

New Mexico Public Education Commission



Charter School Renewal Application

Part E: Facilities

Charter Schools Division
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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

Name of School: Albuquerque Bilingual Academy

Facilities Narrative

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

School response: Albuquerque Bilingual Academy is located at 7500 La Morada Place NW, Albuquerque, NM. 87120. The facilities serves grades Pre-K to 8th grades. There are currently 9 buildings (A-I) on the property. Five of the structures have been built-out with offices and classrooms (C, D, E, F, and G). Six of the buildings are used on a regular basis (B, C, D, E, F, and G). These 6 buildings have recently had a key card system installed. All doors and alarms can be monitored, and controlled by administration remotely. Building A is primarily utilized for monthly Family Nights, presentations, and special events. Building B is a spacious gymnasium equipped with weights, exercise bikes, and a batting practice area. Building F houses the administrative offices, warming kitchen, and cafeteria. Buildings C, D, E, and G contain classrooms. The facility has two playground areas. One serves NM Pre-K students and the other is utilized by grades K-8. Buildings H and I are currently used as storage. New administration is taking inventory, distributing appropriate materials to classrooms, and preparing to dispose of outdated items in accordance with statutes. The school has formed a Facilities Committee with membership that

includes parents, staff, and the Foundation to review the current 5-year Master Plan, and seek ideas and solidify priorities. For example, parents have expressed a wish to have a regulation sized gymnasium. However, the vacant land owned by the school on the east side has power lines that would interfere with a project in that location. The committee has brainstormed possibly utilizing the parking area as a build site and converting the vacant land into parking and updating the pick up / drop off line.

Priorities identified in the last 5 year Master plan included:

1. Perimeter Fencing
2. Play-Safe Courtyard
3. Portable Restroom at Gym
4. Separating Cafeteria + Open Classroom
5. Music Relocation

The perimeter fencing project is set to begin in November 2024. In lieu of a play-safe courtyard, the Facilities Committee is considering installing soccer fields in an alternate location. The school has purchased a restroom and laundry portable and is seeking bids for the installation. The “open classroom”, which was for art and the music program have both been given permanent classrooms in the newer C Building. The 7500 La Morada Place location has provided more than enough space for the schools goals, and with buildings still available to build-out with classrooms, it provides room to grow.

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.

	File Name	Documentation
E-1	E-1 E-Occupancy School Name	E-Occupancy Certificate
E-2	E-3 Lease Agreement School Name	A copy of the facility lease agreement, if applicable
E-3	E-4 Facility Master Plan School Name	Facility Master Plan

Certificate of Occupancy

City of Albuquerque
Planning Department
Building Safety Division

This certificate, issued pursuant to the requirements of Section 115.3 of the Albuquerque Uniform Administrative Code, certifies that at the time of issuance this structure was in compliance with the above code and other technical codes and city ordinances regulating building construction or use.

Building Address 7500 La Morada Pl NW Building C

Zip 87120

Portion of Building Commercial - Alteration TI

Use Classification Commercial Project

Bldg. Permit No. BP-2021-45240

Occupancy Group E

Type of Construction II-B UnSprinklered

Land Use Zone N/A

Owner of Building Albuquerque Bilingual Academy

Address 7500 La Morada Pl NW, Albuquerque, NM 87120



By Debi Fox

Date October 12, 2022

Inspector

Building Safety Division

IBC Code 2015

POST IN A CONSPICUOUS PLACE

MAXIMUM OCCUPANT LOAD 385

Albuquerque Bilingual Academy

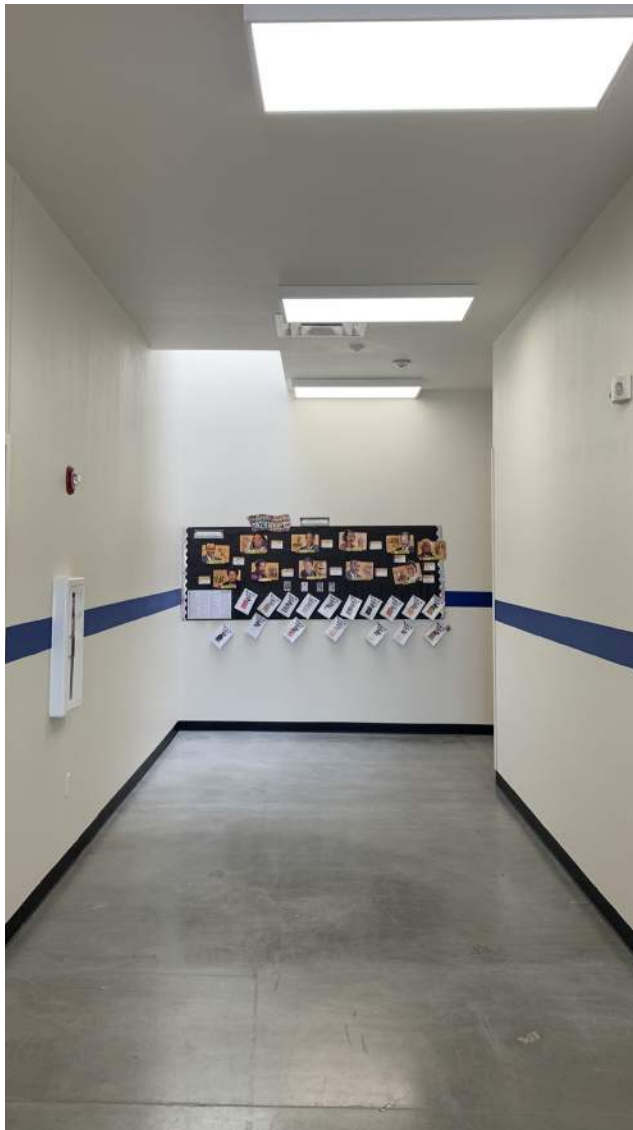
Facility Master Plan
2024-2029

High Expectations - Pride - Respect - Empowerment



HARTMAN + MAJEWSKI DESIGN GROUP

The Albuquerque Bilingual Academy Governing Council makes policy decisions concerning the Albuquerque Bilingual Academy, and interviews and hires the principal for his/her position. The members of the governing council operate according to its bylaws. The council members are volunteers who oversee the operation of the Albuquerque Bilingual Academy and ensure that Albuquerque Bilingual Academy's charter's goals and missions are carried out. Regular meetings are held on the final Monday of each month at 5:30 pm (unless otherwise indicated) and often, other meetings are convened to discuss Albuquerque Bilingual Academy business. Notices of the Albuquerque Bilingual Academy Governing Council meetings are posted on the website at the Albuquerque Bilingual Academy and/or advertised in the Albuquerque Bilingual Academy's reception area. Parents and other community members who are interested in serving on the Albuquerque Bilingual Academy Governing Council are invited to contact a Governing Council Member. The Albuquerque Bilingual Academy invites all parents to attend Governing Council meetings to keep informed about our Albuquerque Bilingual Academy. Often committees are formed to carry out specific functions and parent and community participation is encouraged.



ABA Governing Council Board Members:

- Julian Munoz, President/Chair
- Jose Garcia, Vice President
- Brenda Baca, Secretary
- Doris Cole
- Tiffany Bazan
- Eric Saavedra
- Chris Jones, (non-voting)
- Kyle Hunt (non-voting)

Administration

- David Bryant, Principal

Guiding Committee Members

- Chris Jones, Executive Director
- Kyle Hunt, Operations Director
- Ivette Bojorquez, Maintenance
- Monica Chavez, Special Education
- David Bryant, Principal

H+Mdg Wendy E.S. Caruso, Principal Architect

H+Mdg Tymn Waters, Senior Architect

H+Mdg Benjamin River, Intern Architect

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1.0

Introduction

1.0 Facility Master Plans

The Facility Master Plan (FMP) and Educational Specifications (EdSpec) are done every five years to procure funding for schools from the Public School Capital Outlay Council (PSCOC). The planners have combined the FMP and EdSpec to identify current and projected facility needs to accommodate the charter schools anticipated enrollment cap.

The funding may be used to expand areas that are below adequacy standards set by PSFA – Public Schools Facilities Authority – including (but not limited to):

1. Classrooms and other occupied spaces in the school
2. Site, Site Recreation, and Physical Education
3. Libraries, Media, and Research Centers
4. Food Service and Dining
5. Other areas including Technology + Broadband, Nursing + Wellness

The PSCOC supports the physical stewardship of school campuses, providing not only lease-assistance to charter schools, but also money for maintenance and operation of the buildings including the exterior skin and indoor environment.

These include:

1. General Storage
2. Maintenance and Janitorial
3. Safety and Security

All state chartered schools in New Mexico are authorized by the Public Education Commission and serve as their own LEA. Like traditional schools, charter schools receive state and local funds based on the number of students they enroll, as well as money from the federal government to provide special education services, just like traditional district schools.

While charter schools receive less total funding than district schools, they usually receive a higher proportion of their funding from states and a lower proportion from local sources.

DEFINITIONS:

22-24-4 (1)(6)(b): “Classroom facilities” or “classroom space” includes the space needed, as determined by the minimum required under the statewide adequacy standards, for the direct administration of school activities. The following areas are defined as classroom spaces: General Education, Science, Art (Including Performing Arts), Music, Special Education, Career Education (MS + HS, including Vocational), Computer, and Physical Education (unless waived by PED). And the following areas are defined as non-classroom spaces: Library, Media Center, Cafeteria, Kitchen, Parent Room, Administration Spaces, Student Health, Teacher Lounge, General Storage, and Maintenance/Janitorial Spaces.

This cycle, the committee looked at achieving several new projects as well as a handful of remaining projects from the 2017-2022 cycle. Among the hold-over initiatives:

1. Establishing athletic fields in the open lot to the East.
2. Creating a courtyard suitable for outdoor learning and play
3. Closing holes in the campus’ security perimeter fencing
4. Insulating building envelopes
5. Studying the Nursing and Wellness suite.
6. Providing a permanent location for music instruction.

The new ideas in this FMP cycle:

1. Installing the Modular Restroom Building adjacent to the PE facility
2. Modification of Building A into a regulation-size physical education facility
3. Separating the cafeteria from an open classroom
4. Review student pick-up and drop off by bus and parents.

1.1 Background Information

The year of the initial charter of Albuquerque Bilingual Academy (ABA) and the first year of operation was 2019. The current enrollment cap at the Bilingual Academy is 475 students. This past school year 2022-2023, the 40-day count was 394 Students, consisting of 20 Pre-K, 245 Elementary, and 129 Middle school students. According to the PSFA-GSF Calculator, the school requires at most 54,466 GSF for this enrollment (ES 35,245; MS 19,221).

According to PSFA’s calculator for maximum gross square footage for a combined elementary/middle school, the Bilingual Academy could comfortably house its enrollment cap of 475 students; however, (as discussed in regards to Utilization [Section 3.0]), the school can only functionally achieve its mission of providing a seamless developmental continuum if class-sizes are limited. This commitment results in a higher number of general classrooms for the number of students; though operational functions like food service and administration utilize portions of the campus closer to PSFA minimum amounts.

The leadership is committed to keeping enrollment proportional to the number of classroom spaces available on campus.

According to the PSFA- GSF Calculator, the school’s goal of 268 Elementary students allows for a max of 133 gross square feet per student, 148 Middle school students require at most 149 GSF per student: 57,696 GSF combined (not including the Pre-K program). The school currently occupies 57,400 of the 82,700 GSF available on its premises.

Albuquerque Bilingual Academy has been located at 7500 La Morada Place NW, Albuquerque, NM 87120 since 2019. Before that, and since 2006, the school occupied the site under the name La Promesa Early Learning Center. The school consists of one parcel being developed gradually into an outdoor sports facility and one parcel that was initially developed as a business park of nine separate concrete shell buildings. Six of these shells have been built out, and the initial parking lot of the business park has been coopted for both parking and common areas for the school. The Albuquerque Bilingual Academy and Earlier Learning Solutions Foundation Inc. have owned the properties since June of 2020.

Maintenance will not be a focus of this masterplan, as the occupied buildings are well maintained and are managed by a collective staff. All major maintenance projects are contracted out to TLC, B&D or other on-call companies. Furthermore, the school budgets \$10,000 -\$15,000 for maintenance needs, as noted in the Capital Plan. While the seven occupied buildings have been re-roofed in the last five years, the thermal insulation of several buildings is, however, a project this document will describe.

1.2 Process

To meet the obligations of the FMP – Facilitated Master Plan we begin by looking at the past plan – asking “What was desired” and “What was accomplished?”; and then “Are the remaining projects still a priority for the school? Our team met with the school’s administrators on site to walk the premises and discuss their past and future needs.

We gathered any plans available from which we can better understand the programs and adjacencies. We assessed the adequacy of the spaces using the PSFA guidelines. A second site visit was held to collect more compulsory information required for the masterplan and metrics that influence the urgency of the projects.

With the information gathered, and having obtained rough estimates of cost from a professional estimator, the guiding committee ranked the facility’s proposed needs. This document aims to succinctly communicate the findings of the committee with PSFA: with quantifiable data and estimates for their consideration in funding the needs of the school.



2.0

Existing +
Projected Conditions

2.1 Educational Programs + Curriculum Delivery

The school delivers most programs in classroom settings by grade, although it mixes grades to combine children of equal skill level for some topics.

The ABA maintains 3 levels of response to intervention to support children who do not meet grade-level proficiency. Teachers are required to maintain a student profile for each new student, completed by the fourth week period of the student's attendance, to deliver developmentally appropriate instruction. Returning students review their existing IAPs to determine next step actions. Staff provides special education diagnostics and testing procedures on site, and special education instruction and ancillary services to those students who have a demonstrated need. It is expected that the number of students

needing special education will increase incrementally with the overall increase of enrollment.

The Albuquerque Bilingual Academy operates a Pre-K program in addition to K-8th grades. For the 2023-2024 school year the K-8 program will convene August 1st and will run through June 3rd. The Pre-K, Kindergarten and a first grade classroom operate in Building D. The Second, Third and Fourth grade classes occupy Building E. Building G holds classes for 5th -8th graders.

The ABA mission statement is reviewed annually to ensure the schools goals and direction are aligned. The Mission is to ensure culturally, and linguistically diverse students thrive in an academic, family centered, developmentally seamless continuum of learning where high expectation, pride, respect and empowerment meet grade level proficiency. Teachers are committed to these principles.

2.2 School Philosophy + Relation to Facilities

Individual Attention – the size of the student body creates a small school community and class size to ensure individual attention. Student portfolios, ongoing monitoring of proficiency, and “wrap-around” social services, including English language learning and Title 1 tutoring, support student success.

Dual Language – The B in ABA is realized by dividing students' days in two parts:

one taught in English, and one taught in Spanish. To maintain a sense of familiarity, teachers occupy home rooms, and students change spaces -along with language spoken- at mid-day.

A major focal point of the charter is family empowerment and early childhood best practices. Parent involvement is required to strengthen commitment to learning.

The school has a high percentage of low-income families, single-parent homes and an ethnic diversity common to the community. The ethnic diversity of the student population is 24% Hispanic, 74% Caucasian, 1% Native American, and 1% Asian.

From kindergarten through middle school, students learn how they fit into family, community, and the world. Classes are available for community members after school hours, and school facilities, including the computer lab and the parent resource center, are open to community use.

In addition to supporting the above missions, responses to the space needs of the Albuquerque Bilingual Academy will meet the following statewide adequacy standards, listed to the right with statute section citations in parenthesis:

- General Requirements 6.27.30.8
- Building Structural Soundness (A.1)
- Weather-tight exterior envelope (A.2)
- Interior Surface condition (A.3)
- Building System Integrity (B.1)
- Plumbing type / accessibility (B.2)
- Adequate Fire Alarm System (B.3)
- Adequate 2-way communication system (B.4)

2.3 General Description of School's Site + Facilities

The Albuquerque Bilingual Academy Campus operates in a predominantly residential area on Albuquerque's West Mesa. The two-parcel, 12.72-acre site is bounded to the South by a dry arroyo between Ladera dam 13 and 14; to the West by commercial property; and to the North + East by La Morada Place.

A right of way for overhead power lines passes through the site between the southern boundary and school buildings, turning north near the eastern end of site. Occupied buildings (including a 1700 SF temporary music-education arrangement in Building A) take up 1.32 acres. Unoccupied buildings take up another 0.58 acres with 3.42 acres of parking, walkways, and drive area. The nine existing buildings are stucco clad concrete and steel shells originally built in 2008. Seven have been retrofitted to house the Bilingual Academy.

A small portion of the Eastern parcel has been fenced and developed into a playground for the school. The remainder of that parcel awaits the construction of a regulation Middle-school softball + soccer field. Most vegetation on the site exists in the setback of La Morada Place mandated by Section 14-16-5-6 of the Integrated Development Ordinance and constrained by the Ladera West neighborhood association. There are, however, some trees and shrubs in aggregate and sand beds between the buildings and in the parking lot. Lastly, the site has a substantial amount of open space directly south of Buildings A, B, and C in the form of gated asphalt areas underneath large power lines.

The site has 177 regular parking spaces and 17 ADA spaces; 87 (+ 8 ADA) spaces are available during school hours due to the closing of a drive through the site when pick-up/drop-off is not happening. While largely unused due to the closure of the driveways, another portion of 51 regular and 2 ADA spaces are available for events at the planned multi-purpose field. The PSFA adequacy standards is 1.5 parking spaces per staff FTE. Currently the 49 Full Time Employees would require 75 parking spaces. This is adequate at these levels of staffing.

Student pick-up presents challenges as there is not currently a drive through the site with a length to accommodate 475 parents queuing all at once. Circulation currently loops around Buildings B and C, exiting through the same secondary gate used to enter the queue, causing a cross of entering/exiting traffic. Students usually queue in the courtyard between buildings F and G, and on rainy days, stage in the connected cafeteria + open classroom of Building F. The loading of this operation is lightened by locating Pre-K pickup in the main parking lot directly outside Building D. See Section 6: Appendix for a detailed site plan. While many parents bring their students to school and drop them off by parking on site, a school bus does bring some students to the campus.

In a 2022 building shell conversion project, one small gymnasium was constructed in the Eastern corner of Building C. At the same time Building B was outfitted with a modular basketball court, artificial turf, and batting nets. As noted in the Proposed Facility Requirements of this document, these facilities still present challenges to hosting physical education and competitive sports, despite being newly constructed.

As a set of inherited structures and undeveloped land, the school's property provides flexibility to increase the assets of the school in proportion to funds available. While the intrusion of the electric right-of-way through the site presents some risk and difficulty in fully utilizing the site, the slow pace of the surrounding area currently suits the needs of the school.

Building	General Classroom Grades	Special Uses
A	-	Music
B	-	Physical Education
C	-	Physical Education, Health, SPED, Art
D	Pre-K, K, 1st	-
E	2nd, 3rd, 4th	-
F	-	Food Service, Administration
G	4th, 5th, 6th, 7th, 8th	Counseling
H	-	General Storage
I	-	Bus-Storage, General Storage

Table 2.4 Building Uses

2.5 Enrollment

	2015-16	2016-17	2021-22	2022-23
PRE-K + K	72	47	24	20
ELEMENTARY	187	195	193	245
MIDDLE	85	107	156	129
TOTAL	344	349	373	394

*more enrollment data can be made available by the school upon request

Table 2.5 Enrollment

2.6 Classroom Constraints

The preferred class size at Albuquerque Bilingual Academy is around 20 pupils, but some classes - such as Physical Education - may be as large as 45 depending on course objectives and FTE availability. A recent ranking of successful schools in the state of New Mexico highlighted a teacher student ratio of 1:20 as a common attribute.

The Albuquerque Bilingual Academy is dedicated to fostering student-teacher relationships, the school caps its enrollment below the level allowed by its charter. To maintain small class-sizes, the school will only increase enrollment when funds to build new classrooms are available.

2.7 Fiscal Efficiency

Staff of the ABA often have multiple responsibilities. The school lowers staff employment costs by hiring to fill multiple roles where needs of each role would normally necessitate a part-time employee. The community of parents is invited to attend to class needs as part of a Parent Volunteerism Policy. Those that wish to participate in this program must pay for their own background check before receiving a classroom placement. This program eases the burden on teachers who maintain twice the number of student relationships than in a monolingual school model.

The ABA is also looking for ways to reduce energy consumption. Insulating the shells of buildings A and B will help reach this goal; as well as converting the light fixtures from fluorescent lamps to LED.



3.0

Capacity +
Utilization Analysis

Let's begin a review of adequacy standards using some factual numbers and situations at the Albuquerque Bilingual Academy. As stated above -and according to the PSFA-GSF Calculator- the school's enrollment cap of 374 Elementary and Middle school students require not more than 69,368 GSF for overall campus/building requirement, not including space for a Pre-K program. The following is a short exercise comparing the actual footprint school footprint with the amount desired, beginning with a calculation of current capacity.

3.10 Standards Variance [6.27.30.22]

The council may grant a variance from any of the adequacy standards. The council shall grant a variance if it determines that the intent of the standard can be met by the school in an alternate manner, or if a variance is required for appropriate programmatic needs as demonstrated by the district.

Table 3.10A Utilization Detail

	Type	Number	Total Area (NSF)	Current Utilization (%)
General Classrooms				
	Pre-K/ K	3	3,589	100
	Elementary	11	9,304	100
	Middle	6	4,307	100
	Total Regular	20	17,200	
Specialty Classroom				
	Technology + Computer	0	-	n/a
	Art (not counting storage)	1	771	100
	Music	1	898	100
	Science (including labs)	1	-	n/a
	Physical Education	2	13,374	100
Specialty Teaching Spaces				
	Health	1	761	50
	SPED	2	1,641	50
Portable Classrooms	-	0	-	-
			Weighted Average	97%

PSFA defines MAX capacity as being the number of pupils the school is capable of hosting if each instructional space is used 100% of the school day. This number is undesirable and should not be used as a basis for increased enrollment. Instead, after MAX capacity has been determined, PSFA recommends an Ideal Utilization Rate which varies due to the change in developmental needs of each age-group. Since all general classrooms are currently utilized 97% of the time, the number of students per class needs to be specified and compared with PSFA standards.

