

Charter School Memorandum of Understanding

Between County Board of Education,

County Superintendent of Schools/Office of Education,

And

Charter School

April 21, 2016

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MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is made and entered into this 10th day of February, 2015 by, between and among the County Board of Education (hereinafter "County Board") County Superintendent of Schools/Office of Education (hereinafter "County") and Charter School (hereinafter "the Non-Profit"). Hereinafter, the County Board, the COE, and the Non-Profit shall be collectively referred to as "the Parties."

1. Purpose of Memorandum of Understanding

- 1.1. The State of California enacted the Charter Schools Act of 1992 (hereinafter "The Act") authorizing the formation of charter schools with the intent that the schools improve student learning through a variety of means, including increased learning opportunities, innovative teaching methods, performance-based accountability, and expanded choice for parents within the public school system. The Act authorizes the County Board to grant charter petitions under specified circumstances.
- 1.2. The County Board has approved a charter renewal petition (hereinafter "the Charter") for the Non-Profit for the operation of Charter School (hereinafter "the Charter School"). Unless otherwise stated, for the purposes of this MOU, the terms Charter School and Non-Profit may be used interchangeably, with the duties and responsibilities of the Charter School and Non-Profit being the same under this Agreement.
- 1.3. Non-Profit is a California non-profit public benefit corporation which manages and operates the Charter School. Non-Profit is responsible for the Charter School's compliance with the terms of the Charter and with this MOU.
- 1.4. All Parties agree that no single party to this Agreement waives any of the rights, responsibilities and privileges established by the Charter Schools Act of 1992 that may change from time to time during the term of this MOU.
- 1.5. To the extent permitted by applicable law, the County Board has, by agreement with the County Superintendent, delegated its obligations to oversee the Charter School, whether arising at law, by the terms of Non-Profit's Charter, by this MOU, or from any other source, to the County; and in connection with the said delegation, the County shall report periodically to the County Board.
- 1.6. The fundamental interest of the County is, on a continuing basis, to be reasonably assured that Non-Profit is: 1) implementing the provisions of the Charter as approved; 2) obeying all requirements of federal, state, and local law that apply to the Charter School; 3) operating prudently and soundly in all respects; and 4) providing a sound education for the Charter School's students.
- 1.7. The Parties recognize that there are many matters related to the operation of the Charter School and the effective oversight of Non-Profit, which go beyond the provisions included in Non-Profit's Charter or need further clarification. The County also acknowledges that the operation of the Charter School is to be solely carried out by Non-Profit. This MOU is intended to address those matters that have not been covered in the Charter and to provide guidance on the oversight policies and procedures of the County. Further, this MOU is intended to outline the Parties' agreements governing their respective fiscal and administrative responsibilities and

their legal relationships.

- 1.8. The Parties recognize and agree that Non-Profit shall not charge tuition, shall be nonsectarian, and shall be open to all students regardless of ethnicity, national origin, gender, sexual orientation, or disability and those provisions of non-discrimination shall apply as well to employment.

2. Term of the Memorandum of Understanding

- 2.1. This Memorandum of Understanding (MOU), provided it is fully executed by all parties, shall cover the term of the Charter five (5) fiscal years commencing on July 1, 2016, and ending on June 30, 2021 ("Term"). The "effective date" of the Charter is July 1, 2016. This MOU will automatically expire upon the expiration or revocation of the Charter.
- 2.2. The MOU is subject to early termination only as set forth in this MOU or as otherwise permitted by law. Renewal of the Charter and this MOU shall be based, in part, on compliance with the terms set forth in this Agreement, County policy, and applicable law.
- 2.3. This MOU between and among the County Board, CountyAC and Non-Profit shall include Schedules A, B and D.
- 2.4. Any modification of this MOU must be made in accordance with Section 31: Amendment and Waiver.

3. Operation of Charter School

- 3.1. Charter School is a public charter school that shall be operated pursuant to the Charter, plus any specific conditions approved. The Charter was granted by the County Board on December 8, 2015.
- 3.2. Charter School is authorized to operate with grades K through 8. Charter School will serve an enrollment of approximately 600 students through the Term, as projected in the Charter.
- 3.3. The Parties acknowledge that the provisions of the Charter and this MOU are not intended to conflict. However, in the event of a conflict between the law and terms of this MOU, the law shall prevail, and any such conflicting terms shall be severed from this Agreement and nullified. To the extent that this MOU is inconsistent with any of the terms of the Charter, the terms of this MOU shall supersede the terms of the Charter, unless otherwise agreed in writing by the Parties. The Parties further agree to jointly make any modification to this MOU or the Charter needed to effectuate changes in state or federal laws following the execution of this MOU.

4. Governance and Management

- 4.1. The Charter School will operate consistent with Cal. Ed. Code §47604(a). Non-Profit acknowledges, as is stated in its Charter, that it is a separate legal entity and neither the County Board nor the County are liable for the debts and obligations of Non-Profit or the Charter School as per Cal. Ed. Code §47604(c).
- 4.2. The Parties further recognize that consistent with the Charter, Non-Profit has obtained and maintains status as a non-profit, public benefit corporation as provided in Cal. Ed. Code §47604.

