[Draft – 08-06-2024]

**INTERCREDITOR AGREEMENT**

 This **INTERCREDITOR AGREEMENT** is made as of August 1, 2024 (this “Agreement”) by and among **UMB BANK. N.A.**, in its capacity as trustee under that certain Indenture of Trust described below (the “Trustee”), **2730 MITCHELL DRIVE, LLC**, a California limited liability company (the “Borrower”), **CHARTHOUSE PUBLIC SCHOOLS**, a California nonprofit public benefit corporation (the “Company”) and **[ROSEMAWR ENTITY]**, a [\_\_\_\_] (the “Lender”).

RECITALS

 WHEREAS, in conjunction with the execution and delivery of this Agreement, the Borrower has issued its Taxable Revenue Note, Series 2024-A (Working Capital) (the “2024-A Note”) pursuant to a resolution duly adopted by the [board of directors of the Borrower] on August [\_\_\_], 2024 (the “Resolution”) during a meeting duly called and held pursuant to California law; and

 WHEREAS, the proceeds of the 2024-A Note are to be used by the Borrower for working capital purposes as more particularly described in ***Exhibit A*** to the 2024-A Note; and

 WHEREAS, in September 2020, California School Finance Authority (the “Authority”) issued its Charter School Revenue Bonds (Contra Costa School of Performing Arts Project), Series 2020 (the “Bonds”) pursuant to that certain Indenture of Trust dated as of September 1, 2020 (the “Indenture”) between Authority and UMB Bank, N.A., as trustee (the “Trustee”). Capitalized terms used without definition herein shall have the meanings ascribed in the Indenture; and

 WHEREAS, the proceeds of the Bonds were loaned by the Authority to the Borrower pursuant to that certain Loan Agreement dated as of September 1, 2020 (the “Loan Agreement”) between the Authority and the Borrower; and

 WHEREAS, the proceeds of the Bonds were used by the Borrower to finance a charter school located in Walnut Creek, California (the “Series 2020 Facility”); and

 WHEREAS, the Borrower leased the Series 2020 Facility to the Company pursuant to that certain Lease Agreement dated as of September 1, 2020 between the Borrower and the Company; and

 WHEREAS, the Borrower’s obligations under the Loan Agreement and Indenture are further secured by that certain Deed of Trust, Security Agreement, Assignment of Rents and Leases, and Fixture Filing dated as of September 10, 2020 (the “Deed of Trust”) by the Borrower, as mortgagor, in favor of the Trustee, as mortgagee, creating a lien on the Series 2020 Facilities and certain other collateral in favor of the Trustee on behalf of the Bondholders; and

 WHEREAS, the Lender has loaned funds to the Borrower in order to provide working capital pursuant to the 2024-A Note. Absent the provisions of this Agreement, such loan and the 2024-A Note would be subordinate to the financing provided by the Authority and secured by the Indenture, Loan Agreement, Lease and Deed of Trust;

 NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

 **Section 1. Definitions and Interpretation.**

 (a) Definitions. Capitalized terms used without definition herein shall have the meanings ascribed in the Indenture. In addition, the following terms shall have the following meanings:

 “*Bankruptcy Code*” means Title 11 of the United States Code, as amended from time to time, or any similar federal or state law for the relief of debtors.

 “*Bond Obligations*” means all obligations, liabilities and indebtedness of every nature of the Borrower from time to time under the Bond Documents, including, without limitation, (i) the principal of, premium, if any, and interest on the Bonds, (ii) any fees or amounts due to the Trustee or the Authority under the Bond Documents, and (iii) any debtor-in-possession financing furnished by the Trustee after the commencement of an Insolvency Proceeding, together with (a) any amendments, modifications, renewals or extensions thereof and (b) any interest, fees and other charges accruing thereon or due or to become due with respect thereto after the commencement of any Insolvency Proceeding, without regard to whether or not such interest, fees and other charges constitute an allowed claim. Bond Obligations shall be considered to be outstanding so long as any Bonds remain Outstanding or so long as any commitment under any Bond Document remains unpaid or unperformed.

 “*Collateral*” means (i) “Mortgaged Estate” in the Deed of Trust, and (ii) all payments received under the Guaranty.

“*Distribution*” means, with respect to any indebtedness, obligation or security, including the Bond Obligations and the 2024-A Note Obligations, (a) any payment, taking or receipt by any Person of cash, securities or other property, by set-off or otherwise, on account of such indebtedness, obligation or security, including the taking, receipt or surrender of the Collateral, or (b) any redemption of such indebtedness, obligation or security by any Person.

