

**AGREEMENT FOR USE OF SCHOOL FACILITIES
BETWEEN THE SOUTH PASADENA UNIFIED SCHOOL DISTRICT
AND THE SOUTH PASADENA EDUCATIONAL FOUNDATION**

The SOUTH PASADENA UNIFIED SCHOOL DISTRICT [“DISTRICT”], and the SOUTH PASADENA EDUCATIONAL FOUNDATION, a California Public Benefit Non-Profit Corporation [“SPEF”] enter into this agreement [”Agreement”] for the use of facilities for the following purposes and with reference to the following facts:

RECITALS

WHEREAS, SPEF and the DISTRICT share an expressed commitment to the education of students within the DISTRICT; and

WHEREAS, SPEF is an independent, non-profit corporation that has for many years supported the DISTRICT in many ways; and

WHEREAS, the DISTRICT has decided that, with some exceptions, it will not offer summer school, summer camps or after school programs during the 2017-2018 school year; and

WHEREAS, SPEF has requested that the DISTRICT permit the use of school facilities in accordance with California Education Code sections 38130 *et. seq.* and 17480 for the purpose of offering credit and non-credit classes to DISTRICT students during the 2017-2018 school year; and

WHEREAS, it is necessary and desirable that this Agreement be executed for the purposes stated herein.

NOW, THEREFORE, it is hereby agreed by each of the parties to this Agreement as follows:

1. **Purpose.** The purpose of this Agreement is to memorialize the terms by which SPEF may utilize DISTRICT facilities to provide programs to students of the DISTRICT and neighboring school districts during the 2017-2018 school year consisting of tuition-based enrichment and recovery classes.

2. **Term.** The term of this Agreement shall be from June 1, 2017 to June 30, 2018, subject to early termination in accordance with the provisions of Paragraph 9 herein.

3. **Grant of Use of Facilities.** The DISTRICT grants to SPEF the right to use the following facilities [collectively “Facilities”] that are necessary for the operation of the programs indicated for the purposes herein described:

Marengo Elementary School,
Arroyo Vista Elementary School,
Monterey Hills Elementary School,
South Pasadena Middle School,
South Pasadena High School,
South Pasadena Unified School District Office

The exact days and portions of the Facilities to be utilized by SPEF shall be agreed upon by the parties prior to the commencement of the program. Use of Facilities shall include a reasonable number of non-instructional days as may be agreed upon by the parties hereto. Facilities usage shall also include maintenance of the Facilities, educational and instructional support materials and equipment maintained at the Facilities.

4. Permitted Use. Use of the Facilities by SPEF is restricted to the administration of SPEF and its operation of the Summer School, Summer Camp, and After School Programs [collectively “Programs”].

5. Fees. In consideration of the use of the Facilities, SPEF shall pay to the DISTRICT the following amount for the Summer School and Summer Camp Programs: Elementary School - \$3,000; South Pasadena Middle School - \$3,000; South Pasadena High School - \$3,000. The total of the facilities fees will be \$9,000. Facilities fees include the cost of janitorial supplies needed at each site to maintain facility usage. In addition, SPEF shall pay to the DISTRICT the sum of \$1,000 for the use of instructional support materials, curriculum and equipment maintained at the Facilities. SPEF also agrees to pay a fee of \$1,000 for the use of SPUSD’s self-contained Food Services Program. On each day when classes are in session during the Summer School Program, the DISTRICT agrees to appropriately staff its Food Services Program and provide a menu of food items for purchase by students during lunch or brunch.

6. Personnel. All personnel employed in the operation of the Programs shall be the responsibility of SPEF. DISTRICT employees however, shall be given priority, when reasonable, by SPEF in employment. Final employment decisions will be at the sole discretion of SPEF. Except as stated below, personnel employed in the Summer School Program are in all respects employees of SPEF. The DISTRICT shall have no responsibility toward such personnel. Notwithstanding the forgoing, the Food Services employees will remain employed by the DISTRICT through the Director of Food Services.

7. **Student Tuition and Fees.** SPEF may charge tuition fees and other sums to students who enroll in the Programs and the amounts to be charged shall be at the sole discretion of SPEF.

8. **Inspection Of Premises.** The parties agree that there shall be a pre-inspection and post-inspection of the Facilities conducted by representatives of the DISTRICT and SPEF. The purpose of the pre-inspection is to determine the items of DISTRICT property at the Facilities 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 SPEF. Repairs and maintenance required due to normal wear and tear shall not be the responsibility of SPEF.

9. **Termination.** This Agreement may be terminated upon ninety (90) days written notice to SPEF should the DISTRICT determine in its sole judgment that it has an impending need for the Facilities. The DISTRICT will help SPEF find alternative facilities to run its Programs. This Agreement shall also terminate upon twenty-four (24) hours written notice to SPEF if SPEF does not take possession of all granted Facilities for its Programs; however, if SPEF utilizes less than all granted Facilities, this Agreement will continue in force and the respective obligations of SPEF and the District will continue with respect to the utilized Facilities.

