

# ATTACHMENT B

## SITE LEASE

THIS SITE LEASE (the "Site Lease") is entered into this [ ] of [ ], [ ], by and between Douglas County School District Re-1, whose address is 620 Wilcox Street, Castle Rock, Colorado 80104 (the "School District") and [CORPORATION], whose address is [ ] ("Corporation").

## RECITALS

WHEREAS, the School District is a political subdivision of the State of Colorado (the "State") duly organized and validly existing under the laws of the State of Colorado; and

WHEREAS, the Corporation is a Colorado non-profit corporation organized under the laws of the State of Colorado for the purpose of financing the construction of a charter school for the [ ] (the "Charter School"); and

WHEREAS, the School District and the Charter School have executed and delivered that certain charter school contract dated [ ], [ ] (the "Charter Contract") pursuant to which the Charter School is entitled to operate a charter school within the boundaries of the School District; and

WHEREAS, the School District is the owner of unimproved real property located in Douglas County, Colorado and more particularly described as [ ] which was dedicated to the School District for school purposes (the "Site"); and

WHEREAS, the Corporation desires to lease the Site described for the purpose of financing, constructing, and equipping a charter school to be leased to the Charter School (the "Project"); and

WHEREAS, the Project will be constructed with moneys generated from the issuance of bonds, or other types of financings, refinancings, or loans (each a "Conduit Financing" and collectively the "Conduit Financings") pursuant to which the Site is to be mortgaged, encumbered, or otherwise assigned by the Corporation to secure the repayment of the Conduit Financings; and

WHEREAS, the Charter School will be leasing the Site from the Corporation pursuant to one or more financing leases, on an annual appropriation basis (collectively, the "Financing Lease") with the rental to be paid by the Charter School under the Financing Lease to be used for the payment of the financial obligations under the Conduit Financings; and

WHEREAS, the Board of Education (the "Board") of the School District is authorized by Section 22-32-110(f) of the Colorado Revised Statutes to rent or lease School District property not needed for its purposes in the case of a charter school using debt financing, for a term not exceeding the term of the debt financing, subject to all land use and building and zoning plans, codes, resolutions, and regulations; and

WHEREAS, the Site is located in an articulation area in which there is increased demand for a center-based program to meet the needs of students with disabilities enrolled in the School District; and

WHEREAS, in lieu of rent or operating expenses and as material consideration for the lease of the Site, the Corporation desires to construct, as part of the Project, a center-based program meeting the requirements set forth in Exhibit C, attached hereto and incorporated herein, for the School District's exclusive operation and use (the "Center-Based Program Improvements"); and

WHEREAS, the Board hereby finds that, with the construction of the Center-Based Program Improvements, the Site is not needed within the foreseeable future for its purpose and may be leased to the Corporation; and

WHEREAS, the Board desires to lease the Site to the Corporation and the Corporation desires to lease the Site from the School District pursuant to this Site Lease.

#### AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

1. Demise. Subject to the provisions contained in this Site Lease, the School District leases to the Corporation and the Corporation leases from the School District the Site for the Term.
2. Consent to Conduit Financing. Subject to the School District's rights under this Site lease, the School District consents to the Conduit Financings.
3. Term; Termination. Subject to earlier termination as provided herein, the term (the "Term") of this Site Lease shall be for [\_\_\_\_\_] [\_\_\_\_\_] years, commencing at 12:01 a.m. on [\_\_\_\_\_, 202\_\_] and ending at 11:59 p.m. on [\_\_\_\_\_, 20\_\_]. The Corporation agrees, upon the termination of this Site Lease, to quit and surrender the Site and agrees that any permanent improvements and structures existing upon the Site at the time of the termination of this Site Lease shall thereafter belong to the School District.
4. Construction of Project. The Corporation shall construct the Project, including the Center-Based Program Improvements, on the Site with proceeds from the Conduit Financings. The Corporation shall construct the Project, in accordance with applicable federal, state, and local laws and regulations, including but not limited to C.R.S. § 22-32-124. Prior to commencing construction of the Project on the Site, the Corporation shall submit construction drawings and specifications, including but not limited to drawings and specifications for buildings, parking, and landscaping, to the School District for review and approval, which approval shall not be unreasonably withheld. If the Corporation does not commence construction of the Project on the Site on or before [\_\_\_\_\_, 202\_\_], then the School District may terminate this Site Lease upon five (5) days' prior written notice. For purposes of this Section 4, the commencement of construction of the Project shall mean that the plans have been prepared and approved by applicable governmental authorities, all necessary permits for the construction of the Project have been issued by all applicable governmental authorities, and grading of the Site or construction of the vertical elements of the Project has commenced. The Corporation warrants that the Project shall be constructed in a good and workmanlike manner and in accordance with applicable law.
5. Rent. In lieu of rental or operating expense payments and as material consideration for the Board entering into this Site Lease, the Corporation shall construct the Center-Based Program