The ABA fills its classroom space with less students per grade than could be accommodated by PSFA standards. This could result from several factors; for instance, the Pre-K program's enrollment is currently limited by only having one classroom available, whereas – to achieve true bilingual education – two classrooms with two instructors are needed to “switch” languages and spaces for students. Whereas all other classrooms are used 100% of the time, there is no space to grow the Pre-K program.

However, the most obvious policy that lowers enrollment is the Bilingual Academy's stated commitment to creating a seamless developmental continuum.

	Provided NSF Instructional	Ideal Utilization	85-95% Usable	Min. NSF Required	Ideal Capacity
Pre-K/K	3,589	95%	3,409	50	68
Elementary	9,304	95%	8,838	32	276
Middle	4,307	85%	3,660	28	130
				Total	474

Table 3.10B Current Ideal Capacity

	Enrollment Cap	NSF/ Student	85-95% Usable	Min. NSF Required	Ideal Instructional Space at Cap
Pre-K/K	59	50	95%	2,950	3,106
Elementary	268	32	95%	8,576	9,028
Middle	148	28	85%	4,144	4,876
				Total	17,010

Table 3.10C Ideal Space Needed For Cap

Table 3.10D Space Summary

Current General Classroom (NSF)	Ideal General Classroom (NSF)
17,200	17,010

Table 3.10D Enrollment Summary

	Current Enrollment	85%-95% Utilized Current Capacity	Enrollment Cap
Pre-K/K	59	68	59
Elementary	268	276	268
Middle	148	130	148
Total:	394	474	475

The Bilingual Academy’s teachers maintain twice the number of student relationships than in a monolingual school, and – while parent volunteers are able to help with supervision – nothing else enables instructors to mentor students like small class sizes.

Class sizes at the ABA are filled to satisfy NM PED Pupil Teacher Ratio but capped below maximum levels to afford more

substantial interactions between both Spanish and English language instructors and students.

Bilingual Academy classrooms range from 698-1010 sq ft to accommodate the varying space needs of each grade-level. [6.27.30.13]. The available maximum and minimum NSF per classroom could adequately accommodate between 11 and 16 Pre-K and Kindergarten students, between 21 and 31 Elementary students, and 24 to 36 Middle School students per PSFA Standards.

3.11 Additional Capacity Factors

These allowances are slightly less than the maximum allowed for class-sizes by the PED, wherein - for example - 8th grade classes are allowed to grow up to 160 students per class. For the purposes of the school, where current class-sizes

are expected to remain lower than PSFA maximums going forward, the floor areas of the classrooms are adequate, such that any new general classrooms constructed are not smaller than those existing.

Of course, whereas the classrooms of the school are

utilized 100% of the time, and some supervisory needs are met by parent volunteers, the school’s staffing is not very redundant. As the school expands to fill its cap, staff size will increase incrementally with additional teaching and EA staff. For reference, The Albuquerque Bilingual Academy has a FTE staff of 49. These are categorized as:

Position	Number	%
Administrators	7	14%
Teachers	27	55%
EA	8	16%
Maintenance	2	4%
Food Service	5	10%
Total:	49	100%

Table 3.11 FTE Staff

Among other ancillary programs that affect enrollment and scheduling of classes, one technological change operation has eased the pressure on both the school’s available classroom space and class scheduling.

Whereas in previous master-plans for the Academy space was allocated for a small library and a computer lab, technology-instruction now takes place in general classrooms, as all students -K-8- have been issued a Chromebook. Students use devices to access digital curricula, supplemental programs, and internet resources for research that they will use to create, collaborate, communicate, and support their critical thinking. Additionally each classroom has a promethean board that teachers leverage for group instruction. Thus, the SPED program has moved into the existing computer lab, and the library repurposed for administration. Whereas PSFA still recommends the operation of a library or media space, the next section of this document describes alternatives to the traditional library for consideration by the school.

Lastly, the school operates a full Kitchen, Cafeteria, Nurse’s Office, Counseling and Speech Pathology Therapy; though, it does lack space for physical therapy.

3.12 Remarks on Capacity + Utilization

The ABA campus has more than 25,000 SF of unfinished shell-space at its disposal. Two structures (Buildings I and H) are currently utilized for common storage and bus parking. Should the need arise to expand into these shells, the architecture of the storage buildings and stored items would be assessed.

As the remaining portion of the site is well-occupied by common areas, parking, drives, and athletic facilities, little opportunity for school expansion exists beyond the walls of the existing concrete shells. However, there is a chance that the fenced areas traversed by overhead electrical lines could be developed with significant coordination with the electrical utility.



4.0

Proposed
Facility Requirements

4.0 Facility Concept

In the 2011-12 school year, 7th and 8th grades were added to the schools program.
In the 2018-19 school year, the school consolidated its programs by closing the original location that housed its Pre-K program on the busy Westside of Central Ave. The school's focus has expanded since its inception as La Promesa Early Learning Center, however the emphasis on early childhood development remains. This will be the baseline for future developments to the facility and the site.

The Albuquerque Bilingual Academy will continue to enact its mission of providing developmentally seamless education within the inherited concrete shells of its home on La Morada Pl.: where currently, the slow, undeveloped neighborhood suits the school's needs. When funds are available, the school seeks to soften the built environment, to program for all aspects of student development - both physical and intellectual, and support the involvement of families in the bilingual education of their students.

What follows are the goals of the FMP for the next five years in service of these commitments; compared or aligned with the standards set by PSFA as the case may be.

4.1 Meets Adequacy Standards

Standard	Notes
General Classrooms:	classrooms range from 698-1010 SF.
Network Distribution Space:	>120 NSF dedicated server room
General Storage:	1 NSF per student of planned capacity of securable space capable of storing textbooks
Administrative Space:	150 NSF plus 1.5 NSF per student of planned capacity
Faculty Workshop/Teachers Lounge:	1 NSF per student of planned capacity, 267 NSF provided.

4.2 Below Adequacy but Currently Sufficient

Standard	Notes:
Art:	The existing space works for the school's curriculum rotation currently.
Food Service:	Currently the space is used efficiently and effectively.
Parent/Board Organization storage:	Can be combined with other functions, no PTA storage provided. This function could be accommodated in the Staff Room
Cafeteria	For Middle schools, 1,600 NSF or 200 NSF if warming kitchen used instead.
Science:	Required 4 NSF per student for grades 7-12 and >96 NSF ventilated space for storage and prep
Career Education:	Middle school students require 387 SF; a classroom may accommodate this requirement.
Library, Media, + Research Space	not less than 1,000 SF, plus office storage + work room at least 200 SF. A flex-space with comfortable furnishing for study and group work could meet this requirement given that each student is assigned a personal computer.

4.3 Below Adequacy

GENERAL REQUIREMENTS

Situation:

The **Envelopes of Buildings**

A + B are thermally inefficient. This Plan anticipates the build-out of Building A into a full Gymnasium and Building B is currently occupied as an indoor Physical Education facility.

Response:

The interior walls of all occupied buildings should be insulated and a layer of substrate, with suitable impact resistance, applied to the interior. These could be applied to existing furring metal studs inside the concrete panels.

Situation:

While it was once used as both music and physical education space, the “Open Classroom” of Building F has become underutilized due to the poor acoustic separation from the cafeteria.

Response:

The **existing opening in the wall** between the two rooms should be in-filled and finished to create permanent acoustic separation. The installation of an operable STC-rated door or partition could allow large groups to go between the rooms and seal them off for separated use. See Appendix pg. 66 for more information.

GENERAL REQUIREMENTS contd.:

Situation:

The school’s **Nursing and Wellness** spaces are currently below adequacy. The 384 NSF room is under-ventilated and areas for holding infirm students and general wellness visits should be separated respectively.

Response:

The Adequacy Standards could be met by installing a student sickroom in the current nurse room with partitions and air filtration. A nearby office was also noted as a space for potential quarantine should the need arise. See appendix pg. 66 for more information.

SCHOOL SITE

Situation:

There exist several holes in the school’s **Perimeter Fence**, one of which is the street-fence along La Morada Dr.

Response:

Whereas PSFA requires safe and secure site fencing to discourage unauthorized access to the campus, the campus’ fencing should be completed. This will require coordination with the City of Albuquerque’s Integrated Development Ordinance (IDO) for design standards of fencing along La Morada Dr. A portion of this work will be extending existing 3’ fences to at least 6’ in height. See Appendix pg. 58 for more information.

SCHOOL SITE contd.:

Situation:

The existing **pick-up circulation** has notable inefficiencies.

Response:

A study of potential re-routes and security measures for the pick-up area should be conducted. All efforts should be made to reduce counter-clockwise movement within the school-grounds. The provision of a road surface in the Eastern parcel along the existing utility access road could be used to elongate the parent queue waiting for pick-up. Coordination with the City Department of Transportation and electrical utility would be required.

Situation:

The school's **Safe Play Areas** do not meet standards. The ubiquitous asphalt surface left by the business park (much of which is no-longer used for parking) has been a hazard to students walking between classes ever since the school's initial build-out in 2012.

Response:

Whereas the PSFA requires unpaved recreation areas that are conveniently accessible to students for Elementary schools, and all students of the ABA would benefit from more soft ground surfaces, the courtyard between Buildings D-G should be reconstructed for both ease of ambulation and play-safety. See Appendix pg. 60 for more information.



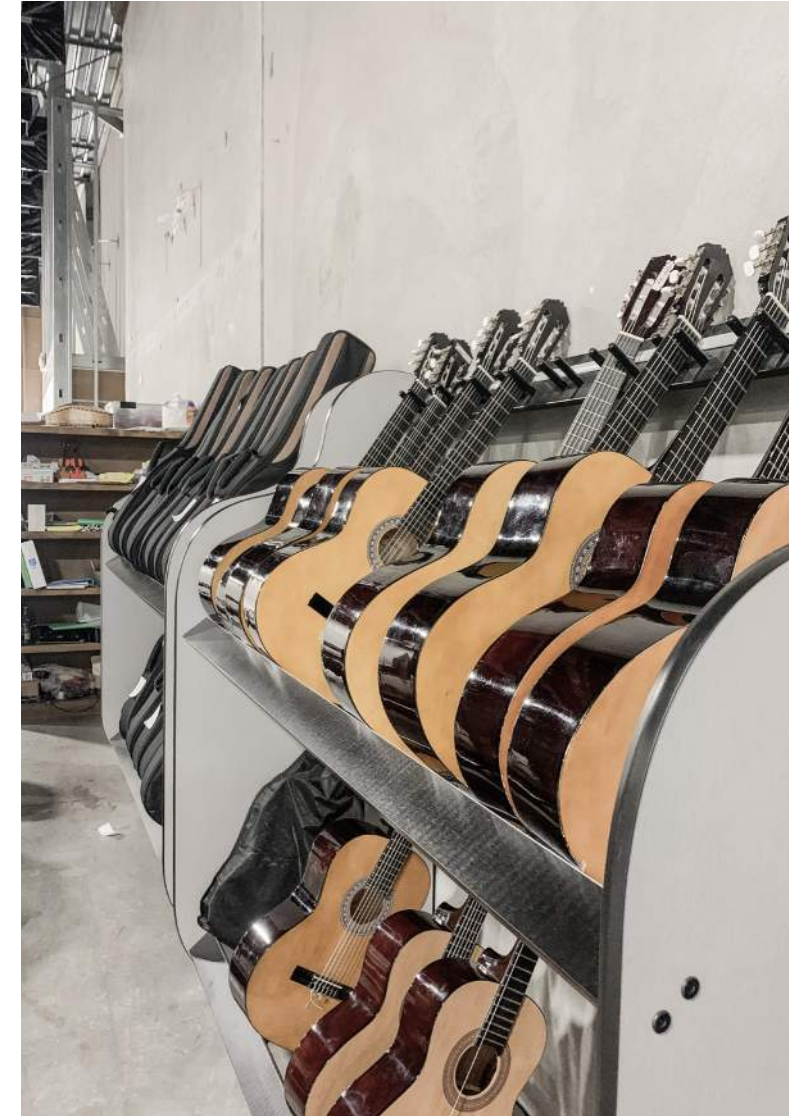
SPECIALTY CLASSROOMS contd.:

Situation:

The school's Art Education space for **Music** are currently below adequacy. Whereas PSFA requires group music practice rooms, specialized storage/library rooms, and office(s) the school is using around 900 SF of shell-building A as a temporary music classroom, with the closest secure storage for instruments located in Building F. No space is currently allocated for offices or practice rooms. Whereas the unique emphasis of the Bilingual Academy on acoustic guitar instrumentation contributes to a multi-cultural education, the guitars are – for ease of use – un-secured and stored at the front of the classroom arrangement.

Response:

The Music program should be relocated to Building C. The existing P.E. office may be used for both storage of instruments and working space for the music teacher. With some acoustic-treatment, the gym could serve as a group practice room and individual practice spaces could be branched off-of or within the larger space.



SPECIALTY CLASSROOMS contd.:

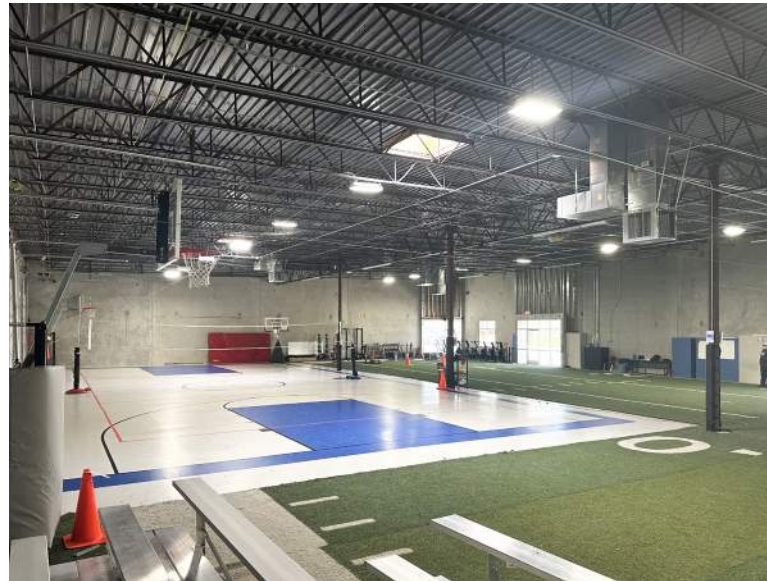
Situation:

The school's **Physical Education** spaces are not currently adequate. While the school now has two indoor facilities (one 9,284 SF room with artificial turf, modular basketball court, and batting nets; and a 2,566 SF miniature basketball court), neither have ceiling heights suitable for competitive gameplay. Furthermore, no space is currently allotted for the two minimum 300 NSF changing rooms, office, equipment storage, and bleachers sized at 1.5 design capacity required by PSFA for gymnasiums.

Response:

The ABA has a modular restroom they want installed adjacent to the gym building to increase the restroom capabilities. After relocating the music program, Building A may be renovated to become the gymnasium.

An RFP should be issued for a Level 3 alteration of this building, including the removal and addition of structure, raising a portion of the roof, insulating exterior walls, and building out required spaces.



SPECIALTY CLASSROOMS contd.:

Situation:

The school does not currently meet adequacy standards for **Outdoor Physical Education**.

Response:

The school has \$1.3 million earmarked for this project. Since the PSFA requires playing fields for Middle schools, and since the overall health of students benefits from time spent outside conditioned environments, an outdoor multi-sport facility has been planned and permitted. It needs to be done.

Table 4.3 Detailed Space Requirements

Curriculum	Min. + Ratio Per Student	PSFA Recommendation	Current SF	Proposed SF (net)
			Note: all space deficiencies should be addressed as prioritized projects are completed and additional funds made available, regardless of the status of proposed square footage in this FMP.	
General Classroom	50 NSF Pre-K/K, 32 NSF Elementary, 28 NSF Middle	17,010	17,200	-
Art	4 NSF + 60 NSF storage	1,496	771	-
Science	4 NSF/student - grades 7-12 and >96 NSF ventilated space for storage + prep	592	-	-
Music	4 NSF/student for grades 6-12, areas for both group practice + individual practice, + instrument storage	592	898	3,792
Career Education	Middle School: 3 NSF/student	444	Can be accomodated in existing classrooms or adjacent to cafeteria	
Technology + Computer Skills	3 NSF/student	1,122	Chromebooks distributed 1:1 to every student	
Libraries, Media, + Research	not less than 1,000 SF, plus office storage + work room at least 200 SF	1,200	-	-
Physical Education	Use Middle school-size facility for both Elementary and Middle school physical education, at least 5,200 SF with a min. 300 SF for offices, equipment storage, and changing rooms with at least 1 shower and restroom in each. Event seating should be accomodate design capacity x1.5. Additional area for outdoor physical education.	5,500	13,376	10,151
Food Service	For Middle schools, 1,600 NSF or 200 NSF if warming kitchen used instead.	1,600	1,105	-
Parent Organization Storage		150	Utilize staff room, storage wardrobe may be provided	
Administrative Space	1.5 NSF per student of planned capacity	2,523	741	-
Student Health	1 NSF per student, not less than 1,5000 SF	374	384	-
Faculty Lounge/ Workspace	1 NSF/student	374	691	-

Table 4.3 Detailed Space Requirements contd.

Curriculum	Min. + Ratio Per Student	PSFA Recommendation	Current SF	Proposed SF (net)
			Note: all space deficiencies should be addressed as prioritized projects are completed and additional funds made available, regardless of the status of proposed square footage in this FMP.	
Network Distribution Space	120 NSF min.	120	100	-
Technology Support Space	300 NSF + 0.5 NSF/student	497	187	-
Maintenance + Janitorial Space	1 NSF per student of capacity, may be distributed, needs sink.	394	156	-
Safe Play Areas	Safe play areas for Elementary students directly accessible from indoor environment. This includes safe ground-surface and appropriate vegetation.	n/a	14,215	35,759



5.0

Capital Plan

5.1 Historical Funding Sources

The school has successfully obtained a lease assistance award, as well as federal and local grants in the past. Additionally, the school’s mission aligns with the goals of the State of New Mexico Department of Education, and has obtained funds from the following educational initiatives: Bilingual Multi-Cultural Education Program (BMEP), Family Income Index (FII), Extended Learning Time (ELTP K5+), and Equalization Guarantee Distribution (SEG) funds).

Funding of maintenance, security, systems, and technology/broadband has been provided by SB-9, HB33, and the Mill Levy. The school has procured sufficient funding of the amount \$1.3 million to construct its outdoor multi-purpose sports facility.

5.2 Planning Strategy

The school’s administration - together with the authors – identified deficient areas by their 1) under-utilization and 2) system incompleteness during a campus tour. Many of the items identified are left over projects from the last FMP completed in 2016, some having been re-imagined in the interim years. In preparation for a prioritization exercise with the FMP committee, the standards-based projects were organized into three categories. The topics were: Standards Based Spaces, Maintenance and Operation, and Ideas Maravillosas (marvelous ideas).

Table 5.2 Rough Order of Magnitude

Room/Area	Description	Budget or R.O.M.
REMAINING FROM LAST FMP		
Play Fields	Install playing fields in East parcel as per plans. See Appendix.	Money is already secured for this project: ~\$1,300,000
Courtyard	Install soft, play-ready walking material in between buildings, plantings and additional infrastructure may also be included.	\$900,000, please revisit after full scope is decided. Needs funding.
STANDARDS BASED PROJECTS		
Perimeter Fencing	Providing a continuous >6ft. fence around the school including a portion along the IDO mandated street boundary. Involves raising an existing 3 ft. fence to over 6 ft.	280 ft. new street boundary (tie into existing gate), 846 ft. raise 3 ft. fence to over 6 ft., 580 ft. generic 6 ft. fence: Scott’s Fencing (4) estimates \$111,272.93
Modular Restrooms for PE Complex	Purchased unit needs to be installed with utilities.	Transport and tie into existing plumbing lines: \$101,030.47 Aluminum deck, steps, and ramp: \$44,855.60
Music Program Relocation	Relocate to miniature gym in Building C. Relocate teacher’s materials and instruments	
Wall + Opening at Cafeteria	Separate gym from classroom, providing some movement between rooms and the courtyard outside as this area is used to stage students during pick-up. Match STC rating of existing wall.	Infill wall (480 SF) + Install Operable, Sound Insulating Opening (e.g. Skyfold) \$50,000
MAINTENANCE + OPERATIONS		
Furr Out + Insulate Buildings A+B	These tilt-up concrete shells need to be insulated and covered with interior finishes suitable to their use.	22,360 SF (11,180 SF x2) ~ \$2,241,216
IDEAS MARAVILLOSAS		
Gymnasium Building	Plan A: construct a middle-school size basketball+volleyball court inside the building, raise the roof or lower the floor to allow higher arching and stray shots. Plan B: build playing court adjacent to building A or B with a suitable height, remove connecting wall, and place stadium bleachers in existing building	Structural modifications are required in both options. For reference: a new Middle school gym (in Los Alamos, NM) cost \$7-12 million. Using the shell of the existing building may keep costs down.

5.3 Prioritization Overview

The FMP guiding committee, consisting of integral members of the school’s staff, will continue to reference and adjust priorities as funds become available and projects are completed. Preliminarily, the list at right prioritizes projects based on effective 1) student safety 2) feasibility 3) additional ease of use for existing facilities. While the school community can rally support for dream-projects like the construction of a full-size gymnasium, the completion of these smaller projects will greatly increase the chances for the school to gain parent and community support for larger initiatives. These were the projects ranked as most prescient within the next five years.

