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October 30, 2020

Superintendent Cindy Marten
San Diego Unified School District
4100 Normal Street, Room 2219
San Diego, CA 92103

RE: Request for Proposition 39 Facilities for the 2021-2022 School Year

Dear Superintendent Marten:

I am writing on behalf of Elevate School (“Charter School”) to request reasonably equivalent school facilities from the San Diego Unified School District (“District”) pursuant to Education Code Section 47614 (i.e., Proposition 39) and Title 5 of the California Code of Regulations (“CCR”) Section 11969.1 through 11969.11, as amended (“Implementing Regulations”).

Proposition 39, passed by the voters of California on November 7, 2000, requires school districts to make available, to each charter school operating within the school district, school facilities sufficient for each charter school to accommodate all of the charter school’s in-district students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending other public schools of the school district. Facilities provided shall be contiguous, furnished, and equipped, and shall remain the property of the school district. In addition, the school district must make reasonable efforts to provide the charter school with facilities near to where the charter school desires to be located. (See Education Code Section 47614(b)).

The Proposition 39 Implementing Regulations, adopted by the State Board of Education (“SBE”) in 2002, and amended in 2008, require the Charter School to make an annual written request for facilities. Title 5 CCR Section 11969.9(c)(1) specifies the information that must be included in the annual facilities request. This request, along with the information submitted herewith, meets and exceeds the requirements of Education Code Section 47614 and the Implementing Regulations.

Projected Average Daily Attendance (ADA)

In accordance with Education Code Section 47614(b)(2), the District is required to allocate school facilities to the Charter School for the following school year based upon a projection of average daily classroom attendance provided by the Charter School.

Proposition 39 Request: 2021-22 School Year

The Charter School’s Governing Board has determined that a reasonable projection of the Charter School’s in-District average daily classroom attendance for the 2021-22 school year is 375.36. The following is a breakdown of the Charter School’s projected average daily attendance (“ADA”) as required by 5 CCR Section 11969.9(c)(1). The Charter School’s ADA figures are based on the methodology outlined in the following section.

Please note:

- “Prior year” means the fiscal year prior to the year in which a facilities request is made. For this request, the prior year is 2019-20.
- “Current year” means the fiscal year in which a facilities request is made. For this request, the current year is 2020-21.
- “Request year” means the fiscal year for which facilities are being requested. For this request, the request year is 2021-22.

Table 1: Total ADA

A	B	C	D
Grade Level	<u>Actual Total Prior Year (P-2)</u>	<u>Projected Total Current Year</u>	<u>Projected Total Request Year</u>
K	47.48	48.00	48.00
1	48.94	48.00	48.00
2	72.21	48.00	48.00
3	48.77	69.12	48.00
4	48.04	47.04	72.00
5	46.18	48.96	48.00
6	N/A	42.24	48.00
7	N/A	N/A	48.00
Total	311.62	351.36	408.00

Table 2: Total In-District ADA

A	B	C	D
Grade Level	<u>Actual Total Prior Year (P-2)</u>	<u>Projected Total Current Year</u>	<u>Projected Total Request Year</u>
K	44.61	44.16	44.16
1	45.22	44.16	44.16
2	67.83	44.16	44.16
3	45.22	63.59	44.16
4	42.31	45.08	66.24
5	42.31	43.28	44.16
6	N/A	38.86	44.16
7	N/A	N/A	44.16
Total	287.50	323.29	375.36

Table 3: Total Classroom ADA

A	B	C	D
Grade Level	<u>Actual Total Prior Year (P-2)</u>	<u>Projected Total Current Year</u>	<u>Projected Total Request Year</u>

K	47.48	48.00	48.00
1	48.94	48.00	48.00
2	72.21	48.00	48.00
3	48.77	69.12	48.00
4	48.04	47.04	72.00
5	46.18	48.96	48.00
6	N/A	42.24	48.00
7	N/A	N/A	48.00
Total	311.62	351.36	408.00