Improvements in accordance with Section 4 hereof and shall allow and cause the Charter School to allow the School District to operate therein, pursuant to a license or other agreement acceptable to the School District, the Corporation, and the Charter School, one or more center-based programs for students with disabilities enrolled in the School District during the Term. Notwithstanding anything in this Site Lease, or the terms or conditions of the Financing Lease, indentures, agreements, or related documents controlling the Conduit Financings (collectively, the “Financing Documents”), any person or entity acquiring the leasehold interest under this Site Lease through an “event of default” or an “event of nonappropriation” (as those terms are defined in the Financing Documents) shall agree for itself and its successors in interest that the School District’s right to use the Center-Based Program Improvements under this Section 5 shall not be disturbed during the Term.

6. Permitted Use.

- a. The Corporation shall use the Site solely for the purpose of subletting the same to the Charter School pursuant to the Financing Lease so that the Charter School may operate its replicated charter school in compliance with the terms of the Charter Contract.
- b. If there is an “event of nonappropriation” or an “event of default” by the Charter School under the Financing Lease or the Financing Documents, then the Corporation shall cause the Charter School to vacate the Site and shall give written notice of such event to the School District. The School District shall have ninety (90) days from the receipt of the Corporation’s notice to elect to either (i) assume the Financing Lease from the Charter School and operate the Site for any School District purpose authorized by law, or (ii) purchase the interest of the Corporation in the balance of the term of this Site Lease by paying an amount equal to the cost of defeasing or paying in full all outstanding Conduit Financings, pursuant to and in accordance with the Financing Documents. If the School District does not give the Corporation written notice of such election within the ninety-day period, then the Corporation may use the Site or sublet the Site to another School-District authorized charter school pursuant to the Financing Documents.

7. Quiet Enjoyment. The School District covenants and agrees that, provided the Corporation is not in default and keeps, observes, and performs the covenants and agreements of Corporation contained in this Site Lease, the Corporation shall have quiet and peaceable possession of the Site and the School District hereby acknowledges that the Corporation shall have a leasehold interest in the Site Leased Property.

8. Condition of Site. The Corporation covenants and agrees that, upon taking possession of the Site, the Corporation shall be deemed to have accepted the Site “as is” and the Corporation shall be deemed to have waived any warranty of condition or habitability, suitability for occupancy, use or habitation, fitness for a particular purpose or merchantability, express or implied relating to Site.

9. Assignments and Subleases.

- a. Except for a sublease of the Site to the Charter School as part of the Conduit Financings, the Corporation may not sell or assign its rights under this Site Lease or

sublet the Site, or any portions thereof, without the written consent of the School District, which consent may be withheld in the School District's sole discretion.

b. During the term of this Site Lease, the Corporation may provide for the establishment of encumbrances on its leasehold interest under this Site Lease for the purpose of establishing or perfecting security interests for the Conduit Financings.

10. No Liens. The Corporation covenants and agrees that nothing contained in this Site Lease shall be construed as consent by the School District to subject the estate of the School District to liability for construction liens. It is expressly understood that the School District's estate shall not be subject to such liability. The Corporation shall notify any and all parties or entities performing work or providing materials relating to any improvements made by the Corporation of this provision of this Site Lease. If so requested by the School District, the Corporation shall file a notice satisfactory to the School District in the public records of Douglas County stating that the School District's interest shall not be subject to liens for improvements made by the Corporation. In the event that a construction lien is filed in connection with any work performed by or on behalf of the Corporation, the Corporation shall satisfy such claim, or transfer same to security, within ten (10) days from the date the Corporation receives notice of such filing. In the event that the Corporation fails to satisfy or transfer such claim within said ten (10) day period, the School District may do so and thereafter charge the Corporation, and the Corporation shall promptly pay to the School District upon demand all costs incurred by the School District in connection with the satisfaction or transfer of such claim, including attorney's fees. Further, the Corporation agrees to indemnify, defend, and hold the School District harmless from and against any damage or loss incurred by the School District as a result of any construction lien.

11. Right of Entry. The School District reserves the right for any of its duly authorized representatives to enter upon the Site at any reasonable time to inspect the same or to make any repairs, improvements, or changes necessary for the preservation thereof.