 “*Guaranty*” means that certain Guaranty Agreement dated as of August 1, 2024 from the Company to the Trustee.

 “*Insolvency Proceeding*” means any proceeding in respect of bankruptcy, insolvency, winding up, receivership, dissolution or assignment for the benefit of creditors, for each of the foregoing events whether under the Bankruptcy Code or any similar federal, state or foreign bankruptcy, insolvency, reorganization, receivership or similar law.

 “*Lien*” means any mortgage, deed of trust, pledge, hypothecation, assignment (as security), deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest, or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever having substantially the same economic effect as any of the foregoing (including any conditional sale or other title retention agreement, any capital lease and any synthetic or other financing lease having substantially the same economic effect as any of the foregoing).

 “*Paid in Full*” means, with respect to either the Bond Obligations or the 2024-A Note Obligations, (a) all of the Parity Obligations (other than contingent obligations or indemnification obligations for which no underlying claim has been asserted) have been paid, performed or discharged in full (with all Parity Obligations consisting of monetary or payment obligations having been paid in full in cash); (b) no Person has any further right to obtain any loans, letters of credit or other extensions of credit under the Bond Documents (except as provided with respect to Additional Bonds in the Bond Documents) or the 2024-A Note Documents; and (c) any and all letters of credit or similar instruments issued under such documents have been cancelled and returned (or backed by stand-by guarantees or cash collateralized) in accordance with the terms of such documents.

 “*Parity Creditors”* means, collectively, the Trustee and the Lender.

 “*Parity Obligations”* means, collectively, the Bond Obligations and the 2024-A Note Obligations, which are by this Agreement made *pari passu* with respect to all Distributions pursuant to the terms of this Agreement

 “*Person*” means any individual, corporation, limited liability company, trust, joint venture, association, company, limited or general partnership, unincorporated organization, governmental authority or other entity, including the Lender.

 “*Related Parties*” means, with respect to any Person, such Person’s affiliates and the directors, officers, employees, partners, agents, trustees, administrators, managers, advisors and representatives of it and its affiliates.

“*Revenue Sharing*” means the sharing of Distributions or proceeds of Collateral between the Trustee on behalf of the holders of the Bonds and the Lender such that all cash proceeds realized or collected is distributed and distributed by such Parity Creditor *pari passu* as follows: [\_\_\_\_\_\_]% of every dollar collected or distributed shall be paid to the Lender until the 2024-A Note Obligations are indefeasibly Paid in Full, and [\_\_\_\_\_\_]% of every dollar collected and distributed shall be applied by the Trustee to be applied in accordance with the Indenture until the Bond Obligations are indefeasibly Paid in Full.

 “*2024-A Note*” means that certain Taxable Revenue Note, Series 2020-A (Working Capital)” dated August [\_\_\_\_], 2024.

 “*2024-A Note Event of Default*” means any “event of default” (as such term is defined in any of the 2024-A Note Documents).

 “*2024-A Note Documents*” shall have the meaning set forth on ***Exhibit 1(a)*** hereto and all agreements, documents and instruments between the Lender and the Borrower entered into in connection therewith.

 “*2024-A Note Obligations*” all obligations, liabilities and indebtedness of every nature of the Borrower from time to time under the 2024-A Note Documents, without limitation, together with (a) any amendments, modifications, renewals or extensions thereof and (b) any interest, fees and other charges accruing thereon or due or to become due with respect thereto after the commencement of any Insolvency Proceeding, without regard to whether or not such interest, fees and other charges constitute an allowed claim.

 “*UCC*” means the Uniform Commercial Code as in effect in the State of California from time to time.

 (b) Interpretation. Unless the context requires otherwise:

 (1) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, supplemented, modified, renewed, replaced or extended;

 (2) any reference herein to any Person shall be construed to include such Person’s permitted successors and assigns;

 (3) the words “herein,” “hereof” and “hereunder,” and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof;

 (4) any references to sections, subsections, clauses or paragraphs shall be references to sections, subsections, clauses and paragraphs in this Agreement;

 (5) the term “or” has, except where otherwise indicated, the inclusive meaning represented by the phrase “and/or”; and

