SETTLEMENT AGREEMENT AND SPECIFIC RELEASE OF ALL CLAIMS

This Settlement Agreement and Specific Release of All Claims ("Settlement Agreement") is made and entered into by and between the California Charter Schools Association ("CCSA" or "Plaintiff"), a California nonprofit public benefit corporation, on the one hand, and the Oakland Unified School District, and Governing Board of the Oakland Unified School District (collectively referred to as "District" or "OUSD"), on the other hand. CCSA and OUSD may be referred to herein collectively as the "Parties" or singularly as a "Party." The term of this Settlement Agreement shall commence on October 15, 2020 ("Effective Date") and shall end on June 30, 2025.

RECITALS

A. On November 7, 2000, California voters modified Education Code section 47614 ("Proposition 39" or "Prop. 39") to include the requirement "that public school facilities should be shared fairly among all public school pupils, including those in charter schools;"

B. A dispute arose between CCSA and OUSD concerning OUSD's compliance with Prop. 39 and its implementing regulations codified as sections 11969.1 through 11969.9 of Title 5 of the California Code of Regulations. As a result, CCSA initiated a lawsuit against OUSD by filing its Verified Petition for Writ of Mandate and Complaint for Injunctive and Declaratory Relief ("Original Complaint"), Case No. RG16806690, on or about March 8, 2016, and, subsequently filing its Verified Amended And Supplemental Petition For Writ Of Mandate And Complaint For Injunctive And Declaratory Relief ("FAC") on or about April 25, 2016. After repeated informal means of resolution were unsuccessful, CCSA continued its prosecution of the Litigation on or about October 20, 2017 by filing its Verified Second Amended and Supplemental Petition for Writ Of Mandate And Complaint For Injunctive And Declaratory Relief ("SAC", together with the Original Complaint and the FAC, the "Litigation"), alleging continued noncompliance with Prop. 39 by OUSD. The SAC contained 16 causes of action (collectively, the "Claims"):

First:	Writ of Mandate re: Preliminary Proposals' and Final Offers' Comparison Group School Analysis
Second:	Writ of Mandate re: Failure to Make findings in support of Multi-Site Preliminary Proposals
Third	Writ of Mandate re: Unlawful Prioritization Policy in Analyzing Prop. 39 Requests
Fourth:	Writ of Mandate re: Inadequate Findings in support of Multi-Site Final Offers
Fifth:	Writ of Mandate re: Failure to Consider the Health and Safety of Charter School Students when making Multi-Site Offers
Sixth:	Writ of Mandate re: Location of Offers
Seventh:	Writ of Mandate re: Allocation of Classrooms
Eighth:	Writ of Mandate re: Methodology for Allocating Classrooms
Ninth:	Writ of Mandate re: Allocation of Specialized and Non-Teaching Space

Tenth:	Writ of Mandate re: Methodology for Allocating Specialized and Non-Teaching Station Space
Eleventh:	Writ of Mandate re: Analysis Of Reasonable Equivalence
Twelfth:	Writ of Mandate re: Pro-Rata Share Costs
Thirteenth:	Writ of Mandate re: Requirement to use OUSD Custodial and Maintenance Services
Fourteenth:	Writ of Mandate re: "Take it or leave it" Preliminary Proposals
Fifteenth:	Writ of Mandate re: Joint Facilities Use Agreement with City
Sixteenth:	Declaratory Relief

C. On or about May 22, 2018, OUSD filed a Motion for Summary Judgment (or, in the alternative, Motion for Summary Adjudication) ("District's Motion"). On or about September 19, 2018, the Court issued a ruling in which the District's Motion was granted as to two causes of actions (twelfth and thirteen), CCSA withdrew two causes of action (second and fourteenth) that were no longer at issue, and Court denied the District's Motion as to the remaining twelve causes of action.

D. On or about January 11, 2019, CCSA filed a Motion for Summary Adjudication of the Eighth Cause of Action. On or about June 10, 2019, the Superior Court ruled in favor of CCSA.

E. The Parties have now reached the point where they have agreed to settle the Litigation, and all of the causes of action therein, and, accordingly, enter into this Settlement Agreement.

TERMS OF SETTLEMENT

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

1. Preliminary and Final Offers. The District shall engage in the following processes, as applicable, with respect to its Prop. 39 preliminary and final offers:

    a. Determination of Comparison Schools. The comparison schools that determine what OUSD must offer, in its preliminary and final offers, to a charter school in response to the charter school's request for facilities under Prop. 39 shall come from only one attendance area, i.e., the single high school attendance area in which the largest number of all of the students of the charter school reside. The District shall identify, and shall include as an exhibit to each preliminary and final offer, all Districts schools located within the boundary of each high school attendance area. For each grade span (TK-5, 6-8, and 9-12) in which a charter school has at least one grade level, the District shall determine separate space allocations for each grade span and shall use comparison schools from the same high school attendance area for each grade range. As an example, and not as a limitation, for a charter school that serves students in grades TK-8, the comparison schools for determining TK-5 space allocations for the charter school will be the District-operated schools serving any of the grade levels TK-5 (including, but not limited to, District-operated schools serve

grades TK-5, TK-6, TK-8, and TK-12) located within the applicable high school attendance area. Similarly, the comparison schools for determining 6-8 space allocations for the charter school will be the District-operated schools serving any of the grade levels 6-8 (including, but not limited to, District-operated schools serve grades TK-8, 6-8, 6-12, and TK-12) located within the applicable high school attendance area.) Notwithstanding the foregoing, the District shall not use a District school as a comparison school if the planned grades to be served by a charter school in the relevant Prop. 39 year and District school only overlap over by one grade. As an example, but not as a limitation, a 6-12 District school shall not be used as a comparison school for a TK-6 charter school, as the two schools only overlap by only one grade (6th grade).