Table 4: Total In-District Classroom ADA

A	B	C	D
Grade Level	Actual Total Prior Year (P-2)	Projected Total Current Year	Projected Total Request Year
K	44.61	44.16	44.16
1	45.22	44.16	44.16
2	67.83	44.16	44.16
3	45.22	63.59	44.16
4	42.31	45.08	66.24
5	42.31	43.28	44.16
6	N/A	38.86	44.16
7	N/A	N/A	44.16
Total	287.50	323.29	375.36

The following tables represent the projected total Request Year **in-District ADA** (from Table 2 above) and the projected total Request Year **in-District classroom ADA** (from Table 4 above) broken down by grade level and the school in the District the pupils are otherwise eligible to attend. (5 CCR Section 11969.9(c)(2).)

Table 5: In-District ADA Broken Down by Grade Level and District Schools Where Pupils Would Otherwise Attend:

School Name/Grade	K	1	2	3	4	5	6	7	Total
Adams	0.96	0.96	0	1.92	1.92	1.92	0	0	7.68
Angier	1.92	2.88	5.76	1.92	2.88	1.92	0	0	17.28
Birney	0.96	0	0.96	0.96	1.92	0.96	0	0	5.76
Carson	0.96	0	1.92	0.96	1.92	0.96	0	0	6.72
Chesterton	0.96	1.92	0.96	0	2.88	0.96	0	0	7.68
Cubberley	3.84	2.88	1.92	2.88	4.8	1.92	0	0	18.24
DePortola MS	0	0	0	0	0	0	10.6	9.6	20.16
Doyle	0	1.92	2.88	0	0	0	0	0	4.8
Farb MS	0	0	0	0	0	0	7.68	8.64	16.32
Fay	0.96	0.96	0	0	0.96	0	0	0	2.88
Field	0	0	0.96	0	0.96	0.96	0	0	2.88
Fletcher	0	0.96	0	0	0.96	0.96	0	0	2.88
Foster	1.92	0.96	2.88	1.92	2.88	0.96	0	0	11.52
Franklin	0.96	0.96	0	0.96	0.96	1.92	0	0	5.76
Gage	0.96	0	0.96	1.92	1.92	0	0	0	5.76

Hancock	1.92	1.92	0.96	2.88	3.84	1.92	0	0	13.44
Hardy	0.96	1.92	0.96	0	0	0	0	0	3.84
Hawthorne	0	0	0.96	0	0	1.92	0	0	2.88
Hearst	0.96	0	0.96	0	0	0.96	0	0	2.88
Holmes	0	0	1.92	0	0.96	0.96	0	0	3.84
Innovation MS	0	0	0	0	0	0	2.88	1.92	4.8
Jefferson	0.96	0.96	0	1.92	0.96	0.96	0	0	5.76
Johnson	0.96	0.96	0.96	0	0	0.96	0	0	3.84
Jones	4.8	5.76	2.88	7.68	9.6	5.76	0	0	36.48
Juarez	0.96	1.92	2.88	0.96	0.96	0	0	0	7.68
Knox MS	0	0	0	0	0	0	1.92	2.88	4.8
Kumeyaay	1.92	0	0.96	0	1.92	1.92	0	0	6.72
Lafayette	0	0.96	0	0	0	1.92	0	0	2.88
Lewis MS	0	0	0	0	0	0	2.88	3.84	6.72
Mann MS	0	0	0	0	0	0	3.84	4.8	8.64
Marston MS	0	0	0	0	0	0	1.92	1.92	3.84
Marvin	0	0	0	0	0.96	0	0	0	0.96
McKinley	0	1.92	0	0	1.92	0	0	0	3.84
Miller	4.8	5.76	6.72	3.84	7.68	4.8	0	0	33.6
Miramar Ranch	0	0	0	2.88	0	0	0	0	2.88
Montgomery MS	0	0	0	0	0	0	4.8	3.84	8.64
Ocean Beach	0	0.96	0	0	0	0	0	0	0.96
Pacific Beach	0	0.96	0	0	0	0	0	0	0.96
Rolando Park	0.96	0.96	0	0.96	0	0.96	0	0	3.84
Ross	0	0	0	0	0.96	0	0	0	0.96
Sandburg	0	1.92	0	0	1.92	0	0	0	3.84
Sequoia	0.96	0.96	0.96	0.96	0.96	0.96	0	0	5.76
Sessions	0.96	0	0	0	0	0.96	0	0	1.92
Silvergate	0.96	0	0	0.96	0	0	0	0	1.92
Taft MS	0	0	0	0	0	0	7.68	6.72	14.4
Tierrasanta	1.92	0.96	0.96	2.88	2.88	1.92	0	0	11.52
Vista Grande	1.92	0.96	0.96	1.92	2.88	1.92	0	0	10.56
Wegeforth	1.92	0	1.92	1.92	1.92	1.92	0	0	9.6
Whitman	1.92	0	0	0.96	0.96	0	0	0	3.84
Total	44.16	44.16	44.16	44.2	66.24	44.16	44.2	44.2	375.4