 (6) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

 **Section 2. Lien Priorities, Security Interests and Payments or Distributions.**

 (a) Priority of Parity Obligations. Notwithstanding any rule of law and regardless of the order or time of attachment, or the order, time or manner of perfection, or the order or time of filing or recordation of any document or instrument, or other method of creating or perfecting a Lien, the 2024-A Note Obligations and the Lender’s security interest in and liens the Collateral securing the 2024-A Note Obligations shall be of equal priority with respect to the Bond Obligations and the Trustee’s security interest in and Liens on the Collateral securing the Bond Obligations. The establishment of parity Lien priorities set forth in the immediately preceding sentence shall not be altered or otherwise affected by any amendment, modification, supplement, extension, renewal, restatement, replacement or refinancing of any of the Bond Obligations or the 2024-A Note Obligations, by any failure to perfect any security interest in the Collateral, the subordination of either of the Trustee’s or the Lender’s Lien on the Collateral, the avoidance or invalidation of the Trustee’s Liens or the Lender’s Liens or by any other action or inaction which the Trustee or Lender may take or fail to take with respect to the Collateral. Each of the Trustee and the Lender shall be solely responsible for perfecting and maintaining the perfection of its Lien on and security interest in each item constituting the Collateral.

 (b) Prohibition on Contesting Liens. The Lender agrees that it will not at any time contest the validity, perfection, priority or enforceability of the Bond Obligations, the Bond Documents, or the Liens on and security interests of the Trustee in the Collateral securing the Bond Obligations. The Trustee agrees that it will not at any time contest the validity, perfection, priority or enforceability of the 2024-A Note Obligations, the 2024-A Note Documents, or the Liens on and security interests of the Trustee in the Collateral securing the 2024-A Note Obligations.

 (c) Prohibition on Transfer. The Parity Creditors each agree that it will not sell, assign or transfer all or any part of its respective rights, title or interest in and to the Collateral unless such buyer, assignee or transferee has executed and delivered to the other Parity Creditor such agreements or instruments as are reasonably necessary to evidence such buyer, assignee or transferee’s acceptance of and consent to the terms of this Agreement without modification except as necessary to effect such transfer.

 (d) Judgment Liens. In the event any Parity Creditor becomes a judgment lien creditor against the Borrower or the Collateral, such judgment lien shall be made assigned to the other Parity Creditor in accordance with the respective percentages contained in the definition of Revenue Sharing so that the non-judgment creditor which is a Parity Creditor may participate in any recovery pursuant to the judgment lien on a *pari passu* basis. Each Parity Creditor shall promptly execute and deliver to the other Parity Creditor such instruments or agreements as the such Parity Creditor shall reasonably request to effect the parity of interests provided for under this Agreement.

 (e) Parity Obligations Not Affected. The provisions of this Agreement are intended solely for the purposes of defining the relative rights of the Lender, on the one hand, and the Trustee, on the other hand, as among themselves. As between the Company and the Lender, the Borrower and the Trustee or the Company and the Trustee, nothing contained herein shall impair the unconditional and absolute obligation of the Company to the Lender to pay the 2024-A Note Obligations as they become due and payable or the unconditional and absolute obligation of the Borrower under the Loan Agreement or the Company under the Lease to make payments to the Trustee to pay the Bond Obligations as they become due and payable. No Person other than the Trustee and the Lender and their respective successors and assigns shall have any rights under this Agreement.

 **Section 3. Enforcement.**

 (a) Exercise of Remedies. Notwithstanding any provision of any agreement between the Lender and the Borrower, until the Bond Obligations have been Paid in Full, the Trustee shall have the sole and exclusive right to:

 (1) restrict or permit, or approve or disapprove, the sale, transfer, release or other disposition of the Collateral,

 (2) take any action with respect to the Collateral as it deems necessary or desirable,

 (3) manage, perform and enforce (or not enforce) the terms of the Bond Documents with respect to the Collateral, or

 (4) exercise and enforce all privileges, rights or remedies under the Bond Documents,

all without any consultation with or the consent of the Lender in such order and manner as it may determine in its sole and absolute discretion, including, without limitation, the exclusive right to take or retake control or possession of any Collateral and to make determinations regarding the release, disposition or restrictions with respect to the Collateral, so long as the Trustee complies with the provisions of ***Section 4(a)*** of this Agreement.

 (b) Enforcement Rights. The Lender shall not, without the prior written consent of the Trustee:

 (1) exercise or seek to exercise any rights or remedies with respect to any Collateral in respect of any 2024-A Note Obligations, or institute any action or proceeding with respect to such rights or remedies (including foreclosure, acceleration, repossession, setoff or similar action);

 (2) contest, protest or object to any foreclosure proceeding or action brought with respect to the Collateral by the Trustee, so long as the Trustee makes Distributions resulting therefrom in accordance with the provisions of ***Section 4(a)*** of this Agreement; or

 (3) object to the forbearance by the Trustee from bringing or pursuing any foreclosure proceeding or action or any other exercise of any rights or remedies relating to the Collateral or the Bond Obligations.