b. Comparison School Condition Analysis. The District may use the Facilities Condition Index ("FCI") and Educational Adequacy Score ("EAS") to evaluate the condition of the comparison schools and the allocated school site(s) for each charter school. The District shall take steps to ensure that the information contained in the FCI and EAS accurately reflects the then-current condition of the District's school sites. If CCSA believes that the FCI and/or EAS scores are materially inaccurate for one or more District school sites, it may request a meeting with the District—provided that the number, scope, and frequency of the requests are not unreasonable—and the two parties shall make a good faith effort to meet within two (2) weeks after CCSA's request for a meeting is received by OUSD, but in no case longer than three (3) weeks, to discuss CCSA's concerns. The District will assess the site(s), update the FCI and EAS scores for any sites identified by CCSA if necessary, and provide CCSA with the documentation to support any changes made to the FCI and/or EAS scores.

   The District shall determine reasonable equivalence of the condition of the allocated school site(s) by calculating the average FCI and EAS scores for the comparison schools and comparing them to the FCI and EAS scores for the allocated school site(s), not by using the range of the scores for the comparison schools. This only requires that the score for an offer/site is reasonably equivalent to the average FCI and EAS scores for the comparison schools.

c. Facilities Inventory Attached As Exhibit A. The District will use the facilities inventory and data attached as Exhibit A, and incorporated herein, to perform the reasonable equivalence calculations required by section 11969.3 of Title 5 of the California Code of Regulations and facilities allocations required by sections 11969.2, 11969.3 and 11969.9 of Title 5 of the California Code of Regulations outlined below. The District will update Exhibit A as required and permitted by this Settlement Agreement. These updates shall be referred in this Agreement as "Updated Information." In addition, the District has used the information produced as part of its 2012 MKThink Facilities Master Plan, contained (as of the signing of this Settlement Agreement) at http://ousdmasterplan.mkthinkstrategy.info/sites.html ("2012 MKThink Data") to determine the total site square footage, total building square footage, and total outdoor square footage of each District school site included in Exhibit A. The District will update

Exhibit A as required and permitted by this Settlement Agreement on a regular basis and as necessary to incorporate any Updated Information such as any removal or addition of portable facilities, construction of new facilities, any other information that it receives regarding obsolete, modified, or incorrect information, any other changes in use not addressed in Section 1.e or 1.f, and any approved updates to the total site square footage, total building square footage, and total outdoor square footage of each District school site.

d. Information within Exhibit A. The "Room Descriptions" tab in Exhibit A identifies every "Room_Design/Room Type" used to categorize all rooms on every District campus, and states into what category of Prop. 39 space (teaching stations; specialized classroom space [Arts, Lab, or Technology]; and non-teaching station space [Assembly, Athletic, Library, Dining, Operational, or Interior Room]) it shall be placed. Any changes to the categorizations of Room_Design/Room Type may be made consistent with the process described in Section 1.e.

e. Changes to Facilities Inventory Attached As Exhibit A. The District will provide CCSA with proposed revisions, if any, to Exhibit A, as well as a list of specific changes made, to account for any Updated Information, including but not limited to changes not covered by Section 1.f or changes to categorizations of Room_Design/Room Type, by January 10 of each year. Only for the proposed revisions provided by the District by January 10, 2021, for purposes of providing a list of specific changes, instead of providing a list of specific changes, the District will provide CCSA with a comparison between the total building and exterior square footages for each District site from the version of Exhibit A that was finalized pursuant to this Settlement Agreement and the version of Exhibit A provided on January 10, 2021, as well as a comparison of the total number of teaching stations and total number or square footage of each category of excluded teaching stations, SCS and NTSS between the version of Exhibit A that was finalized pursuant to this Settlement Agreement and the version of Exhibit A provided on January 10, 2021.

   At CCSA's request, the District will provide to CCSA any requested supporting documentation to the extent that it exists, and will make a good faith effort to do so within two (2) weeks after the request is made. CCSA will then have the opportunity to object to any proposed changes by January 24, at which point the parties will make every effort to meet within two (2) weeks of CCSA's request for a meeting. Except for those changes contemplated in Section 1.f, changes will be made only upon mutual agreement. Neither party shall unreasonably withhold agreement to such changes.

   Also by January 24, CCSA will have the right to identify specific rooms on comparison school campuses that it believes (i) should be designated as teaching stations even though they are not, (ii) were improperly designated as teaching stations, (iii) were improperly removed from the teaching station count; or (iv) should be included as teaching station even though they are smaller than 600 square feet. Only upon mutual agreement will the room(s)' designation be changed and/or will the room (s) be removed from the teaching station count in Exhibit A.

At CCSA's request, the District shall conduct a site walk with CCSA of any campus at issue as necessary to reach mutual agreement on proposed changes set forth above, provided that the number, scope, and frequency of the requests are not unreasonable.

Notwithstanding the foregoing, CCSA agrees that the District will include in the final version of Exhibit A, without the need for express agreement by CCSA, any proposed aspect of Exhibit A that CCSA does not object to by January 24 or request be changed by January 24 as permitted by this Section, unless the District fails to provide CCSA with proposed revisions by January 10, as required by this paragraph.

