

LEASE AGREEMENT

BETWEEN

**THE DISTRICT OF COLUMBIA
AS, LANDLORD**

AND

CHARTER SCHOOL INCUBATOR INITIATIVE

AS, TENANT

DATE: September 1, 2011

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Exhibit A	LEGAL DESCRIPTION OF THE LEASED PREMISES
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Exhibit B	RENT CREDIT AND CAPITAL ALTERATIONS
Exhibit B-1	INITIAL CAPITAL ALTERATIONS
Addendum I	BARRY FARM RECREATION CENTER, AND PARKING RIGHTS
Addendum II	LEASEHOLD MORTGAGE PROVISIONS

GROUND LEASE AGREEMENT

This Lease Agreement (the "Lease") is made this 1st day of Sept, 2011, by and between the **DISTRICT OF COLUMBIA**, a municipal corporation ("Landlord"), by and through the District of Columbia Public Schools ("DCPS") and administered by the District of Columbia Department of Real Estate Services ("DRES") and **CHARTER SCHOOL INCUBATOR INITIATIVE**, a District of Columbia non-profit corporation ("Tenant").

IN CONSIDERATION of the payments of rents and other charges provided for herein and the covenants and conditions hereinafter set forth, Landlord and Tenant hereby covenant and agree as follows:

ARTICLE I.

REFERENCE PROVISIONS, DEFINITIONS AND EXHIBITS

As used in the Lease, the following terms shall have the meanings set forth in Sections 1.01 and 1.02 below.

Section 1.01 Reference Provisions.

A. **Leased Premises:** That certain real property located at 2501 Martin Luther King, Jr. Avenue, SE, Washington, DC, and commonly known as the "**Birney Elementary School**" and as legally described in **Exhibit "A"** hereof and as shown on the site plan attached hereto as **Exhibit "A-1"**, together with all buildings and improvements now or hereafter erected, constructed or placed thereon, including an approximately 77,798 square foot existing building (the "**Building**"). The Leased Premises for purposes of this Lease shall be deemed to include the Building, the underlying land and all improvements situated thereon and consist of approximately 90,190 square feet.

B. **Date of Lease:** The date set forth on page 1 above. On such date, all rights and obligations of the parties under this Lease shall commence.

C. **Term:** Twenty (20) Lease Years.

D. **Commencement Date:** The Date of Lease.

E. **Termination Date:** The last day of the Term, or any earlier date on which this Lease is terminated in accordance with the provisions hereof.

F. **Annual Base Rent:** The Annual Base Rent for the Leased Premises shall be \$733,000.00, payable in equal and consecutive monthly installments of \$61,083.00, subject to adjustment and credit as hereinafter provided in this Lease. It is the express understanding and agreement of Landlord and Tenant that the Rent due and payable hereunder shall be absolutely net to Landlord, so that this Lease shall yield to Landlord the Annual Base Rent described below, and that all costs, expenses and obligations of every kind and nature whatsoever relating to the Leased Premises shall be paid by Tenant (including real estate and possessory taxes assessed against the Leased Premises, water and sewer use fees, insurance premiums and utility expenses, and any and all operating, maintenance and repair costs of the Leased Premises and all improvements situated thereon).

G. **Permitted Use:** The Leased Premises shall be used solely for (i) the operation of one or more Charter Schools, to include pre-school through secondary, and post-secondary level programs, and related administrative uses; (ii) the operation of a District of Columbia Public School; or (iii) educational purposes under a permitted Transfer.

H. **Rent Payments:** The rent payments due herein shall be made payable to
Landlord at:

DC Department of Real Estate Services
Lease Receipts
PO Box 96853
Washington DC 20090

I. **Addresses:**

FOR THE LANDLORD: **District of Columbia Department of Real Estate Services**
2000 14th Street, NW
8th Floor
Washington, DC 20009
Attention: Director

With copy to: **Office of the Attorney General for the District of Columbia**
1100 15th Street, N.W., Suite 800
Washington, D.C. 20005
Attention: Deputy of Commercial Division

FOR THE TENANT: **Charter School Incubator Initiative**
Attn.: S. Joseph Bruno, President
910 17th Street NW, Suite 1100
Washington, DC 20006

With a copy to: **Philip M. Battles, III**
910 17th Street NW, Suite 1100
Washington, D.C. 20006

J. **Addenda and Exhibits:** The addenda and exhibits listed below are attached to the Lease and are hereby incorporated in and made a part of the Lease. Any conflict or ambiguity between the Exhibits and the Lease, as amended by the Addenda, shall be resolved in favor of the Lease, as so amended.

Exhibit A	LEGAL DESCRIPTION OF THE LEASED PREMISES
Exhibit A-1	SITE PLAN
Exhibit B	RENT CREDIT AND CAPITAL ALTERATIONS
Exhibit B-1	INITIAL CAPITAL ALTERATIONS
Addendum I	BARRY FARM RECREATION CENTER AND PARKING RIGHTS
Addendum II	LEASEHOLD MORTGAGE PROVISIONS

Section 1.02 Definitions.

A. **Additional Rent:** All sums payable by Tenant to Landlord under the Lease, other than Annual Base Rent.

B. **Affiliate:** A Person which is controlling, controlled by, or under common control with, Landlord or Tenant, or another Person, as the case may be. As used herein, “*control*” shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of voting securities or rights, by contract, or otherwise.

C. **Business Day:** Monday through Friday, other than (i) holidays recognized by the District of Columbia or the federal government, (ii) days on which the District of Columbia or federal government closes for business as a result of severe inclement weather or a declared emergency and (iii) days of which public schools are closed in the District of Columbia. If any item must be accomplished or delivered under this Lease on a day that is not a Business Day, then it shall be deemed to have been timely accomplished or delivered if accomplished or delivered on the next following Business Day. Any time period that ends on a day other than a

Business Day shall be deemed to have been extended to the next Business Day. The word “day” uncapitalized shall refer to a calendar day.

D. **Charter School**: A public charter school with a charter in effect pursuant to the District of Columbia School Reform Act of 1995 (D.C. Official Code § 38-1800.01 *et seq.* (Supp. 2005).

E. **Completion or Completed**: (i) The completion of all Alterations in substantial conformance with the final plans and specifications and construction drawings approved by Landlord pursuant to Article IX and in accordance with all Laws, subject to Punch List Items; (ii) the close-out of all construction contracts for the Alterations; (iii) the payment of all costs of constructing the Alterations, and receipt by Tenant of fully executed and notarized valid releases of liens from all manufacturers, suppliers, subcontractors, general contractors and all other Persons furnishing supplies or labor in connection with the Alterations; and (iv) the receipt by Tenant of the Certificate of Occupancy, if applicable.

F. **Excused Periods**: Periods during which the failure of Tenant to conduct the operations of its business in the Leased Premises for the Permitted Use: (x) resulted from alterations or renovations being diligently performed in and to the Leased Premises in accordance with the terms of this Lease or (y) was caused by damage or destruction, eminent domain proceedings or actions, or Force Majeure.

G. **Force Majeure**: (i) Those items referenced in Section 17.12 below, or (ii) any of the following that directly cause any of Tenant’s obligations under this Lease not to be performed in a timely manner: an act of God, fire, earthquake, flood, explosion, war, invasion, acts of terrorism, insurrection, riot, mob violence, sabotage, inability to procure or a general shortage of labor, equipment, facilities, materials or supplies in the open market, failure or unavailability of transportation, strike, lockout, actions of labor unions, a taking by eminent domain, requisition, laws or orders of government or of civil, military or naval authorities, or any other federal or local governmental acts, or omissions (other than those in response to a rightful action of Landlord, as lessor under this Lease, that is consistent with this Lease), or any other cause, whether similar or dissimilar to the foregoing that is not within the reasonable control of Tenant or Tenant’s Related Parties (or their respective affiliates, as applicable) or caused by the fault or negligence of Tenant or Tenant’s Related Parties, or their respective affiliates; but specifically excluding shortage or unavailability of funds or financial condition, failure of Tenant to comply with any law, rule or regulation of any Governmental Authority, and excluding any actions or omissions of a Governmental Authority arising out of or in connection with Tenant’s applications for, or obtaining of permits from a Governmental Authority incident or necessary to effect the Improvements. **“Tenant’s Related Parties”** or **“Tenant Related Party”** means Tenant’s affiliates, agents, officers, employees, members, contractors, subcontractors, representatives and officers.

H. **Governmental Authority**: Any and all federal or District of Columbia governmental or quasi-governmental board, agency, authority, department or body having jurisdiction over any or all of the Leased Premises.

I. **Green Building Requirements**: All requirements of Title 6, Chapter 14A of the District of Columbia Code entitled **“Green Building Requirements.”**

J. **Hazardous Material Laws**: All federal, state and local laws, statutes, ordinances and regulations including the Federal Water Pollution Control Act (33 U.S.C. Section 1251 *et seq.*), the Resource Conservation & Recovery Act (42 U.S.C. Section 6901 *et seq.*), the Safe Drinking Water Act (42 U.S.C. Section 3000 [f] *et seq.*), the Toxic Substances Control Act (15 U.S.C. Section 2601 *et seq.*), the Clean Air Act (42 U.S.C. Section 7401 *et seq.*), the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 *et seq.*), and comparable state laws relating to industrial hygiene, environmental protection or the use, analysis, generation, manufacture, storage, disposal or transportation of any oil, flammable materials, explosives, asbestos, urea formaldehyde, radioactive materials or waste, or other hazardous, toxic, contaminated or polluting materials, substances or wastes which are or become regulated as hazardous or toxic under any federal, state or local laws, statutes, ordinances or regulations (collectively, **“Hazardous Materials”**).

K. **Interest**: A rate per annum of the lesser of (i) twelve percent (12%) or (ii) the maximum permitted by law.

L. **Laws**: All federal and District of Columbia laws, statutes, codes, ordinances, regulations, rules, licenses, permits, variances, governmental orders, and Governmental Approvals including Hazardous Material Laws and Green Building Requirements which relate to or are applicable to the Leased Premises or the use, occupancy or control thereof or the conduct of any business thereon, including those relating to the making, or requiring the making, of any additions, changes, repairs or improvements, structural or otherwise, to or of the Leased Premises, or any portion thereof.

M. **Landlord and Landlord's Indemnitees**: Landlord solely in its capacity as a contract party to this Lease, and the documents expressly contemplated to be signed in this Lease, acting through DCPS and administered by DRES, and not any other governmental or quasi-governmental agency of the District of Columbia, such that the acts or omissions of any governmental or quasi-governmental agency of the District of Columbia, other than the District of Columbia solely in its capacity as a contract party to this Lease, and the documents expressly contemplated to be signed in this Lease, (acting through DCPS and administered by DRES), shall not constitute the acts or omissions of "**Landlord**" for the purposes of this Lease. For purposes of this Lease, Landlord's Indemnitees shall mean Landlord, and the officers, directors, agents and employees of, Landlord.

N. **Lease Year**: Each twelve (12) month period beginning with the Commencement Date, and each anniversary thereof, until the Lease Term ends, provided the Commencement Date occurs on the first day of a month. If the Commencement Date occurs on a day other than the first day of a month, then the first Lease Year shall begin on the first day of the month following the Commencement Date.

O. **Partial Lease Year**: Any period during the Term which is less than a full Lease Year.

P. **Person**: An individual, firm, partnership, association, corporation, limited liability company or any other entity.

Q. **Punch List Items**: Such minor items of a cosmetic nature which, when considered as a whole, do not adversely affect Tenant's ability to conduct its normal business operations in the Leased Premise for the Permitted Use and the absence of which would not result in the Leased Premises being ineligible for a certificate of occupancy, and such other items that are otherwise of the scope and nature as the term "**Punch List**" is commonly understood in the Washington, D.C. construction industry.

R. **Rent**: Annual Base Rent, plus Additional Rent.

S. **Tax Year**: The period designated as the tax year for the Leased Premises by the District of Columbia.

T. **Taxes**: Any and all real estate taxes and assessments (whether general or special) that are levied or assessed by any lawful authority on the Leased Premises and on all improvements thereon including without limitation all ad valorem, possessory and other taxes, assessments, business improvement district fees, water and sewer rents and charges, hook-up and tap-in fees (if any), use and occupancy taxes, development and impact fees, license and permit fees, vault space rent, leasehold taxes or taxes based upon the receipt of rent (including gross receipts or sales taxes applicable to the receipt of rent) and any and all other charges, general and special, ordinary and extraordinary, unforeseen as well as foreseen, of any kind and nature whatsoever, which are assessed, levied, confirmed, imposed, charged, or become or could become a lien upon the Leased Premises during the Term of this Lease.

ARTICLE II.

LEASED PREMISES

Landlord hereby demises and leases to Tenant, and Tenant hereby rents and leases from Landlord, the Leased Premises described in **Exhibit "A"**, subject to all matters affecting title to the Leased Premises as of the date of this Lease and subject to the terms and conditions hereinafter set forth.

ARTICLE III.

TERM

Section 3.01 Term.

The Term shall commence on the Commencement Date and expire on the Termination Date. "**Termination Date**" shall mean the last calendar day of the month in which the twentieth (20th) anniversary of the Commencement Date occurs, or such earlier date if the Lease is terminated in accordance with its terms.

Section 3.02 End of Term.

This Lease shall terminate on the Termination Date without the necessity of notice from either Landlord or Tenant. Upon the Termination Date, Tenant shall quit and surrender to Landlord the Leased Premises, broom-clean, in good order and condition, ordinary wear and tear excepted; and shall surrender to Landlord all keys to or for the Leased Premises.

Section 3.03 Holding Over.

If Tenant fails to vacate the Leased Premises on the Termination Date, Landlord shall have the benefit of all provisions of law for the District of Columbia respecting the speedy recovery of possession of the Leased Premises (whether by summary proceedings or otherwise). In addition to and not in limitation of the foregoing, occupancy subsequent to the Termination Date ("**Holdover Occupancy**") shall be a tenancy at will. Holdover Occupancy shall be subject to all terms, covenants, and conditions of the Lease (including those requiring payment of Additional Rent), except that the Annual Base Rent for each day that Tenant holds over ("**Holdover Minimum Rent**") shall be equal to one and one-half (1-1/2) times the per diem Annual Base Rent payable in the last Lease Year. Landlord shall have the right to pursue damages in any proceeding at law or in equity pursuant to Article XVI of this Lease.

ARTICLE IV.

USE AND OPERATION OF THE LEASED PREMISES

Section 4.01 Continuous Operation by Tenant and Opening Covenant.

A. Tenant shall (i) open the Leased Premises for the Permitted Use on the Commencement Date; (ii) employ reputable business standards and practices consistent with the operation of public Charter Schools in the District of Columbia; and (iii) except for Excused Periods, operate the entire Leased Premises for the Permitted Use continuously and uninterrupted during the Term during all Business Days.

B. Except for matters of Force Majeure, if Tenant violates this Section 4.01, then Tenant shall pay to Landlord, upon demand, in addition to other Rent and not as a penalty, liquidated damages in an additional amount equal to fifty percent (50%) of the per diem Annual Base Rent per day for each and every day (exclusive of any Rent Credit) that such violation continues. Payment of such sums is intended to be only a partial and temporary remedy for Landlord during the continuance of such violation, and shall not relieve Tenant of any obligation under the Lease, excuse any default or waive Landlord's other remedies therefore. Tenant acknowledges and agrees that if it breaches Section 4.01.A., Landlord shall be deprived of an important right under this Lease, and as a result thereof will suffer damages in an amount which is not readily ascertainable, and that the foregoing is a reasonable and equitable determination of the actual damages Landlord shall suffer as a result of Tenant's breach.

Section 4.02 Use.

Tenant shall use the Leased Premises solely for the Permitted Use and Tenant shall not use the Leased Premises or permit the Leased Premises to be used, for any other purpose whatsoever without the prior written consent of Landlord, which may be withheld in Landlord's sole and absolute discretion. Tenant shall, at Tenant's sole cost and expense, comply with all Laws affecting the Leased Premises including the making of any and all alterations or other improvements to the Leased Premises as are required by Laws. In no event shall Tenant use, occupy, alter or perform any activities within the Leased Premises in a manner or for purposes which are prohibited by zoning or similar laws or regulations, or declarations, covenants, conditions, limitations, easements or restrictions now or hereafter of record which are applicable to the Leased Premises. Tenant acknowledges and agrees it is solely responsible for determining if the Permitted Use complies with all zoning regulations, and that Landlord makes no representation (explicit or implied) concerning such zoning regulations or the suitability of the Leased Premises for the Permitted Use.

Section 4.03 Signs.

A. Tenant shall not, without the prior written consent of Landlord, which consent shall not be unreasonably withheld, install any exterior signs on the Leased Premises or any interior signs which can be seen from the exterior of the Premises ("**Signs**"). In the event that any Signs are installed on the Leased Premises, same shall be in compliance with all Laws. Tenant, at Tenant's sole cost and expense, shall obtain all permits and licenses required in connection with any Signs and shall be fully responsible for the installation and maintenance thereof.

B. Tenant shall submit to Landlord reasonably detailed drawings of all proposed Signs for review and approval by Landlord prior to installation or utilization of the Signs, which approval shall not be unreasonably withheld provided Tenant's Sign drawings are in compliance with governmental codes. Tenant shall be permitted to install an exterior LED sign on the Leased Premises. Upon submission by Tenant to Landlord of any proposed Signs, Landlord shall have thirty (30) days to review and approve such Signage requests. In the event that Landlord has not responded to Tenant with respect to the Sign request within such thirty (30) day period, then Tenant shall have the right to deliver a notice to Landlord containing the following language in bold font and capital letters: **THIS NOTICE IS DELIVERED PURSUANT TO SECTION 4.03 OF YOUR LEASE FOR LEASED PREMISES AT THE BIRNEY SCHOOL LOCATED ON 2501 MARTIN LUTHER KING, JR. AVENUE, SE. IF YOU FAIL TO APPROVE OR DISAPPROVE OR SEND COMMENTS TO THOSE CERTAIN SIGN DRAWINGS DELIVERED TO YOU ON _____ FOR SIGNAGE TO BE INSTALLED AT THE BIRNEY SCHOOL WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF THIS NOTICE, LANDLORD WILL BE DEEMED TO HAVE APPROVED SUCH SIGNS.** Notwithstanding the foregoing, Tenant shall be permitted to install temporary banners on the exterior of the Building for purposes of notifying students and parents of activities and programs occurring at the Leased Premises, provided that such banners are in compliance with Laws and not to exceed thirty (30) days and an aggregate of ninety (90) days per Lease Year without approval from Landlord, which approval shall not be unreasonably withheld, conditioned or delayed.

C. Landlord shall have the right, upon five (5) days written notice to Tenant and at Tenant's sole risk and expense, to remove any items which are in violation of the provisions of this Section 4.03. Tenant shall maintain all Signs in first class condition, operating order and repair at all times. Tenant shall repair any Signs that have been damaged within a ten (10) Business Days after such damage occurs. If Tenant fails to repair any of its Signs as specified above, and such failure continues for a period of five (5) business days following receipt of written notice from Landlord, subject to reasonable extension by mutual agreement of the parties, Landlord shall have the right to make such repairs at Tenant's sole cost and expense.

Section 4.04 Roof.

