

JOINT OPERATING AGREEMENT

BETWEEN THE

FEDERAL WAY PUBLIC SCHOOL DISTRICT

AND THE

TECHNOLOGY ACCESS FOUNDATION

JOINT OPERATING AGREEMENT

THIS JOINT OPERATING AGREEMENT (the “Agreement”) dated _____, 2007 is made by and between the Federal Way Public School District, a Washington municipal corporation and public school district (the “District”), and the Technology Access Foundation, a Washington not-for-profit corporation (“TAF”), together the “Parties.”

WHEREAS, TAF has a vision to create a public 6th through 12th grade school that prepares every student for college and life through a Science, Technology, Engineering and Mathematics (“STEM”) focused curriculum;

WHEREAS, the District is interested in working with TAF, and TAF is interested in working with the District, to launch and administer such a school, hereinafter defined as the TAF Academy, within the District.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and TAF, intending to be legally bound hereby, do hereby agree as follows:

1. DEFINITIONS

- 1.1 “Agreement” means this Joint Operating Agreement between the District and TAF.
- 1.2 “Certificated Employee” means a certificated nonsupervisory educational employee of the District as defined in Ch. 41.59 RCW.
- 1.3 “Classified Employee” means a noncertificated nonsupervisory employee of the District who is represented under Ch. 41.56 RCW.
- 1.4 “District” shall have the meaning given to it in the preamble of this Agreement.
- 1.5 “Educational Plan” means a detailed plan, including curriculum, developed annually for the review and approval of the TAF Academy Network Oversight Committee and the Superintendent, as described in Section 5.4 below.
- 1.6 “Existing Program” means the Totem Middle School program.
- 1.7 “Existing Program Principal” means the Principal of the Existing Program.
- 1.8 “Existing Units” shall have the meaning set forth in Section 10.1(a).
- 1.9 “Facility” means the Totem Middle School campus at 26630 40th Avenue South Kent, Washington 98032, including any Existing Units, and/or related facility locations supporting the TAF Academy, and any successor facility(ies) mutually agreed upon by the Parties pursuant to the terms of this Agreement.
- 1.10 “Federal Way Education Association Contract” or “FWEA Contract” means the 2006-2009 Collective Bargaining Agreement(s) between the District and the Federal Way Educational Association and/or their successor agreements for the duration of this Agreement.

1.11 “Federal Way Educational Association” or “FWEA” means that certain union, or its successor, if any, representing Certificated Employees of the District.

1.12 “Parent” means one or both natural parents or guardian(s) of enrolled students as listed or identified on school or District records.

1.13 “Parent Advisory Council” or “PAC” shall have the meaning set forth in Section 7.2.

1.14 “Parties” means the Federal Way Public School District, a Washington municipal corporation and public school district, and the Technology Access Foundation, a Washington not-for-profit corporation.

1.15 “Principal” means an individual who supervises the operation and management of the school to which he or she is assigned.

1.16 “Proposal” shall mean the *TAF Academy in the Federal Way School District Proposal*, as may be updated from time to time, in substantially the form attached hereto as Exhibit A, and which is incorporated into this Agreement by reference.

1.17 “Superintendent” means the Superintendent of the District.

1.18 “TAF Academy” means the 6th-12th grade academic small school model to be launched and maintained jointly by the District and TAF pursuant to the terms of this Agreement and as further described in the Proposal.

1.19 “TAF Academy Management Team” means the planning and management committee composed of members from the District and TAF that represent a variety of functional areas needed to launch and manage TAF Academy. The designation of members to the TAF Academy Management Team is set forth in Section 3.2

1.20 “TAF Academy School Leadership Team” or “School Leadership Team” means the group who is responsible for the day-to-day administration of TAF Academy including, but not exclusive to: monitoring line-item budgeting, additional grants, program evaluation, developing dispute resolution process, maintenance of school vision and school policy, and reviewing school’s progress and developing plans to address achievement gaps. The TAF Academy School Leadership Team is composed of TAF representatives, the TAF Academy Principal, assistant principal (if applicable), teacher representatives, parent representatives, and student representatives. The TAF Academy Principal is responsible for communicating school leadership activities to District staff.

1.21 “TAF Academy Network Oversight Committee” means the group whose members are designated by TAF to provide financial and general oversight for all TAF Academies, determine total grant amount annually and allocate grant funds at a summary level.

1.22 “TAF Academy Principal” means the Principal of the TAF Academy in the District.

1.23 “TAF Academy Principal Selection Team” means the group of people who will lead the process of recruiting the TAF Academy Principal and select the final two candidates to be presented to the Superintendent and TAF Executive Director. The TAF Academy Principal Selection Team is composed of select District representatives, the TAF Director of Education, and TAF selected small schools experts.

1.24 “TAF Capital Improvements” shall have the meaning set forth in Section 11.2.

1.25 “Term” shall have the meaning set forth in Section 15.

2. OVERVIEW

2.1 Purpose. The Parties acknowledge and agree that the purpose of this Agreement is to create and maintain the TAF Academy, which is a 6th-12th grade school using an innovative STEM curriculum, within the District, as further described in the Proposal and subject to applicable federal, state and local laws and District policies.

2.2 Proposal. Subject to applicable federal, state and local laws and District policies, the Parties agree to diligently perform its obligations hereunder in good faith consideration of, and consistent with, the objectives and guidelines for the TAF Academy outlined in the Proposal attached hereto as Exhibit A. However, if there is a specific conflict between the terms of this Agreement and the terms of the Proposal, the terms of this Agreement will control.

3. MANAGEMENT

3.1 Role of the TAF Academy Network Oversight Committee. The TAF Academy Network Oversight Committee provides financial and general oversight for all TAF Academies, determines total grant amount annually and allocates grant funds at a summary level. The TAF Academy Network Oversight Committee also maintains the integrity and vision of the TAF Academy model through review of and action recommendations on all federal, state and district level changes and adoptions that impact TAF Academy.