If the Parties have not met and resolved any objections, if any, by February 1, the District may use its proposed updates to Exhibit A to prepare just its preliminary offers. The Parties shall determine which changes to Exhibit A they will mutually agree to by no later than March 1, and OUSD shall provide CCSA with a final Exhibit A, including any changes to Exhibit A to which the parties mutually agreed, or CCSA did not object to, by no later than March 10. OUSD shall use this final version of Exhibit A to prepare the District's final offers.

f. Changes to Exhibit A That Do Not Require Mutual Agreement. Notwithstanding any other provisions of this Settlement Agreement, mutual agreement is not needed for the District to exclude from the Teaching Station count in Exhibit A (although those exclusions must still be recorded in the General Classrooms Not Counted Column) (i) a teaching station (that was previously included in the teaching station count) that is subsequently used for a child development center, preschool program, adult education, for a charter school or is, otherwise, not provided to students in the District pursuant to section 11969.3(b)(1) of Title 5 of the California Code of Regulations or (ii) an existing teaching station no longer able to be used as a classroom due to health and safety concerns that render the teaching station uninhabitable, such as mold or seismic concerns.

The District is required to add to the Teaching Station inventory any new classroom built after the Effective Date of this Settlement Agreement. The District is also required to add to the Teaching Station count any teaching station that was excluded as of the Effective Date of this Settlement Agreement because it is used by a child development center, preschool program, adult education, for a charter school or is, otherwise, not provided to students in the District attending comparison group schools pursuant to 5 CCR Section 11969.3(b)(1) or is not being used as a classroom due to health and safety concerns that render the teaching station uninhabitable such as mold or seismic concerns, but is, subsequently to the Effective Date of this Settlement Agreement, provided to students in the District pursuant to 5 CCR Section 11969.3(b)(1). Though mutual agreement is not needed, the District shall include any exclusions, additions, or changes pursuant to this section in the final version of Exhibit A.

In addition, the District will include in Exhibit A an "Occupant_Code" column in the tab titled "Classrooms" that will identify (i) all teaching stations, by room number or unique

description, that are excluded from the determination of the number of teaching stations in accordance with 5 CCR Section 11969.3 (b)(1) as well as the holding of *CCSA v. LAUSD*, 60 Cal.4th 1221 (2015), unless *CCSA v. LAUSD* is no longer applicable precedent; and (ii) the specific current use of the classroom and associated reason that it has been excluded. The District will also include a "General Classrooms Not Counted" column in the "Campuses" tab that identifies the total number of teaching stations on each campus that have been excluded from the determination of the number of teaching stations.

g. Use of Exhibit A. The purpose of Exhibit A is to serve as the repository for the data upon which that District relies in order to comply with its obligations under this Settlement Agreement and Prop. 39. The District is constrained from using Exhibit A or the information contained therein in any way that would obstruct or preclude the use of Exhibit A for this purpose. As examples, and not as limitations, of this constraint, the District (i) may not change the terminology, terms, or titles used in Exhibit A, (ii) may only update the information of Exhibit A as permitted under this Settlement Agreement, and (iii) must substantially preserve the structure of Exhibit A.

   Within this constraint, the District is permitted to use the information within Exhibit A and modify Exhibit A for its own administrative purposes, as long as that modification does not violate, modify, or limit the District's obligations under Prop. 39 or this Settlement Agreement. As examples, and not as limitations, the District is permitted to:

   - Make changes to the formulas found in Exhibit A,
   - Add columns to Exhibit A,
   - Incorporate the information in Exhibit A into one or more larger documents to be included in the District's preliminary and final offers, and
   - Incorporate additional information from outside Exhibit A in its preliminary and final offers consistent with the requirements and limitations of this Settlement Agreement and Prop. 39.

   The District shall make Exhibit A, including any changes or updates made to Exhibit A, and any larger document incorporating the information in Exhibit A available to CCSA in its raw form upon written request. As an example, but not a limitation, if the information in Exhibit A is incorporated into a larger document that is an Excel file, OUSD would provide CCSA with the Excel file. The District agrees to provide CCSA with the Excel file version of Exhibit A upon execution of this Settlement Agreement, and this version of Exhibit A shall form the basis on which all subsequent changes permitted by this Settlement Agreement are made.

h. Determination of Teaching Station to ADA Ratio at Comparison Schools, and Allocations of Teaching Stations to Charter Schools. For purposes of determining the number of teaching stations at each comparison school (as defined in section 11969.3(a) of Title 5 of the California Code of Regulations), as required by section 11969.3(b)(1) of Title 5 of the California Code of Regulations, the District will first count the number of rooms designated as "Teaching Station" (i.e., teaching station or classroom), pursuant to the

Room_Design/Room Type categorization in Exhibit A "Room Descriptions" tab, for each comparison school.

For purposes of determining the number of teaching stations provided to District students at each comparison school pursuant to section 11969.3(b)(1) of Title 5 of the California Code of Regulations for a given year, the District shall only subtract the teaching stations identified in the General Classrooms Not Counted Column in Exhibit A and any additional teaching stations that will be used for Special Day Classroom ("SDC") instruction in the upcoming school year based on its good faith estimates; the remaining number of teaching stations shall be referred to as the "District K12 Teaching Stations." At CCSA's request, the District will provide CCSA with the back-up documentation to support its projections of the number of SDCs at District sites, and at either Party's election, the District and CCSA will meet to discuss whether one or more projections of SDC numbers is reasonable.

