

**FIRST AMENDMENT TO
FACILITIES USE AGREEMENT BETWEEN
SAN JOSÉ UNIFIED SCHOOL DISTRICT AND DISCOVERY CHARTER SCHOOL
FOR USE OF CLASSROOM SPACE FOR EDUCATIONAL PURPOSES
WITHIN THE BOUNDARIES OF THE SAN JOSÉ UNIFIED SCHOOL DISTRICT**

PARTIES

This first Amendment to the Facility Use Agreement (“Amendment”) is entered into between San José Unified School District (“District”) and **Discovery Charter School dba Discovery Charter School II** (“Charter School,” collectively the “Parties”).

RECITALS

WHEREAS, the District and Charter School enter into this Agreement on or about May 11, 2023, wherein the District and Charter School mutually agree that commencing on July 1, 2023 the Charter School will occupy classrooms and use the facilities described in Exhibit A as the “Existing Buildings” (the “Premises”) which are primarily located at the Randol Site located on 762 Sunset Glen Drive, San José, California, 95123 (the “School Site”); and consistent with California Code of Regulations, Title 5, §11969.1 *et seq*; and

WHEREAS, District and Charter School desire to amend the Lease the Rent and Utility Pro-Rata rates for July 1, 2024 to June 30, 2025 (“Term Year 2”) and July 1, 2025 to June 20, 2026 (“Term Year 3”),

NOW THEREFORE, in consideration of the mutual promises and covenants set forth above and contained herein, District and Charter School agree as follows:

AGREEMENT

1. **Section 3 Pro-Rata Share Charge:** Add subsections to 3.1.1 for the following term years.
 - 3.1.1.a. **Term Year 1:** July 1, 2023-June 30, 2024:
\$5.95 per square foot multiplied by the square footage occupied by the Charter School. Based on Charter School’s anticipated 2023-2024 square footage of 45,117 SF, the Pro-Rata Share is two hundred sixty-eight thousand four hundred forty-six dollars and fifteen cents (\$268,446.15) annually for 2023-2024.
 - 3.1.1.b. **Term Year 2:** July 1, 2024-June 30, 2024:
\$6.43 per square foot multiplied by the square footage occupied by the Charter School. Based on Charter School’s anticipated 2024-2025 square footage of 45,117 SF, the Pro-Rata Share is two hundred ninety thousand one hundred two dollars and thirty-one cents (\$290,102.31) annually for 2024-2025.
 - 3.1.1.c. **Term Year 3:** July 1, 2025-June 30, 2026:
\$6.70 per square foot multiplied by the square footage occupied by the Charter School. Based on Charter School’s anticipated 2025-2026 square footage of 40,317 SF for Routine Maintenance Services and 45,117 SF for all remaining services, the Pro-Rata Share is two hundred eighty-six thousand fifty-nine dollars and ninety cents (\$286,059.90) annually for 2025-2026.

2. **Section 4. Fair Market Rate:** Add subsections to 4.1.2. for the following term years.
 - 4.1.2.a. **Term Year 1:** July 1, 2023-June 30, 2024:
Building Lease – **\$24.24** annually per square foot multiplied by the square footage of space to accommodate the number of Charter School’s Out-of-District Students. Based on Charter School’s 2023-2024 square footage of **18,949 SF** for Out-of-District Students, the lease fee is **four hundred fifty-nine thousand, three hundred twenty-three dollars and seventy-six cents (\$459,323.76)** annually for 2023-2024.

4.1.2.b. **Term Year 2:** July 1, 2024-June 30, 2025:

Building Lease – **\$23.88** annually per square foot multiplied by the square footage of space to accommodate the number of Charter School’s Out-of-District Students. Based on Charter School’s 2023-2024 square footage of **22,578 SF** for Out-of-District Students, the lease fee is **five hundred thirty-nine thousand, one hundred sixty-two dollars and sixty-four cents (\$539,162.64)** annually for 2024-2025.

4.1.2.c. **Term Year 3:** July 1, 2025-June 30, 2026:

Building Lease – **\$24.00** annually per square foot multiplied by the square footage of space to accommodate the number of Charter School’s Out-of-District Students. Based on Charter School’s 2023-2024 square footage of **24,574 SF** for Out-of-District Students and for Dedicated Space in excess of District Standards, the lease fee is **five hundred eighty-nine thousand, seven hundred seventy-six dollars and no cents (\$589,776.00)** annually for 2025-2026.

3. **Section 6. Over Allocation:** Add subsections to 6.1. for the following term years.

6.1.a. **Term Year 1:** July 1, 2023-June 30, 2024:

The Charter School’s projected in-District Average Daily Attendance for the **2023-2024** school year, and upon which the Premises are provided is **257**.

6.1.b. **Term Year 2:** July 1, 2024-June 30, 2025:

The Charter School’s projected in-District Average Daily Attendance for the **2024-2025** school year, and upon which the Premises are provided is **272**.

6.1.c. **Term Year 3:** July 1, 2025-June 30, 2026:

The Charter School’s projected in-District Average Daily Attendance for the **2025-2026** school year, and upon which the Premises are provided is **260.11**.

4. **Exhibit B:** Add Pro Rate Share and FMV Use Fee for 2024-2025 and 2025-2026 per **Attachment 1**.

5. Except as set forth in this Amendment, all provisions of the Lease and any previous extension(s) and/or amendment(s) thereto shall remain unchanged, in full force and effect, and are reaffirmed. This Amendment shall control over any inconsistencies between it and the Lease and/or any previous extension(s) and/or amendment(s).

6. Lessee acknowledges and agrees that this Amendment shall not be binding on the Parties until and unless the San José Unified School District’s Board of Education approves this Amendment.