10. **DISTRICT'S Right Of Entry.** SPEF shall permit DISTRICT or DISTRICT'S agents, representatives or employees to enter the Facilities at all reasonable times for the purpose of inspecting the Facilities to determine whether SPEF is complying with the terms of this Agreement and for the purpose of doing other lawful acts that may be necessary to protect DISTRICT'S interest in said Facilities under this Agreement.

11. **Alterations.** SPEF shall not, without prior written consent of the DISTRICT make any alterations, improvements, or additions, in, on, or about the Facilities.

12. **Indemnification.** SPEF agrees to indemnify and hold the DISTRICT harmless from each and every claim, demand, action or cause of action, and any cost or expense, including reasonable attorney fees in connection therewith, arising in any manner out of SPEF'S use of the Facilities, except for claims, demands, actions or causes of action resulting from acts or omissions of DISTRICT or its agents or employees. This agreement to indemnify includes, but is not limited to, personal injury (including death at any time) and property or other damage (including, but

without limitation, contract or tort or patent, copyright, trade secret or trademark infringement) sustained by any person or persons including, but not limited to, companies, or corporations, SPEF and its employees or agents, students, and members of the general public. This provision shall survive the termination or expiration of this Agreement.

13. Insurance. SPEF shall obtain and maintain, at its expense, commercial general liability insurance in an amount and form acceptable to the District and shall furnish proof of such insurance prior to taking possession of the Facilities. Generally, and subject to the District's discretion, such insurance will cover: (i) liability for injury to or death of any person or property arising out of SPEF's use of the Facilities; and (ii) contractual liability, insuring SPEF's performance of the indemnification obligations contained in this Agreement. Coverage should be in an amount not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The policy shall be issued by a responsible insurance company authorized to do business in the state of California and provided that the insurance company has an AM Best "A" or better rating. The DISTRICT shall be named as an additional insured on a separate endorsement to the policy. The endorsement shall require the insurance company to provide the additional insured party with a minimum of ten (10) days written notice of cancellation of the policy. Prior to occupancy of the Facilities, SPEF shall furnish the DISTRICT with a certificate of insurance for the required coverage. The certificate must be signed by a person authorized by the insurer to bind coverage on its behalf and must be in a form approved by the DISTRICT. The DISTRICT may require complete, certified copies of any or all policies at any time. Failure to maintain required insurance at all times shall constitute a default and material breach. In such event, SPEF shall immediately notify the DISTRICT and cease occupancy of the Facilities until further directed by the DISTRICT.

14. Compliance With Laws. SPEF shall not use the Facilities or permit anything to be done in or about the Facilities that will in any way conflict with any applicable law, statute, ordinance or regulation now in force or which may hereafter be enacted or promulgated.

15. Assignment. SPEF shall not assign this Agreement in whole or in part nor suffer any other person (the agents and employees of SPEF excepted) to use the Facilities or any portion thereof without the written consent of the DISTRICT.

16. Entire Agreement. This Agreement constitutes the entire understanding of the parties and supersedes any prior oral or written expressions of the parties.

17. Modification. Any amendment or modification of this Agreement shall be effective only if in writing, executed by each of the parties hereto.

18. Notices. Any notice of default or demand for indemnification under this Agreement shall be in writing and shall be delivered by email and U.S. mail or personal delivery as indicated below. Notices sent by U.S. mail shall be deemed to have been given on the earlier of actual receipt or the second day (other than Sundays and legal holidays) after mailing to the party to whom notice is to be given, by first-class mail, postage prepaid and addressed as follows;

DISTRICT:

Geoff Yantz, Superintendent of Schools (or designee)

South Pasadena Unified School District

1020 El Centro Street

South Pasadena, CA 91030

gyantz@spusd.net

SPEF:

Scott Moe (or currently acting President)

South Pasadena Educational Foundation

P.O. Box 3342

South Pasadena, CA 91031-6342

spetersen@spef4kids.org

smoe@spef4kids.org

19. Governing Law. This Agreement shall be construed under the laws of the State of California.

20. Severance Provision. In the event that any of the terms or provisions of this Agreement are found to be legally unenforceable, then the remaining terms and conditions shall nevertheless be enforceable without regard to any such provisions or terms that are found to be legally unenforceable.

IN WITNESS HEREOF, the parties hereto, have approved and executed this Agreement on the date set forth opposite their respective signatures.

Date: _____

SOUTH PASADENA
EDUCATIONAL FOUNDATION

By _____

Scott Moe, President

Date: _____

SOUTH PASADENA UNIFIED
SCHOOL DISTRICT

By _____

Dave Lubs
Assistant Superintendent of
Business Services