In order to arrive at the ratio of teaching stations (classrooms) to average daily attendance ("ADA") for each comparison school pursuant to section 11969.3(b)(1) of Title 5 of the California Code of Regulations, the District will then divide the projected ADA for the fiscal year and grade levels for which facilities are requested for each comparison school by the District K12 Teaching Stations at that comparison school. The projected ADA for each comparison school shall not include any SDC ADA. To arrive at the comparison schools teaching station to ADA ratio that will be used to determine each charter school's teaching station allocation, the District shall add together the District K12 Teaching Stations to ADA ratio for each of that charter school's comparison schools, and divide it by the number of comparison schools for that charter school to arrive at a (non-weighted) average teaching station to ADA ratio.

As an example, but not a limitation, using Exhibit A, the preliminary and final offers for a charter school with a projected in-District ADA of 500 and serving grades 6-12, with 250 projected in-District ADA for grades 6-8 and 250 projected in-District ADA for grades 9-12, with a majority of its students residing within the Skyline High School attendance boundaries, would contain the following analysis (assuming the same ADA and number of SDC classrooms for the comparison schools as the District projected in its 2020-21 final offers):

Comparison Schools (grouped by grade span)	Projected ADA (Not Including SDC)	No. of Teaching Stations on Comparison School Campus/Total Classrooms on Campus	No. of SDC Classrooms Projected for 2020-21/District K-12 SDC Classrooms	No. of Classrooms Less than 600 Sq. Feet	Teaching Stations Counted as "Provided to" Students /District K12 General Classrooms	No. of Classrooms Included As "Not Provided to" Students with explanation of Use (i.e. preschool, adult education)/Occupant_Code	ADA per Teaching Station
Bret Harte Middle School	539.37	34	5	0	29	0	18.59
Montera Middle School	569.29	31	4	0	27	0	21.08
Middle School Average							19.84
Projected Charter Middle School ADA	250.00						
Middle School Classroom Entitlement (Projected Charter Middle School ADA/Average Middle School Teaching Station to ADA Ratio)	12.60						
Skyline High School	1487.91	69	9	0	60	0	24.80
High School Average							
Projected Charter High School ADA	250.00						
High School Classroom Entitlement	10.08						

The District need not use a table exactly like the above table but shall, at a minimum, include the categories of information provided above in a similarly clear and transparent manner.

As to the SDC classrooms, the District will also, only if available to include in its preliminary and/or final offers, identify the specific room numbers and square footage of the rooms it excluded from the teaching station to ADA ratio analysis identified above in this section.

For final offers, the District shall give "the same degree of consideration to the needs of charter school students as it does to the students in the district-run schools" in allocating contiguous classrooms on each school site in a reasonably equivalent manner. (Title 5, California Code of Regulations Section 11969.2(d); California Educ. Code Section 47614(b).)

i. Determination of Square Feet of Specialized Classroom Space ("SCS") per ADA Analysis and Allocation of SCS to Charter Schools. For purposes of determining reasonably equivalent SCS square footage, as required by section 11969.3(b)(2) of Title 5 of the California Code of Regulations, as noted in Section 1.d, there shall be three categories of SCS: Arts, Technology, and Lab. The District shall use the "Room Descriptions" tab in Exhibit A to

categorize each SCS on each comparison school campus into one of the three categories and shall add together the square footage separately for each of the three categories of SCS at each comparison school. The District shall then divide the total square footage of each category of SCS at that comparison school by the projected ADA[1] of that comparison school to arrive at a number of square feet of each category of SCS per unit of ADA for that comparison school.

To determine the SCS allocation for each charter school, the District shall add together the square feet of SCS per ADA for each category of SCS for each of that charter school's comparison schools, and divide it by the number of comparison schools for that charter school to arrive at a (non-weighted) average square feet of SCS per ADA for each category of SCS. The District shall then multiply the average square feet of SCS per ADA for each category of SCS by the projected in-District classroom ADA of that charter school to arrive at the total square footage of each category of SCS to be allocated to the charter school.

As an example, but not a limitation, using Exhibit A, the preliminary and final offers for a charter school with a projected in-District ADA of 500 and serving grades 6-12, with a majority of its students residing within the Skyline High School attendance boundaries, would contain the following analysis (assuming the same ADA as the District projected in its 2020-21 final offers):

Comparison Schools (grouped by grade span)	Projected School ADA	Art Square Footage	Art Square Feet/ADA	Lab Square Footage	Lab Square Feet/ADA	Technology Square Footage	Technology Square Feet/ADA
Bret Harte Middle School	578.70	2,055	3.55	6,913	11.95	816	1.41
Montera Middle School	616.25	7,256	11.77	4,800	7.79	3,468	5.63
Middle School Average			7.66		9.87		3.52
Charter Middle School SCS Entitlement (250 ADA x Avg. Square Feet/ADA)		1915		2467.5		880	

[1] For all calculations referenced herein to the projected ADA for each District comparison school, the District shall exclude SDC ADA from projected comparison schools ADA.

Skyline High School	1545.77	12,659	8.19	9,009	5.83	6,050	3.91
High School Average			8.19		5.83		3.91
Charter High School SCS Entitlement (250 ADA x Avg. Square Feet/ADA)		2047.5		1457.5		977.5	

The District need not use a table exactly like the above table but shall, at a minimum, include the categories of information provided above in a similarly clear and transparent manner.

The District will allocate a reasonably equivalent exclusive-use share of the SCS and/or a provision for access to shared-use of reasonably equivalent SCS for each of the three categories of SCS to each charter school.

In the event that the District makes factual findings that support providing a charter school with a non-contiguous offer of facilities, the District will make a reasonably equivalent allocation of SCS pursuant to 5 CCR Section 11969.3, subdivision (b)(2). The District will work collaboratively with each such charter school to determine the SCS allocation needs of the charter school for each grade span at each facility and the District will incorporate and balance those needs into its determinations of reasonable equivalence and offers of space.

