

## Chavez/Huerta K-12 Preparatory Academy Charter School Renewal Contract

THIS CHARTER SCHOOL RENEWAL CONTRACT ("Contract"), dated this 27th day of June, 2017, is made and entered into between Pueblo School District No. 60 a/k/a Pueblo City Schools ("District" or "authorizer") and the Chavez/Huerta K-12 Preparatory Academy, a public charter school organized as a Colorado nonprofit corporation ("Chavez/Huerta K-12 Preparatory Academy" or "School") (collectively, the "Parties").

WHEREAS, the Colorado General Assembly has enacted the Charters Schools Act ("Act"), C.R.S. §§ 22-30.5-101 to 120, for certain purposes as enumerated in C.R.S. §§ 22-30.5-102(2) and (3); and

WHEREAS, the Board of Education of the District and the Chavez/Huerta K-12 Preparatory Academy entered into a Charter School Contract as of June 14, 2012, for a five-year term, commencing July 1, 2012, and ending on June 30, 2017; and

WHEREAS, the Chavez/Huerta K-12 Preparatory Academy submitted a charter school renewal application ("Renewal Application") to the District seeking the renewal of its charter for a term to commence July 1, 2017; and

WHEREAS, on or about February 21, 2017, the Board of Education of the District ("District Board"), conditionally approved the charter application subject to, among other things, reaching mutual agreement with the School on a charter school renewal contract; and

WHEREAS, the Parties desire to enter into a charter school renewal contract for the ongoing operation of the School pursuant to the Act for a term of five (5) years commencing with the 2017-2018 school year; and

WHEREAS, the Parties mutually agreed to extend the contract negotiations to June 27, 2017.

NOW, THEREFORE, in consideration of the foregoing Recitals and their mutual covenants contained herein, the Parties agree as follows:

### AGREEMENT

#### 1.0 Status of School

- 1.1 Term. This contract is effective as of July 1, 2017, and shall continue through June 30, 2022. Although this Contract is for operation of the School for a period of five (5) years, any financial commitment on the part of the District contained in this Contract is subject to annual appropriation by the District Board and the

Parties agree that the District has no obligation to fund the financial obligations under this Contract other than for the current year of the Contract term; and that the District has not irrevocably pledged and held for payment sufficient cash reserves for funding the School or for providing services herein for any subsequent fiscal year during the remaining term of the Contract.

1.2 School Legal Status. The School is incorporated as a Colorado nonprofit corporation. Unless the Parties agree otherwise in writing, the School shall continue to operate as a Colorado nonprofit corporation and shall assure that its operation is in accordance with its articles of incorporation and by-laws. The School shall notify the District promptly of any change in its corporate and/or tax-exempt status. The School is organized and maintained as a separate legal entity from the District for all purposes of this Contract. As provided by the Act, the School shall constitute a public school in Colorado. Notwithstanding its existence as a separate legal entity, the educational programs conducted by the School are considered to be operated by the School as part of the District. As such, the School is subject to Colorado laws and District policies that apply to all public schools, unless waived in accordance with Section 4.5 of the Contract. Further, the School is a public entity within the meaning of C.R.S. § 24-10-106, and is therefore entitled to the protections of the Colorado Governmental Immunity Act (C.R.S. § 24-10-101-120) (“CGIA”), and is a local public body within the meaning of C.R.S. § 24-6-402 (1) (a), and therefore subject to the Sunshine Law (C.R.S. § 24-6-401—402) and the Open Records Act (C.R.S. § 24-72-204-206).

2.0 District-School Relationship

2.1 District’s Rights and Responsibilities.

A. Right to Review. The School shall operate under the auspices of, and shall be accountable to, the District and subject to, unless specifically waived or delegated pursuant to this Contract, all applicable federal and state laws and regulations, District Board policies and regulations. All records established and maintained in accordance with the provisions of this Contract, District Board policies and regulations, and federal and state law and regulations shall be open to inspection and review and made available in a timely manner to District officials. Student education records shall be accessible by District officials who have legitimate educational interests in such records within the meaning of the Family Educational Rights and Privacy Act (“FERPA”). Records include, but are not limited to, the following:

- i. School records, including but not limited to student cumulative files, policies, special education and related services;
- ii. Financial records;
- iii. Education program, including test administration procedures and student protocols;
- iv. Personnel records, including evidence that criminal background checks have been conducted;
- v. School's operations, including health, safety and occupancy requirements;
- vi. Inspection of the facility; and
- vii. Waiting lists the School holds at each grade level once the School is at full enrollment. The District agrees not to contact any of the students on the waiting list.

Further, the District may make visits to the School to fulfill its oversight responsibilities. Except in emergencies, and when directed by the Superintendent, visits should be pre-arranged in a professional manner to avoid needless disruption of the educational process.

- B. Complaints. The District agrees to notify the School regarding any material complaints about the School that the District receives. The notification shall be made within ten (10) days of its receipt by the District and shall include information about the substance of complaint taking into consideration any complainant's request for anonymity. Absent extenuating circumstances in the District's judgment, the District agrees to direct any complaining party to the School's internal conflict resolution policy, so that the School and the complaining party may address the complaint at the School-level.
- C. School Health or Safety Issues. The District shall immediately notify the School of any circumstances requiring School closure, lockdown, emergency drills or any other action that may affect School health or safety.
- D. Access to Data and Information. The School will maintain student records and other information on Power School or other District-approved reporting software. Representatives of the District and School (business and technology administrators) agree to meet at least once every six (6) months during the term of this Contract to review data exchange procedures and to discuss student information systems. Subject to the School's maintenance of the approved software system, the District will provide the School in a timely manner (not later than seven (7) calendar

days after receipt) access to any data and information pertaining to the School that it receives from the State or other sources, including but not limited to test scores, Elementary and Secondary Education Act ("ESEA") school improvement status, Adequate yearly progress ("AYP"), accreditation, special education, and funding information. The District will provide a link to the School on its web site under "Schools" - "Charter Schools" and will post information regarding choice during the open enrollment period. Not later than August 15 of each year the District and the School shall exchange staff positions and telephone contact lists for the ensuing school year.

- E. Grants and Utilization of School Data. When the District utilizes or desires to include School data for the purpose of submitting grants to private, state or federal sources, the Executive Director of the School will be notified as to the role of the School in the grant, identify any funds attributed to the School as a result of securing the grant, and the School's responsibilities with regard to final report and close-out procedures. A copy of grant that is submitted, includes School data, and which may benefit the School will be provided to the Executive Director.
- F. Accreditation Data and Process. Not later than five (5) business days following the receipt of the information, unless otherwise provided by or made available to the School by the Colorado Department of Education ("Department"), the District shall provide to the School the data used by the Department to conduct its analysis of the School's performance and the Department's initial recommendation, considering the type of performance plan the School should be required to implement. The District shall give due consideration to any appeal made by the School to the plan assignment, provided that the School has submitted valid and reliable data for consideration in accordance with a reasonable deadline established by the District.
- G. Access to Student Records. The District shall make available to the School not later than seven (7) days after a written request the cumulative files and/or student information, including, but not limited to, information regarding special education related services for students enrolled in the School. The School shall use such information exclusively for fulfillment of its educational responsibilities or for compliance with the law and shall not use student information acquired from the District for any other purpose.

- H. PERA 140-Day Contracts. The School acknowledges that the District is limited to only ten, 140-day contract slots for Public Employees' Retirement Association ("PERA") retirees under the provisions of C.R.S. § 24-51-1101 (1.8) (a). In the event the School's Executive Director determines that it is necessary for the School to be considered for one of these slots during any calendar year, the School shall comply with and apply though the District's "Administrative Regulation concerning Retired Personnel Working on PERA 140-day Contracts."

2.2 School's Rights and Responsibilities.

- A. Records. The School agrees to comply with all federal, state, and District record-keeping requirements, including those pertaining to students, governance, and finance. This includes maintaining up-to-date information about enrolled students in the District's student information system. In addition, the School shall ensure that all records for students enrolling in other Schools are transferred within seven (7) days upon receipt of the request. Financial records shall be posted monthly on the School's website and posted in accordance with the Financial Transparency Act, and reconciled at least quarterly. All records shall be maintained at the School and shall be open to inspection, consistent with law, during reasonable business hours. The School further agrees to assist the District in accessing or reviewing any records as part of its oversight responsibility or to address its compliance requirements.
- B. Notifications Provided to the District. The School shall notify the District and other appropriate authorities in a timely manner in the following situations:
- i. The discipline of employees at the School arising from misconduct or behavior that is alleged to have resulted in harm to students or others, or that constituted violations of the law; and
  - ii. Any complaints filed against the School by any government entity.

The School shall immediately notify the District of any of the following:

- i. Conditions that may cause the School to vary from the terms of this Contract, applicable District requirements, federal, and/or state law;
- ii. Any circumstance requiring the closure of the School, including but not limited to a natural disaster, such as an earthquake, storm, flood or other weather related events, other extraordinary emergency, or destruction of or damage to the School facility;

- iii. The arrest of any members of the Charter Board, School employees, or contract workers for a crime punishable as a felony or any crime related to the misappropriation of funds or theft;
  - iv. Misappropriation of funds;
  - v. A default of any obligation, which shall include debts for which payments are past due by sixty (60) days or more; or
  - vi. Any change in its corporate status with the Colorado Secretary of State's Office or status as a § 501 c (3) entity, if applicable.
- C. Compliance. The School shall comply with all applicable federal and state laws, regulations, local ordinances, and District Board policies applicable to charter schools, except to the extent that the School has obtained waivers from state law and District Board policies in accordance with Section 4.5 of the Contract.
- D. Reports. The School shall provide to the District in a timely manner any reports necessary and reasonably required for the District to meet its oversight and reporting obligations. Required reports include, but are not limited to, those listed below along with projected due dates for the current school year. Timely notification shall be provided when due dates are changed. The District will annually update any changes to the following list of required reports and due dates and provide this information to the School. Failure to provide reports within ten (10) days after the date due is a material violation of the Contract, and the District may take actions outlined in Section 2.6 of this Contract.
- i. Accreditation Report (in accordance with State requirements);
  - ii. Projected Enrollment Report (June 30);
  - iii. Projected Budget Report (June 30);
  - iv. Governance Information (June 30);
  - v. Quarterly Financial Reports (consistent with the District's schedule);
  - vi. End of year Trial Balance and financial statements (provided in Excel file format using the Department chart of account codes) (September 30);
  - vii. Insurance Certification (July 10);
  - viii. Health and Safety Information (including a report of previous year's fire drills, updates emergency plans, and emergency contact information) (June 30);
  - ix. Audit, including management letter (on or before October 15);
  - x. School Calendar (May 1).

2.3 Indemnification.

- A. Mutual. To the extent permitted by law and not covered by insurance or not otherwise barred by the CGIA, the District and School each agree to indemnify and hold the other and its respective employees, directors, officer, agents and assigns harmless from all liability, claims and demands of third parties arising on account of personal injury, sickness, disease, death, property loss, or damage or any other losses of any kind whatsoever that are proximately caused by the negligent, grossly negligent or intentional acts of the indemnitor or its respective employees, directors, officers, agents and assigns. The foregoing provision shall not be deemed a relinquishment or waiver of any applicable bar or limitation on liability provided by the CGIA or other law. The indemnitee shall reasonably seek to recover any amounts due under this Section from any applicable insurance policy paid for by the indemnitor before withholding funds otherwise due to the indemnitor.
- B. Indemnification by Independent Entities/Governmental Immunity. In the event the School authorizes, with the District's approval, another person or entity to operate a before- and/or after-school, preschool, daycare, intersession, extended-day kindergarten or other program within a School or District facility, such person or entity shall provide separate insurance coverage for general liability and errors and omissions with limits consistent with the District policies and naming the School, the District, and the property owner as additional insureds. Such person or entity will also agree to indemnify and hold the School, the District, and the property owner harmless from all liability, claims and demands on account of injury, loss or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, tort and civil rights claims, or any other losses of any kind whatsoever that arise out of or are in any manner connected with such person's or entity's operations. Nothing contained in this Contract shall be deemed a relinquishment or waiver by the District or the School of any kind of applicable limitations of liability provided by the CGIA.

- 2.4 Procedures for Articles of Incorporation and By-laws Amendments. The School shall follow any requirements of the Colorado Revised Nonprofit Corporation Act in amending its articles of incorporation and by-laws and shall provide the District with notice of any such change. Any change that would affect the School's obligations under this Contract or in modification of the Application,

shall be subject to advance written approval by the District. The bylaws or policies of the School shall include a requirement that each Charter Board member annually sign a conflict of interest disclosure. The bylaws and conflict of interest disclosure are attached and incorporated herein as Attachment 3.