Tenant shall be permitted to install antenna, satellite dishes or other mechanical equipment on the roof of the Building, provided such equipment is only used solely and exclusively in connection with the operation of the school for educational purposes, and does not interfere with any mechanical, electrical or other Building systems equipment installed on the roof of the Building. Upon termination of this Lease, any remaining antenna, satellites or other mechanical equipment installed by or on behalf of Tenant not previously removed by Tenant on

the roof of the Building shall immediately become the property of Landlord and shall remain upon and be surrendered with the Premises. However, Landlord may elect, at Landlord's sole option, to require Tenant to remove the antenna, satellites or other mechanical equipment installed by or on behalf of Tenant at the expiration or termination of this Lease and place the Leased Premises in the same condition as before such antenna, satellites, or other mechanical equipment was installed or placed by or on behalf of Tenant on the roof of the Building at Tenant's sole cost and expense and Landlord shall also have the right to remove and destroy any remaining antenna, satellites or other mechanical equipment installed by or on behalf of Tenant at Tenant's sole cost and expense. Upon removal of any equipment including antenna, satellites or other mechanical equipment installed by Tenant or any third party on behalf of the Tenant by Tenant or a third party affiliated with Tenant, Tenant shall repair and bear the sole cost and expense of any damage resulting from the removal.

ARTICLE V.

RENT

Section 5.01 Rent Payable.

A. Tenant shall pay all Rent to Landlord, without prior notice or demand and without offset, deduction or counterclaim whatsoever, in the amounts, at the rates and times set forth herein, and at such place as is provided in Section 1.01, or at such other place as Landlord may from time to time designate by notice to Tenant.

B. If Tenant fails to make any payment of Rent within ten (10) days from the date that such Rent is due, Tenant shall pay Landlord an amount equal to five percent (5%) of the amount due. Payment of such late charge shall not excuse or waive the late payment of Rent. Tenant acknowledges and agrees that such late charge is a reasonable estimate of the damages as a result of Tenant's violations of this Section 5.01.B. and that it would be impracticable or extremely difficult to determine Landlord's actual damages.

C. Any payment by Tenant of less than the total Rent due shall be treated as a payment on account. Acceptance of any check bearing an endorsement, or accompanied by a letter stating, that such amount constitutes "payment in full" (or terms of similar import) shall not be an accord and satisfaction or a novation, and such statement shall be given no effect. Landlord may accept any check without prejudice to any rights or remedies which Landlord may have against Tenant.

D. For any portion of a calendar month at the beginning of the Term, Tenant shall pay in advance the pro-rated amount of the Rent for each day included in such portion of the month.

Section 5.02 Payment of Rent.

Subject to the provisions Exhibit "B" of this Lease with respect to the Rent Credit, Tenant shall pay Landlord the Annual Base Rent in equal monthly installments, in advance, commencing on the Commencement Date, and on the first day of each calendar month thereafter throughout the Term of this Lease, subject to any credits or abatements set forth in this Lease.

Section 5.03 Taxes.

A. Tenant shall provide to Landlord official receipts or other evidence satisfactory to Landlord evidencing the payment of all Taxes for which Tenant is liable pursuant to this Lease which are related to the Leased Premises. Notwithstanding the foregoing, Tenant shall not be responsible for any Taxes charged against or imposed on all or any portion of the Leased Premises that were assessed, prior to the Commencement Date.

B. Taxes shall not include personal income taxes, personal property taxes, inheritance taxes, or franchise taxes levied against the Landlord, and not directly against said property, even though such taxes might become a lien against said property.

Section 5.04 Payment of Taxes.

A. Commencing on the Commencement Date, Tenant covenants and agrees to pay, upon the same first becoming due and payable, before any penalty, fine, interest or cost would become payable thereon for non-payment, any and all Taxes applicable to or assessed against the Leased Premises (which is deemed to include the land and all improvements situated thereon). Tenant shall timely pay all such Taxes to be paid by it directly to the appropriate authority.

B. Notwithstanding the foregoing, Tenant shall not be responsible for any Taxes charged against or imposed on all or any portion of the Leased Premises which accrued prior to the Commencement Date. All Taxes for the Tax Year in which the Term of this Lease commences, as well as during the year in which the Term expires, shall be apportioned so that the Tenant shall pay its proportionate share of the Taxes which are payable in the year in which the Term commences and in the year in which the Term expires, and Landlord shall pay its proportionate part for all Taxes which accrued prior to the Commencement Date or accrued subsequent to the Termination Date. Any sum payable by Tenant, as provided in this Article V, which would not otherwise be due until after the Termination Date (but attributable to the period of time preceding such Termination Date), shall be paid by Tenant to Landlord on or before the Termination Date.

C. Where any Taxes are permitted by Law to be paid in installments, Tenant may pay Taxes in installments as and when such installments become due; provided, however, that the amount of all installments of any such Taxes which are to become due and payable after the Termination Date shall not be apportioned (except as provided in Section 5.04.B hereof).

D. Landlord, in its capacity as owner of the Leased Premises only, shall use reasonable efforts, at no cost to Landlord, to cooperate with Tenant in Tenant's applications for any and all property tax, transfer tax, or recordation tax exemption to the extent such cooperation would be required by any Governmental Authority of any property owner similarly situated. In the event Tenant fails to file any such tax exemption forms or applications within the time period permitted by Laws, Tenant's obligations to pay any and all Taxes, as stated in this Article V shall be consistent with the terms and conditions contained in this Lease.

E. If any Taxes are to be paid by Tenant, Tenant, may, at Tenant's sole cost and expense, contest in good faith and diligently any Taxes to the extent permitted by Laws; provided that Tenant shall pay all such Taxes prior to the imposition of any penalties, fees or other liabilities in connection therewith if required to do so by Law in order to contest same or shall have furnished a good and sufficient bond or surety reasonably satisfactory to Landlord or, at Tenant's option, deposited with Landlord the amount of the item so contested (or, where permitted by law, paid the same under protest), together with such additional sums as may reasonably be required to cover interest or penalties accrued or to accrue on any such item or items. Except with respect to Taxes directly imposed on Tenant, Landlord shall lend all reasonable assistance to Tenant in any such contest proceeding provided that if third-party out-of-pocket costs or expenses are incurred by Landlord, Tenant shall reimburse such expenses upon demand and presentation of a reasonably detailed invoice therefor. Landlord shall not be required to join in any proceedings referred to in this Section unless the provisions of any Laws at the time in effect shall require that such proceedings be brought by or in the owner's name. In such event, Landlord shall join in such proceedings.

Section 5.05 Taxes on Tenant's Personal Property.

Tenant shall pay all governmental taxes, charges, fees and assessments applicable to Tenant's Property (as hereinafter defined in Section 9.05 of this Lease) and Tenant's Rent obligation before they become delinquent.

ARTICLE VI.

NET LEASE

Section 6.01 Triple Net Lease.

This is a triple net lease and Landlord shall not be required to provide or pay for any services or do any act or thing with respect to the Leased Premises or the appurtenances thereto, except as may be specifically provided herein and except as otherwise provided herein, the Rent

shall be paid to Landlord without any claim on the part of Tenant for diminution, set off or abatement, and nothing shall suspend, abate or reduce any Rent to be paid hereunder, except as otherwise specifically provided in this Lease.

ARTICLE VII.

UTILITIES

Section 7.01 Utility Charges.

Tenant shall pay for all water, gas, electricity, telephone, sewer, heat, steam, fuel, and all other services and utilities of every kind and nature supplied to the Leased Premises from and after the Commencement Date. Tenant shall be solely responsible for the connection, hook-up, and tap-ins to utility lines, and arrangements for utility service, including the payment of all impact fees, deposits, fees and all other charges and costs incurred in connection therewith during the Term of this Lease. Landlord shall reasonably cooperate with the Tenant, at no cost to Landlord, to cause such utilities and services, if any, to be transferred to the Tenant.

ARTICLE VIII.

INDEMNITY AND INSURANCE

Section 8.01 Indemnity.

A. Except as otherwise provided in this Section, Tenant agrees, to the fullest extent permitted by law, to indemnify, hold harmless and defend Landlord's Indemnitees from and against any and all claims, losses, actions, damages, liabilities and expenses (including reasonable attorneys' fees and disbursements) that arise from or are in connection with (i) Tenant's possession, use, occupancy, management, repair, maintenance or control of all or any part of the Leased Premises, the making or removal of alterations or improvements to the Leased Premises and the performance of all related construction work, or that relate in any manner to the business conducted by Tenant in the Leased Premises, (ii) any willful or negligent act or omission of Tenant or its agents, employees or contractors in the Leased Premises, (iii) any injury or death to individuals or damage to any property sustained within the Leased Premises, or (iv) a Default by Tenant under this Lease. Landlord may, at its option, require Tenant to assume Landlord's defense in any action covered by this Section 8.01.A. through counsel reasonably satisfactory to Landlord. Tenant shall not be obligated to indemnify Landlord's Indemnitees against loss, liability, damage, cost or expense arising out of the willful or negligent acts or omissions of Landlord or Landlord's Indemnitees. The terms and provisions of this Section 8.01 shall survive the termination of this Lease, in respect of matters arising from acts, omissions or neglect occurring during the Term of this Lease for the period afforded to Landlord's Indemnitees under the applicable statute of limitations. Should any claim be made against Landlord or Landlord's Indemnitees or an action or proceeding be brought against any of them as set forth in this Section, Landlord agrees to give Tenant reasonably prompt written notice thereof so as to enable Tenant to resist or defend such claim, action or proceeding.

B. Notwithstanding the foregoing, the indemnifications and defense obligations by Tenant under this Lease shall not cover, and Tenant shall not be liable for, any consequential damages, indirect losses, loss of value, temporary loss of business, lost profits, or lost opportunity damages at or arising from the Leased Premises suffered by Landlord and/or Landlord's Indemnitees (excluding Rent and Additional Rent due hereunder).

Section 8.02 Landlord Not Responsible for Acts of Others.

From the Commencement Date, Tenant is and shall be in exclusive control and possession of the Leased Premises, and Landlord shall not in any event whatsoever be liable for any injury or damage to any property or to any person happening on or about the Leased Premises, or for any injury or damage to any property of any tenant, lessee, business invitee, guest, or licensee of Tenant, except to the extent caused by any willful or negligent act or omission of Landlord or Landlord's Indemnitees during any permitted entry of the Leased Premises. Landlord's Indemnitees shall not be liable for, and Tenant waives all claims for loss or damage to Tenant's business or injury or damage to Person or property sustained by Tenant, or claim resulting from any accident or occurrence in, on, or about the Leased Premises,

including claims for loss, theft, injury or damage resulting from: (i) any equipment or appurtenances being or becoming out of repair; (ii) wind, weather, earthquake or other act of God; (iii) any defect in or failure to operate any sprinkler, HVAC equipment, electric wiring, gas, water or steam pipe, stair, railing or walk; (iv) broken glass; (v) the backing up of any sewer pipe or downspout; (vi) the escape of gas, steam or water; (vii) water, snow or ice being upon the Leased Premises or coming into the Leased Premises; (viii) the falling of any fixture, plaster, tile, stucco or other material; and (ix) any act, omission or negligence of other tenants, guests, invitees, licensees of Tenant or of Leased Premises or any other Persons including occupants of adjoining or contiguous buildings, owners of adjacent or contiguous property, or the public.

Section 8.03 Tenant's Insurance.

Tenant, at its sole cost and expense, shall keep the Leased Premises, the Building and all improvements, trade fixtures, machinery, equipment and personal property located thereon insured for the mutual benefit of Landlord and Tenant during the Term against loss or damage by fire, windstorm, hazard, theft, vandalism, malicious mischief and sprinkler leakage, and such other insurable risks as Landlord may reasonably specify from time to time for no less than an amount equal to their replacement cost, without deduction for depreciation which replacement cost shall be determined, at Tenant's sole cost, at annual intervals by one or more of the insurers or by an architect, contractor, or appraiser selected by Tenant and approved by Landlord. Commencing on the Commencement Date and at all times thereafter, Tenant shall carry and maintain, at its sole cost and expense:

A. Commercial General Liability Insurance (ISO form or equivalent) naming Tenant as the named insured and Landlord as an additional insured, protecting Tenant and the additional insured against liability for bodily injury, death and property damage occurring upon or in the Leased Premises, with a minimum combined single limit of One Million Dollars (\$1,000,000.00) and a general aggregate limit of Two Million Dollars (\$2,000,000.00).

B. "Special Form" property insurance covering the Building, the Leasehold Improvements and Tenant's Property (as defined in Section 9.05 below) written for at least the full replacement cost with a deductible of not more than Five Thousand Dollars (\$5,000.00).

C. Appropriate workmen's compensation insurance, flood insurance (if the Leased Premises are determined to be within a flood hazard area) and such other policies of insurance covering other insurable perils which are customarily insured against in the case of comparable properties in the District of Columbia and in such amounts as may from time to time be reasonably required by Landlord or as may be required by law.

D. Appropriate employer's liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) per accident; One Million Dollars (\$1,000,000.00) per employee; One Million Dollars (\$1,000,000.00) policy limit.

E. Notwithstanding the foregoing or anything to the contrary contained elsewhere in this Lease, the amount of such coverage shall be subject to Landlord's review every two years for the Term of this Lease. In the event Landlord, in its sole discretion, deems the coverage required under this Section insufficient after any such two-year review, Tenant shall increase the amount or type of coverage required hereby by Landlord, provided such increase shall be commercially reasonable.

F. Excess Liability insurance in an amount not less than Five Million Dollars (\$5,000,000.00) providing excess limits over general liability and employer's liability insurance coverage.

Section 8.04 Tenant's Contractor's Insurance.

Tenant shall carry, or cause any contractor performing work on the Leased Premises to obtain, carry and maintain, at no expense to Landlord: (i) worker's compensation insurance and employer's liability insurance as required by the District of Columbia; (ii) builder's risk insurance with a deductible no greater than Ten Thousand Dollars (\$10,000.00), in the amount of the full replacement cost of the Building, Tenant's Property and the Leasehold Improvements; (iii) Commercial General Liability Insurance providing on an occurrence basis a minimum combined single limit of Two Million Dollars (\$2,000,000.00) per occurrence (and Five Million

Dollars (\$5,000,000.00) general aggregate, if applicable); and (iv) business automobile liability insurance including the ownership, maintenance and operation of the automotive equipment, owned, hired and non-owned coverage with a combined single limit of not less than Two Million Dollars (\$2,000,000.00) for bodily injury and property damage. If the contractor fails to acquire such insurance, Tenant shall provide such insurance (except worker's compensation insurance and employer's liability) at its sole cost and expense.

Section 8.05 Policy Requirements.

Any company writing any insurance which Tenant is required to maintain or cause to be maintained under Sections 8.03 and 8.04 as well as any other insurance pertaining to the Leased Premises or the operation of Tenant's business therein (all such insurance being referred to as "Tenant's Insurance") shall at all times be licensed and qualified to do business in the District of Columbia and shall have received an A or better (and be in a financial size category of class VII or higher) rating by the latest edition of A.M. Best's Insurance Rating Service. All of Tenant's Insurance may be carried under a blanket policy covering the Leased Premises and any other location of Tenant, if (i) the coverage afforded Landlord and any designees of Landlord shall not be reduced or otherwise adversely affected, and (ii) such blanket policy allocates to the properties and liabilities to be insured under this Article VIII an amount not less than the amount of insurance required to be covered pursuant to this Article VIII, so that the proceeds of such insurance shall not be less than the proceeds that would be available if Tenant were insured under a unitary policy. All policies of Tenant's Insurance shall contain endorsements requiring the insurer(s) to give notice to Landlord at least thirty (30) days in advance of any material reduction, cancellation, termination or non-renewal of said insurance. Tenant shall be solely responsible for payment of premiums for all of Tenant's Insurance. Tenant shall deliver to Landlord at least fifteen (15) days prior to the time Tenant's Insurance is first required to be carried by Tenant, and upon renewals at least fifteen (15) days prior to the expiration of the term of any such insurance policy, a certificate of insurance of all policies procured by Tenant in compliance with its obligations under the Lease. The limits of Tenant's Insurance shall not limit Tenant's liability under the Lease, at law, or in equity. If Tenant fails to deposit a certificate of insurance with Landlord for a period of seven (7) days after notice from Landlord, Landlord may acquire such insurance, and Tenant shall pay Landlord the amount of the premium applicable thereto within five (5) days following notice from Landlord.

Section 8.06 Increase in Insurance Premiums.

Tenant shall not keep or do anything in the Leased Premises that will (i) result in an increase in the rate of any insurance applicable to the Leased Premises; (ii) violate the terms of any insurance coverage on the Leased Premises carried by Landlord; (iii) prevent Landlord from obtaining such policies of insurance acceptable to Landlord; or (iv) violate the rules, regulations or recommendations of Landlord's insurers, loss prevention consultants, safety engineers, the District of Columbia or anybody having jurisdiction over the Leased Premises. If Tenant does so, Tenant shall pay to Landlord upon demand the amount of any increase in any such insurance premium. In determining the cause of any increase in insurance premiums, the schedule or rate of the organization issuing the insurance or rating procedures shall be conclusive evidence of the items and charges which comprise the insurance rates and premiums on such property.

Section 8.07 Waiver of Right of Recovery.

Notwithstanding anything in the Lease to the contrary, Tenant hereby waives and releases Landlord's Indemnitees of and from any and all rights of recovery, claims, or causes of action, whether by subrogation or otherwise, against Landlord's Indemnitees, for any loss or damage that may occur to the Leased Premises, Tenant's Property or to Leasehold Improvements (regardless of cause or origin, including negligence of any of Landlord's Indemnitees), which loss or damage is insured against or is required to be insured against hereunder. Tenant agrees immediately to give to each insurance company, written notice of the terms of the waivers of subrogation contained in this paragraph, and to have the insurance policies properly endorsed, if necessary, to prevent the invalidation of the insurance coverage by reason thereof.

ARTICLE IX.

CONSTRUCTION AND ALTERATIONS

Section 9.01 Condition of Leased Premises.

Upon the Commencement Date, Tenant acknowledges that: (i) Tenant has inspected the Leased Premises; (ii) Tenant accepts the Leased Premises, and all improvements, betterments and equipment "AS IS", with no representation or warranty by Landlord, express or implied, as to the condition or suitability of the Leased Premises for Tenant's purpose; and (iii) Landlord has no obligation to construct, improve, maintain or repair the Leased Premises, except as specifically set forth in this Lease.

Section 9.02 Intentionally Deleted.

Section 9.03 Alterations.

Except as otherwise provided herein, Tenant shall not make or cause to be made any alterations, additions, renovations, improvements or installations in or to the Leased Premises (hereinafter singularly referred to as an "**Alteration**" and collectively as "**Alterations**") without Landlord's prior consent, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing or anything to the contrary contained elsewhere in this Lease, Tenant may make or cause to be made any Alteration without Landlord's consent provided that such Alteration does not (a) alter, impair or modify the structure or base Building systems, (b) materially change the floor area, total volume or height of the Building, (c) modify in any material respect the basic character and function of the Building, (d) materially modify the external appearance of the Building, or (e) cost in excess of \$100,000.00 individually or in the aggregate in any 12 month period. Notwithstanding the foregoing, Tenant shall have the right, at any time and from time to time, as often and frequently as Tenant wishes, to make Alterations to the interior of the Building that are cosmetic in nature, including without limitation, painting and carpeting, as Tenant in Tenant's sole and absolute discretion shall deem necessary or desirable, without the necessity of notifying Landlord thereof or securing Landlord's permission or consent therefor. In the event of an emergency which threatens life, safety or property, Tenant shall have the right to make all necessary repairs and/or Alterations without Landlord's consent which are reasonably required to abate the emergency. Notwithstanding the foregoing or anything to the contrary contained elsewhere in this Lease, Tenant shall not install any fencing on the Leased Premises without Landlord's prior consent, which consent shall not be unreasonably withheld, conditioned or delayed.

Section 9.04 Work Requirements.

A. All work performed by Tenant in the Leased Premises including any Capital Alterations, shall be performed: (i) promptly, in a good and workmanlike manner with new first-class materials and once commenced, diligently pursued to Completion; (ii) by duly qualified or licensed Persons; and (iii) in accordance with (a) plans and specifications approved in writing in advance by Landlord (as to both design and materials) which approval may not be unreasonably withheld, conditioned or delayed, and (b) all Laws. Upon completion of any Capital Alterations, Tenant shall deliver to Landlord' a reproducible copy of the "as built" drawings of such work as well as copies of all permits, approvals and other documents issued by any governmental agency in connection with such work.