3.2 TAF Academy Management Team. The TAF Academy Management Team, which was assembled at the signing of the Memorandum of Understanding, includes five employees from the District and five employees from TAF including the Superintendent of the District and the Executive Director of TAF. There is no limit to the size of the TAF Academy Management Team. The TAF Academy Management Team will stay intact through the Term of this Agreement. If a member leaves the team, each Party will select a replacement to serve as its representative on the joint TAF Academy Management Team and inform the other Party of such selection as soon feasible. The TAF Academy Management Team will (a) be authorized to manage the relationship of the Parties under this Agreement, (b) take the actions specifically delegated to the TAF Academy Management Team under this Agreement, and (c) be the principle contact of such Party for matters relating to this Agreement. Each Party may change its representatives of the TAF Academy Management Team at any time on written notice to the other Party. The TAF Academy Management Team shall meet on request of either Party but no less than once every four months.

3.3 Role of the Assistant Superintendent. The Assistant Superintendent manages the TAF Academy Principal and completes their performance reviews with input from the TAF Academy School Leadership Team.

3.4 Role of TAF Academy Principal. The TAF Academy Principal shall function as the chief administrative and educational officer of the TAF Academy as further set forth in the Proposal. The TAF Academy Principal shall fully participate in District processes and programs on a par with and to the same extent as other District middle and high school principals and, except as otherwise provided herein, shall have all other rights of other District school principals.

3.5 Role of the TAF Academy School Leadership Team. The TAF Academy Principal will be charged with forming a School Leadership Team in accordance with District policy and procedure. The School Leadership Team shall be responsible for site-based day-to-day administration of TAF Academy including, but not exclusive to: Monitoring line-item budgeting, additional grants, program evaluation, developing dispute resolution process, communication protocol, implementation of school vision and school policy, and reviewing school's progress and developing plans to address achievement gaps.

(a) The School Leadership Team shall be composed of the TAF Academy Principal, TAF Academy teacher representatives, TAF Academy parent representatives, TAF Academy student representatives, and TAF representatives. The TAF Academy principal is responsible for communicating with District staff on behalf of the School Leadership Team.

(b) The School Leadership Team will prepare and provide a copy of the annual program evaluation to the District. The District agrees to incorporate this evaluation into the TAF Academy Principal's evaluation by the District.

3.6 Selection/Retention of TAF Academy Principal.

(a) Initial Selection Process. Recruitment and evaluation of candidates for the position of the first TAF Academy Principal, and successor TAF Academy Principals, shall be undertaken jointly between TAF and the District, as set forth below, and consistent with the Proposal. As needed and to the extent possible, the recruitment process for the inaugural TAF Academy Principal shall take place earlier than the District's process for principal recruitment for other District middle and high schools, and to the extent practicable, the District shall allow current TAF Academy parents and students to provide input in the recruitment process. The TAF Academy Management Team shall create the job description for the TAF Academy Principal. District Human Resources will provide staff support to coordinate the TAF Academy Principal recruitment process. District personnel will coordinate and place recruitment advertising for the position, and together with the TAF Academy Principal Selection Team will conduct initial screening of applicants to determine which possess the minimum qualifications for further consideration. The TAF Academy Principal Selection Team will have discretion to determine the process for identification of applicants to interview for further consideration. Following interviews with the finalists, the TAF Academy Principal Selection Team will identify and rank in order of preference the two (2) candidates, whose names will be submitted to the Superintendent and the TAF Executive Director. The Superintendent and the TAF Executive Director will then interview both candidates and submit their determination to the TAF Academy Management Team and the TAF Academy Principal Selection Team.

(b) Additional Selection Process. In the event the Superintendent and the TAF Executive Director determine to reject the preferred finalist submitted to them by the TAF Academy Principal Selection Team, they shall confer with the TAF Academy Principal Selection Team to explain their reasons for determining to do so. Unless the Superintendent and the TAF Academy Principal Selection Team concur on the appointment of one (1) of the finalists originally submitted, TAF Academy Principal Selection Team shall submit to the Superintendent and the TAF Executive Director the names of two (2) additional candidates (either from the first pool or from a pool resulting from a new posting of the position), also ranked in order of preference. The Superintendent and the TAF Executive Director will interview the additional candidates. In the event the Superintendent and the TAF Executive Director determine to reject the preferred finalist submitted to them by the TAF Academy Principal Selection Team, the selection process outlined above will resume with recruiting new candidates until a candidate is selected.

4. PERSONNEL

4.1 Staffing Generally. The TAF Academy Network Oversight Committee shall determine all TAF Academy educational program staffing requirements, consistent with the Educational Plan approved by the Superintendent and the annual budget approved by the District. Staffing above the district standards and district budget will be funded by TAF. Certificated employees of the TAF Academy will be subject to the highly qualified standards required by the Federal No Child Left Behind Act.

4.2 Recruitment and Assignment. Assignment of staff (certificated and classified positions), will be determined by the TAF Academy Principal with actionable input from the TAF Academy Management Team based on qualifications, in a manner consistent with Federal and State law and, except as provided herein, District policies and procedures and existing contracts. With respect to certificated TAF Academy positions, the TAF Academy Principal may solicit applications from and fill such positions with applicants who are current District employees or applicants from outside the District (not currently District employees). All TAF Academy personnel recruitment and assignment processes will coincide to the maximum extent practicable with comparable District-wide processes to ensure maximum opportunity for current District employees to fill available TAF Academy positions as well as for TAF Academy staff to transfer to other positions available in the District. The District recognizes the particular importance of compatible and effective staffing to the success of the TAF Academy and agrees to support, to the maximum extent possible consistent with Federal and State law and the FWEA Contract, the TAF Academy Principal in his or her determinations with respect to administrative transfers and performance-based procedures leading to and including eventual transfers or removals of staff. Specifically, the District agrees to expedite consideration and implementation of all such determinations of the TAF Academy Principal. Administrative transfers to TAF Academy shall be subject to the hiring procedures provided herein and approved by the TAF Academy Management Team.

(a) TAF Academy Staff Hiring Team. The TAF Academy Principal, in hiring initial Certificated Employees for the TAF Academy, will utilize a hiring team consisting of the TAF Academy Principal; one (1) or more parent(s) of students who will enroll in the TAF Academy during its initial academic year; one (1) or more professional designee(s) of the Superintendent in the absence of teachers, and one (1) or more staff members from TAF. The role of the team will be to assist, advise and make recommendations to the TAF Academy Principal, who will make the final hiring decision. After initial staff is hired, hiring teams will be composed as above, with the substitution of TAF Academy certified staff for the professional designee(s) of the Superintendent. Administrative transfers to TAF Academy shall be subject to the hiring procedures provided herein and approved by the TAF Academy Management Team.