Table 5.3 Initiatives Ranked

TOP FIVE PROJECTS OVERALL	
No.	Project
1.	Perimeter Fencing
2.	Play-Safe Courtyard
3.	Portable Restroom at Gym
4.	Separating Cafeteria + Open Classroom
5.	Music Relocation

CONTENTS

Data:
Utilization Detail: see pg. 20
Detailed Space + Room Requirements: see pgs. 27 - 34

Existing Building + Site Plans

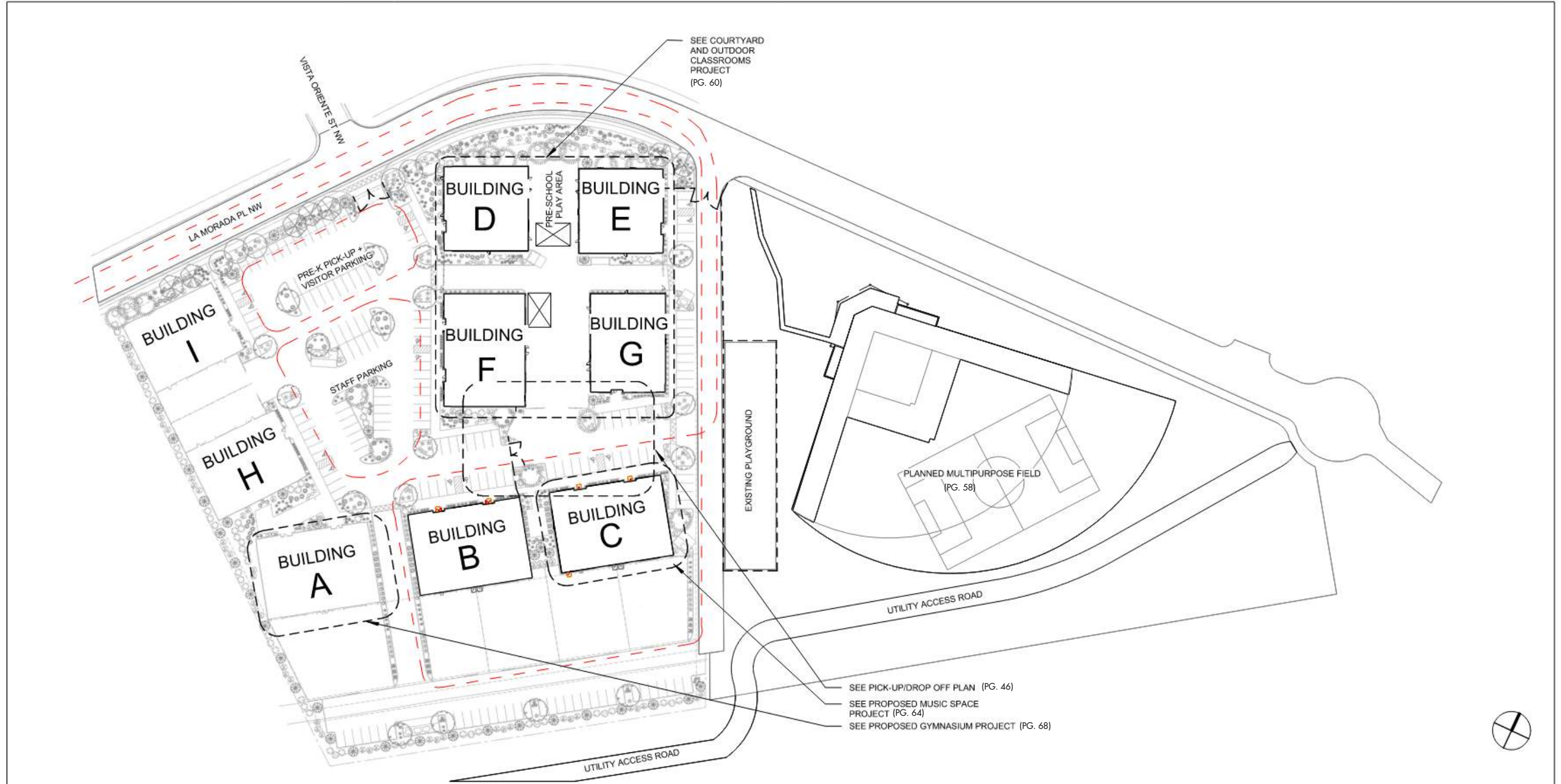
Site Plan pg. 44
Parent Pick-Up Detail pg. 46
Building Plans pg. 48

Project Details

Outdoor Facilities
Perimeter Fence pg. 58
Courtyard pg. 60
Play Fields pg. 62
Indoor Facilities
Music Room Relocation pg. 64
Building F Alterations pg. 66
New Gymnasium Options pg. 68
New Gymnasium Alternate Design pg. 70

6.0

Technical Appendix



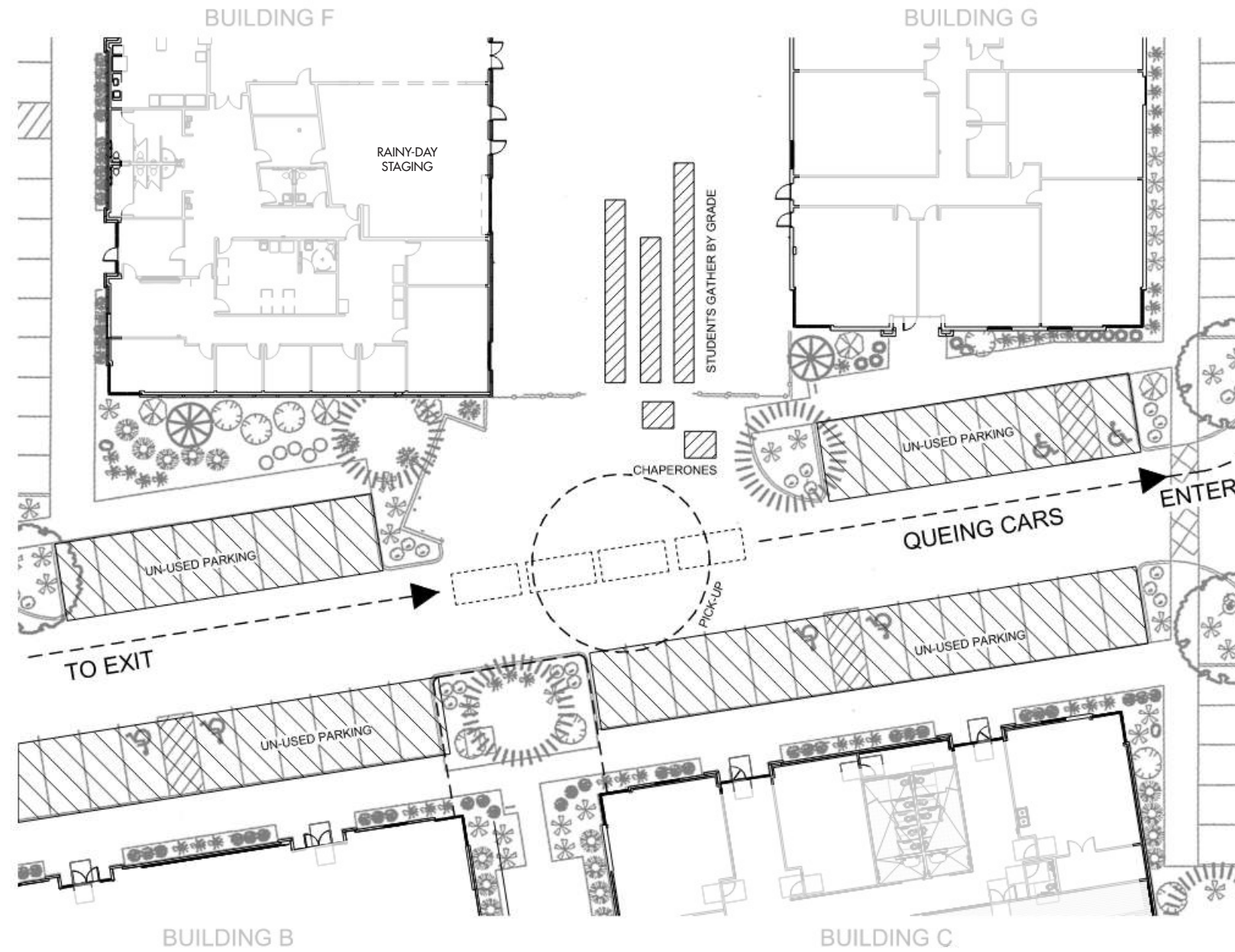
ALBUQUERQUE BILINGUAL ACADEMY
 FACILITATED MASTER PLAN 2024-2029

FMP-1

CAMPUS SITE PLAN

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Date	2023.03.29
Drawn by	BR
Checked by	Checker





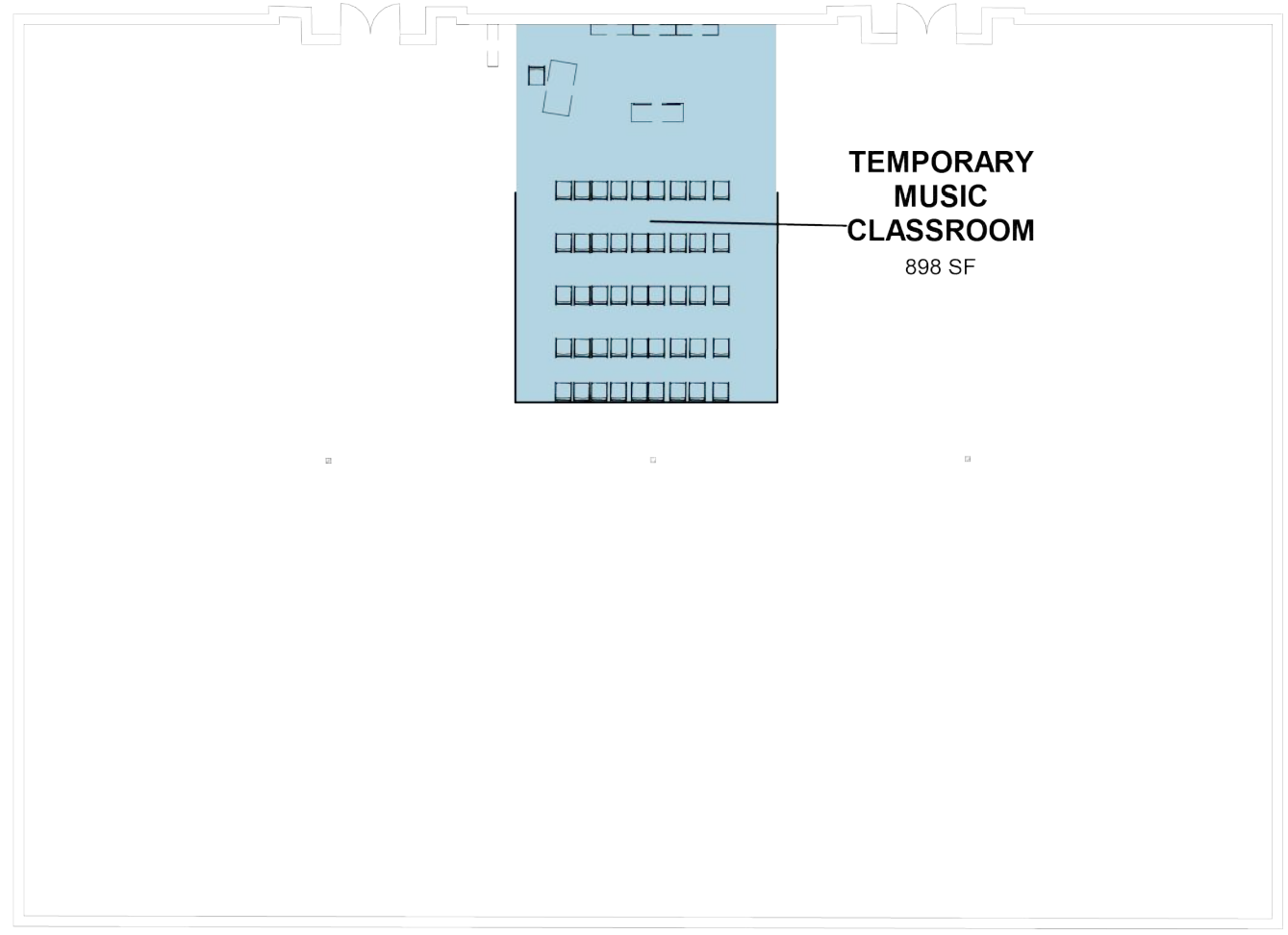
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FACILITATED MASTER PLAN 2024-2029

FMP-2

PICK-UP / DROP OFF


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Date	2023.03.29
Drawn by	BR
Checked by	Checker

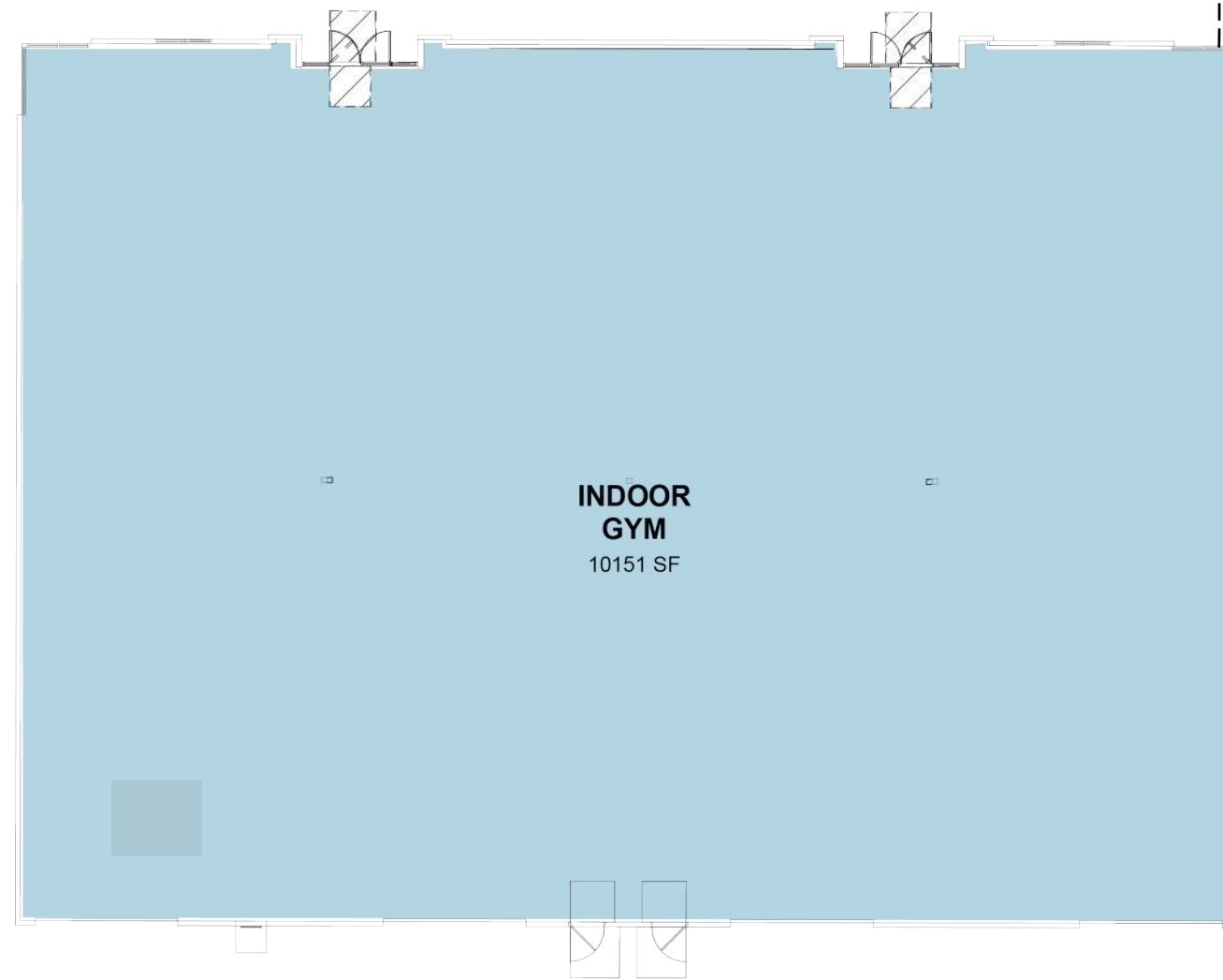




PROGRAM

SPECIALTY CLASSROOM

ALBUQUERQUE BILINGUAL ACADEMY FACILITATED MASTER PLAN 2024-2029	FMP-A BUILDING A										
 <p style="font-size: 8px; margin-top: 5px;"> THE HARTMAN + SAJEWKI DESIGN GROUP Architects • Engineers • Interior Design Planners • Urban Designers • LEED® 120 Vassar Drive SE Suite 100 Albuquerque New Mexico 87106 T 505 242 6880 • F 505 242 6881 </p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="border-right: 1px solid black; padding: 2px;">Scale</td> <td style="padding: 2px;">1/16" = 1'-0"</td> </tr> <tr> <td style="border-right: 1px solid black; padding: 2px;">Project number</td> <td style="padding: 2px;">3058</td> </tr> <tr> <td style="border-right: 1px solid black; padding: 2px;">Date</td> <td style="padding: 2px;">2023.03.29</td> </tr> <tr> <td style="border-right: 1px solid black; padding: 2px;">Drawn by</td> <td style="padding: 2px;">Author</td> </tr> <tr> <td style="border-right: 1px solid black; padding: 2px;">Checked by</td> <td style="padding: 2px;">Checker</td> </tr> </table>	Scale	1/16" = 1'-0"	Project number	3058	Date	2023.03.29	Drawn by	Author	Checked by	Checker
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Project number	3058										
Date	2023.03.29										
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PROGRAM

SPECIALTY CLASSROOM

ALBUQUERQUE BILINGUAL ACADEMY

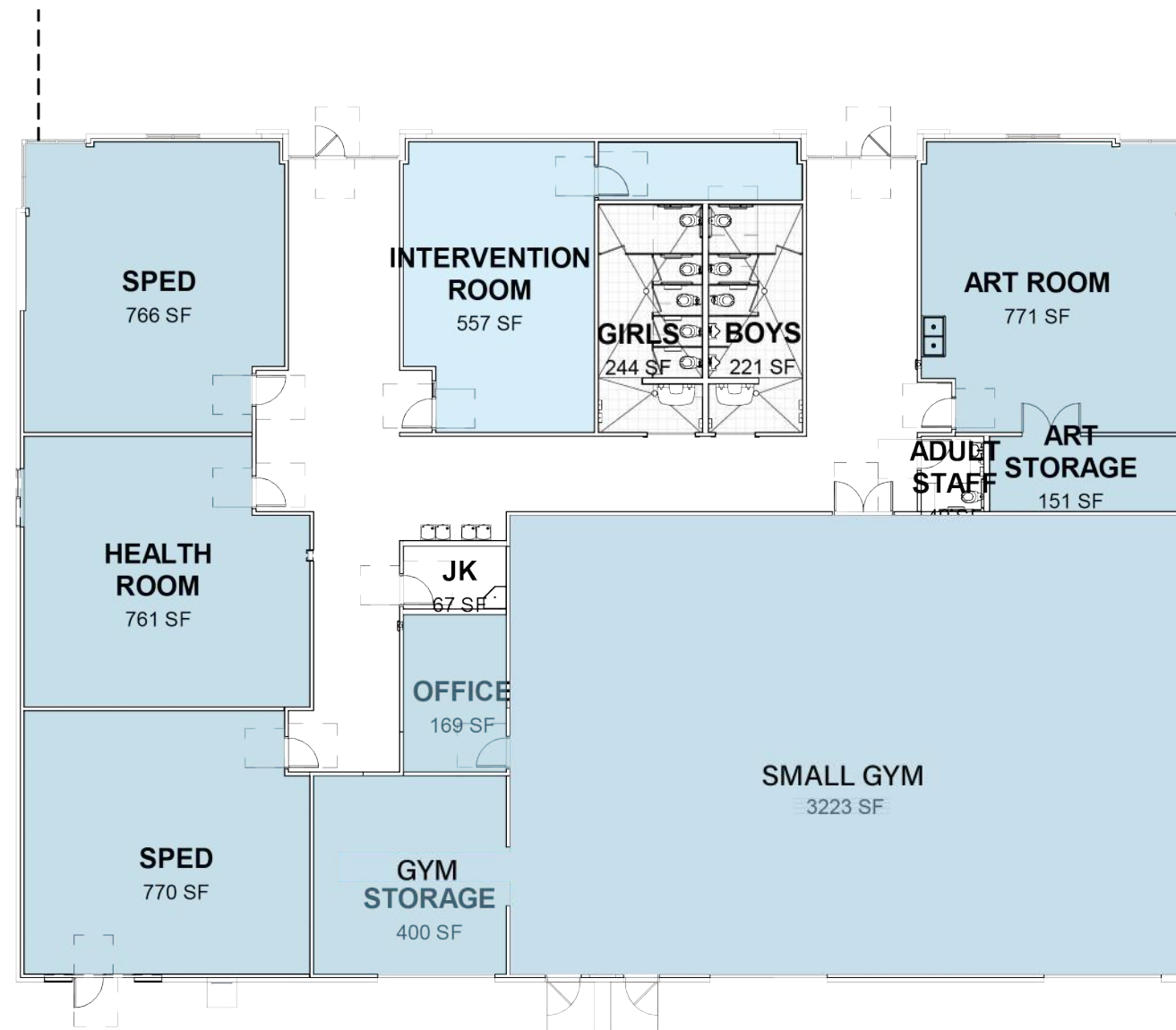
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FMP-B

