

**ADDENDUM TO MEMORANDUM OF UNDERSTANDING and
FACILITIES USE AGREEMENT**

By and Between

THE POINT ARENA SCHOOLS BOARD OF TRUSTEES

And

PACIFIC COMMUNITY CHARTER SCHOOL

The Board of Trustees of the Point Arena Schools District, a school district existing under the laws of the State of California (the “District”), and the Governance Council of the Pacific Community Charter School, a California non-profit public benefit corporation that operates a California public charter school (“PCCS” or the “Charter School”) previously entered into Memorandum of Understanding (“MOU”) dated May 2020. This Addendum to the Memorandum of Understanding (“Addendum”) is hereby entered into on September 13, 2023. The District and the Charter School are collectively referred to herein as the “Parties.”

RECITALS

WHEREAS, on or about May 2020 the District and Charter School entered into the MOU outlining the Parties’ agreements governing their respective fiscal and administrative responsibilities, facilities obligations, and their legal relationships.

WHEREAS, the Charter School serves students in kindergarten through twelfth grade.

WHEREAS, the Charter School’s High School facilities (“Facilities”) includes two buildings that are located on the District property at the location known as Point Arena Joint Union High School.

WHEREAS, the MOU outlines the Charter School’s ability to use and obligations related to the Facilities;

WHEREAS, the Charter School has received a Charter School Facilities Program, pursuant to Article 12 of Chapter 12.5 of Part 10 of the California Education Code and the regulations for its implementation provided in Title 4, Cal. Code Regs., Section 10151, et seq., and Title 2 Cal. Code Regs., Section 1859.160, et seq. to improve the Facilities (the “Project”);

WHEREAS, the Charter School and the District wish to amend the terms of the Memorandum of Understanding to incorporate required terms of the CSFP program.

NOW THEREFORE, in consideration of the covenants and agreements hereinafter set forth, the Parties agree as follows:

1. The MOU is hereafter to be referred to as the Memorandum of Understanding and Facilities Use Agreement (“MOU/FUA”).

2. **Amendment to the MOU/FUA.** The terms of the MOU/FUA shall be amended to include the following language in Section II.I:

- a. At its sole cost and expense, the Charter School shall obtain and maintain all necessary consents, permits and approvals required by applicable law, rule or regulation in order to commence the construction of and subsequently occupy the Project. Any costs associated with licenses or permits shall not become an obligation of the State.
- a. Charter School shall be responsible for the payment of all fees, and public charges of whatever nature accessed against the Facilities, including the payment of all taxes, and costs associated with telephone, water, sewer, gas, heat, electricity, garbage disposal, trash disposal, and all other services and utilities. Such fees and charges shall not become an obligation of the State.
- b. The Charter School shall use the Facilities only for the operation of its charter school program, and all associated uses. The Charter School shall be responsible for the maintenance and repair of the Facilities. The State shall not under any circumstances be required to make any improvements or install any equipment on the Facilities, make any repairs, alterations or replacements of any nature to the Facilities, make any expenditures whatsoever in connection with the Memorandum of Understanding or this Addendum or maintain the Facilities in any manner. The State shall not be required to maintain, repair or rebuild all or any part of the Facilities, and the Charter School or District waive the provisions of Civil Code Sections 1941 and 1942 and any other law that would require the maintenance of the Facilities in a leasable condition or would provide the District with the right to make repairs and deduct the cost of those repairs from its payments.
- c. Charter School shall comply with all applicable Environmental Laws for the Facilities, including, but not limited to, air, soil and ground water Facilities Premises; provided, however, that Tenant may use normal and customary cleaning solutions, office supplies and classroom chemicals and compounds (for educational purposes), so long as the use of such solutions, supplies, chemicals and compounds are in quantities and in a manner wholly consistent with all applicable Environmental Laws. Without limiting the generality of the foregoing, during the Term, Charter School shall not, nor shall allow any other party to, transport, use, store, maintain, generate, manufacture, handle, dispose, Release (as defined below) or discharge any Hazardous Material (as defined below) upon or about the Facilities in violation of Environmental Laws, nor permit its employees, agents, invitees or contractors to engage in such activities in violation of Environmental Laws upon or about the Facilities during the Term. The District shall be responsible for remediation necessitated or required by, resulting from or relating to, District’s

introduction or use of, or remediation of, Hazardous Materials on or about the Facilities.