4.3 Hiring Procedures and Special Consideration for Classified Employees. Except as provided herein, vacancies in Classified Employee positions at TAF Academy following execution of this Agreement will be filled by the TAF Academy Principal using the following procedure: (i) currently eligible District Classified Employees will be advised of any vacant classified position at TAF Academy; (ii) interested eligible staff will express their interest in being considered for appointment to the vacant position through standard district application processes and in accordance with collectively bargained agreements; (iii) preliminary screening for minimum qualifications of applicants will be conducted by the District; the TAF Academy Principal and the hiring team will interview not fewer than three (3) finalists identified through the screening process and may offer the position to the successful finalist the TAF Academy Principal selects, subject to approval of District Human Resources. Administrative transfers to TAF Academy shall be subject to the hiring procedures provided herein and approved by the TAF Academy Management Team.

4.4 TAF Academy Staffing (Period 7). Notwithstanding anything to the contrary, TAF shall be responsible and have sole discretion for funding, recruiting and hiring full- or part-time, permanent or temporary positions, generally associated with but not limited to the provision of programmatic enrichments, extended day activities and human services supportive of TAF Academy, including but not limited to the TAF Academy Coordinator, as such positions are further described in the Proposal. At its option, TAF may, but is not specifically required to, contract with the District for District staff to fill such positions or provide such services. TAF shall be exclusively responsible and shall have sole discretion for funding, recruiting, and hiring for such positions and services and shall strive to fill these positions with diverse individuals who can relate to the community.

4.5 Training. All TAF Academy staff will attend additional paid training required to effectively implement the TAF Academy model in addition to the days spent preparing and closing classrooms and professional development requirements for certified and classified staff. All TAF Academy staff shall comply with such requirements, which, to the maximum extent practicable, shall coincide with and conform to opportunities provided by the District for satisfying routine statutory or contractual training requirements. TAF shall be responsible for the incremental additional cost of any such supplemental training required under its own discretion.

4.6 Increased Program Requirements and Responsibilities for Certified and Classified Positions; Financial Responsibility. Consistent with the Educational Plan and the Proposal, certified and classified staff in the TAF Academy shall have an option to provide increased instruction time during an extended instructional day and year. TAF shall be solely responsible at its discretion for funding the incremental cost of such increases in work requirements and shall provide funds to the District for additional staff compensation and benefits associated with performing such requirements in amounts reasonably determined by the District and by negotiated agreement.

4.7 Volunteers. TAF shall have the right to avail itself of opportunities to provide programmatic enhancements and human services through volunteers. Such volunteers may provide services in the TAF Academy in support of its approved Educational Plan. All volunteers will undergo an intake process which includes background checks consistent with District policies before starting volunteer service.

4.8 Dedicated Substitute Pool. Recognizing the unique requirements of the TAF Academy, the Parties agree that the TAF Academy may identify a substitute pool for certified and classified staff. Procedures for establishment, maintenance and utilization such a substitute pool shall be developed by the TAF Academy Principal in consultation with Human Resources. This does not exclude the substitutes from working at other schools.

4.9 Implementation. The District shall, prior to the implementation of this Agreement, secure the concurrence of FWEA and the Principals Association for the implementation of this Agreement. In the event waivers are necessary, the Parties agree to subscribe to the policies and procedures required to obtain said waivers.

5. EDUCATIONAL PROGRAM

5.1 Consistency with District Curriculum Framework. The TAF Academy educational curriculum shall be consistent with applicable State law, and District curriculum policies, guidelines and requirements and be subject to the same District planning and review procedures applicable to other middle and high schools in the District. The laws, policies, and guidelines are intended by the Parties to represent a minimal baseline for the TAF Academy curriculum, which the Parties understand will be substantially enriched and enhanced. The Parties acknowledge and agree that the TAF Academy

curriculum will be based on the principles set forth in the Proposal attached hereto as Exhibit A, including but not limited to, a STEM focus, and shall not be limited by any such laws, policies or guidelines except to the extent required.

5.2 No Child Left Behind Act. The TAF Academy will be subject to the federal No Child Left Behind Act and must meet Adequate Yearly Progress (“AYP”). If TAF Academy does not meet AYP, it will be subject to the processes and procedures the District has in place to move schools off the AYP list.

5.3 Enrichment. TAF shall have the discretion to enrich the TAF Academy by encompassing and adjusting the following elements: smaller class sizes; optional extended school hours and academic year; and provision of an integrated educational experience supplemented by programs, experiences and instruction.

(a) Class Size. The Parties acknowledge that small class size and the resultant student/teacher ratio are critical to the success of the TAF Academy. The Parties anticipate that class size will not exceed twenty five (25) students per class nor seventy five (75) per grade level, but agree that class size shall not be less than twenty (20) per class nor forty (40) per grade level. Under no circumstances shall TAF Academy class size trigger overloads as defined in the 2006-2009 FWEA Contract.

(b) Extended Hours and Academic Year. Before and after school programs, integrated with the TAF Academy, will be provided by TAF at its discretion and expense. The TAF Academy Management Team shall have the right to determine the appropriate hours for such programs which also will be designed to facilitate and provide meaningful opportunities for parental involvement in the TAF Academy. TAF will use reasonable efforts to ensure that the TAF Academy academic year remains consistent with the District calendar, in terms of holidays, school closures, and school breaks.

(c) Extended Hours and Academic Year Transportation. The District will provide the same transportation options to TAF Academy students as are provided to students enrolled in the Existing Program. TAF shall have the discretion to request additional transportation to facilitate student attendance at before or after school programs integrated with TAF Academy. All such additional transportation costs will be borne by TAF.

(d) Academic Support and Enrichment. TAF, at its expense, shall have the discretion to provide the students and staff of TAF Academy with additional academic support and enrichment, as further detailed in the Proposal. TAF Academy students performing below grade level in math, reading, science or writing will be required to attend period 7 academic support classes.