- 4.3. The County Board reserves the right to appoint a representative to the Non-Profit Board of Directors in accordance with Cal. Ed. Code §47604 (b).
- 4.4. Non-Profit agrees to comply at all times with laws which generally apply to public agencies and to comply with applicable federal or state laws (which may be amended from time to time), including but not limited to the following:
- The Ralph M. Brown Act (“Brown Act”) (Cal. Gov. Code, §§ 54950 *et seq.*);
 - The California Public Records Act (Cal. Gov. Code, §§ 6250 *et seq.*);
 - State conflict of interest laws applicable to charter schools operated by nonprofit corporations, including but not limited to the Political Reform Act/Fair Political Practices Act (Gov. Code, §§87100 *et seq.*);
 - The Child Abuse and Neglect Reporting Act (Cal. Penal Code, §§ 11164 *et seq.*);
 - The Individuals with Disabilities Education Rights Act (“IDEA”) (20 U.S.C. §§ 1400 *et seq.*);
 - The Americans with Disabilities Acts (42 U.S.C. §§ 12101 *et seq.*);
 - The U.S. Civil Rights Acts, including Title VII of the 1964 Civil Rights Act;
 - The California Fair Employment and Housing Act (“FEHA”) (Cal. Gov. Code, §§12900 *et seq.*);
 - The Age Discrimination in Employment Act (“ADEA”) (29 U.S.C. §§ 621 *et seq.*);
 - Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §§ 794 *et seq.*);
 - Education Code Sections 220 (prohibiting discrimination) *et seq.*;
 - The Uniform Complaint Procedure (5 Cal. Code Regs., title 5, §§ 4600 *et seq.*);
 - The Family Educational Rights and Privacy Act (“FERPA”) (20 U.S.C. §§ 1232g *et seq.*);
 - Local Control Funding Formula (California Assembly Bill 97, as codified); and
 - All applicable state and federal laws and regulations concerning the improvement of student achievement, including but not limited to any applicable provisions of the Elementary and Secondary Education Act of 1965 (20 U.S.C. §§ 6301 *et seq.*) as amended by the No Child Left Behind Act of 2001 (“NCLB”) (20 U.S.C. §§6301 *et seq.*) and the Every Student Succeeds Act of 2015 (“ESSA”).
- 4.5. Non-Profit agrees that all of its records that relate in any way to the operation of the Charter School, including those submitted to the County, shall be treated as public records subject to the requirements of the Public Records Act, as well as Cal. Ed. Code §47604.3.

5. Required Documentation

- 5.1. Non-Profit shall provide the County with the documents listed and described in Schedule A, attached and incorporated herein by reference, by the dates specified therein.
- 5.2. Non-Profit shall provide up-to-date versions of all Schedule A documents by August 1st of each year of the Term, or as otherwise specified in Schedule A.
- 5.3. In the event of a change in the documents specified here and in Schedule A, an updated version shall be sent within ten (10) business days of the date the change is approved by the Non-Profit Board of Directors:
- Articles of Incorporation
 - Bylaws
 - Conflict of Interest Policy
 - Roster of Non-Profit Board of Directors

- Schedule of Board of Directors meetings
- Name and contact information for Charter School leader (principal, director, or head of school, etc.)
- Name and contact information for Charter School primary financial contact (CFO, COO, accountant, or back-office financial services provider, etc.)

5.4. Non-Profit shall promptly respond to all reasonable inquiries by the County, County Board, the Superintendent of Public Instruction, their respective designees and any other authorized agency, including but not limited to financial inquiries to the Charter School, and shall consult with the County Superintendent or his/her designee regarding any inquiries as per Cal. Ed. Code §47604.3.

6. Public Information: Website Posting

- 6.1. Non-Profit shall post on the Charter School's website the documents listed and described in Schedule B, attached and incorporated herein by reference, by the dates specified therein.
- 6.2. Non-Profit will promptly update the postings whenever the information changes, in no event later than ten (10) business days after the change.

7. Governing Board Activities

- 7.1. The Board of Directors of Non-Profit shall conduct public meetings at such intervals as are necessary to ensure that the board is providing sufficient direction to Non-Profit and the Charter School through implementation of effective policies and procedures. Board meetings of Non-Profit will be conducted in keeping with the requirements of the Ralph M. Brown Act (the "Brown Act") (Cal. Gov. Code §§54950, *et seq.*)
- 7.2. Non-Profit ensures that all members of the Board of Directors of Non-Profit, the Charter School leader, the Charter School primary financial contact, and any other Charter School staff deemed appropriate by Non-Profit, have participated in training on the requirements of the Brown Act and the Political Reform Act / Fair Political Practices Act. Verification of such training shall be provided as specified in Schedule A.
- 7.2.1. All agendas shall be provided to the County electronically in advance of the board meeting when posted, and such posting shall be in conspicuous physical location/s, including all school sites and Non-Profit offices, and on Charter School's website, in accordance with the Brown Act.
- 7.2.2. Approved minutes of each Board of Directors meeting shall be provided to the County within two (2) business days of approval, as specified in Schedule A. Approved minutes shall be posted as specified in Schedule B.
- 7.2.3. Non-Profit board meeting agendas and minutes shall be maintained for public inspection at the designated office of Non-Profit during normal business hours and shall be made available promptly upon request in hard copy at all locations of the Charter School.
- 7.2.4. If Non-Profit makes audio or video recordings of its meetings, Non-Profit shall provide the County with copies of such recordings within two (2) days of the meeting, as specified in Schedule A.

8. Human Resources Management

- 8.1. Non-Profit is deemed the exclusive employer of the employees of the Charter School for the

purposes of the Educational Employee Relations Act (EERA) under Cal. Gov. Code §3540, *et. seq.* Non-Profit will have sole responsibility for employment, management, dismissal, and discipline of its employees.