B. No Alteration which requires Landlord's consent shall be made until all plans and specifications for any such Alteration have been approved by Landlord. Landlord shall have thirty (30) days from its receipt of all such plans and specifications to review the same and to send its written comments regarding the same to Tenant. Within ten (10) days after receipt of Landlord's notice of changes (if any), Tenant shall cause all such changes to be made, and Tenant shall resubmit the revised plans and specifications for Landlord's review. Within twenty (20) days after receipt of the revised plans and specifications, Landlord shall approve or disapprove of the revised plans and specification. In the event that Landlord has not responded to Tenant with respect to the plans and specifications for the Improvements (or with respect to the plans and specifications for any other Alterations) within such thirty (30) day period, then Tenant shall have the right to deliver a notice to Landlord containing the following language in bold font and capital letters: **THIS NOTICE IS DELIVERED PURSUANT TO SECTION 9.04 OF YOUR LEASE FOR LEASED PREMISES AT THE BIRNEY SCHOOL LOCATED ON 2501 MARTIN LUTHER KING, JR AVENUE SE. IF YOU FAIL TO APPROVE OR DISAPPROVE OR SEND COMMENTS TO THOSE CERTAIN PLANS AND SPECIFICATIONS DELIVERED TO YOU ON _____ FOR WORK TO**

BE DONE AT THE BIRNEY SCHOOL WITHIN FIVE (5) BUSINESS DAYS OF THE EFFECTIVE DATE OF THIS NOTICE, LANDLORD WILL BE DEEMED TO HAVE APPROVED SUCH PLANS AND SPECIFICATIONS. If Landlord fails to respond within five (5) Business Days after receipt of such notice from Tenant, then Landlord shall be deemed to have approved such plans and specifications for the Improvements or such other Alterations, as the case may be. Landlord's approval of the final plans and specifications shall be evidenced by Landlord and Tenant initialing two (2) complete sets of final plans and specifications (the "Plans"), whereupon one fully executed set shall be left with the Landlord. Within five (5) days after demand, Tenant shall pay to Landlord any commercially reasonable fees or expenses incurred by Landlord in connection with Landlord's submitting such plans and specifications, as it so chooses, to an architect or engineer selected by Landlord for review or examination of the plans and specifications, intermittent inspection of any construction, and/or performance of any construction.

C. The approval by Landlord of the Plans, if given, shall not (i) imply Landlord's approval of the structural or engineering designs as to quality or fitness of any material or device used; (ii) imply that the plans and specifications are in accordance with the law (it being agreed that such compliance is solely Tenant's responsibility); (iii) relieve Tenant of the responsibility to construct structurally sound improvements which are free of defects; (iv) impose any liability on Landlord to Tenant or any third party; or (v) serve as a waiver or forfeiture of any right of Landlord.

Section 9.05 Ownership of Improvements.

All present and future alterations, additions, renovations, improvements and installations made to the Leased Premises ("**Leasehold Improvements**") shall be deemed to be the property of Tenant when made and, upon Tenant's vacation or abandonment of the Leased Premises to be the property of Landlord, and shall remain upon and be surrendered with the Leased Premises in good order, condition and repair. All movable goods, inventory, office furniture, equipment, trade fixtures (including, without limitation, exterior Signs, white boards, and curtains) and any other movable personal property belonging to Tenant that are not permanently affixed to the Leased Premises shall remain Tenant's property ("**Tenant's Property**") and shall be removable by Tenant at any time, provided that Tenant shall repair any damage to the Leased Premises caused by the removal of any of Tenant's Property.

Section 9.06 Removal of Tenant's Property.

Tenant shall remove all of Tenant's Property prior to the Termination Date or the termination of Tenant's right to possession. Tenant shall repair any damage to the Leased Premises caused by such removal. If Tenant fails to timely remove said items, they shall be considered as abandoned and shall become the property of Landlord, or Landlord may have them removed and disposed of at the Tenant's cost and expense, which cost and expense shall not be commercially unreasonable.

Section 9.07 Mechanic's Liens.

No mechanic's or other lien (except for the leasehold mortgage lien of any Approved Mortgagee) shall be allowed against the Leased Premises as a result of Tenant's improvements or other work done by or on behalf of Tenant at or to the Leased Premises. Landlord shall have the right to record and post notices of non-responsibility in or on the Leased Premises.

Tenant shall promptly pay all persons furnishing labor, materials or services with respect to any work performed by Tenant on the Leased Premises. If any mechanic's or other lien shall be filed against the Leased Premises by reason of work, labor, services or materials performed or furnished, or alleged to have been performed or furnished, to or for the benefit of Tenant, Tenant shall cause the same to be discharged of record or bonded to the satisfaction of Landlord within thirty (30) days subsequent to the filing and service thereof. If Tenant fails to discharge or bond any such lien, Landlord, in addition to all other rights or remedies provided in this Lease, may bond said lien or claim (or pay off said lien or claim if it cannot with reasonable effort be bonded) without inquiring into the validity thereof, and all expenses incurred by Landlord in so discharging said lien, including reasonable attorneys' fees, shall be paid by Tenant to Landlord as Additional Rent on ten (10) days' demand, which demand shall be accompanied by

reasonably detailed invoices evidencing the amounts so paid by Landlord and all costs and expenses, including reasonable attorneys' fees, incurred by Landlord in connection therewith.

ARTICLE X.

REPAIRS, MAINTENANCE, AND LANDLORD'S ACCESS

Section 10.01 Repairs by Landlord.

Notwithstanding any other provisions of this Lease, in no event shall Landlord be responsible for any construction, maintenance or repair of the Leased Premises, including the Building, the Leasehold Improvements and/ or any of Tenant's Property.

Section 10.02 Repairs and Maintenance by Tenant.

A. Throughout the Term, Tenant shall maintain the Leased Premises including the Building, any and all Leasehold Improvements and all of Tenant's Property in good order, condition and repair and in compliance with all Laws. Tenant shall not cause or permit any waste, damage or injury to the Leased Premises. Tenant agrees to maintain with a reputable contractor a regular service and maintenance contract on the HVAC equipment and system serving the Leased Premises, with routine inspections and servicing as recommended by the HVAC manufacturer. Furthermore, Tenant shall also initiate and carry out a program of regular maintenance and repair of the Leased Premises so as to keep the same in an attractive and first-class condition similar to other Charter Schools in the District of Columbia throughout the Term. Furthermore, Tenant shall remodel or refurbish the Building as reasonably necessary to maintain the same in first class and attractive condition in accordance with plans approved by Landlord.

B. Tenant shall install and maintain such fire extinguishers and other fire protection devices in any Building as may be required by any agency having jurisdiction over, or by the underwriters issuing insurance for, the Leased Premises. Tenant agrees to routine inspections of fire protection devices by contractors reasonably acceptable to Landlord. If any governmental authority with jurisdiction over the Leased Premises requires the installation, modification, or alteration of the sprinkler system, or other equipment, then Tenant, at Tenant's sole cost and expense, shall promptly install such sprinkler system or changes therein.

C. Tenant shall keep the sidewalks adjoining the Leased Premises free from ice and snow and shall not permit the accumulation of garbage, trash or other waste in or around the Leased Premises.

Section 10.03 Inspections, Access and Emergency Repairs by Landlord.

Upon reasonable prior notice and without materially adversely affecting Tenant's business within the Leased Premises, Tenant shall permit Landlord or its designee to enter all parts of the Leased Premises to inspect the same. In the event of an emergency, Landlord may enter the Leased Premises at any time and make such inspection and repairs as Landlord deems necessary, at the risk and for the account of Tenant.

ARTICLE XI.

CASUALTY

Section 11.01 Fire or Other Casualty.

Tenant shall give prompt notice to Landlord in case of fire or other casualty ("Casualty") to all or any part of the Leased Premises.

Section 11.02 Right to Terminate.

A. If the Leased Premises shall be damaged to the extent of more than twenty-five percent (25%) of the cost of replacement thereof during the last two (2) Lease Years or in any Partial Lease Year at the end of the Term then, in such event, Tenant or Landlord may terminate this Lease by notice to the other party prior to the sixtieth (60th) day after the later to

occur of (i) the date when the damage occurred or (ii) the date when the cost of replacement is determined as hereinafter provided. If Tenant or Landlord so terminates this Lease then the Termination Date shall be the date set forth in such party's notice, which date shall not be less than thirty (30) days nor more than ninety (90) days after the giving of said notice. The "**cost of replacement**" shall be determined by the company or companies insuring against the Casualty in question, or if there shall be no such determination, by a person reasonably selected by Landlord qualified to determine such cost of replacement.

B. Further, in the event Tenant has failed to or elects not to restore the Leased Premises as set forth in Section 11.03 below, Landlord may terminate this Lease at any time upon thirty (30) days' prior written notice to Tenant.

C. If Tenant fails to commence the repairs, restoration and rebuilding within twelve (12) full calendar months from the date of such Casualty, and once commenced, diligently pursue the repairs, restoration and rebuilding required under Section 11.03 below, Landlord shall have the option, in Landlord's sole and absolute discretion, to terminate the Lease by written notice to Tenant.

Section 11.03 Tenant's Duty to Reconstruct.

A. Provided this Lease is not terminated, Tenant shall promptly commence and diligently pursue to completion (i) the repair of the Leased Premises including the Building and all Leasehold Improvements to substantially the same condition as existed prior to the Casualty, and (ii) the redecorating and refixturing of the Building to a substantially similar condition as existed prior to the Casualty. Tenant shall reopen for business in the Building as soon as practicable after the occurrence of the Casualty. Such restoration shall be commenced within twelve (12) months from the date of Casualty and once commenced diligently pursued to Completion. Tenant shall use reasonable efforts to pursue its insurance claims with its insurance, and Complete the restoration work within a commercially reasonable time, free and clear of all liens and encumbrances except for any Leasehold Mortgage.

B. Notwithstanding the foregoing, in the event that the Building shall be damaged to the extent of more than fifty percent (50%) of the cost of replacement thereof at any time after the tenth (10th) Lease Year, Tenant shall not be obligated to rebuild and/or restore the Building, and in such event, Tenant may terminate this Lease by written notice to Landlord ("**Tenant's Notice**") prior to the sixtieth (60th) day after the later to occur of (i) the date when the damage occurred or (ii) the date when the cost of replacement is determined as hereinafter provided. If Tenant so terminates this Lease then the Termination Date shall be the date set forth in the notice to Landlord, which date shall not be less than thirty (30) days nor more than ninety (90) days after the giving of Tenant's Notice. In no event, however, shall the Lease terminate in the event of a Casualty nor shall Tenant be released of its rental or other monetary obligations under the Lease unless the Lease is terminated pursuant to the provisions of this Section 11.03 or Section 11.02 above. If Tenant elects not to restore the Building to its prior condition pursuant to the provisions of this Section 11.03, Tenant shall proceed within sixty (60) days after later to occur of (i) the date when the damage occurred or (ii) the date when the cost of replacement is determined to remove all debris and grade, seed and restore the site to a clean and presentable condition.

C. In the event Landlord or Tenant elects to terminate this Lease in accordance with the provisions of Section 11.02 hereof or this Section 11.03, then all insurance proceeds shall be payable as follows: (i) To Landlord, an amount sufficient to pay all actual reasonable costs to secure the Building and the Leased Premises, to clear the Leased Premises of partially damaged or destroyed improvements and debris; and for cleaning and restoration of the surface of the affected portion of the Leased Premises, (ii) to the holder of any Leasehold Mortgage, an amount sufficient to pay all amounts owed by Tenant to such holder, and (iii) the balance thereof to Landlord.

D. If the Building is damaged by Casualty and the Lease is not terminated, then in such event Tenant shall be entitled to retain all of the insurance proceeds received by Tenant under the policy covering the Building carried by Tenant under Section 8.03.B, subject however, to the rights of any Approved Mortgagee under any Leasehold Mortgage to receive and monitor the application of the insurance proceeds for the restoration and reconstruction the Building and all Leasehold Improvements.

ARTICLE XII.

CONDEMNATION

Section 12.01 Taking of Leased Premises.

A. If more than twenty-five percent (25%) of the Floor Area of the Building shall be appropriated or taken under the power of condemnation, eminent domain, or conveyance shall be made in anticipation or in lieu thereof (“Taking”), either party may terminate this Lease as of the effective date of the Taking by giving notice to the other party of such election within thirty (30) days prior to the date of such Taking.

B. If there is a Taking of a portion of the Leased Premises, Tenant shall have the right to terminate the Lease at the same time and in the manner provided in Section 12.01.A if in Tenant’s reasonable judgment the portion of the Leased Premises remaining cannot be reasonably utilized for the operation of Tenant’s business.

C. If there is a Taking of a portion of the Building and this Lease shall not be terminated pursuant to Section 12.01.A, then (i) as of the effective date of the Taking, this Lease shall terminate only with respect to the portion of the Leased Premises taken by condemnation, eminent domain or conveyance in lieu thereof; (ii) after the effective date of the Taking, the Rent shall be reduced by multiplying the same by a fraction, the numerator of which shall be the Floor Area taken and the denominator of which shall be the Floor Area of the Building immediately prior to the Taking; and (iii) as soon as reasonably possible after the effective date of the Taking, Tenant, at its expense and to the extent feasible, shall restore the remaining portion of the Building to a complete unit of a similar condition as existed prior to the Taking.

D. If there is a Taking of any portion of the Leased Premises so as to render, in Tenant’s judgment, the remainder of the Leased Premises unsuitable for use as a school, Tenant shall have the right to terminate this Lease upon thirty (30) days’ notice to Landlord.

Section 12.02 Condemnation Award.

Except as otherwise provided herein, all compensation awarded for a Taking of any part of the Leased Premises shall belong to Landlord. Tenant hereby assigns to Landlord all of its right, title and interest in any such award. Tenant shall have the right to collect and pursue any separate award as may be available under local procedure for moving expenses or Tenant’s Property. If the Lease is terminated as a result of any Taking of the Leased Premises, Tenant shall also be entitled to make a claim for and recover from the condemning authority the unamortized cost of the Improvements and any other Leasehold Improvements made by or on behalf of Tenant, amortized on a straight line basis over the initial Term of this Lease. If any condemnation or eminent domain proceedings shall be commenced by any competent public authority against the Leased Premises, Landlord shall promptly give Tenant and any Approved Mortgagee written notice thereof. To the extent permitted by law, this Section 12.02 shall be construed as superseding any statutory provisions now in force or hereafter enacted concerning condemnation proceedings. If such court is prohibited by law from making separate awards to Landlord and Tenant, or declines to do so, then the award in such condemnation proceedings shall be divided between Landlord and Tenant so that each receives the amount it would have received if separate awards had been made pursuant to this Section.

Section 12.03 Rights of Approved Mortgagee.

Landlord and Tenant further agree and acknowledge that any right of Landlord in and to condemnation proceeds applicable to the leasehold estate (but not the fee simple estate in the Leased Premises or Landlord’s interest under this Lease) shall be and remain subordinate and inferior to the interests in such proceeds held by any Approved Mortgagee. Under no circumstances whatsoever shall Landlord maintain that it has any right or claim of any kind or nature in and to any condemnation proceeds applicable to the leasehold estate (but not the fee simple estate in the Leased Premises and Landlord’s interest under this Lease) of equal priority or superior to the interest in such proceeds held by any Approved Mortgagee. If there is an Approved Mortgagee, such Approved Mortgagee shall, to the extent permitted by law, be made a party to any condemnation proceeding, if it so desires to be made a party. Tenant’s share of the

proceeds arising from condemnation or eminent domain proceedings shall be disposed of as provided for by any Leasehold Mortgage.

ARTICLE XIII.

INTENTIONALLY DELETED

ARTICLE XIV.

SUBORDINATION AND ATTORNMENT

Section 14.01 Subordination.

A. Tenant's rights under this Lease are subordinate to: (i) all existing and future ground or underlying leases affecting all or any part of the Leased Premises as of the date of this Lease; and (ii) any easement, license, mortgage, deed of trust or other security instrument affecting the Leased Premises as of the date of this Lease (those documents referred to in (i) and (ii) above being collectively referred to as a "Mortgage" and the Person or Persons having the benefit of same being collectively referred to as a "Mortgagee"). Tenant's subordination provided in this Section 14.01 is self-operative and no further instrument of subordination shall be required. Notwithstanding the foregoing, Tenant shall, within five (5) days of request by Landlord, execute such further instruments or assurances as Landlord may reasonably deem necessary to evidence or confirm the subordination of this Lease to any Mortgage. In addition, any Mortgagee may, at its option, unilaterally subordinate its Mortgage to this Lease. Notwithstanding anything to the contrary contained herein, Landlord hereby represents that as of the date of this Lease there is no existing ground or underlying lease, mortgage or deed of trust affecting all or any part of the Leased Premises. Furthermore, Tenant agrees that the Lease shall be subordinate to any future ground lease, mortgage or deed of trust placed against the Leased Premises, and that it will attorn to the future ground lessor or mortgagee, upon termination of the ground lease or foreclosure of the mortgage or deed of trust respectively only, provided that the foregoing agreement of the Tenant to subordinate is expressly subject to such ground lessor or mortgagee agreeing to honor and abide by the terms of the Lease and give Tenant a non-disturbance agreement providing in effect that Tenant's right to use and occupy the Premises will not be deprived as a result of such termination or foreclosure so long as Tenant shall not be in default under the Lease.

Section 14.02 Attornment.

Subject to the provisions of Section 14.01 above, if any Person succeeds to all or part of Landlord's interest in the Leased Premises, whether by purchase, foreclosure, deed in lieu of foreclosure, power of sale, termination of lease or otherwise (such Person herein referred to as, "Successor Landlord"), Tenant shall, without charge, attorn to such Successor Landlord and this Lease shall continue in accordance with its terms as a lease between Successor Landlord and Tenant.

Section 14.03 Estoppel Certificate.

Each of Landlord and Tenant, within twenty (20) days after receiving notice from, and without charge or cost to, the other, shall certify by written instrument to the other or any other Person designated by Landlord or Tenant: (i) that this Lease is in full force and effect and unmodified (or if modified, stating the modification); (ii) the dates, if any, to which each component of the Rent due under this Lease has been paid; (iii) whether Landlord or Tenant has failed to perform any covenant, term or condition under this Lease, and the nature of Landlord's or Tenant's failure, if any; and (iv) such other relevant information as Landlord or Tenant may request.

Section 14.04 Quiet Enjoyment.

Landlord covenants that it has full right, power and authority to enter into this Lease and that Tenant, upon performing all of Tenant's obligations under this Lease and timely paying all Rent, shall peaceably and quietly have, hold and enjoy the Leased Premises during the Term without hindrance, ejection or molestation by any Person lawfully claiming by, through or under

Landlord, subject, however, to all encumbrances, easements, and matters of record to which this Lease is or may become subject.

ARTICLE XV.

ASSIGNMENT AND SUBLETTING

Section 15.01 Landlord's Consent Required.

A. Except as otherwise provided herein and in Addendum II of this Lease, Tenant and any permitted Transferee shall not voluntarily or involuntarily, by operation of law or otherwise: (i) transfer, assign, mortgage, encumber, pledge, hypothecate, or assign all or any of its interest in this Lease, or (ii) sublet or permit the Leased Premises, or any part thereof, to be used by others including licensees, or (iii) issue new stock (or partnership shares or membership interests), create additional classes of stock (or partnership shares or membership interests), or sell, assign, hypothecate or otherwise transfer the outstanding voting stock (or partnership shares or membership interests) so as to result in a change in the present control of Tenant or any permitted Transferee, provided, however, that this subparagraph (iv) shall not be applicable to Tenant if it is a publicly owned corporation whose outstanding voting stock is listed on a national securities exchange (as defined in the Securities Exchange Act of 1934, as amended) or is traded actively in the over-the-counter market, or (v) sell, assign or otherwise transfer all or substantially all of Tenant's or any permitted Transferee's assets; without the prior consent of Landlord, in each instance, which consent Landlord may withhold in its sole and absolute discretion. All of the foregoing transactions shall be referred to collectively or singularly as a "**Transfer**", and the Person to whom Tenant's interest is transferred shall be referred to as a "**Transferee**."