5.4 Educational Plan. In consultation with the TAF Academy Network Oversight Committee, the TAF Academy Principal (with appropriate TAF Academy staff involvement) will develop, on an annual basis, a detailed Educational Plan specific to the TAF Academy, which shall include the TAF Academy curriculum. The Educational Plan will be consistent with the Proposal, TAF Academy’s budget and model, and the District’s curriculum guidelines. The Educational Plan also will identify specific programmatic enhancements to be provided during the following academic year. Following review and concurrence by the TAF Academy Management Team, the Educational Plan will be subject to the review and approval of the Superintendent or designee and the TAF Network Oversight Committee.

6. ASSESSMENT/EVALUATION

6.1 Principal. The TAF Academy Principal shall be evaluated on an annual basis by the District Assistant Superintendent in a manner and on a schedule which will enable the Assistant Superintendent to include the input from the TAF Academy School Leadership Team's evaluation. Although the TAF Academy Principal is a District employee, he or she shall serve as the TAF Academy Principal only for so long as he or she maintains the confidence of both Parties. In the event either the TAF Academy Management Team or the Superintendent notifies the other that it or he or she no longer has the confidence (based on clearly documented evidence) in the TAF Academy Principal, the TAF Academy Principal shall be relieved of his or her position as the TAF Academy Principal at the earliest opportunity, consistent with State law and District principal assignment procedures, but no later than the conclusion of the then current academic year. Successor principals, including any interim appointees, shall be selected consistent with the procedures provided herein, and the District shall allow current TAF Academy parents and students to provide input in the recruitment process. The Superintendent shall have the authority to appoint interim principals (to serve only until the selection process provided herein can be completed) reasonably acceptable to the TAF Academy Management Team, pursuant to existing District processes.

6.2 Teachers. The Parties acknowledge that the Federal Way Education Association collective bargaining agreement outlines an extensive evaluation process for all district teachers, including TAF Academy teachers. Implementation of and adherence to the TAF Academy instructional model will be an evaluation component. The inaugural Principal and staff will collaborate with the TAF Academy Management Team to develop evaluation criteria concerning the implementation of the TAF Academy model. The TAF Academy Principal performs the evaluations of all teachers. The TAF Academy Principal will solicit and consider input from the TAF Academy School Leadership Team in the formation of his or her evaluation of the teachers. Those evaluations will be presented to the TAF Academy Management Team so they may use it to make key decisions on the state of the TAF Academy.

6.3 Students. All students admitted to TAF Academy will be required to take a non-punitive baseline assessment so their individual learning plan is relevant and comprehensive. During the school year, students will be periodically assessed for mastery of Grade Level Expectations.

(a) Student Assessments. The Parties acknowledge that TAF Academy curriculum will not follow the same timeline as standard District school curriculum. TAF Academy students will be required to take the District Course Assessments at the end of each school year. State assessments will be administered in the time frame and for the content specified by the Office of the Superintendent of Public Instruction.

7. PARENT/COMMUNITY INVOLVEMENT

7.1 Parent Representation on TAF Academy School Leadership Team. The Parties agrees that at least one (1) member of the TAF Academy School Leadership Team shall be the parent of a student or students currently enrolled in TAF Academy.

7.2 Parent Advisory Council. The Parties agrees that the TAF Academy Principal shall have the discretion to work with parents to establish a Parent Advisory Council ("PAC") consisting of parents of a student or students currently enrolled in TAF Academy and others representing other neighborhood or community interests or constituencies important to the success of TAF Academy. The PAC shall be chaired by a parent member of the TAF Academy School Leadership Team. The PAC shall function as the TAF Academy's formal liaison with the local community where the Facility is located and the vehicle through which parent and neighborhood concerns are communicated to the TAF Academy School Leadership Team. The TAF Academy School Leadership Team, together with the Superintendent or his or her designee, shall meet with the PAC at least annually to discuss such matters as overall program

development and evaluation, curriculum, student achievement and neighborhood impact. The PAC also shall develop and coordinate an annual orientation program for the parents of new enrollees and shall coordinate the TAF Academy's parent volunteer program. In order to obtain liability insurance and receive tax deductible donations the PAC will organize itself, including its membership, to function as a conventional Parent-Teacher-Student Association ("PTSA").

8. STUDENT ASSIGNMENT

8.1 Principles. In general, the Parties agree that the TAF Academy is a neighborhood school serving students residing in the Totem/Thomas Jefferson boundaries. Students residing outside the Totem/Thomas Jefferson boundaries may apply for enrollment at the TAF Academy in accordance with District Policy related to choice enrollment. District students stating a preference for enrolling at the TAF Academy will be assigned to TAF Academy on the same basis and through the same process as assignments are made to any other District school. Places in TAF Academy classes/grades are limited by grade size, as determined by the TAF Academy Management Team, pursuant to this Agreement. For each academic school year during the Term, the District shall maintain a TAF Academy wait list, as necessary, to track student preferences in the case of vacancies.

8.2 Assignment. To the maximum extent possible, assignment will be managed by the Parties on a year-to-year basis to ensure that TAF Academy remains fundamentally a neighborhood school. Under the District's current student assignment plan, first priority for assignment to the TAF Academy will be given to students who live in the geographic reference area; next priority will be given to students who participated in TechStart in the Federal Way school system; next priority will be given to siblings of TAF Academy students who may live outside the geographic reference area. In the event more resident students are interested in attending TAF than available seats, siblings will be placed first and all remain vacancies will be filled through a lottery. Any available vacancies in TAF Academy classes shall be subject to the same priorities. Any student residing in the Totem/Thomas Jefferson reference area enrolled in the TAF Academy may remain at TAF Academy for as long as the student continues to be enrolled in the District; regardless of change in the student's place of residence to elsewhere within the District, however no transportation will be provided by the District. The District shall not mandate assignment to TAF Academy if a student's parent objects to such assignment.

8.3 Recruitment. During the Term, both Parties will use best efforts to publicize, and to cooperate with the other Party to publicize, the TAF Academy in the local neighborhood where the Facility is located to maximize interest and early registration by families in such neighborhood. Subject to applicable laws and regulations and district approval, TAF shall have the right to create and design its own marketing materials used to publicize the TAF Academy.