Table 6: In-District Classroom ADA Broken Down by Grade Level and District Schools Where Pupils Would Otherwise Attend:

School Name/Grade	K	1	2	3	4	5	6	7	Total
Adams	0.96	0.96	0	1.92	1.92	1.92	0	0	7.68
Angier	1.92	2.88	5.76	1.92	2.88	1.92	0	0	17.28
Birney	0.96	0	0.96	0.96	1.92	0.96	0	0	5.76
Carson	0.96	0	1.92	0.96	1.92	0.96	0	0	6.72
Chesterton	0.96	1.92	0.96	0	2.88	0.96	0	0	7.68
Cubberley	3.84	2.88	1.92	2.88	4.8	1.92	0	0	18.24
DePortola MS	0	0	0	0	0	0	10.6	9.6	20.16
Doyle	0	1.92	2.88	0	0	0	0	0	4.8

Farb MS	0	0	0	0	0	0	7.68	8.64	16.32
Fay	0.96	0.96	0	0	0.96	0	0	0	2.88
Field	0	0	0.96	0	0.96	0.96	0	0	2.88
Fletcher	0	0.96	0	0	0.96	0.96	0	0	2.88
Foster	1.92	0.96	2.88	1.92	2.88	0.96	0	0	11.52
Franklin	0.96	0.96	0	0.96	0.96	1.92	0	0	5.76
Gage	0.96	0	0.96	1.92	1.92	0	0	0	5.76
Hancock	1.92	1.92	0.96	2.88	3.84	1.92	0	0	13.44
Hardy	0.96	1.92	0.96	0	0	0	0	0	3.84
Hawthorne	0	0	0.96	0	0	1.92	0	0	2.88
Hearst	0.96	0	0.96	0	0	0.96	0	0	2.88
Holmes	0	0	1.92	0	0.96	0.96	0	0	3.84
Innovation MS	0	0	0	0	0	0	2.88	1.92	4.8
Jefferson	0.96	0.96	0	1.92	0.96	0.96	0	0	5.76
Johnson	0.96	0.96	0.96	0	0	0.96	0	0	3.84
Jones	4.8	5.76	2.88	7.68	9.6	5.76	0	0	36.48
Juarez	0.96	1.92	2.88	0.96	0.96	0	0	0	7.68
Knox MS	0	0	0	0	0	0	1.92	2.88	4.8
Kumeyaay	1.92	0	0.96	0	1.92	1.92	0	0	6.72
Lafayette	0	0.96	0	0	0	1.92	0	0	2.88
Lewis MS	0	0	0	0	0	0	2.88	3.84	6.72
Mann MS	0	0	0	0	0	0	3.84	4.8	8.64
Marston MS	0	0	0	0	0	0	1.92	1.92	3.84
Marvin	0	0	0	0	0.96	0	0	0	0.96
McKinley	0	1.92	0	0	1.92	0	0	0	3.84
Miller	4.8	5.76	6.72	3.84	7.68	4.8	0	0	33.6
Miramar Ranch	0	0	0	2.88	0	0	0	0	2.88
Montgomery MS	0	0	0	0	0	0	4.8	3.84	8.64
Ocean Beach	0	0.96	0	0	0	0	0	0	0.96
Pacific Beach	0	0.96	0	0	0	0	0	0	0.96
Rolando Park	0.96	0.96	0	0.96	0	0.96	0	0	3.84
Ross	0	0	0	0	0.96	0	0	0	0.96
Sandburg	0	1.92	0	0	1.92	0	0	0	3.84
Sequoia	0.96	0.96	0.96	0.96	0.96	0.96	0	0	5.76
Sessions	0.96	0	0	0	0	0.96	0	0	1.92
Silvergate	0.96	0	0	0.96	0	0	0	0	1.92
Taft MS	0	0	0	0	0	0	7.68	6.72	14.4
Tierrasanta	1.92	0.96	0.96	2.88	2.88	1.92	0	0	11.52
Vista Grande	1.92	0.96	0.96	1.92	2.88	1.92	0	0	10.56
Wegeforth	1.92	0	1.92	1.92	1.92	1.92	0	0	9.6
Whitman	1.92	0	0	0.96	0.96	0	0	0	3.84
Total	44.16	44.16	44.16	44.2	66.24	44.16	44.2	44.2	375.4