For the avoidance of doubt, that means the Lender shall not, so long as the Bond Obligations are not Paid in Full:

(i) demand repayment of the 2024-A Note Obligations other than by scheduled amortization,

(ii) deem itself insecure under any circumstances,

(iii) declare an event of default under any of the 2024-A Note Documents for any reason,

(iv) accelerate any of the 2024-A Note Obligations,

(v) attempt to collect from the Borrower any collection expenses or attorneys’ fees,

(vi) take any action under any deed of trust or security instrument to realize on any collateral the Lender may have or to demand additional security, or

(vii) terminate the Borrower’s rights to operate the Facility.

The Lender acknowledges and agrees that the foregoing list is not exhaustive, but is rather is provided by way of example.

Notwithstanding the foregoing, the Lender may, subject to ***Section 8(b)*** of this Agreement, file and defend proofs of claim against the Borrower in any Insolvency Proceeding involving the Borrower.

 (c) Insurance. Until the Bond Obligations have been Paid in Full, the Trustee shall have the sole and exclusive right to (i) adjust and settle any claim under any insurance policy in respect of the Collateral in the event of any loss thereunder and to approve any award granted in any condemnation or similar proceeding (or any deed in lieu of condemnation) affecting the Collateral, and (ii) apply such proceeds as provided in the Bond Documents, so long as such proceeds are used for the benefit of the Project. The Lender shall have no rights to, or interest in, any such insurance proceeds, unless the Trustee determines to apply such insurance proceeds to the Bond Obligations, and in such case, the application of such proceeds shall be subject to Revenue Sharing. If the Lender shall, at any time, receive any proceeds of any such insurance or any such award or payment in contravention of this ***Section 3(c)***, it shall pay such proceeds over to Trustee within ten Business Days.

 (d) Agreement to Release Liens. In the event that the Trustee releases or agrees to release any of its Liens or security interests in any portion of the Collateral in connection with the sale or other disposition thereof, or any of the Collateral is sold or retained pursuant to a foreclosure or similar action, the Lender shall promptly consent to such sale or other disposition and promptly execute and deliver to the Trustee such consent to such sale or other disposition, termination statements and releases as the Trustee shall reasonably request to effect the release of the Liens and security interests of the Lender in such Collateral.

 (e) Limitation of Liability. The Lender agrees that Trustee shall not have any liability to the Lender in respect of the Trustee’s determination to exercise remedies or to refrain, forbear or delay from the exercise of remedies or the failure to obtain repayment in full of the 2024-A Note Obligations.

 (f) Rights to Distributions. Nothing in this Agreement shall prohibit the receipt by the Lender of the required payments of principal, premium, interest, fees and other amounts due under the 2024-A Note Documents, so long as such receipt:

 (1) is paid by the Trustee in accordance with Revenue Sharing;

 (2) is not the direct or indirect result of the exercise by the Lender of rights or remedies as a secured creditor in respect of the Collateral or an unsecured creditor in contravention of this Agreement; or

 (3) whether in contravention of this Agreement or not, does not have the effect of discharging the Lien of the Trustee on the Collateral.

 **Section 4. Payments and Proceeds.**

(a) Payments under 2024-A Note Documents. Notwithstanding any provision of the 2024-A Note Documents to the contrary, the Borrower agrees to make all payments on the 2024-A Note directly to the Trustee for application in accordance with the requirements of Revenue Sharing.

(b) Application of Distributions. All Distributions and proceeds of Collateral resulting from any Enforcement Action, and whether or not pursuant to an Insolvency Proceeding, and whether received by any Parity Creditor, shall be subject to Revenue Sharing and distributed in accordance with the respective percentages required by this Agreement.

 (c) Application of Collateral Proceeds. In the event of any sale, transfer, or other disposition (including a casualty loss or taking through eminent domain) of the Collateral and the proceeds resulting therefrom (including insurance proceeds), whether or not any Insolvency Proceeding, and whether received by any Parity Creditor, shall be subject to Revenue Sharing and distributed in accordance with the respective percentages required by this Agreement. When the 2024-A Note Obligations have been Paid in Full, the Lender shall deliver promptly to the Trustee any Collateral or proceeds thereof held by it in the same form as received, with any necessary endorsements, or as a court of competent jurisdiction may otherwise direct, to be applied by the Trustee to the Bond Obligations in such order as specified in the relevant Bond Document.