B. Any Transfer without Landlord's consent shall not be binding upon Landlord, and shall confer no rights upon any third Person. Each such unpermitted Transfer shall constitute a Default by Tenant under this Lease, subject to the provisions of Article XVI. The acceptance by Landlord of the payment of Rent following any Transfer prohibited by this Article XV shall not be deemed to be a consent by Landlord to any such Transfer, an acceptance of the Transferee as a tenant, a release of Tenant from the performance of any covenants herein contained, or a waiver by Landlord of any remedy of Landlord under this Lease, although amounts actually received shall be credited by Landlord against Tenant's Rent obligations. Consent by Landlord to any one Transfer shall not constitute a waiver of the requirement for consent to any other Transfer. No reference in this Lease to assignees, subtenants or licensees shall be deemed to be consent by Landlord to the occupancy of the Leased Premises by any such assignee, subtenant or licensee.

C. Landlord's consent to any Transfer shall not operate as a waiver of, or release of Tenant from, Tenant's covenants and obligations hereunder, nor shall the collection or acceptance of Rent or other performance from any Transferee have such effect, except to the extent specifically agreed to in writing by the parties. Rather, Tenant shall remain fully and primarily liable and obligated under this Lease for the entire Term in the event of any Transfer, and in the event of a Default by the Transferee, Landlord shall be free to pursue Tenant, the Transferee, or both, without prior notice or demand to either, except to the extent otherwise specifically agreed to in writing by the parties.

D. Notwithstanding anything to the contrary contained herein, provided Tenant shall not be in Default under the Lease, Tenant may, without Landlord's consent, sublease any portion of the Leased Premises to an Incubator [as defined in that certain Grant Agreement, as amended, dated July 7, 2006 between the **DISTRICT OF COLUMBIA**, a municipal corporation, acting by and through the Office of the State Superintendent of Education and **BUILDING HOPE**, a Charter School Facilities Fund and District of Columbia non-profit corporation ("**Grant Agreement**")]; provided, that such sublease complies with all of the terms and conditions of the Grant Agreement.

E. Notwithstanding anything to the contrary contained herein, provided Tenant shall not be in Default under the Lease, Tenant may, upon Landlord's prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned, Transfer the Lease to: (i) an Approved Mortgagee, (ii) a District of Columbia Public School; (iii) a Charter School; (iv) any

other Person that will use the Premises for pre-school, secondary or post-secondary educational purposes; or (v) an Affiliate of Tenant.

F. Notwithstanding the foregoing, the following conditions shall apply to any proposed Transfer:

(i) Each and every covenant, condition, or obligation imposed upon Tenant by this Lease and each and every right, remedy, or benefit afforded Landlord by this Lease shall not be impaired or diminished as a result of such Transfer;

(ii) Except for any sublease with an Incubator Charter School, Tenant shall assign and pay to Landlord fifty percent (50%) of any and all net subrentals (following the deduction of Tenant's reasonable and actual, out-of-pocket third-party costs in connection with the successful procurement of the subtenant) payable by subtenants which are in excess of the Minimum Rent (net of any Rent Credit) provided herein (computed on a square footage basis);

(iii) Tenant to which the Leased Premises were initially leased shall continue to remain liable under this Lease for the performance of all terms, including, but not limited to, payment of Rent due under this Lease, except to the extent otherwise agreed to in writing by the parties;

(iv) Transferee with respect to an assignment of the Lease must expressly assume in a written instrument delivered and reasonably acceptable to Landlord all the obligations of Tenant under the Lease and with respect to any sublease, the terms of the such sublease shall be subordinate to the terms and provisions of this Lease;

(v) Landlord shall furnish the appropriate documentation in connection with any such Transfer;

(vi) At least thirty (30) days prior to the effective date of such proposed Transfer, or such shorter period of time as reasonably agreed upon by the parties, Landlord shall receive the following information in connection with such Transfer: the name of the proposed Transferee, a copy of the financial statement of the proposed Transferee and any guarantor, a copy of the proposed Transfer document or agreement and information regarding the proposed Transferee's business history and experience; and

(vii) Landlord shall approve or disapprove of such proposed Transfer within thirty (30) days following receipt of Tenant's written notice of its intent to Transfer the Lease together with the required information set forth above.

G. A sublease with a Charter School shall provide that if at any time during the term of the sublease, the sublessee's charter to operate as a Charter School in the District of Columbia shall be revoked or adversely modified, such revocation or modification shall be an event of default under the sublease and that the loss of its charter shall be an event of default automatically terminating such school's sublease without further notice by or to the sublessee, Tenant, or Landlord and that the Landlord shall have the right to enforce such default as if the Landlord were the sublandlord named in the sublease, and, further, that the subtenant shall operate the premises under the sublease as a Charter School and in accordance with all applicable laws, including without limitation, the District of Columbia School Reform Act of 1995 (D.C. Official Code § 38-1800.01 *et seq.* (Supp. 2005)), as amended, and all regulations promulgated thereunder.

ARTICLE XVI.

DEFAULT AND REMEDIES

Section 16.01 Tenant Default.

A. Each of the following events shall constitute a default ("**Default**") by Tenant under this Lease: (i) if Tenant fails to pay any Rent (or any installment thereof) within ten

(10) days after the same shall be due and payable and such failure continues for a period of ten (10) days after written notice from Landlord (provided, however, if within any twelve (12) month period, Tenant fails to make any payment of Rent within ten (10) days after the same shall be due and payable and Landlord because of such failures shall have served upon Tenant within said twelve (12) month period two or more ten (10) day written notices of Tenant's failure to pay Rent, Tenant shall be in Default under the Lease if it fails to pay any Rent within ten (10) days after the same shall be due and payable without the necessity of demand or notice); (ii) if Tenant breaches or fails to observe or perform any term, condition or covenant of this Lease (other than those involving the payment of Rent or failure to continuously occupy and operate the Leased Premises as required or for any of the events set forth in subparagraphs (iv), (v), (vi) or (vii), and such breach or failure is not cured within thirty (30) days after Tenant's receipt of notice thereof, unless such condition cannot reasonably be cured within such thirty (30) days, in which case Tenant must commence such cure within said thirty (30) days and diligently pursue said cure to its completion (provided, however, if such breach or failure creates a hazard, public nuisance or dangerous situation, said thirty (30) day grace period shall be reduced to forty-eight (48) hours after Tenant's receipt of notice); (iii) if Tenant vacates, abandons or ceases to continuously operate the Leased Premises as required; (iv) if Tenant fails to carry and maintain the insurance required by this Lease; (v) if Tenant shall fail to observe or perform according to the provisions of Article XIV of this Lease, and such failure is not cured within five (5) business days after Tenant's receipt of notice thereof; (vi) the Leased Premises are not being used for the Permitted Use; or (vii) in the event that this Lease is assigned to a Charter School, the failure of such assignee to have a valid current charter to operate a Charter School in accordance with all Laws. Notwithstanding the foregoing, Landlord hereby agrees to extend the ten (10) day cure period to a period for monetary defaults to sixty (60) days if Tenant's failure to pay Rent is due to the non-receipt of its public funds from a Governmental Authority; provided, that Tenant has notified Landlord of such reason within the ten (10) day cure period provided in subparagraph (i) above.

Section 16.02 Remedies and Damages.

A. Upon the occurrence of any event of Default described in Section 16.01, Landlord, without any notice or demand whatsoever, shall have all the rights and remedies provided in this Section 16.02, in addition to all other rights and remedies available under this Lease or provided at law or in equity.

B. Upon the occurrence of any event of Default described in this Section, Landlord may, upon notice to Tenant, terminate this Lease, or terminate Tenant's right to possession of the Leased Premises without terminating this Lease (as Landlord may elect). If the Lease or Tenant's right to possession under this Lease are at any time terminated under this Section, or otherwise, Tenant shall immediately surrender and deliver the Leased Premises peaceably to Landlord. If Tenant fails to do so, Landlord shall be entitled to re-enter in accordance with all Laws and shall be entitled to the benefit of all provisions of law respecting the speedy recovery of possession of the Leased Premises (whether by summary proceedings or otherwise).

C. Upon the occurrence of any event of Default described in this Section, Landlord may also perform, on behalf and at the expense of Tenant, any obligation of Tenant under this Lease which Tenant fails to perform, the cost of which (together with an administrative fee equal to ten percent (10%) of such cost to cover Landlord's overhead in connection therewith) shall be paid by Tenant to Landlord upon demand. In performing any obligations of Tenant, Landlord shall incur no liability for any loss or damage that may accrue to Tenant, the Leased Premises or Tenant's Property by reason thereof, except if caused by Landlord's willful, wanton and malicious act. The performance by Landlord of any such obligation shall not constitute a release or waiver of any of Tenant's obligations under this Lease.

D. Upon termination of this Lease or of Tenant's right to possession under this Lease, Landlord may at any time and from time to time relet all or any part of the Leased Premises for the account of Tenant or otherwise, at such rentals and upon such terms and conditions as Landlord shall deem appropriate. In the event that Landlord shall relet the Leased Premises, then rentals received by Landlord from such reletting shall be applied: first, to the payment of such reasonable expenses as Landlord may incur in recovering possession of the Leased Premises, including reasonable legal expenses and attorneys' fees, in placing the Leased Premises in good order and condition and in preparing or altering the same for re-rental; second, to the payment of such reasonable expenses, commissions and charges as may be incurred by or

on behalf of Landlord in connection with the reletting of the Leased Premises; and third, to the fulfillment of the covenants of Tenant under the Lease, including the various covenants to pay Rent. Any reletting by Landlord shall not be construed as an election by Landlord to terminate this Lease unless notice of such intention is given by Landlord to Tenant. Notwithstanding any reletting without termination of this Lease, Landlord may at any time thereafter elect to terminate this Lease. In any event, Landlord shall not be liable for, nor shall Tenant's obligations hereunder be diminished by reason of, any failure by Landlord to relet the Leased Premises or any failure by Landlord to collect any sums due upon such reletting.

E. If this Lease, or Tenant's right to possession of the Leased Premises, is terminated by Landlord pursuant to the provisions of this Section, Tenant nevertheless shall remain liable to Landlord for (a) any Rent, damages or other sums which may be due or sustained prior to such termination, (b) all reasonable costs, fees and expenses (including attorneys' fees, brokerage commissions, advertising costs, and expenses incurred in placing the Leased Premises in first-class rentable condition) incurred by Landlord in pursuit of its remedies hereunder and in renting the Leased Premises to others from time to time; and (c) an amount equal to the Rent (excluding any Rent Credit) which would have become due from the date of such termination through the expiration of the Term (or what would have been the expiration of the Term but for any termination thereof), less the net avails of reletting, if any, which Landlord receives during such period from others to whom the Leased Premises may be rented, which amount shall be due and payable by Tenant to Landlord on the dates such Rent and other sums above specified are due under the Lease. Any suit or action brought to collect any such damages for any month shall not in any manner prejudice the right of Landlord to collect any damages for any subsequent month by a similar proceeding.

F. Upon the occurrence of any event of monetary Default or material non-monetary Default which is not cured within the applicable cure period, Tenant shall lose the benefit of the Rent Credit and such Rent Credit shall become immediately null and void and Rent due and payable under this Lease shall be computed from the date of such Default as if such Rent Credit did not exist.

Section 16.03 Landlord Default.

Except as otherwise provided in the Lease, it shall be a Landlord default ("**Landlord Default**") hereunder if Landlord fails to perform or observe any of its obligations under this Lease after a period of thirty (30) calendar days from the date Landlord receives written notice thereof from Tenant setting forth in reasonable detail the nature and extent of the failure and identifying the applicable Lease provision that such obligation was required to be performed hereunder; provided, however, that Landlord shall not have committed a Landlord Default if such failure is of a type and nature that cannot reasonably be cured within such thirty (30) day period, so long as Landlord promptly commences the curing of such failure within such thirty (30) day period and thereafter diligently prosecutes to completion the curing of such failure. It is specifically understood and agreed that a Landlord Default occurs after the expiration of notice and applicable cure period.

None of Landlord's Indemnitees shall have any personal liability under this Lease or on account of any undertaking herein contained, whether expressed or implied, nor shall Landlord's Indemnitees be liable to Tenant for any consequential damages, indirect losses, loss of value, temporary loss of business, lost profits, or lost opportunity damages at or arising from the Leased Premises suffered by Tenant. Tenant hereby releases Landlord's Indemnitees from all such personal liability to the extent indicated above. Tenant hereby waives personal recourse against Landlord's officers, employees, agents or representatives or their respective assets.

Section 16.04 Limitation on Right of Recovery Against Landlord.

No director, officer, employee, representative or agent of Landlord shall be personally liable in respect of any covenant, condition or provision of this Lease nor shall Landlord be liable to Tenant for any consequential damages, indirect losses, loss of value, temporary loss of business, lost profits, or lost opportunity damages at or arising from the Leased Premises suffered by Tenant. If Landlord breaches or defaults in any of its obligations in this Lease, Tenant shall look solely to the equity of the Landlord in the Leased Premises for satisfaction of Tenant's remedies.

Section 16.05 **Remedies Cumulative.**

No reference to any specific right or remedy in this Lease shall preclude Landlord from exercising any other right, from having any other remedy, or from maintaining any action to which it may otherwise be entitled under this Lease, at law or in equity.

Section 16.06 **Waiver.**

A. Landlord shall not be deemed to have waived any provision of this Lease, or the breach of any such provision, unless specifically waived by Landlord in a writing executed by an authorized officer of Landlord. No waiver of a breach shall be deemed to be a waiver of any subsequent breach of the same provision, or of the provision itself, or of any other provision.

B. Tenant hereby expressly waives any and all rights of redemption and any and all rights to relief from forfeiture which would otherwise be granted or available to Tenant.

C. **IN ANY ACTION OR PROCEEDING ARISING HEREFROM, LANDLORD AND TENANT HEREBY CONSENT TO (I) THE JURISDICTION OF ANY COMPETENT COURT WITHIN THE DISTRICT OF COLUMBIA, (II) SERVICE OF PROCESS BY ANY MEANS AUTHORIZED BY DISTRICT OF COLUMBIA LAW, AND (III) IN THE INTEREST OF SAVING TIME AND EXPENSE, TRIAL WITHOUT A JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER OR THEIR SUCCESSORS IN RESPECT OF ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE LEASED PREMISES, AND/OR ANY CLAIM FOR INJURY OR DAMAGE, OR ANY EMERGENCY OR STATUTORY REMEDY. IN THE EVENT LANDLORD COMMENCES ANY SUMMARY PROCEEDINGS OR ACTION FOR NONPAYMENT OF MINIMUM RENT OR ADDITIONAL RENT, TENANT SHALL NOT INTERPOSE ANY COUNTERCLAIM OF ANY NATURE OR DESCRIPTION (UNLESS SUCH COUNTERCLAIM SHALL BE MANDATORY) IN ANY SUCH PROCEEDING OR ACTION, BUT SHALL BE RELEGATED TO AN INDEPENDENT ACTION AT LAW.**

ARTICLE XVII.

MISCELLANEOUS PROVISIONS

Section 17.01 **Notices.**

A. Whenever any demand, request, approval, consent or notice (singularly and collectively, "Notice") shall or may be given by one party to the other, such Notice shall be in writing and addressed to the parties at their respective addresses as set forth in Section 1.01 and served by (i) hand; (ii) a nationally recognized overnight express courier; or (iii) registered or certified mail return receipt requested. The date the Notice is received shall be the date of service of Notice. If an addressee refuses to accept delivery, however, then such Notice shall be deemed to have been served on either (i) the date hand delivery is refused, (ii) the next business day after the Notice was sent in the case of attempted delivery by overnight courier, or (iii) five (5) business days after mailing the Notice in the case of registered or certified mail. Either party may, at any time, change its Notice address by giving the other party Notice, in accordance with the above, stating the change and setting forth the new address.

B. If any Mortgagee shall notify Tenant that it is the holder of a Mortgage affecting the Leased Premises, no Notice thereafter sent by Tenant to Landlord shall be effective unless and until a copy of the same shall also be sent to such Mortgagee, in the manner prescribed in this Section 17.01, to the address as such Mortgagee shall designate.

Section 17.02 **Recording.**

Neither this Lease nor a memorandum thereof shall be recorded without the prior written consent of Landlord which consent shall not be unreasonably withheld, conditioned or delayed.

Section 17.03 **Interest.**

A. If (i) Tenant fails to make any payment under this Lease when due, (ii) Landlord performs any obligation of Tenant under this Lease, or (iii) Landlord incurs any costs or expenses as a result of Tenant's Default under this Lease, then Tenant shall pay, upon demand, Interest from the date such payment was due or from the date Landlord incurs such costs or expenses relating to the performance of any such obligation or Tenant's Default.

B. If Tenant requests Landlord to review and/or execute any documents in connection with this Lease, including any Transfer documents, any Leasehold Mortgage and Landlord's subordination of its lien interest, Tenant shall pay to Landlord, upon demand and presentation of reasonably detailed invoices, as a reasonable administrative fee for the review and/or execution thereof, all costs and expenses, including reasonable attorneys' fees (which shall include the cost of time expended by in-house counsel) incurred by Landlord and/or Landlord's agent.

Section 17.04 Legal Expenses.

A. If Landlord or Tenant institutes any suit against the other in connection with the enforcement of their respective rights under this Lease, the violation of any term of this Lease, the declaration of their rights hereunder, or the protection of Landlord's or Tenant's interests under this Lease, the non-prevailing party shall reimburse the prevailing party for its reasonable expenses incurred as a result thereof including court costs and attorneys' fees. Notwithstanding the foregoing, if Landlord files any legal action for collection of Rent or any eviction proceedings, whether summary or otherwise, for the non-payment of Rent, and Tenant pays such Rent prior to the rendering of any judgment, then Landlord shall be entitled to collect, and Tenant shall pay, all court filing fees and the reasonable fees of Landlord's attorneys.

B. Notwithstanding the foregoing or anything to the contrary contained elsewhere in this Lease, in the event Landlord is represented by the Office of the Attorney General for the District of Columbia ("OAG"), reasonable attorneys' fees shall be calculated based on the then applicable hourly rates established in the most current *Laffey* matrix prepared by the Civil Division of the United States Attorney's Office for the District of Columbia and the number of hours employees of the OAG prepared for or participated in any such litigation. In the event the Laffey Matrix is no longer utilized by OAG, reasonable attorney's fees shall be calculated based on an equivalent amount that a private firm of comparable size to OAG in the Washington D.C. area would have charged for such representation based on the number of hours OAG staff participate in any such litigation.

Section 17.05 Successors and Assigns.

This Lease and the covenants and conditions herein contained shall inure to the benefit of and be binding upon Landlord and Tenant, and their respective permitted successors and assigns. Upon any sale or other transfer by Landlord of its interest in the Leased Premises, to the extent agreed upon in writing between Landlord and its transferee, Landlord shall be relieved of its obligations under this Lease occurring subsequent to such sale or other transfer.

Section 17.06 Anti Deficiency.

