



**Date:** June 24, 2009  
**To:** Dr. J. Brian Sarvis, Superintendent  
**From:** David J. Hetynok, Director of Facilities and Operations  
**Subject:** Approval of agreement with Antioch University for the lease of 4,175 square feet of classroom space at 215 E. Ortega Street.

June 30, 2009 Consent Agenda

Background:

The board approved a lease for the above space as agenda item E.4 on August 12, 2008 and this lease is due to expire on June 30, 2009. This lease was part of the fiscal recovery plan adopted by the board. The rental rate was \$1.65 per square foot per month and the lease was for 10 months, as the district wanted a short term lease while the surplus facilitates committee evaluated the possible move of the district office. The area is the basement classrooms at La Cuesta High School at 710 Santa Barbara Street. The basement has a separate entrance and address on Ortega Street.

Plan:

The surplus facilities committee is recommending no action on the move of the district office for the 09-10 school year and Antioch has requested a renewal of the lease for the 2009 -2020 school year (10 ½ months). This revenue is already anticipated in the 2009-2010 fiscal year budget.

Fiscal Impact:

Increased unrestricted general fund revenue of \$72,331.88 for the 2009-2010 fiscal year

Recommendation:

That the board approve the agreement with Antioch University for the lease of 4,175 square feet of classroom space at 215 E Ortega.

<b>Attachment(s)?</b>	<input checked="" type="checkbox"/>	<b>Yes</b> (if so, please attach)	<b>No</b>
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<b>Powerpoint</b>	<b>Overhead</b>	<b>Consultant</b>
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Adams Elementary School Cesar Chavez Charter School Cleveland Elementary School Franklin Elementary School Harding Elementary School	Mckinley Elementary School Monroe Elementary School Open Alternative School Peabody Charter School	Roosevelt Elementary School Santa Barbara Charter School Santa Barbara Community Academy Washington Elementary School	Goleta Valley Junior High School La Colina Junior High School La Cumbre Junior High School Santa Barbara Junior High School	Dos Pueblos High School La Cuesta Continuation High School San Marcos High School Santa Barbara High School Home School Santa Barbara
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## LEASE AGREEMENT

This Lease Agreement is entered into by and between the Santa Barbara High School District ("Landlord"), a political subdivision of the State of California and Antioch University ("Tenant"), an Ohio Corporation which maintains an office and does business in the City of Santa Barbara.

### *Premises*

1. Subject to the terms and conditions set forth in this lease, Landlord hereby leases to Tenant 4,175 square feet on the lower level of the "La Cuesta High School Campus" at 215 E. Ortega Street, Santa Barbara, California (the "Building") as reflected on attached Exhibit A, which is incorporated herein by this reference as if set forth in full (the "Leased Space.")

### *Term*

2. The term of this lease shall be a period of ten and one-half months commencing at 12:01 a.m. on August 15, 2009, and ending at 12:01 a.m. on June 30, 2010, unless terminated earlier as provided in this lease.

### *Rent*

3. Tenant agrees to pay to Landlord as rent for use and occupancy of the Leased Space the sum of \$6,888.75 per month payable on the first day of each and every month (except the first half month payment of \$3444.38 due August 15, 2009) commencing on September 1, 2009, and continuing through the term of this lease. Tenant agrees to pay a late charge of \$50.00 if the rent is not received within five (5) days of its due date. Tenant and Landlord agree that Landlord will sustain damage on account of any late payment of rent, including but not limited to added accounting, administrative, and management expenses and costs, but that it will be impracticable and extremely difficult to specify the actual amount of such damage. The parties agree that this late charge represents a fair and reasonable estimate of the damages that Landlord will incur by reason of the late payment of rent.

### *Use of Premises*

4. The Leased Space shall be used by Tenant for educational purposes consistent with Tenant's usual course of business and shall not be used for any other use without the prior express written consent of Landlord. Tenant shall during the term of this lease maintain the Leased Space, in a good, clean, and safe condition, and shall on expiration or earlier termination of this lease surrender the Leased Space to Landlord in as good condition and repair as existed on the date of this lease, reasonable wear and tear and damage by the elements excepted. Tenant, at Tenant's own expense, shall repair all

deteriorations or injuries to the Leased Space or to the Building occasioned by Tenant's lack of ordinary care.