BUILDING B

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PROGRAM

- GENERAL CLASSROOM
- SPECIALTY CLASSROOM

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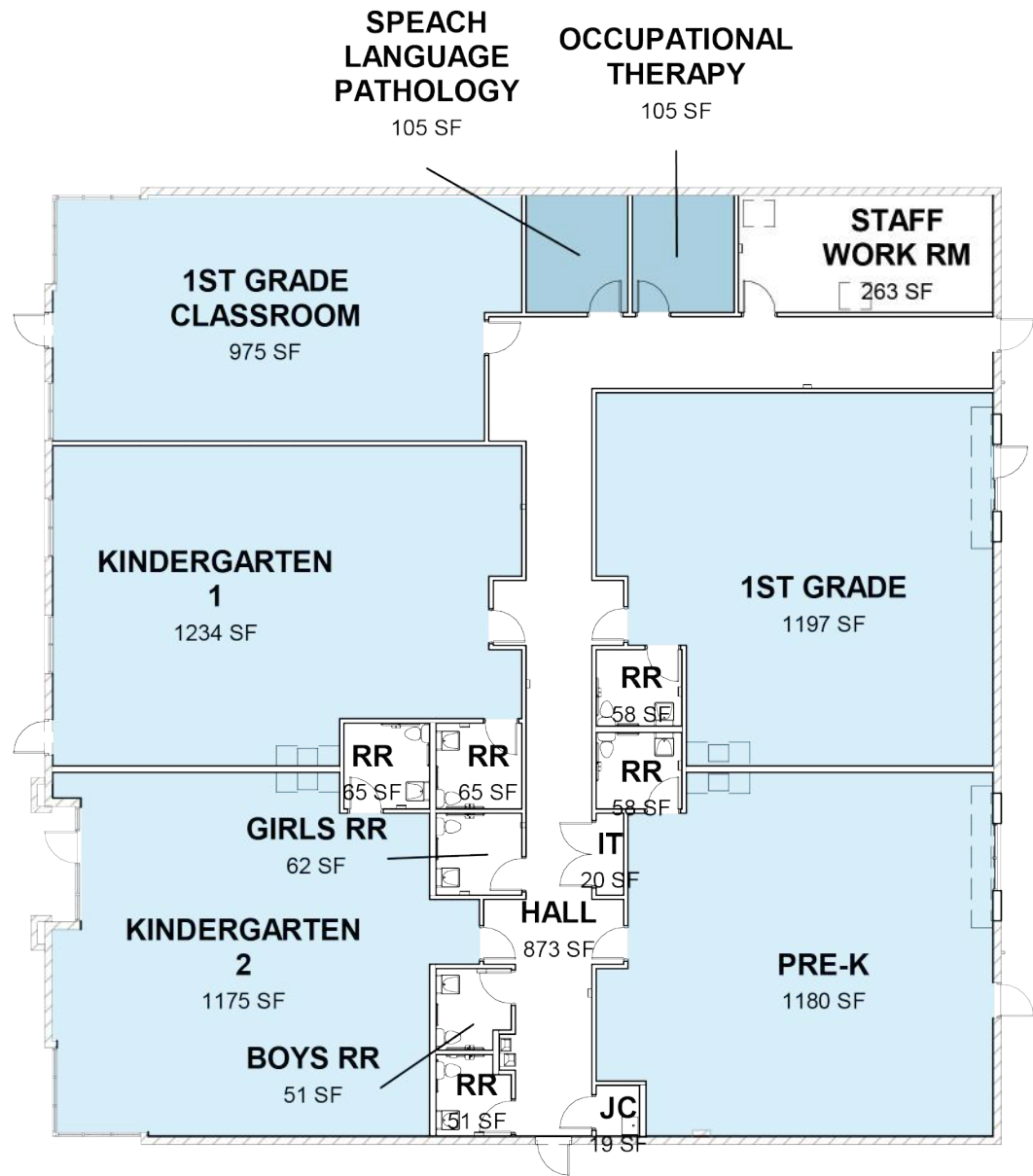
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FMP-C

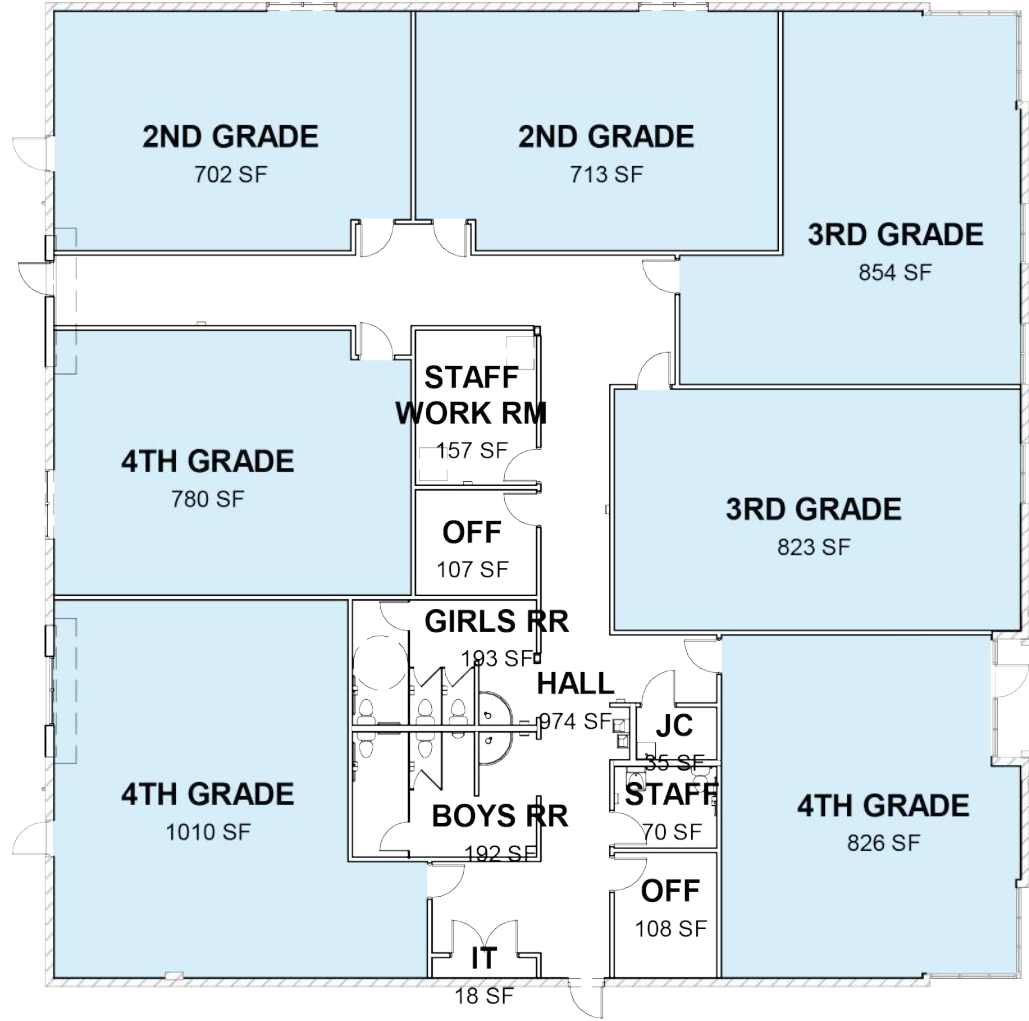
BUILDING C

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Project number	3058
Date	2023.03.29
Drawn by	Author
Checked by	Checker





BUILDING D



BUILDING E

PROGRAM

- GENERAL CLASSROOM
- SPECIALTY CLASSROOM

ALBUQUERQUE BILINGUAL ACADEMY

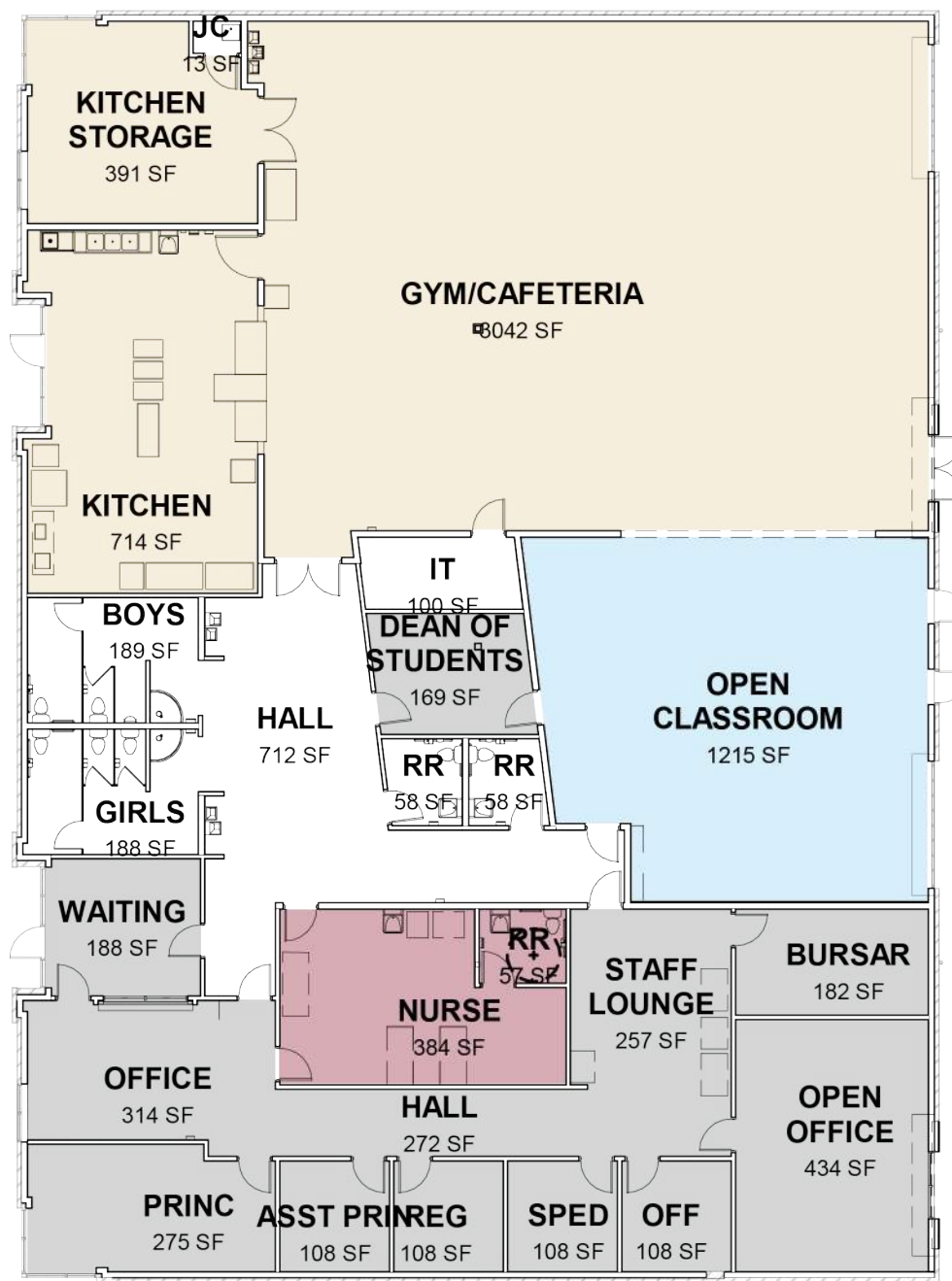
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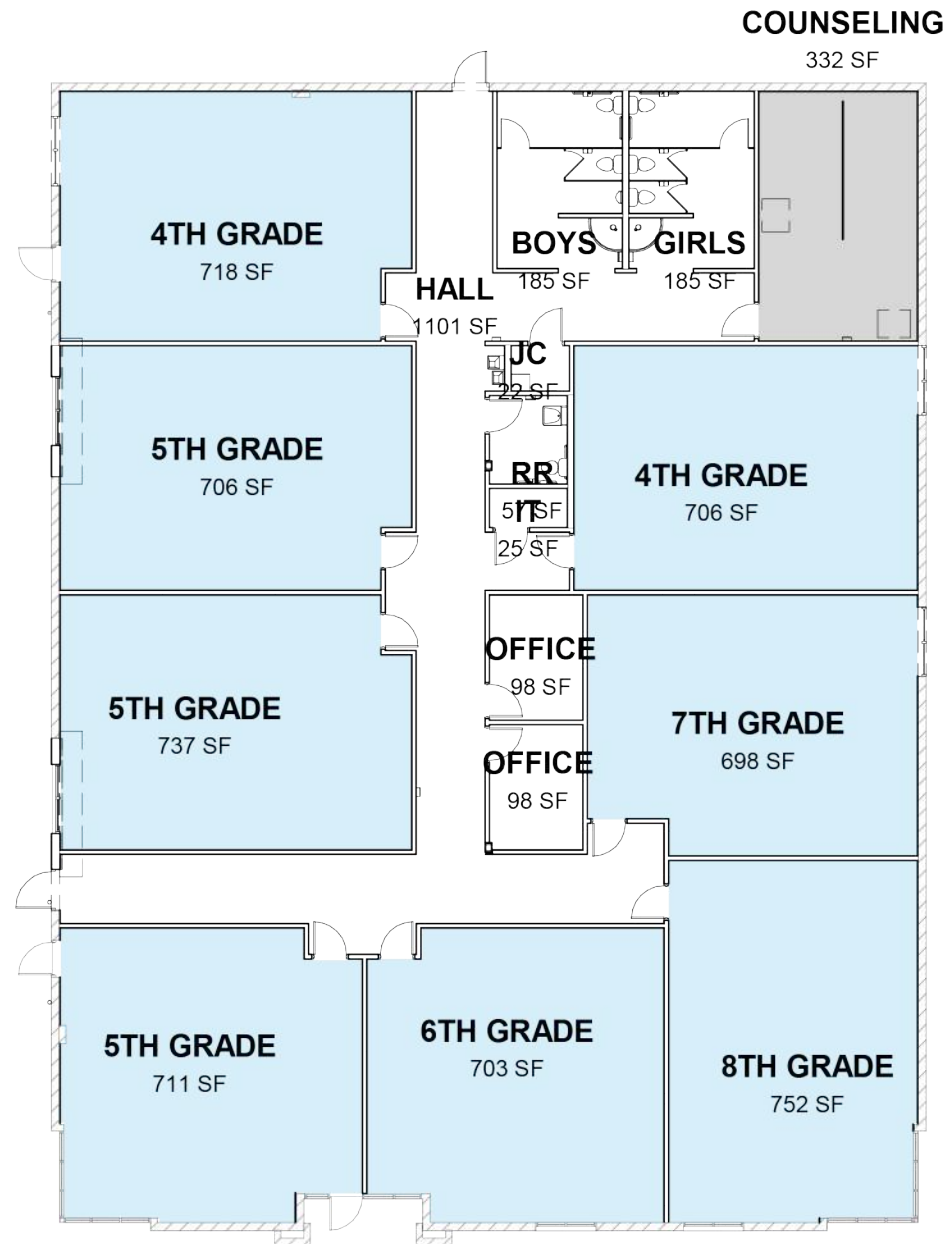
BUILDINGS D + E

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Date	2023.03.29
Drawn by	Author
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BUILDING F



PROGRAM BUILDING G

PROGRAM

- GENERAL CLASSROOM
- FOOD SERVICE
- HEALTH + WELLNESS
- ADMIN

ALBUQUERQUE BILINGUAL ACADEMY

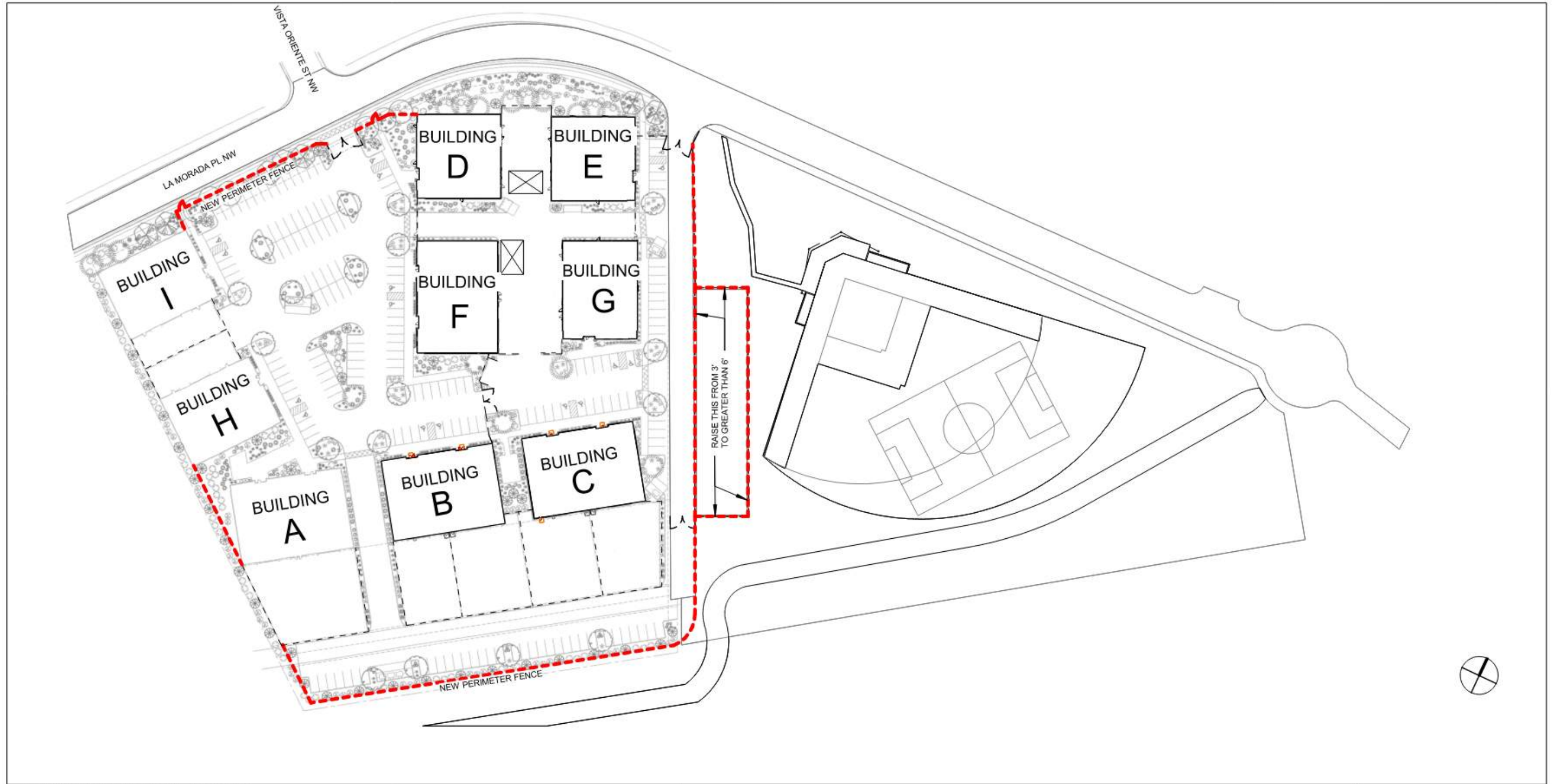
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FMP-FG

BUILDINGS F + G

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ALBUQUERQUE BILINGUAL ACADEMY
FACILITATED MASTER PLAN 2024-2029

FMP1.1

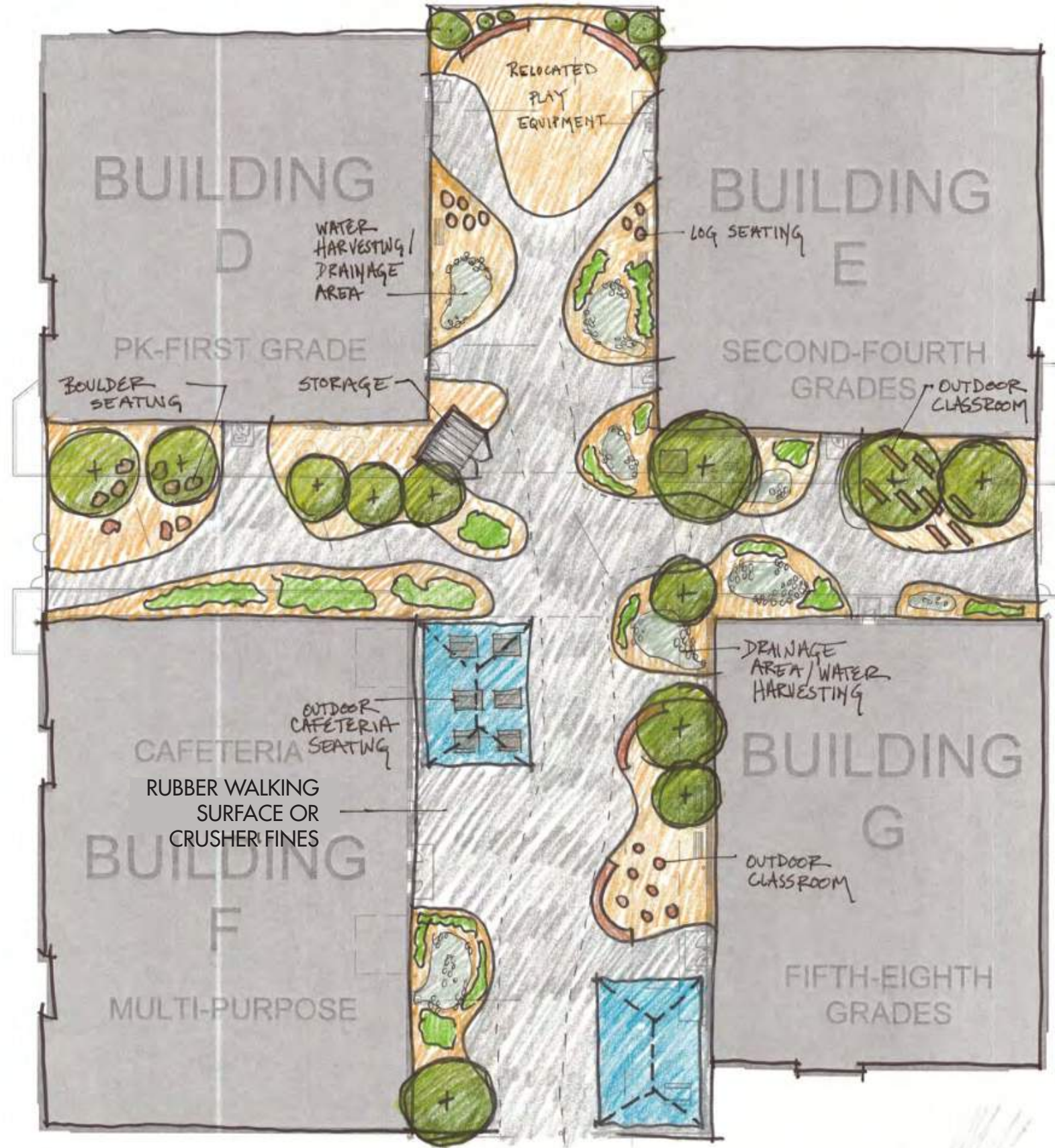
PERIMETER FENCE NEEDS

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Project number	3058
Date	2023.03.29
Drawn by	Author
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Sample Courtyard Renovation Landscape Plan

Note: This plan (inherited from the last FMP cycle) lacks accessible paths from building to building.



