

**THE MONTESSORI ELEMENTARY AND MIDDLE SCHOOL
GOVERNING COUNCIL**

Resolution No. 25-001 2024

Resolution Re: Lease Purchase Arrangement Approval Pursuant to NMSA 1978, §22-26A-6 (200 El Pueblo, Albuquerque, NM)

WHEREAS, The Montessori Elementary and Middle School's Governing Council ("Council"), the governing body of The Montessori Elementary and Middle School, a public charter school ("Charter School") authorized by the New Mexico Public Education Commission, held a special public meeting at the Charter School's location, 1730 Montano Road, NW, Albuquerque, and via the virtual platform Zoom Video Conferencing on October 28, 2024, at 4:30 p.m.; notice of the meeting was provided by law.

WHEREAS the Council has determined that it is necessary, desirable, and in Charter School's best interest, to acquire a second facility to provide additional space for its educational program and to expand its current grade level offerings through high school. Suitable real property has been identified as 200 El Pueblo Road, Los Ranchos de Albuquerque, New Mexico, 87114 (the "Facility").

WHEREAS CSDCPC TMS, LLC, a Delaware limited liability company ("Owner") authorized to do business in New Mexico, has agreed to purchase the Facility and design, construct and install certain tenant improvements to the Facility as described in the LPA ("Improvements") for the benefit of the Charter School. The Facility and Improvements are referred to as the "School Site" and are more particularly described in Exhibit A of the lease purchase arrangement attached to this Resolution. The Facility is located on approximately 1.72 acres with one building totaling approximately 13,677 square feet.

WHEREAS the Council understands that the Owner is under contract to purchase the Facility and from the seller and has obtained private financing to purchase the Property, for which Owner shall be solely liable.

WHEREAS the Governing Council understands that Owner's financing terms with its lender require that the Owner enter a lease purchase arrangement ("LPA") as defined by the New Mexico Public School Lease Purchase Act ("Act"), NMSA 1978, §§22-26A-1, *et seq.* with the Charter School.

WHEREAS the Owner will hold legal title to the School Site upon closing of the transaction with seller; closing of the financing for the sale to Owner is contingent on the New Mexico Public Education Department's ("Department") approval of the LPA contemplated hereunder.

WHEREAS the Council, in connection with the Owner's financing, has not entered into a pledge and covenant agreement whereby it is required to establish and maintain a depository

account with a bank or other financial institution. The Charter School will make lease payments pursuant to the LPA according to an Automated Clearing House transfer each month.

WHEREAS the Council will not enter into a pledge and covenant agreement as it relates to the Owner's loan or loans, wherein it must agree to grant a security interest and assign to a third party bank or other financial institution for the benefit of educational facility revenue bonds holders, any of the Charter School's revenues or other assets, or the Charter School's right, title, and interest in and to any agreements with the State of New Mexico for such revenues, or both.

WHEREAS, the Council has decided the maximum purchase price for the School Site, \$5,000,000 (Five Million Dollars and no/100ths) is fair and reasonable considering the School's current and projected educational program needs. In addition, the Council has considered the interest rate (8.15%) charged by Owner and determined that it is fair and reasonable and does not and shall not at any time during the term of the LPA exceed the maximum permitted by the Public Securities Act ("Act"), NMSA 1978, §6-14-1 through §6-14-3, as that Act may be amended from time to time.

WHEREAS, the Council has reviewed a summary of the terms of the proposed LPA, had the opportunity to ask questions of legal counsel and the Charter School administration, and has determined that the terms and conditions of the LPA are in the best interest of the Charter School and are acceptable to the Council. The Council understands that it shall not execute the LPA unless or until it has been approved by the Department.

WHEREAS purchase of the School Site according to the terms of the LPA attached to this Resolution, based on information provided to the Council, meets the Charter School's current and anticipated facility needs.

WHEREAS the Council will, prior to executing the LPA, submit it to the Department for approval, pursuant to the requirements of the Department, the terms of the Act, and the Charter Schools Act, NMSA 1978, §§22-8B-1, *et seq.*

WHEREAS the Council has reviewed the sources of funds that will be used to make the required payments pursuant to the LPA, which sources comply with NMSA 1978, §22-26A-7 and the Council is satisfied that the School has eligible funding to enter the LPA and to pay its obligations thereunder.

NOW, THEREFORE, be it resolved by The Montessori Elementary and Middle School Governing Council that:

(1) It is necessary and in the Charter Schools best interest to acquire the School Site from the Owner through a lease purchase arrangement as defined by NMSA 1978, §22-26A-3(A);

(2) The purchase price of the School Facility to be acquired, \$5,000,000 (Five Million Dollars and no/100ths), and the maximum interest rate described above, which does not exceed the maximum interest rate allowed pursuant to the Public Securities Act (NMSA 1978, §6-14-1 through 6-14-3), is reasonable;

(3) The terms of the proposed LPA are reasonable, acceptable, and in the best interest of the Charter School;

(4) The source of funds to make the payments under the proposed LPA have been identified from available and allowable funds which is attached as Exhibit D to the LPA;

(5) The Council will not be liable for Owner's debt to acquire and improve the School Site, including but without limitation all costs related to borrowing funds, purchasing, and making improvements to the School Site as described in Exhibit A of the LPA;

(6) The Council will not pledge its revenue, nor commit the Charter School's assets as security for purposes of repaying the Owner's financial obligations, nor will it establish or maintain a depository account into which the Charter School's revenues from any source are deposited to be controlled by a trustee or any third party as it relates to repayment of the Owner's financial obligations;

(7) The LPA, along with all required documentation, shall be forwarded to the Department for consideration and approval prior to its execution;

(8) The Council authorizes the Charter School's Executive Director or Chief Financial Officer, with the support of the Council President, to respond to any additional requests for documents or information from the Department, to make all revisions to the LPA that do not change the material terms of the Agreement as approved by the Council herein if required by the Department and if so advised by the Charter School's legal counsel, and to take such other necessary steps to finalize the draft LPA in consultation with the Charter School's legal counsel; and

(9) The President of the Council shall have the authority to execute the LPA without further action of the Council if all required approvals are obtained from the Department.

The motion was duly made, seconded, and 5 voted in favor, 0 against and 0 abstained; the motion carried.

THE MONTESSORI ELEMENTARY AND MIDDLE SCHOOL GOVERNING COUNCIL



President (Signature)

10/28/24

Date

By my signature below I certify that the foregoing is a true and correct statement of the Resolution that was duly adopted by The Montessori Elementary and Middle School Governing Council at its October 28, 2024, meeting held in accordance with state laws and bylaws of the governing body.



President (Signature)

10/28/24

Date