8.4 Continuous Enrollment and Assignment: Vacancies. Students who have been continuously enrolled in TAF Academy beginning with 6th, 7th, or 9th grade shall continue to be assigned to TAF Academy by the District during such student's subsequent school years in the District, unless otherwise agreed by TAF. In the event, that in a given academic school year, there are fewer than fifty (50) students per grade continuously assigned to and enrolled in the TAF Academy, available vacancies shall be filled using the wait list maintained by TAF Academy pursuant to Procedure 3131. The wait list maintained by TAF Academy shall differ from the wait list described in Procedure 3131 in the following respects:

(a) Prospective students residing within the local geographic reference area as defined by the District with siblings currently enrolled at TAF Academy shall have first priority on the TAF Academy wait list. Prospective students residing within the local geographic reference area who do not have siblings already enrolled in TAF Academy shall have second priority on the TAF Academy wait

list. Prospective students residing outside the local geographic reference are who have sibling enrolled in TAF Academy shall have third priority on the TAF Academy wait list. Such prospective students may be assigned to and enroll in TAF Academy at the beginning of any academic year up through the last academic day of October, as well as at the conclusion of any academic semester (or functionally equivalent period), subject to completion by such prospective student of an appropriate orientation held by the TAF Academy prior to joining a TAF Academy class.

(b) Only in the event that total enrollment in any TAF Academy grade level by students continuously assigned to and enrolled in TAF Academy together with resident students assigned to TAF Academy to fill available vacancies as provided in Section 8.2(a) herein drops below forty (40) students, available vacancies shall be filled by other prospective enrollees on the TAF Academy wait list as otherwise provided herein up to a total enrollment of fifty (50) students per grade level. If possible, such assignments to fill available vacancies shall be made at the beginning of each TAF Academy academic year, but in no event shall such assignments be made later than the last academic day of October in any given year. Enrollment in TAF Academy by any student so assigned shall be subject to completion by such prospective student of appropriate orientation held by the TAF Academy prior to joining a TAF Academy class.

(c) Although for purposes of collocation Facility use, students of the TAF Academy may hold identification cards for Totem Middle School, or a successor Facility school, District shall provide TAF with the right and ability to separate the activities of the TAF Academy students for various tracking and data collection purposes, as reasonably requested by TAF.

9. TECHNOLOGY USAGE AND INFRASTRUCTURE

9.1 Child Internet Protection Act. The Parties acknowledge that the District is subject to the Child Internet Protection Act (“CIPA”) and as such, all District schools are required to adopt certain policies to monitor the online activities of its students, including TAF Academy students. The TAF Academy shall be responsible for complying with the basic CIPA required Internet safety requirements, which include technology protection measures to block or filter Internet access to pictures that: (a) are obscene, (b) are child pornography, or (c) are harmful to minors, for computers that are accessed by minors. In addition, the TAF Academy shall fully comply with the requirements of District Policy 2022 and the associated Procedure 2022.

9.2 Family Educational Rights and Privacy Act. The Parties acknowledge that the District is subject to the Family Education Rights and Privacy Act (“FERPA”), which protects the privacy of student education records. The TAF Academy shall be responsible for complying with FERPA with respect to the student records of TAF Academy students.

9.3 Extended Access. The Parties recognize that the TAF Academy is committed to a STEM focus in its curriculum that requires enhanced technology access for its students. Therefore, so long as the TAF Academy continues to comply with all applicable provisions of CIPA and FERPA and meets its obligations set forth in Sections 9.1 and 9.2 above, the District shall provide TAF Academy with open and unrestricted access to the internet, including open and unrestricted access to email.

10. DESIGNATION OF FACILITY AND TRANSITION

10.1 Facility Designation and Expansion The Parties hereby designate a portion of the Totem Middle School campus of the District as the initial Facility for the TAF Academy. The TAF Academy will first begin enrolling students and operating at the Facility during the 2008-2009 academic year, commencing with 6th, 7th, and 9th grades as further described in the Proposal. Thereafter, the TAF Academy will expand at the rate of one (1) additional grade per year in middle and high school.

(a) Initially, the TAF Academy will be housed in a new eight (8) classroom portable unit, with an administrative office (“Existing Units”), which shall be considered part of the Facility. The District shall provide full access to the Facility, once occupancy has been obtained, for use by the District and TAF in preparation for and to house the TAF Academy pursuant to the terms of this Agreement. The District shall also ensure that TAF Academy students have access to a gymnasium, library, cafeteria and special education resources similar to those at other middle school and high schools in the District. The District shall increase the classroom availability to the necessary total of 16 classrooms, by either adding more portable classroom units and/or allocating additional classroom space in the Facility, by August 1 of the school year the space is needed. In addition, during the Term, the Parties agree to discuss in good faith the feasibility of building a stand-alone building to house the TAF Academy, or of converting the existing Facility to exclusive use by the TAF Academy.

(b) During the Term, TAF shall use reasonable efforts to raise funds that can be allocated to supporting additional capital expenditures of the TAF Academy, including expanding the Existing Units to add to the Facility.

10.2 Transition and Collocation. By May 1, 2008, the TAF Academy Principal and the Existing Program Principal shall prepare and present to the TAF Academy Management Team a transition/collocation plan for the first year during which the two programs will share part of the Facility. The collocation plan shall provide for, among other things, use by the TAF Academy of common space such as playfield, lunchroom, and library and services such as custodial and District itinerant instructional staff available to the Facility. The plan will be reviewed and updated by the Parties on an annual basis.

11. MAINTENANCE AND CAPITAL IMPROVEMENTS

11.1 District Maintenance of Effort. During the Term, the District shall continue to be responsible for and shall provide routine maintenance, major maintenance and capital funding for the TAF Academy, including the maintenance and funding of the Facility and the Existing Units, in accordance with District policies and practices, on the same basis and to the same extent as such responsibilities are met in other similar District facilities.

11.2 TAF Funded Projects. Without relieving the District of its obligations under Section 11.1, at its discretion TAF may fund and undertake capital projects (“TAF Capital Improvements”) within the Facility and its grounds, including but not limited to basic maintenance enhancements and upgrades, supplemental major maintenance and capital improvements. Such projects will conform to District, State, and County or City policies, standards and codes applicable to public middle and high schools such as TAF Academy and shall be subject to District review for such compliance.

11.3 Ownership of Capital Improvements. All TAF Capital Improvements shall be the property of the District upon implementation and under the responsibility of the District pursuant to Section 11.1.

12. FUNDING

12.1 Budget and Funding. The Parties agree that private funding provided to the TAF Academy will supplement, not supplant public funding for the school.

