

**AGREEMENT
FOR USE OF SCHOOL POROPERTY
BETWEEN THE
SANTA BARBARA UNIFIED SCHOOL DISTRICT
AND THE
SANTA BARBARA EDUCATION FOUNDATION**

GOVERNING THE OPERATION OF AN EDUCATIONAL PROGRAM AND THE RENTAL AND USE OF FACILITIES FOR SUCH PROGRAM.

THIS AGREEMENT, made and entered into this ____ day of March, 2013, by and between the SANTA BARBARA UNIFIED SCHOOL DISTRICT, hereinafter referred to as the DISTRICT, and the SANTA BARBARA EDUCATION FOUNDATION, hereinafter referred to as the FOUNDATION.

WITNESSETH

WHEREAS, pursuant to Sections 39470, 39530, 40040, and 40041 of the California Educational Code, and Board Policy of the District, provision is made for the use of buildings and facilities of public school districts for educational purposes in the public interest, and

WHEREAS, the Foundation desires to conduct such an educational program in the public interest on a non-profit basis, and

WHEREAS, such a program will not result in costs to the District.

NOW, THEREFORE, the District and the Foundation agree as follows:

The District does hereby grant the Foundation for a period of three years use of the buildings and facilities more particularly set forth in Schedule "A" to be attached hereto and be made a part of this Agreement for the term hereafter specified. The Foundation shall use the granted premises only for the purpose of conducting classes at such levels and in such courses as currently offered by the District and/or

meet California state standards. The Foundation will charge tuition, fees, and other sums to persons who enroll, and the amounts to be charged shall be at the sole discretion of the Foundation. No use shall be inconsistent with use of the property by the District for school purposes. The Agreement is not intended and should not be construed as offering a monopoly for the benefit of any person or organization.

1. SCHEDULE OF CHARGES AND BILLING PROCEDURES (Schedule "A")

A schedule of charges for the use of the facilities, equipment, and materials owned by the District and used by the Foundation is established as follows:

- The charge for the use of any classroom shall be \$35.00 + \$3.00 (utility surcharge) per classroom for each day of use for 2013 and renegotiated in the 2nd and 3rd years of the agreement.
- The charge for the use of any Computer Lab shall be \$85.00 + \$3.00 (utility surcharge) per classroom for each day of use for 2013 and renegotiated in the 2nd and 3rd years of the agreement.
- The charge for use of facilities not specifically identified herein shall be by mutual agreement and made a part of this contract and listed in Schedule "A".
- The charges for use of instructional materials, including textbooks, copying, consumable supplies, audiovisual aids and equipment shall be \$10.00 per student enrolled for 2013 and renegotiated in the 2nd and 3rd years of the agreement.

The charges represent sufficient use fees to cover the costs of materials, equipment, and facility utilization, including restrooms, non-consumable materials and supplies, utilities, and custodial/maintenance supplies and services. The Foundation shall provide the District with a complete accounting of the enrollment of persons

attending classes. The Foundation may determine the minimum number of persons to be enrolled in any class or program and may cancel a class or program or use of a site in case of insufficient enrollment. Within 60 days of the end of each summer school session, the District shall send the Foundation an invoice, itemizing the facilities, equipment, and materials costs to be paid to the District by the Foundation within sixty (60) days of receiving the invoice.

II. FOUNDATION'S RESPONSIBILITIES

The Foundation shall be responsible for operation of a summer school program of courses that are current District curriculum courses or meet the California state standards. The course list may be altered by the Foundation based on enrollment and additional courses may be added with the approval of the District.

The Foundation shall be solely responsible for administering the educational program offered by it pursuant to this Agreement, forming and/or canceling classes, and collecting its tuition and other fees. All teachers and staff shall be selected solely by the Foundation and said persons shall be subject solely to its direction, control, compensation, and discharge. The Foundation and District agree that the Foundation will be the employer of the teachers and staff. The Foundation shall bear all liabilities and expenses imposed by law or contract incident to such employment, including but not limited to Worker's Compensation Insurance, Unemployment Insurance, Social Security Contribution, and Tax Withholdings.