 **Section 5. Modifications and Amendments.**

 (a) Modifications to Bond Documents. The Trustee may at any time and from time to time without the consent of or notice to the Lender, without incurring liability to the Lender and without impairing or releasing the obligations of the Lender under this Agreement, change the manner or place of payment, or extend the time of payment of, or renew or alter any of the terms of the Bond Obligations (including any increase in the amount thereof), or amend in any manner any Bond Document in accordance with the respective provisions of the Bond Documents.

 (b) Modifications to 2024-A Note Documents. Until the Bond Obligations have been Paid in Full, and notwithstanding anything to the contrary contained in the 2024-A Note Documents, the Borrower and the Lender shall not, without the prior written consent of the Trustee, agree to any amendment, modification, or supplement to the 2024-A Note Documents. Notwithstanding the foregoing, the Lender may, with five business days’ notice to the Trustee, renew the 2024-A Note Documents or extend the maturity date thereof, provided each renewal or extension thereof is on the same terms as the 2024-A Note Documents provide for as of the date of this Agreement, except with regard to maturity date thereof.

 **Section 6. Waiver of Certain Rights to Collateral by Lender.**

 (a) Marshalling. The Lender hereby waives any rights it may have under applicable law to assert the doctrine of marshalling or to otherwise require the Trustee to marshal any property of the Borrower for the benefit of the Lender.

 (b) Rights Relating to Trustee’s Actions Regarding the Collateral. The Lender hereby waives, to the extent permitted by applicable law, any rights which it may have to enjoin or otherwise obtain a judicial or administrative order preventing the Trustee from taking, or refraining from taking, any action with respect to all or any part of the Collateral. Without limitation of the foregoing, the Lender hereby agrees:

 (1) that it has no right to direct or object to the manner in which the Trustee applies the proceeds of the Collateral resulting from the exercise by the Trustee of rights and remedies under the Bond Documents, so long as the proceeds thereof are applied in accordance with this Agreement, and

 (2) that the Trustee has not assumed any obligation to act as the agent for the Lender with respect to the Collateral.

In exercising rights and remedies with respect to the Collateral, the Trustee may enforce the provisions of the Bond Documents and exercise remedies thereunder, all in such order and in such manner as it may determine in its sole discretion. Such exercise and enforcement shall include, without limitation, the rights to sell or otherwise dispose of Collateral, to incur expenses in connection with such sale or disposition and to exercise all the rights and remedies of a secured lender under the UCC. In conducting any public or private sale under the UCC, the Trustee shall give the Lender written notice of such sale, *provided* that ten days’ notice shall be deemed to be commercially reasonable notice.

 (c) Preservation of Rights. The Trustee shall have no duty to protect or preserve any rights pertaining to any of the Collateral in its possession and the Trustee shall not have any liability to the Lender for any claims and liabilities at any time arising with respect to the Collateral in its possession.

 (d) Bailee for Perfection. The Trustee, on the one hand, and the Lender, on the other hand, acknowledges and agrees that to the extent that it (or its agent) retains physical possession or control of any of the Collateral, it (or its agent) shall hold such Collateral on behalf of the other so that for purposes of perfecting any Lien in any Collateral it acts and holds such Collateral on behalf of the Trustee and the Lender. Nothing in this ***Section 6(d)*** shall affect the relative priorities in and to the Collateral, all of which shall be governed by ***Sections 2*** and ***4*** of this Agreement.

 **Section 7. Representations and Warranties.**

 (a) Lender Representations and Warranties. The Lender hereby represents and warrants to the Trustee that as of the date hereof:

 (1) the Lender has the power and authority to enter into, execute, deliver, and carry out the terms of this Agreement, all of which have been duly authorized by all proper and necessary action;

 (2) the execution of this Agreement by the Lender will not violate or conflict with the organizational documents of the Lender, the 2024-A Note Documents or any law, regulation or order or require any consent or approval that has not been obtained; and

 (3) this Agreement is the legal, valid, and binding obligation of the Lender, enforceable against the Lender in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting the enforcement of creditors’ rights generally and by equitable principles.

 (b) Trustee Representations and Warranties. The Trustee hereby represents and warrants to the Lender that as of the date hereof:

 (1) the Trustee has the power and authority to enter into, execute, deliver, and carry out the terms of this Agreement, all of which have been duly authorized by all proper and necessary action;

 (2) the execution of this Agreement by the Trustee will not violate or conflict with the organizational documents of the Trustee, the Bond Documents or any law, regulation or order or require any consent or approval that has not been obtained; and

 (3) this Agreement is the legal, valid, and binding obligation of the Trustee, enforceable against it in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting the enforcement of creditors’ rights generally and by equitable principles.