Planned Outdoor Multi-Purpose Sports Facility



Hellas Construction, Inc. (P) (512) 250-2930
12000 West Farmer Lane (F) (512) 250-1860
Austin, TX 78613 hellasconstruction.com

OWNER:
Albuquerque Public Schools
Albuquerque Bilingual Academy
7500 La Morada Pl NW, Albuquerque, NM 87120
PHONE: (505) 838-7706

PROJECT:
ALBUQUERQUE BILINGUAL
ACADEMY MULTIPURPOSE FIELD
CONSTRUCTION SET
PROJECT LOCATION:
Albuquerque, NEW MEXICO



6031 48th Street, Suite 100, Albuquerque, NM 87112
Tel: (505) 838-7706
Fax: (505) 838-7706
www.hellasconstruction.com

PROFESSIONAL SEAL
ANTHONY GONZALES
REGISTERED PROFESSIONAL ARCHITECT
STATE OF NEW MEXICO
NO. 20091

COMMENTS:
Drawing scale accurate ONLY when printed on 24x36 paper.

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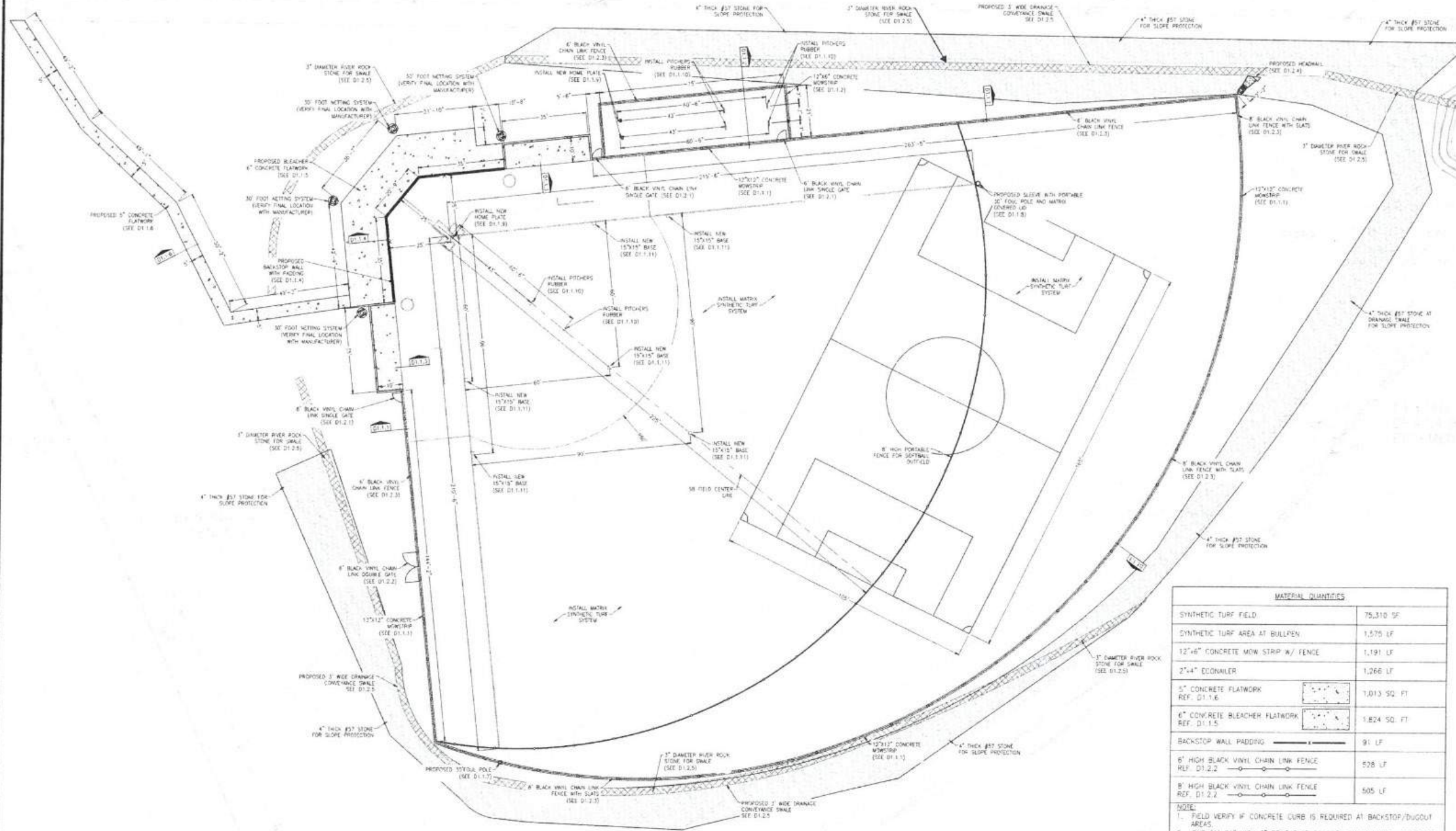
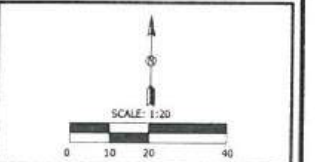
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DATE:
February 2, 2023

NO.	DATE	DESCRIPTION

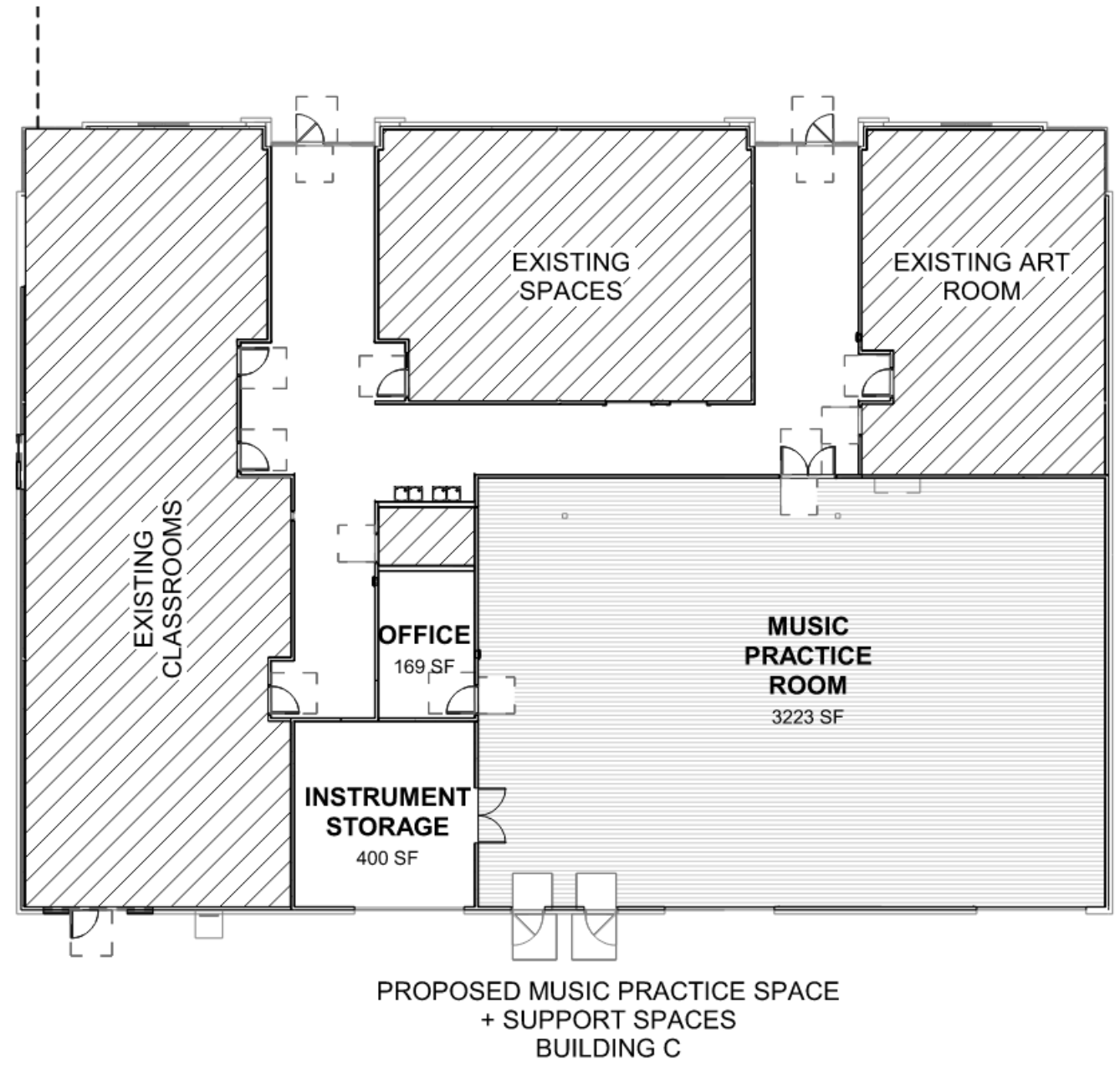
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LAYOUT PLAN


SHEET NUMBER:
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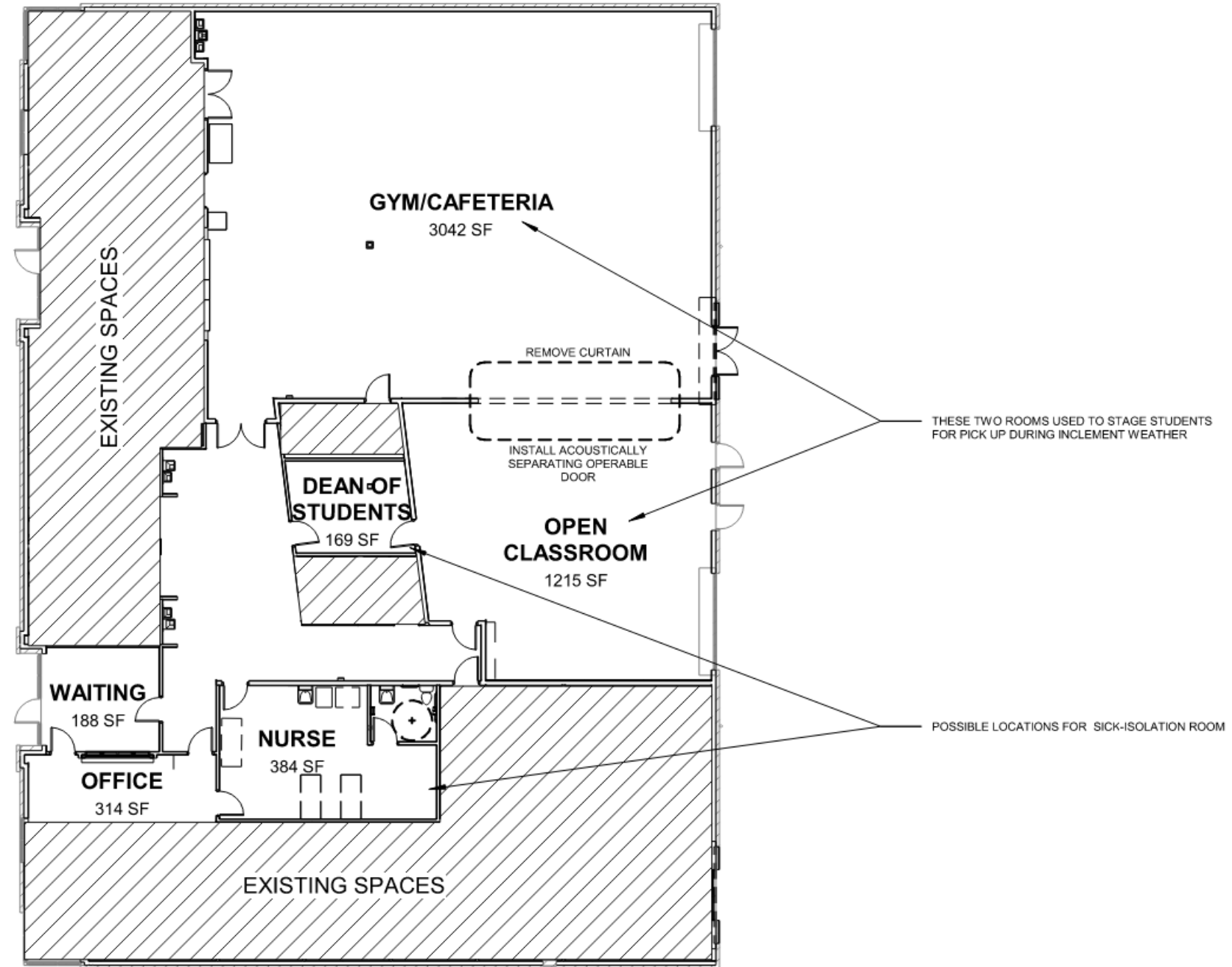


MATERIAL QUANTITIES	
SYNTHETIC TURF FIELD	75,310 SF
SYNTHETIC TURF AREA AT BULLPEN	1,570 LF
12"x6" CONCRETE MON STRIP W/ FENCE	1,191 LF
2"x4" COONAILER	1,266 LF
5" CONCRETE FLATWORK REF. D1.1.6	1,013 SQ. FT.
6" CONCRETE BLEACHER FLATWORK REF. D1.1.5	1,824 SQ. FT.
BACKSTOP WALL PADDING	91 LF
6" HIGH BLACK VINYL CHAIN LINK FENCE REF. D1.2.2	528 LF
8" HIGH BLACK VINYL CHAIN LINK FENCE REF. D1.2.2	505 LF

- NOTE:
- FIELD VERIFY IF CONCRETE CURB IS REQUIRED AT BACKSTOP/DUGOUT AREAS.
 - ONE (1) 24" HIGH 8" SPLIT FACE COLORED CMU MASONRY BACKSTOP WALL WITH PADDING ON BACKSTOP ONLY.
 - BACKSTOP NETTING SYSTEM
 - FOUR (4) 30' HIGH NETTING POLES
 - TWO (2) 10'x30' MASONRY DUGOUTS WITH:
 - A. FIELD LEVEL CONCRETE SLAB
 - B. METAL ROOFING
 - C. FRONT SAFETY FENCE
 - D. FOUR (4) 7'-6" BENCHES
 - E. EXTERIOR SPLIT FACE CMU WALL WITH INTERIOR PAINTED.
 - TWO (2) SET BASEBALL AND SOFTBALL BASES
 - FOUR (4) HOME PLATES
 - FOUR (4) PITCHING RUBBERS
 - FOUR HUNDRED (400) LINEAR FEET OF 8' HIGH PORTABLE FENCE FOR SOFTBALL OUTFIELD
 - ONE (1) 30' HIGH PORTABLE FOUL POLE WITH MATRIX GLUED REMOVABLE LID
 - ONE (1) 30' HIGH PERMANENT FOUL POLE



ALBUQUERQUE BILINGUAL ACADEMY FACILITATED MASTER PLAN 2024-2029	FMP-3
	PROPOSED MUSIC SPACES
 <p>120 Vassar Drive SE Suite 100 Albuquerque New Mexico 87106 T 505 242 6880 • F 505 242 6881</p>	Scale 1/16" = 1'-0"
	Project number 3058
	Date 2023.03.29
	Drawn by BR
	Checked by Checker



ALBUQUERQUE BILINGUAL ACADEMY

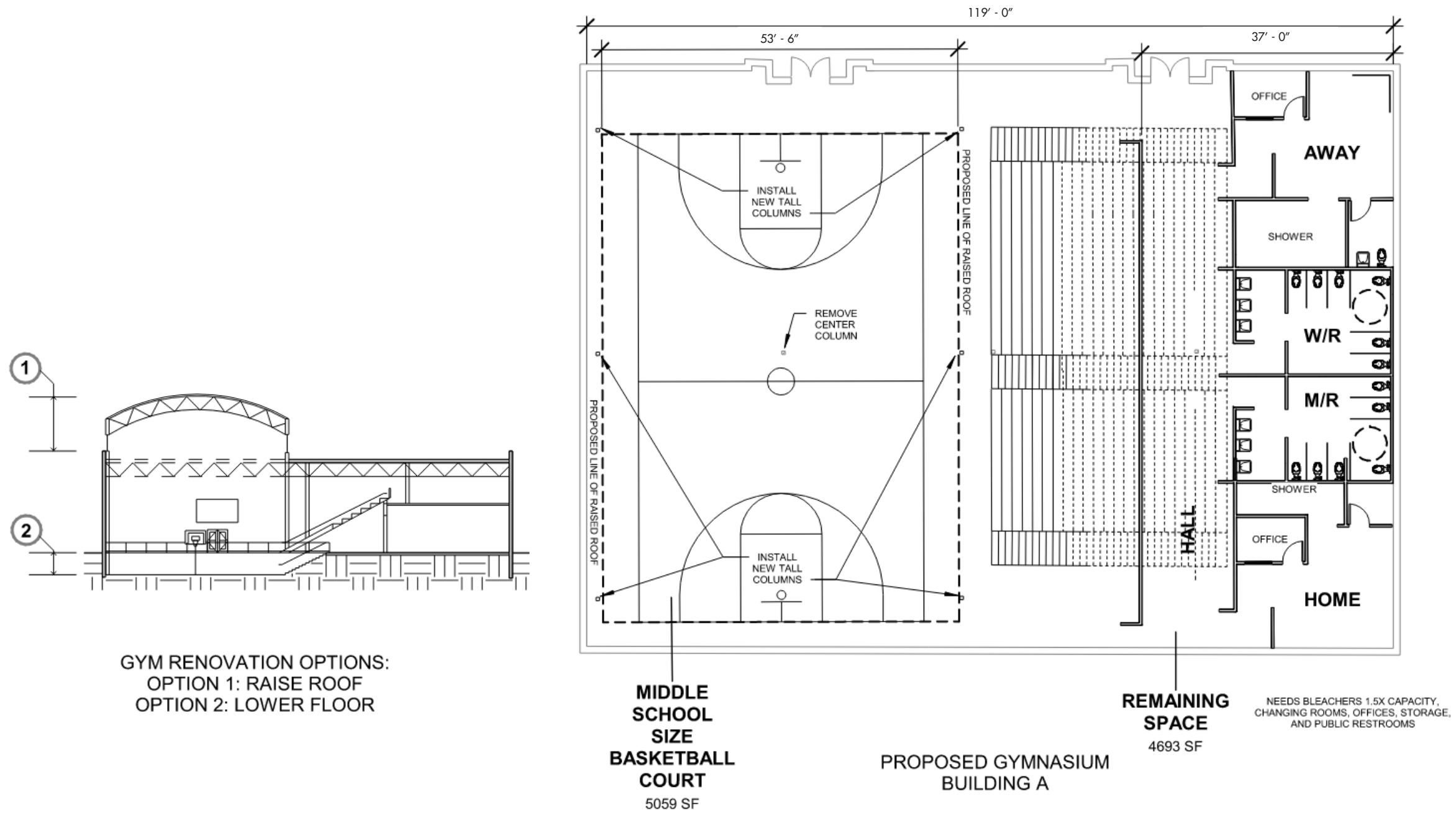
FACILITATED MASTER PLAN 2024-2029

FMP-4

**NURSE'S ROOM AND CAFETERIA ALTERATIONS
BUILDING F**

Scale	1/16" = 1'-0"
Project number	3058
Date	2023.03.29
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Checked by	Checker