The obligations of the District of Columbia to fulfill financial obligations pursuant to this Lease, or any subsequent agreement entered into pursuant to this Lease or referenced herein (to which the District is a party), are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349-1351, 1511-1519 (2004) (the "Federal ADA"), and D.C. Official Code §§ 1-206.03(e) and 47-105 (2001); (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 to .08 (2004 Supp.) (the "D.C. ADA") and (i) and (ii) collectively, as amended from time to time, the "Anti-Deficiency Acts"); and (iii) Section 446 of the District of Columbia Home Rule Act, D.C. Official Code § 1-204.46 (2001).

Section 17.07 Entire Agreement; No Representations; Modification.

This Lease is intended by the parties to be a final expression of their agreement and as a complete and exclusive statement of the terms thereof. All prior negotiations, considerations and representations between the parties (oral or written) are incorporated herein. No course of prior dealings between the parties or their officers, employees, agents or affiliates shall be relevant or admissible to supplement, explain or vary any of the terms of this Lease. No representations,

understandings, agreements, warranties or promises with respect to the Leased Premises or the Building of which they are a part, or with respect to past, present or future tenancies, rents, expenses, operations, or any other matter, have been made or relied upon in the making of this Lease, other than those specifically set forth herein. This Lease may only be modified, or a term thereof waived, by a writing signed by an authorized officer of Landlord and Tenant expressly setting forth said modification or waiver.

Section 17.08 Severability.

If any term or provision of this Lease, or the application thereof to any Person or circumstance, shall be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

Section 17.09 Joint and Several Liability.

If two or more Persons shall sign this Lease as Tenant, the liability of each such Person to pay the Rent and perform all other obligations hereunder shall be deemed to be joint and several, and all Notices, payments and agreements given or made by, with or to any one of such Persons shall be deemed to have been given or made by, with or to all of them. In like manner, if Tenant shall be a partnership or other legal entity, the partners or members of which are, by virtue of any Law, subject to personal liability, the liability of each such partner or member under this Lease shall be joint and several and each such partner or member shall be fully obligated hereunder and bound hereby as if each such partner or member had personally signed this Lease.

Section 17.10 Broker's Commission.

Tenant warrants and represents to Landlord that no broker, finder or agent has acted for or on its behalf in connection with the negotiation, execution or procurement of this Lease. Tenant agrees to indemnify and hold Landlord harmless from and against all liabilities, obligations and damages arising, directly or indirectly, out of or in connection with a claim from a broker, finder or agent with respect to this Lease or the negotiation thereof, including actual costs and reasonable attorneys' fees incurred in the defense of any claim made by a broker alleging to have performed services on behalf Tenant.

Section 17.11 Irrevocable Offer, No Option.

The submission of this Lease by Landlord to Tenant for examination shall not constitute an offer to lease or a reservation of or option for the Leased Premises. Tenant's execution of this Lease shall be deemed an offer by Tenant, but this Lease shall become effective only upon execution thereof by both parties and delivery thereof to Tenant. Execution of this Lease or any other agreement between the parties is subject to authorization by the Council of the District of Columbia pursuant to § 451 of the District Charter (D.C. Official Code § 1-204.51 (2001)) and/or D.C. Official Code § 10-1008 (2001), each as applicable ("**Council Approval**").

Section 17.12 Inability to Perform.

Except for the payment of monetary obligations, if Landlord or Tenant is delayed or prevented from performing any of its obligations under this Lease by reason of acts of God, strike, labor troubles, or any similar cause whatsoever beyond their control, the period of such delay or such prevention shall be deemed added to the time herein provided for the performance of any such obligation by Landlord or Tenant.

Section 17.13 Survival.

Occurrence of the Termination Date shall not relieve Tenant from its obligations accruing prior to the expiration of the Term to the extent specified by the provisions of this Lease. All such obligations shall survive termination of the Lease to the extent specified in this Lease.

Section 17.14 Tenant's Representations.

A. Tenant hereby represents and warrants to Landlord as follows:

(i) Tenant is a non-profit corporation duly organized, validly existing and in good standing under the laws of District of Columbia (ii) Tenant is duly qualified to conduct business in the District of Columbia, and (iii) Tenant has the power and authority to conduct the business in which it is currently engaged;

(ii) Tenant (i) has the power and authority to execute, deliver and perform its obligations under this Lease, and (ii) has taken all necessary action to authorize the execution, delivery and performance of this Lease;

(iii) No consent or authorization of, or filing with, any Person (including any Governmental Authority), which has not been obtained is required in connection with the execution, delivery and performance of this Lease by Tenant, except for: (i) zoning approvals, if any; and (ii) permits and approvals from Governmental Authorities required to construct the Improvements;

(iv) This Lease has been duly executed and delivered by Tenant, and constitutes the legal, valid and binding obligation of Tenant, enforceable against Tenant in accordance with its terms;

(v) The execution, delivery and performance by Tenant of this Lease will not violate any Laws or result in a breach of any contractual obligation to which Tenant is a party;

(vi) Tenant's execution, delivery and performance of this Lease and the transactions contemplated hereby shall not: (i) to the best of Tenant's knowledge, violate any judgment, order, injunction, decree, regulation or ruling of any court or Governmental Authority with proper jurisdiction that is binding on Tenant; or (ii) result in a breach or default under any provision of the organizational documents of Tenant; and

(vii) No litigation, investigation or proceeding of or before any arbitrator or Governmental Authority is pending or, to the best knowledge of Tenant, threatened by or against Tenant which, if adversely determined, individually or in the aggregate, could reasonably be expected to have a material adverse effect on Tenant and its ability to perform its obligations under this Lease.

Section 17.15 Construction of Certain Terms.

The term "including" shall mean in all cases "including without limitation." Wherever Tenant or Landlord is required to perform any act hereunder, such party shall do so at its sole cost and expense, unless expressly provided otherwise. All payments to Landlord, other than Minimum Rent, whether as reimbursement or otherwise, shall be deemed to be Additional Rent, regardless whether denominated "as Additional Rent." The term "days" shall mean calendar days unless business days are specifically referenced.

Section 17.16 Showing of Leased Premises.

Landlord may enter upon the Leased Premises during normal business hours, upon prior written notice to Tenant for purposes of showing the Leased Premises to tenants during the last twelve (12) months of the Term.

Section 17.17 Relationship of Parties.

This Lease shall not create any relationship between the parties other than that of Landlord and Tenant.

Section 17.18 Rule Against Perpetuities.

If Landlord fails to deliver the Leased Premises to Tenant within five (5) years from the date of this Lease, this Lease shall automatically terminate at the end of such period.

Section 17.19 Choice of Law.

This Lease shall be construed, and all disputes, claims, and questions arising hereunder shall be determined, in accordance with the laws of the District of Columbia.

Section 17.20 **Choice of Forum.**

Any action involving a dispute relating in any manner to the Lease, the relationship of Landlord/Tenant, the use or occupancy of the Leased Premises, and/or any claim of injury or damage shall be filed and adjudicated solely in the District of Columbia or any applicable federal courts of the jurisdiction in which the Leased Premises are located.

Section 17.21 **Time is of the Essence.**

Time is of the essence with respect to each and every obligation arising under this Lease.

Section 17.22 **False Claims.**

Notwithstanding anything to the contrary in this Lease, and without limitation of any kind, all demands for payment or reimbursement of any kind under this Lease made by Tenant, if any, shall be subject to D.C. Official Code §§ 2-308.13 - 2-308.19 (2001) and the remedies available thereunder.

Section 17.23 **Hazardous Materials.**

A. Except for (i) ordinary and general office supplies typically used in the ordinary course of business, such as copier toner, liquid paper, glue and ink, and common household cleaning materials, and (ii) products which are necessary and customary in the conduct of Tenant's business in accordance with Tenant's Permitted Use, all of which shall be stored, used and disposed of in accordance with all Hazardous Material Laws, Tenant agrees not to cause or permit any Hazardous Materials to be brought upon, stored, used, handled, generated, released or disposed of, on, in, under or about the Leased Premises, by Tenant, its agents, employees, subtenants, assignees, contractors or invitees. Tenant shall not discharge Hazardous Materials or wastes into or through any sanitary sewer serving the Leased Premises.

B. Tenant shall immediately notify Landlord in writing (and provide Landlord with copies) when (and if) Tenant first becomes aware or receives notice of any proceedings, actions, claims, notices, demands, reports or asserted violations arising out of or in connection with the presence of Hazardous Materials, or any actual or alleged violations of any Hazardous Material Laws, at, on, under or near the Leased Premises.

C. In the event Hazardous Materials are discovered in, under or about the Leased Premises at any time due to any act or omission of Tenant (its agents, employees or contractors) which is (a) negligent, (b) unlawful, or (c) in violation of Tenant's obligations pursuant to the Lease, Tenant shall promptly, at its sole risk and expense, commence to perform, and diligently prosecute to completion, all work necessary or required to remove, treat, dispose of and clean up the Hazardous Materials and return the Leased Premises, and any adjacent property affected by such Hazardous Materials to the condition existing prior to the contamination by the Hazardous Materials. All such remediation shall be approved by Landlord and shall be performed to its satisfaction in accordance with all Hazardous Materials Laws.

D. Tenant shall defend, indemnify and hold harmless Landlord's Indemnitees, its successors and assigns from and against any and all liabilities, actions, demands, penalties, losses, costs and expenses (including reasonable attorneys' fees, consultants' fees and remedial costs), suits, costs of any settlement or judgment and claims which may be paid, incurred or suffered by or asserted against any of Landlord's Indemnitees, its successors and assigns, as a result of the presence on or under the Leased Premises of Hazardous Materials, which such presence is due to any act or omission of Tenant (its agents, employees, contractors or invitees) or (c) in violation of Tenant's obligations pursuant to the Lease.

Section 17.24 **First Source and CBE.**

A. Tenant shall enter into a "Certified Business Enterprise" agreement with the District of Columbia governing the obligations of Tenant under the Small, Local and Disadvantaged Business Enterprise Development and Assistant Act of 2005 (D.C. Law 16-33; D.C. Official Code Section 2-218.01 et seq.) within thirty (30) days from the Date of Lease.

B. Tenant shall enter into a "First Source Agreement" with the District of Columbia governing the obligations of Tenant under the First Source Employment Agreement

Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code Section 2-219.03) within thirty (30) days from the Date of Lease.

Section 17.25 Nondiscrimination Covenants.

A. Tenant shall not discriminate upon the basis of race, color, religion, sex, national origin, ethnicity, sexual orientation, or any other factor which would constitute a violation of the D.C. Human Rights Act or any other Laws, or court order, in the sale, lease, or rental or in the use or occupancy of the Leased Premises.

B. Tenant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or any other factor which would constitute a violation of the D.C. Human Rights Act or other Laws or court order.

C. Tenant will take affirmative action to ensure that employees are treated equally during employment, without regard to their race, color, religion, sex, or national origin, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, or physical handicap. Such affirmative action shall include, but not be limited to, the following: (i) employment, upgrading, or transfer; (ii) recruitment or recruitment advertising; (iii) demotion, layoff, or termination; (iv) rates of pay or other forms of compensation; and (v) selection for training and apprenticeship. Tenant agrees to post in conspicuous places available to employees and applicants for employment notices to be provided by the District of Columbia or any agency thereof setting forth the provisions of this non-discrimination clause.

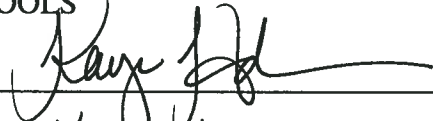
D. Tenant will, in all solicitations or advertisements for potential employees placed by or on behalf of Tenant, include the federal U.S. Equal Employment Opportunity Commission's logotype, statement, or slogan as a means of educating the public that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin or any other factor which would constitute a violation of the D.C. Human Rights Act or other Laws or court order.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties hereto intending to be legally bound hereby have executed this Lease under their respective hands and seals as of the day and year first above written.

LANDLORD:

DISTRICT OF COLUMBIA
By and through the
**DISTRICT OF COLUMBIA PUBLIC
SCHOOLS**

By: 
Name: Kayla Henderson

Title: Chancellor, DCPS

TENANT:

Charter School Incubator Initiative,
a District of Columbia non-profit
corporation,

By: 
S. Joseph Bruno
President

Approved For Legal Sufficiency:


By: 
Name: Steven Sadel
Title: Assistant Attorney General

Exhibit A

Description of:

**Assessment and Taxation Lot 960 out of
Assessment and Taxation Lots 954 and 958 in Square 5862
District of Columbia
August 31, 2011**

Being portions of Lots 954 and 958 in Square 5862 as recorded on Assessment and Taxation Plats 3469-K and 3301-N among the records of the Surveyor of the District of Columbia; being more particularly described as follows:

Lot 960:

Beginning at the Southeast corner of said Lot 954, said point also being the intersection of the westerly line of Martin Luther King, Jr. Avenue, SE (60' wide) and the northerly line of Sumner Road, SE (60' wide), thence;

N 51°30'10" W, along the southerly line of said Lot 954 and said northerly line of Sumner Road, SE, a distance of 279.34 feet to a point on a fence line, thence departing said northerly line, over across and through Lots 954 and 958, along said fence line the following courses and distances;

N 51°13'00" E, 61.51 feet, thence;

N 45°10'45" E, 94.03 feet, thence;

N 79°34'17"E, 52.16 feet, thence;

N 28°29'37" E, 61.29 feet, thence;

N 24°13'40" E, 70.91 feet, thence;

N 31°33'27" E, 26.23 feet, thence;

N 50°03'07" W, 60.79 feet, thence;

N 38°55'52" E, 69.36 feet, thence departing said fence line;

S 50°53'09" E, 225.25 feet to the easterly line of the aforesaid Lot 958 and the aforesaid westerly line of Martin Luther King, Jr. Avenue, SE, thence;

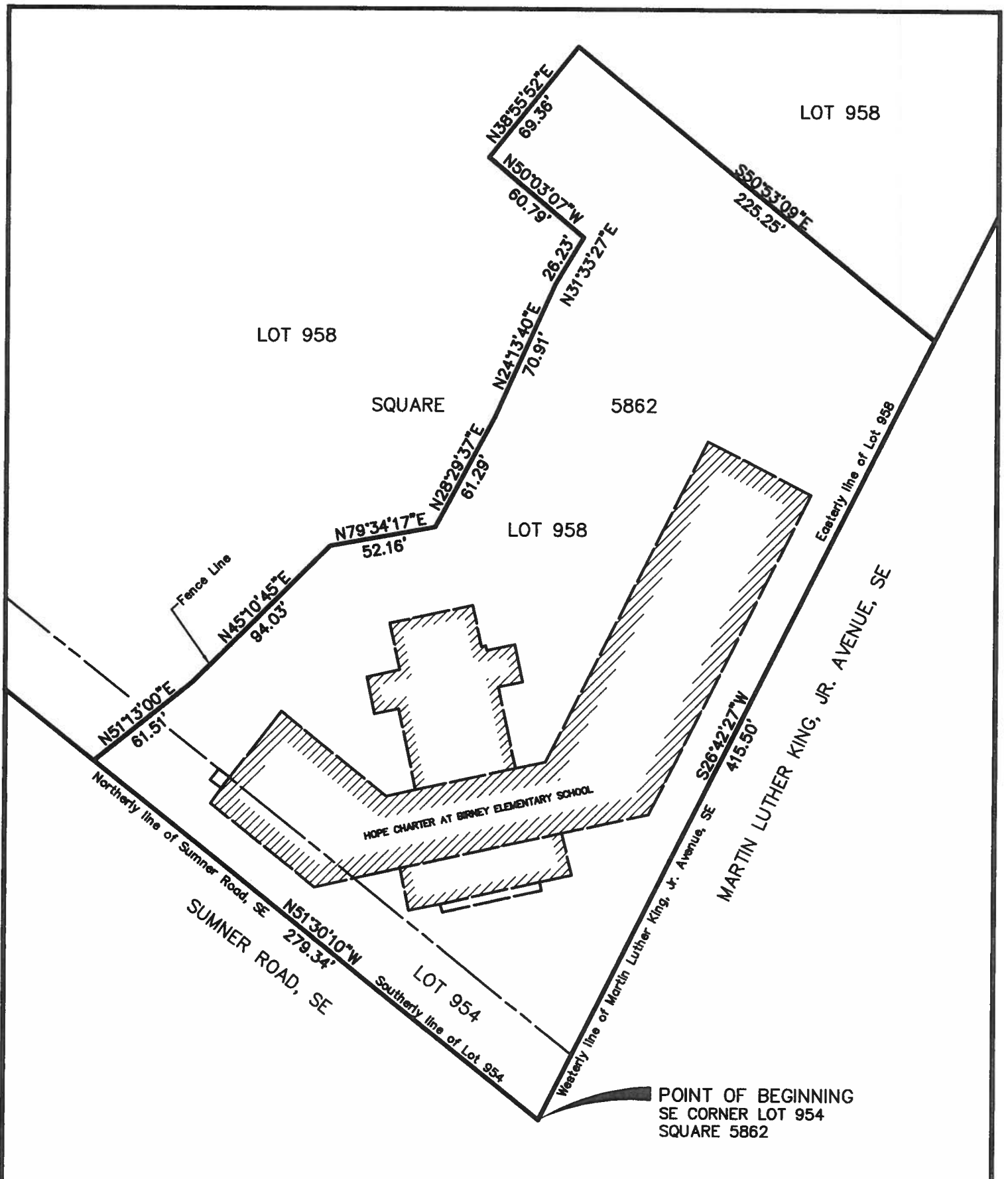
S 26°42'27" W, along said westerly line, 425.28 feet to the **Point of Beginning**.

Containing a computed area of 90,190 square feet or 2.07048 acres.

NOTE: At the date hereof the above described property is designated on the Records of the Assessor for the District of Columbia for assessment and taxation purposes as Lot numbered nine hundred sixty (960) in Square numbered Fifty-eight Hundred Sixty-two (5862).