IN WITNESS WHEREOF, the parties hereto have accepted and agreed to this Amendment on the later date indicated below.

Dated: 8/19/2025

Dated: 8/18/2025

SAN JOSÉ UNIFIED SCHOOL DISTRICT

**Discover Charter School
dba Discovery Charter School II**

By: 
Name: Tracy Morrison
Title: Director of Procurement

By: 
Name: Lety Villa
Title: Executive Director

**Attachment 1
Exhibit "B"
PRO RATA SHARE AND FMV USE FEE**

Discovery Charter School II Randol Site 2024-2025			
Total Enrollment (Students):	523	Out-of-district ADA (Students):	272
Total ADA (Students):	488	In-district ADA (Students):	216
[A] Dedicated Spaces (exclusive use)		Square Footage	
Main Building (18 classrooms, Media Center, Restrooms, MUB/Kitchen, admin offices, storage)		35,133	
P19		1,152	
P20		1,152	
P21		960	
P22		960	
P23		960	
Subtotal of Dedicated Spaces		40,317	
[B1] Charter School Provided Buildings		Square Footage	
P1		960	
P2		960	
P3		960	
P24		960	
P25		960	
Subtotal of Charter School Provided Space		4,800	
[B2] Shared Spaces		Square Footage	
N/A		0	
Total shared space		0	
[A+B1+B2] Total Space		Square Footage	
Sum of dedicated and shared spaces		45,117	
[C] Shares of total space (out-of-district and in-district students)		Square Footage	
Out-of-district ADA/Total ADA = 271 out of 488	56%	22,578	
In-district students ADA/Total ADA = 216 out of 488 total	44%	17,739	
[D] Pro Rata Share (per square foot per year)	Rate	Square Feet	Subtotal
Routine Maintenance	\$3.44	45,117	\$155,202.48
Custodial	\$0.00	45,117	\$0.00
Grounds	\$0.90	45,117	\$40,605.30
Aquatics - Pool	\$0.00	45,117	\$0.00
Security Monitoring	\$0.28	45,117	\$12,632.76
Furniture Replacement	\$0.00	45,117	\$0.00
Natural Gas and Electricity	\$0.00	45,117	\$0.00
Solar	\$0.00	45,117	\$0.00
Water	\$0.67	45,117	\$30,228.39
Sewer	\$0.11	45,117	\$4,962.87
Trash	\$0.14	45,117	\$6,316.38
Data Network	\$0.00	45,117	\$0.00
Hazardous Substance	\$0.03	45,117	\$1,353.51
Insurance Package	\$0.43	45,117	\$19,400.31
Property Self-insured	\$0.38	45,117	\$17,144.46
Safety	\$0.05	45,117	\$2,255.85
Total	\$6.43	45,117	\$290,102.31
[E] Building Lease (per square foot per year)	Rate	Square Feet	Subtotal
Building Lease (for out-of-district students only)	\$23.88	22,578	\$539,162.64
Total		22,578	\$539,162.64
[D+E-F] Total Cost		Amount	
Annual (sum of pro rata share and building lease)		\$829,264.95	
Monthly (annual divided by 12)		\$69,105.41	

Discovery Charter School II Randol Site 2025-2026			
Total Enrollment (Students):	463	Out-of-district ADA (Students):	260.11
Total ADA (Students):	442.11	In-district ADA (Students):	182
[A1] Dedicated Spaces (exclusive use) - Allocation per District Standards		Square Footage	
Main Building (18 classrooms, Media Center, Restrooms, MUB/Kitchen, admin offices, storage)		35,133	
P19		1,152	
P20		1,152	
P21		960	
Subtotal of Dedicated Spaces per District Standards		38,397	
[A2] Dedicated Spaces (exclusive use) - In Excess of District Standards		Square Footage	
P22		960	
P23		960	
Subtotal of Dedicated Spaces in Excess of District Standards		1,920	
[B1] Charter School Provided Buildings		Square Footage	
P1		960	
P2		960	
P3		960	
P24		960	
P25		960	
Subtotal of Charter School Provided Space		4,800	
[B2] Shared Spaces		Square Footage	
N/A		0	
Total shared space		0	
[A1+A2 +B1+B2] Total Space		Square Footage	
Sum of dedicated and shared spaces		45,117	
[C] Shares of total space [A1]+[B2] (out-of-district and in-district students)		Square Footage	
Out-of-district ADA/Total ADA = 260.11 out of 442.11		59%	22,654
In-district students ADA/Total ADA = 182 out of 442.11		41%	15,743
[D] Pro Rata Share (per square foot per year)		Rate	Square Feet
			Subtotal
Routine Maintenance		\$3.38	40,317
Custodial		\$0.00	45,117
Grounds		\$0.97	45,117
Aquatics - Pool		\$0.00	45,117
Security Monitoring		\$0.31	45,117
Furniture Replacement		\$0.00	45,117
Natural Gas and Electricity		\$0.00	45,117
Solar		\$0.00	45,117
Water		\$0.73	45,117
Sewer		\$0.11	45,117
Trash		\$0.17	45,117
Data Network		\$0.00	45,117
Hazardous Substance		\$0.04	45,117
Insurance Package		\$0.53	45,117
Property Self-insured		\$0.40	45,117
Safety		\$0.06	45,117
Total		\$6.70	\$286,059.90
[E] Building Lease (per square foot per year)		Rate	Square Feet
			Subtotal
Building Lease (for out-of-district students only)		\$24.00	22,654
Dedicated Spaces in Excess of District Standards [A2]		\$24.00	1,920
Total			24,574
			\$589,776.00
[D+E] Total Cost		Amount	
Annual (sum of pro rata share and building lease)		\$875,835.90	
Monthly (annual divided by 12)		\$72,986.33	