III. ACADEMIC CREDIT

The District shall grant students in Foundation classes full credit for summer school courses successfully completed as determined by the teacher of record. Said credit is based on the Foundation classes having followed the District curriculum and California state standards.

IV. INSURANCE REQUIREMENTS

The Foundation shall provide the District with a certificate of insurance designating the District as “additional insured” for the term of this Agreement for all programs conducted by the Foundation on District properties. The minimum limits shall be as follows: bodily injury of not less than \$500,000 each person and \$1,000,000 each incident; property damage of not less than \$100,000; and comprehensive general liability coverage of not less than \$1,000,000. The Foundation insurance carrier must be acceptable to the District.

V. INSPECTION OF PREMISES

The parties agree that there shall be a pre-inspection and post-inspection of the premises to be conducted by representatives of the District and the Foundation. The purpose of the pre-inspection is to determine the items of District property on the premises and their condition, and the purpose of the post-inspection is to determine if all items of District property have been returned and what repairs, replacements, or reimbursements, if any, need to be made by the Foundation. Repairs and maintenance required, due to normal wear or tear from school usages, shall not be the responsibility of the Foundation.

VI. ASSIGNMENT OF AGREEMENT

The Foundation shall not assign its rights or privileges under the Agreement, or any interest therein, and shall not attempt to confer any of its privileges under this Agreement to any third party, and shall not suffer any other person or entity (students, agents and employees of the Foundation and the District excepted) to occupy or use of the premises or any portion thereof, without prior written consent of the District, and such a consent shall not be deemed to be a consent to any subsequent grant of privilege. Any unauthorized grant of privilege by the Foundation shall be void and shall, at District’s option, terminate the rights and privileges of the Foundation under this Agreement. This grant of use shall not, nor shall any interest therein be assignable as an interest of the Foundation by operation of law or otherwise, without the written consent of the District.

VII. INDEMNIFICATION AND HOLD HARMLESS CLAUSE

Each party to this Agreement agrees to and does hereby indemnify and hold harmless the other party, its officers, agents, and employees, with respect to any liability or claim of liability arising out of or resulting from the sole negligence, willful misconduct, or the unilateral and sole action of one party, its officers, agents, employees, or independent contractors.

VIII. TERM OF AGREEMENT

This Agreement is effective for the period beginning June 1, 2013 and ending September 30, 2016. Both parties may agree to extend an additional three years by mutual agreement.

IX. TERMINATION

If after the first year, the summer program fails to show financial sustainability, the Foundation may terminate this Agreement. Otherwise, either party may terminate the agreement only in the event of gross negligence or breach of contract. Such notice must be made in writing not later than December 1 preceding the summer session to be terminated.

X. USE OF DISTRICT COPIER

The Foundation may use the District copiers for educational purposes only. All persons using the copier must have completed a training session on the use of the copier. Any costs for repair as a direct result of misuse by Foundation employees will be charged to the Foundation.

XI. MISCELLANEOUS PROVISIONS

It is mutually agreed that the District has absolutely no authority of any kind concerning any matter, cause, or action whatsoever in connection with the Foundation, that has not been specified in the Agreement. Nothing contained in this

Agreement shall be construed as constituting the Foundation as a partner, employee, or agent of the District.

XII. NOTICES

All notices given by the District to the Foundation or by the Foundation to the District under this Agreement shall be in writing and either delivered in person or by mail to the following addresses:

(a) Notices to the District:

SANTA BARBARA UNIFIED SCHOOL DISTRICT
c/o Meg Jetté, Assistant Superintendent
720 Santa Barbara Street
Santa Barbara, CA 93101

(b) Notices to the Foundation:

SANTA BARBARA EDUCATION FOUNDATION
c/o Margie Yahyavi, Executive Director
1330 State Street, Suite 203
Santa Barbara, CA 93101

SANTA BARBARA UNIFIED
SCHOOL DISTRICT

SANTA BARBARA
EDUCATION FOUNDATION

By:_____

By:_____

Name and Title

Name and Title

Date of Board Approval:_____

SCHEDULE "A"

2013

High School

Classrooms (per day)	$\$35 + \$3 \text{ (utilities)} = \38
Computer Lab (technology room)	$\$85 + \$3 \text{ (utilities)} = \88
Materials (per student)	\$10