2.5 District-School Dispute Resolution Procedures. All disputes arising out of the implementation of this Contract and not subject to immediate appeal to the State Board of Education shall be subject to the dispute resolution process set forth in this Section; unless specifically otherwise provided. All timelines in this Section may be extended by mutual agreement:

- A. No Delay. The School and the District agree that the existence and details of a dispute notwithstanding, both parties shall continue without delay their performance hereunder, except for any performance which may be directly affected by such dispute.
- B. Notice. Either party shall notify the other party that a dispute exists between them within thirty (30) days from the date the dispute arises. Such notification shall be in writing and shall identify the article and section of the Contract that is in dispute and the grounds for the position that such article and section is in dispute. The matter shall be immediately submitted to the President of the Board of the School and the President of the Board of the District, or their respective designees, for further consideration and discussions to attempt to resolve the dispute.
- C. Submission to Boards. In the event these representatives are unable to resolve the dispute informally pursuant to this procedure within thirty (30) days after the date of notification by one to the other of the existence of such dispute, then either party may elect to submit the matter to the Boards of the School and the District for their consideration. The submission to the Boards shall be made in writing to the other party and to the Board Presidents for delivery to the Boards, no later than forty (40) days after the initial date of notification by one party to the other of the existence of the dispute. The Presidents of both Boards are required to place the item on the agenda at the earliest meetings for discussion by the respective Boards. The Board Presidents are required to inform each other in writing of any resolution proposed by their respective Boards within ten (10) days after the Board meeting at which the item is discussed. The Board Presidents may elect to meet to identify possible solutions.



- D. Non-Binding Mediation. In the event that the matter is not resolved by the Boards, then the matter shall be submitted to non-binding mediation by notice in writing to the other party within thirty (30) days following the Board meetings. The thirty (30) days shall be determined by the date of the last Board meeting at which the matter is discussed.
- E. Mediator Opinion. Any and all disputes that cannot be resolved informally shall be settled by mediation to the extent not inconsistent with the requirement of state law. The Parties expressly agree that the mediator shall be required to render a written opinion concerning the matter(s) in controversy, together with their findings.
- F. Sharing of Mediator Expenses. Each party shall pay one-half of the reasonable fees and expenses of the neutral mediator. All other fees and expenses of each party, including without limitation the fees and expenses of its counsel, witnesses and other acting for it, mediators not jointly appointed, shall be paid by the party incurring such costs.
- G. No Contract Modification. The mediator shall have no authority to add to, delete from, or otherwise modify any provision of this Contract or to issue a finding having such effect.
- H. Appeal. Either party may appeal to the State Board within thirty (30) days of the written release of the mediation opinion.

2.6 Other Remedies. If the School is subject to nonrenewal or revocation pursuant to C.R.S. § 22-30.5-110 (3), state or federal laws or regulations, or if the School materially breaches the Contract, the District may, but is not required to, impose other remedies prior to initiating revocation procedures in accordance with Section 11.3. Remedies include, but are not limited to, those listed below. These remedies may be applied individually, in succession or simultaneously.

Prior to applying a remedy other than Section 2.6 B, the District shall send a notice of breach and provide the School an opportunity to cure. The notice shall state the deficiency and the basis (evidence), an opportunity for the School to contest the deficiency, the timeframe for remedying the deficiency, and the expected results. Unless extraordinary circumstances dictate different period, the School shall have thirty (30) days from receipt of notice to cure any perceived deficiency.

- A. Withholding Five Percent (5%) of Funds Due to the School. The District may withhold five percent (5%) of any payment due to the School beginning on the first day of the month following the due date until such time as the School complies with requirements under this Contract. This remedy may be applied in situations where the School could reasonably take actions to remedy the breach prior to the withholding of funds. These situations include, but are not limited to, failure to submit reports listed in Section 2.2 D by the established deadlines, failure to submit other required information or records by the date required or requested, and a failure to submit a budget to the District that meets the requirements of Section 7.3. Any action taken pursuant to this subsection is subject to review as provided in C.R.S. § 22-30.5-112.
- B. Taking Immediate Control of the School. Notwithstanding any other provision of this Contract, in the case of any breach that the District reasonably determines poses a serious and imminent threat to the School or District students, the community, or the property rights of the District or the School, the District may, but shall not be required, to take immediate control of the School or some portion thereof, and may exercise any portion or all power and authority over the School for such period of time as may be necessary to deal with such threat. These additional rights of the District shall continue during the pendency of any dispute resolution process with respect to any alleged breach.

Within ten (10) days of the District taking such action, the District Board shall hold a hearing and take formal action regarding the District's continued control of the School. At the hearing, the School shall have the opportunity to present evidence regarding the District's action and an opportunity for public comment shall be provided. The Board of the School may appeal the District Board's decision, with such appeal to be made to the State Board as a unilateral imposition of conditions.

- C. Submission of Plan to Remedy Deficiency. At the request of the District, the School shall develop a proposed remediation plan to cure a deficiency and submit it to the District for review and comment. The approved plan shall include a statement that directs the School's staff to implement the plan and provide the Board of the School and the District's Board with periodic reports of progress. The District may request the School to review and revise the plan if it is not effective in remedying the deficiency. This

remedy may be applied if the School fails to make progress toward achieving its goals and objectives or District accreditation requirements, implementing its educational program, or fails to complete two (2) or more required reports by the established deadlines. The remedies provided in this section are in addition to and not in limitation of those set forth in Paragraph 6.3.

2.7 District Violations of Charter School Law or Contract. If the School believes that the District has violated any provision of this Contract or law, the School shall send a notice and provide the District an opportunity to cure. The notice shall state the alleged violation and the basis (evidence), an opportunity for the District to contest the allegation, the timeframe for remedying the alleged violation, and the expected results. Unless extraordinary circumstances dictate a different period, the District shall have thirty (30) days from receipt of notice to cure any perceived or alleged violation. After the above procedure has been followed, the School may initiate dispute resolution procedures as provided in Section 2.5 and, following an exhaustion of that process (unless another procedure is available under the Act), file an appeal with the State Board or seek other remedies provided by law.

2.8 Emergency Powers. If the District seeks a preliminary order under the Charter School Emergency Powers Act, C.R.S. §§ 22-30.5-701-704, it shall follow the procedures set forth therein.

### 3.0 School Governance

3.1 Governance. The Governance and Operation Section of the original and Renewal Application concerning the nature and extent of parental, professional educator, and community involvement in the governance and operation of the School is accepted by the District to the extent permissible under federal and state law and subject to all conditions and amendments of the Contract and to the policies and regulations of the District, as amended and adopted from time to time (except to the extent waived by the Board as provided in the Contract). In addition, the Application is amended as follows, which amendments and other provisions of this Contract shall supersede and control over any conflicting language contained in the Application:

A. Chavez/Huerta K-12 Preparatory Academy Board. The School's articles of incorporation and by-laws will not conflict with the School's obligation to operate in a manner consistent with this Contract. The School's policies shall provide for governance of the operation of the

School in a manner consistent with this Contract. The School shall operate in accordance with these documents. Any material modification of the articles of incorporation or the by-laws or changes in the composition of the School's governing body shall be made in accordance with the procedures described in Section 2.4 of this Contract.

- B. Fair Campaign Practices Act. The School and its employees shall agree to be bound by the restrictions of the Fair Campaign Practices Act, C.R.S. § 1-45-101, *et seq.*, in connection with election of the School's Board, should the School change its by-laws to institute an election for Board of Director positions. If an election is instituted, replacing the current appointment process, subject to District Board approval, the School shall agree to the following: Specifically, School employees may not conduct campaign activities while on duty. School employees may respond with factual information to unsolicited questions about the Charter Board candidates. School employees may not use School or District money or resources to support a Board member's campaign. School employees may not materially use any School copiers, fax machines, telephones, School or District email. School employees may use personal funds and personal time to urge electors to vote for particular School Board candidates. While at work, School employees must maintain a neutral disposition as to the Charter Board candidates.
  
- C. Conflict of Interest. Members of the Charter Board and other committees of the School shall comply with state law and the Charter Board policies and regulations regarding ethics and conflict of interest. The District will provide a conflict of interest statement annually for signature by the Charter Board members to be submitted to the District by August 31 of each year. The School may also submit a conflict of interest form for District approval. If approved, the School's form may be used.
  
- D. Nonreligious, Nonsectarian Status. The School agrees that it shall operate, in all respects, as a nonsectarian, nonreligious, non-home-based public school. The School shall not be affiliated in any way with any nonpublic sectarian school or religious organization. The School shall not discriminate against any person on the basis on race, creed, color, national origin, gender, sexual orientation, gender identity/expression, marital status, religion, ancestry, or disability.

- E. Commitment to Nondiscrimination/Equal Opportunity Employer. The School affirms that it shall comply with all applicable federal, state, and local laws, rules, regulations, and District Board policies prohibiting discrimination on the basis of race, creed, color, national origin, gender, sexual orientation, gender identity/expression, marital status, religion, age, ancestry, or disability. Unless and until the School adopts its own set of written policies that are approved by the District, the School shall comply with all Board or Superintendent-approved policies and regulations concerning nondiscrimination.

The School affirms that, consistent with applicable law and District Board policies, it shall not discriminate against any applicant or employee on the basis of race, creed, color, national origin, gender, sexual orientation, gender identity/expression, marital status, religion, age, ancestry, or disability in its recruitment, selection, training, utilization, termination, or other employment-related activities.

- F. Indigent Students. The School shall waive all fees for indigent students in accordance with District Board policy and applicable federal and state law. If requested by the District, the School shall survey its student population for eligibility for free and reduced lunches under federal guidelines in accordance with State Board of Education regulations. On all fee lists and schedules, the School shall include notification of the policy of waiver of fees for indigent students.

- G. Accountability. The School shall comply with the educational accountability provisions of Colorado and federal law as amended from time to time, including without limitation, the Education Accountability Act of 2009, C.R.S. §§ 22-11-101, *et seq.*, the State Board Accreditation Rules, 1 CCR 301-1 2202-R-0.00—5.02, and terms of any Accreditation Contract between the District and the State Board, as amended from time to time., and the Every Student Succeeds Act (ESSA). The School is subject to the District's and the Department's accreditation and accountability requirements. The School shall operate under the auspices of, and be accountable to, the District and subject to Colorado law, regulations of the State Board of Education and the Department, and all Board and Superintendent-approved policies and regulations unless specifically waived.

- H. School Accountability Committees. The School shall establish a School Accountability Committee(s) at the School campus. Membership in the

Accountability Committee(s) shall be set forth in C.R.S. § 22-11-401, and the School Accountability Committee(s) shall have the powers and duties specified in C.R.S. § 22-11-402. The School will establish the Accountability Committee(s) not later than September 30 of each school year. The School Accountability Committee(s) shall have no authoritative power but shall only make recommendations to the Principal. Each principal is responsible for establishing the School Accountability Committee. Each principal will report to the School's Executive Director when the Accountability Committee(s) has/have been formed and the date of the first meeting has been scheduled. The School has the option of creating one Committee for the K-12 Campus or one Committee at each grade level (elementary, middle and high) or one Committee for elementary/middle and one for high school.

- I. Periodic Review of Progress. The School shall be subject to a review of its operations and finances by the District Board or a designee upon reasonable advance written notice. Upon request, the School shall provide a yearly report which meets the conditions of the District and state accountability requirements.
  
- 3.2 Corporate Purpose. The purpose of the School as set forth in the articles Incorporation shall be limited to the operation of a charter school pursuant to the Act.
  
- 3.3 Transparency. The School shall make its policies, meeting agendas, minutes and related documents readily available for public inspection and shall conduct meetings consistent with principles of transparency, the Colorado Sunshine and Open Records law, and shall adopt and strictly enforce a conflict of interest policy.
  
- 3.4 Complaints. The School shall establish or have in place a process for resolving public complaints, including complaints regarding curriculum, which shall include an opportunity for complainants to be heard. The final administrative appeal shall be heard by the School's Board, not the District Board. The School agrees to inform the District, upon request, regarding the resolution of any complaint that it receives and processes through the School's internal conflict resolution policy.
  
- 3.5 Contracting for Core Educational Services. Unless otherwise agreed to in writing by the District, the School shall not have authority to enter into a contract or subcontract for the management or administration of its core

instructional programs or services, including special education and related services. This shall not prevent the School from engaging independent contractors to teach selected, specific courses so long as they are considered “highly qualified” under applicable law and regulations.

#### 4.0 Operations

4.1 Operational Powers. The School shall be fiscally responsible for its own operations, and shall have authority independently to exercise the following powers (together with such powers as provided for elsewhere in the Contract):

- A. Contracting for goods and services;
- B. Preparation of budgets;
- C. Selection, supervision, evaluation, and determination of compensation for personnel;
- D. Promotion and termination of personnel;
- E. Leasing facilities for school purposes (a copy of which shall be provided to the District at least thirty (30) days prior to execution for review; provided, however that the School retains the sole authority deciding what leases to enter into);
- F. Accepting and expending gifts, donations, or grants of any kind in accordance with such conditions prescribed by the donor as are consistent with law and this Contract;
- G. Adoption of policies and bylaws consistent with the terms of this Contract.

4.2 Transportation. Any transportation of students to the School shall be the sole responsibility of the School. This shall include any special education students enrolled in the School whose IEP requires transportation as a related service.

4.3 Food Services. The Nutritional Food Services Contract shall govern all food services offered by the School. The Nutritional Food Services Contract is included as Attachment 6 in this Contract and is subject to annual renewal. In the event the School determines not to utilize the Food Services of the District, it will notify the District in writing by no later than May 1 and then may utilize the services of another School Food Authority.