EXHIBIT A-1

SITE PLAN



AMT LLC
 CONSULTING ENGINEERS
 10 G STREET, NE, SUITE 430, WASHINGTON, DC, 20002
 (202) 289-4645 FAX: (202) 289-5051

DES. BG
 DRN. BG/LMW
 CHK. BG
 FILE: 109692.002

Sketch of Description
 Hope Charter at Birney Elementary School
 2501 Martin Luther King, Jr. Ave., SE
 Washington, DC

DATE 05/26/11
 SHEET 1

Exhibit A-1

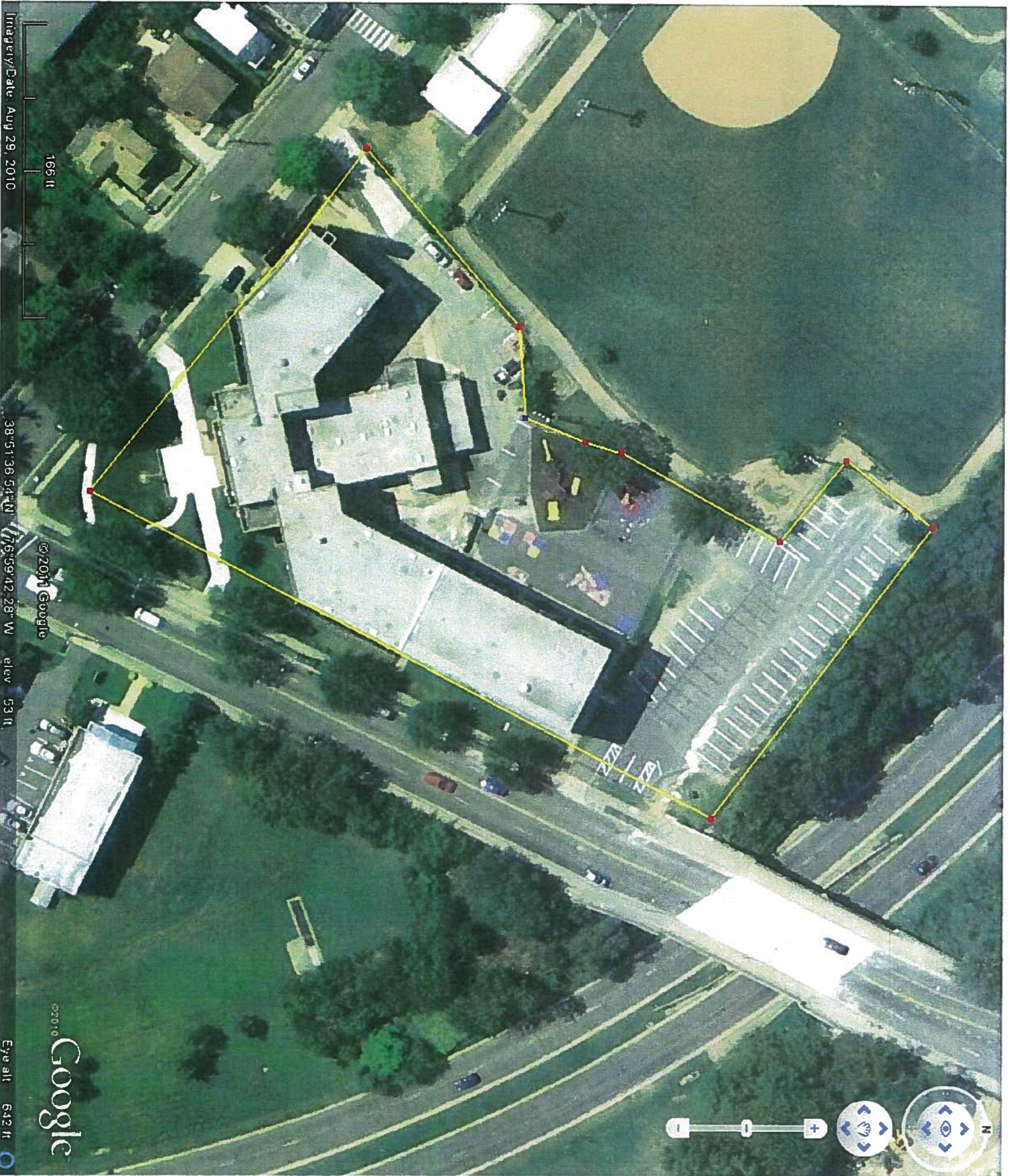


Exhibit A-2

EXHIBIT B

RENT CREDIT AND CAPITAL ALTERATIONS

A. Provided that Tenant is not in Default of the Lease, Tenant shall be entitled to a credit against the Annual Base Rent each Lease Year (“**Rent Credit**”) in an amount equal to the amortized Tenant Improvement Costs (as defined below) for such Lease Year as determined by amortizing the Tenant Improvement Costs over fifteen (15) years, together with interest on such amortized Tenant Improvement Costs at an assumed interest rate equal to the lesser of (i) a 6.5% annual rate of interest or (ii) the actual interest rate under the construction loan for the Tenant Improvement Costs. Notwithstanding the foregoing or anything to the contrary contained elsewhere in this Lease, Tenant shall not be entitled to a Rent Credit on any day during the Term which a monetary or material non-monetary Default by Tenant exists under the Lease.

B. For purposes of this Exhibit “B”, the term “**Tenant Improvement Costs**” shall mean (i) the costs of the Initial Capital Alterations made to the Leased Premises, as set forth and described in Exhibit “B-1” attached hereto, and (ii) the actual construction costs (including both hard and soft costs) of all future Capital Alterations (which cost is in excess of \$500,000.00 individually or in the aggregate every three years) made pursuant to the terms of this Lease, as agreed to by the parties, in a writing setting forth the Scope, Schedule and Budget of such Capital Alterations in accordance with the procedures for set forth below.

C. The term “**Capital Alterations**” shall mean Alterations (excluding Tenant’s Property) which are considered capital improvements under generally accepted accounting principles.

D. Prior to commencing any Capital Alterations, Tenant shall submit to Landlord, for Landlord’s written approval, a proposed scope of work for such Capital Alterations setting forth in detail the work to be performed (“**Scope**”), together with an estimated schedule (“**Schedule**”) and estimated budget (“**Budget**”), which approval shall not be unreasonably withheld, conditioned or delayed. Once approved by both parties, the Scope, Schedule and Budget may be modified at any time or times only with Landlord’s prior written consent, which consent shall not unreasonably withheld, conditioned or delayed.

E. The Budget shall be adjusted upon a final accounting of the actual Tenant Improvement Costs, based upon paid invoices and other evidence of the costs and expenses incurred by Tenant with respect thereto (“**Construction Invoices**”) and the Rent Credit shall be adjusted as applicable to reflect the final accounting. Tenant shall have the right to submit paid invoices and other evidence of payment periodically, as such costs and expenses are paid by Tenant, but no more frequently than one (1) time during any thirty (30)-day period. For the sole purpose of calculating the Rent Credit, Landlord shall review and approve or disapprove Construction Invoices within thirty (30) days after submission thereof by Tenant, time being of the essence hereunder. In the event that Landlord has not responded to Tenant with respect to the Construction Invoices within such thirty (30) day period, then Tenant shall have the right to deliver a notice to Landlord containing the following language in bold font and capital letters: **THIS NOTICE IS DELIVERED PURSUANT TO SECTION E OF EXHIBIT B OF YOUR LEASE FOR LEASED PREMISES LOCATED AT 2501 MARTIN LUTHER KING, JR. AVENUE, SE WASHINGTON, DC. IF YOU FAIL TO APPROVE OR DISAPPROVE OR SEND COMMENTS RELATING TO THOSE CONSTRUCTION INVOICES DELIVERED TO YOU ON _____ FOR WORK DONE AT WITHIN FIVE (5) BUSINESS DAYS OF LANDLORD’S RECEIPT OF THIS NOTICE, LANDLORD WILL BE DEEMED TO HAVE APPROVED SUCH CONSTRUCTION INVOICES.** If Landlord fails to respond within five (5) Business Days after receipt of such notice from Tenant, then Landlord shall be deemed to have approved such Construction Invoices. The Rent Credit shall be adjusted accordingly from time to time.

F. Tenant’s Capital Alterations shall be performed by Tenant in accordance with detailed plans and specifications therefore, to be prepared by Tenant’s architect and provided to Landlord in one (1) set of blue line plans and a CADD disk, including Tenant’s material sample board, all of which shall be submitted to Landlord for Landlord’s written approval (as to both to design and materials) which approval shall not be unreasonably withheld, conditioned or delayed, time being of the essence hereunder. When Landlord has approved

Tenant's plans and specifications ("**Tenant's Plans**"), Landlord shall initial and return one (1) set of approved plans to Tenant. It is expressly agreed that Tenant shall not commence any Capital Alterations until Tenant's Plans have been approved by Landlord and any required building permits have been issued by the applicable local Governmental Authorities. The time periods for Landlord to review and either approve, disapprove or comment on Tenant's Plans and for Tenant to resubmit such plans to Landlord shall be those time periods are set forth in Section 9.04.B of the Lease with respect to Alterations.

G. Within forty-five (45) days after Completion of any Capital Alterations, the following items must be submitted to Landlord by or on behalf of Tenant:

(i) A notice from Tenant, or its general contractor, certifying in writing to Landlord, and Landlord approves such certification, that one hundred percent (100%) of Tenant's Capital Alterations, as specified in the final plans and specifications as approved by Landlord, is Completed.

(ii) Copies of paid invoices evidencing Tenant's expenditure amounts for actual construction costs (inclusive of "soft costs"), plus an affidavit of Tenant's chief fiscal officer stating the total cost of the construction.

(iii) Final unconditional releases of liens executed by all applicable suppliers, materialmen, contractors and subcontractors.

(iv) An affidavit listing (a) the names of all contractors, subcontractors, suppliers and materialmen who provided or supplied, labor, services, goods and materials to the Leased Premises, and (b) that all listed contractors, subcontractors, suppliers and materialmen have been paid in full for the labor, services, goods and materials provided or supplied to the Leased Premises as of the date of the affidavit.

(v) A permanent or temporary Certificate of Occupancy for the Leased Premises, if applicable.

EXHIBIT "B-1"

INITIAL CAPITAL ALTERATIONS

Tenant hereby certifies, represents and warrants to Landlord that as of the Date of Lease, Tenant has incurred Tenant Improvement Costs in the total amount of \$4,094,028.00 for Capital Alterations as described and set forth in **Exhibit "B-2"** attached hereto ("**Initial Capital Alterations**"). Therefore the parties agree that the Rent Credit for the Initial Capital Alterations is a total of \$4,094,028.00.

Exhibit **B-2**
 Birney Approved Tenant Improvement Costs

Draft 05-25-11

Description	Phase I	Phase II	Phase III through 05-03-11
general requirements	23,391	226,287	
demolition	16,750		
masonry	15,000	189,430	
millwork	3,500	340,324	
roofing	10,000	31,300	
doors and windows		65,150	
finishes	95,662	414,515	
specialties	12,250	149,465	
mechanical and plumbing	83,754	470,850	
electrical	44,000	783,020	16,000
general conditions	65,750	102,000	
design	45,000	257,933	170,250
contingency	7,908	80,955	
insurance	4,840	38,587	
warranty			
fee	8,419	82,979	
movers			
permits, licenses, bonding	360	18,452	547
project management	8,374	39,200	500
elevator		97,500	
security system			
abatement			
security	15300	11,800	
fire alarm			
rekey building		46,727	
it upgrades			
Totals	460,258	- 3,446,474	- 187,296
	5/3/2011	4,094,028	

ADDENDUM I

BARRY FARM RECREATION CENTER AND PARKING RIGHTS

1. The parties acknowledge that as part of a citywide effort to renovate and construct recreation centers and public parks, the District of Columbia, by and through the Office of the Deputy Mayor for Planning and Economic Development in conjunction with the Department of Parks and Recreation, is renovating and redeveloping the Barry Farm Recreation Center which may include but is not limited to a new indoor gymnasium, pool, multi-purpose field, playground and community room. The parties agree to use reasonable efforts in all instances and cooperate with each other with respect to such proposed redevelopment including planning, design, schedule, manner and method of construction, site plan changes and executing such further instruments or assurances as may be reasonably necessary in connection with the proposed redevelopment.

2. Landlord shall have the right at anytime upon reasonable notice to Tenant to recapture all or a portion of the current parking area of the Premises as shown in the Site Plan attached as Exhibit "A-1" hereto; provided, Landlord, at Landlord's sole cost and expense, has constructed or will construct a new parking area containing at least the number of parking spaces which Landlord is recapturing from the current parking area at the Leased Premises and which shall be for Tenant's exclusive use during school hours and use during other times on a non-exclusive basis. The location of such relocated parking, the timing of the recapture of the existing parking and construction of the new parking area shall be agreed to in advance by both parties. Both parties agree to act reasonably, in good faith and cooperate with each other with respect to the location, design, manner, method and schedule of construction, gating, fencing or other security needs, hours of operation, and any other items as may be necessary or required in connection with such parking recapture and relocation. Upon such recapture, the Lease shall be amended to reflect the adjusted square feet of the Leased Premises (decreasing the Leased Premises to reflect the recaptured parking area and increasing the Leased Premises to reflect the new parking area) and the Annual Base Rent shall be adjusted accordingly to reflect the revised square footage of the Leased Premises at the rate of \$8.13 per square foot (Annual Minimum Rent divided by the number of square feet of the land comprising the Leased Premises).

ADDENDUM II

LEASEHOLD MORTGAGE PROVISIONS

A. Approved Mortgagee.

1. The term “**Approved Mortgagee**” shall mean only the holder of a Leasehold Mortgage (as defined in Section A.2 of this Addendum II) pursuant to Permitted Financing (as defined in Section A.2 of this Addendum II) who has notified Landlord pursuant to Section C below, and which holder shall be an Institutional Lender. Notwithstanding anything to the contrary in this Lease, Tenant may mortgage its leasehold estate under this Lease under a Leasehold Mortgage with an Approved Mortgagee at any time and from time to time, upon notice to and written approval from Landlord, which approval shall not be unreasonably withheld, conditioned or delayed; *provided, however*, that if Landlord fails to approve or disapprove an Institutional Lender to be an Approved Mortgagee within thirty (30) calendar days from Tenant’s request for such approval, such Institutional Lender shall be deemed approved by Landlord and shall be an Approved Mortgagee hereunder. Notwithstanding the foregoing or anything to the contrary contained elsewhere in this Lease, Landlord hereby approves Bank of America, as trustee, America's Charter School Finance Corporation, Building Hope . . . a Charter School Facilities Fund and The District of Columbia acting by and through the Office of Public Charter School Financing and Support as an Approved Mortgagee. In addition, any Leasehold Mortgage or similar instrument that evidences an Approved Mortgagee’s security interest in the leasehold estate shall provide for the following and shall have agreed in writing with the Landlord in recordable form that:

- a. prior to initiating any foreclosure proceedings under any Leasehold Mortgage, the Approved Mortgagee shall first offer to Landlord in writing, the option (with no obligation upon Landlord to exercise same) for Landlord to fully satisfy Tenant’s obligations under the Leasehold Mortgage, at par, to be exercised within sixty (60) calendar days of delivery of written notice to Landlord of Approved Mortgagee’s intent to initiate foreclosure proceedings, which notice shall include the amount of Tenant’s outstanding obligations to such Approved Mortgagee;
- b. assuming Landlord has not exercised the option described in Section A.1.a of this Addendum II, prior to acquiring the leasehold estate of Tenant in connection with foreclosure proceedings, or any conveyance in lieu of foreclosure, and prior to any further conveyance of the leasehold estate subsequent to any such foreclosure or conveyance in lieu of foreclosure, Approved Mortgagee (or any successor or acquirer of the leasehold estate) shall offer the leasehold estate for sale to Landlord in writing on the same terms and conditions being offered by or to any third party, whereupon Landlord will have a thirty (30) day period to determine whether to exercise its option to purchase the leasehold estate on such terms and conditions (but shall be under no obligation to do so), failing which Approved Mortgagee (or other successor or acquirer of the leasehold estate at foreclosure) may, subject to Section B.3 of this Addendum II, so convey the leasehold estate to such third party on such particular terms and conditions;
- c. that upon any default under the Leasehold Mortgage which remains uncured after the expiration of any applicable notice and cure period, such Approved Mortgagee will apply or cause to be applied any rents or other monies received from any subtenant at the Leased Premises or assignee or licensee of Tenant in excess of the monthly amount due and payable by Tenant (excluding the portion remitted to Landlord pursuant to Article XV) under such Leasehold Mortgage to the Rent due under this Lease from and after the expiration of the applicable notice and cure period; and
- d. it acknowledges the terms of this Lease.

2. The term “**Leasehold Mortgage**” as used in this Lease shall mean a mortgage, deed of trust or other security instrument from an Approved Mortgagee by which Tenant’s leasehold interest in the Leased Premises and the Improvements are mortgaged, conveyed, assigned or otherwise transferred to an Approved Mortgagee, to secure a debt or other obligation which (i) in the case of construction financing, is security only for indebtedness of Tenant incurred by Tenant with respect only to the development, construction and operation of the Leased Premises or (ii) secures a loan for the operation, repair and maintenance of the Leased Premises and the Improvements providing by its terms to be paid in full no later than the expiration of the Term of this Lease. Tenant’s leasehold interest in the Leased Premises shall not be used as collateral for any other mortgage, deed of trust or security instrument to secure a debt or obligation of Tenant for any other property other than to secure a debt or obligation of Tenant for the Leased Premises. The holder of a Leasehold Mortgage shall be a “**Leasehold Mortgagee.**” The term “**Permitted Financing**” as used in this Lease shall mean any financing obtained by Tenant from an Approved Mortgagee pursuant to Section A of this Addendum II with respect to the Leased Premises and the Improvements, pursuant to which financing the Approved Mortgagee holds a security interest constituting a lien against Tenant's leasehold estate hereunder.

3. Tenant shall submit to Landlord for Landlord’s prior written approval any and all mortgage documents creating a security interest in the Leased Premises which may be submitted by a prospective Leasehold Mortgagee, which approval shall not be unreasonably withheld, delayed or conditioned. Landlord will not subordinate its interests in the Leased Premises to any Leasehold Mortgagee in any circumstances; provided however, that nothing in this Section A.3 of this Addendum II shall be interpreted to give any mortgage or other security instrument entered into by the Landlord priority over any Approved Mortgagee’s secured interest in the Tenant’s leasehold estate.

B. Leasehold Mortgage Authorized.

1. Subject to the foregoing and the other provisions of this Addendum II, Tenant may mortgage, pledge, hypothecate or encumber (collectively “**Mortgage**”) this Lease and enter into a Leasehold Mortgage upon a sale and assignment of the leasehold estate permitted by this Lease or may mortgage or otherwise encumber Tenant’s leasehold estate for the benefit of an Approved Mortgagee, under one or more Leasehold Mortgages and assign this Lease as security for such Leasehold Mortgage or Leasehold Mortgages.

2. Any such Leasehold Mortgage shall be expressly subordinate to Landlord’s interest in this Lease and the Leased Premises, and that anyone claiming by or through Tenant shall be so subordinate and shall have no recourse against Landlord. Because Tenant will hold no interest in the fee, Tenant shall not have the right to encumber the fee interest of Landlord in the Leased Premises or the reversion of Landlord or rentals due Landlord, and as such Approved Mortgagee shall not acquire any greater interest in the Leased Premises than Tenant has under this Lease.

3. The transfer or assignment of the leasehold estate of Tenant under this Lease pursuant to any foreclosure (judicial or otherwise) by any Approved Mortgagee or any deed or assignment in lieu of foreclosure or the disposition of the leasehold estate by the holder of such Leasehold Mortgage shall only be to an entity that shall operate the Leased Premises for the Permitted Uses.

C. Notice to Landlord.

1. If Tenant shall, on one or more occasions, mortgage Tenant’s leasehold estate to an Approved Mortgagee, and if the holder of such Leasehold Mortgage shall provide Landlord with notice of such Leasehold Mortgage together with a true copy of such Leasehold Mortgage, and the name and address of the Leasehold Mortgagee, Landlord and Tenant agree that, following receipt of such notice by Landlord, the provisions of this Addendum II shall apply with respect to each such Leasehold Mortgage.

2. Landlord shall promptly, upon receipt of a communication purporting to constitute the notice provided for by Section C.1 of this Addendum II, acknowledge by an instrument in recordable form receipt of such communication as constituting the notice provided for by Section C.1 of this Addendum or, in the alternative, notify the Tenant and the Approved

Mortgagee of the rejection of such communication as not conforming with the provisions of Section C.1 of this Addendum II, and specify the specific basis of such rejection; provided, however, that the failure of the Landlord to acknowledge such notice shall not be a condition to the effectiveness of such notice provided that the notice is given in accordance with the terms of this Lease.

3. After Landlord has received the notice provided for by Section C.1 of this Addendum II, the Tenant, upon being requested to do so by Landlord, shall, with reasonable promptness, provide Landlord with copies of the note or other obligation secured by such Approved Mortgagee and of any other documents pertinent to the Leasehold Mortgage as specified by the Landlord not previously provided. If requested to do so by Landlord, the Tenant shall, thereafter, also provide the Landlord, from time to time, with a copy of each amendment or other modification or supplement to such instruments. From time to time, upon being requested to do so by Landlord, Tenant shall also notify Landlord of the date and place of recording and other pertinent recording data with respect to such instruments as have been recorded.

4. In the event of any assignment of a Leasehold Mortgage by an Approved Mortgagee, or in the event of a change of address of an Approved Mortgagee, or of an assignee of such Leasehold Mortgage, notice of the new name and address shall be promptly provided to Landlord pursuant to this Lease.