- 8.2. Non-Profit shall distribute a copy of its employee handbook to each employee at the Charter School each year. At a minimum, the handbook shall include a statement that Non-Profit is the exclusive employer of employees and has sole responsibility for employment, management, dismissal, and discipline of its employees. It shall also include specific expectations for employee performance and behavior, any due process rights of employees related to disciplinary actions (including termination), compensation and benefit information, and a description of both informal and formal complaint procedures that employees may pursue in the event of disagreements. Such handbook shall be provided to the County as provided in Schedule A.
- 8.3. At all times during the Term of the Charter, Non-Profit employees at the Charter School, parent volunteers who will be performing services with Non-Profit students that are not under the direct supervision of a certificated teacher, and all vendors having unsupervised contact with Non-Profit students will submit to background checks and fingerprinting in accordance with Cal. Ed. Code §45125.1. Non-Profit will provide certification to the County that all employees, and volunteers/vendors (as applicable) have cleared a criminal records check through the Department of Justice (“DOJ”) and the Federal Bureau of Investigation (“FBI”) prior to their having any unsupervised contact with students.
- 8.4. Non-Profit shall maintain on file and have available for inspection during site visits, evidence that it has performed criminal background checks for all employees and documentation certifying that vendors have conducted required criminal background checks for their employees prior to any unsupervised contact with students.
- 8.5. As specified in Schedule A, Non-Profit shall provide the County with proof that all of the Charter School’s teachers hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which teachers in other public schools are required to hold in accordance with Education Code section 47605(l) and applicable regulations, except as otherwise exempted by the Act. Non-Profit will have documentation on file (for inspection upon request) of its teachers' credentials.
- 8.6. If Non-Profit offers employees of the Charter School the opportunity to participate in STRS or PERS, Non-Profit shall be responsible for contracting with a third party, for example the County, for reporting purposes and for payment of costs to the County that are associated with such reporting. Such arrangements must be made in writing with the third party prior to the hiring of any employee.

9. Charter School Students

- 9.1. The Parties recognize and agree that the Charter School will be open to all students. The Charter School shall adopt and adhere to anti-discrimination policies that are consistent with law and prohibit unlawful discrimination against any protected group. Protected groups put forth under Title IX and in California are enumerated by Cal. Gov. Code §12940, Cal. Ed. Code §200 and 220, Cal. Gov. Code §11135, and include actual or perceived sex, sexual orientation, gender, gender identity, gender expression, ethnicity, race, ancestry, national origin, religion, color, mental or physical disability, genetic condition or information, and age, as well as association with a member of a protected class. Additionally, it is the policy of the State of California, pursuant to Section 200 that all persons should enjoy freedom from discrimination and/or harassment of any kind in the educational institutions of the state. This includes sexual

harassment, which is a form of sexual discrimination (Cal. Ed. Code §231.5).

- 9.2. The parties acknowledge and recognize that the non-profit is a Mandarin – English dual – language immersion school that is authorized to set aside 50% of each year’s incoming enrolled student population for Mandarin – language proficient pupils. The parties understand this condition, and the non-profit shall, as specified in Schedules A and D, provide a report twice per year on its plans and efforts to make consistent progress to achieve a racial and ethnic balance in the pupil population that is reflective of the general population residing within the territorial jurisdiction of the authorizer (pursuant to Cal. Ed. Code. 47605.6(b)(5)(H)). The Bi-annual report on enrollment, recruitment, lottery, and outreach efforts will include but not be limited to the description specified in Schedules A and D.
- 9.3. If a Charter School student is expelled or leaves the charter school without graduating or completing the school year for any reason, Charter School shall notify the superintendent of the school district of a student’s last known address within 30 days (pursuant to Cal. Ed. Code §47605(d)(3)), and shall maintain records of such notifications during the Term of this Agreement for the County review upon request.
- 9.4. To the extent necessary to discharge its reasonable supervisory oversight activities, the Charter School hereby designates the employees of the County as having a legitimate educational interest such that they are entitled upon request to access to the Charter School’s education records under the Federal Education Rights and Privacy Act (“FERPA”) and related state laws regarding student records. The County, Charter School, and their offices and employees shall comply with FERPA and state laws regarding student records at all times.

10. Required Disclosures

- 10.1. Non-Profit shall immediately notify the County of any pending or actual litigation and/or claim from any party or notice of potential infraction, criminal or civil action against Non-Profit, the Charter School or any employee, agent or volunteer that may involve or affect Non-Profit or the Charter School. In addition, Non-Profit shall immediately notify the County of any request for information by any governmental agency about Non-Profit or the Charter School.
- 10.2. The County shall immediately notify Non-Profit of any pending or actual litigation and/or claim from any party or notice of any potential litigation and/or claim against the County, the County Board, Non-Profit or the Charter School, that may involve or affect Non-Profit or the Charter School. In addition, the County shall immediately notify Non-Profit of any request for information by any governmental entity about Non-Profit or the Charter School.
- 10.3. If Non-Profit seeks any loans or advance receipt of funds for the Charter School, it shall establish a fiscal plan for repayment in advance of receipt of such loans. Non-Profit shall provide advance written notice to the County Board and the County specifying its intent to apply for a loan for the Charter School. Advance notice shall include a description of the need for the loan, its terms, and the plan for repayment, including a cash flow schedule. If a loan is received, Non-Profit shall, at the time of deposit of any sums which are loans to Non-Profit for the Charter School, provide the County with the loan documents, minutes of Non-Profit Board meetings at which such loan was approved, plan for repayment and updated cash flow schedule.