4.4 Insurance. During the terms of its charter, the School shall maintain insurance coverage either purchased in its own right or through the District. Such insurance shall at a minimum include the following:

- A. Commercial General Liability. The School will maintain commercial general liability insurance covering all operations by or on behalf of the School, including operations of any subcontractor, on an occurrence basis against claims for personal injury (including bodily injury or death) and property damage (including loss of use). Such insurance will have the following limits and coverages:

Minimum Limits:

- \$1,000,000 each occurrence
- \$2,000,000 general aggregate
- \$2,000,000 products and completed aggregate

Coverages:

- Occurrence form
- Products and completed operations coverage
- Personal injury
- Contractual liability
- Defense in addition to the limits of liability
- Sexual abuse and misconduct coverage
- Coverage for athletic participants
- Special events coverage
- Severability of interests provision
- Additional insured endorsement on behalf of the District

- B. Automobile Liability. School will maintain business auto liability coverage liability arising out of any auto (including owned, hired, and non-owned autos):

Minimum Limits

- \$1,000,000 combined single limit each accident

Coverages

- Additional insured endorsement on behalf of the District
- Excess coverage for employees as insured using personal vehicles on School business

- C. Workers' Compensation Insurance. School will maintain workers' compensation insurance, including occupational disease provisions



covering the School in accordance with applicable state laws and employer's liability insurance:

Minimum Limits:

- Workers' compensation—statutory limits
- Employer's liability:
  - \$250,000 bodily injury for each accident
  - \$250,000 each employee for disease
  - \$500,000 disease aggregate

- D. Directors' and Officers' Liability. During the term of its charter, the School shall maintain Directors' and Officers' Liability Insurance covering the wrongful acts, errors and omissions of its governing board arising out of the administration of the School with a limit of not less than \$2,000,000 per claim/aggregate. Coverage shall also include Employee Practices Liability. If coverage is purchased on a "Claims Made" basis, coverage must be endorsed to cover acts of the entity from the first date of operation. In addition, if operations of the entity cease, an extended reporting period of at least two (2) years must be purchased.
- E. Excess/Umbrella Liability. The School shall maintain umbrella/excess liability, employer's liability insurance described above, and, if available, excess of the directors and Officers Liability coverages:

Minimum Limits:

- \$2,000,000 each occurrence and aggregate

- F. Property Insurance. All property insurance (building and contents) owned or leased by the School will be the responsibility of the School unless otherwise agreed by contract. School will carry property insurance covering its owned or leased property on an all-risk form, including replacement cost coverage, equipment breakdown (if applicable), and business interruption/extra expense. District shall insure its property which it leases to the School (the former Hyde Park elementary school building) and shall name the School as an additional insured, as its interest may appear. The District shall deduct the cost of this insurance from amounts otherwise due to the School under this Contract; provided, however, the School may obtain its own insurance coverage for the Hyde Park school building (currently being leased to

the School), subject to approval by the District, which will not be unreasonably withheld. The School, however, must notify the District of its desire to provide its own coverage prior to the District's annual renewal of its policy. The School's coverage must name the District as the insured owner, be in an amount at least equal to the Total Insured Value on the District's property schedule (\$9,407,370 for 2017), and have a deductible not to exceed the amount applicable to the District's coverage.

4.5 Waivers.

A. State Laws and Regulations.

- i. Automatic Waivers. The District agrees to seek waiver from the State Board of Education of state statutes and regulations that are automatically approved, upon request pursuant to 1 CCR 301-35. The School agrees to provide acceptable replacement policies for those automatic waivers. The waivers from state law or regulation, to be requested jointly, are set forth in Attachment 1 and the automatic waivers are set forth in Attachment 2.
- ii. When Waivers are Necessary. Waivers are neither necessary nor appropriate when a statute or rule by express terms does not apply to a charter school, or when a District power or duty has been fully delegated, as more specifically stated in this Contract, to the School. The School is expected only to seek waivers if a statute or rule applies to the School and is inconsistent with the School's operational or educational needs.
- iii. Subsequent Waiver Requests. The School may request additional waivers after the original request. Upon receipt of such request, the District shall have thirty (30) calendar days to review the request and, thereafter, shall present the matter before the District Board at its next regular meeting. The District Board shall, unless otherwise agreed by the parties, have thirty (30) calendar days to consider the matter prior to rendering a decision at a regular meeting. The District agrees to jointly request such a waiver from the State Board, if the District's Board first approves the request. District Board approval of requests to waive state law or regulations shall not be unreasonably withheld. To the extent that the State Board does not grant the requested waivers or imposes conditions upon the School with

respect to such waivers, it is agreed that representatives of the Parties shall meet to negotiate the effect of such State Board action.

- iv. Teacher/Principal Evaluations (SB 10-191). The School agrees to submit to the District, for its review and approval, the School's rationale and replacement plan for complying with the intent of any statutes under SB 10-191 and the State Board's implementing regulations from which the School seeks waivers. The plan will demonstrate that the essential components of the statute and guidelines developed by the Department, as issued under its memorandum of January 18, 2012, have been addressed.

B. District Policies.

- i. Automatic Waivers. The District shall grant automatic waivers that are necessary or appropriate when a policy by its express terms does not apply to a charter school or the District, through the Contract, has delegated this authority to the School. Such automatic waivers from District policy are subject to compliance with all state and federal laws, rules, and regulations.
- ii. Additional Waivers. The School shall be granted waivers from District policies so long as the School maintains replacements that are in compliance with law.
- iii. Subsequent Waiver Requests. The School may request additional waivers after the original request. Upon receipt of such request, the District shall have thirty (30) days to review the request and, thereafter, shall present the matter before the District Board at its next regular meeting. The District Board shall, unless otherwise agreed by the Parties, have thirty (30) calendar days to consider the matter prior to rendering a decision at a regular meeting. Waivers of District policies may be granted only to the extent permitted by state law. Waiver of District policies shall not be unreasonably withheld.
- iv. Revocation of Waivers. For reasonable cause and after providing notice to the School, the Board may revoke waivers previously granted.

5.0 School Enrollment and Demographics.

- 5.1 School Grade Levels. The school will serve students in grades kindergarten through 12<sup>th</sup> grade. In the event the School desires to add a preschool, it must obtain prior written approval from the District Board.

- 5.2 Student Demographics. As required by the Act, and articulated in this Contract in Attachment 4, the School's enrollment decisions shall be made by the School in a nondiscriminatory manner as specified in the charter school application. The School shall have and implement a recruitment and enrollment plan that ensures that it is open to any child who resides within the District, and has a diverse student population which includes, but is not limited to, making reasonable efforts to enroll a percentage of students that are eligible for free or reduced lunch program consistent with District averages, taking into account the demographics of other public schools within a reasonable proximity to the School. The School shall make reasonable progress toward this goal.
- 5.3 Minimum Enrollment. The minimum enrollment is 800 student FTEs K-12, which is determined to be the lowest enrollment necessary for financial viability. In the event the School should drop below that number as of the October counting date, the School shall notify the District and provide an updated, balanced budget to the District by November 1 of that year.
- 5.4 Eligibility for Enrollment. The School shall limit enrollment of students accepted through the process outlined below, including enrollment procedures for students with disabilities, to those who meet the School's age and grade requirements, are not otherwise eligible to enroll based on criteria in Article 33 of Title 22 or who meet the criteria in C.R.S. § 22-33-106 (3) (f) in another District school.
- 5.5 Enrollment Preferences, Selection Method, Timeline and Procedures. Enrollment preferences, selection method, timeline, and procedures are described in Attachment 4.
- 5.6 Admission Process and Procedures for Enrollment of Students with Disabilities or a Section 504 Plan. To ensure that the needs of students with disabilities are met, the following procedures must be followed.
- A. Accommodation of Disabilities. The Parties agree that the School's program and facilities will accommodate students with mild/moderate disabilities. The School will accommodate these students to the same extent as other non-charter District schools. For purposes of this Agreement, this means providing a Generalist teacher and classroom, speech/language therapy, and a psychologist. Following the application deadline and upon completing the lottery, if appropriate, the School shall require that the student/District provide the most recent Individual Education Plan (IEP) or Section 504 Plan, if any. If the applicant has an IEP or Section 504 Plan on file with the District, the IEP or Section 504

Plan shall be provided to the School's Director of ESS immediately upon request.

- B. Admission of Students with Current IEP or 504 Plan. Admission of applicants with an IEP or Section 504 Plan shall be in compliance with District requirements and procedures concerning the education of students with disabilities. Every student who is admitted with an IEP or Section 504 Plan from his/her previous school shall receive the services that meet the requirements of such IEP or Section 504 Plan, unless and until a review staffing by the IEP Team or Plan review meeting is held and the IEP or Section 504 Plan is changed.
- C. Screening Team. When an applicant has an IEP or Section 504 Plan, prior to the decision to deny admission, a screening team consisting of the School's Director of ESS, and the District's Director of Exceptional Student Services ("District Director of ESS") or designee shall review the IEP or Section 504 Plan, and, if deemed appropriate, confer with staff at the student's previous school, and shall make a determination whether the services and space available at the School are sufficient to deliver the program required by the IEP or to provide the accommodations required in the Section 504 Plan. If the screening team cannot reach consensus, the District's Director of ESS or designee shall convene a complete IEP Team to make the final determination. If the complete IEP team cannot reach consensus, the District's Director of ESS will make the final determination. The District's Director of ESS's decision may be appealed by the Director of the School to the Superintendent after meeting to discuss the dispute, and if not reversed by the Superintendent, the District's Director of ESS's decision shall be final and not subject to dispute resolution under the Contract.
- D. IEP Team. When a student who has intensive service needs as identified by an IEP applies for admission into the School, the School's Director of ESS shall convene an IEP Team meeting, which shall include the District's Director of ESS or designee. The student's application for admission is contingent upon the determination by the IEP Team that the student can receive a free appropriate public education in the least restrictive environment at the charter school in its existing programs with or without reasonable modifications to the same extent as would be considered for a non-charter District school (as defined in Section 5.6.A., above). If the determination is that a Free Appropriate Public Education (FAPE) is not available, the student's application for admission shall be denied and the student's current placement shall remain as determined by the prior IEP

Team meeting, unless changed at the School's IEP Team meeting. Representative from the student's prior school shall be invited to participate in the IEP Team meeting at the School. Additionally, an application for attendance at the School may be denied for a student seeking placement in the School in the same manner and for the same reasons as such application may be denied for a student without disabilities.

- 5.7 Participation in Other District Programs. No student may be jointly enrolled in the School and another District school or program without the written permission of the District and the School. Such written permission shall include the manner in which the costs of instruction shall be divided between the School and the District. Payment by the School to the District, if any, pursuant to any such agreement shall be deemed payment for a purchased service under the Act. No student shall be entitled to instructional time that would be more than the equivalent of a 1.0 FTE, even if the student meets the requirements for full time funding at one or both schools. If no written agreement is reached and the pupil's participation meets the eligibility for funding under the Public School Finance Act and regulations, the District and the School may each count the pupil based upon their respective percentage of instructional time compared to the total.

Students enrolled at the School who wish to participate in athletics or extra-curricular activities at District schools that are not offered at the School will be subject to the requirements of Colorado statutes, CHSAA (Colorado High School Activities Association) rules, and District policies regarding participation in extra-curricular activities. Requests for participation shall be sent to the District's Director of Athletics who will determine the school in the District to which the student will be assigned. Where participation in a District activity requires a participation fee, the School shall be responsible for payment.

- 5.8 Non-Resident Admissions. Subject to its enrollment guidelines in attachment 4, the School shall be open to any child who resides in the State of Colorado, subject to compliance with applicable Colorado public schools of choice statutes, Board policy and this Contract. Once accepted for enrollment, a non-District resident student may reenroll for subsequent school years until completing his or her schooling at the School.
- 5.9 Student Movement after October 1. After October 1, any movement of students between the School and any District school, including the school serving the student's resident address that is not operated pursuant to a charter school contract is subject to an agreement between the School and the Superintendent or

his/her designee. The School agrees to use the standard District administrative transfer process.

5.10 Expulsion and Denial of Admission. The authority to deny admission to, suspend, and expel students is delegated to the School so long as it complies with the provisions of Title 22, Article 33, and provided further that any student who is expelled by the School's Board may appeal that decision in writing to the District Board within ten (10) days after the School's decision. The appeal shall consist of a review of the facts that were presented and that were determined at the hearing conducted by the School's hearing officer, arguments relating to the decision, and questions for clarification from the District Board. The School shall include procedures concerning the appeals process in its student handbook and discipline policies distributed annually to its students. The costs associated with any general education services required by law to be provided to suspended or expelled students shall be the sole responsibility of the School. The costs associated with any special education and related services required by law to be provided to suspended or expelled students shall be the sole responsibility of the School.

5.11 Attendance. The School's students' attendance shall be in compliance with Colorado's compulsory attendance laws, including but not limited to the required number of instructional hours and the distinction made between excused and unexcused absences. The School agrees to enforce the attendance provisions of Colorado's compulsory attendance laws, with respect to the School's students, at the School's expense.

5.12 Continuing Enrollment. Students/parents who choice into the School shall remain enrolled in the School through the highest grade served by the School, absent expulsion, graduation, court-ordered placement, or IEP placement. Students wishing to transfer from the School to another school in the District may do so only through the District's Within-District administrative transfer procedures.

## 6.0 Educational Program.

6.1 Vision. As noted in the Renewal Application, the School's vision is to be the best school of choice to develop college-ready students who will become scholars, leaders of great character, and productive citizens of the world.

