------------|----------------|----------------|
| Obtain Site                                    |                |                |                |                |                |
| Planning                                       |                |                |                |                |                |
| Demolition/Sitework                            |                |                |                |                |                |
| Construction:                                  |                |                |                |                |                |
| <b>Private Funding</b>                         |                |                |                |                |                |
|  | <b>2018-19</b> | <b>2019-20</b> | <b>2020-21</b> | <b>2021-22</b> | <b>2022-23</b> |
| Foundations                                    |                |                |                |                |                |
| Capital Gifts                                  |                |                |                |                |                |
| <b>Public Funding</b>                          |                |                |                |                |                |
| Direct Legislative Appropriations              |                |                |                |                |                |
| Public School Capital Outlay Act through PSCOC |                |                |                |                |                |
| <b>Total</b>                                   |                |                |                |                |                |



Submitted by C Montoya, 6.22.2018