Table 7: In-District Students Broken Down by Grade Level and District Schools Where Pupils Would Otherwise Attend:

School Name/Grade	K	1	2	3	4	5	6	7	Total
Adams	1	1	0	2	2	2	0	0	8
Angier	2	3	6	2	3	2	0	0	18
Birney	1	0	1	1	2	1	0	0	6
Carson	1	0	2	1	2	1	0	0	7
Chesterton	1	2	1	0	3	1	0	0	8
Cubberley	4	3	2	3	5	2	0	0	19
DePortola MS	0	0	0	0	0	0	11	10	21
Doyle	0	2	3	0	0	0	0	0	5
Farb MS	0	0	0	0	0	0	8	9	17
Fay	1	1	0	0	1	0	0	0	3
Field	0	0	1	0	1	1	0	0	3
Fletcher	0	1	0	0	1	1	0	0	3
Foster	2	1	3	2	3	1	0	0	12
Franklin	1	1	0	1	1	2	0	0	6
Gage	1	0	1	2	2	0	0	0	6
Hancock	2	2	1	3	4	2	0	0	14
Hardy	1	2	1	0	0	0	0	0	4
Hawthorne	0	0	1	0	0	2	0	0	3
Hearst	1	0	1	0	0	1	0	0	3
Holmes	0	0	2	0	1	1	0	0	4
Innovation MS	0	0	0	0	0	0	3	2	5
Jefferson	1	1	0	2	1	1	0	0	6
Johnson	1	1	1	0	0	1	0	0	4
Jones	5	6	3	8	10	6	0	0	38
Juarez	1	2	3	1	1	0	0	0	8
Knox MS	0	0	0	0	0	0	2	3	5
Kumeyaay	2	0	1	0	2	2	0	0	7
Lafayette	0	1	0	0	0	2	0	0	3
Lewis MS	0	0	0	0	0	0	3	4	7
Mann MS	0	0	0	0	0	0	4	5	9
Marston MS	0	0	0	0	0	0	2	2	4
Marvin	0	0	0	0	1	0	0	0	1
McKinley	0	2	0	0	2	0	0	0	4
Miller	5	6	7	4	8	5	0	0	35
Miramar Ranch	0	0	0	3	0	0	0	0	3
Montgomery MS	0	0	0	0	0	0	5	4	9
Ocean Beach	0	1	0	0	0	0	0	0	1
Pacific Beach	0	1	0	0	0	0	0	0	1
Rolando Park	1	1	0	1	0	1	0	0	4
Ross	0	0	0	0	1	0	0	0	1
Sandburg	0	2	0	0	2	0	0	0	4
Sequoia	1	1	1	1	1	1	0	0	6
Sessions	1	0	0	0	0	1	0	0	2
Silvergate	1	0	0	1	0	0	0	0	2