6.2 Mission. As noted in the Renewal Application, the School's mission is to provide students a challenging, high quality, diverse K-12 learning environment that develops lifelong learners.

- 6.3 School Goals and Objectives. As noted in the Action Plans section of the Renewal Application, the School will continue to set goals to exceed the District average on state-mandated assessments and meet its targets for academic achievement, academic growth, academic growth gaps, and postsecondary and workforce readiness. The School agrees to make reasonable progress towards meeting state academic standards as defined in the Colorado School Performance Framework and based upon the District's ongoing monitoring of the School and review on at least an annual basis, generally within one month after all relevant data is collected. Reasonable progress will be established through the implementation of annually agreed-upon academic targets and goals developed through the use of CDE's Unified Improvement Plan process and timelines (<https://www.cde.state.co.us/uijp>) and include a review of the School's attainment of the performance indicators set forth in C.R.S. § 22-11-204 (2016). Within one month after the School's receipt of relevant data for the prior academic year, commencing with the 2017-2018 year, the Parties shall agree on the goals and targets and review the School's Educational Master Plan and any revisions that are deemed advisable by the School in consultation with the District. The annual targets will also include yearly increases in test participation in both state and local assessments with the goal of achieving, and then maintaining, a 95 per cent participation level at the end of three years; yearly increases in growth and achievement to move the School to Performance. Review of progress shall be based upon, but not be limited to, state assessments as well as local, standardized assessments determined by the School and the District to be consistent and reliable in predicting progress.
- A. Remedial Action. In the event the School is not making meaningful progress towards achieving the goals and targets; fails to meet the District's accreditation goals for its schools; fails to implement its educational program; or fails to complete and transmit required reports by established deadlines, the District shall give the School notice of the deficiencies and an opportunity and timeline for curing the deficiencies and the expected results. In response, the School shall prepare a plan to remedy any deficiency; submit the plan to the District for review and comment; and obtain the approval of the plan by the District Board.
- B. State Assistance. Nothing shall prevent either the School or the District from seeking technical assistance from the Department and both will do so in the event the School is required to implement a priority improvement or turnaround plan.
- 6.4 Educational Program Characteristics. As noted in the Renewal Application, the School holds an operating philosophy rooted in the belief that all children are capable of learning at high levels if they are taught by caring and skilled educators. They are challenged by an engaging curriculum, and are held to ambitious standards.



- 6.5 GED and Online Programs. The School's educational program as contained in the original and Renewal Application and reviewed by the District does not include a GED or its own online program established under C.R.S. §§ 22-30.7-101 – 113; accordingly, the School is prohibited from offering such GED or online programs without prior approval of the District Board. Nothing contained in this Paragraph 6.5 shall preclude the School from including online courses within its instructional program from accredited educational institutions such as CSU-Pueblo and Pueblo Community College.
- 6.6 Curriculum, Instructional Program, and Pupil Performance Standards. The School shall have the authority and responsibility for designing and implementing its educational program, subject to the conditions of the Contract. The goal of the educational program, pupil performance standards and curriculum designed and implemented by the School is that the School shall meet or exceed any content standards adopted by the District, shall be designed to enable each pupil to achieve such standards, and shall be consistent with the School's vision and mission.
- 6.7 Graduation Requirements. The School shall develop and submit to the District a policy setting forth its graduation requirements.
- 6.8 English-Language Learners. The School shall provide resources and support to English language learners to enable them to acquire sufficient English language proficiency to participate in the mainstream English language instructional program. The School shall follow the District's procedures for identifying, assessing and exiting English language learners.
- 6.9 Education of Students with Disabilities.
- A. Special Education and Related Services. The School shall provide all required special education services and support services to students at the School to the same extent as other non-charter District schools (students and programs as defined in Section 5.6.A.) and shall hire its own special education teacher(s) subject to review of licensing, by the District's Director of ESS. The School shall staff its special education personnel, applying the same staffing formula used with other non-charter District schools. Therefore, special education and related services at the School shall be commensurate with those provided at other non-charter District schools. The District shall assign special services providers as are necessary to provide FAPE to students using the same special service provider staff formula used with other non-charter District schools and the School shall be responsible for reimbursing the District for all costs of those personnel assigned to provide services at the School unless the

School purchases those services from another qualified provider who has passed the background check required of District employees. Special services providers may include social workers, nurses, physical therapists, occupational therapists, audiologists, speech therapists, only as required under a student's IEP.

- B. District Services. A description of the special education services, if any, to be provided by the District pursuant to Section 6.9.A above, and their costs is provided or described in Attachment 5 and Attachment 8. The School shall be responsible for reimbursing the District for the cost of defending any and all charges, complaints, or investigations concerning special education by the office for Civil Rights ("OCR"), the Department's Federal Complaints Officer, IDEA due process proceedings or Section 504 complaints for any student enrolled and receiving services at the School or whose prior enrollment, denial of enrollment, or displacement by the School is the basis for the complaint. The District and the School agree that enrollment at the School is a choice and as such student with disabilities are generally not eligible for transportation services. Should transportation be required as a related service as determined by the procedures in Section 5.6.C. for a student with disabilities, it shall be the responsibility of the School.
- C. Compliance. The School agrees to comply with all Board policies and regulations, unless waived, and the requirements of federal and state laws and regulations concerning the education of children with disabilities including properly completing in a timely manner all time and effort reports, and shall notify the District's Director of ESS and provide for the attendance of any School employees who should be present at any meetings at which IEP's are developed or modified. If the School and the District disagree as to the correct interpretation or application of a statute or regulation concerning the education of students with disabilities, the District's position, as articulated by the District's Director of ESS shall control.
- D. IEPs. The School shall develop and/or modify any IEP for special education students of the School., subject to the District's Director of ESS's or designee's right to review and, if reviewed, approval. In the event the School disagrees, its director may appeal, in the same manner as provided in Section 5.6.C. The District's Director of ESS or designee, shall maintain the same administrative responsibilities and authority in the School as provided in state and federal law. The School shall reimburse the District for its pro-rata share of the costs associated with the office of the District's

Director of ESS (based upon total funded pupil count to determine a per pupil cost). The School shall use District special education record-keeping procedures and shall document compliance with the requirements of federal and state law, including procedural due process and time and effort, as indicated above. The District shall respect the School's curriculum, instructional program, and mission in the development of IEP's for students enrolled in the School, subject to compliance with applicable laws and regulations.

- E. Staff Meetings. The School's special education teachers are strongly encouraged to participate in relevant staff meetings sponsored by the District and the School agrees to direct its special education teachers to participate in relevant staff meetings sponsored by the District in order to ensure the proper implementation of IDEA, FAPE, and IEP compliance for students being served at the School. The District will advise the School of ESS meetings and the School is entitled to have a representative attend such meetings.
- F. Changes to the Educational Program. The District or the School may identify from time to time changes to the educational program of the School that (a) are reasonably necessary to comply with applicable law for educating students with disabilities, or (b) provide cost savings or other benefits in connection with educating students with disabilities. After good faith discussion of these changes with the School, the District shall have the right to require such changes that are necessary to comply with law and shall have the right to request other changes on behalf of students with disabilities.
- G. Least Restrictive Environment. Special education programs and services shall be available to each student as part of the regular school day in accordance with the least restrictive environment mandate of federal and state law.

## 7.0 Financial Matters.

### 7.1 Revenues.

- A. District Per Pupil Revenue ("PPR") Funding. In each fiscal year during the term of this Contract, the District shall provide one hundred percent (100%) of PPR provided to the schools through the State of Colorado School Finance Act, minus the following:

- i. The actual amount of the School's per pupil share of the central administrative overhead costs, as provided by the Act or as agreed to, in writing, by both parties in any subsequent written agreement;
- ii. Deductions for purchased services based on written agreements as to the type of services and costs for such services agreed to in advance of performing such service and, in the absence of an agreement or cost calculation to the contrary at the time the services are ordered, the cost will be based upon C.R.S. § 22-30.5-112(2)(a.9)(b); the School will notify the District prior to March 31<sup>st</sup> of each year concerning which services it wishes to purchase;
- iii. Deductions for the provision of special education services as provided in Attachment 5, Attachment 8 or in this Contract;
- iv. Other deductions as provided herein and adjusted as provided herein.

District per pupil revenues shall have the meaning defined in C.R.S. § 22-30.5-112(2) (a.5). For all funding purposes this charter shall be considered a pre-July 1, 2004 charter. Any subsequent Department audits of District or School pupil counts and per pupil revenue that impact the funding received by the School, shall be reflected as an adjustment to subsequent payments from the District or the School.

Prior to submitting any annual student count data to the Department, the District will ask the School to confirm the School's student count. The School shall notify the District of any objections to the count and then reconcile any objections within two (2) business days thereafter, otherwise the number proposed by the District shall be final as between the School and District. The District, upon request of the School, shall allow the School to contest any adverse count audit in the name of the District through the administrative appeals process. The District may make financial adjustments effective as of the date of any final audit report, notwithstanding an administrative appeal.

The District agrees to provide detailed information on the calculation of central administrative overhead costs, as required by the Act.

Attachment 8 sets forth the Purchased Services that are ordinarily available from the District and the method of computing the cost.

- B. Mill Levy Funds. The District shall pay to the School its proportionate share of the Mill Levy Override Funds, if any, for which it is eligible in accordance with the ballot question and text. The School agrees to use

such funds in accordance with District guidelines. In any dispute over eligibility for mill levy funding and appropriate use of funds, the District's position shall prevail as allowed by law. Funds shall be made available to the School on the same payment schedule they are made available to other District schools.

- C. Federal Categorical Aid. Each year the District shall provide to the School its appropriate share of applicable federal funding (e.g. Impact Aid, Medicare Reimbursements under SB 101). Such funds shall be disbursed to the School within thirty (30) days of receipt by the District.
- D. State Categorical Aid. Each year the District shall provide to the School its appropriate share of applicable state categorical aid (e.g., English Language Proficiency, capital construction funds, Exceptional Children's Education Act, Transportation funding) received by the District. Such funds shall be disbursed within fifteen (15) days of receipt by the District.
- E. State and Federal Grants. Each year the District shall provide to the School its proportionate share of applicable state grants (e.g., Gifted and Talented) and federal special education (e.g., IDEA) and Elementary and Secondary Education Act funding (e.g., Title I, Title II, Title III, Title IV and Title V) received by the District for which the School is eligible. Schools are eligible for such funds upon approval of their plans for such funds either by the District or the Department as required. Funds shall be distributed on a documented expenditure reimbursement basis on a monthly interval as long as the School provides the District with the required documentation. All funding from competitive grants shall remain the exclusive revenue of the party submitting the application.

7.2 Per Pupil Revenue Distribution and Adjustments.

- A. Disbursement of Per Pupil Revenue. Commencing on July 1 of each fiscal year of the Contract term, District per pupil revenue funding as described in Section 7.1A shall be disbursed to the School in monthly installments, subject, however, to annual appropriation and the District's receipt of funding. July through December funding shall be based on the School's enrollment projections submitted in accordance with Section 7.4. Funding for December and subsequent months of each fiscal year shall be adjusted in accordance with Section 7.2.B. These funds shall be electronically disbursed within one (1) business day of being received by the District.
- B. Adjustment to Funding. The District's disbursement of funds shall be adjusted as follows: December 31 of each year, funding may be revised

based on the number of FTE pupils actually enrolled at the School as determined at the October 1 count and included in the official membership count, and to reflect any change in PPR, positive or negative, so that the overall funding for the year is equal to PPR provided for in the District and not otherwise deducted. Funding may also be adjusted for any services that are not part of annual purchased services and are provided by the District in response to the School's request, in writing prior to providing such services. In addition, to the extent that the District experiences any reduction or increase in state equalization support by a legislative rescission or other action, proportionate reductions or increases shall be made to the School's funding.