GYM RENOVATION OPTIONS:
OPTION 1: RAISE ROOF
OPTION 2: LOWER FLOOR

MIDDLE SCHOOL SIZE BASKETBALL COURT
5059 SF

PROPOSED GYMNASIUM BUILDING A

REMAINING SPACE
4693 SF
NEEDS BLEACHERS 1.5X CAPACITY, CHANGING ROOMS, OFFICES, STORAGE, AND PUBLIC RESTROOMS

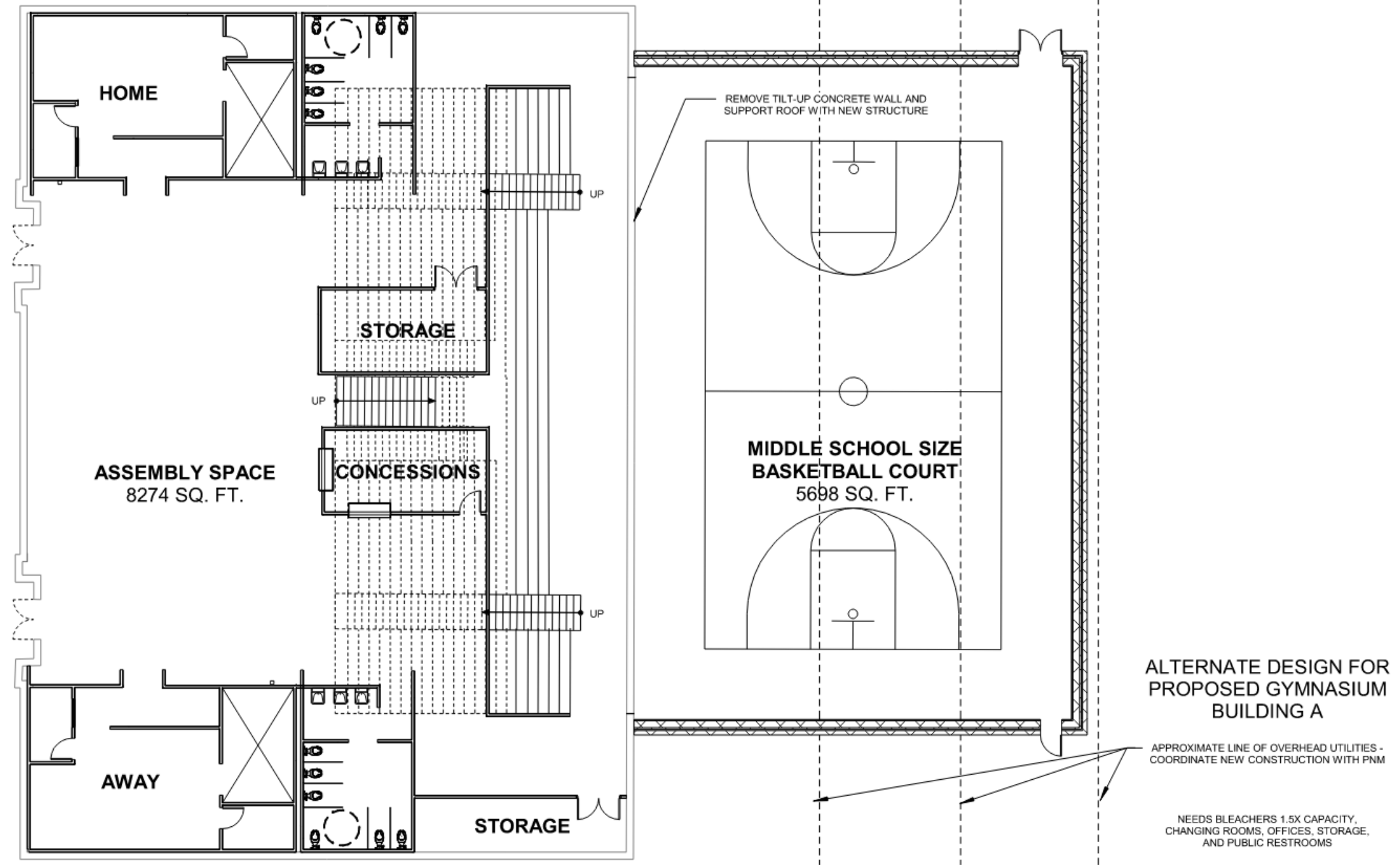
ALBUQUERQUE BILINGUAL ACADEMY
FACILITATED MASTER PLAN 2024-2029

FMP-5.1

PROPOSED GYM

Scale	As indicated
Project number	3058
Date	2023.03.29
Drawn by	BR
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ALBUQUERQUE BILINGUAL ACADEMY

FACILITATED MASTER PLAN 2024-2029

FMP-5.2

PROPOSED GYM ALTERNATE

Scale	1/16" = 1'-0"
Project number	3058
Date	2023.03.29
Drawn by	BR
Checked by	Checker



5/17/2023 10:35:44 AM

LEASE PURCHASE ARRANGEMENT

dated as of November 16th, 2020,

by and between

EARLIER LEARNING SOLUTIONS FOUNDATION, INC.,
A New Mexico non-profit corporation,

and

ALBUQUERQUE BILINGUAL
ACADEMY,
A New Mexico public charter school.

THIS LEASE PURCHASE ARRANGEMENT, dated as of November 16th, 2020 (“Agreement”), is made and executed by and between Earlier Learning Solutions Foundation, Inc., a New Mexico non-profit corporation (“Foundation”) as Lessor, and Albuquerque Bilingual Academy, a New Mexico public charter school (“Charter School”) as Lessee.

RECITALS

A. Charter School is a charter school as defined in NMSA 1978, §22-8B-2(A), authorized by the New Mexico Public Education Commission (“Commission”), and may enter into a “lease purchase arrangement” or “financing agreement” as those terms are defined in the singular in NMSA 1978, §22-26A-3(A), part of the Public School Lease Purchase Act, NMSA 1978, Chapter 22, Article 26A (“Public School Lease Purchase Act”).

B. Charter School’s governing body has determined that it is necessary, desirable, and in Charter School’s best interest, subject to separate statutory approval by the Public Education Department (NMSA 1978, §22-26A-4(B)) and the Public School Facilities Authority (NMSA 1978, §22-20-1(A)(2)), to acquire from Foundation through a lease purchase arrangement a campus totaling 83,301 square-feet of building space situated on a 7.26-acre site (“TR-9”) and an adjacent 5.46-acre tract of land (“TR-8”) with playground equipment, both of which are located at 7500 La Morada NW, Albuquerque, Bernalillo County, New Mexico 87120 (hereafter referred to as the “School Facility”), and more particularly described in Exhibit A attached hereto.

C. The parties hereto acknowledge that (i) the Charter School currently occupies the school buildings located at 7500 La Morada NW, Albuquerque, New Mexico 87120, under that certain Lease Agreement dated April 26, 2013 between Earlier Learning Solutions Foundation, Inc. and La Promesa Charter School (now known as “Albuquerque Bilingual Academy”) as amended by that certain First Amendment to Lease Agreement Between Earlier Learning Solutions Foundation, Inc. and La Promesa Charter School dated as of August 26, 2017 (collectively, the “Lease”) and (ii) that certain Charter School-owned fixtures, furnishings and equipment have been located thereon (collectively “Charter School Property”), which shall remain the property of the Charter School and are not subject to the terms of this Agreement or any security Foundation has provided to obtain financing to acquire the School Facility.

D. Foundation is a non-profit corporation duly organized, in good standing, and existing under the Nonprofit Corporation Act, NMSA 1978, §53-8-1, *et seq.*, and is authorized by its articles of incorporation, bylaws, action of its board of directors, and applicable New Mexico law, to own and manage its properties, to conduct its affairs in the State of New Mexico, to lease and sell the School Facility to Charter School, and to otherwise act in the manner set forth herein.

E. In order to refinance the cost of acquiring the School Facility, the Foundation will entered into a Loan Agreement with the Raza Development Fund, Inc., an Arizona nonprofit corporation (“Lender”), on or before the Commencement Date of this Agreement (“Loan Agreement”), pursuant to which Lender will loan to Foundation, the aggregate principal amount of \$6,983,000. Charter School is not a party to or an obligor under the Loan Agreement.

F. Foundation shall grant on or before the Commencement Date a Mortgage to Lender,

to be filed of record as of the same date with the Bernalillo County Clerk's Office ("Mortgage") to secure Foundation's indebtedness and other obligations to Lender under the Loan Agreement. Charter School is not a party to or a borrower/trustor under the Mortgage.

G. The Base Rent and Additional Rent (both as hereinafter defined) payable by Charter School under this Agreement shall constitute currently appropriated expenditures of Charter School, and Charter School shall for the Term authorize and appropriate the payments required hereunder for such years, to the extent and in the manner permitted by New Mexico law; provided, however, that no obligation for any lease payment hereunder, however defined or characterized herein, shall constitute a debt or multiple Fiscal Year direct or indirect obligation whatsoever of Charter School, or a mandatory charge or requirement against Charter School in any Fiscal Year (as hereinafter defined), beyond the Fiscal Year for which legally available funds have been appropriated.

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants and agreements hereinafter contained, and for other good and valuable consideration exchanged, Foundation and Charter School agree as follows:

ARTICLE I DEFINITIONS AND EXHIBITS

Section 1.1 Definitions. Unless otherwise specified in this Agreement, the capitalized terms used herein shall have the meanings specified below.

"Additional Rent" means, as set forth in Section 5.2 of this Agreement, all amounts due by Charter School under the terms hereof, other than Base Rent.

"Agreement" for all purposes herein and as to all appertaining exhibits and documents, means the same as either the term "lease purchase arrangement" or "financing agreement," as these latter two terms are defined in the singular in NMSA 1978, §22-26A-3(A), whether capitalized herein or not.

"Base Rent" means the amounts shown on Exhibit B attached hereto for the Term of this Agreement.

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

"Charter School" has the meaning ascribed to it in the introductory paragraph of this Agreement.

"Charter School Property" has the meaning ascribed to it in paragraph C of the Recitals herein.

"Charter School's Representative" means the chair of Charter School's governing body or any other person duly authorized by Charter School to act on its behalf under or with respect

to this Agreement.

“Commencement Date” means the date of this Agreement as set forth in the introductory paragraph which shall be a date after separate statutory approval by the Public Education Department and the Public School Facilities Authority, and after which date the payment obligations hereunder will continue for a period not exceeding thirty years, as prescribed by NMSA 1978, §22-26A-5(C).

“Event of Default” has the meaning ascribed to it in Article XI of this Agreement.

“Event of Non-Appropriation” has the meaning ascribed thereto in Section 4.5(a) of this Agreement.

“Fiscal Year” means Charter School’s fiscal year, which begins on July 1 of any year and ends on June 30 of the following calendar year.

“Foundation” has the meaning ascribed thereto in the introductory paragraph of this Agreement.

“Foundation’s Representative” means Foundation’s chief executive officer or any other person duly authorized by Foundation to act on its behalf under or with respect to this Agreement.

“Lease” has the meaning ascribed to it in paragraph C of the Recitals herein.

“Lease Payments” means, collectively, any payments due from Charter School to Foundation under this Agreement and in accordance with Article V hereof, payable from funds specifically appropriated year to year by Charter School for such purpose from any legally available funds.

“Lease Purchase Arrangement” has the meaning ascribed to it in NMSA 1978, §22-26A-1, *et seq.*

“Lender” has the meaning ascribed thereto in paragraph E of the Recitals herein.

“Loan Agreement” has the meaning ascribed thereto in paragraph E of the Recitals herein.

“Mortgage” has the meaning ascribed thereto in paragraph F of the Recitals herein.

“Net Proceeds” means any insurance proceeds or condemnation award paid on the School Facility, remaining after payment of all costs and expenses, including attorney’s fees, incurred in the collection of such proceeds.

“Option to Purchase” means the right of Charter School to purchase the School Facility pursuant to the terms of Article VI of this Agreement, and in accordance with the relevant provisions of the Public School Lease Purchase Act.

“Public School Lease Purchase Act” has the meaning ascribed thereto in paragraph A of

the Recitals herein.

“Rent Coverage Ratio” has the meaning ascribed to it in Section 5.6.

“Requirements of Law” means any material federal, state (specifically including New Mexico), 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 Facility” shall mean the land and improvements leased by the Charter School pursuant to the terms of this Agreement and has the meaning ascribed to it in paragraph B of the Recitals herein and described in Exhibit A hereto.

“School Improvements” has the meaning ascribed to it in Section 5.7.

“Statewide Adequacy Standards” means the standards set forth in 6.27.30 NMAC (09/01/2002, as amended through 12/17/2019), and any subsequent amendments thereto promulgated by the Capital Outlay Council, applicable to the School Facility, and any variances from those standards granted to Charter School by the Capital Outlay Council pursuant to NMSA 1978, §22-8B-4.2(F)(2).

“Term” means the time period during which this Agreement is in effect, as provided 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 – School Facility

Exhibit B - Base Rent Schedule

Exhibit C - Copies of the Public Education Department’s and Public School Facilities Authority’s respective approvals of this Agreement.

ARTICLE II REPRESENTATIONS, COVENANTS, AND WARRANTIES

Section 2.1 Representations, Covenants, and Warranties of Charter School. Charter School represents, covenants, and warrants to Foundation as follows:

(a) It is a duly authorized and existing public charter school under the provisions of the Charter Schools Act, NMSA 1978, §22-8B-1, *et seq.* Charter School is authorized by the Commission.

(b) It has full power and authority to lease, operate, maintain, and acquire under

an option to purchase the School Facility, to execute and deliver this Agreement, and perform the related transactions in accordance with the relevant provisions of the Public School Lease Purchase Act and other applicable New Mexico statutes, and to carry out its obligations under this Agreement, subject to the limitations and conditions stated herein and the availability of sufficient appropriations and revenues therefor.

(c) Its representatives executing this Agreement have been duly authorized to execute and deliver it in accordance with the terms and provisions of the resolution duly passed and adopted by Charter School's governing body.

(d) Its governing body has complied fully with all the requirements of NMSA 1978, §22-26A-6, and those of NMSA 1978, §10-15-1 applicable to its actions with regard to this Agreement and the acquisition of the School Facility through a lease purchase arrangement.

(e) It has immediate need for, and expects to make immediate use of, the School Facility being leased with an option to purchase under this Agreement, which need, at the time of approval hereof, is not temporary or expected to diminish in the foreseeable future.

(f) Neither the execution and delivery of this Agreement, nor 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 Charter School is now a party or by which Foundation is bound or constitutes a default under any of the foregoing.

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

(h) It shall not transfer, lease, assign, mortgage, or encumber all or any portion of its interest under this Agreement, or the School Facility, except in accordance with the terms and conditions hereunder and as provided by New Mexico law, including NMSA 1978, §22-26A-5(K) with respect to assignment of a lease purchase arrangement to: (i) a school district or charter school; or (ii) the State of New Mexico or one of its institutions, instrumentalities or other political subdivisions

(i) The School Facility shall be used and occupied only for educational and related purposes, and for no other purpose. No portion of the School Facility shall be used primarily for pervasively sectarian purposes. Charter School 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 conditions, race, creed, color, sex, gender identity, sexual orientation, spousal affiliation, national origin, religion, ancestry, need for special education services, or of any other protected class under either state or federal law.

(j) It shall conform to and comply with all applicable municipal, state, and federal laws, ordinances, rules and regulations in its use of the School Facility, and Charter School

will not use or suffer to be used the School Facility in any manner contrary to any applicable municipal, state, or federal laws, ordinances, rules or regulations, so as to create or cause to exist any nuisance or hazardous condition.

(k) It shall use its best efforts to purchase the School Facility from Foundation with funds obtained from lease payment grant assistance from the Public School Capital Outlay Council in accordance with NMSA 1978, §22-24-4(I), or from other legally available funds at the earliest possible time according to the terms of this Agreement, but in no event shall this Agreement have a final payment date exceeding thirty (30) years after the date of its execution by the parties.

(l) Notwithstanding any other provisions of this Agreement, Charter School's governing body represents, warrants and covenants that it has not directly or indirectly undertaken Foundation's debt under the Loan Agreement, nor has Charter School 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 Charter School from or through the State of New Mexico, for the purpose of securing the payment of Foundation's financial obligations under the Loan Agreement, 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.

(m) To the knowledge of Charter School and only for those periods it occupied the School Facility: (i) the School Facility has during the term of the Lease been operating in substantial compliance with all Requirements of Law; (ii) all permits required by Requirements of Law in respect of the School Facility have been obtained and are in full force and effect and Charter School is in substantial compliance with the material terms and conditions of such permits; (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 by the Charter School in connection with the School Facility and there are no grounds on which any such litigation, investigation or proceedings might be commenced against the Charter School; (iv) the School Facility is not subject to any judgment, injunction, writ, order, or agreement respecting any Requirements of Law arising out of actions by the Charter School; (v) for the period covered by the Lease the Charter School has not placed any 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 on, in, or under the School Facility in violation of any Requirements of Law; (vi) there has been no disposal of any of the items referred to in clause (v) by the Charter School on, from, into, or out of the School Facility 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) by the Charter School into the indoor or outdoor environment from, into, or out of the School Facility including the movement of any such items through or in the air, soil, surface water, ground water from, into, or out of the School Facility 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 Facility in violation of any Requirements of Law.

(n) It shall not use funds paid to Charter School pursuant to NMSA 1978, § 22-26-1, *et seq.* (the Public School Building Act, a/k/a “HB33”) or NMSA 1978, § 22-25-1 *et seq.* (the Public School Capital Improvement Act, a/k/a “SB9”) for any purpose other than those authorized by applicable law.

Section 2.2 Representations, Covenants, and Warranties of Foundation.
Foundation represents, covenants, and warrants to Charter School as follows:

(a) It is a non-profit corporation duly organized, existing, and in good standing under the laws of New Mexico, is possessed of full power to purchase, own, hold, and lease (as owner and lessor) real and personal property, has all necessary power to lease and sell the School Facility to Charter School pursuant to this Agreement, and to execute, deliver, and perform its obligations under this Agreement and has duly authorized the execution, delivery, and performance of its obligations under this Agreement.

(b) It 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 federal and state law.

(c) This Agreement is enforceable against Foundation 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 School Facility will be leased from Foundation in accordance with all Requirements of Law, specifically including those of New Mexico.

(e) Neither the execution and delivery of this Agreement, nor 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 Foundation is now a party or by which Foundation is bound or constitutes a default under any of the foregoing.

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

(g) To the knowledge of Foundation, Foundation has not received any notice that the School Facility or its present use and condition violates any applicable deed restrictions or other covenants, restrictions or agreements, mortgages, or conditions of title or ownership, site 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 Facility.

(h) To the knowledge of Foundation: (i) the School Facility 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 Facility have been obtained and are in full force and effect and Charter School is in substantial compliance with the material terms and conditions of such permits; (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 Facility and there are no grounds on which any such litigation, investigation or proceedings might be commenced; (iv) the School Facility 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 Facility 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 Facility 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 Facility including the movement of any such items through or in the air, soil, surface water, ground water from, into, or out of the School Facility 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 Facility in violation of any Requirements of Law.

ARTICLE III AGREEMENT TO LEASE

Section 3.1 Agreement. Foundation hereby leases the School Facility to Charter School, and Charter School hereby leases the School Facility from Foundation with an Option to Purchase, upon the terms and conditions set forth in this Agreement, provided that the terms and conditions herein are not in contravention of any applicable New Mexico laws.

Section 3.2 Possession and Enjoyment. During the Term of this Agreement, Foundation shall provide Charter School with quiet use and enjoyment of the School Facility and during such term Charter School shall peaceably and quietly have and hold and enjoy the School Facility, without suit, trouble, or hindrance from Foundation, except as expressly set forth herein. Foundation will, at the request of Charter School and at Charter School's cost, join in any legal action in which Charter School asserts its right to such possession and enjoyment to the extent Foundation may lawfully do so. Notwithstanding the foregoing, Foundation shall have the right to inspect the School Facility as provided in Section 3.4 hereof.

Section 3.3 Use of School Facility. The School Facility shall be used and occupied only for educational and related purposes, and for no other purpose. No portion of the School Facility shall be used primarily for pervasively sectarian purposes. Charter School 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 conditions, race, creed, color, sex, gender identity, sexual orientation or preference, spousal affiliation, national origin, religion, ancestry, need for special education services, or of any other protected class under either state or federal law.

Section 3.4 Foundation's Access to School Facility. Charter School agrees that following the Commencement Date of this Agreement, Foundation shall have for the Term the right, during Charter School's normal working hours and regular business days, upon compliance with any security requirements imposed by Charter School and upon reasonable notice, to enter on and examine and inspect the School Facility for the purpose of assuring that it is being properly maintained, preserved, and kept in good repair and condition. Charter School further agrees that Foundation shall have such rights of access to the School Facility as may be reasonably necessary to cause the proper maintenance of the School Facility in the event of failure by Charter School to perform its obligations hereunder, provided that at no time shall Foundation be compelled or required to make any improvements, alterations, or additions to the School Facility.

ARTICLE IV TERM OF AGREEMENT

Section 4.1 Term of Agreement. The Term of this Agreement shall commence upon the Commencement Date, with a final lease payment date twenty (20) years from the Commencement Date ("Term") as set forth in Exhibit B, which may be extended by mutual consent of the parties, but in no event exceeding thirty (30) years from the Commencement Date, 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 any one of the following events:

- (a) the purchase of the School Facility by Charter School pursuant to Article VI hereof;
- (b) a default by Charter School and Foundation's election to terminate this Agreement pursuant to Article XI hereof;
- (c) a default by Foundation and Charter School's election to terminate this Agreement pursuant to Article XI hereof;
- (d) a decision by Charter School's governing body, in any Fiscal Year, not to continue this Agreement from year to year or to purchase the School Facility in accordance with NMSA 1978, §22-26A-5(I);
- (e) an Event of Non-Appropriation; or

(f) if Charter School's charter is revoked or not renewed by the New Mexico Public Education Commission, and a subsequent decision by the district court on an appeal filed pursuant to NMSA 1978, §39-3-1.1 to not set aside, reverse or remand the Secretary of Public Education's final decision on an appeal by Charter School's governing body filed pursuant to NMSA 1978, §22-8B-7(F).

Section 4.3 Termination of Agreement. Upon termination of this Agreement:

(a) All unaccrued obligations of Charter School hereunder shall terminate, but all obligations of Charter School that have accrued hereunder prior to such termination shall continue until they are discharged in full, subject to the supervisory authority of the Public Education Department under NMSA 1978, §22-2-2(C), if applicable; and

(b) If the termination occurs because of the occurrence of an Event of Non-Appropriation under Section 4.5 (a) hereof or an Event of Default as defined in Article X hereof: (i) Charter School's right to possession of the School Facility shall terminate; and (ii) Charter School shall vacate the School Facility as set forth in 4.5(e) in the case of an Event of Non-Appropriation or as set forth in Section 11.2(a) of this Agreement in the case of an Event of Default. If termination occurs because of non-renewal or revocation of Charter School's charter, Lease Payments shall be paid through the date of closure, subject to: (i) the supervisory authority of the Public Education Department under NMSA 1978, §22-2-2(C); and (ii) NMSA 1978, §22-8B-12.1 which provides that when a charter school is closed, its assets shall be distributed first to satisfy outstanding payroll obligations for employees of the charter school, then to creditors of the charter school and then to the State of New Mexico's treasury to the credit of the current school fund.