 **Section 8. Insolvency Proceedings.**

 (a) Subordination Agreement. This Agreement, which the parties hereto expressly acknowledge is a “subordination agreement” under Section 510(a) of the Bankruptcy Code, shall be effective before, during and after the commencement of an Insolvency Proceeding. All references in this Agreement to the Borrower shall include the Borrower as a debtor-in-possession and any receiver or trustee for the Borrower in any Insolvency Proceeding other than the Trustee.

 (b) Liquidation, Dissolution, Bankruptcy. In the event of any Insolvency Proceeding involving the Borrower:

 (1) Any Distribution, whether in cash, securities or other property which would otherwise, but for the terms hereof, be payable or deliverable in respect of the Bond Obligations or 2024-A Note Obligations shall be delivered to the Trustee and applied in accordance with Revenue Sharing. The Lender irrevocably authorizes, empowers, and directs any debtor, debtor-in-possession, receiver, trustee, liquidator, custodian, conservator or other Person having authority, to pay or otherwise deliver all such Distributions to the Trustee as set forth above. The Lender also irrevocably authorizes and empowers the Trustee, in the name of the Lender, to demand, sue for, collect and receive any and all such Distributions.

 (2) The Lender agrees not to initiate, prosecute or participate in any claim, action or other proceeding challenging the enforceability, validity, perfection or priority of any portion of the Bond Obligations or any Liens and security interests securing any portion of the Bond Obligations.

(3) The Lender agrees that the Trustee may consent to the use of cash collateral or provide debtor-in-possession financing to the Borrower on such terms and conditions and in such amounts as the Trustee, in its sole discretion, may decide and, in connection therewith, the Borrower may grant to the Trustee liens and security interests upon all of the property of the Borrower, which liens and security interests shall secure payment of all Bond Obligations and 2024-A Note Obligations in accordance with Revenue Sharing.

 (4) The Lender agrees that it will not object to or oppose any such cash collateral usage or debtor-in-possession financing or any sale or other disposition of any property securing all of any part of the Bond Obligations free and clear of security interests, liens, or other claims of the Lender under Section 363 of the Bankruptcy Code or any other provision of the Bankruptcy Code, including any credit bid by the Trustee, if the Trustee has consented to such sale or disposition.

 (5) The Lender agrees not to assert any right it may have to “adequate protection” of its interest in any Collateral in any Insolvency Proceeding and agrees that it will not seek to have the automatic stay lifted with respect to any Collateral without the prior written consent of the Trustee; provided that the Trustee will not object to any request by the Lender for adequate protection replacement liens on all pre-petition and post-petition property of the Borrower upon which the Trustee is also granted adequate protection replacement liens, with such liens in favor of the Lender being subject in all respects to this Agreement; provided, further that, other than such replacement liens the Lender will not seek any other form of adequate protection.

 (6) The Lender waives any claim it may now or hereafter have against the Trustee arising out of the election by the Trustee of the application of Section 1111(b)(2) of the Bankruptcy Code or out of any cash collateral or financing arrangement or out of any grant of a security interest in connection with the Collateral in any Insolvency Proceeding. The Lender agrees that it will not provide, or offer to provide, any debtor-in-possession financing to the Borrower without the prior written consent of the Trustee.

 (7) The Lender agrees to execute, verify, deliver, and file any proofs of claim in respect of the 2024-A Note Obligations reasonably requested by the Trustee in connection with any such Insolvency Proceeding and hereby irrevocably authorizes the Trustee to file such proofs of claim upon the failure of the Lender to do so prior to three Business Days before the expiration of the time to file any such proof of claim; provided, however, that the Trustee shall not be permitted to vote such claim and all voting rights with respect thereto shall be retained by the Lender. For the avoidance of doubt, the Trustee shall have no affirmative obligation to file any such proof of claim on behalf of the Lender.

 (8) The Lender agrees not to vote for any plan of reorganization that does not provide for the prior payment in full of the Bond Obligations or otherwise vote its claims or interests in any Insolvency Proceeding (including voting for, or supporting, confirmation of any plans of reorganization) in a manner that would be inconsistent with the Lender’s covenants and agreements contained herein, without the prior written consent of the Trustee.