- 7.3 Budget. On or before May 30 of each year, the School shall submit to the District its projected budget report for the following school year for District review for statutory compliance and compliance with the terms and conditions of this Contract. The final budget shall be prepared in accordance with the state-mandated chart of accounts. The budget as approved by the School's Board and any subsequent approved revisions shall be submitted to the District along with the School's Board resolution approving the budget or budget revision by June 30.
- 7.4 Enrollment Projections. The School shall provide the District with its latest and best estimates of its anticipated enrollment for the next school year by May 30, along with any discussion or plans under consideration for any increase or decrease of enrollment greater than ten percent (10%) of the official membership of the current school year. It is agreed upon by the Parties that the purpose of this Section is to provide information to allow the District to prepare its future budgets, and that any information provided under this Section shall not be used by the District for the purpose of restricting the School's enrollment or otherwise inhibiting the growth of the School. The School's enrollment will not exceed the buildings' capacities at each facility.
- 7.5 TABOR Reserve. The School shall establish and then maintain its own TABOR reserve.
- 7.6 Contracting. The school shall not extend the faith and credit of the District to any third person or entity. The School acknowledges and agrees that it has no authority to enter into a contract that would bind the District, and the School's authority to enter into a contract is limited by the same provisions of law that apply to the District. Unless otherwise agreed in writing by the District, each contract or legal relationship entered into by the School shall include the following provisions:

- A. No Agency. The contractor acknowledges that the School is not an agent of the District, and accordingly contractor expressly releases the District from any and all liability under this agreement.
  - B. Annual Appropriation. Any financial obligations of the School arising out of this agreement are subject to annual appropriation by the School's Board and the District.
- 7.7 Annual Audit and Trial Balance. The School shall undergo an independent financial audit conducted in accordance with governmental accounting standards performed by a certified public accountant each fiscal year. The final bound audit report together with the management letter shall be provided to the District in written form by no later than October 15 of each year. The School shall pay for the audit. In addition, the School shall transmit the final trial balance and the final financial statements to the District by September 30 using the Department's chart of accounts. If the final trial balance, the final financial statements or the final audit is not received by the dates required in this Contract each year, it shall be considered a material breach of contract and the School shall have ten (10) business days, or such other time as the Parties may agree to cure such breach.
- 7.8 Quarterly Reporting. The School shall prepare quarterly financial reports for the District in compliance with C.R.S. § 22-45-102 (1) (b). Such reports shall be submitted to the District no later than forty-five (45) days following the end of each quarter except that all fourth quarter and year-end reports shall be submitted with the annual independent financial audit.
- 7.9 No Commingling. Assets, funds, liabilities and financial records of the School shall be kept separate from assets, funds, liabilities, and financial records of any other person, entity, or organization.
- 7.10 Encumbrances and Borrowing. Except as set forth in this section, during the term of the Contract, the School shall not collateralize or encumber any of its assets without the written permission of the District. Any loans or borrowing of funds, either separately or in the aggregate during any fiscal year that are in excess of five percent (5%) of the School's budget shall be subject to prior District approval.
- 7.11 Loans. No loans may be made by the School to any person or entity for any purpose without District approval.
- 8.0 Personnel.
- 8.1 Employee Matters. The Employee Section of the Application concerning employment matters and specific personnel policies are accepted to the extent

specifically described below and subject to the following conditions and other provisions of the Contract:

A. Hiring of Personnel. The District agrees that the School may select its personnel directly without prior authorization from the District, subject to compliance with all federal and state laws, rules, and regulations, including, without limitation, requirements concerning the recruitment of applicants, the use of background and criminal checks, and certification and/or licensure requirements for teachers and the principal, except as may be waived by the State Board. The School agrees and understands that it has a duty to comply with the applicable requirements of the No Child Left Behind Act, 20 U.S.C. § 6301 *et seq.* and implementing regulations, to the extent of continued applicability to the State of Colorado or the District. If necessary and appropriate, the District shall endorse applications for alternative certification or licensing by the School's teachers; provided, however, that the School shall be responsible for any costs associated with such application and approval process. The School's Board may terminate the employment of any personnel for any reason deemed sufficient by the School subject to compliance with all federal and state laws, rules, and regulations for which a waiver has not been obtained from the State Board.

B. Employee Compensation, Evaluation, and Discipline. The District acknowledges that the School has established its own Personnel and Employee policies. The School agrees to maintain its policies concerning the hiring, compensation, evaluation, promotion, discipline, and termination of employees at the School, subject to compliance with all applicable state rules and regulations. The School will at all times have personnel policies in effect that are in compliance with applicable law.

The School shall notify the District and other appropriate authorities, in accordance with state law, of discipline of employees of the School arising from misconduct or behavior that may have resulted in harm to students to others or that constituted violations of law or policy. The School shall be responsible for reviewing weekly CBI reports provided by the Department and for communicating with the District and parents of students as necessary.

C. Benefits. The School is entitled to provide its own benefits program to its employees.

D. PERA Membership. Employees of the School shall be members of the Public Employees' Retirement Association ("PERA") and subject to its requirements. The School shall be responsible for the cost of the



District's/employer's respective share of any required contributions. The School will budget a proportionate share of its total payroll for PERA contributions as required by state law. If this amount changes in subsequent years, the School's budget will be adjusted to reflect the change. The School further recognizes that under state law, only public employers assigned to the municipal division may terminate their association with PERA, and that the District and the School are in the school division.

- E. Employee Welfare, Safety, and Training. Unless and until the School's Board adopts its own set of written policies that are approved by the District, the School shall comply with all District Board approved policies concerning employee welfare, safety, and training. All policies shall comply with applicable federal and state laws, concerning employee welfare, safety, and health issues, including, without limitation, the requirements of federal law for a drug-free workplace, and statutorily required training concerning the Child Protection Act of 1987, C.R.S. §§ 19-3-301 *et seq.* Upon request, the School will provide a copy of its policies with respect to Employee Welfare, Safety, and Training.
- F. Employee Records. Unless and until the School's Board adopts its own set of written policies that are consistent with law, the School shall comply with all District Board- approved policies concerning employee records. All policies must comply with all applicable federal and state laws, concerning the maintenance and disclosure of employee records, including, without limitation, the requirements of the Colorado Public Records Law, § 24-72-201 *et seq.*
- G. Employee Conflicts of Interest. All employees at the School shall comply with the Board's policy and regulation, or the School's replacement policy approved by the District and applicable state law, concerning employee actual and potential conflicts of interest.

## 9.0 Service Contracts with the District

- 9.1 Direct Costs. The School and the District agree to negotiate payment to the District of the School's share of the direct costs incurred by the District for charter schools pursuant to C.R.S. § 22-30.5-112(2) (a.9) and (b.5). Such negotiations shall be concluded by June 15 of the year preceding that to which the costs apply.
- 9.2 District Services. Except as is set forth in Attachment 5, which provides for the allocation of costs of special education services, and Attachment 8, Purchased Services, any subsequent written agreement between the School and the District, or as may be required by law, the School shall not be entitled to the use of or

access to District services, supplies, or facilities. Such agreements by the District to provide services or support to the School shall be negotiated annually and subject to all terms and conditions of this Contract, except as may be otherwise agreed to in writing.

- 9.3 Charter School Liaison. The School agrees that it will pay its pro-rata share of the District's cost for charter school liaison services based upon the annual October funded pupil count of students enrolled in the School as a percentage of the funded pupil count of the District.
- 9.4 In accordance with state statute, the District shall reconcile, using account codes, amounts withheld for purchased services to the actual cost of such services and provide information to the School including computations of central administrative overhead costs using account codes.

#### 10.0 Facilities

- 10.1 Location. During the term of this Contract, the School and any company on behalf of the School shall not establish any educational programs at any location other than at 2500 W. 18<sup>th</sup> Ave. and 2727 W. 18<sup>th</sup> Ave. Pueblo Colorado, 81003. The School may move its location only with the written approval of the District. Any requested change in location shall be consistent with the Application and the School's mission. The School shall be responsible for the construction/renovation and maintenance of any facilities owned or leased by it. The specific responsibility is identified in the Lease Agreement, Attachment 7.
- 10.2 Use of District Facilities. The School may not use District facilities for activities and events without prior written consent from the District. It is understood by both parties that the District is not obligated to provide use of District facilities other than those that are described in Attachment 7, Lease Agreement.
- 10.3 Impracticability of Use. If use by the School of a facility is rendered impracticable by any cause whatsoever, or if the funds necessary to construct/renovate or upgrade a facility cannot be secured, the District shall not be obligated to provide an alternative facility for use by the School to operate the School.
- 10.4 Long-Range Facility Needs. When the District considers the submittal of ballot issues to its voters regarding future tax increases for either bonded indebtedness or capital construction, it shall invite the School to participate in discussions regarding such possible ballot issues to also meet the long-range capital facility needs of the School.

#### 11.0 Charter Renewal, Revocation and School-Initiated Closure

another mutually agreed upon date. The District shall supervise and have authority to conduct the winding up of the business and affairs of the School; provided, however, that in doing so, the District does not assume any liability incurred by the School beyond the funds allocated to it by the District under this contract. Should the School cease operations for whatever reason, the District maintains the right to continue the School's operations as a district facility until the end of the school year. The District's authority hereunder shall include, but not be limited to:

A. Disposition of Assets. The return and/or disposition of any assets acquired by purchase or donation by the School during the time of its existence, subject to the limitations of Section 11.7 below, and

B. Reassignment. Reassignment of students to different schools.

School personnel and its charter school governing board shall cooperate fully with the winding up of the affairs of the School, including convening meetings with parents at the District's request and counseling with students to facilitate appropriate reassignment.

11.7 Return of Property. In the event of termination or dissolution, all property owned by the School that was purchased in whole or in part with funding provided by the District, including, but not limited to, real property, shall be returned to and shall remain the property of the District. Notwithstanding the above, the District shall not have the right to retain property leased by the School from third parties, unless the District chooses to comply with the terms of that lease. All non-consumable grants, gifts, and donations or assets purchased from these revenue sources shall be considered the property of the School unless otherwise identified by the donor in writing. At the present time, the School does not operate a preschool program. Should the School later operate a pre-school, assets purchased exclusively with tuition paid by parents for the pre-school program operated by or in conjunction with the School shall not be subject to this paragraph. Assets not purchased with public funding provided by the District may be donated to another mutually agreeable not-for-profit organization.

## 12.0 General Provisions

12.1 Order of Precedence. In the events of any conflict among the organic documents and practices defining this relationship, it is agreed that this Contract shall take precedence over policies of either party and the Application; applicable policies of the Board that have not been waived shall take precedence over policies and practices of the School and the Application; and, policies of the School and

mutually-acceptable practices developed during the terms of the charter contract shall take precedence over the Application.

- 12.2 Amendments. No amendment to this Contract shall be valid unless ratified in writing by the Board and the School's governing body and executed by authorized representatives of the Parties.
- 12.3 Merger. This Contract contains all terms, conditions, and understandings of the Parties relating to its subject matter. All prior representations, understandings, and discussions are merged herein and superseded by this Contract. The Memorandum of Understanding, which is attached hereto, is incorporated herein.
- 12.4 Assignment. Neither party to this Contract shall assign or attempt to assign any rights, benefits, or obligations accruing to the party under this Contract unless the other party agrees in writing to any such assignment. Such consent shall not be unreasonably withheld, conditioned or delayed.
- 12.5 Governing Law and Enforceability. This Contract shall be governed and construed according to the Constitution and laws of the State of Colorado. If any provision of this Contract or any application of this Contract to the School is found contrary to law, such provision or application shall have effect only to the extent permitted by law. Either party may revoke this Contract if a material provision is declared unlawful or unenforceable by any court of competent jurisdiction or the Parties do not successfully negotiate a replacement provision. The Parties agree, upon the request of either, to meet and discuss in good faith any material changes in law that may significantly impact their relationship.
- 12.6 No Third-Party Beneficiary. The enforcement of the terms and conditions of this Contract and all rights of action relating to such enforcement shall be strictly reserved to the District. Nothing contained in this Contract shall give or allow any claim or right of action whatsoever by any other or third person. It is the express intent of the Parties to this Contract that any person receiving services or benefits hereunder shall be deemed an incidental beneficiary only.
- 12.7 No Waiver. The Parties agree that no assent, express or implied, to any breach by either of them of any one or more of the provisions of this Contract shall constitute a waiver of any other breach.
- 12.8 Notice. Any notice required, or permitted, under this Contract, shall be in writing and shall be effective upon personal delivery (subject to verification of service or acknowledgement of receipt) or three (3) days after mailing when sent by certified mail, postage prepaid to the Administrator for notice to the School, or to the designated District representative for notice to the District, at the addresses set

forth below. Either party may change the address for notice by giving written notice to the other party.

*Notice to the District shall be sent to:*

Superintendent  
Pueblo City Schools  
315 W. 11<sup>th</sup> Street  
Pueblo, Colorado 81003

*Notice to the School shall be sent to:*

Executive Director  
Chavez/Huerta K-12 Preparatory Academy  
2727 W. 18<sup>th</sup> Street  
Pueblo, Colorado 81003

- 12.9 Severability. If any provision of this Contract is determined to be unenforceable or invalid for any reason, the remainder of the Contract shall remain in full force and effect, unless otherwise terminated by one or both of the parties in accordance with the terms contained herein.
- 12.10 Interpretation. In the event of any disagreement or conflict concerning the interpretation or enforcement of this Contract, the Application, and Board of Education policies, procedures, regulations, or other requirements, unless waived, compliance by the School shall be required and measured in the same manner as may be applied an expected by the District of otherwise-comparable District schools.

This Charter School Contract has been approved by the District and the School. Its effective date is set out at the beginning of the Contract.

**PUEBLO SCHOOL DISTRICT No. 60 a/k/a  
PUEBLO CITY SCHOOLS**

By: Phyllis K. Sanchez  
Phyllis K. Sanchez,  
President, Board of Education

Approved as to form:

Richard Bump  
Richard Bump  
Caplan and Earnest LLC  
Attorneys for Pueblo City Schools

**CHAVEZ/HUERTA K-12 PREPARATORY  
ACADEMY**

By: Steven L. Sujillo  
President, Board of Directors

Approved as to form:

Douglas Gradisar  
Douglas Gradisar  
Gradisar, Frechter, Ripperger & Roth  
Attorneys for the School

By: Richard Duran  
Executive Director, Chavez/Huerta

**Attachment 1 (Amended)  
Non-Automatic Waivers**

All waivers designated with an asterisk (“\*”) below have been previously approved by Pueblo School District No. 60, the Charter School’s Governing Board, and the Colorado State Board of Education, and have been included in the prior Charter School Contract. Those are extended with the Renewal Contract and do not require a restatement of the rationale and replacement plan. Nevertheless, the rationale and replacement plan has been included for C.R.S. § 22-63-201. Except for Title I teachers, the ESSA eliminated the “highly qualified” requirement and allows charters to waive teacher licensure.