Section 4.4 Continuation of Agreement. In accordance with Article IX, Section 11 of the New Mexico Constitution and NMSA 1978, §§22-26A-5(I) and (J), the parties stipulate and agree that: (a) there is no legal obligation for Charter School to continue this Agreement from year to year or to purchase the School Facility; and (b) this Agreement shall terminate if sufficient money is not available to meet any current lease payment.

Section 4.5 Termination of Agreement due to Event of Non-Appropriation.

(a) An "Event of Non-Appropriation" shall mean: (i) the Charter School not having sufficient money available to meet any current lease payment under this Agreement; (ii) a failure by the New Mexico Legislature to appropriate, or the Public Education Department to in succession distribute, sufficient money to Charter School to pay the Base Rent and Additional Rent required under this Agreement; or (iii) a failure by Charter School to appropriate sufficient amounts to proceed under Section 7.6(c)(ii) of this Agreement, following the occurrence of an event described in Section 7.6(a) hereof.

(b) In the event that Charter School's governing body shall decide, in its sole discretion and consistent with New Mexico law, to exercise its statutory right to not continue this Agreement, effective on June 30 of any Fiscal Year, Charter School shall give written notice within five (5) Business Days of such decision to Foundation. The exercise of Charter School's statutory right to not continue this Agreement shall be conclusively determined: (a) by Charter

School governing body's decision to not appropriate by June 30 of any Fiscal Year sufficient amounts to pay all Lease Payments due in the ensuing Fiscal Year; or (b) upon the occurrence of any of the other Event of Non-Appropriation as defined herein.

(c) Any decision not to continue this Agreement shall be made solely by Charter School's governing body, and not by any other Charter School agency or official, except as otherwise provided under the Public School Code, NMSA 1978, Chapter 22 (except Article 5A of the Public School Code.)

(d) If an Event of Non-Appropriation occurs, Charter School shall not be obligated to pay the Base Rent or Additional Rent or any other payments provided for herein beyond the amounts specifically appropriated by Charter School's governing body for the Fiscal Year during which such Event of Non-Appropriation occurs; provided, however, that Charter School shall continue to be liable for Base Rent and Additional Rent, to the extent payable from legally available funds allocable to any period during which Charter School continues to occupy or retain possession of the School Facility.

(e) The Charter School shall in all events vacate the School Facility and surrender it to Foundation, by June 30th following an Event of Non-Appropriation.

ARTICLE V AGREEMENT LEASE PAYMENTS

Section 5.1 Lease Payments.

(a) Base Rent. Charter School agrees to pay Foundation, its successors and assigns, for the right to use, improve, and acquire by purchase the School Facility, and Foundation agrees to accept, as full lease payment for the School Facility a sum equal to the monthly Base Rent set forth in Exhibit B to this Agreement, the first one being due and payable on the Commencement Date hereof and each succeeding month thereafter during the Term of this Agreement pursuant to Section 5.5(a) hereof. Any partial month will be calculated on a *pro rata* basis. The parties agree that the Lease shall be cancelled on the Commencement Date and neither party shall have any further obligations thereunder.

(b) A portion of each Base Rent 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 payment made under this Agreement, in accordance with NMSA 1978, §22-26A-5(F). Upon receipt of each payment of Base Rent, Foundation shall apply the amount of such payment to principal and interest as shown in Exhibit B, thereby reducing the purchase price to be paid by the Charter School if it elects to exercise its option to purchase the School Facility.

(c) The interest rate charged on the balance of the Purchase Price as shown in Exhibit B for the first 180 months, shall be the greater of (i) the 20-year-yield Constant Maturity Treasury Rate ("CMT"), plus 350 basis points or (ii) 5.7%. Beginning in the 181st month and through the 240th month of the Term, the interest rate shall be reset at the greater of (i) the 10-

year CMT, plus 350 basis points or (ii) 5.7%. The parties agree that the interest component of each payment made, or net effective interest rate thereon, shall not exceed the maximum permitted by the Public Securities Act, NMSA 1978, §6-14-1 through §6-14-3, as that Act may be amended from time to time. If the interest rate is anticipated to change after the 180th month, the Foundation will notify the Charter School in writing by no later than February 1 of the year prior to the Fiscal Year in which the interest rate will change and provide the Charter School with a revised Exhibit B (Base Rent Schedule). Base Rent payments at the reset rate shall commence on the 181st month of the Term.

Section 5.2 Additional Rent. In addition to the Base Rent, Charter School shall pay Additional Rent during the Term as herein provided. Additional Rent shall be estimated annually by Foundation and said estimate shall be provided in writing to the Charter School on or before February 1 of every year. If the Foundation fails to submit an estimate on or before February 1, then the amount of Additional Rent shall be the same as the preceding year. The Additional Rent paid by Charter School shall be in an amount sufficient to pay the following costs during the ensuing Fiscal Year, provided that Charter School's payment of any of these costs or any other costs, fees, or expenses under or according to this Agreement does not violate Article IX, Section 14 of the New Mexico Constitution or pertinent New Mexico statutory or common law: (i) the reasonable fees and expenses of Foundation related to the School Facility, including but without limitation, all reasonable fees and expenses related to administration and management as determined by Foundation per month; plus (ii) the cost of insurance premiums for insurance deemed necessary or desirable in Foundation's reasonable discretion; plus (iii) all property taxes and assessments imposed on the School Facility in accordance with Section 5.8 hereof; and (iv) all other costs expressly required to be paid by Foundation hereunder. If Charter School's governing body decides to continue this Agreement for the ensuing Fiscal Year, Charter School's obligation under this Agreement to pay Additional Rent during such Fiscal Year shall be limited to the amount so appropriated for Additional Rent. Additional Rental obligations in excess of the amounts so appropriated shall in no event be due or owing from Charter School.

Section 5.3 Budgeting. In any Fiscal Year that this Agreement is in effect, Charter School shall, to the extent permitted by New Mexico law, and by Public Education Department practice, policy, or directive, include in the budget proposal to the Public Education Department for the ensuing Fiscal Year an amount equal to one hundred percent (100%) of the Base Rent and one hundred five percent (105%) of estimated Additional Rent; provided, however, that the decision whether to continue this Agreement and whether to appropriate such amounts therefor shall remain within the sole discretion of Charter School's governing body. The Base Rent, Additional Rent, and other obligations payable by Charter School under this Agreement shall constitute currently appropriated expenditures of Charter School and shall not constitute a debt or multiple Fiscal Year direct or indirect obligations whatsoever of Charter School or a mandatory charge or requirement against Charter School in any Fiscal Year beyond the Fiscal Year for which such payments have been approved.

Section 5.4 Nature of Payment. Charter School and Foundation acknowledge and agree that the Base Rent and Additional Rent hereunder shall constitute currently appropriated expenditures of Charter School and may be paid from any legally available funds. Charter School'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 Charter School 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 the Charter School within the meaning of any constitutional or statutory limitation or requirement. This Agreement does not directly or indirectly obligate the Charter School to make any payments beyond those appropriated for any Fiscal Year for which payments have been appropriated.

Section 5.5 Manner of Payment.

(a) The Base Rent and any Additional Rent shall be paid from the Commencement Date and continuing on the first (1st) day of every month of the Term thereafter in lawful money of the United States of America. If Base Rent and any Additional Rent is not paid in full within (10) days of the date it becomes due, Charter School shall pay Foundation a late charge in an amount equal to five percent (5.0%) of the amount not paid when due. Payments made shall be credited first to unpaid late charges.

(b) The obligation of Charter School to pay the Base Rent and Additional Rent required under this Agreement shall not be abated through accident or unforeseen circumstances, except as otherwise provide by law. Charter School shall during the Term hereof make all payments of Base Rent and Additional Rent when due and shall not withhold any Base Rent or Additional Rent, nor shall Charter 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 Charter School of any rights, claims, or defenses which Charter School may assert. No action or inaction on the part of Foundation shall affect Charter School's obligation to pay Base Rent and Additional Rent of this Agreement.

Section 5.6 Financial Covenants. During the term of the Agreement, and as part of its obligations thereunder, the Charter School agrees to demonstrate to the Foundation, its continuing financial capacity to make Base Rent and Additional Rent payments under the Agreement. The Charter School's financial capacity shall be measured by a Rent Coverage Ratio as defined herein. Commencing with the Fiscal Year ending June 30, 2021, the Charter School shall, to the extent permitted by law, maintain a minimum Rent Coverage Ratio of 1.15:1.00 as of each June 30 this Agreement is in effect. The Rent Coverage Ratio applicable to the School shall be determined by the quotient of Earnings Before Interest, Taxes, Depreciation and Amortization plus Base Rent and Additional Rent as the numerator, divided by Base Rent plus Additional Rent, Interest Expense plus Current Maturities of Long-Term Debt (the denominator) ("Rent Coverage Ratio"). If one or more of the factors of the Rent Coverage Ratio do not exist for the Charter School the value for that element will be zero.

Section 5.7 Funding of Improvements to School Facility. Subject to the terms of Section 9.1 hereof, Charter School and Foundation agree that Charter School may use all legally available funds to acquire, construct, equip, install, or make improvements to the School Facility (the

“School Improvements”) during the Term of this Agreement upon written approval of the Foundation, which approval shall not be unreasonably withheld. Prior to any termination of this Agreement as provided hereunder, Foundation may require Charter School to remove at Charter School’s own expense any School Improvements from the School Facility. For purposes of this Agreement, upon installation of School Improvements to the School Facility, such School Improvements are included in the term “School Facility.”

Section 5.8 Taxes and Assessments. During the Term, if the School Facility or any portion thereof shall, for any reason, be deemed subject to taxation, assessments, or charges lawfully made by any governmental body, Charter School shall pay, as Additional Rent 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, Charter School shall be obligated to provide only for such installments as are required to be paid during the Term of this Agreement. Charter School shall not allow any liens for taxes, assessments, or governmental charges to exist with respect to the School Facility or any portion thereof, including any taxes levied thereon which, if not paid, will become a charge on the rentals and receipts from the School Facility or any portion thereof, or any interest therein, including the Foundation’s interests or the rentals and revenues derived therefrom or hereunder. If Charter School shall first notify Foundation of the intention of Charter School to do so, Charter School may, at the expense and in the name of Charter 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 Foundation shall notify Charter School that, in the opinion of independent counsel, whose reasonable fees shall be paid by Charter School, by nonpayment of any such items the School Facility or any portion thereof will be subject to loss or forfeiture, or Foundation will be subject to liability, in which event such tax, assessment, or other charges shall be paid promptly or secured by posting a bond with Foundation in form satisfactory to Foundation (provided, however, that such payment shall not constitute a waiver of the right to continue to contest such tax, assessment, or other charges). Foundation shall cooperate in any efforts by Charter School to contest any taxes or assessments. Foundation shall notify the Charter School within five (5) days of Foundation’s receipt of notice of any taxes or assessment due or owing as contemplated by this provision. Foundation shall be responsible for all interest, penalties or fines resulting from its failure to timely notify Charter School of said assessment or tax obligation.

Section 5.9 Utilities. During the Term, Charter School shall pay, as the same respectively become due, all gas, water, electricity, heat, sewer and waste disposal, and other utility charges incurred in the maintenance and upkeep of the School Facility and Charter School shall place all such utilities in its name.

ARTICLE VI OPTION TO PURCHASE

Section 6.1 Option to Purchase. In consideration of the agreements, promises, and covenants made each to the other in this Agreement, and other good and valuable consideration received, which consideration Foundation acknowledges to be adequate, Foundation grants to Charter School the option to purchase the School Facility upon the terms and conditions set forth

in this Agreement, and to the extent permitted by the Public School Lease Purchase Act.

Section 6.2 Purchase Price on Exercise of Option. The “Purchase Price” for the School Facility on exercise of the option to purchase hereunder shall be the amount necessary to pay the outstanding principal balance on the unpaid purchase price, as set forth in the Base Rent Schedule attached at Exhibit B hereto, plus any accrued and unpaid interest to that date, Prepayment Fees as contemplated in Section 6.3, as well as costs in accordance with Section 6.4 hereof. The interest rate on the principal balance remaining on exercise of the option to purchase shall not exceed the maximum permitted by the Public Securities Act, as that Act may be amended from time to time.

Section 6.3 Prepayment Fees. Pursuant to NMSA 1978, §22-26A-5(B), if the Charter School exercises the option to purchase as defined in Section 6.2 prior to the end of the fifth (5th) year of this Agreement, the Charter School shall pay the Foundation a prepayment fee of five percent (5%) (the “Prepayment Fee”) of the original Purchase Price as indicated on Exhibit B. There shall be no prepayment fee if the Charter School exercises the Option to Purchase after the last payment of the fifth year of this Agreement.

Section 6.4 Expenses, Mortgage. The Purchase Price to be paid by Charter School to Foundation at closing of this Agreement shall be a net amount to Foundation, and all expenses in connection with the transfer of the School Facility, including title insurance, recording fees, documentary stamps, and any other closing costs, shall be paid by Charter School. The Purchase Price shall be paid by Charter School in cash to Foundation concurrent with Foundation’s conveyance of the School Facility to Charter School by special warranty deed as provided in Section 6.5 hereof.

Section 6.5 Transfer of Title. Except as provided in Section 6.8 of this Agreement, at the closing of the transaction between the parties, Foundation shall convey the School Facility to Charter School free and clear of any mortgage, indenture and other encumbrances of record, except those existing at the time of acquisition of the Property by Foundation or otherwise approved by Charter School. The conveyance shall be by a standard form special warranty deed from Foundation to Charter School.

Section 6.6 Agreement is Subordinate. Charter School’s rights under this Agreement are and shall be subject and subordinate to any underlying mortgage (including the Mortgage), indenture, or deed of trust constituting a first lien on the School Facility, or any part thereof, whether such mortgage, indenture, or deed of trust has heretofore been, or may hereafter be, placed upon the School Facility to secure Foundation’s indebtedness to any bank or other financial institution, trust company, or other financial lender, whether private or public, for the acquisition of the School Facility, or to any renewal, modification, consolidation, replacement, or extension of any such mortgage, indenture, or deed of trust. Any mortgage, indenture, or deed of trust, securing the Foundation’s indebtedness to acquire the School Facility shall not exceed the Purchase Price when the option to purchase hereunder is then exercised. This subordination clause shall be self-operative and no further instrument of subordination shall be required. Charter School shall, nevertheless, execute and deliver, from time to time, any instrument and certificate affirming and confirming such subordination that Foundation may reasonably request. Foundation will cause any such mortgage, indenture, or deed of trust to contain provisions

requiring the holder of the indebtedness secured thereby to mail to Charter School by registered mail, addressed to Charter School at its office as set forth in this Agreement, a copy of each notice of breach of covenant, default, or foreclosure given by the holder or the trustee under such mortgage, indenture, or deed of trust to Foundation. Charter School may, upon receiving notice of breach of covenant, default, or foreclosure under any such mortgage, indenture, or deed of trust as herein provided exercise the option to purchase set forth herein by paying the then-outstanding principal amount of the debt secured by mortgage, indenture, or deed of trust plus any accrued and unpaid interest and any amounts necessary to pay all amounts due to the first call date secured by the mortgage, indenture, or deed of trust.

Section 6.7 Performance of Option. If the School is not in default as defined in Article XI of this Agreement, it shall have the right to exercise the Option to Purchase as set forth herein. If Charter School is in default hereunder, it shall cure all existing defaults before having a right to exercise the Option to Purchase as set forth herein.

Section 6.8 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 6.9 Security Deposit. The parties stipulate that no security deposit was paid by Charter School as part of this Agreement and that none is required.

Section 6.10 Covenant; Recordation. The Option to Purchase under this Agreement shall be a covenant running with the land for the term of this Agreement, and no conveyance, transfer, easement, or encumbrance thereof shall defeat or adversely affect the option to purchase hereunder. A Memorandum and Notice of Lease Purchase Arrangement shall be filed in the real estate records of Bernalillo County upon final execution of this Agreement.

ARTICLE VII MAINTENANCE AND INSURANCE

Section 7.1 Maintenance and School Facility Costs. After the Commencement Date hereof, Charter School shall, for the remainder of the Term hereunder, maintain, preserve, and keep the entire School Facility or cause the School Facility 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 Charter School will from time to time make or cause to be made all necessary and proper repairs to maintain the School Facility to Statewide Adequacy Standards. Except as expressly set forth in this Agreement, Foundation shall not have any other responsibility for the making of any additions, modifications, or replacements to the School Facility during the Term of this Agreement.

Section 7.2 Removal of Improvements. Except as provided in Subsection 5.7 and Section 9.3 of this Agreement, Charter School agrees and covenants with Foundation 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 the wall, ceiling and floor surfaces without causing damage to such surfaces, shall become a permanent

part of the School Facility at the termination of this Agreement. Charter School agrees that if such improvements are removed at the termination hereof, it will repair or restore the area of such surface, if removal of Charter School'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 Liens. Except as otherwise expressly provided in this Agreement and under the Mortgage, neither Charter School nor Foundation 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 School Facility, other than the individual rights of Foundation and Charter School as herein provided. Foundation and Charter School shall promptly, at their own expense, take such action as may be necessary to duly discharge or remove any such mortgage, other than existing mortgages or subsequent mortgages as agreed to by the parties in writing, pledge, lien, charge, encumbrance or claim if the same shall arise at any time, during the respective party's control of the School Facility 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 Facility. Nothing herein shall limit Foundation's right to refinance or restructure debt against the School Facility upon prior written notice to the Charter School; however, no refinance or restructure shall impair Charter School's rights under the terms of this Agreement. Charter School covenants and agrees to execute and deliver, upon demand, such further reasonable instrument or instruments subordinating this Agreement to the lien of any mortgage or mortgages as shall be desired by Foundation and any mortgagees or proposed mortgagees, provided such documents contain commercially reasonable non-disturbance agreements. Foundation, within thirty (30) days of refinancing or restructuring, shall provide notification to Charter School with certification from the financial institution that this Agreement does not violate any term or condition of the restructured or refinanced obligation and Foundation shall pay for any of Charter School's costs associated with said refinancing.

Section 7.4 Charter School's Insurance Obligations.

(a) Liability Insurance. Beginning on the Commencement Date hereof, Charter School shall procure and maintain or cause to be carried and maintained in full force and effect during the Term hereof at Charter School's sole cost and expense and as Additional Rent above the Base Rent hereunder, such public liability insurance covering bodily injury, disease, illness or death, and property damage liability as is available from and provided by the Public Schools Insurance Authority 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 \$200,000 for personal property damage liability per address with a combined limit/maximum liability of \$1,050,000, for the benefit of both Charter School and Foundation as protection against all liability claims arising from activities on the School Facility, causing Foundation to be named as an additional-named insured on such policy of insurance, and delivering a copy thereof to Foundation upon the commencement of the Term hereof and with a deductible per loss of no greater than \$25,000. Charter School shall adjust such minimum coverage limits annually or as necessary to conform to the minimum coverage limits required for local public bodies pursuant to NMSA 1978, §41-4-19 and §41-4-20, and

NMSA 1978, §22-29-1 through §22-29-11.

(b) Property Insurance. Subject to the availability of such coverage from the Public Schools Insurance Authority, Charter School shall also carry and maintain or cause to be carried and maintained in full force and effect during the Term hereof, at Charter School's sole cost and expense, fire and extended coverage insurance upon the School Facility, including all buildings, alterations, additions, and improvements in an amount equal to their replacement values. Foundation and any lending institution(s) of record shall be named as loss payees 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 Facility should be destroyed or substantially damaged in whole or in part, and such loss is covered by fire and extended coverage insurance, Charter School shall have the option to either continue this Agreement and use the insurance proceeds to replace or repair the School Facility and on Foundation's behalf, or terminate this Agreement and tender to Foundation all such insurance proceeds attributable to the loss or damage to the School Facility. If for any reason Charter School is prohibited by law or regulation from carrying such insurance, Foundation may obtain such insurance, and Charter School shall pay the premiums of such insurance as Operating Expenses, to the extent permitted by New Mexico law.

(c) Business Personal Property Insurance. Subject to the availability of such coverage from NMPSIA, Charter School shall also carry and maintain Business Personal School Facility Insurance. Special form insurance for perils on all business personal property on the School Facility including fixtures, machinery and equipment installed by Charter School, and such other insurance as Foundation may require if available to Charter School by NMPSIA. Such insurance to be in an amount equal to one hundred percent (100%) of the insurable value thereof, if available by NMPSIA.

(d) Workers' Compensation Insurance. If required by New Mexico law as of the Commencement Date hereof, Charter School shall carry workers' compensation insurance covering all of its individual employees on, in, near, or about the School Facility, and upon request shall furnish certificates to Foundation evidencing such coverage.

Section 7.5 Foundation's Insurance. Foundation shall, from the date of approval of this Agreement, obtain and maintain during the Term, Commercial general liability insurance with coverage limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The Charter School and any lending institution(s) of record shall be named as additional insureds and loss payees on the property insurance policy and shall be provided with a copy of this policy annually on the anniversary date of the policy.

Section 7.6 Damage, Destruction; Use of Net Proceeds.

(a) Damage, Destruction, or Condemnation. If, during the Term of this Agreement, (i) the School Facility, 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 Facility or any portion thereof, or the estate of Charter School or the estate of Foundation in the School Facility 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) a breach of warranty or any material defect with respect to the School Facility shall become apparent; or (iv) title to or the use of all or any portion of the School Facility shall be lost by reason of defect in the title thereto, then, Charter 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 Charter School, to pay Base Rent and Additional Rent.