The District shall not allocate general education classrooms or make other accommodations in place of SCS unless mutually agreed upon in writing by the District and a charter school. The District and charter schools will work collaboratively to determine any shared use schedule, with both schools receiving proportional (i.e., based on the number of students in the District school on campus compared to the number of charter school in-District students on campus) and equitable (e.g., see below Examples of Equitable Allocations in Section 1.j.) priority for scheduling and access to shared space on the campus, and District staff will engage in the process with District principals and charter school staff as necessary. If a charter school wishes to decline a portion, or all, of the allocated SCS, it may do so, and the District will recalculate the pro rata share to reflect only the actual SCS square footage used by the charter school.

Consistent with section 11969.1 of Title 5 of the California Code of Regulations, the District and individual charter schools may negotiate allocations of SCS that do not meet the specific requirements of Prop. 39 or this Settlement Agreement.

j. Non-Teaching Station Space Analysis and Allocation. For purposes of determining reasonably equivalent non-teaching station space ("NTSS") square footage, as required by section 11969.3(b)(3) of Title 5 of the California Code of Regulations, as noted in Section 1.d, there shall be the following categories of NTSS: Assembly, Athletic, Library, Dining, Interior Room, and Operational. In addition, there shall be a category of Exterior NTSS. The

District shall use the "Room Descriptions" tab in Exhibit A to categorize each NTSS on each comparison school campus into one of the six categories.

The Parties have a disagreement as to whether any categories of NTSS are appropriately excluded from the comparison school analysis. Without conceding either of their positions, in the interests of reaching a resolution, the Parties have agreed as set forth in this paragraph. After the date of this Settlement Agreement, the District will not categorize any additional NTSS space as "Excluded – not provided to K12 Students" or "Excluded – Condemned," and exclude it from the NTSS reasonable equivalence analysis if it is at a comparison school, unless the District first provides CCSA with proposed NTSS exclusions, if any, to Exhibit A by January 10 of each year. At CCSA's request, the District will provide to CCSA any requested supporting documentation to the extent that it exists, and will make a good faith effort to do so within two (2) weeks after the request is made. CCSA will then have the opportunity to object to any proposed changes by January 24, at which point the parties will make every effort to meet within two (2) weeks of CCSA's request for a meeting. Changes will be made only upon mutual agreement. Neither party shall unreasonably withhold agreement to such changes.

To arrive at a number of square feet of each category of NTSS per unit of ADA ("NTSS SF/ADA") for each comparison school, the District and shall add together the square footage for each category at each comparison school. The District shall then divide the total square footage of each category of NTSS at that comparison school by the projected ADA of that comparison school (which will include SDC ADA),.

For all SDC Classrooms that the District removed from the teaching station/ADA analysis as described in Section 1.h above, the square footage of those rooms shall be included in the total NTSS – Interior Room square footage calculation for the comparison school from which the SDC Classrooms were originally removed.

To determine the NTSS allocation for each charter school, the District shall add together the SF/ADA for each category of NTSS for each of that charter school's comparison schools and divide that number by the number of comparison schools for that charter school to arrive at an average SF/ADA. The District shall then multiply the average SF/ADA for each category of NTSS by the projected in-District classroom ADA of that charter school to arrive at the total square footage of each category of NTSS to be allocated to the charter school.

The District will then allocate exclusive-use or provide shared-use access to reasonably equivalent amounts of each category of NTSS to each charter school. If the District makes a non-contiguous offer that includes one or more co-locations, the District may provide for shared or exclusive use of these spaces on the allocated school sites and, if it provides for shared use, shall allocate shared-use based on the proportion of total in-District site ADA between the charter school and the District school's ADA as long as the total space allocated to the charter school across the school sites is reasonably equivalent. The District shall not allocate space other than NTSS in place of allocating reasonably equivalent NTSS,

or make other accommodations in place of allocating reasonably equivalent NTSS, unless mutually agreed upon in writing by the District and a charter school. The District and the charter school will work collaboratively to determine any shared use schedule for NTSS, with both the District school and the charter school receiving proportional (see definition in Section 1.h) and equitable (see Examples of Equitable Allocations below) priority for scheduling and access to shared NTSS on the campus, and District staff will engage in the process with District principals and charter school staff as necessary. In addition, both the District school and the charter school will have equitable say in the actual scheduling, such that one school would not be entitled to impose its schedule and require the other school to schedule their use around it.

> Examples of Equitable Allocations: As an example, but not as a limitation, of what would be considered equitable priority of scheduling, assume a charter school's in-District ADA represents one-third of all students on the campus and the District school's ADA represents two-thirds of all students on the campus. When scheduling use of the cafeteria for lunch service, it would not be equitable for the charter school to be allocated use of the cafeteria between 9:00am and 10:00am and again between 2:00pm and 3:00pm and the District school to be allocated use of the cafeteria between 10:00am and 2:00pm, even though the charter school is allocated one-third of the time and the District school is allocated two-thirds of the time, because then the charter school's students would not be able to eat lunch during regular lunch hours. As a further example, but not a limitation, if the lunch/eating area needs to be scheduled for meal service for both programs to ensure students are able to eat lunch during regular lunch hours, such as between 11:00am and 1:00pm, one way for there to be equitable priority would be for the District school to use the lunch/eating area for 80 minutes (i.e., two-thirds of the 2-hour lunch window) and for the charter school to use the lunch/eating area for 40 minutes (i.e., one-thirds of the 2-hour lunch window).