Additionally, C.R.S. § 22-32-109 (1)(b) and C.R.S. § 22-32-110 (1)(y), the last two statutes listed, were previously included in the prior Charter School Contract as automatic waivers. They are included in this attachment because, although approved by the District and the School in June, 2017, action by the State Board will be after July 1, 2017, the date when these two statutes were no longer automatic. See, H.B. 17-1375 page 16.

**REQUEST FOR WAIVER OF COLORADO REVISED STATUTES**

**CHAVEZ/HUERTA K-12 PREPARATORY ACADEMY**

| <b>STATUTE</b>             | <b>DESCRIPTION</b>   |
|----------------------------|--|
| *C.R.S. § 22-9-106         | Certified Personnel Evaluations Local Boards of Education duties. This section requires school districts to have written systems and related procedures to evaluate the performance of school district certificated personnel. |
| C.R.S. § 22-32-109 (1) (z) | Requires the Board of Education to provide in-service training on the Child Protection Act of 1987. This responsibility is delegated to Chavez/Huerta K-12 Preparatory Academy.  |

**RATIONALE AND REPLACEMENT PLAN:**

The School, rather than the District, will provide this mandatory training annually. The School will reference materials and guidelines developed by the Colorado Department of Education and the Colorado Department of Human Services.

|   |   |
|---|---|
| *C.R.S. § 22-32-109 (1) (n) (I)<br>and 1 (n) (II) (B) | Board of Education Specific Duties—Board’s duty to prescribe length of school year and hours of teacher-pupil instruction and contact, and to adopt a calendar. |
|---|---|

C.R.S. § 22-33-105

Suspensions, Expulsion and Denial of Admission. Chavez/Huerta K-12 Preparatory Academy is delegated the authority to suspend and expel students subject to appeal to the District's Board of Education pursuant to the Charter School Contract.

**RATIONALE AND REPLACEMENT PLAN:**

The School, rather than the District, is in a better position to deal with the day-to-day student disciplinary issues and to determine when a student has engaged in conduct that warrants suspension or expulsion under Colorado law and School policies. As provided in the Charter School Contract, all suspensions and expulsions, if any, will be in strict accordance with applicable laws, School policies, and due process procedures. Parents and legal guardians retain the right to appeal the expulsion of their student to the Board of Education.

\*C.R.S. § 22-32-109.1

Board of Education Specific Duties—Safe Schools.

\*C.R.S. § 22-63-202

Contract to be in writing/damage provision. Requires written employment contract with teachers, including a damages provision. Provides for temporary suspension of employment and cancellation of contract.

\*C.R.S. § 22-63-203

Probationary Teachers—Renewal and nonrenewal of employment contract (substantive waivers). Provides for contract with probationary teachers and allows for non-renewal and renewal of employment contract.

\*C.R.S. § 22-63-206

Transfer—compensation. Permits transfer of teachers between schools upon recommendation of District's Chief Administrative Officer.

\*C.R.S. § 22-32-109.7

Board of Education must engage in background check to ensure no conviction, or pleas of nolo contendere, or no deferred sentence or deferred prosecution to felony or misdemeanor crime involving sexual behavior or unlawful behavior involving a child.

\*C.R.S. § 22-32-109.8

Board of Education—Specific duties/employment of personnel. Requires Board of Education to make certain inquiries and background checks prior to hiring applicants; requires Board of Education to investigate allegations of



child or sexual abuse; requires applicant to submit fingerprints and certify no convictions; provides for District to require certified personnel to submit fingerprints in certain instances.

\*C.R.S. § 22-32-109.9

Applications selected for non-certified positions—submittal of forms and fingerprints—prohibition against employing persons failing to comply.

\*C.R.S. § 22-63-201

Employment—Certification Required. Prohibits Board of Education from entering into an employment contract with a person who does not hold a teacher's certificate or letter of authorization.

**RATIONALE:**

The School will be solely responsible for selecting, supervising, disciplining, determining compensation for and terminating its employees. Selection of personnel is subject to compliance with all applicable federal and state rules and regulations including any requirements under the Every Student Succeeds Act (ESSA).

**REPLACEMENT PLAN:**

The School will, where possible, employ licensed teachers and school administrators. However, it may be beneficial for the School to be able to hire teachers without a license and who possess unique background and/or skills, or fill a need for the School. The School may require such persons to obtain a license within a designated period of time. Although "highly qualified" is no longer a federal requirement, the School's intent is for all teachers to have, at minimum, a BA and either 24 or more credit hours in the subject matter or a passing score on a state-approved content examination in the relevant subject area. The School will encourage and explore ways to incentivize teachers to meet 36 or more credit hours in the subject matter and the Colorado state ESSA plan, and acknowledges that it will nevertheless have to report the number of teachers "in-field" and "out-of-field."

\*C.R.S. § 22-32-109 (1) (n) (II) (A) Board of Education—specific duties. Restricts parent/teacher conferences and staff in-service programs to 24 hours per school year.

\*C.R.S. § 22-32-119

Kindergarten.

C.R.S. § 22-32-109 (1)(b)

Local Board duties concerning competitive bidding.

**RATIONALE AND REPLACEMENT PLAN:**

The School, rather than the District, is in the best position to know what goods and services are needed and which vendors and providers may be available. The School will be responsible for establishing procedures for competitive bidding, as required by applicable law, and for selecting successful bidders on projects/contracts. The School will ensure the process is open, transparent, and in compliance with all applicable rules and regulations.

C.R.S. § 22-32-110 (1)(y)

Local Board powers—Accepting gifts, donations, grants.

**RATIONALE AND REPLACEMENT PLAN:**

The School, rather than the District, will be responsible for determining whether or not to accept gifts, donations and grants. The School will ensure the process is an open process in compliance with all applicable rules and regulations.

PUEBLO SCHOOL DISTRICT NO. 60

By: Phyllis K. Sanchez 8-10-17  
Phyllis K. Sanchez, Board President Date

CHAVEZ/HUERA K-12 PREPARATORY ACADEMY

By: Steven L. Trujillo 8/15/17  
Steven Trujillo, Board President Date

## Attachment 2

### Automatic Waivers

#### State Statute Citation Description

|                                     |   |
|-------------------------------------|---|
| <i>22-32-109(1)(b),<br/>C.R.S.</i>  | Local board duties concerning competitive bidding                                 |
| <i>22-32-109(1)(f),<br/>C.R.S.</i>  | Local board duties concerning selection of staff and pay                          |
| <i>22-32-109(1)(t),<br/>C.R.S.</i>  | Determine educational program and prescribe textbooks                             |
| <i>22-32-110(1)(h),<br/>C.R.S.</i>  | Local board powers-Terminate employment of personnel                              |
| <i>22-32-110(1)(i),<br/>C.R.S.</i>  | Local board duties-Reimburse employees for expenses                               |
| <i>22-32-110(1)(j),<br/>C.R.S.</i>  | Local board powers-Procure life, health, or accident insurance                    |
| <i>22-32-110(1)(k),<br/>C.R.S.</i>  | Local board powers-Policies relating the in-service training and official conduct |
| <i>22-32-110(1)(y),<br/>C.R.S.</i>  | Local board powers-Accepting gifts, donations, and grants                         |
| <i>22-32-110(1)(ee),<br/>C.R.S.</i> | Local board powers-Employ teachers' aides and other non-certificated personnel    |
| <i>22-32-126, C.R.S.</i>            | Employment and authority of principals  |
| <i>22-33-104(4)</i>                 | Compulsory school attendance-Attendance policies and excused absences             |
| <i>22-63-301, C.R.S.</i>            | Teacher Employment Act- Grounds for dismissal                                     |
| <i>22-63-302, C.R.S.</i>            | Teacher Employment Act-Procedures for dismissal of teachers                       |
| <i>22-63-401, C.R.S.</i>            | Teacher Employment Act-Teachers subject to adopted salary schedule                |
| <i>22-63-402, C.R.S.</i>            | Teacher Employment Act-Certificate required to pay teachers                       |
| <i>22-63-403, C.R.S.</i>            | Teacher Employment Act-Describes payment of salaries                              |
| <i>22-1-112, C.R.S.</i>             | School Year-National Holidays   |

## Attachment 4 Enrollment Policy

The Chávez/Huerta K-12 Preparatory Academy includes kindergarten through 12<sup>th</sup> grade. The Chávez/Huerta K-12 Preparatory Academy is committed to the premise that its school population will represent the educational community of Pueblo in terms of gender, ethnicity and economic status. The Chávez/Huerta K-12 Preparatory Academy is committed to increasing educational opportunities for its students. Recruitment will be used in the effort to maintain a balanced and diverse student body. Students will be admitted on a first-come, first-served basis. No student will be denied admission because of academic performance. The Chávez/Huerta K-12 Preparatory Academy will comply with all Pueblo City Schools Board of Education-approved policies and regulations and the requirements of federal and state law concerning the education of children with disabilities. More specific commitments related to students with disabilities are provided in Attachment 5.

The Chávez/Huerta K-12 Preparatory Academy will use a waiting list format for enrollment should enrollment reach its stated capacity. The enrollment period will be announced through the communication procedures at the Chávez/Huerta K-12 Preparatory Academy. The school may also choose to advertise via any other means for new students.

As completed enrollment packets are turned in, they will be date stamped to indicate placement on the list. Enrollment packets will include all information required by Pueblo City Schools and the State of Colorado as well as a record of the student's age, copy of last report card, a copy of immunization records, information regarding IEP/504/GT or other educational plans.

Special consideration will be made for siblings of current students, current Chávez/Huerta K-12 Preparatory Academy staff family members and families with multiple children applying to the Chávez/Huerta K-12 Preparatory Academy.

Students/parents who enroll in the School may remain enrolled through the highest grade served by the School absent expulsion, graduation, court-ordered placement, IEP placement, or failure to register and attend the following year.

If an accepted student does not attend the first day of school without communication from the family, the Chávez/Huerta K-12 Preparatory Academy will make every effort to contact the family to determine the family's intentions. If after a reasonable period of time (not longer than three days) there is no communication from the family, the slot will be offered to the next student on the waiting list, continuing this process until the slot is filled or the waiting list is exhausted. Students wishing to transfer from the School to another school within the Pueblo

City Schools may do so only if accepted by the District through the Pueblo City Schools' Within-District administrative transfer procedures.

The School will follow the procedures used by Pueblo City Schools for the transfer of student records to and from the Chávez/Huerta K-12 Preparatory Academy. Students who exit the Chávez/Huerta K-12 Preparatory Academy before the end of the school year will be required to complete an Exit Form.

The enrollment policies of the Chávez/Huerta K-12 Preparatory Academy are:

- ∞ Non-religious
- ∞ Non-sectarian
- ∞ Non-discriminatory against any student on the basis of race, creed, color, sex, sexual orientation, gender identity/expression, national origin, religion, ancestry, disability or need for special education services.

Enrollment shall be open to any child who resides within the State of Colorado. Students will be considered for admission into the Chávez/Huerta K-12 Preparatory Academy on a first-come, first-served basis and without regard to race, creed, color, sex, sexual orientation, national origin, religion, ancestry, or disability.

**Attachment 5**  
**Service Agreement for Exceptional Student Services**

Chavez/Huerta K-12 Preparatory Academy ("School") shall provide federally required special education and related services at the Chavez/Huerta K-12 Preparatory Academy ("School") as set forth in the Charter School Contract ("Contract").

The School shall receive its applicable share of all federal and state per student special education funding for students enrolled at the School on the applicable official count date, which is typically December 1 of the prior school year. The District will disburse these special education funds within thirty (30) days of receipt. The District may retain on a monthly basis amounts for the pro-rata per student costs associated with the office of the District's Director of Exceptional Student Services. The School will pay the District or the District may retain the costs of support services and defense of claims, as provided in the Contract and Attachment 8, within thirty (30) days after the date the services are performed or the costs are incurred.

The District will request IDEA reimbursement funds from the Colorado Department of Education in a timely manner following receipt from the School of all supporting documents necessary to process the request and in no event later than the next request for funds filed with the Department by the District. The District will distribute all of the School's IDEA funds received from the Department to the School within thirty (30) days of receiving the funds. In the case of all other funds to which the School is entitled, the District shall disburse to the School the funds within thirty (30) days of their receipt unless otherwise provided in the Contract and in all cases subject to the end-of-year reconciliation required by the Charter Schools Act. Neither party shall be deemed to have waived its right to reimbursement of costs or to the distribution of payments under this Contract by its failure to meet these timelines.

Special Education staff hired by the School shall be notified of District ESS Department meetings and professional development in a timely fashion and shall be encouraged and allowed to participate in such meetings and professional development offered by the District, as provided in the Contract. If the School's Director of ESS believes a District-required training is not appropriate or of reasonable value to the School, the Director of Exceptional Student Services will consult in good faith on this issue; provided, however, the Director's decision will be final and not subject to dispute resolution under the Contract.

## NUTRITION SERVICE PROGRAM AGREEMENT

THIS NUTRITION SERVICE PROGRAM AGREEMENT ("Agreement") is made and entered into by and between Pueblo School District 60 a/k/a Pueblo City Schools ("District" or "Authorizer") and Chavez / Huerta K-12 Preparatory Academy, a public charter school organized as a Colorado nonprofit corporation ("CHPA" or "School") (collectively, the "Parties").

