

SUBJECT

Xavier Charter School Fiscal and Facility Status Update

APPLICABLE STATUTE, RULE, OR POLICY

I.C. §33-5209

BACKGROUND

Xavier Charter School (XCS) is a public charter school authorized by the Public Charter School Commission (PCSC). Located in Twin Falls, XCS is now in its sixth year of operations and serves grades K-12.

For several years, XCS's financial stability has been increasingly threatened by an unsustainable facility lease. At the February 14, 2013, PCSC meeting, XCS stated that if negotiations with the landlord could not be resolved by February 22, 2013, the school's board would be obliged to relinquish the charter and close the school effective June 30, 2013.

DISCUSSION

XCS has succeeded in negotiating a reduced lease payment of \$480,000 per year for the next three years. The board's plan is to proceed toward bonding and purchasing the building during that time in order to avoid further financial struggles of this nature.

IMPACT

Information item only.

STAFF COMMENTS AND RECOMMENDATIONS

Staff has no comments or recommendations.

COMMISSION ACTION

Any action would be at the discretion of the PCSC.

February 22, 2013



XAVIER CHARTER SCHOOL
1218 North College Road W
Twin Falls, ID 83301
(208) 734-3947 Phone (208) 733-1348 Fax

February 21st, 2013

Idaho Public Charter School Commission
650 W. State Street
P.O. Box 83720
Boise, ID 83720-0037

Dear Public Charter Commission,

We are writing to extend our sincere appreciation to the Commission members and staff, and to update you on events in the past week.

Significant progress was made on lease negotiations on Friday February 15th. By Monday February 18th an agreement in concept was reached, final details were worked out on Tuesday February 19th, which culminated in a proposed agreement being brought to the Board on Tuesday evening. The lease agreement was subsequently approved by unanimous vote. A previously scheduled stakeholder's meeting was held later in the evening where the new lease agreement was announced to our stakeholders. The agreement is attached but bears some explanation.

- Our analysis has consistently demonstrated that a lease/purchase payment of approximately \$450,000 per year is sustainable and will afford us the opportunity to bond and purchase our facility. The new lease agreement lists a payment of \$480,000 per year for the next three years. The reduced lease rate for this current fiscal year has resulted in over \$90,000 being released from escrow back to the school. This \$90,000 was not factored into our original analysis, which afforded us some flexibility in the negotiation process with our landlord, and will result in a net outflow of \$450,000 per year for our lease. We feel that this payment is schedule is sustainable over the next three years.

Our intention remains to purchase the building as soon as we are able to negotiate an agreeable price and bond. The Idaho Housing and Finance Authority approved our application for bond issuance last Friday. We will continue to provide updates to the Charter Commission and once again most gratefully appreciate your support.

Sincerely,

Deborah Burr
Board Chair

Thad Biggers
Head of Schools

February 22, 2013

SECOND LEASE AMENDMENT

THIS SECOND LEASE AMENDMENT is made as of this 19th day of February, 2013, by and between **Twin Falls School Development, LLC**, a Utah limited liability company ("**Landlord**") and **Xavier Charter School, Inc.**, an Idaho not-for-profit corporation ("**Tenant**").

RECITALS

WHEREAS, Landlord and Tenant are parties to a Lease Agreement (the "Lease") dated April 9, 2010, for the lease of land and a building at which Tenant operates a public charter school (the "**Facility**"), and

WHEREAS, Tenant and Landlord have worked collaboratively to address Tenant's financial challenges, and in furtherance of these efforts to maintain Xavier Charter School as a thriving charter school at its current Facility, the parties entered into a "Lease Amendment" dated November 23, 2012, wherein the Fixed Rent for Tenant was amended to \$450,000.00 for the 2012-2013 school year, and

WHEREAS The parties are now entering into this Second Lease Amendment in good faith to maintain the long term financial viability of the school.

NOW THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. Fixed Rent. The Annual Fixed Rent commencing July 1, 2013 to June 30, 2014, and for three consecutive fiscal years, shall be \$480,000.00 per year (\$40,000.00 per month). The parties agree to execute any documents necessary to amend the Escrow Agreement and the Lease Payment Schedule to make it consistent with this Second Lease Amendment.
2. All revenue that is currently held in the parties' escrow account, in the amount of not less than \$90,000.00, shall be unconditionally released to Xavier Charter School.
3. The parties signing hereto have full and complete authority to enter into this Amendment.
4. All other terms and conditions of the 2010 Lease remain in effect.

TENANT

Xavier Charter School, Inc.
an Idaho not-for-profit corporation

By: Debbi Burr
Name: Debbi Burr
Title: Chairman of the Board

LANDLORD

Twin Falls School Development, LLC
a Utah limited liability company

By: Jed Stevenson
Name: Jed Stevenson
Title: Manager