12. Default. In the event the Corporation shall be in default in the performance of any obligation on its part to be performed under the terms of this Site Lease, which default continues for thirty (30) days following notice and demand for correction thereof to the Corporation, the School District may take one or any combination of the following remedial steps:

- a. Terminate the Site Lease and give notice to the Corporation and the Charter School to immediately vacate the Site;
- b. Enforce any provision of this Site Lease by equitable remedy, including, but not limited to, enforcement of the restrictions on assignment, encumbrance, conveyance, transfer or succession under Article XI hereof by specific performance, writ of mandamus or other injunctive relief; and
- c. Take whatever action at law or in equity may appear necessary or desirable to enforce its rights in and to the Site under this Site Lease.

No remedy herein conferred upon or reserved to the School District is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall be construed to be a waiver thereof, but any such right and power may

be exercised from time to time and as often as may be deemed expedient. In order to entitle the School District to exercise any remedy reserved in this Section, it shall not be necessary to give any notice, other than such notice as may be required in this Section. The School District may waive any event of default under this Site Lease and its consequences. In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

13. Taxes; Maintenance; Insurance.

a. During the Term, the Corporation covenants and agrees (a) to pay or cause to be paid any and all assessments of any kind or character and all taxes, including possessory interest taxes, levied or assessed upon the Site, (b) to pay or cause to be paid all maintenance costs and utility charges in connection with the Site, (c) to pay or cause to pay maintenance, snow removal, and related costs for the Site, (d) to maintain the Site in good condition and (e) to insure the Site or cause the Site to be insured in accordance with the requirements of the Financing Documents.

b. The provisions of the Financing Documents shall govern with respect to the maintenance of insurance hereunder during the Term. All such insurance shall name the School District as an additional insured.

14. Indemnification. The Corporation shall indemnify, defend, and hold harmless the School District and its past and present directors, employees, and agents from and against any and all losses, damages, costs (including, without limitation, attorneys' fees and court costs), liabilities, causes of action, and settlements arising from or brought in connection with or related to the Corporation's operations and/or the conduct of any of the Corporation's directors, board members, employees, agents or contractors.

15. Damage, Destruction, or Condemnation. In the event that either (i) the Site or any portion thereof is destroyed (in whole or in part) or damaged by fire or other casualty, (ii) title to, or the temporary or permanent use of the Site or any portion thereof or the estate of the School District, the Corporation or any sublessee or assignee of the Corporation in the Site or any portion thereof shall be taken under the exercise of the power of eminent domain, (iii) breach of warranty or any material defect with respect to the Site shall become apparent, or (iv) title to or the use of all or any portion of the Site shall be lost by reason of defect in the title thereto, the Corporation or any sublessee or assignee of the Corporation shall cause any proceeds of any insurance, performance bonds, condemnation award, or any proceeds received as a consequence of default or breach of warranty under any contract relating to the Site to be applied in accordance with the provisions of the Financing Documents.

16. Partial Invalidity. If any one or more of the terms, provisions, covenants, or conditions of this Site Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site Lease shall be affected thereby, and each provision of this Site Lease shall be valid and enforceable to the fullest extent permitted by law.

17. No Merger. The School District and the Corporation intend that the legal doctrine of merger shall have no application to this Site Lease and that neither the execution and delivery of the Financing Documents by the Corporation and the Charter School, nor the exercise of any remedies under this Site Lease or any rights of the School District upon the loss by the Charter School of its charter, shall operate to terminate or extinguish this Site Lease.

18. Binding Effect. This Site Lease shall inure to the benefit of and shall be binding upon the Corporation and the School District and their respective successors and assigns.

19. Notices. All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or if mailed by United States registered mail, return receipt requested, postage prepaid, to the addresses indicated in the first paragraph of this Site Lease or to such other addresses as the respective parties may from time to time designate in writing.

20. Amendments, Changes and Modifications. Except as otherwise provided herein and in the indenture, this Site Lease may not be effectively amended, changed, modified or altered other than by the execution of a subsequent document in the same manner as this Site Lease is executed.

21. Applicable Law. The laws of the State shall be applied in the interpretation, execution and enforcement of this Site Lease.

22. Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Site Lease.

23. Attorneys' Fees and Costs. In any dispute arising from or relating to this Site Lease, the prevailing party shall be awarded its reasonable attorneys' fees, costs and expenses, including any attorneys' fees, costs and expenses incurred in enforcing or collecting upon any judgment, order or award.

24. Execution. This Site Lease may be executed in any number of counterparts, each of which shall be deemed to be an original but all together shall constitute but one and the same Lease Agreement.