Taft MS	0	0	0	0	0	0	8	7	15
Tierrasanta	2	1	1	3	3	2	0	0	12
Vista Grande	2	1	1	2	3	2	0	0	11
Wegeforth	2	0	2	2	2	2	0	0	10
Whitman	2	0	0	1	1	0	0	0	4
Total	46	46	46	46	69	46	46	46	391

Methodology Used In Making ADA Projection:

Title 5 CCR Section 11969.9(c)(1)(B) requires the facilities request to include a description of the methodology for the ADA projections. The Charter School utilized the following methodology in calculating the ADA projections: bgh

The Charter School utilized the cohort survival methodology in calculating its ADA projections for 2021-2022, in which the current enrollment of each grade is advanced. This includes the addition of 50 students (48.00 ADA) in grade 7 as our current 6th grade moves up. Total enrollment with 13 classes in K-5 (with 25 students per class) and 100 students in grade 6 and 7 is 425 students. Elevate has consistently had 96% attendance or higher in recent years, and so total projected enrollment (425) and in-District enrollment (391) were multiplied by .96 to calculate projected Total ADA of 408.0 (Table 1). In the current school year, 92% of Elevate students live within district boundaries. This value was used to calculate the total in-district ADA of 375.36 (408.0 x .92) found in Table 2.

Elevate's ADA projection is also supported by the historical enrollment, retention rate, waitlist and growth trends. Over the last four years the Charter School has experienced a steady increase in its enrollment and has consistently maintained healthy waitlists, as shown in the following table:

School Year	Enrollment	ADA Claimed at P-2	Retention Rate from prior year	Growth Percentage Change	# of Wait Listed Children at Lottery
2016-17	218	210.11	82.6% (157 of 190)	0.5% (3 of 215)	96
2017-18	307	293.77	76.5% (150 of 196)	40.8% (89 of 218)	259
2018-19	319	306.58	85.3% (221 of 259)	3.9% (12 of 307)	155
2019-20	320	309.62	89.1% (246 of 276)	0.3% (1 of 319)	187
2020-21	366	N/A	85.3% (268 of 314)	14.4% (46 of 320)	284

As demonstrated herein, we have analyzed our School's historical enrollment, retention, and growth trends, prior ADA figures, and historical wait list numbers in order to arrive at our total projected in-District classroom ADA figure for the request year. In 2017-2018, we added four classrooms at Vista Grande through Prop 39, increasing enrollment by 41% to 307 and

remaining relatively close to that in enrollment the following two years. This year's Census Day enrollment was 364, reflecting the addition of 44 6th grade students.

Student attendance rates in Years 1-6 (95.9%, 95.6%, 96.1%, 96.5%, 96.3%, 96.3% at P-2, respectively) have been strong, as well as student retention (76.2%, 82.6%, 76.5%, 85.3%, 89.1%, 85.3% respectively), even though a high percentage of Elevate students come from families that have a parent in active military service (and therefore experience more frequent family moves due to military orders, both during and between school years). In instances when families move away from San Diego, we have been able to consistently fill open spots with new applicants or students off the waitlist.

In addition to strong attendance and retention, one of the significant factors in our ADA projection for next year (408.00) is the projected increase of classrooms from 15 to 17. Increasing to 17 classrooms (of 25 students each) will allow Elevate to serve two classes in grades K-7, with the exception of three (3) fourth grade classes (filled with students in our 3 current 3rd grade classes).