11. Insurance and Risk Management

- 11.1. Non-Profit shall procure from an insurance carrier licensed to do business in the State of

California or a qualified joint power authority (“JPA”) registered with the California Department of Industrial Relations, and keep in full force during the term of the Charter, at least the following insurance coverage for itself and the Charter School:

- 11.1.1. Property Insurance – against fire, vandalism, malicious mischief and such other perils as are included in ‘special form’ coverage insuring all of Non-Profit’s trade fixtures, furnishings, equipment and other personal property. The property policy shall include ‘extra expense’ coverage and shall be in an amount not less than 100% of the replacement value.
- 11.1.2. Commercial General Liability -- In an amount not less than two million dollars (\$2,000,000) per occurrence and five million dollars (\$5,000,000) in total general liability insurance for bodily injury (including death), property damage and personal and advertising injury arising out of or connected to the Non-Profit’s premises and operations. Non-Profit shall also maintain errors and omissions/educators legal liability, sexual abuse and molestation coverage, and employment practices liability of Non-Profit, its governing board, officers, agents, or employees of the Charter School with limits of not less than the amount stated above. The amount of total general liability insurance required shall increase to seven million, five hundred thousand dollars (\$7,500,000) when the Charter School’s ADA (as reported at P-Annual) exceeds 1,000. The deductible per occurrence for said insurance coverage stated herein shall not exceed twenty thousand dollars (\$20,000).
- 11.1.3. Workers' Compensation -- In accordance with the provisions of the California Labor Code, insurance adequate to protect Non-Profit from claims under Workers' Compensation Acts which may arise from its operation of the Charter School, with statutory limits, and Employer’s Liability coverage with limits of not less than one million dollars (\$1,000,000) per accident or disease.
- 11.1.4. Automobile Insurance – for all owned (if applicable), non-owned, borrowed, leased or hired automobiles in an amount of not less than one million dollars (\$1,000,000) per accident.
- 11.2. In addition, Non-Profit shall institute a risk management plan, including policies and practices to address reasonably foreseeable occurrences, and will provide the County with such plan and with annual certification that such policies and practices have been instituted at the Charter School, as specified in Schedule A.
- 11.3. All liability insurance policies required under this section shall be endorsed to name the County Board, and the County and its employees and agents as additional insureds and that such insurance policy(ies) shall be primary and any insurance or self-insurance maintained by the County, the County and/or its employees shall not be required to contribute with it.
- 11.4. Non-Profit shall provide evidence of all applicable insurance coverage, with additional insured endorsements, to the County (as specified in Schedule A) and will instruct the insurance carrier(s) to inform the County immediately if the coverage is reduced or becomes inoperative for any reason. The County may request to see evidence of insurance coverage during site visits.

12. Hold Harmless

- 12.1. Non-Profit and the Charter School shall hold harmless, defend, and indemnify the County Board, the County, its officers, agents and employees, from every liability, claim, or demand which may be made by reason of (1) any injury to volunteers; and (2) any injury to person or

property sustained by any person, firm, or corporation caused by any intentional or negligent act or omission of Non-Profit and/or the Charter School, its officers, employees or agents. In cases of such liabilities, claims, or demands, Non-Profit, at its own expense and risk, shall defend with legal counsel satisfactory to the County all legal proceedings which may be brought against the County Superintendent, the County Board, the County and its officers and employees (who will cooperate fully with Non-Profit's attorneys and insurance carriers), and shall satisfy any resulting judgments up to the required amounts that may be rendered against any of them. This indemnity and hold harmless provision shall exclude actions brought by third persons against the County Superintendent, the County Board, the County or their officers and employees arising out of the gross negligence or intentional acts, errors, or omissions of the County Superintendent, the County Board, the County or their directors, employees, officers and agents.

- 12.2. The County and the County Board shall hold harmless, defend, and indemnify Non-Profit and/or the Charter School, its board, officers, agents and employees, from every liability, claim, or demand which may be made by reason of (1) any injury to volunteers; and (2) any injury to person or property sustained by any person, firm, or corporation to the extent caused by any act, neglect, default, or omission of the County Superintendent, the County Board, or the County, its officers, employees or agents. In such cases of such liabilities, claims, or demands, the County and/or County Board, at its own expense and risk, shall defend with legal counsel satisfactory to Non-Profit all legal proceedings which may be brought against Non-Profit, its board, officers, and employees, who will cooperate fully with the County Board and/or the County, its officers and employees, attorneys and insurance carriers and shall satisfy any resulting judgments up to the required amounts that may be rendered against any of them. This indemnity and hold harmless provision shall exclude actions brought by third persons against Non-Profit and/or the Charter School arising out of the gross negligence or intentional acts, errors, or omissions of Non-Profit, its board, directors, employees, officers and agents.

13. Facilities

- 13.1. It is understood and agreed that the County Board and/or the County have no obligation to provide facilities to Non-Profit for the Charter School. If Non-Profit seeks facilities for the Charter School from a district in which it intends to locate under Proposition 39 (Cal. Ed. Code §47614), it shall follow applicable statute and regulations regarding submission of such a request to a district. As provided in Schedule A, Non-Profit shall provide a copy of each Proposition 39 request for the Charter School to the County at the time of submitting its request to any school district, along with any documentation of subsequent steps in the process as described in implementing regulations at 5 CCR §§11969.1 *et seq.*, whether produced by Non-Profit or the district.
- 13.2. Non-Profit shall ensure that the Charter School's facility is located in an area that is properly zoned for operation of a school and that has received a conditional use permit, and that has been cleared for student occupancy by all appropriate local authorities. All facilities must meet all applicable health and fire code requirements and zoning laws. Non-Profit will furnish the County, as provided in Schedule A, with all local approvals (Cal. Ed. Code §47610(d)) including applicable fire marshal clearances, certificates of occupancy, signed building permit inspections and approved zoning variances. The Charter School cannot exempt itself from applicable local zoning or building code ordinances.