For restrooms, any allocation is required to comply with the California Plumbing Code, and the District will work with charter school and the District school principal(s) to ensure any shared space arrangements ensure access to restrooms for both the charter school and the District school in compliance with the Plumbing Code.

As allowed by section 11969.1 of Title 5 of the California Code of Regulations, the District and an individual charter school may negotiate allocations of NTSS that do not meet the specific requirements of Prop. 39 or this Settlement Agreement. In addition, if a charter school wishes to decline a portion, or all, of the allocated NTSS, it may do so, and the District will recalculate the pro rata share to reflect only the actual NTSS square footage used by the charter school.

As an example, but not a limitation, using Exhibit A, the preliminary and final offers for a charter school with a projected in-District ADA of 500 and serving grades 6-12, with a majority of its students residing within the Skyline High School attendance boundaries,

would contain the following analysis (assuming the same ADA as the District projected in its 2020-21 final offers):

Comparison Schools (grouped by grade span)	Projected School ADA	Assembly SqFt	Assembly SqFt/ ADA	Dining SqFt	Dining SqFt /ADA	Atheltic SqFt	Atheltic SqFt /ADA	Library SqFt	Library SqFt /ADA	Operational SqFt	Operational SqFt/ADA	Interior Room SqFt	Interior Room SqFt/ADA
Bret Harte MS	578.70	11325	19.57	0	0	7526	13.01	2457	4.25	38030	65.72	9512	16.44
Montera MS	616.25	5539	8.99	0	0	13361	21.68	2088	3.39	27625	44.83	7480	12.14
Middle School Average			14.28		0.00		17.35		3.82		55.28		14.29
Charter MS Interior NTSS Entitlement (250 ADA x Avg. Square Feet/ADA)		3570		0		4337.5		955		13820		3572.5	
Skyline High School	1545.77	13320	8.62	1408	0.91	18319	11.85	3712	2.40	67874	43.91	17251	11.16
High School Average													
Charter High School Interior NTSS Entitlement (250 ADA x Avg. Square Feet/ADA)		2155		227.5		2962.5		600		10977.5		2790	

The District need not use a table exactly like the above table but shall, at a minimum, include the categories of information provided above in a similarly clear and transparent manner.

For allocations of Exterior NTSS, the District will determine the total exterior space at each comparison school by multiplying the Acreage identified for that site in Exhibit A by 43,560 (the number of square feet in one acre). The District will then subtract from the resulting number the total interior square footage of that District school site, which shall be determined by adding the square footage of all interior spaces on the site as identified in Exhibit A. The District shall then divide the total Exterior NTSS square footage at each comparison school by the projected ADA of that comparison school, to arrive at a number of square feet of Exterior NTSS per unit of ADA ("Exterior NTSS SF/ADA") for that comparison school.

To determine the Exterior NTSS allocation for each charter school that will receive a preliminary or final offer of space, the District shall add together the Exterior NTSS SF/ADA for each of that charter school's comparison schools, and then divide the total by the number of comparison schools to arrive at an average Exterior NTSS SF/ADA. The District shall then multiply the average Exterior NTSS SF/ADA by the projected in-District classroom

ADA of that charter school to arrive at the total square footage of Exterior NTSS to be allocated to the charter school. The District shall provide for reasonably equivalent shared use of the Exterior NTSS on the allocated school site(s) based on the proportion of projected in-District ADA of the charter school and the projected ADA of the District school (e.g., see above Examples of Equitable Allocations in Section 1.j.), and shall include a fair share of each of the different kinds of Exterior NTSS for both the District school and the charter school (fields, blacktop, parking, gardens, etc.). However, if the proportional allocation based on ADA results in an allocation that precludes the charter school from offering a legally compliant physical education program for its projected in-District ADA and/or interfering with the charter school offering its athletic team program for its projected in-District ADA, the District will work with the charter school to adjust the allocation to ensure access to sufficient Exterior NTSS so that both the District school and the charter school are able to operate their physical education and athletic team programs in compliance with applicable law and the charter school's charter.

As an example, but not a limitation, using Exhibit A, the preliminary and final offers for a charter school with a projected in-District ADA of 500 and serving grades 6-12, with a majority of its students residing within the Skyline High School attendance boundaries, would contain the following analysis (assuming the same ADA as the District projected in its 2020-21 final offers):

Comparison Schools (grouped by grade span)	Projected School ADA	Exterior Square Footage	Exterior Square Feet/ADA
Bret Harte Middle School	578.70	218,026	376.75
Montera Middle School	616.25	598,227	970.75
Middle School Average			673.75
Charter Middle School Exterior NTSS Entitlement (250 ADA x Avg. Square Feet/ADA)		168,438	
Skyline High School	1545.77	1,356,532	877.58
High School Average			
Charter High School Exterior NTSS Entitlement (250 ADA x Avg. Square Feet/ADA)		219,395	

The District need not use a table exactly like the above table but shall, at a minimum, include the categories of information provided above in a similarly clear and transparent manner.

k. Restrooms. Unless the District and a charter school agree in writing to address this issue in a Facilities Use Agreement, the District shall designate in the Facilities Use Agreements the locations of restrooms the charter school will use and shall allocate restrooms to charter school students in compliance with the Plumbing Code.

l. Weighting. The District will not perform any kind of weighting adjustment to its calculation of the teaching station, SCS, or NTSS allocations of space to charter schools.

m. Purpose. Section 1 (Preliminary and Final Offers) of this Settlement Agreement is only intended to address the method by which the District calculates its preliminary and final offer obligations pursuant to Prop. 39 and does not otherwise prohibit or restrict the District's authority over its facilities.