Elevate does not offer a non-classroom-based program, and thus all of its projected ADA is classroom-based.

Supporting Documentation

Title 5 CCR Section 11969.9(c)(1)(C) requires the facilities request to include supporting documentation. The Implementing Regulations state that when a charter school is not yet open (i.e., not yet providing instruction) or to the extent an operating charter school projects a substantial increase in in-District ADA, the annual request must include documentation of the number of in-District students meaningfully interested in attending the Charter School. Please be advised that the Charter School is an existing school and does not project a significant increase in its in-District ADA (for which facilities are being requested). Accordingly, pursuant to the Implementing Regulations, please find attached our P-2 ADA forms for the prior year (2019-20) to support our projections:

- (1) A roster of current year students, by name, address, and phone number;
- (2) A declaration from the Executive Director regarding the Charter School's annual ADA and retention rate;
- (3) Signed parental "Meaningful Interest" Forms for over 200 students for the request year;
- (4) CALPADS form for the prior school year (2019-2020);
- (5) P-2 ADA forms for prior school year (2019-2020);
- (6) A copy of our waiting list for the current school year demonstrating the continuing interest in enrollment in our School; and

As you review the Charter School's ADA projections and supporting documentation, please keep in mind that the Proposition 39 regulations do not specify or require a particular type of supporting documentation to be used. Charter Schools may submit any type of supporting documentation which they used to arrive at their ADA projections. This documentation must be "sufficient for the district to determine the reasonableness of the projection, but ... need not be verifiable for precise arithmetical accuracy." (Section 11969.9(c)(1)(C).) The supporting

documentation is intended only to demonstrate reasonableness of Charter School's request, not mathematical exactitude, and need not be independently verified by the District. Indeed, there have been cases where Districts have actively contacted parents to corroborate or discount the evidence provided by the Charter School. Courts have found such actions to be improper and abusive, and the District should be aware that the use of such tactics may expose the District to liability for violating legal limits on the District's authority to "determine the reasonableness" of the Charter School's projection. The Regulations do not authorize the District to audit the documentation provided by the Charter School or discount evidence which cannot be independently confirmed by the District. However, should the District desire additional documentation or information regarding the Charter School's ADA projections, please contact me as soon as possible. We remain willing to cooperate with the District to immediately address any questions or concerns about this request and the supporting documentation.

Operational Calendar:

Title 5 CCR Section 11969.9(c)(1)(D) requires the facilities request to include the Charter School's operational calendar. The Charter School's operational calendar is attached for your review. The Charter School's first day of instruction is on August 30, 2021, therefore we will need access to the facility on or before August 16, 2021, in order to prepare. Please note that Title 5 CCR Section 11969.9(j) requires the District to ensure that a furnished and equipped facility meeting the requirement of Proposition 39 be made available to the Charter School no less than ten (10) working days prior to the charter school's first day of instruction. In addition, in accordance with Section 11969.5, the space allocated must be made available for the Charter School's entire school year regardless of the School District's instructional year or class schedule.

Educational Program:

Title 5 CCR Section 11969.9(c)(1)(F) requires the facilities request to provide information regarding the charter school's educational program that is relevant to the assignment of facilities. The Charter School's educational program does have unique facilities needs. As you are likely aware, key components of the educational program of the Charter School include three-fold emphasis on Academics, Leadership, and Creativity. Stephen Covey's time-tested leadership principles, the 7 Habits, are incorporated into classroom and school-wide learning.

In order to provide ongoing opportunities for students to develop as creators and innovators, Elevate implements its STEAM program, led by a full-time teacher who provides weekly instruction to all classes. A devoted classroom space for this STEAM learning is needed. The Charter School also partners with a before and after-school program throughout the school year that must be accommodated. Program staff arrive 1.5 hours before the start of school in order to supervise students whose parents are not able to drop off immediately prior to the official start time of the day.