- d. As used in this MOU/FUA, the following definitions shall apply: “**Environmental Laws**” shall mean all federal, state and local laws, ordinances, rules and regulations now or hereafter in force, as amended from time to time, in any way relating to or regulating human health or safety, or environmental evaluations of potential school sites or health care facilities, or industrial hygiene or environmental conditions, or protection of the environment, or pollution or contamination of the air, soil, surface water or groundwater, and includes, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601, *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.*, the Clean Water Act, 33 U.S.C. § 1251, *et seq.*, the Hazardous Substance Account Act, California Health and Safety Code § 25300, *et seq.*, the Hazardous Waste Control Law, California Health and Safety Code § 25100, *et seq.*, the Medical Waste Management Act, California Health and Safety Code § 25015, *et seq.*, and the Porter-Cologne Water Quality Control Act, California Water Code § 13000, *et seq.*, Education Code § 17210, *et seq.*, and California Code of Regulations, Title 5 § 14010, *et seq.* “**Hazardous Materials**” shall mean any substance or material that is described as a toxic or hazardous substance, explosive material, radioactive substance, waste or a pollutant or contaminant or infectious waste, or words of similar import, in any of the Environmental Laws, and includes, but is not limited to, asbestos, petroleum or petroleum products (including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof), polychlorinated biphenyls, urea formaldehyde, radon gas, radioactive matter, medical waste, and chemicals which may cause cancer or reproductive toxicity. “**Release**” shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, including continuing migration, of Hazardous Materials into or through soil, air, surface water or groundwater in violation of Environmental Laws.
- e. In addition to insurance required by the current terms of the MOU/FUA, the Charter School shall maintain at its cost and expense all risk (special-causes-of-loss) property and fire insurance for the Facilities; commercial general liability insurance; rental value insurance; worker’s compensation insurance; flood and earthquake insurance as necessary; and such other types of insurance or endorsements to existing insurance as may be required by the District. The insurance required by the District shall be reasonable and reflective of the size of the Charter School and the replacement value of the Facilities.

3. **The MOU/FUA.** All remaining provisions of the MOU/FUA shall remain in full force and effect.

4. **Counterparts.** This Addendum may be executed in counterparts and as executed shall constitute one agreement, binding on all the Parties, even though all Parties do not sign the original or the same counterparts.

5. **Attorneys' Fees and Costs.** In the event of any legal actions or proceedings by either party hereto, their heirs, transferees, successors or assigns as a result of this Addendum, or in any way connected therewith, the prevailing party shall be entitled to have and recover of and from the other, reasonable attorneys' fees and costs.

6. **Entire Agreement.** This Addendum, the MOU/FUA, and the Pacific Community Charter School Charter contain the entire agreement ("Agreement") of the Parties and supersede any prior written or oral agreements between the Parties concerning the subject matter contained herein. There are no representations, agreements, arrangements, or understandings, oral or written, between and among the Parties, relating to the subject matter contained in the Addendum, which are not fully expressed herein or in the documents which accompany the execution hereof. The terms, covenants, and conditions of this Addendum may not be altered, changed, or modified except by a writing signed by all Parties hereto.

7. **Binding on Successors.** This Addendum shall inure to the benefit of, and shall be binding on, the assigns, successors in interest, personal representatives, estates, heirs, and legatees of each of the Parties.

8. **Governing Law.** All questions about the construction of this Addendum, and the rights and liabilities of the Parties to this Agreement, shall be governed by the laws of the State of California. Venue shall lie in Mendocino County.

IN WITNESS WHEREOF, the undersigned have duly executed this Addendum to the MOU/FUA and have caused their authorized representatives (where applicable) to sign this Addendum on the date first above written.

THE POINT ARENA SCHOOLS DISTRICT
By: _____
Title: Board President

PACIFIC COMMUNITY CHARTER SCHOOL
By: _____
Title: Governance Council Chair