(b) Repair and Replacement. To the extent not contrary to applicable New Mexico law, and, to the extent such Net Proceeds are within its control, and further subject to the Foundation's obligations under the Loan Agreement and Mortgage, Foundation shall cause such Net Proceeds to be deposited in a separate trust fund held by Foundation. Except as set forth in Subsection (c) hereof, all Net Proceeds of any insurance policies, performance bonds or condemnation awards owed to either Charter School or Foundation shall be applied to the prompt repair, restoration, modification, improvement, or replacement of the School Facility, as the case may be, by Charter School upon receipt of requisitions acceptable to Foundation 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; (iv) conditional or unconditional lien waivers; and (v) 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. Foundation shall cooperate with Charter 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 of the School Facility paid for in whole or in part out of Net Proceeds of Charter School's insurance as described in Section 7.6 hereof shall be the property of Foundation, subject to this Agreement, and shall be included as part of the School Facility under this Agreement.

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

(i) Charter School may, to the extent permitted by New Mexico law, in accordance with Subsection (b) hereof, repair, restore, modify, or improve the School Facility or replace the School Facility (or portion thereof) with property of a value equal to or in excess of the School Facility, and pay as Additional Rent any cost in excess of the amount of the Net Proceeds. To the extent the amounts for Additional Rent, which have been specifically appropriated by Charter School, are available for the payment of such costs, and Charter School agrees to make Additional Rental payments pursuant to the provisions of this paragraph and to the extent permitted by law, School shall not be entitled to any reimbursement therefor from Foundation, nor shall School be entitled to any diminution of the Base Rent and Additional Rent.

(ii) If, by June 30th of the Fiscal Year in which an event described in

Subsection (a) hereof occurs (or June 30th of any subsequent Fiscal Year in which the insufficiency of Net Proceeds to repair, restore, modify, improve, or replace the School Facility become apparent), Charter School has not appropriated amounts sufficient to proceed under clause (i) of this Subsection, School may request Foundation to make up the insufficiency in the Net Proceeds and if Foundation refuses, Charter School may terminate the Agreement.

(d) Cooperation. The parties to this Agreement 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 Facility 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 Facility. 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 Facility 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 VIII CONDEMNATION; USE OF NET PROCEEDS

Section 8.1 Condemnation. In the event that all or any material portion of the School Facility is condemned by any governmental body or entity under the power of eminent domain or are sold under threat of condemnation to any public body or entity prior to Charter School's purchase of the School Facility, Foundation shall be entitled to all compensation awarded for the School Facility, provided that Charter School shall be entitled to all compensation awarded for the Charter School Property and any School Improvements made to the School Facility owned by Charter School after the Commencement Date including School's equitable leasehold or ownership interest.

Section 8.2 Condemnation of Other Property Owned by Charter School. Charter School shall be entitled to the Net Proceeds of any condemnation award or portion thereof made for destruction of, damage to, or taking of its property not included in the School Facility. Foundation agrees that Charter School shall have the option, at Charter School's sole cost and expense, upon written notice to Foundation, to enter an appearance and defend in any condemnation action as to both the School Facility and the Charter School's improvements made pursuant to Article IX, and upon such election, Foundation shall not be obligated to provide a defense as to the Charter School's improvements, but may do so at Foundation's sole expense. In consideration for such option granted in this paragraph, Charter School agrees not to enter into any settlement agreement as to the condemnation award to be paid for the taking or partial taking of the Charter School's improvements without Foundation's prior written consent, which consent shall not be unreasonably withheld.

ARTICLE IX LESSEE'S IMPROVEMENTS, EQUIPMENT, AND WARRANTIES

Section 9.1 Improvements to School Facility. During the Term of this Agreement upon written approval of the Foundation, which approval shall not be unreasonably withheld, Charter School, at its own expense, may remodel, or make additions, modifications, or improvements to the School Facility, provided that (i) such remodeling, modifications and additions shall not in any way damage the School Facility as it existed prior thereto, and shall become part of the School Facility, subject to the provisions of Section 9.2 hereof; (ii) the value of the School Facility after such remodeling, modifications, and additions shall be at least as great as the value of the School Facility prior thereto; and (iii) the School Facility, after such remodeling, modifications, and additions, shall continue to be used as set forth herein and shall otherwise be subject to the terms of this Agreement. If Charter School makes and pays for improvements to the School Facility, there shall be no additional financial obligations to Charter School under this Agreement without written approval by the Public Education Department, in accordance with NMSA 1978, §22-26A-5(L), there shall be no diminution or abatement of the Charter School's obligation to pay rent, and all such improvements shall be School Improvements as defined in Section 5.7 hereof.

Section 9.2 Lien on Improvements by Charter School. Subject to the subordination provision of Section 6.6 of this Agreement, if State of New Mexico or Charter School funds, above those required for Lease Payments hereunder, are used to construct or acquire School Improvements, the cost of those School Improvements shall constitute a lien on the School Facility in favor of Charter School and then, if this Agreement is terminated prior to the final payment and the release of the security interest or the transfer of title hereunder, at the option of Charter School: (1) Charter School may foreclose the real estate lien; or (2) the current market value of the School Facility 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 Charter School, all in accordance with NMSA 1978, §22-26A-5(H). The priority of such statutory lien shall be determined according to New Mexico law, should a legal dispute arise as to the order of satisfaction.

Section 9.3 Installation of Charter School's Equipment. Charter School 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 Charter School's judgment be necessary for its purposes in or upon the School Facility. All such items shall remain the sole property of Charter School, in which Foundation shall have no interest, and may be modified or removed by Charter School at any time provided that Charter School shall repair and restore any and all damage to the School Facility 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 Facility by Charter School. Nothing in this Agreement shall prevent Charter School 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 Facility.

Section 9.4 Warranties. Upon acceptance and purchase of the School Facility by Charter School pursuant to Article VI hereof, Foundation shall assign to Charter School, 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 Facility, express or implied, issued on or applicable to the School Facility, and Foundation hereby authorizes Charter School to obtain the customary services furnished in connection with such warranties and guarantees at Charter School's expense. Charter School'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 Facility and not against Foundation, nor shall such matter have any effect whatsoever on the rights of Foundation 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 Facility by Charter School, Foundation makes no warranty or representation except for the assignment of third party warranties and guarantees 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 Charter School of the School Facility, or any other representation or warranty with respect to the School Facility. In no event shall Foundation 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 Charter School's use of any portion of the School Facility provided for in this Agreement.

ARTICLE X ASSIGNMENT, MORTGAGING, AND SELLING

Section 10.1 Assignment. Except for the Foundation's assignment of rents and leases contained in the Mortgage, subject to the other provisions of this Agreement, neither party shall assign its interests herein 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 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 this section. Unless otherwise agreed to by the parties, 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. Charter School acknowledges and agrees that any assignment of this Agreement that violates the terms of Foundation's financial obligations under the Loan Agreement will be just and reasonable cause to deny approval of such Assignment.

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

Section 10.2 Restriction on Mortgage or Sale of School Facility by Charter School. Prior to closing on the purchase of the School Facility, Charter School shall not mortgage, sell, assign, transfer, lease, or convey the School Facility or any portion thereof without the written consent of Foundation, which consent shall not be unreasonably withheld or delayed, and subject to the

applicable provisions of the Public School Lease Purchase Act. Charter School agrees that Foundation has good cause to refuse consent of any such mortgage, sale, assignment, transfer, lease or conveyance, if it affects Foundation's underlying financial obligations related to acquisition of the School Facility.

ARTICLE XI EVENTS OF DEFAULT AND REMEDIES

Section 11.1 Events of Default Defined. Each of the following shall constitute an "Event of Default" under this Agreement, and the terms "Event of Default" and "Default" shall mean, whenever they are used herein, any one or more of the following events whether occurring voluntarily or involuntarily, by operation of law, or pursuant to any order of any State governmental agency or court of competent jurisdiction:

(a) Failure by Charter School to pay any Base Rent during the Term of this Agreement on, before, or within ten (10) days of the applicable due date or to pay Additional Rent which become due during the Term of this Agreement, up to the amount specifically appropriated for the payment of Base Rent and Additional Rent in accordance with the provisions hereof;

(b) Failure by Charter School or Foundation to observe and perform any covenant, condition, or agreement on either party's part to be observed or performed under this Agreement for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied, 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 sixty (60) 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 sixty (60) days if corrective action shall be instituted by the defaulting party within such time period and diligently pursued until the default is corrected;

(c) The filing by either Charter School or Foundation of a voluntary petition in bankruptcy, or failure by Charter School promptly to lift any execution, garnishment, or attachment of such consequence as would impair Charter School's ability to carry on its school charter obligations at the School Facility, or adjudication of Charter School or Foundation as a bankrupt, or assignment by Charter School Foundation for the benefit of creditors, or the entry by Charter School or Foundation into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to Charter School or Foundation in any proceedings instituted under the provisions of the federal Bankruptcy Act, as amended, or under any similar acts which may hereafter be enacted; or

(d) The revocation or nonrenewal of Charter School's charter by the New Mexico Public Education Commission, and a subsequent decision by the district court on an appeal filed pursuant to NMSA 1978, §39-3-1.1 to not set aside, reverse or remand the Secretary of Public Education's final decision on an appeal by Charter School's governing body filed pursuant to NMSA 1978, §22-8B-7(F).

Section 11.2 Remedies of Foundation upon Event of Default. Upon the happening and continuance of any event of default by Charter School specified in Article XI of this Agreement, Foundation or its Assignee may, without any further demand or notice to Charter School, take one or any combination of the following remedial steps:

(a) Terminate this Agreement and give written notice to Charter School to vacate the School Facility upon the earlier of (i) one hundred and twenty days (120) days from the date of such notice, or (ii) the end of the current Fiscal Year.

(b) Lease all or any portion of the School Facility as permitted by New Mexico law.

(c) Recover from Charter School: The greater of (i) to the extent the recovery thereof is permitted by New Mexico law, the fair rental value of the use of the School Facility during any period beyond the thirtieth (30th) day following the occurrence of the Event of Default; or (ii) Base Rent and Additional Rent, which would otherwise have been payable by Charter School hereunder during the remainder, of the Fiscal Year in which such Event of Default occurs.

(d) Take whatever action either at law or in equity as Foundation or its legal counsel shall deem most effectual to protect and enforce this Agreement and Foundation's rights hereunder.

Section 11.3 Remedies of Charter School upon Event of Default. Upon the happening and continuance of any Event of Default by Foundation specified in Article XI of this Agreement, Charter School or its assignee for value may, without any further demand or notice to Foundation, take one or any combination of the following remedial steps:

(a) Give notice to Foundation of Charter School's intent to not continue this Agreement, as determined in the sole discretion of Charter School's governing body; provided, however, that such obligations of Charter School to pay Lease Payments under Article V shall continue until Charter School vacates the School Facility.

(b) Recover from Foundation any amounts due Charter School as contemplated under NMSA 1978, §22-26A-5(H).

(c) Take whatever action either at law or in equity as Charter School or its legal counsel shall deem most effectual to protect and enforce this Agreement and Charter School's rights hereunder.

Section 11.4 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*, Charter School or Foundation is unable in whole or in part to carry out its obligations under this Agreement, Foundation or Charter School 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: acts of God; strikes, lockouts, or other industrial disturbances; acts of public enemies; epidemics and pandemics; 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 Charter School or

Foundation; 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 Foundation or Charter School and not resulting from the negligence of the party claiming a force majeure event. Foundation and Charter School 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 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. The party claiming a *force majeure* hereunder shall provide immediate written notice to the other party detailing the *force majeure*. In no event shall a parties performance under this Agreement be excused due to a *force majeure* for a period exceeding 90 days.

Section 11.5 Remedies Cumulative. The above-provided rights and remedies to which either party is entitled hereunder, at law or in equity, are cumulative and not exclusive of all other rights and remedies to which a party may be entitled herein, at law or in equity, in the event of breach or threatened breach by a party in default of any of the terms, conditions, and provisions contained herein.

Section 11.6 No Additional Waiver Implied by One Waiver. The failure, neglect, or omission of a non-defaulting party to terminate this Agreement for any breach or default shall not be deemed a consent by the non-defaulting party of such breach or default and shall not stop, bar, or prevent the non-defaulting party from thereafter terminating this Agreement, either for such violation of for prior or subsequent violation of any covenant hereof. In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE XII TITLE

Section 12.1 Title to School Facility. During the Term hereof, Foundation shall hold legal title to the School Facility and any and all additions which comprise repairs, replacements, substitutions, or modifications, subject to Charter School's rights, both legal and equitable, under New Mexico statutory and common law.

Section 12.2 Public Property. Upon approval of this Agreement by the Public Education Department and the Public School Facilities Authority, and execution of this Agreement by the parties, the School Facility shall be considered to be a public property pursuant to NMSA 1978, §22-26A-5.1(B).

ARTICLE XIII HAZARDOUS MATERIALS LAWS

Section 13.1 Compliance with all Hazardous Materials Laws. As of the Commencement Date, Charter School, shall at all times keep and maintain the School Facility in compliance with

and shall not cause or permit the School Facility 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 Facility, including, but not limited to, air, soil, subsurface and ground water conditions. Charter School shall not permit any subtenant or other occupant of the School Facility, 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 Facility 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 Foundation, Charter School will prepare and provide such reports as will evidence compliance by Charter School with Hazardous Materials Laws, and which will evidence that the School Facility 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 Facility ("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 Facility; (iii) all claims made or threatened by any third party against a party or the School Facility 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 Facility that could cause the School Facility to be subject to any restrictions on the ownership, completion, transferability or use of the premises under any Hazardous Materials Law.

Section 13.2 Charter School's Responsibility. As pertaining to the School Facility for the period covered by this Agreement and after acceptance of the School Facility by Charter School according to the terms of this Agreement, Charter School 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 Foundation or Charter School directly or indirectly arising out of or attributable to the violation by Charter School 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 Facility, 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 Foundation and hold Foundation 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 Foundation's prior written consent, which shall not be unreasonably withheld, Charter School shall not take any remedial action in response to the presence of any Hazardous Materials on, under, or about the School Facility, 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 Foundation's reasonable judgment, impair the value of Foundation's fee interest in the School Facility; 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 Facility 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 Foundation's consent before taking such action; provided that in such event notice shall be given as soon as practicable of any action so taken. Foundation 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) Charter School establishes to the reasonable satisfaction of Foundation that there is no reasonable alternative to such remedial action that would result in less impairment to the value of Foundation's interest in the School Facility.

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

ARTICLE XIV THIRD-PARTY RIGHTS

Section 14.1. 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 assignees for value. 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 XV ORDER OF PRECEDENCE; CONFLICT BETWEEN PROVISIONS

Section 15.1. 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 agreement or instrument to which Charter School is a party.

ARTICLE XVI LIMITATION OF LIABILITY

Section 16.1 Limitation of Liability. Neither party shall be liable for special, indirect, incidental, punitive or consequential damages arising from a breach of this Agreement.

ARTICLE XVII
MISCELLANEOUS

Section 17.1 Notices. All notices and communications required or permitted under this Agreement (including change of address, telephone number, email addresses 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 electronic mail to the email address set forth below with a receipt showing delivery; (iii) one day after deposit with a national overnight courier addressed to the receiving party at the street address set forth below; or (iv) 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.

Foundation: Earlier Learning Solutions Foundation, Inc.
7500 La Morada NW
Albuquerque, NM 87121
Attn: President
Telephone: (505) 410-8645
Email:
lorchavez16@gmail.com

With a copy to: Modrall Sperling
500 4th St. NW
Albuquerque, NM 87102
Attn: Margaret L. Meister
Telephone: (505) 848-1800
mmeister@modrall.com

The Charter School: Albuquerque Bilingual Academy
7500 La Morada NW
Albuquerque, NM 87120
Attn: Head Administrator
Telephone: (505) 836-7706
Email: cjones@lpelc.com

With a copy to: Matthews Fox, P.C.
1925 Aspen Drive, Suite 301A
Santa Fe, New Mexico 87505
Attn: Patricia Matthews
Telephone: (505)473-3020
pmatthews@matthewsfox.com

Section 17.2 Reporting Requirements. Charter School shall provide Foundation with the following documentation, reports and information:

(a) Management-prepared end-of-year financial statements by August 15 of each year of this Agreement;

(b) Audited financial statements, within 120 days of Charter School's Fiscal Year end (June 30) or within 30 days of the release of the New Mexico Public Education Department's annual audited financial statements by the New Mexico State Auditor whichever date is later;

(c) Names of the Charter School's current governing body members and key staff within 60 days prior to the expiration of the Fiscal Year;

(d) First occurrence of the Charter School's governing body's approved operating and capital expenditure budget (if separate), within 60 days prior to the expiration of the Fiscal Year or as it is approved by the Charter School's governing body; and

(e) Annual reports and any other reports submitted to or from the New Mexico Public Education Commission or its designee (New Mexico Public Education Department Charter Schools Division) within 60 days of submission/receipt.

Section 17.3 Further Assurances and Corrective Instruments. Foundation and Charter School agree that so long as this Agreement is in full force and effect and no Event of Default shall have occurred, Foundation and Charter 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 New Mexico 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 Facility hereby leased or intended so to be, or for otherwise carrying out the intention of or facilitating the performance of this Agreement.

Section 17.4 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Foundation and Charter School and their respective successors and assigns.

Section 17.5 Severability. In the event that any provision of this Agreement, other than the requirement of Charter School to pay Base Rent and Additional Rent, the requirement of Foundation to provide quiet enjoyment of the School Facility, and the requirement that the obligations of Charter School to pay Base Rent and Additional Rent under this Agreement are conditioned upon the prior specific appropriation by Charter School of amounts for such purposes in accordance with the requirements of New Mexico law, shall be held invalid or unenforceable by any court of competent jurisdiction, such judicial determination shall not invalidate or render unenforceable any other provision hereof.

Section 17.6 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 Charter School and Foundation. Amendments to this Agreement, except amendments that would improve the building or other real property without additional financial obligations to the

Charter School, shall be approved by the Public Education Department pursuant to NMSA 1978, §22-26A-5(L).

Section 17.7 Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 17.8 Applicable Law. Each party shall perform its obligations hereunder in accordance with all applicable laws, rules, and regulations now or hereafter in effect. This Agreement shall be governed by the laws of New Mexico (without giving effect to New Mexico's choice of law provisions). All legal proceedings arising from unresolved disputes under this Agreement shall be brought in Albuquerque before the Second Judicial District Court of the State of New Mexico.

Section 17.9 Foundation and Charter School Representatives. Whenever under the provisions of this Agreement the approval of Foundation or Charter School is required, or Foundation or Charter School is required to take some action at the request of the other, such approval or such request shall be given for Foundation by a Foundation Representative and for Charter School by a Charter School Representative, and any party hereto shall be authorized to rely upon any such approval or request.

Section 17.10 Integration. This Agreement contains all of the agreements of Charter School and Foundation respecting the subject matters hereof, and all prior negotiations are merged herein.

Section 17.11 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.

Section 17.12 Captions. The captions and paragraph headings of this Agreement 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 Agreement. 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 limited to" were annexed thereafter. The parties were, or had ample opportunity to be, represented by counsel, and as such this Agreement shall not be interpreted for or against either party based on authorship.

Section 17.13 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.

Section 17.14 No Individual Liability. All covenants, stipulations, promises, agreements,

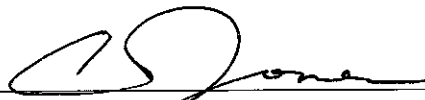
and obligations of Charter School or Foundation, as the case may be, contained herein shall be deemed to be the covenants, stipulations, promises, agreements, and obligations of Charter School or Foundation, as the case may be, and not of any member, director, officer, employee, or other agent of Charter School or Foundation 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 Charter School or Foundation or any natural person executing this Agreement or any related document or instrument.

Section 17.15 Waiver. No term of this Agreement shall be deemed waived unless such waiver is in writing signed by the party making 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 Agreement. A waiver by one party of a failure of the other party to fully comply with any of the terms of this Agreement shall not be construed to be a waiver of any subsequent failure to comply or any other failure to comply.

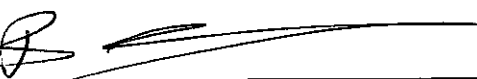
Section 17.16 Administrative Approval. Pursuant to NMSA 1978, §22-26A-4, the parties to this Agreement acknowledge that they have obtained the required statutory approval from both the Public Education Department and the Public School Facilities Authority.

IN WITNESS WHEREOF, Foundation and Charter School, each acting through their duly authorized agent or legal representative, have made and executed this Agreement as of the date first above.

EARLIER LEARNING SOLUTIONS FOUNDATION, INC.,
a New Mexico non-profit corporation,

By: 
Name: Chris Jones
Title: Secretary

ALBUQUERQUE BILINGUAL ACADEMY,
a New Mexico public charter school,

By: 
Name: Brenda Baca
Title: Board President

ACKNOWLEDGEMENTS

STATE OF NEW MEXICO)

) ss.
COUNTY OF BERNALILLO)

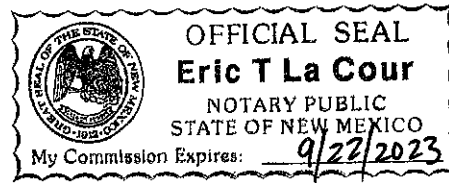
The foregoing LEASE PURCHASE ARRANGEMENT was acknowledged before me this 29 day of July, 2021, by Christopher R. Jones, as president of the board of directors of Earlier Learning Solutions Foundation, Inc. a New Mexico non-profit corporation, on behalf of the corporation.

(Seal)

Eric T. La Cour
Notary Public

My Commission Expires:

9/22/2023



STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

The foregoing LEASE PURCHASE ARRANGEMENT was acknowledged before me this 29 day of July, 2021, by Brenda Bach, as chair of the governing body of Albuquerque Bilingual Academy, a New Mexico public charter school.

(Seal)

Eric T. La Cour
Notary Public

My Commission Expires:

9/22/2023