As a member of the El Dorado SELPA, Elevate hires its own Education Specialist and services student learning needs on-site. It is noted that one of the additional classrooms constructed over the summer on the Vista Grande campus where Elevate currently co-locates affords space to meet the needs of students with IEPs.

Elevate's new middle school program will continue in 2021-2022 with grades 6 and 7. Ultimately, the education program for grades 6-8 will include core-academic courses, along with enrichment options (art, foreign language, music, etc) that will necessitate additional classroom space.

Please note that this list is not exhaustive, and if the District's comparison schools include other facilities not noted here, or the Charter School would be entitled to additional teaching stations, specialized teaching station spaces, or non-teaching stations spaces under a Prop. 39 analysis, the District must also allocate a reasonably equivalent amount of this space to the Charter School.

Facility Location:

Title 5 CCR Section 11969.9(c)(1)(E) requires the Charter School to provide information regarding the District school site and/or general geographic area in which the Charter School wishes to locate. Based upon the needs of the Charter School and the residency of the projected student enrollment in the Tierrasanta/Serra Mesa communities, the Charter School desires to locate its facility within a 7.5-mile radius of our current location at 2285 Murray Ridge Road, 92123.

This is the fourth year that Elevate is co-located at the Vista Grande Elementary campus in Tierrasanta. Elevate currently occupies 7 portable classrooms (4 classrooms, 1 office, 2 special ed/counseling/RTI) on the back portion of campus. Great effort has been invested to build a strong working relationship with the administration/leadership of Vista Grande, as well as establish numerous school-wide policies and procedures that have enabled us to both be a good neighbor and serve our students and families well.

While 17 classrooms are not available on the Vista Grande campus, Elevate is open to discussing an in-lieu arrangement with the District where it would to continue to occupy the 7 portable classrooms currently in use, and waive its right to additional space at another District campus for grades K-5.

Procedures and Timelines:

In accordance with the Implementing Regulations, the District is required to review the Charter School's attendance projections and to express any objections that it has about the Charter School's attendance projections in writing on or before December 1, 2020. The Charter School must respond to the District's written objections, if any, on or before January 2, 2021, and will either reaffirm or modify its projections as it deems necessary. (5 CCR Section 11969.9(d).)

Furthermore, we look forward to receiving a written preliminary facilities proposal from the District on or before February 1, 2021, as required under the Implementing Regulations. (5 CCR Section 11969.9(f).) The preliminary proposal must include, at a minimum, the following information: (1) a breakdown of the number of teaching stations (classrooms), specialized and non-classroom based space to be allocated to the Charter School, with an indication as to whether the space is exclusive or shared use; (2) the projections of in-District classroom ADA on which the proposal is based; (3) the specific location of the space; (4) all conditions pertaining to the space, including a draft of any proposed agreement pertaining to the Charter School's use of the space, (typically referred to as a facilities use agreement); (5) the projected pro rata share amount

and a description of the methodology used to determine that amount; and (6) a list and description of the comparison group schools used in developing its preliminary proposal, and a description of the differences between the preliminary proposal and the Charter School's facilities request. In accordance with the Implementing Regulations (5 CCR Section 11969.2(d)), if the District's preliminary proposal (or final notification) does not accommodate Charter School at a single school site, the District's governing board must first make a finding that the Charter School could not be accommodated at a single site and adopt a written statement of reasons explaining the finding. The Charter School has until March 1, 2021, to respond to the preliminary proposal, expressing any concerns, addressing differences between the preliminary proposal and the facilities request, and/or making counter proposals.