(a) District Maintenance of Effort Obligation. The District shall continue to provide funding to the TAF Academy on the same basis and level that it funds any other middle and high school. The District will fund each child enrolled in the TAF Academy at the same per capita level it funds enrollees in any other District middle and high school. The District also shall provide special education

and any and all other funding to the TAF Academy routinely available to support middle and high school students at other District schools on the same basis that such funding is allocated to other schools.

(b) TAF Obligations. TAF shall provide the supplemental funds necessary to implement the enrichment program required under this Agreement and as set forth in the Proposal, specifically including but not limited to incremental funding (in addition to funding provided by the District) necessary to achieve the class sizes set forth herein; the extended hours and longer academic year; programmatic enrichment and classroom technology and support. TAF shall retain all rights and sole discretion to direct any such TAF supplemental funds in any manner it chooses, so long as such spending does not violate state law and District policies. On an annual basis, the TAF Academy Network Oversight Committee shall provide the District with evidence reasonably satisfactory to the Superintendent of its ability to meet its financial obligations under this Agreement to fund such enrichments. Prior approval of TAF Academy Network Oversight Committee is required for any TAF financial obligation under this Agreement.

(c) Budget Process. The annual budget for the TAF Academy shall be developed jointly by TAF and the District in a manner consistent with and on a schedule concurrent with the District's middle and high school budget development, review and approval process. The TAF Academy's proposed annual budget shall be subject to the review and approval of the TAF Academy Network Oversight Committee prior to its submittal to the Superintendent by the TAF Academy Principal. The budget submitted to the Superintendent shall be accompanied by evidence reasonably satisfactory to the Superintendent of the TAF Academy Network Oversight Committee's ability to meet its financial obligations under this Agreement for the budget as submitted. The Superintendent or designee shall review and, if approved, incorporate the TAF Academy's proposed budget in proposed budgets for review and approval by the District Board.

12.2 Records and Fund Management. TAF shall maintain records and a system of accounts consistent with District requirements and standards for other middle and high schools. The TAF Academy Principal and the Treasurer of the TAF Board of Directors shall prepare for review and approval by the Superintendent a routine process under which supplemental funding to be provided by TAF as required herein is transferred to the District to enable the District to timely meet its financial obligations to its employees, staff, consultants and contractors in the performance of their duties in connection with the TAF Academy. TAF shall be exclusively and directly responsible for meeting financial obligations to non-District employees, staff, consultants and contractors.

12.3 Audit. The Parties agrees that an independent certified public accounting firm selected and funded by the TAF Board of Directors shall have the right to perform an annual audit of the TAF Academy, and the District shall reasonably cooperate with such audit. A copy of the annual audit shall be provided to the Superintendent promptly following its submission to the TAF Board of Directors.

12.4 Liability; Insurance. Execution of this Agreement and implementation of the TAF Academy is not intended by the Parties to relieve the District of liability for the normal and ordinary operations of the Existing Program or the TAF Academy at the Facility. The TAF Academy shall be responsible for the conduct of its own TAF employees, agents, staff, consultants and contractors and shall maintain insurances in amounts reasonably acceptable to the District.

13. REPRESENTATIONS AND WARRANTIES

13.1 District Representations and Warranties. The District represents and warrants to TAF as follows, as of the Effective Date and at all times from and after the date hereof until the expiration or termination of this Agreement:

(a) Valid Existence. The District is a Washington municipal corporation and public school district validly existing under the laws of the State of Washington.

(b) Power; No Limitation on Ability to Perform. Under the laws of the State of Washington, the District has the power and authority to execute and deliver this Agreement and to carry out and perform all of the terms and provisions of this Agreement, and all transactions contemplated hereby, to the extent required to be carried out or performed by the District. The District is not bound by any contract, agreement, indenture, trust agreement, note, obligation or other instrument which could prohibit, limit, or otherwise affect the same. No consent, authorization or approval of, or other action by, and no notice to or filing with, any governmental authority, regulatory body or any other person is required for the due execution, delivery and performance by the District of this Agreement or any other agreement, document or instrument executed and delivered by the District simultaneously herewith.

(c) Valid Execution. The execution and delivery of this Agreement by the District has been duly and validly authorized by all necessary action. This Agreement is a legal, valid, and binding obligation of the District, enforceable against the District in accordance with its terms, subject to: (i) bankruptcy, insolvency, reorganization or other similar laws relating to or affecting creditors' rights generally; and (ii) general principles of equity. The District will provide to TAF the written resolution of the District authorizing the execution and delivery of this Agreement.

(d) Defaults. The execution, delivery and performance of this Agreement: (a) does not and will not violate or result in a violation of, contravene or conflict with, or constitute a default under (i) any agreement, document or instrument to which the District is a party or by which the District's assets may be bound or affected; or (ii) any law, statute, ordinance or regulation applicable to the District; and (b) does not and will not result in the creation or imposition of any lien or other encumbrance upon the assets of the District.

13.2 TAF Representations and Warranties. TAF represents and warrants to the District as follows, as of the Effective Date and at all times from and after the date hereof until the expiration or termination of this Agreement:

(a) Valid Existence. TAF is a Washington not-for-profit corporation duly organized and validly existing under the laws of the State of Washington.

(b) Power; No Limitation on Ability to Perform. Under the laws of the State of Washington, TAF has the power and authority to execute and deliver this Agreement and to carry out and perform all of the terms and provisions of this Agreement, and all transactions contemplated hereby, to the extent required to be carried out or performed by TAF. TAF is not bound by any contract, agreement, indenture, trust agreement, note, obligation or other instrument which could prohibit, limit, or otherwise affect the same. No consent, authorization or approval of, or other action by, and no notice to or filing with, any governmental authority, regulatory body or any other person is required for the due execution, delivery and performance by TAF of this Agreement or any other agreement, document or instrument executed and delivered by TAF simultaneously herewith.

(c) Valid Execution. The execution and delivery of this Agreement by TAF has been duly and validly authorized by all necessary action. This Agreement is a legal, valid, and binding obligation of TAF, enforceable against TAF in accordance with its terms, subject to: (i) bankruptcy, insolvency, reorganization or other similar laws relating to or affecting creditors' rights generally; and (ii) general principles of equity. TAF will provide to the District the written resolution of the TAF Board of Directors authorizing the execution and delivery of this Agreement.