- 13.3. The County may conduct a site review to determine that the facilities are clean, safe, Americans with Disabilities Act (ADA) compliant, and have the necessary local approvals to operate.
- 13.4. In the event that the Charter School seeks to open an additional school site (whether for classroom or non-classroom based instruction), Non-Profit will submit a request for a material revision of its Charter to the County Board for approval, pursuant to Section 23 of this MOU. Approval must be obtained before any additional school sites can begin operation.

14. Food Service and Transportation

- 14.1. Charter School shall provide for each needy pupil, one nutritionally adequate free or reduced-price meal during each school day, as described under Cal. Ed. Code §49550. Needy children shall be defined as those children who meet federal eligibility criteria for free and reduced price meals as defined in Cal. Ed. Code §49531. Non-Profit will provide the County with such policies and practices that have been instituted at the Charter School, as specified in Schedule A.
- 14.2. Non-Profit shall be responsible for any and all transportation offered by Non-Profit to students who enroll in the Charter School, including but not limited to any and all transportation required in any student IDEA Individual Education Plan ("IEP") or Rehabilitation Act Section 504 Plan.

15. Accountability for Academic Performance

- 15.1. Non-Profit shall comply with and adhere to the state requirements for participation and administration of all state mandated tests for the Charter School.
- 15.2. The Charter School shall comply with Cal. Ed. Code §47606.5 regarding Local Control Accountability Plans ("LCAP"), as that statute may be amended from time to time, as well as its implementing regulations. The Charter School's LCAP shall build upon the assessment measures, educational goals, and student outcomes described in the charter petition, and shall not provide for less stringent assessment measures, educational goals and student outcomes than those described in the charter. The Charter School's annual adopted LCAP shall be provided to the County on or before July 1 as described in schedule A. The Parties acknowledge that material revision of the Charter may be necessary to align the LCAP with the Charter's Measurable Pupil Outcomes, and that results reported on the LCAP may be relied upon by the County Board in making decisions on material revisions, charter renewal and replication of charter schools.
- 15.3. The Charter School will administer Smarter Balanced Assessments, computer-based tests aligned with the state's rigorous new standards for English language arts/literacy and math. Smarter Balanced is part of a comprehensive new testing program called California Assessment of Student Performance and Progress (CAASPP).
- 15.2. At the request of the County, Non-Profit shall present updates and or reports regarding the Charter School to the County Board of Education during the year.

16. Services for Students with Disabilities

- 16.1. At all times during the Term of the Charter and this MOU, Non-Profit shall act as its own local education agency ("LEA") in a Special Education Local Planning Area ("SELPA"), or as a duly

constituted SELPA approved by the State of California. As specified in Schedule A, Non-Profit shall provide the County with a copy of the Local Plan and documentation of the status of the Charter School as an LEA in good standing with a state-approved SELPA or as a state-approved SELPA.

- 16.2. Non-Profit and/or the Charter School shall assume all responsibility, including but not limited to full financial responsibility, for the implementation of student plans and provision of educational services under Section 504 of the Rehabilitation Act, for all students who are enrolled in the Charter School.
- 16.3. Non-Profit shall provide its own properly credentialed and fully qualified coordinator for special education and shall be responsible for referrals, identification, assessments, IEPs and Section 504 team meetings, implementation of Section 504 Plans and IEPs, complaints, mediations, and due process hearings. Non-Profit may contract with any school district or other qualified organization for other services on behalf of the Charter School, provided that such are at no cost to the County Board and/or the County. Written agreements shall be authored to specify such services and costs. It is further recognized that Non-Profit and/or the Charter School may contract with a SELPA, employ its own staff and/or contract with other vendors to deliver services required by the IEPs and/or Section 504 Plans of students enrolled in the Charter School and as otherwise required by applicable state and federal laws.
- 16.4. As specified in Schedule A, Non-Profit shall provide special education revenue and expense schedules to the County as back-up to required regular financial reports. To the extent that the delivery of Section 504 and/or special education services and adherence to Section 504 and special education laws have costs in excess of revenue allocated to the Charter School for such purposes, Non-Profit and the Charter School shall be responsible for any and all such costs related to students of the Charter School.
- 16.5. Non-Profit and the Charter School agree to fully and promptly comply with any reasonable requests for information made by the County with regard to special education services and individual students at the Charter School. The County may establish regular meetings with Non-Profit special education coordinator for purposes of reviewing special education and/or Section 504 compliance. The County may also take action to monitor the Charter School to ensure that special education and/or Section 504 services are being provided as required by law and applicable SELPA policy.
- 16.6. Non-Profit agrees to defend with legal counsel satisfactory to the County and to hold harmless the County Board, the County Superintendent, the County Office of Education, and each of their officers, directors, agents and employees, from and against any and all costs, including attorney's fees, and/or awards related to complaints, due process hearings, mediations or any and all forms of litigation relating to special education and/or Section 504 matters involving a student's enrollment, services and/or attendance at the Charter School. This indemnification shall exclude any matters which relate to the enrollment or attendance of a student in a County program, unless the student's enrollment or attendance in such program was through a contract with Non-Profit.
- 16.7. Non-Profit acknowledges that its failure to provide any Section 504 and/or special education services for students as required in their Section 504 Plans and IEPs may constitute a material violation of the conditions, standards and procedures set forth in the Charter and this MOU, as well as violation of applicable law which may be sufficient to support the County Board's revocation of Non-Profit's Charter pursuant to Cal. Ed. Code §47607.