D. Consent of Approved Mortgagee.

1. No termination, amendment, modification, cancellation or other surrender of this Lease shall be effective as to any Approved Mortgagee unless consented to in writing by such Approved Mortgagee. The foregoing shall not prevent the termination of the Lease in accordance with its terms; provided, however, that termination shall be subject to the rights of any Approved Mortgagee under this Addendum II.

E. Approved Mortgagee's Opportunity to Cure.

1. Landlord, upon providing Tenant any notice under this Lease of: (a) default under this Lease, or (b) an intended termination of this Lease, or (c) a matter on which Landlord may predicate or claim a default, shall, at the same time, provide a copy of such notice to every Approved Mortgagee. From and after the date on which such notice has been given to an Approved Mortgagee, such Approved Mortgagee shall have the same period, after the giving of such notice upon it, for remedying any default or acts or omissions which are the subject matter of such notice or causing the same to be remedied, as is given Tenant after the giving of such notice to Tenant, plus in each instance, the additional periods of time specified in Sections F and G of this Addendum II to remedy, commence remedying or cause to be remedied the defaults or acts or omissions which are the subject matter of such notice at the instigation of such Approved Mortgagee as if the same had been done by Tenant. Landlord and Tenant do hereby authorize entry upon the Leased Premises by the Approved Mortgagee for such purpose.

F. Termination Notice to Approved Mortgagee.

1. Anything contained in this Lease to the contrary notwithstanding, if any Event of Default shall occur which entitles Landlord to terminate this Lease, Landlord shall not effectuate the termination of the Lease unless, following the expiration of Tenant's cure period for such Event of Default, Landlord has delivered a copy of the Notice to Terminate to any Approved Mortgagee at least thirty (30) calendar days in advance of the proposed effective date of such termination. The provisions of Section G.1 of this Addendum II shall apply if, during such 30-day termination notice period, any Approved Mortgagee shall:

- a. Notify Landlord of such Approved Mortgagee's desire to cure the Tenant's defect; and
- b. Pay or cause to be paid all Rent, insurance premiums and other monetary obligations of Tenant then due in arrears as set forth in the Notice to Terminate to such Approved Mortgagee and/or which may become due during such 30 day period; and

- c. Comply or in good faith and with reasonable diligence and continuity, commence to comply with all nonmonetary requirements of this Lease then in default and which are reasonably susceptible of being complied with by such Approved Mortgagee; provided, however, that such Approved Mortgagee shall not be required at anytime to cure or commence to cure any default consisting of Tenant's failure to satisfy and discharge any lien, charge or encumbrance against the Tenant's interest in this Lease or the Leased Premises junior in priority to the lien of the mortgage held by such Leasehold Mortgage.

2. Any notice to be given by Landlord to an Approved Mortgagee pursuant to any provision of this Addendum II shall be deemed properly addressed if sent to the Approved Mortgagee who served the notice referred to in Section C.1 of this Addendum II unless notice of a change of Leasehold Mortgagee has been given to Landlord pursuant to Section C.4 of this Addendum II.

G. Procedure on Default.

1. If Landlord shall elect to terminate this Lease by reason of an Event of Default, the termination date for the Lease in the Notice to Terminate with respect to an Approved Mortgagee shall be extended for ten (10) calendar days from and after the proposed effective date of such termination set forth in Section F.1 of this Addendum II with respect to any default that is capable of being cured with the payment of money, and for twelve (12) months from and after the proposed effective date of such termination set forth in Section F.1 of this Addendum II for all other defaults, provided that such Approved Mortgagee shall, during such ten (10) day or, twelve (12) month period, as applicable:

- a. pay or cause to be paid, the Rent, insurance premiums and other monetary obligations of Tenant under this Lease as the same become due, and continue its good faith efforts to perform all of Tenant's other obligations under this Lease, excepting (A) obligations of Tenant to satisfy or otherwise discharge any lien, charge or encumbrance against Tenant's interest in this Lease or the Leased Premises junior in priority to the lien of the Leasehold Mortgage held by such Approved Mortgagee and (B) past nonmonetary obligations then in default and not reasonably susceptible of being cured by the payment of money by such Approved Mortgagee;
- b. if not enjoined or stayed, take steps to acquire or sell Tenant's interest in this Lease by foreclosure of the Leasehold Mortgage or other appropriate means and prosecute the same to completion with due diligence provided that Landlord has not previously exercised its right to satisfy the obligations under the Leasehold Mortgage or purchase the leasehold estate prior to such foreclosure proceedings, as set forth in Section A.1 of this Addendum II. Notwithstanding the foregoing, an Approved Mortgagee shall not be required to comply with the terms of this paragraph (b) if the Event(s) of Default are solely monetary and the Approved Mortgagee has cured such monetary default; and
- c. comply or in good faith, with reasonable diligence and continuity, commence to comply and thereafter continue to comply with all nonmonetary requirements of this Lease then in default, and reasonably susceptible of being complied with by such Approved Mortgagee.

2. If at the end of such ten (10) day or twelve (12) month period, as applicable set forth in Section G.1 of this Addendum II the Approved Mortgagee is not in compliance with Section G.1 of this Addendum II, the Landlord may terminate this Lease.

3. If the Approved Mortgagee is in compliance with Section G.1 of this Addendum II, and Approved Mortgagee is enjoined or stayed by a court of competent

jurisdiction from foreclosing or exercising any remedies under the Leasehold Mortgage, this Lease shall not then terminate and the time for completion of such Approved Mortgagee of its proceedings shall continue so long as such Approved Mortgagee is enjoined or stayed by a court of competent jurisdiction, and shall not terminate thereafter provided that within the twelve (12) month period commencing on the day the stay is lifted, Approved Mortgagee either reinstates the Tenant under the Leasehold Mortgage, executes a workout agreement with the Tenant, or proceeds to take steps to acquire or sell Tenant's interest in this Lease by foreclosure of the Leasehold Mortgage or by other appropriate means with reasonable diligence and continuity. Nothing in this Section G of Addendum II, however, shall be construed to extend this Lease beyond the Term thereof, or to require an Approved Mortgagee to continue such foreclosure or such other proceedings after the Event of Default has been cured. If all defaults or Events of Default shall be cured during any such extended period set forth in this Section G of Addendum II and the Approved Mortgagee shall discontinue such foreclosure proceedings or other proceedings, this Lease shall continue in full force and effect as if Tenant had not defaulted under this Lease.

4. If an Approved Mortgagee is in compliance with Section G.1 of Addendum II, upon the acquisition of the leasehold estate herein by such Approved Mortgagee or its designee, or any other purchaser at a foreclosure sale, or otherwise and upon the discharge of any lien, charge or encumbrance against the Tenant's interest in this Lease or the Leased Premises which is junior in priority to the lien of the Leasehold Mortgage held by such Approved Mortgagee, if so required by Law, this Lease shall continue in full force and effect as if Tenant had not defaulted under this Lease, provided however, that as a condition precedent to such continuation of this Lease, (a) such Approved Mortgagee or its designee, or any other purchaser or assignee at a foreclosure sale or deed in lieu of foreclosure shall cure any existing Event of Default in accordance with the provisions of Section G.1 of Addendum II upon the acquisition of the leasehold estate and use the Leased Premises only for Permitted Uses; and (b) to the extent that upon any acquisition of the leasehold estate at a foreclosure sale, or conveyance in lieu thereof, there are excess proceeds between the purchase price of the leasehold estate and the outstanding balance of the Leasehold Mortgage and outstanding obligations that must be satisfied and have priority under Laws, to the extent permitted by Laws, the excess proceeds in an amount up to six months of the then current Rent for the applicable Lease Year shall be deposited with the Landlord for five (5) years from the date of the deposit. In the event that Law requires that the security deposit be deposited with a court of competent jurisdiction and such security deposit is so deposited by the Approved Mortgagee or Person conducting the foreclosure sale, or conveyance in lieu thereof, then Landlord shall apply to the court for disbursement. Such funds shall be held and distributed as follows: (i) to the extent Landlord shall suffer any costs or damages during the balance of the Term, then upon application by Landlord, such funds shall be disbursed to Landlord to defray such costs or damages related to any act or omission of the then current Tenant, tenant in possession at the time of the foreclosure sale, or conveyance in lieu thereof, or the Approved Mortgagee or (ii) beginning on the first annual anniversary of the date of the deposit through the fifth annual anniversary of the date of the deposit, if no such costs or damages have been incurred, the tenant in possession at the time of foreclosure, or conveyance in lieu thereof shall be entitled to a release of the deposit in an amount equal to twenty (20%) of the then remaining total deposit. The tenant in possession at the time of foreclosure, or conveyance in lieu thereof shall request such amounts within thirty (30) calendar days of the annual anniversary of the date of the deposit. At the expiration of the fifth year following the date of the deposit, the total amount of the outstanding deposit held by Landlord shall be released to the tenant in possession at the time of the foreclosure sale, or conveyance in lieu thereof.

5. For the purposes of this Addendum II, any Approved Mortgagee, as such, shall not be deemed to be an assignee or transferee of this Lease or of the leasehold estate hereby created so as to require such Approved Mortgagee, as such, to assume the performance of any of the terms, covenants or conditions on the part of the Tenant to be performed hereunder. However, in the event of any sale of this Lease, and of the leasehold estate hereby created in any proceedings for the foreclosure of any Leasehold Mortgage, or any assignment or transfer of this Lease and of the leasehold estate hereby created under any instrument of assignment or transfer in lieu of the foreclosure of any

Leasehold Mortgage, any assignee or transferee under this Addendum II, shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of the Tenant to be performed hereunder from and after the date of such purchase and assignment, but only for so long as such purchaser or assignee is the Tenant of the leasehold estate.

6. Any Leasehold Mortgagee or other entity in possession of Tenant's interest under the Leasehold Mortgage pursuant to foreclosure, assignment in lieu of foreclosure or other proceedings may, without the consent of Landlord, sell, transfer or assign its Leasehold Mortgage to an Institutional Lender on such terms and conditions as determined in its sole and absolute discretion.

H. **No Merger.**

1. So long as any Leasehold Mortgage is in existence, unless all Approved Mortgagees shall otherwise expressly consent in writing, the fee title to the Leased Premises and the leasehold estate of Tenant therein created by this Lease shall not merge, but shall remain separate and distinct, notwithstanding the acquisition of said fee title and said leasehold estate by Landlord or by Tenant, or by a third party, by purchase or otherwise.

I. **Requests for Lease Modification.**

1. In connection with Tenant obtaining or renewing a Leasehold Mortgage, if the Leasehold Mortgagee shall request modifications of this Lease as a condition of such Leasehold Mortgage (or any amendment, extension or modification thereof), Landlord shall agree to review and consider such modifications. Notwithstanding the foregoing, Landlord's approval of any such documents shall be at Landlord's sole and absolute discretion.

J. **Institutional Lender.**

1. **"Institutional Lender"** means a lender or equity investor in real estate that is not a Prohibited Person but is: (i) a commercial bank, investment bank, investment company, savings and loan association, trust company or national banking association, acting for its own account, (ii) a finance company principally engaged in the origination of commercial mortgage loans or any financing-related subsidiary of a Fortune 500 company, (iii) an insurance company, acting for its own account or for special accounts maintained by it or as agent or manager or advisor for other entities covered by any of clauses (i)-(xi) hereof, (iv) a public employees' pension or retirement system, (v) a pension, retirement, or profit sharing, or commingled trust or fund for which any bank, trust company, national banking association or investment adviser registered under the Investment Advisors Act of 1940, as amended, is acting as trustee or agent, (vi) a real estate investment trust (or umbrella partnership or other entity of which a real estate investment trust is the majority owner), real estate mortgage investment conduit or securitization trust or similar investment entity, (vii) any federal, state, or District agency regularly making, purchasing or guaranteeing mortgage loans, or any governmental agency supervising the investment of public funds, (viii) a profit-sharing or commingled trust or fund, the majority of equity investors in which are pension funds having in the aggregate no less than \$1,000,000,000.00 in assets; (ix) any entity of any kind actively engaged in commercial real estate financing (including without limitation, affordable housing financing) and having total assets (on the date when its interest in the Leased Premises or Redevelopment Project Improvements, or any portion thereof, is obtained) of at least \$30,000,000.00, (x) a corporation, other entity or joint venture that is a wholly owned subsidiary or combination of any one or more of the foregoing entities (including, without limitation, any of the foregoing entities described in clauses (i)-(ix) when acting as trustee or manager for other lender(s) or investor(s), whether or not such other lender(s) or investor(s) are themselves Institutional Lenders) or (xi) such other lender or equity investor which at the time of making the investment is of a type which may customarily be utilized as an investor or lender on projects like the portion of the Leased Premises or Improvements upon which such financing is placed.

2. **“Prohibited Person”** means any of the following Persons: (a) Any Person (or any Person whose operations are directed or controlled by a Person) who has been convicted of or has pleaded guilty in a criminal proceeding for a felony or who is an on-going target of a grand jury investigation convened pursuant to Laws concerning organized crime; or (b) Any Person organized in or controlled from a country, the effects of the activities with respect to which are regulated or controlled pursuant to the following United States laws and the regulations or executive orders promulgated thereunder: (i) the Trading with the Enemy Act of 1917, 50 U.S.C. App. §1, *et seq.*, as amended (which countries are, as of the date hereof, North Korea and Cuba); (ii) the International Emergency Economic Powers Act of 1976, 50 U.S.C. §1701, *et seq.*, as amended; and (iii) the Anti-Terrorism and Arms Export Amendments Act of 1989, codified at Section 6(j) of the Export Administration Act of 1979, 50 U.S.C. App. § 2405(j), as amended (which countries are, as of the date hereof, Iran, Sudan and Syria); or (C) Any Person who has engaged in any dealings or transactions (i) in contravention of the applicable money laundering laws or regulations or conventions or (ii) in contravention of Executive Order No. 13224 dated September 24, 2001 issued by the President of the United States (Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), as may be amended or supplemented from time-to-time or any published terrorist or watch list that may exist from time to time; or (D) Any Person who appears on or conducts any business or engages in any transaction with any person appearing on the list maintained by the U.S. Treasury Department’s Office of Foreign Assets Control list located at 31 C.F.R., Chapter V, Appendix A or is a person described in Section 1 of the Anti-Terrorism Order; or (E) Any Person suspended or debarred by HUD or by the District of Columbia government; or (F) Any Affiliate of any of the Persons described in paragraphs (A) through (E) above.

K. Subordination Nondisturbance and Attornment Agreements; Recognition Agreements.

1. Landlord may, if requested by Tenant, at its sole and absolute discretion enter into negotiation of a Subordination Nondisturbance and Attornment Agreement or Recognition Agreement with an Approved Mortgagee.

FIRST AMENDMENT TO LEASE AGREEMENT

THIS FIRST AMENDMENT TO LEASE AGREEMENT (this "**Amendment**"), dated this 1st day of ~~July~~ ^{Sept}, 2011, is executed by and between the **DISTRICT OF COLUMBIA**, a municipal corporation ("**Landlord**"), by and through the District of Columbia Public Schools ("**DCPS**") and administered by the District of Columbia Department of Real Estate Services and **CHARTER SCHOOL INCUBATOR INITIATIVE**, a District of Columbia non-profit corporation ("**Tenant**").

RECITALS

A. Tenant is currently a lessee of the real property located at 2501 Martin Luther King, Jr., Avenue, S.E., in Washington, D.C. (the "**Leased Premises**"), pursuant to the terms of that certain Lease Agreement dated Sept. 1st, 2011, by and between the Landlord and the Tenant (the "**Lease**").

B. Tenant has obtained financing from Bank of America, N.A., a national banking association (the "**Lender**"), for the development of the Leased Premises. As a condition of its financing, the Lender is requiring certain amendments to the Lease.

C. Accordingly, the parties hereto have executed this Amendment in order to evidence their understandings with respect thereto.

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby covenant and agree as follows:

1. Incorporation of Recitals. The parties hereto acknowledge and agree that the recitals hereinabove set forth are true and correct in all respects and that the same are incorporated herein and made a part hereof.

2. Representations. The parties hereto hereby represent and warrant to each other the following facts with respect to the Lease and the Premises:

(a) The Lease is in full force and effect and constitutes the entire rental agreement between Landlord and Tenant for the Leased Premises;

(b) The Lease has not been modified or amended prior to the date hereof;

(c) Tenant is in full and complete possession of the Leased Premises;

(d) To Tenant's knowledge, there are no existing defaults on the part of either Landlord or Tenant under the Lease; and

(e) Tenant does not currently have or hold any claim against Landlord, including without limitation, any claim that might be offset or credited against future accruing rents.

3. The definition of “**Excused Periods**” set forth in Section 1.02(F) of the Lease is hereby deleted in its entirety and the following is substituted in its place:

“F. **Excused Periods:** Periods during which the failure of Tenant to conduct the operations of its business in the Leased Premises for the Permitted Use: (i) resulted from alterations or renovations being diligently performed in and to the Leased Premises in accordance with the terms of this Lease or (ii) was caused by damage or destruction, eminent domain proceedings or actions, or Force Majeure or (iii) was caused by snow or other weather conditions or other emergencies, or (iv) provided that the School is open at least 180 days per calendar year, days on which the School is closed pursuant to its published calendar.”

4. Section 16.01(A) of the Lease is hereby deleted in its entirety and the following is substituted in its place:

“A. Each of the following events shall constitute a default (“**Default**”) by Tenant under this Lease:

(i) Failure by Tenant to pay any installment of Rent or to pay or cause to be paid Taxes, insurance premiums or other sums of money stipulated in this Lease to be paid by Tenant if such failure shall continue for a period of thirty (30) calendar days after written notice thereof has been timely delivered by Landlord to Tenant. Notwithstanding the foregoing, Landlord hereby agrees to extend the thirty (30) calendar day cure period to a period not to exceed sixty (60) calendar days if Tenant’s failure to pay is due to the non-receipt by a Charter School subleasing the Leased Premises of its Facility Allowance, provided that Tenant has notified Landlord of such reason within the thirty (30) day cure period provided above. The Term “**Facility Allowance**” means the amount of funding per pupil a Charter School may receive from the District of Columbia pursuant to D.C. Official Code §38-2908, as amended.

(ii) Failure by Tenant to perform or observe any of the non-monetary terms, covenants, conditions, agreements and provisions of this Lease to be observed and performed by Tenant if such failure shall continue for a period of thirty (30) calendar days after notice thereof by Landlord to Tenant; provided, however, that if any such failure cannot reasonably be cured within such thirty (30) day period, then Landlord shall not have the right to terminate this Lease or Tenant’s right to possession of the Leased Premises pursuant to this Section 16.01 for so long as Tenant commences and in good faith and with due diligence pursues to remedy and correct such failure within such thirty (30) day period and completes such cure within ninety (90) calendar days from receipt of notice.

(iii) Tenant vacates, abandons or ceases to continuously operate the Leased Premises as required by the terms of this Lease.

(iv) Failure of Tenant to observe or perform according to the provisions of Article XIV of this Lease, and such failure is not cured within ten (10) Business Days after Tenant's receipt of notice thereof.

(v) Failure of Tenant or any party by, through or under Tenant to use the Leased Premises for Permitted Use. Notwithstanding the forgoing, an Approved Mortgagee or a subsidiary or designee thereof or other third party in possession who has foreclosed upon the Leasehold Mortgage pursuant to the terms of this Lease and is now in possession of the Property (a "**Mortgagee in Possession**") shall use the Leased Premises for the Permitted Use within two (2) years of the date of its possession of the Leased Premises (the "**Date of Possession**"). Within twelve (12) months of the Date of Possession, such Mortgagee in Possession shall enter into a binding written agreement with a proposed tenant capable of satisfying the Permitted Use requirement (the "**Binding Lease Date**"), and such tenant shall occupy the Leased Premises and be open and operating for the Permitted Use within twelve (12) months of the Binding Lease Date.