25. Electronic Transactions. The parties hereto agree that the transactions described herein may be conducted and related documents may be stored by electronic means. Copies, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

IN WITNESS WHEREOF, the parties have signed this Right of First Refusal Agreement with the intent that it shall be effective as of the date set forth in the introduction.

DOUGLAS COUNTY SCHOOL DISTRICT RE-1

\_\_\_\_\_  
President, Board of Directors

ATTEST:

\_\_\_\_\_  
Secretary, Board of Directors

[BUILDING CORPORATION]

ATTEST:

\_\_\_\_\_

EXHIBIT A  
Legal Description of Site



## EXHIBIT B

### **Center-Based Program (CBP)**

A suite of three classrooms for students with special needs, including a testing room, office area, sensory room, calming room, restroom with changing table, life-skills/mini-kitchenette (with laundry access), storage area, integrated within the building on the ground floor, exterior door access, with daylight, located near a building entrance/exit to the playground and transportation loop (bus access).

### **Classroom for Center-Based Program**

- Each Classroom (3) - 900 sq ft
- Toilet/Changing Room - 145 sq ft
- Life Skills (Kitchen and Laundry) - 200 sq ft
- Storage Special Services Classroom = 130 sq ft
- Sensory Space - 200 sq ft
- Calming Room - 100 sq ft
- Specialist Office(s) - 260 sq ft
- Total - 4000 sq ft

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### **Further Details for Center-Based Program Site Considerations and Location**

- CBP programs may have “runners”, students who run away from the classroom or the school. Do not locate CBP classrooms near exterior doors that are near busy streets. Avoid placing doors with direct access to the exterior within CBP classrooms.
- CBP classrooms may have students with mobility devices. CBP classrooms shall be located along defined accessible routes and facilitate egress for emergencies and fire drills, such as being near corridor exit doors or near elevator access.
- CBP classrooms shall be located within their school to promote integration with, rather than isolation from, peers. For example, locate CBP classrooms in the area that contains general education classrooms for peers of the same age group.
- The CBP classroom serves as a home base for students with significant support needs. Students spend varying amounts of time in general education classrooms, depending on age and level of support needed.

- Classrooms shall have views to the outdoors and access to natural daylight. It is particularly important that CBP classrooms have access to daylight, as their students spend a higher percentage of time in that single classroom.
- Provide space for storage of mobility devices within the classroom.
- Provide 12-16 linear feet of base cabinets (24 inches deep) and upper cabinets (15 inches deep), inclusive of a full-height wardrobe; or provide equivalent volume of storage. Wardrobes, base cabinets, and upper cabinets shall be lockable. Provide one sink in base cabinets at accessible adult-height.
- Provide built-in cubbies to store student and staff belongings. Provide one cubby per student and one cubby per paraprofessional. Staff cubbies shall be lockable.
- Flooring is resilient flooring (such as rubber). Carpet may be considered for up to 30 percent of flooring.
- Provide electrical receptacles in CBP classroom to accommodate special needs devices including, but not limited to, talker device charging, powered wheelchair charging, and special electronic learning devices.
- Lighting at a minimum shall be dimmable and non-fluorescent. Consider providing a tunable LED lighting system, in which both brightness and color temperature can be adjusted.

#### **CBP Sensory Room**

- A sensory room is a controllable and adaptable environment where children with special needs can decompress and improve focus.
- Sensory room is to be 100 square feet.
- Allow for a 6-foot radius therapy swing.
- Provide structural accommodations for one ceiling-hung therapy swing in the sensory room.
- Provide a room where physical therapists, occupational therapists, speech therapists, and psychologists can work one-on-one or in small groups with CBP students. Therapy room is to be approximately 200 square feet.

#### **CBP Student Restrooms**

- CBP restrooms are to be used by CBP students only.
- Locate CBP restrooms to have direct access to CBP classrooms. Provide one restroom.
- Provide one motorized, adjustable-height, changing table per CBP restroom. Changing tables may be either wall-mounted or free-standing, but shall maximize accessibility for both the adult providing the changing and the child being changed. Height is to be adjustable from 17 inches minimum to 38 inches maximum. Provide the following changing table sizes:
  - Elementary School: Child-size table, not less than 55-60 inches in length.

- Middle School and High School: Adult size table, note less than 70 inches long and 30 inches wide.
- Provide clearances around the changing table of not less than 36 inches along one long side and 36 inches along one short side, as well as the corner space between the two side clearances.
- Provide an accessible shower compartment in the restroom.
- Flooring to be resinous flooring with integral base.