- 16.8. Non-Profit shall develop, maintain, and implement policies and procedures to ensure that eligible students with disabilities are properly identified, assessed by qualified assessors and IEPs or 504 Plans for the students are properly established, implemented and complied with such that a Free and Appropriate Public Education (“FAPE”) in the Least Restrictive Environment (“LRE”) is provided in accordance with state and federal law. Such policies shall, as specified in Schedule A, be provided to the County.

17. Independent Study

- 17.1. The Charter School may, on a case-by-case basis, use short-term independent study contracts for students who receive prior approval for absences due to travel or extended illness of three or more days in duration. Any such independent study will be limited to occasional, incidental instances of extended absences, and must be fully compliant with all independent study statutes and regulations applicable to charter schools.
- 17.2. If the Charter School provides instruction through independent study on more than an incidental basis, it shall comply with all requirements of statute applicable to independent study in charter schools, including Cal. Ed. Code §§51745, *et seq.*), and applicable regulations.

18. Funding

- 18.1. The Charter School shall be direct funded in accordance with Cal. Ed. Code §§47630 *et seq.* Charter School is eligible for a general-purpose entitlement and supplemental funding allocated through the Local Control Funding Formula (“LCFF”) under Cal. Ed. Code §§42388 *et seq.* It shall be the responsibility of the Charter School to apply for funding beyond the basic statutory entitlements of the base grant due to the Charter School under LCFF.
- 18.2. The Parties specifically agree that it is not the responsibility of the County to provide funding in lieu of property taxes to Non-Profit for the Charter School.
- 18.3. In the event that the County Board seeks and receives a voter approved bond, parcel tax, etc., the Charter School and/or Non-Profit shall have no entitlement to any portion of the funds unless otherwise negotiated in advance and agreed to in writing. The Parties shall meet sufficiently in advance of any action by the County to pursue such measures so as to advise Non-Profit and to determine the positions of the Parties. Non-Profit agrees that it and the Charter School have no entitlement to funds currently being received, if any, by the County Board and/or the County under former parcel tax or bond elections.
- 18.4. Non-Profit is to operate the Charter School in a financially sound fashion. It is agreed that all loans sought by Non-Profit for the Charter School shall be authorized in writing in advance by Non-Profit and shall be the sole responsibility of Non-Profit. Notification of loans shall be provided pursuant to Section 10 of this MOU. In no event shall the County Board and/or the County have any obligation for repayment of such loans.
- 18.5. The County shall not advance any funds to Non-Profit for the Charter School. In addition, the County shall not act as or provide a line of credit to Non-Profit for the Charter School.
- 18.6. The Parties agree that neither the County nor the County Board shall act as fiscal agent for Non-Profit or the Charter School. It is agreed that Non-Profit shall be solely responsible for all fiscal services for the Charter School such as payroll, purchasing, attendance reporting, and completion and submission of state budget forms. The County shall process and transfer to Non-Profit all payments received by the County for the Charter School in a timely fashion.
- 18.7. To the extent that Non-Profit wishes to contract with the County for any services to the

Charter School beyond those specified in this agreement, a separate written contract with the County shall be required and the costs of such services paid in full by Non-Profit.

- 18.8. Non-Profit and the Charter School will use all revenue received from state and federal sources only for the educational services of Non-Profit and the Charter School and for the benefit of the students enrolled and attending the Charter School. Sources of funding must be used in accordance with applicable state and federal statutes, and the terms or conditions, if any, of any grant or donation.

19. Attendance Reporting

- 19.1. Non-Profit shall use commercially available attendance accounting software (such as Power School, SASI, etc.) for student attendance accounting at the Charter School. Non-Profit on behalf of the Charter School shall submit enrollment and attendance data as required to receive apportionment of funding according to the deadlines specified in Schedule A. The County staff will review and certify the accuracy of the Charter School's attendance data submitted by Non-Profit only when all documentation has been submitted and is accurate. Attendance data submitted without the requisite detail will not be processed and may result in a delay of funding to the Charter School.
- 19.2. Non-Profit shall make available to the County on request all back up attendance documents. Non-Profit shall, as specified in Schedule A, submit monthly summary reports, due the 15th of every month, of enrollment and average daily attendance ("ADA").
- 19.3. Weekly site-based attendance sheets, signed and dated by teachers, and evidence of contact made with parents when students are absent from school, e.g. parent contact log, absence log, etc., shall be maintained by Non-Profit, and may be reviewed by the County during site visitations.

20. Financial Reporting

- 20.1. Non-Profit is required by Cal. Ed. Code §47604.33 to submit periodic financial reports of revenues, expenditures, and reserves. In order to meet statutory timelines for financial reporting, Non-Profit shall submit such reports to the County for review, using the state software or the Charter School Alternative Reporting form, as specified in Schedule A. Specified back-up information shall be consistently provided for each reporting period. Any significant changes in the budget or interim reports from one reporting period to the next must be explained in writing. The County may request additional information, as necessary, to evaluate the fiscal condition of the Charter School.
- 20.2. The Parties agree that maintenance of a sufficient level of funding reserve is in the best interest of the Charter School and its successful operation. Accordingly, Non-Profit shall maintain reserves of no less than three percent (3 %) for the Charter School based upon the total expenditures and other uses of Non-Profit's Adopted Budget for the fiscal year. An explanation of any projected drop in reserves below the three percent (3%) level must be included in the assumptions.

