

**LIVE OAK CHARTER SCHOOL  
A California Public Benefit Corporation**

**Board Resolution #20200602**

**ACCEPTANCE OF PAYCHECK PROTECTION PROGRAM LOAN**

WHEREAS, Live Oak Charter School (“LOCS”) is a 501(c)(3) non-profit organization with fewer than 500 employees; and

WHEREAS, LOCS has applied for and expects to receive a loan from the Small Business Administration (“SBA”) Paycheck Protection Program (“PPP loan”) in the amount of \$463,208 through Summit State Bank; and

WHEREAS, applicants for PPP loans must certify to the following statements:

- *The Applicant was in operation on February 15, 2020 and had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC.*
- *Current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.*
- *The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments, as specified under the Paycheck Protection Program Rule; I understand that if the funds are knowingly used for unauthorized purposes, the federal government may hold me legally liable, such as for charges of fraud.*
- *The Applicant will provide to the Lender documentation verifying the number of full-time equivalent employees on the Applicant’s payroll as well as the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight-week period following this loan.*
- *I understand that loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight-week period following this loan.*
- *I understand that loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities, and not more than 25% of the forgiven amount may be for non-payroll costs.*
- *During the period beginning on February 15, 2020 and ending on December 31, 2020, the Applicant has not and will not receive another loan under the Paycheck Protection Program.*
- *I further certify that the information provided in this application and the information provided in all supporting documents and forms is true and accurate in all material respects. I understand that*

*knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under the law, including under 18 USC 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 USC 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if submitted to a federally insured institution, under 18 USC 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.*

- *I acknowledge that the lender will confirm the eligible loan amount using required documents submitted. I understand, acknowledge and agree that the Lender can share any tax information that I have provided with SBA's authorized representatives, including authorized representatives of the SBA Office of Inspector General, for the purpose of compliance with SBA Loan Program Requirements and all SBA reviews; and*

WHEREAS, on April 23, 2020 the SBA provided, and has subsequently amended, a document titled “Paycheck Protection Program Loans Frequently Asked Questions (FAQs)” (the “Guidance”) regarding whether “businesses owned by large companies with adequate sources of liquidity to support the business’s ongoing operations qualify for a PPP loan;” and

WHEREAS, the Guidance advises that “all borrowers must assess their economic need for a PPP loan under the standard established by the CARES Act and the PPP regulations at the time of the loan application” and “[a]lthough the CARES Act suspends the ordinary requirement that borrowers must be unable to obtain credit elsewhere (as defined in section 3(h) of the Small Business Act), borrowers still must certify in good faith that their PPP loan request is necessary”; and

WHEREAS, the Guidance advises that applicants pay particular attention to the certification in the PPP loan application regarding “current economic uncertainty” as follows:

- *Specifically, before submitting a PPP application, all borrowers should review carefully the required certification that “[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.” Borrowers must make this certification in good faith, taking into account their current business activity and their ability to access other sources of liquidity sufficient to support their ongoing operations in a manner that is not significantly detrimental to the business.*

WHEREAS, SBA has amended the Guidance to explicitly state:

- *SBA, in consultation with the Department of the Treasury, has determined that the following safe harbor will apply to SBA’s review of PPP loans with respect to this issue: Any borrower that, together with its affiliates, received PPP loans with an original principal amount of less than \$2 million will be deemed to have made the required certification concerning the necessity of the loan request in good faith; and*

WHEREAS, LOCS meets the requirement that “[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant” because it faces substantial financial risk due to COVID-19, including but not limited to:

- Preparation for cash deferrals in state funding: The Fiscal Crisis and Management Assistance Team (“FCMAT”) is projecting that, during the COVID-19 pandemic, the State is likely, starting in June 2020, to implement cash deferrals as it did in the last recession. For LOCS, 39% of its LCFF revenue comes from state aid and Education Protection Account (EPA) funding. The average LOCS monthly state aid and EPA payment next year is currently forecasted at \$70,322. A three-month deferral of this cash payment would create a \$210,967 cash shortfall.;
- Future state apportionment: The Governor’s “May Revise” Budget is projecting declines in LCFF state revenue of 10%, from 2019-20 levels. Because 81% of LOCS’s 2019-20 forecasted revenue is from LCFF, a 10% decline in LCFF rates would reduce LOCS’s revenue by \$239,105 in 2020-21.
- The Charter Schools Development Center is forecasting these cuts may be as high as 20%.
- LOCS relies on fundraised dollars to provide specialty programs. Due to the school closure resulting from COVID-19, LOCS faces significant revenue shortfalls in the areas of fundraising totaling approximately \$75,000 to \$100,000.
- If the state defers June apportionment, LOCS has no other source of working capital. The amount of the projected deferral of the June State Aid and EPA apportionments is \$82,219, which will impact cash flow, and LOCS’ ability to cover payroll, rent, and utilities.
- Given the increasing likelihood of a severe, multi-year deep recession or depression with uncertain future state funding and enrollment, it is *highly unlikely* that any private lender is going to provide additional loans that are of sufficient size to support ongoing operations.
- LOCS’s only option to capital has been, and will continue to be, a receivables sale (“factoring loans”). During the last recession, factoring loans were made available to charter schools, but they were at fees that were large enough to be significantly detrimental to their borrowers’ businesses. As the recession deepens, and lending risks increase, these very high rates are likely to increase. If such a situation were to occur LOCS would need to keep buying new factored loans on future state revenue as current state revenue is used to pay off previous factored loans, driving LOCS deeper and deeper into the red to pay the fees that apply to each loan. This inevitably has a significantly detrimental effect on LOCS’s educational operations.;
- Unlike school districts, LOCS does not have access to county treasurer Tax Revenue Anticipation Notes, at very low interest rates, or the authorization to propose a parcel tax to increase revenue.
- Unlike district schools which, when they face bankruptcy, are kept open by state and county resources, if LOCS faces insolvency, it goes out of business.

- LOCS is expecting a shortfall in State Lottery revenue of \$29,320 for the 2019-20 school year and potentially similar amounts in 2020-21.
- LOCS funds an After-School program entirely from local funds. In 2019-20 the school lost \$61,018 in expected revenue losses, while continuing to pay After-School program staff salary and benefits amounting to \$37,262 for a total deficit of \$98,280.

WHEREAS, LOCS has worked over the COVID-19 crisis to conduct a detailed impact analysis and cash flow projection for the next several months and into the 2020-21 school year that validates the assertions made above and specifically the borrowing need given the rapid decline in non-state revenues in 2019-20; and

WHEREAS, LOCS was in operation on February 15, 2020 and had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC; and

WHEREAS, the Board of Directors has determined in good faith that the current economic uncertainty makes the federal Paycheck Protection Program loan necessary to support the ongoing operations of LOCS; and

WHEREAS, the funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments as specified under the Paycheck Protection Program Rule; and

WHEREAS, LOCS has already or will provide to Summit State Bank documentation verifying the number of full-time equivalent employees on LOCS's payroll as well as the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight-week period following this loan; and

WHEREAS, LOCS understands that loan forgiveness is expected to be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities, and not more than 25% of the forgiven amount may be for non-payroll costs; and

WHEREAS, LOCS understands that during the period beginning on February 15, 2020 and ending on December 31, 2020, it has not and will not receive another loan under the Paycheck Protection Program; and

WHEREAS, LOCS staff has certified that the information provided in its application and the information provided in all supporting documents and forms is true and accurate in all material respects; and

WHEREAS, LOCS has taken into account its current business activity and its ability to access other sources of liquidity sufficient to support our ongoing operations in a manner that is not significantly detrimental to the business; now, therefore, be it

Resolved by the Board of Directors of Live Oak Charter School, That Live Oak Charter School meets all requirements of the PPP certifications; and be it further

Resolved by the Board of Directors of Live Oak Charter School, That the funds that may be awarded through the PPP loan are hereby authorized to be used in a manner consistent with the terms of the Paycheck Protection Program Rules; and be it further

Resolved by the Board of Directors of Live Oak Charter School, That the Executive Director of Live Oak Charter School is hereby instructed to further review guidance relating to the PPP as it is released by the SBA and is hereby authorized to take appropriate steps, including the return of the funds, if changes to the Guidelines cause Live Oak Charter School to no longer meet the program requirements.

\* \* \*

IN WITNESS WHEREOF, the Board of Directors has adopted the above resolution by the following vote at a Special Board meeting this [ ]th day of [ ] 2020.

AYES:

NOS:

ABSTENTIONS:

By: \_\_\_\_\_  
Stacy Ito, Secretary  
Live Oak Charter School