 (9) The Bond Obligations shall continue to be treated as Bond Obligations and the provisions of this Agreement, including the requirement of Revenue Sharing, shall continue to govern the relative rights and priorities of the Trustee and the Lender even if all or part of the Bond Obligations or the Liens or security interests securing the Bond Obligations are subordinated, set aside, avoided, invalidated, or disallowed in connection with any such Insolvency Proceeding, unless this provision of this Agreement is specifically set aside by a court of competent jurisdiction in a final order from which no further right of appeal may be taken. This Agreement shall be reinstated if at any time any payment of any of the Bond Obligations is rescinded or must otherwise be returned by any holder of Bond Obligations or any representative of such holder.

 **Section 9. Default; Remedies.**

 (a) Default. Failure by the Trustee or Lender in the performance or observance of any of the covenants, agreements or conditions on its part contained in this Agreement is hereby declared an “Event of Default” under this Agreement.

 (b) Remedies. Upon the occurrence of an Event of Default under this Agreement, the the Trustee or the Lender may take any or all or any combination of the following actions:

 (1) by mandamus or other suit, action or proceeding at law or in equity bring action to recover money damages for any breach hereof or to require the Lender to perform its covenants and duties under this Agreement; or

 (2) the Trustee shall have the right to obtain specific performance of the obligations of the Lender, injunctive relief or such other equitable relief as may be available in order to enforce the provisions of this Agreement, without the necessity of showing any actual damages or that money damages would not afford an adequate remedy, and without posting any bond or other security.

The Lender irrevocably waives any defense based on the adequacy of a remedy at law and any other defense which might be asserted to bar remedies in any action which may be brought by the Trustee.

 **Section 10. Miscellaneous.**

 (a) Conflict. In the event of any conflict between any term, covenant, or condition of this Agreement and any term, covenant or condition of the 2024-A Note Documents, the provisions of this Agreement shall control and govern.

 (b) Notices. Except in the case of notices and other communications expressly permitted to be given by telephone (or by e-mail as provided below), all notices and other communications provided for herein shall be made in writing and mailed by certified or registered mail, delivered by hand or overnight courier service, or sent by facsimile as follows:

Trustee

UMB Bank, N.A.

Corporate Trust and Escrow Services

928 Grand Boulevard

Kansas City, Missouri. 64106

Attn: Mark Heer

Email: mark.heer@umb.com

Lender

[Rosemawr entity]

c/o Rosemawr Management

1674 Meridian Avenue

Suite 420

Miami Beach, FL 33139

Attn: Seth Klempner

Borrower

2730 Mitchell Drive LLC

2730 Mitchell Drive

Walnut Creek, California 94598

Attn: Neal McChesney

Company

Charthouse Public Schools

2730 Mitchell Drive

Walnut Creek, California 94598

Attn: Neal McChesney

Notices and other communications shall be given by one of the following methods: (i) shipped by overnight courier service (which notice shall be deemed to have been given two Business Days after shipment); (ii) sent by e-mail shall be deemed received on the next Business Day. Any party hereto may change its address or email address for notices and other communications hereunder by notice to the other parties hereto.

 (c) Termination of Agreement. This Agreement shall remain in full force and effect until the Bond Obligations and the 2024-A Note Obligations have been Paid in Full, or until such time as all Collateral shall have been distributed in accordance with this Agreement, or until discharged in an Insolvency Proceeding, after which this Agreement shall terminate without further action on the part of the parties hereto.

 (d) Notice of Priorities. This Agreement shall be effective without the necessity of filing any documents in any public record; however, either party may file a memorandum of this Agreement thereof at its expense to evidence the undertakings set forth herein.

 (e) Amendments; Modifications. This Agreement constitutes the entire agreement and understanding of the parties relating to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings, whether oral or written, relating to the subject matter hereof. Any modification or waiver of any provision of this Agreement, or any consent to any departure by any party from the terms hereof, shall not be effective in any event unless the same is in writing and signed by the Trustee and the Lender. The Borrower shall have no right to approve any amendment or modification of this Agreement.

 (f) Successors and Assigns. The Trustee may, but solely in connection with the resignation and removal of the Trustee under the Indenture or the appointment of a successor Trustee pursuant to ***Sections 6.08*** and ***6.09*** of the Indenture, and without notice to the Lender, assign or transfer the Bond Documents and this Agreement to any successor trustee under the Indenture, and notwithstanding any such assignment or transfer, or any subsequent assignment or transfer, the Bond Obligations shall, subject to the terms hereof, be and remain Bond Obligations for purposes of this Agreement, and every permitted assignee or transferee of this Agreement shall be entitled to enforce the terms and provisions hereof to the same extent as if such assignee or transferee were initially a party hereto. The Lender may only assign this Agreement as permitted in ***Section 2(c)*** hereof.