21. Annual Audit

- 21.1. As specified in Schedule A, Non-Profit shall submit an annual independent financial audit in accordance with Cal. Ed. Code §§47605.6(m) and 41020(h), as applicable, to the State Controller's Office, the County, and the California Department of Education ("CDE") no later than December 15th of each year. In order for Non-Profit to receive a favorable recommendation for renewal, corrective action plans shall have been implemented in a timely

manner to the satisfaction of the County for any findings or exceptions identified in each annual audit, such that there are no continuing prior year findings or deficiencies identified in the following year. The audit shall be conducted by an auditor from the list approved by the State Controller's Office. The County shall be notified of Non-Profit's selection of an auditor, as specified in Schedule A.

- 21.2. In addition to Non-Profit's financial statements for the Charter School, the audit shall include, as applicable, but not be limited to, review of contemporaneous records of attendance and annual instructional minutes, and such other reviews as required by law for the audit of charter schools.

22. Monitoring and Oversight

- 22.1. The County will conduct at least one (1) visit to the Charter School annually in accordance with the Charter Schools Act. The information gathered will be used to assess the Charter School's progress in governance and organizational management, educational performance, fiscal operations and fulfillment of the terms of the Charter and this MOU. A school site visit may include review of the facility, review of records maintained by Non-Profit for the Charter School, interviews with the management of Non-Profit, Non-Profit employees working at the Charter School including the site principal, and the Charter School's students and parents, as well as observation of instruction in the classroom(s). Any deficiencies will be reviewed with the Charter School's site principal and Non-Profit staff and an opportunity provided for comment, explanation and/or correction. The evaluations for each year will be used, in addition to other information and reports, to determine a renewal decision.
- 22.2. The County reserves the right to make unannounced visits to the Charter School.
- 22.3. Non-Profit shall be charged an annual oversight fee by the County for the cost of oversight, monitoring, and reporting concerning the Charter School in accordance with Cal. Ed. Code §47613, with such fees capped at three percent (3%) of the general purpose revenue received by the Charter School, as defined in Cal. Ed. Code §47632. The oversight fees shall be invoiced quarterly by the County, with payment due and payable within 30 days of receipt. Oversight fees shall be used to offset consultant and administrative costs required for comprehensive oversight.

23. Material Revisions to Charter

- 23.1. Changes to the Charter deemed to be material revisions may not be made without prior approval from the County Board per Cal. Ed. Code §47607. Changes to the Charter considered to be material revisions include, but are not limited to, the following:
 - 23.1.1. Substantial changes to the educational program, mission, or vision of the Charter School, including the addition or deletion of a major program component that is a distinctive feature of the Charter School, such as STEM, language immersion, grade level grouping, arts integration, etc.
 - 23.1.2. Adding a classroom-based or non-classroom based program and/or facility not expressly authorized by the Charter.
 - 23.1.3. Changes in enrollment that represent an increase or decrease from the annual enrollment originally projected in the charter petition by more than 25% in any grade level or 10% percent of total enrollment in any given year.
 - 23.1.4. Addition or deletion of grades or grade levels to be served, for the program as a whole or

in a given year, not expressly authorized by the Charter, or otherwise required by law.

23.1.5. Changes to location of facilities, including school sites, resource centers, meeting space, or other satellite facility including the opening of a new facility. Temporary locations rented for annual student testing purposes shall be exempt from this provision.

23.1.6. Changing the name of the Charter School.

23.1.7. Entering into a contract to be managed or operated by any other non-profit public benefit corporation (or any other corporation or entity), such as an Educational Management Organization or a Charter Management Organization other than Non-Profit.

23.1.8. Substantial changes to admission requirements and/or enrollment preferences identified in the Charter.

23.1.9. Substantial changes to the governance structure as described in the corporate bylaws, including but not limited to: changes in the authorized number of board members, method by which sitting board members are removed, method by which new board members are selected, and/or provisions that reduce the size of the quorum required for a meeting and/or majority required for action.

23.2. Changes to the Charter not deemed to be material revisions may be made by Non-Profit following notification to the County. Such notice shall be provided, in writing, at least 5 business days in advance of the Non-Profit board meeting at which the revision is to be approved. Disagreement as to the materiality of the proposed revision/s shall be resolved consistent with the dispute resolution provisions of this MOU.

24. **Charter Renewal:** Non-Profit may seek renewal of the Charter prior to expiration of the Term of the Charter in accordance with statutory provisions. Non-Profit shall submit its renewal petition for the next charter term along with a copy of the most recent Local Control Accountability Plan/Annual Update to the County, no sooner than September 1st of the fiscal year in which Charter School would cease operations without renewal. The County shall review the charter petition, academic and financial performance, audit reports, annual visitation reports, and may conduct a renewal site visit prior to scheduling the renewal request for consideration by the County Board. To the extent required, the charter renewal petition shall be revised in accordance with current statutes and regulations.

25. Charter Revocation

25.1. The County Board shall have the right to revoke the Charter in accordance with Cal. Ed. Code §§47607, 47607.3 or other applicable statute or regulations. Prior to instituting revocation proceedings, the County may provide progressive notices that correction of a problem at the Charter School by Non-Profit needs to occur with specified time lines. The minimum progression of notification of corrective action for concerns the County Board considers to involve violation(s) of Cal. Ed. Code §47607(c) is as specified in 5 CCR §11968.5.2. Additional notification may be provided, at the sole discretion of the County.

25.2. If the County Board determines, based on report/s of the County, that there is a severe and imminent threat to the health or safety of students and/or staff of the Charter School, and makes such determination in writing, per Cal. Ed. Code §47607(d), it may take immediate action to assure the safety and well-being of the students, staff, and community, consistent with 5 CCR §11968.5.3. Such immediate action, as deemed appropriate by the County Board, in its reasonable discretion, may include but is not limited to revocation of its charter in accordance with Cal. Ed. Code §§47607(d) and/or (e).