(vi) Failure to include in any sublease with a Charter School a provision that such school's failure to maintain its charter in good standing shall be an event of default and that the loss of its charter shall be an event of default automatically terminating such school's sublease without further notice by or to the sublessee, Tenant, or Landlord and that the Landlord shall have the right to enforce such default as if Landlord were the sublandlord named in the sublease. "Good Standing" shall not include any revocation or adverse modification of a charter to operate as a charter school in the District of Columbia.

(vii) If, under the Terrorist Acts or Anti-Terrorism Order, as may be supplemented by additional legislation, orders or regulations, it shall become a violation of law to do business with Tenant during the term of this Lease, the same shall be a Default under this Lease, and Landlord shall be entitled to exercise all rights and remedies required by the Terrorist Acts or Anti-Terrorism Order, including without limitation, the termination of this Lease.

(viii) Any material representation or warranty of Tenant made in this Lease shall fail to be correct in any material respect on the date made or deemed made.

(ix) in the event that this Lease is assigned to a Charter School, the failure of such assignee to have a valid current charter to operate a Charter School in accordance with all Laws."

5. The reference to "Bank of America, as trustee" in Section A.1 of Addendum II is hereby replaced with "Bank of America, N.A., a national banking association".

6. Section B.3 of Addendum II is hereby deleted in its entirety and the following is substituted in its place:

“3. The transfer or assignment of the leasehold estate of Tenant under this Lease pursuant to any foreclosure (judicial or otherwise) by any Approved Mortgagee or any deed or assignment in lieu of foreclosure or the disposition of the leasehold estate by the holder of such Leasehold Mortgage shall only be to an entity that shall operate the Leased Premises for the Permitted Use, but subject to the provisions of Section 16.01(A)(v).”

7. Section G.4(a) of Addendum II is hereby deleted in its entirety and the following is substituted in its place:

“(a) such Approved Mortgagee or its designee, or any other purchaser or assignee at a foreclosure sale or deed in lieu of foreclosure shall cure any existing Event of Default in accordance with the provisions of Section G.1 of Addendum II upon the acquisition of the leasehold estate and use the Leased Premises only for Permitted Use, but subject to the provisions of Section 16.01(A)(v).”

8. Continuing Agreements; Novation. Except as expressly modified hereby, the parties hereto ratify and confirm each and every provision of the Lease as if the same were set forth herein. In the event that any of the terms and conditions in the Lease conflict in any way with the terms and provisions hereof, the terms and provisions hereof shall prevail. The parties hereto covenant and agree that the execution of this Amendment is not intended to and shall not cause or result in a novation with regard to the Lease. Terms that are defined in the Lease shall have the same meanings when such terms are used in this Agreement.

9. Entire Agreement. NO STATEMENTS, AGREEMENTS OR REPRESENTATIONS, ORAL OR WRITTEN, WHICH MAY HAVE BEEN MADE TO TENANT OR TO ANY EMPLOYEE OR AGENT OF TENANT, EITHER BY LANDLORD OR BY ANY EMPLOYEE, AGENT OR BROKER ACTING ON LANDLORD'S BEHALF, WITH RESPECT TO THE MODIFICATION OF THE LEASE, SHALL BE OF ANY FORCE OR EFFECT, EXCEPT TO THE EXTENT STATED IN THIS AMENDMENT, AND ALL PRIOR AGREEMENTS AND REPRESENTATIONS WITH RESPECT TO THE MODIFICATION OF THE LEASE ARE MERGED HEREIN.

10. Captions. The captions herein set forth are for convenience only and shall not be deemed to define, limit or describe the scope or intent of this Amendment.

11. Governing Law. The provisions of this Amendment shall be construed, interpreted and enforced in accordance with the laws of the District of Columbia as the same may be in effect from time to time.

12. Counterparts. This Amendment may be executed in any number of counterparts, and each such counterpart shall be deemed to be an original. It shall not be necessary that the

signature of, or on behalf of, each party, or that the signatures of the persons required to bind any party, appear on more than one counterpart.

13. Anti-Deficiency. The obligations of the District of Columbia to fulfill financial obligations pursuant to the Lease, this Amendment or any subsequent agreement entered into pursuant to the Lease or referenced herein (to which the District is a party), are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349–1351, 1511–1519 (2004) (the “**Federal ADA**”), and D.C. Official Code §§ 1–206.03(e) and 47–105 (2001); (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47–355.01 to .08 (2004 Supp.) (the “**D.C. ADA**”) and (i) and (ii) collectively, as amended from time to time, the “**Anti-Deficiency Acts**”); and (iii) Section 446 of the District of Columbia Home Rule Act, D.C. Official Code § 1–204.46 (2001).


(SIGNATURES COMMENCE ON THE FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties hereto have executed this Amendment under seal as of the date first above written.

WITNESS OR ATTEST:

LANDLORD:

DISTRICT OF COLUMBIA
By and through the
DISTRICT OF COLUMBIA PUBLIC SCHOOLS


By: 
Name: Kayla Henderson
Title: Chancellor, DCPS

WITNESS OR ATTEST:

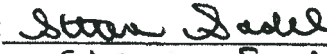
TENANT:

**CHARTER SCHOOL INCUBATOR
INITIATIVE**

Tom Porter

By: 
S. Joseph Bruno
President

Approved For Legal Sufficiency:

By: 
Name: Steven Sadel
Title: Assistant Attorney General

SECOND AMENDMENT TO LEASE

THIS SECOND AMENDMENT TO GROUND LEASE (“**Second Amendment**”) is made this 21st day of February, 2014, but effective as of the 23rd day of December, 2013 (the “**Effective Date**”), by and between the District of Columbia (“**Landlord**”), a municipal corporation, by and through its Department of General Services, and Charter School Incubator Initiative, a District of Columbia non-profit corporation (“**Tenant**”). Landlord and Tenant are each referred to hereinafter as a “**Party**” and collectively referred to as the “**Parties**”.

WITNESSETH:

WHEREAS, Landlord and Tenant entered into a Ground Lease Agreement dated September 1, 2011 (“**Original Lease**”), as amended by the First Amendment to Lease Agreement dated September 1, 2011 (“**First Amendment**”)(collectively, the “**Lease**”);

WHEREAS, pursuant to the Lease, Tenant leased the entire property located at 2501 Martin Luther King, Jr. Avenue, SE, Washington, DC (the “**Building**”), also known as the Birney Elementary School;

WHEREAS, in accordance with Addendum I to the Original Lease, Landlord desires to temporarily use a portion of the Building as offices and program space for the Department of Parks and Recreation (“**DPR**”) during the renovation and construction of the Barry Farm Recreation Center (the “**Renovation**”), and Tenant hereby consents to such use; and

WHEREAS, Landlord and Tenant also desire to amend the Lease to (1) temporarily adjust the area of the Leased Premises, to permit Landlord to have exclusive use of (a) two classrooms on the Leased Premises (b) the kitchen area that connects the two classrooms and (c) certain bathrooms, lobby, corridor and access door, all located on the ground floor of the Building (all as identified on Exhibit A, the DPR Premises being crosshatched); and nonexclusive ingress and egress to the DPR Premises through the exterior door as designated by Tenant (“**Main Entrance**”); and (2) change the name and address for payments and notices to Landlord.

IT IS HEREBY AGREED, in consideration of the promises and the mutual covenants contained herein and under this Amendment, the parties agree as follows:

1. Incorporation of Recitals. The foregoing recitals are true and correct and are incorporated herein by reference.

2. Definitions. Any capitalized terms used, but not defined, in this Second Amendment shall have the meanings ascribed in the Lease.

3. Leased Premises. The Renovation shall commence on December 23, 2013 and continue for a period of 12 months (the “**Renovation Period**”). During the Renovation Period, the Leased Premises shall be adjusted to reduce the area demised under the Leased Premises to reflect the Landlord’s temporary use of certain space located on the ground floor of the Building and identified on Exhibit A that includes two classrooms (identified as Classrooms 19 and 21), the kitchen area connecting the two classrooms, the male and female bathrooms, and

the exterior door, lobby, and corridor to access said space, which consists of approximately 2,500 square feet (“**DPR Premises**”), for DPR’s temporary needs (the “**Permitted Uses**”) on the terms and conditions to provide that, during the Renovation Period :

- a. Landlord shall be entitled to use the DPR Premises beginning on December 23, 2013 (“**Second Amendment Effective Date**”), and continuing for a period of up to 12 months. Upon the expiration (or, in the event that Landlord completes the Renovations prior to the first anniversary of the Second Amendment Effective Date, the earlier termination) or termination of Landlord’s rights to use the DPR Premises, Landlord shall immediately vacate and remove all of its personal property from the Premises. Notwithstanding the foregoing or anything to the contrary in this Second Amendment, Landlord, in its sole and absolute discretion, may terminate use of DPR Premises by DPR at any time upon 10 days’ (or such shorter period under the circumstances) prior written notice to Tenant.
- b. Landlord will be solely responsible for the following, subject to the Anti-Deficiency Acts (as defined herein):
 - i. the DPR Premises to be free of trash, garbage, refuse and debris in the DPR Premises;
 - ii. Janitorial services to keep the DPR Premises in a clean and sanitary condition;
 - iii. a doorbell to be installed at the entrance of the DPR Premises;
 - iv. card readers to be installed at the stairway and all entrances and exits separating Tenant’s property from the DPR Premises; and
 - v. a separate alarm zone to be created solely for the DPR Premises.
- c. Landlord shall be responsible for its’ pro rata share of the reasonable costs actually incurred to maintain and operate the Building, including utilities but excluding any taxes whatsoever. As used in this Second Amendment, the term “pro rata share” shall mean 3.2%, which is calculated as the percentage which the total square feet of the DPR Premises bears to the total square feet of space in the Building, i.e., 77,798 square feet. Tenant will bill Landlord in arrears on a quarterly basis of the actual cost of utilities (water, gas and electric).
- d. The Landlord may, in its sole and absolute discretion, elect to satisfy all or any part of its rental financial obligations (not including operating costs) under this Second Amendment by a dollar-for-dollar reduction in the amount of Rent then due from and payable by Tenant under the Lease.
- e. Except to the extent arising out of Landlord’s or DPR’s negligence or willful misconduct, the Tenant shall indemnify, hold harmless, and defend Landlord and DPR and their agents, employees, officers and directors against any and all claims, suits, liabilities, damages and judgments, including, without limitation, reasonable attorney’s fees and litigation costs, arising out of, resulting from, or relating to (i) the acts or omissions of the Tenant or

Tenant's Agents, or both, in or upon the Building during the term of this Second Amendment and/or the Landlord's or DPR's occupancy of the DPR Premises, or (ii) any breach of this Second Amendment by the Tenant.

4. DPR Contact. Landlord hereby designates Bridget Stesny as the contact person for DPR regarding any issues that may arise from Landlord's use of the DPR Premises.

5. Brokerage. Each Party represents and warrants to the other Party that no broker has been employed in carrying on any negotiations relating to this Second Amendment.

6. Notices to the District. For all purposes, any and all references in the Lease to the "Department of Real Estate Services" shall mean the Department of General Services. Unless notified to the contrary, any notice, consent, approval or other communication to the District pertaining to the Lease shall be in writing and addressed as follows:

Department of General Services
2000 14th Street, NW, 8th Floor
Washington, D.C. 20009
Attention: Director

and Department of General Services
2000 14th Street, N.W., 8th Floor
Washington, D.C. 20009
Attention: General Counsel

and, in the case of a default, with a copy to:

Office of the Attorney General
Attn: Commercial Division
441 4th Street, NW, Suite 1010 South
Washington, DC 20001

7. Conflict. In the event of any conflict between the terms of this Second Amendment and the terms of the Lease, the terms of this Second Amendment shall prevail.

8. Ratification. Except as specifically amended herein, the terms and conditions of the Lease shall continue in full force and effect, and the same are hereby ratified, confirmed and approved by the Parties in all respects.

9. Integration. This Second Amendment constitutes the entire agreement concerning the subject matter of this Second Amendment. No subsequent alteration, amendment change or addition to this Second Amendment or the Lease shall be binding upon Landlord and/or Tenant unless reduced to writing and signed by both Parties.

10. Counterparts. This Second Amendment may be executed in counterpart copies, each of which counterparts shall have the same force and effect as if the Parties had executed a single copy of this Second Amendment.

11. Anti-Deficiency Acts. The following limitations exist as to each and every purported obligation of Landlord set forth in this Second Amendment, whether or not expressly conditioned:


- a. The obligations of the Landlord to fulfill financial obligations pursuant to this Second Amendment or any subsequent agreement entered into pursuant to the Lease or referenced herein (to which the Landlord is a party) are, and shall remain, subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349-1351 and 1511-1519 (2004) (the “**Federal ADA**”), and D.C. Official Code §§ 1-206.03(e) and 47-105 (2001); (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 – 355.08 (2004 Supp.) (the “**D.C. ADA**” and (i) and (ii) collectively, as amended from time to time, the “**Anti-Deficiency Acts**”); and (iii) § 446 of the District of Columbia Home Rule Act, D.C. Official Code § 1-204.46 (2001). Pursuant to the Anti-Deficiency Acts, nothing in this Second Amendment shall create an obligation of the Landlord in anticipation of an appropriation by Congress for such purpose, and the Landlord’s legal liability for the payment of any amounts under this Second Amendment shall not arise or obtain in advance of the lawful availability of appropriated funds for the applicable fiscal year as approved by Congress.
- b. Notwithstanding the foregoing, no officer, employee, director, member or other natural person or agent of the Landlord shall have any personal liability in connection with the breach of the provisions of this Section or in the event of a default by the Landlord under this Second Amendment or the Lease.

[SIGNATURES APPEAR ON THE FOLLOWING TWO PAGES]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Second Amendment to the Lease as of the Effective Date.

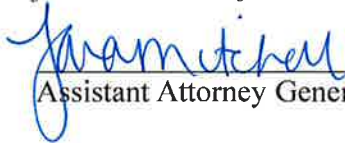
LANDLORD:

THE DISTRICT OF COLUMBIA,
A municipal corporation
By: Department of General Services

By: 

Brian J. Hanlon, its Director

*Approved as to Legal Sufficiency
For the District of Columbia by the
Office of the Attorney General
for the District of Columbia:*




Assistant Attorney General

SECOND SIGNATURE PAGE FOLLOWS

TENANT:

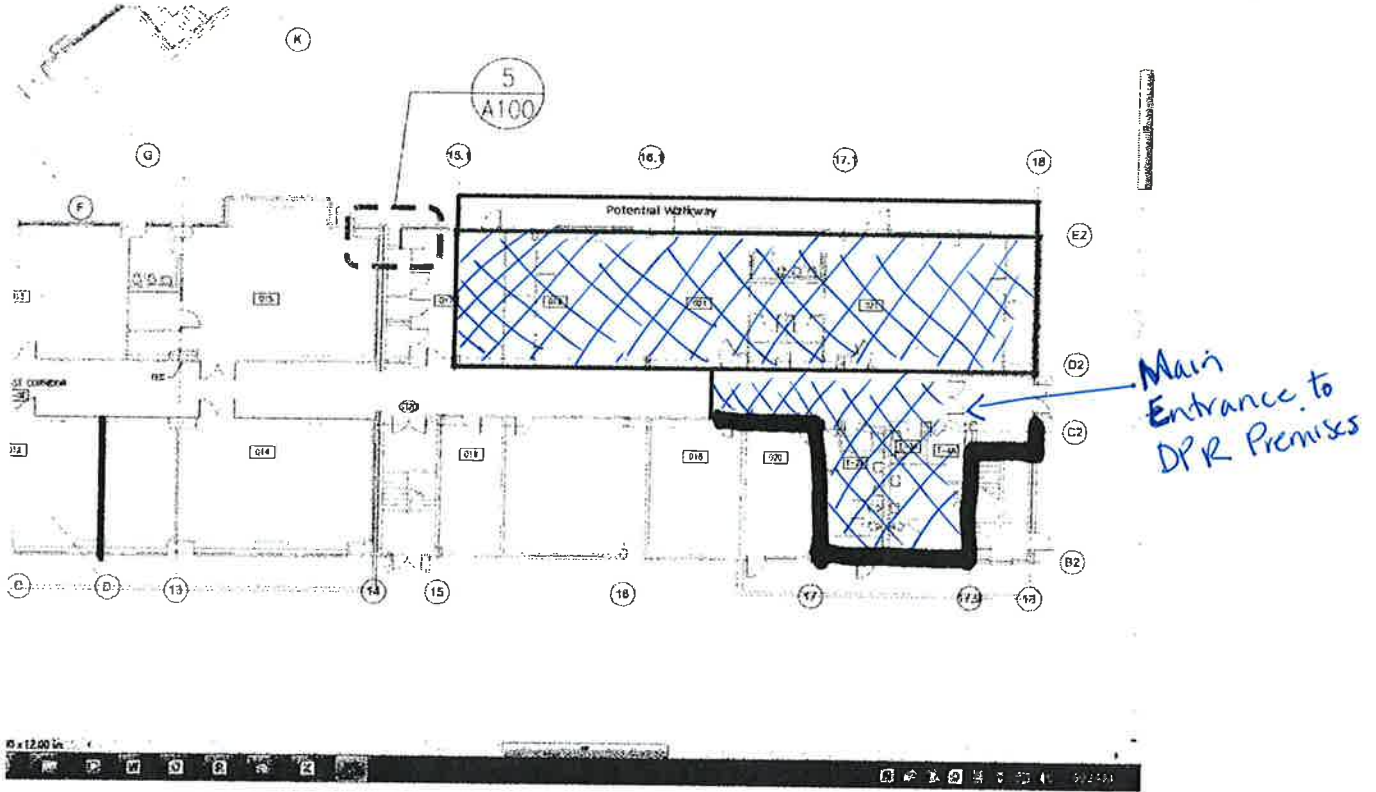
Charter School Incubator Initiative.
a District of Columbia non-profit corporation

By: 
Name: Paul R. Leleck
Title: Chief Financial Officer

[LAST SIGNATURE PAGE OF LEASE; EXHIBIT PAGES FOLLOW]

Exhibit A

DPR Premises



FIRST EXTENSION
TO
USE AGREEMENT

THIS FIRST EXTENSION TO THE USE AGREEMENT (“First Extension”), dated as of 1st day of December, 2016 and effective as of the 1st day of July, 2016, is to be attached to and from a part of that certain Lease effective September 14th, 2011 by and between the Charter School Incubator Initiative, a District of Columbia nonprofit corporation, with offices at 910 17th Street, N.W., Suite 1100, Washington, DC 20006 (the “Grantor”), and Excel Academy Public Charter School, a District of Columbia nonprofit corporation, with offices at 2501 Martin Luther King Avenue, SE, Washington, D.C. 20020 (the “Grantee”).

RECITALS:

- A. Grantor and Grantee entered into that certain Use Agreement dated as of September 14th, 2011, and both parties agree to extend the Term.
- B. Unless defined herein, capitalized terms shall have the meaning used in the Note.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

- 1. The foregoing recitals are hereby incorporated as if fully set forth herein.
- 2. Section 5A is hereby deleted and replaced with the following: “The Term of this Agreement shall commence on July 1, 2011 and shall continue until June 30, 2018.”
- 3. All of the other terms, conditions and provisions of the Use Agreement are hereby ratified, confirmed and reaffirmed; it being the intention of the Grantor and the Grantee that the Use Agreement shall remain in full force and effect, except as expressly modified hereby.

[Signatures on next page]


WITNESS the following signatures and seals:

EXCEL ACADEMY, A PUBLIC CHARTER
SCHOOL

By: Deborah Lockhart
Name: Deborah Lockhart
Title: CEO

THIS FIRST EXTENSION TO USE AGREEMENT HEREBY AGREED TO:

CHARTER SCHOOL INCUBATOR INITIATIVE

By: 

Name: Paul Leleck

Title: Chief Financial Officer