2. Custodial.

a. Definitions.
- Custodial Services includes all of the following:
  - Interior and exterior cleaning at Level 3 or better according to the OUSD cleaning standards (attached as Exhibit B, and incorporated into this Settlement Agreement),
  - Pest control in which a pest management company conducts visits at least monthly (unless otherwise agreed to in writing),
  - Waste management in which site waste is collected at least twice a week (unless otherwise agreed to in writing),
  - Fire safety maintenance in which there are a legally sufficient number of fire extinguishers, the fire extinguishers are placed in legally proper locations, and the fire extinguishers are maintained and filled annually in accordance with County and State guidelines, and
  - Additional services and cleaning as the District provides to its schools.
  - However, in cases where District practices in implementing Custodial Services for its own schools and programs substantially differ from the OUSD cleaning standards, Custodial Services shall be the District's actual practices.
- An entryway or a covered walkway (i.e., a walkway with a ceiling but no walls) are not considered a shared indoor space.

b. Charter Only Site. The District shall permit a charter school to contract for its own Custodial Services at a site in which a charter school operates and no District school or program operates.

c. Separate Shared Site. The District shall permit a charter school to contract for its own Custodial Services at a site in which a charter school and a District school or program operate and no indoor space is shared between the charter school and the District school or program. However, the District shall retain the right to require the charter school to use and pay for the District's Custodial Services if the charter school is unable to properly provide Custodial Services, as defined. Prior to exercising this right, the District shall notify the charter school of the charter school's failure to properly provide Custodial Services and give the charter school the opportunity to cure.

d. Jointly Used Shared Site. For a charter school at a site in which a charter school and a District school or program operate and there is indoor space that is shared between the

charter school and the District school or program, the charter school shall use and pay for the District's Custodial Services. If a charter school believes that the Custodial Services being provided by the District are not sufficient, it shall have the option to provide the District with documentation of its concerns. The District shall make a good faith effort to work with the charter school to determine whether it is possible and reasonable for the charter school to provide its own Custodial Services.

3. Pro Rata. When calculating the pro rata share for charter schools, the District shall only charge charter schools for square footage that they have access to as memorialized in a Facilities Use Agreement. If a charter school is using the District's Custodial Services and/or is not paying for its utilities directly to the utility company (as relevant), the District shall include its custodial and/or utilities costs (as relevant) in its "facilities costs" (pursuant to section 11969.7 of Title 5 of the California Code of Regulations) used to arrive at the per square foot amount (instead of as separate charges). If a charter school does not use the District's Custodial Services pursuant to Section 2, the District will not include the District's custodial costs in its facilities costs to calculate the pro rata share for that charter school. If a charter school pays for its utilities costs directly to the utility company, the District will not include the District's utilities costs in its facilities costs to calculate the pro rata share for that charter school.

4. Joint Use Agreements. All joint use agreements the District negotiates with the City of Oakland, the County of Alameda, or any other local government entity (individually and collectively referred to as "Agency"), will provide that District events and programs shall be defined to include the events and programs of any charter school occupying all or a portion of a District facility such that, in all respects, District and charter school programs and events shall be treated as the same in any Joint Use Agreement. When working with the Agency to schedule uses of District facilities, the District shall ensure that charter schools occupying District facilities are given the same priority in scheduling and rescheduling as District events and programs. If a joint use agreement with an Agency exists at the time of this Settlement Agreement that does not include the express provisions regarding charter school use as noted here, the District shall make a good faith attempt to negotiate an amendment of the joint use agreement with the Agency to this effect.

5. Multi-Site Offers.

   a. The District shall minimize multi-site offers in its preliminary and final offers. If multi-site offers are genuinely required, such offers must be made in a transparent manner supported by legally compliant findings and written statements of reasons.

   b. The District agrees to inform any charter school that is receiving a multi-site offer at least one (1) week before the preliminary multi-site resolution, and before the final multisite resolution if different, is brought to the OUSD Governing Board for consideration.

   c. For any charter school to which the District makes a multi-site preliminary offer, the District agrees to meet with that charter school upon written request. The District must receive

the request in advance of March 1, the deadline by which the charter school must provide feedback on the preliminary offer.

6. Location of Offer. For any charter school that communicates in writing to the District that the charter school believes that the site location(s) in the District's preliminary offer to the charter school is not near where the charter school indicated in its Prop. 39 facilities application it wished to locate, the District shall present evidence documenting that it made reasonable efforts to try to provide the charter school with facilities near where the charter school wished to locate. The charter school shall communicate the aforementioned belief as part of the charter school's response to the District's preliminary offer and, at the charter school's election, in a separate communication after the preliminary offer is received unless the District authorizes the charter school to do so prior to the District's preliminary offer.

7. Deviation. Notwithstanding any part of this agreement, the District and an individual charter school may agree to deviate from this Settlement Agreement to the extent permitted by law.