(d) Defaults. The execution, delivery and performance of this Agreement: (a) does not and will not violate or result in a violation of, contravene or conflict with, or constitute a default under (i) any agreement, document or instrument to which the TAF is a party or by which TAF's assets may be bound or affected; or (ii) any law, statute, ordinance or regulation applicable to TAF; and (b) does not and will not result in the creation or imposition of any lien or other encumbrance upon the assets of TAF.

14. DISPUTE RESOLUTION

Each Party hereby agrees to use best efforts to amicably resolve any and all disputes with the other Party as efficiently and expeditiously as possible. In the event of the occurrence of such a dispute, either Party may, by written notice to the other Party, have such dispute referred to their respective officers designated below, or their successors, for attempted resolution by good faith negotiations within thirty (30) days after such notice is received. Such designated officers are as follows:

For the District – Superintendent

For TAF – Executive Director

In the event the designated officers are not able to resolve such dispute within such thirty (30) day period, or such other period of time as the Parties may mutually agree in writing, then the Parties agree to use good faith to first settle this dispute by mediation, as follows:

Either party may initiate mediation by notice to the other Party. Not later than five (5) business days after the receipt of such notice, each Party shall select for itself a representative who shall have the authority to bind such Party and advise the other Party of such representative. By not later than ten (10) business days after the date of such notice, the party against whom the dispute shall be raised shall select a mediation firm in the Seattle, Washington area and such representatives shall schedule a date with such firm for a mediation hearing. The Parties shall enter into good faith mediation and shall share the costs equally.

If the Parties are unable to resolve their dispute by mediation, either party may initiate court action. The parties agree that King County Superior Court shall be the appropriate jurisdiction and venue for any such action.

15. TERM

Subject to specific terms of this Agreement providing for earlier termination, the term ("Initial Term") of this Agreement shall commence upon the Effective Date and shall continue through for ten (10) full academic years, expiring upon the conclusion of the TAF Academy academic calendar for the 2017-2018 academic year. The Initial Term is renewable by mutual consent of the Parties at least sixty (60) days prior to the end of the Initial Term for an additional term of five (5) academic years, expiring as of the conclusion of the TAF Academy academic calendar for the 2024-2025 academic year ("Subsequent Term"). "Term" shall mean the Initial Term and the Subsequent Term, if any.

16. DEFAULT AND TERMINATION

16.1 Notice of Default. Neither Party shall be in default unless it fails to perform any obligation required of it under this Agreement within a reasonable time, which time shall not extend more than thirty (30) days after written notice by the non-defaulting Party to the Party in default specifying the particular obligation that such Party has failed to perform; provided that if the nature of such Party's obligation reasonably requires more than thirty (30) days for performance, then such Party shall not be in

default if it commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

16.2 Termination by the District. When authorized by a resolution of the Board of Directors of the District passed after a public meeting held with prior notice to the TAF Board of Directors, the District, as provided in such resolution, may terminate this Agreement upon the determination by the Board of Directors, in its sole reasonable discretion, that (a) TAF has consistently failed to perform its obligations under this Agreement; or (b) continuing the TAF Academy is no longer consistent with the goals and objectives of the District.

16.3 Termination by TAF. When authorized by a resolution of the Board of Directors of TAF passed after a meeting held with prior notice to the Superintendent, TAF, as provided in such resolution, may terminate this Agreement upon determination of the TAF Board of Directors, in its sole reasonable discretion, that (a) the District has consistently failed to perform its obligations under this Agreement; or (b) continuing the TAF Academy is no longer feasible or desirable.

16.4 Termination Effective Date. Upon passage of a resolution of termination as provided herein, the TAF Academy shall cease as of the conclusion of the academic year during which such resolution is adopted by either Party. Prior to the effective date of any termination under this Agreement, the Parties will promptly and jointly develop and implement a termination plan providing for, without limitation, assignment and reassignment of TAF Academy students or prospective students; return of the Facility to the exclusive control of the District; assignment or reassignment of District staff; and property inventory including identification for the retention by the District of property purchased with District funds and identification and removal of property owned by TAF employees.

17. MISCELLANEOUS

17.1 Mutual Defense Obligations. With respect to any third-party claim against or potentially against both TAF and the District that results from or arises out of the operation of the TAF Academy, TAF and the District agree to coordinate their defense of such claims pursuant to this provision. The Parties agree to work together in good faith, and cause their respective counsel to work together in good faith, to coordinate and implement a strategy with respect to the legal defense of any such action, including, without limitation, answers, counterclaims, motions, discovery, settlement, preparation for trial, dispute resolution and any other hearings, and appeal. The obligations hereunder in no way shall impair or restrict either Party's rights with respect to the defense of such an action nor shall such obligations prohibit the taking of any action that is in a Party's best interest, including, without limitation, seeking the dismissal or summary judgment of claims, negotiating or entering into a settlement or pursuing any form of alternative dispute resolution. Each Party in all cases shall bear its own costs and related expenses with respect to any third-party claim hereunder, including, without limitation, attorneys' fees, settlements and judgments.

17.2 Indemnification.

(a) By TAF. TAF agrees to indemnify, defend and hold harmless the District, its affiliates, directors, officers, employees, contractors, and agents (collectively, the "District Indemnitees") from and against any and all claims, suits, actions, proceedings, economic loss, liability, damage, cost, or expense of any kind (including reasonable attorneys' fees and expenses associated therewith or with successfully establishing the right to indemnification hereunder) ("Damages") to the extent that they arise out of: (a) any breach by TAF of any of its obligations under this Agreement; or (b) any negligent or more culpable act or omission of TAF; provided, however, that, with the exception of Damages arising from the sole negligence of TAF, or fraudulent or ultra vires acts of TAF, TAF's obligation under this Section

17.2(a) shall be limited to the proceeds realized from insurance maintained by TAF as required herein. Notwithstanding the foregoing, TAF shall not have any obligations under this Section 17.2(a) with respect to Damages to the extent that it arises out of: (i) the negligent or more culpable act or omission of any District Indemnitee; or (ii) any breach of this Agreement by District.