***Prohibited Uses***

5. Tenant shall not commit or permit the commission of any acts on the Leased Space, nor use or permit the use of the Leased Space, in any way that:

(a) Increases the existing rates for or causes cancellation of any fire, casualty, liability, or other insurance policy insuring the Building or its contents;

(b) Violates or conflicts with any law, statute, ordinance, or governmental rule or regulation, whether now in force or hereinafter enacted, governing the Leased Space or the Building;

(c) Interferes with the educational program or activities of any school or class conducted at the Building or jeopardizes the safety of any school children;

(d) Unduly disrupts the residents in the surrounding neighborhood; or

(e) Constitutes the commission of waste on the Leased Space or the commission or maintenance of a nuisance as defined by the laws of California.

***Parking***

6. Tenant shall be entitled to the use of 17 parking spaces between the hours of 7:00 a.m. and 9:00 p.m., Monday through Friday. Tenant shall be entitled to use vacant parking spaces assigned to La Cuesta High School between the hours of 3:30 p.m. and 9:00 p.m. Tenant shall be allowed to use vacant parking spaces assigned to district office between the hours of 5:00 p.m. and 9:00 p.m. Tenant shall not have any parking limitations after 9:00 p.m. on Monday through Friday and on Saturdays or Sundays.

***Utilities and Cleaning***

7. Landlord shall provide utilities to the Leased Premises. Tenant will contract for and be responsible for janitorial services and ensure cleaning to meet school district standards. Notwithstanding the foregoing, Tenant shall be solely responsible for the cost of internet service at the Leased Premises, but may utilize Landlord's existing wiring for this purpose.

***Alterations by Tenant***

8. No alteration, addition, or improvement to the Leased Space shall be made by Tenant without the prior written consent of Landlord.

***Tenant's Insurance***

9. Tenant shall during the term of this lease cause to be issued and maintained general liability insurance in the sum of at least \$1,000,000 for injury to or death of one person, and \$2,000,000 for injury to or death of more than one person in any one accident, insuring the Tenant against liability for injury and/or death occurring in or on the Leased Space or common areas. Landlord shall be named as an additional insured on the policy. The Tenant shall maintain all such insurance in full force and effect during the entire term of this lease and shall pay all premiums for the insurance. Evidence of insurance and of the payment of premiums shall be delivered to Landlord. Tenant will provide security service at the Leased Space for any evening classes conducted by Tenant.

10. Tenant agrees at all times during the term of this lease to keep, at Tenant's sole expense, all of Tenant's personal property that may be on or in the Leased Space from time to time, insured against loss or damage by fire and by any peril included within fire and extended coverage insurance for an amount that will insure the ability of Tenant to fully replace the personal property.

#### ***Indemnification***

11. Landlord shall not be liable to Tenant, and Tenant hereby waives all claims against Landlord, for any injury or damage to any person or property in or about the Leased Space or any part of the Leased Space by or from any cause whatsoever, except injury or damage to Tenant resulting from the acts or omissions of Landlord or Landlord's authorized agents. Tenant shall hold Landlord harmless from and defend Landlord against any and all claims or liability for any injury or damage to any person or property whatsoever occurring in, on, or about the Leased Space or any part of it, and occurring in, on, or about any common areas of the Building when that injury or damage was caused in part or in whole by the act, neglect, fault of, or omission of any duty by Tenant, its agents, servants, employees, or invitees.

#### ***Assignment and Subletting***

12. Tenant shall not encumber, assign, sublet, or otherwise transfer this lease, any right or interest in this lease, or any right or interest in the Leased Space without first obtaining the express written consent of Landlord, which may be withheld in Landlord's sole discretion. Notwithstanding these prohibitions, Tenant is permitted to allow use of the Leased Space by its "sister school" partners. Tenant agrees that it will ensure that use by its sister school partners fully complies with the terms of use contained in this lease.