 (g) Trustee’s Rights and Remedies. The rights, remedies, powers and privileges of the Trustee hereunder (hereinafter, the “Trustee’s Rights and Remedies”) shall be cumulative and not exclusive of any rights or remedies which it would otherwise have. No delay or omission by the Trustee in exercising or enforcing any of the Trustee’s Rights and Remedies shall operate as, or constitute, a waiver thereof. No waiver by the Trustee of any of the Trustee’s Rights and Remedies or of any default or remedy under any other agreement with the Borrower or the Lender shall operate as a waiver of any other default hereunder or thereunder. No exercise of the Trustee’s Rights and Remedies and no other agreement or transaction, of whatever nature, entered into between the Trustee and the Lender or between the Trustee and the Borrower at any time shall preclude any other or further exercise of the Trustee’s Rights and Remedies. No waiver by the Trustee of any of the Trustee’s Rights and Remedies on any one occasion shall be deemed a continuing waiver. All of the Trustee’s Rights and Remedies and all of the Trustee’s rights, remedies, powers and privileges under any other agreement with the Lender or the Borrower shall be cumulative, and not alternative or exclusive, and may be exercised by the Trustee at such time or times and in such order of preference as the Trustee in its sole discretion may determine.

 (h) Further Assurances. Each party to this Agreement will promptly execute and deliver such further instruments and agreements and do such further acts and things as may be reasonably requested in writing by any other party hereto that may be necessary or desirable in order to effect fully the purposes of this Agreement.

 (i) Headings. The section headings used in this Agreement are for convenience only and shall not affect the interpretation of any of the provisions hereof.

 (j) Counterparts; Integration; Electronic Execution. This Agreement and any amendments, waivers, consents or supplements hereto may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all taken together shall constitute a single contract. This Agreement constitutes the entire contract among the parties with respect to the subject matter hereof and supersedes all previous agreements and understandings, oral or written, with respect thereto. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or in electronic (i.e., “pdf” or “tif”) format shall be effective as delivery of a manually executed counterpart of this Agreement.

 (k) Severability. In the event that any provision of this Agreement is deemed to be invalid, illegal or unenforceable by reason of operation of law or by reason of the interpretation placed thereon by any court or governmental authority, the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby, and the affected provision shall be modified to the minimum extent permitted by law so as to most fully achieve the intention of this Agreement.

 (l) Expenses. In the event that the Trustee undertake any action that is reasonably necessary in order to enforce the provisions of this Agreement (whether or not suit is commenced), the Borrower shall pay all reasonable costs and expenses incurred by the Trustee in connection therewith, including, without limitation, reasonable attorneys’ fees.

 (m) Governing Law. This Agreement and any claim, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement and the transactions contemplated hereby shall be governed by, and construed in accordance with, the laws of the State of California.

(n) Jurisdiction and Venue. The Lender agrees that it will not commence any action, litigation or proceeding of any kind whatsoever, whether in law or equity, or whether in contract or tort or otherwise, against the Trustee, or any of their respective Related Parties in any way relating to this Agreement or the transactions contemplated hereby, in any forum other than any federal or state court sitting in Jackson County, Missouri, and each of the parties hereto irrevocably and unconditionally submits to the jurisdiction of such courts. The Lender irrevocably and unconditionally waives, to the fullest extent permitted by applicable law, any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court referred to in this paragraph.

 (o) Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) IT HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) IT MAKES THIS WAIVER KNOWINGLY AND VOLUNTARILY, AND (D) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

*[Balance of page intentionally left blank.]*

 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

**UMB BANK, N.A.**, a national banking association, as trustee under the Indenture referred to herein

By:

 Title:

**[ROSEMAWR ENTITY]**, a [\_\_\_\_\_\_\_\_]

By:

 Title:

*[Signatures continue on following page.]*

**2730 MITCHELL DRIVE, LLC**, a California limited liability company

By:

 Title:

**CHARTHOUSE PUBLIC SCHOOLS**, a California nonprofit public benefit corporation

By:

 Title:

***EXHIBIT 1(a)***

**2024-A Note Documents**

 The 2024-A Note Documents shall include, collectively, each of the following:

1. Taxable Revenue Note, Series 2024-A (Working Capital) from the Borrower to the Lender;

2. Guaranty Agreement from the Guarantor to the Trustee;

3. this Agreement;

4. Resolution dated August [\_\_\_\_], 2024 duly adopted by the [board of directors of the Borrower];

5. Resolution dated August [\_\_\_\_], 2024 duly adopted by the board of directors of the Guarantor; and

6. Any other documents between the Borrower and the Lender executed concurrently therewith.

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