(b) By the District. The District agrees to indemnify, defend and hold harmless TAF, its affiliates, donors, investors, directors, officers, employees, contractors, and agents (collectively, the "TAF Indemnitees") from and against any and all Damages to the extent that they arise out of: (a) any breach by District of any of its obligations under this Agreement; or (b) any negligent or more culpable act or omission of District. Notwithstanding the foregoing, District shall not have any obligations under this Section 17.2(b) with respect to Damages to the extent that it arises out of: (i) the negligent or more culpable act or omission of any TAF Indemnitee; or (ii) any breach of this Agreement by TAF.

(c) Procedure. A person who intends to claim indemnification under Section 17.2(a) or 17.2(b) of this Agreement (the "Indemnitee") shall promptly notify the party from whom it seeks indemnification (the "Indemnitor") in writing of any claim, lawsuit, or other action in respect of which the Indemnitee intends to claim such indemnification. The Indemnitee shall permit the Indemnitor, at its discretion, to settle any such claim, lawsuit or other action and agrees to the complete control of such defense or settlement by the Indemnitor; provided, however, that such settlement does not adversely affect the Indemnitee's rights hereunder or impose any obligations on the Indemnitee in addition to those set forth herein in order for it to exercise such rights. No such claim, lawsuit or other action shall be settled without the prior written consent of the Indemnitor, which consent shall not be unreasonably withheld, and the Indemnitor shall not be responsible for any legal fees or other costs incurred other than as provided herein. The Indemnitee shall cooperate fully with the Indemnitor and its legal representatives in the investigation and defense of any claim, lawsuit or other action covered by this indemnification. The Indemnitee shall have the right, but not the obligation, to be represented by counsel of its own selection and at its own expense in or with respect to any such claim, lawsuit or other action.

17.3 Assignment of Agreement. Neither Party shall assign or transfer this Agreement, without the prior written approval of the other Party. Any such assignment shall be specifically subject to all the terms and provisions of this Agreement.. In the event of any proposed assignment of the Agreement, the assigning Party shall cause to be delivered to the other Party simultaneously with such proposed assignment, an instrument in writing, executed by the assignee, in which the assignee shall assume and agree to perform all of the terms and provisions of this Agreement.

17.4 Actions Contesting the Agreement. Each Party shall appear and defend any action or legal proceeding brought to determine or contest the validity of this Agreement. If both Parties to this Agreement are not named as Parties to the action, the Party named shall give the other Party prompt notice of the action and provide the other an opportunity to intervene. Each Party shall bear any costs and expenses assessed by the court against it; any costs and expenses assessed by a court against both Parties jointly shall be shared equally.

17.5 Notice Addresses. A notice, request, approval or communication under this Agreement by either Party to the other shall be in writing and shall be sufficiently given or delivered if sent postage prepaid by United States first class mail or facsimile, and:

(a) TAF. In the case of a notice or communication to TAF, if the same is mailed to:

Trish Millines Dziko
Executive Director, Technology Access Foundation
3803 S. Edmunds St. Suite A
Seattle, Washington 98118

or faxed to: (206) 725-9097
or emailed: trishmi@techaccess.org

With a copy to:

Joanna Black
Adkins, Plant, Elvins & Black PLLC
4616 25th Avenue NE, #725
Seattle, Washington 98105
(425) 765-7107 (Tel)
(425) 216-3669 (Fax)
jblack@adkinsandplant.com

(b) The District. In the case of notices to, requests of, or approvals sought from the District, if the same is mailed to:

Tom Murphy
Superintendent
Federal Way Public Schools
31405 18th Ave, S
Federal Way, Washington 98003
or faxed to: (253) 945-2001

With a copy to:

Dionne& Rorick
900 Two Unions Square
601 Union St
Seattle, Washington 98101

Either Party may, from time to time, designate by written notice dispatched as provided in this section, one (1) or more alternative addresses for communication to such Party. Either Party may require, at any time, that up to three (3) additional copies of any notice be sent to such person(s), as shall, from time to time, be designated in any notice from such Party as to such requirement.

17.6 No Third Party Rights. Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone other than the Parties hereto and their successors and assigns to rely upon the covenants and agreements herein contained nor to give any such third party a cause of action (as a third party beneficiary or otherwise) on account of any nonperformance hereunder.

17.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The venue of any suit or arbitration arising under this Agreement shall be in King County, Washington, and if a suit, in King County Superior Court.

17.8 Article Captions. The article captions used in this Agreement are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement.

17.9 Periodic Review of Agreement. The Parties agree to review this Agreement every three to four years for applicability and amend the Agreement in good faith as appropriate.

17.10 Amendment. This Agreement may not be modified or amended except by written instrument executed and approved by the TAF Board of Directors and the District Board of Directors.

17.11 Counterparts. This Agreement shall be executed in two (2) counterparts, and each such counterpart shall be deemed to be an original instrument.

17.12 Severability. Each provision of this Agreement is severable from all other provisions. In the event any court of competent jurisdiction determines that any provision of this Agreement is invalid or unenforceable for any reason, all remaining provisions will remain in full force and effect.

17.13 Force Majeure. A Party shall not be responsible nor deemed to be in default on account of delay in the performance of any act to be performed under this Agreement due to the occurrence of, but not limited to, fires, floods, explosions, strikes, serious accidents, or any cause to the extent it is beyond a Party's control and not occasioned by a Party's fault. In the event that such a cause results in delay of a Party's performance of any act to be performed under this Agreement, that Party will promptly inform the other Party and thereafter will use reasonable efforts to remedy such delay.

17.14 Effective Date. This Agreement shall become effective upon its execution by both Parties.

17.15 Entire Agreement. This Agreement contains the entire agreement and understanding of the Parties with respect to the subject matter hereof, and supersedes all prior oral or written understandings, agreements, promises or other undertakings between the Parties. The Parties to this Agreement acknowledge that it is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any Party on the basis of such Party's preparation of the same.

IN WITNESS WHEREOF, the District and TAF have executed this Agreement by having their authorized representatives affix their signatures in the spaces below.

Tom Murphy

Superintendent

FEDERAL WAY PUBLIC SCHOOLS

Trish Millines Dzik

Executive Director

TECHNOLOGY ACCESS FOUNDATION

EXHIBIT A

TAF ACADEMY IN THE FEDERAL WAY SCHOOL DISTRICT PROPOSAL