In consideration of the covenants and promises described herein, the Parties agree as follows:

1. Term. Subject to earlier termination as provided in Paragraph 6 below, this Agreement shall be for a period of five (5) years, effective as of the date executed by both parties through June 30, 2022, provided that this Agreement shall be terminated automatically if the charter contract between the Parties terminates earlier.
2. District Nutrition Services. The District shall provide a nutrition service program to students enrolled at the School during each regular school day according to the standards set forth by the United States Department of Agriculture ("USDA") and the Colorado Department of Education ("CDE") for child nutrition programs. These nutrition services shall be provided according to the following terms and conditions and in the same manner as Nutrition Services operates nutrition service programs for the District's schools:
  - a. The District's Director of Nutrition Services or designee shall be provided a key or access card allowing access to the School's kitchen outside standard school hours for the period of August 1 through June 30 of each school year.
  - b. The District shall purchase all food and paper products necessary to provide meals which meet applicable legal requirements and District standards, and shall bear all personnel and labor costs necessary to adequately staff the School's kitchen. The District's responsibilities herein shall be limited to the acquisition, preparation and serving of food, as well as the collection of payments and the preparation of standard District financial reports concerning the operation of the program.
  - c. The School shall charge District approved meal prices. The Parties agree that the District may increase meal costs at its discretion at any time during this Agreement upon providing thirty (30) days' prior written notice, and provided the District's Board of Education has approved the increase.
  - d. The District shall purchase the nutrition services computer software, and such upgrades, modifications or new software packages as necessary during the term of this Agreement in order to maintain compatibility with nutrition services software operated by the District. The District shall provide a computer compatible with those maintained by the District's nutrition services department for use/operation of the software.
  - e. The District shall be responsible for all costs associated with the nutrition service program to be provided by the District pursuant to this Agreement. The District shall receive and retain

all meal revenues, as well as all federal and state reimbursements generated by the operation of the nutrition service program at the School.

- f. Existing equipment in the School's kitchen may be replaced by the District if it is not repairable.
- g. The District agrees that equipment improvements shall be prioritized with the needs of other schools. Decisions to purchase equipment improvements shall be made by the District's Director of Nutrition Services on the same basis as other schools, that is, prioritized by need and when funds become available. The School acknowledges and agrees that any equipment purchased with Nutrition Services funds will remain the property of the District's Nutrition Services Department.

3. School's Obligations.

- a. The School shall provide and maintain a kitchen space and cafeteria in a clean, healthy and safe condition, and which meet all applicable code and safety requirements, as well as all federal, state and local laws and regulations applicable to the nutrition service program at the School.
- b. The School shall maintain a satisfactory Pueblo City County Health Department inspection rating. All calls from Pueblo City County Health Department regarding the kitchen and the nutrition service program shall be referred to the District's Director of Nutrition Services.
- c. The School shall participate in federal, state and external audits.
- d. The School shall post the license to operate the kitchen in the School's kitchen.
- e. The School shall provide all wiring and communications connections necessary for the computer described in Section 2(e), to have ongoing effective Internet access to the District. The School must also provide a VPN connection to enable communication between the School and the District's Nutrition Service Office.
- f. The School shall be solely responsible for maintenance of the cafeteria space, including but not limited to setting up/tearing down tables, removing trash, supervision of students within the area where meals are served and the cleaning and maintenance of the cafeteria area.
- g. School students are required to pre-pay for lunch. Payments may be made daily in the school cafeteria prior to the lunch period or, if available, on-line at [www.pueblacityschools.us](http://www.pueblacityschools.us). The District will give a daily list to the School of those students who have a zero or negative balance.
- h. Meals will not be provided to students or staff without payment. If the School chooses to create a system allowing for the charging of meals, it is the responsibility of the School to administer the charges and payments and reimburse the District for the charges incurred at



the end of each month. The responsibility for collecting payment for meals charged is the sole responsibility of the School. The District reserves the right to make adjustments at the end of the school year prior to the end of the fiscal year to the School's funding, as provided for in the charter contract, as a result of any unpaid balances that exist for any meals charged and not paid.

4. **Free and Reduced Meal Eligibility.** The School shall make every effort to assist the District with the distribution of applications for free and reduced price meals. The School shall make diligent efforts to encourage parents to complete the applications and return them to the kitchen manager at the School or to the District's Director of Nutrition Services. School personnel involved in collection of completed applications shall maintain the confidentiality of all such information except as disclosure to third parties is expressly authorized in writing by the District's Director of Nutrition Services. Should the elementary and middle school choose to participate in the federally funded classroom breakfast program, the costs described in Section 3 shall be renegotiated.
5. **Insurance.** The School shall not be responsible for any insurance related to Food Service Operations. The District shall be responsible for all insurance related to Food Service Operations, including but not limited to liability, workers' compensation, and errors and omissions insurance. To the extent permitted by law but without waiving any of the provisions of the Colorado Governmental Immunity Act, the District shall indemnify the School against any and all property damage or injuries arising from Food Service Operations.
6. **Termination.**
  - a. Either party may terminate this Agreement for any reason with written notice provided at least ninety (90) days before termination. If either party terminates this Agreement without ninety (90) days' notice, it shall pay the other party actual damages or expenses incurred as a result of the late termination.
  - b. Either party may terminate this Agreement at any time for cause upon providing thirty (30) days' prior written notice to the other party. "Cause" for termination shall include, but not be limited to, a breach by either party of a material term of this Agreement.
7. **Authority.** The undersigned represent and warrant that they have discussed the terms of this Agreement with their respective governing boards, that such boards have consented to the terms of this Agreement, and that they are authorized to execute this Agreement as a binding legal agreement between the District and the School.


[Signature page follows]

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the 27<sup>th</sup> day of June, 2017.

**PUEBLO SCHOOL DISTRICT No. 60 a/k/a  
PUEBLO CITY SCHOOLS**

By: \_\_\_\_\_  
Phyllis K. Sanchez  
President, Board of Education

Approved as to form:

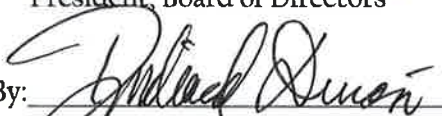
  
Richard Bump  
Caplan and Earnest LLC  
Attorneys for Pueblo City Schools

**CHAVEZ/HUERTA K-12 PREPARATORY  
ACADEMY**

By:   
Steven L. Trujillo  
President, Board of Directors

Approved as to form:

  
Douglas Gradisar  
Gradisar, Trechter, Ripperger & Roth  
Attorneys for the School

By:   
Dr. Richard Duran  
Executive Director, Chavez/Huerta

Attachment 7  
**LEASE AGREEMENT**

Te Te  
Te Te Te

THIS LEASE is hereby made and entered into by and between Pueblo School District No. 60, a/k/a Pueblo City Schools (the "District"), and Chavez/Huerta K-12 Preparatory Academy ("Tenant").

**RECITALS:**

WHEREAS, the District, in its capacity as Authorizer, and Tenant are parties to a Charter School Contract dated June 27, 2017 (the "Charter Contract"), which governs the Tenant's operation as a charter school in the District; and

WHEREAS, the District is the owner of certain real property situated in Pueblo, Colorado, at 2500 West 18th Street, which property is described in Exhibit "A" attached hereto (hereinafter the "School"); and

WHEREAS, the District has determined it to be in the best interest of the District and the Tenant to establish a formal lease for the Tenant to occupy the School to facilitate the Tenant's purpose as a charter school.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**I. BASIC LEASE PROVISIONS**

1.1. Terms and Conditions. The District grants to Tenant the right to and Tenant shall be permitted to utilize the School pursuant to the terms, conditions and provisions of this Lease. Tenant shall have exclusive use of the School.

1.2. Length of Term and Commencement Date. The term of this Lease shall commence on July 1, 2017 (the "Commencement Date") and shall extend until June 30, 2022 (the "Term"), unless sooner terminated pursuant to the provisions of this Lease. Upon expiration of the Term, or extended Term as set forth below, Tenant covenants that it will not seek payment or reimbursement from the District for any costs and expenses incurred for any maintenance or repairs. This would include, but would not be limited to: interior and exterior repairs, replacements and necessary maintenance of the School.

1.3. Option to Renew. Provided this Lease has not been otherwise terminated, Tenant is not in default under the terms of this Lease, and Tenant remains a charter school of the District, the parties shall have the mutual option of extending this Lease for a term coinciding with the first renewal of the Tenant's charter (not to exceed an additional five (5) years), under the same terms and conditions of this Lease. Tenant shall provide notice of its intent to exercise its options by delivering written notice to the District at least ninety (90) days but not more than one hundred fifty (150) days prior to expiration of the then current term. Failure of Tenant to duly and timely exercise its option to renew this Lease shall be deemed a waiver of Tenant's right to said option and all further options. The District shall provide Tenant with a written response within thirty (30) days of receipt of Tenant's notice, either extending the current term by amendment to this Lease or declining to extend the Term, in which event the Lease shall

expire as scheduled. At minimum, it shall be a requirement for renewal of the Lease that the charter for the School has been renewed by the District. Failure of the District to duly and timely respond to Tenant's notice of intent to extend shall be deemed an approval of the renewal Term.

1.4. Acceptance by Tenant. Tenant certifies that Tenant and District have inspected the School and that Tenant accepts same "As Is", in its existing condition at the time of the inspection and its existing condition as of the Commencement Date of this Lease, together with all defects, latent or patent, if any, and subject to all easements, encumbrances and restrictions and matters of record. Tenant further acknowledges that the District has made no warranties or representations of any nature whatsoever regarding the School, including the physical condition thereof or of any improvements located therein. The District shall not be required to perform any repair work, alterations, or remodeling of the School as a condition of this or as a condition of any subsequent renewal of the Lease.

1.5. Inability to Operate. In the event Tenant is unable to obtain or maintain in full force and effect through no fault of Tenant, any permit, license or other governmental approval necessary or required for continued operation of the School, District or Tenant shall have the right to terminate this Lease upon thirty (30) days prior written notice to the other party. Thereafter the parties shall be relieved of all further obligations under this Lease arising subsequent to the date of such termination.

## 2. RENT

Consistent with Colo. Rev. Stat. § 22-30.5-104(7)(c), the District shall not charge a rental or leasing fee for the Tenant's use of the School during the term of this Lease or during the first renewal period.

## 3. ALTERATIONS TO THE SCHOOL

### 3.1. Tenant's Work.

a. Alterations. Tenant shall not at any time construct or make any improvements, additions, modifications or alterations to the School without the prior written consent of District, whose consent shall not be unreasonably withheld or delayed. In the event Tenant proposes to construct any alteration, improvement, or modification of the School, Tenant shall submit to District conceptual plans and specifications for such proposed alterations (the "Alterations"). In no case shall the Tenant make any Alteration to the facility that would in any manner hinder the enrollment of students with disabilities. Tenant will not be required to make Alterations that would increase the number of students with disabilities who are enrolled or to create additional facilities to accommodate a wider range of students with disabilities. In the event District approves requested Alterations, Tenant shall prepare and submit to District for approval detailed plans and otherwise comply with the terms of this Section 3. All Alterations, including improvements, additions and modifications constructed by Tenant shall be deemed a part of the School, and, prior to any such proposed changes to the facility, shall be identified as either temporary or permanent. Upon expiration or earlier termination of this Lease, the District shall identify those Alterations, including improvements, additions and modifications previously identified as temporary that need to be removed, restored or repaired by the Tenant.

b. Governmental Approvals. Tenant shall be responsible for permitting and managing any project initiated and paid for by Tenant to ensure safe and proper execution of the work. Tenant shall obtain, at Tenant's sole cost and expense, all other approvals, including but not limited to local, state and federal permits and consents necessary for construction of any Alterations and shall further be responsible for all conditions which may be imposed in connection with such approvals. Tenant shall be responsible for adhering to all state statutes and guidelines for permitting and construction. The District's Director of Facilities shall have the opportunity to attend any meetings for design development and construction to provide assistance and make recommendations to ensure the success of the project. All contractors performing alterations to the facilities must be licensed, bonded, and insured. All projects over \$50,000 shall require a labor and material payment bond and performance bond prior to initiating construction work. The Tenant is further required to maintain a construction contingency fund of at least 5% of the total project cost for unseen conditions or owner directed change orders. All change order authorizations must be signed and approved by both Tenant and the District's Director of Facilities prior to the Tenant authorizing any such additional work.

c. General Installation Guidelines. All work performed by Tenant pursuant to this Lease shall be performed by Tenant at Tenant's sole cost and expense, and shall be performed only by duly licensed contractors specializing in such work. All work shall be performed in a good and workmanlike manner and shall be completed substantially in accordance with the plans approved by the District, and all applicable governmental laws, regulations, rules, codes and orders. Tenant, its contractors, subcontractors, laborers, suppliers and professionals shall exercise diligent care and caution in the installation, construction, maintenance, and repair of the School or any appurtenances thereto, in order to avoid damage to the School and the District's improvements. In the event of such damage, Tenant shall promptly repair said damage using materials of like kind and quality, restoring it to its condition prior to damage by Tenant, at Tenant's sole cost and expense. Tenant acknowledges that all work performed by Tenant pursuant to this Lease may or may not benefit District. Regardless of benefit, all work completed is subject to each and every provision of this Lease and shall be performed to the satisfaction of the District or its designee. In all cases, the costs for all work completed, whether a benefit to District or not, shall be borne by the Tenant and under no circumstances shall the District reimburse in part or in full the cost of any work done in the facility should the Tenant not renew the Lease for any reason. Tenant shall ensure that all persons or entities performing work or providing materials relating to such improvements including, without limitation, all contractors, subcontractors, sub-subcontractors, laborers, suppliers and professionals, are paid in full for such services and materials.