- 25.3. During the period prior to revocation, Non-Profit shall have the opportunity to work with the the County or County Board to address the concerns and develop a plan to remediate all areas to the reasonable satisfaction of the County Board.

26. Charter School Closure

- 26.1. At all times it is operational during the Charter Term, Non-Profit will maintain a description of the procedures to be used in the event the Charter School closes, and provide such procedures to the County as specified in Schedule A and post them as specified in Schedule B. Procedures must be compliant with requirements contained in 5 CCR §11962, and consistent with the content of the Charter.
- 26.2. If the Charter School is to close permanently for any reason (i.e., voluntary surrender, non-renewal, or revocation), the County on behalf of the County Board shall serve written notice on Non-Profit that the closure procedures have been invoked. Non-Profit will immediately identify to the County the specific individual who is responsible for coordinating the Charter School's close out activities. The County will identify a staff person who will work with the Charter School to accomplish all close out activities.
- 26.3. Non-Profit expressly acknowledges the right of the County, on behalf of the County Superintendent of Schools (pursuant to Cal. Ed. Code §47604.4), to gain full access and copies of all student and business records concerning the Charter School at any time after the County Board gives written notice that it is invoking the closure procedures.

27. Dispute Resolution

- 27.1. It is expressly agreed by the parties that dispute resolution process described herein supersedes that included in the Charter for disputes between and among Non-Profit, the County and/or the County Board.
- 27.2. In the event of a dispute between Non-Profit and the County and/or the County Board relating to the Charter or this MOU, which does not involve revocation, the parties shall seek to resolve the dispute using the process described below:
 - 27.2.1. The disputing party shall provide written notice of the dispute to the other party or parties. Notice shall be provided as specified in this MOU.
 - 27.2.2. The Charter School's designated representative shall meet with the County's designated representative within thirty (30) days of the date of the written notice to attempt informal resolution of the dispute.
 - 27.2.3. By mutual agreement, in writing, the parties may engage the services of a third-party mediator to assist with informal resolution of the dispute.
- 27.3. If a dispute between Non-Profit and the County and/or the County Board is not resolved through the dispute resolution set forth above within ninety (90) calendar days of the date notice is given by the complaining party to the other parties, or by such alternative deadline as may be established by mutual agreement in writing, then any party shall have the right to take the matter to binding arbitration. Arbitration shall proceed according to the following timeline:
 - 27.3.1. No later than ten (10) calendar days after the request for arbitration, unless agreed otherwise by the parties in writing, the parties shall choose a mutually acceptable

arbitrator from a list obtained from the State Mediation and Conciliation Service.

27.3.2. Within ten (10) calendar days after the arbitrator is selected, the parties shall choose a mutually agreeable date and site for the arbitration.

27.4. The costs of the arbitrator shall be borne 50/50 by the County Board and Non-Profit.

28. Severability

28.1. If any provision or any part of this MOU is for any reason held to be invalid and or unenforceable or contrary to public policy, or statute, the remainder of this MOU shall not be affected thereby and shall remain valid and fully enforceable.

29. Venue

29.1. The Parties agree that any legal action to enforce the terms of this Agreement shall be brought in the appropriate court in the County, California.

30. Non-Assignment

30.1. No portion of this MOU or the Charter approved by the County Board may be assigned to another entity without approval of a material revision of the Charter pursuant to Section 23.

31. Amendment and Waiver

31.1. Any waiver, amendment, modification, or cancellation of any provisions of this MOU must be in writing and executed by duly authorized representatives of all Parties specifically indicating the intent of the Parties to modify this MOU. No such amendment or waiver shall be effective absent approval or ratification by the County Board and the governing board of the Non-Profit.

31.2. Proposed revisions to the MOU may be submitted by any of the Parties at any time, through notice duly given in accordance with Section 33.

31.3. The failure of either Party at any time to require performance of any provision hereof shall in no manner affect its right at a later time to enforce such provision.

32. Captions and Section Headings

32.1. The captions and section headings used in the Charter and this MOU are inserted for convenience only and should not affect the meaning or interpretation of the terms of the Charter or this MOU.

33. Notification

33.1. All notices, requests, and other communications under this MOU shall be in writing and mailed or delivered by overnight courier to the proper addresses as follows:

To the County Board at:
County Board of Education
313 West Avenue
City, CA 94XXX
Attn: Board President

To the
Charter Schools Office

County Office of Education
313 West Avenue
City, CA 94XXX
Attn: County Superintendent of Schools

To Charter School at:
33 Alcatraz Ave.
Oakland, CA 94222
Attn: Board Chair

34. Entire Agreement; Counterparts

34.1. This MOU and attached schedules contain the entire agreement of the Parties with respect to the matters covered herein, and supersedes any oral or written understandings or agreements between the Parties with respect to the subject matter of this MOU. This MOU may be executed in counterparts, each of which shall constitute an original. Facsimile copies of signature pages transmitted to other Parties of this MOU shall be deemed equivalent to original signatures on counterparts.

IN WITNESS WHEREOF, the Parties hereto have caused this MOU to be executed by duly authorized officers or representatives set forth below and to be effective as of the Effective Date.

Date Chair or Designee, Charter Board of Directors

Date President, County Board of Education

Date County Superintendent of Schools for
County Office of Education

Approved and ratified this 12th day of April, 2016 by the County Board of Education by the following vote:

AYES: _____
NOES: _____
ABSTAINS: _____

Certification by the Board Secretary