Section 11969.9(h) of the Implementing Regulations requires the District to provide a written final notification regarding the space to be allocated to the Charter School prior to April 1, 2021. The final notification specifically must include, at a minimum, the following:

- (1) The teaching station, specialized classroom space, and non-teaching station space offered for the exclusive use of the charter school and the teaching station, specialized classroom space, and non-teaching station space which the charter is to be provided access on a shared basis with District operated programs, if any;
- (2) For shared space, if any, the proposed arrangements for sharing;
- (3) The in-District classroom ADA assumptions for the Charter School upon which the allocation is based and, if the assumptions are different than those submitted by the charter school, a written explanation of the reasons for the differences;
- (4) The specific location of the space;
- (5) All conditions pertaining to the Charter School's use of the space;
- (6) The pro rata share amount and a description of the methodology used to determine that amount;
- (7) The payment schedule for the pro rata share amount, which shall take into account the timing of revenues from the state and from local property taxes; and
- (8) A response to the Charter School's concerns and/or counter-proposals, if any.

A California Court of Appeals decision has made clear that, in meeting their Proposition 39 obligation, school districts must give the same degree of consideration to the needs of charter school students as it does to the students in district-run schools. The court noted that "accommodating a charter school might involve moving district-operated programs or changing attendance areas" and that providing a contiguous school facility to a charter school might require disruption and dislocation among district students, staff and programs. (*Ridgecrest Charter School v. Sierra Sands Unified School District* (2005) 130 Cal.App.4th 986.) In addition, the Court concluded that a school district responding to a request for facilities must issue a statement of reasons at the time it makes its final determination that is "thorough" and "factual" enough to permit "effective review by the courts"; the statement of reasons issued by the school district must demonstrate that the district has "adequately considered all relevant factors" and that the district can "demonstrate a rational connection between those factors, the choice made, and the purposes of [Proposition 39]." Furthermore, as the District may be aware, two court cases clarified the manner in which a school district must allocate facilities to a charter school. Specifically, *Bullis Charter School v. Los Altos School District* (2011) 200 Cal.App.4th 1022, among other things, requires the District to perform a calculation of the square footage of all of the specialized and non-teaching station spaces at the comparison schools. The District must base its allocation of

space to the Charter School on this analysis. In addition, the California Supreme Court has stated that a school district may not use its internal “norming ratios,” or student-teacher ratios, in determining the number of classrooms to offer to charter schools but rather must use the facilities inventory at the comparison group schools to perform the teaching station to ADA analysis required by the Implementing Regulations. (*California Charter Schools Assn. v. Los Angeles Unified School District* (2015) 154 Cal.Rptr.3d 889.)

Although Proposition 39 requires the District to allocate a school facility for Charter School use, the Charter School is amenable to discussing alternative facilities arrangements that meet both the needs of the District and the Charter School.

The Charter School Governing Board has delegated to me the responsibility to negotiate the allocation of a facility under Proposition 39. All communications regarding this matter should be sent to my attention at the address below. My contact information is as follows:

Ryan Elliott
2285 Murray Ridge Road
San Diego, CA 92123
858-751-4774(phone)
619-839-3700 (fax)
relliott@elevateschool.com

I appreciate your time and consideration of this request and I look forward to developing a mutually agreeable plan to meet the facilities needs of the Charter School’s in-District students.

Sincerely,



Ryan Elliott
Executive Director

cc: Dr. Carol Leighty
Dr. Freda Callahan
Adam McWethy
Jill Soule
Kirsten Grimm Charter School Board Members
Sarah J.Kollman, Young, Minney & Corr, LLP, Legal Counsel

Attachments (the following attachments are incorporated by reference herein):

- (1) A roster of current year students, by name, address, and phone number (as of Census Day);
- (2) A declaration from the Executive Director regarding the Charter School's annual ADA and retention rate;
- (3) CALPADS form for 2019-2020 schoolyear;
- (4) P-2 ADA form for 2019-2020 school year;
- (5) A copy of the waiting list for the current school year following the spring lottery, demonstrating the high level of interest for enrollment in our School;
- (6) 21-22 Operational Calendar;
- (7) Parental Meaningful Interest Forms for over 200 students for the request year.