#### ***Breach by Tenant***

13. The following shall constitute a default under and a breach of this lease by Tenant:

(a) The nonpayment of rent when due, when the nonpayment continues for 10 days after written notice to pay rent or surrender possession of the Leased Space has been given by Landlord to Tenant;

(b) A failure to perform any provision, covenant, or condition of this lease other than one for the payment of rent, when that failure is not cured within 30 days after written notice of the specific failure is given by Landlord to Tenant; or

(c) The breach of this lease and abandonment of the Leased Space before expiration of the term of this lease.

***Landlord's Remedies***

14. If Tenant breaches or is in default under this lease, Landlord, in addition to any other remedies given Landlord by law or equity, may:

(a) Continue this lease in effect by not terminating Tenant's right to possession of the Leased Space and thereby be entitled to enforce all Landlord's rights and remedies under this lease including the right to recover the rent specified in this lease as it becomes due under this lease; or

(b) Terminate this lease and all rights of Tenant under the lease and recover from Tenant the worth at the time of award of the unpaid rent that had been earned at the time of termination of the lease and any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform Tenant's obligations under this lease; or

(c) In lieu of, or in addition to, bringing an action for any or all of the recoveries described in subparagraph (b) of this paragraph, bring an action to recover and regain possession of the Leased Space in the manner provided by the California law of unlawful detainer then in effect.

***Waiver of Breach***

15. The waiver by Landlord of any breach by Tenant of any of the provisions of this lease shall not constitute a continuing waiver or a waiver of any subsequent default or breach by Tenant either of the same or a different provision of this lease.

***Legality of Lease***

16. Landlord is entering into this lease pursuant to the joint use provisions of the California Education Code. (Ed. Code §§ 17527-17535.) In the event this lease is deemed to violate the Education Code or is otherwise held invalid based upon a legal challenge by any party other than Tenant, Landlord shall be entitled to immediately terminate this lease and shall have no further obligation or liability to Tenant, other than the return of rent previously paid by the Tenant for periods after the termination date.

Moreover, this lease is expressly contingent upon approval by the Santa Barbara School Districts Board of Education, and any failure by the Board of Education to approve this lease shall result in no obligation or liability on the part of Landlord.

17. Tenant warrants that it is fully authorized to enter into and execute this lease agreement.

***Notices***

18. Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this lease or by law to be served on or given to either party to this lease by the other party shall be in writing, and shall be deemed duly served and given when personally delivered to the party to whom it is directed or any managing employee of that party or, in lieu of personal service, when deposited in the United States mail, first-class postage prepaid, addressed to Landlord at 720 Santa Barbara Street, Santa Barbara, California 93101 or to Tenant at 801 Garden Street, Suite 101, Santa Barbara, California 93101.

***Attorneys' Fees***

19. If any litigation is commenced between the parties to this lease concerning the Leased Space, this lease, or the rights and duties of either in relation to the Leased Space or the lease, the party prevailing in that litigation shall be entitled, in addition to any other relief granted, to a reasonable sum for its attorneys' fees in the litigation.

***Neither Party to be Deemed Drafter***

20. This lease is to be deemed to have been prepared jointly by the parties hereto; any uncertainty or ambiguity existing herein shall not be interpreted against either party but according to the application of rules of contracts generally.

***Severability***

21. In the event any court invalidates any provision of this lease, all other provisions shall remain binding and in full force and effect with respect to the parties.

***Headings***

22. Headings are included in this lease for convenience of reference only, and shall in no way define, limit, or extend the scope or intent of any provision of this lease.

***Entire Agreement***

23. This instrument constitutes the sole and only full, final, and complete agreement between Landlord and Tenant respecting the Leased Space or the leasing of the Leased Space to Tenant, and correctly sets forth the obligations of Landlord and

Tenant to each other as of its date. Any agreements or representations respecting the Leased Space or their leasing by Landlord to Tenant not expressly set forth in this instrument are null and void. All prior negotiations between the parties are subsumed into this lease to the extent they have been agreed to, and if not agreed to by the parties such negotiations are not set forth in the terms and conditions of this lease. This lease may not be extended, amended, modified, altered, or changed, except in a writing signed by Landlord and Tenant.

Executed this \_\_\_ day of August, 2009, at Santa Barbara, California, by:

Landlord:

\_\_\_\_\_  
Authorized Representative of  
Santa Barbara High School District

Tenant:

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Authorized Representative of  
Antioch University