8. Additional Terms and Conditions

   a. Release. CCSA unconditionally, irrevocably and absolutely releases and forever discharges the District as well as any other present or former District Governing Board members, officers, agents, attorneys, affiliates, successors, assigns and all other representatives of the District (collectively, "District Released Parties"), from all claims and causes of action that were alleged in the Litigation, and from any and all claims for attorneys' fees or costs incurred in or related in any way to the Litigation. OUSD hereby releases and forever discharges CCSA and all of CCSA's officers, board members, attorneys, representatives, employees, agents, members, and each of them, from any and all claims for attorneys' fees or costs incurred in or related to the Litigation. All Parties shall bear their own attorneys' fees and costs in connection with the Litigation and this Settlement Agreement. Released claims include, without limitation, any claims under the laws of contract or tort, the common law, the state or federal Constitution, any state statutes or propositions, or any federal statutes, or any policy of the District. To the extent permitted by law, this release is intended to be interpreted broadly to apply to all transactions and occurrences between CCSA and any of the District Released Parties related to the Litigation. CCSA agrees to dismiss with prejudice its Second Amended Complaint Petition in the matter *California Charter Schools Association v. Oakland Unified School District (CCSA v. OUSD),* Alameda County Superior Court, Case No. RG16806690, no less than five (5) business days following mutual execution of this Agreement.

   b. No Admission. By entering into this Settlement Agreement, neither the District Released Parties nor CCSA admit that they have engaged in, or are now engaging in, any unlawful conduct. It is understood and agreed that this Settlement Agreement is not an admission of liability, and that the District Released Parties specifically deny liability in the Litigation and intend merely to avoid further litigation and expense by entering into this Settlement Agreement. The Parties agree that it is their mutual intention that neither this Settlement

Agreement nor any terms hereof shall be admissible in any other or future proceedings against the Parties, except a proceeding to enforce this Settlement Agreement.

c. Covenant Not to Sue. CCSA agrees, to the fullest extent permitted by law, that it will not initiate or file a lawsuit or other proceeding to assert any Released Claims. If any such action is brought, this Agreement will constitute an Affirmative Defense thereto, and the District Released Parties named in such action shall be entitled to recover reasonable costs and attorneys' fees incurred in defending against any Released Claims.

d. Civil Code Section 1542. CCSA and OUSD expressly acknowledge and agree that the releases contained in this Agreement related to the Litigation include a waiver of all rights under Section 1542 of the California Civil Code as to the Litigation, which provides:

> A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

CCSA and OUSD acknowledge that they have read all of this Agreement, including the above Civil Code section, and that they fully understand both the Agreement and the Civil Code section. CCSA and OUSD expressly waive any benefits and rights granted pursuant to Civil Code section 1542.

e. California Law. This Settlement Agreement is made and entered into in the State of California and shall in all respects be interpreted and enforced in accordance with California law, without regard to conflicts of law provisions. The Parties agree that any action to enforce any term of this Settlement Agreement shall be filed in the Superior Court of California, County of Alameda. Accordingly, the Parties also agree to submit to the jurisdiction of the State of California for any action to enforce any term of this Settlement Agreement.

f. Cooperation. The Parties agree to do all things necessary and to execute all further documents necessary and appropriate to carry out and effectuate the terms and purposes of this Settlement Agreement.

g. Integration/Entire Agreement of Parties. This Settlement Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Settlement Agreement may be amended or modified only by a written instrument executed by both Parties.

h. Interpretation; Construction. The headings set forth in this Settlement Agreement are for convenience only and shall not be used in interpreting this Settlement Agreement. This Settlement Agreement has been drafted jointly by legal counsel representing the District and CCSA.

i. Waiver. No delay or omission by either Party in exercising any right under this Settlement Agreement shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of this Settlement Agreement.

j. Incorporation of Recitals and Exhibits. Any recitals and exhibits attached to this Settlement Agreement are incorporated herein by reference.

k. Severability. If any term, condition or provision of this Settlement Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.

l. Provisions Required By Law Deemed Inserted. Each and every provision of law and clause required by law to be inserted in this Settlement Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.

m. Recovery of Attorneys' Fees and Costs. If any legal action is brought for the enforcement of this Settlement Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Settlement Agreement, the successful party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding as are awarded in such action, in addition to any other relief to which it or they may be entitled.

n. Captions and Interpretations. Section and paragraph headings in this Settlement Agreement are used solely for convenience and shall be wholly disregarded in the construction of this Settlement Agreement. No provision of this Settlement Agreement shall be interpreted for or against a Party because that Party or its legal representative drafted such provision, and this Settlement Agreement shall be construed as if jointly prepared by the Parties.

o. Counterparts and Electronic Signature. This Settlement Agreement, and all amendments, addenda, and supplements to this Settlement Agreement, may be executed in one or more counterparts, all of which shall constitute one and the same amendment. Any counterpart may be executed and delivered by email or other electronic means (including portable document format) by either Party and, notwithstanding any statute or regulations to the contrary (including, but not limited to, Government Code section 16.5 and the regulations promulgated therefrom), the counterpart shall legally bind the signing Party and the receiving Party may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received. Through its execution of this Settlement Agreement, each Party waives the requirements and constraints on electronic signatures found in statute and regulations including, but not limited to, Government Code section 16.5 and the regulations promulgated therefrom.

p. Agreement Publicly Posted. This Settlement Agreement, its contents, and all incorporated documents are public documents and will be made available by OUSD to the public online via the Internet.

q. Signature Authority. Each Party has the full power and authority to enter into and perform this Settlement Agreement, and the person(s) signing this Settlement Agreement on behalf of each Party has been given the proper authority and empowered to enter into this Settlement Agreement. However, OUSD shall not be bound by the terms of this Settlement Agreement unless and until it has been formally approved by OUSD's Governing Board.

REST OF PAGE IS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the PARTIES hereto agree and execute this Agreement and to be bound by its terms and conditions:

CCSA

Name: _____ Signature: _____

Position: _____ Date: _____

Name: _____ Signature: _____

Position: _____ Date: _____

OUSD

Name: _____ Signature: _____

Position: _____ Date: _____

Name: _____ Signature: _____

Position: _____ Date: _____