d. Contractor Requirements. Tenant shall require contractors to furnish satisfactory evidence of statutory Worker's Compensation insurance, comprehensive general liability insurance, comprehensive automobile insurance and physical damage insurance on a Builder's Risk form with the interest of District endorsed thereon, in such amounts and in such manner as the District reasonably requires. The District may require additional insurance for any alterations or improvements approved hereunder, in such amount as the District reasonably determines to be necessary.

e. No Liens. The Tenant and District covenant and agree that any work performed on the School is to be handled as a public works project, as provided in Colorado law and that nothing

contained in this Lease shall be construed as consent by the District to subject the estate of the District to liability for any construction lien. Notwithstanding the foregoing, it is expressly understood that the District's estate shall not be subject to such liability. Tenant shall notify any and all parties or entities performing work or providing materials relating to any improvements made by Tenant of this provision of this Lease. If so requested by the District, Tenant shall file a notice satisfactory to the District in the public records of Pueblo County stating that the District's interest shall not be subject to liens for improvements made by Tenant. In the event that a construction lien is filed in connection with any work performed by or on behalf of Tenant, Tenant shall satisfy such claim, or transfer same to security, within ten (10) days from the date Tenant received notice of such filing. In the event that Tenant fails to satisfy or transfer such claim within said ten (10) day period, the District may do so and thereafter charge Tenant, and Tenant shall promptly pay to the District upon demand all costs incurred by the District in connection with the satisfaction or transfer of such claim, including attorney's fees. Further, Tenant agrees to indemnify, defend, and hold the District harmless from and against any damage or loss incurred by the District as a result of any such construction lien.

#### 4. CONDUCT OF BUSINESS AND USE OF BY TENANT

4.1. Use. Tenant shall exercise the rights granted hereunder solely and exclusively for operation of a charter school pursuant to the Charter Contract, Section 10.2. Tenant shall not use, or suffer the use of the School for any other use, business, or purpose other than those specifically permitted herein.

4.2. Waste or Nuisance. Tenant shall not commit or suffer to be committed any waste upon or within the School, commit or permit the maintenance or commission of any nuisance or other act or thing which interferes with the District's or any third parties' quiet enjoyment of the School or results in damage to the School or which may affect the District's fee interest in the School or results in an unsightly condition. Tenant shall cause any and all trash or discarded materials, including but not limited to construction materials used and/or generated by Tenant, to be removed from the School at Tenant's sole cost and expense immediately.

4.3. Governmental Regulations. Tenant shall, at Tenant's sole cost and expense comply with all ordinances, laws, statutes and regulations promulgated thereunder of all District, municipal, state, federal and other applicable governmental authorities, now in force or which may hereafter be in force, pertaining to Tenant's use of the School. Tenant shall indemnify, defend and save the District harmless from any and all penalties, fines, costs, expenses, suits, claims, or damages resulting from Tenant's failure to perform its obligations in this Section.

4.4. Non-Discrimination. Tenant shall not discriminate against any individual on the basis of race, gender, gender identity or expression, religion, national origin, ethnicity, sexual orientation, age, or disability with respect to any activity occurring under this Lease.

4.5. Surrender. Upon termination or expiration of this Lease, Tenant shall vacate and surrender the School to the District and the parties shall be relieved of all further obligations arising subsequent to the date of such termination or expiration.

4.6. Hazardous Substance. For purposes herein "Hazardous Materials" shall mean any hazardous or toxic substance, material, waste of any kind, petroleum product or by-product, contaminant or pollutant as defined or regulated by Environmental Laws. "Environmental Laws" shall mean any applicable federal, state or local laws, statutes, ordinances, rules, regulations or other governmental restrictions. "Disposal" shall mean the release, storage, use, handling, discharge or disposal of such Hazardous Materials. Tenant shall not use, maintain, store or dispose of any Hazardous Materials, chemicals or other agents used or produced in Tenant's operations, at the School, in any manner not permitted by Environmental Laws. Furthermore, Tenant shall not cause or permit the disposal of Hazardous Materials upon the School or upon adjacent lands and shall operate and occupy the School in compliance with all Environmental Laws.

Any disposal of Hazardous Materials, whether by Tenant or any third party associated with Tenant, shall be reported to the District immediately upon the knowledge of Tenant. Tenant shall be solely responsible for the entire cost of remediation and clean-up of any Hazardous Materials disposed of or discovered upon the School, or emanating from the School, or onto adjacent lands, as a result of Tenant's, or Tenant's agents, contractors or employees exercise of the rights granted by this Lease.

Tenant hereby agrees to indemnify, defend and hold harmless the District from and against any and all claims, suits, judgments, loss, damage, fines or liability which may be incurred by the District, including reasonable attorney's fees and costs at trial and on appeal, which may arise directly, indirectly or proximately as a result of any violation of Environmental Laws or the disposal of any Hazardous Materials by Tenant, or Tenant's agents, contractors or employees. Tenant's responsibility hereunder shall continue and apply to any violation hereof, whether the same is discovered during the term hereof or otherwise. While this provision establishes contractual liability of Tenant, it shall not be deemed to alter or diminish any statutory or common law liability of Tenant. Notwithstanding the foregoing, District remains responsible for compliance with applicable laws and regulations with respect to any Hazardous Materials at the School in their undisturbed condition that existed prior to Tenant's occupancy. The District, however, shall not have any obligation to remediate or remove any Hazardous Materials made necessary by repairs, maintenance, or Alterations or improvements required or desired to be made by Tenant.

Tenant acknowledges that the District enters into the Lease with the explicit understanding of the indemnification contained herein, acknowledging the receipt and sufficiency of separate good and valuable consideration for such indemnification. This provision shall survive the expiration or termination of this Lease.

## 5. REPAIRS AND MAINTENANCE

5.1. Responsibility of District. The District shall have no responsibility for routine or regular repairs and/or maintenance of the base building systems, including, but not limited to, the roof, structural, electrical and plumbing systems of the School. In the case of what would reasonably be considered a catastrophic loss, the District will consult with Tenant regarding repairs and or replacements.

5.2. Responsibility of Tenant. Tenant agrees to perform all maintenance and repair to the facility and maintain building equipment in good working order. Tenant further agrees to perform all

upgrades and alterations necessary to meet all local, state and federal ordinances and regulations. Tenant shall keep and maintain the School, and all Alterations and equipment (including but not limited to kitchen appliances, public address and alarm systems) in good condition and repair and in a clean condition, free of refuse, trash, and rubbish, at Tenant's sole cost and expense. Tenant shall be responsible for any repairs caused by the negligent or intentional acts of Tenant or Tenant's employees, agents, students, invitees or contractors. Tenant shall provide the District with thirty (30) days advance notice of any such work which may reasonably be foreseen by Tenant to impact the School. The notice required under this Section shall describe in detail the type of work to be performed. Tenant shall cooperate with the District to devise a plan to permit such work and minimize the impact of such work to the School. Tenant shall be responsible for all costs associated with preparation of and implementation of such plan. Notwithstanding the foregoing, in the event of an emergency, the District and Tenant shall have no duty to provide such advance notice as a result of undertaking any work necessary as a result of such emergency. For purposes of this Section 5.2, an "emergency" shall be defined as the occurrence of an event that threatens immediate harm to persons or property.

5.3. The District's Right to Inspect. The District or District's agents shall have the right to inspect the School. The District shall conduct such inspections in a manner consistent with the Charter Contract.

## 6. INSURANCE

The Tenant is required to maintain insurance for the School consistent with the insurance provisions contained within the Charter Contract, Section 4.4. The District shall maintain property insurance (building and contents) on the School to the extent of its interest and shall name the Tenant as an additional insured to the extent of its interest. The District shall deduct the cost of this insurance from amounts otherwise due to the School under the Charter Contract, unless the Tenant obtains its own insurance coverage as provided in the Charter Contract.

## 7. INDEMNIFICATION OF DISTRICT

The indemnification provision contained in the Charter Contract, Section 2.3, is incorporated herein.

## 8. DAMAGE OR DESTRUCTION

Consistent with the Charter Contract, in the event the School is destroyed or so damaged or injured by fire or other casualty during the Term of this Lease, whereby the same are rendered untenable, in whole or in part, the District shall be notified in a timely manner. The District, may, at its sole option, elect not to restore or repair the School but to terminate this Lease, consistent with the Charter Contract.

Consistent with the Charter Contract, Section 2.6 (B), in the case of any breach which the District reasonably determines poses a serious and imminent threat to the School, the District may, but shall not be required to, take immediate control of the School or some portion thereof, and may exercise any portion or all power and authority over the School for such period of time as may be necessary to deal with such threat. These additional rights of the District shall continue during the pendency of any



dispute resolution process with respect to any alleged breach. In the event either the District or Tenant elects to terminate this Lease, Tenant shall vacate and surrender the School, whereupon the parties shall be relieved of all further obligations hereunder arising after the date of such termination. The termination mentioned herein shall be evidenced in writing. Termination of this Lease shall not affect Tenant's obligations under this Lease arising prior to such termination.

9. ASSIGNMENT AND SUBLETTING

Tenant may not assign, mortgage, pledge, collaterally assign, or encumber this Lease, in whole or in part, nor sublet or rent all or any portion of the School nor grant any easements or enter into any management agreements affecting the School, without prior written consent of the District, which may be granted or withheld at the District's sole and absolute discretion. This provision shall be construed to include a prohibition against any assignment, mortgage, pledge, encumbrance, or sublease, by operation of law, legal process, receivership, bankruptcy, or otherwise, whether voluntary or involuntary. Nothing herein shall prevent the Tenant from charging a fee for the temporary public use of any of its facilities, including the School, subject to the District's Community Use of School Facilities policy and regulation.

10. UTILITIES

Tenant shall be responsible for all of the utility fees used by, and directly related to operation of the School such as water, sewer, gas, electricity, phone service and internet service while in possession of same during the Term of this Lease. Tenant shall be responsible for making arrangements for the provision of a dumpster and regular pick-up and paying the cost associated therewith directly to the service provider.

11. ACCESS

Tenant shall comply with any reasonable security procedures established by the District to prevent unauthorized access to the School. Tenant and District shall each designate emergency contact personnel to notify in case of an emergency requiring access to the School. The District is not responsible for vandalism or theft at the School and is not obligated to monitor or respond to security system alerts.

12. DEFAULT

12.1. Default by Tenant. The occurrence of any one or more of the following shall constitute an Event of Default by Tenant under this Lease: (i) Tenant's failure to pay any sum due hereunder within fifteen (15) days after demand for said payment; (ii) Tenant's failure to perform or observe any other term, covenant, or condition of this Lease on Tenant's part to be performed hereunder and such failure continues for a period of more than thirty (30) days after the date Tenant receives written notice from the District notifying Tenant of the specific failure; provided, however, Tenant shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and Tenant commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion within sixty (60) days; (iii) Tenant's leasehold estate being taken by execution, attachment or process of law or being subjected to any bankruptcy proceeding; or (iv) termination of the Charter Contract. If any Event of Default occurs,

then at any time thereafter while the Event of Default continues, the District shall have the right to pursue such remedies as may be available to the District under the law, including, without limitation, the right to give Tenant notice that the District intends to terminate this Lease upon a specified date not less than three (3) days after the date notice is received by Tenant, in which event this Lease shall then expire on the date specified as if that date had been originally fixed as the expiration date of the Term of this Lease. If, however, the default is cured within the three (3) day period and the District is so notified, this Lease will continue.

12.2. Default by the District. The District shall not be in default unless the District fails to perform obligations required of the District within a reasonable time, but in no event later than thirty (30) days after written notice by Tenant to the District, specifying wherein the District has failed to perform such obligations; provided, however, that if the nature of the District's obligations is such that more than thirty (30) days are required for performance then the District shall not be in default if the District commences performance within such thirty (30) day period and thereafter diligently pursues the same to completion.

### 13. EARLY TERMINATION

Tenant reserves the right to terminate this Lease prior to expiration of the Term, or any extension thereof, by providing the District with sixty (60) days prior written notice to the District. Tenant covenants that it will not seek payment or reimbursement from the District for any costs and expenses incurred as a result of Tenant's terminating this Lease early, including but not limited to moving costs.

### 14. QUIET ENJOYMENT

Upon the observance and performance of all the covenants, terms and conditions on Tenant's part to be observed and performed, Tenant shall peaceably and quietly hold and enjoy the rights granted hereunder in the School for the Term without hindrance or interruption by the District or any other person or persons lawfully or equitably claiming by, through or under the District, subject, nevertheless, to the terms and conditions of this Lease.

### 15. CONDEMNATION

If the School or any part thereof shall be taken, appropriated or condemned by exercise of the power of eminent domain, or conveyed or transferred pursuant to an agreement in lieu of condemnation, the District shall be entitled to the entire award therefore, including, without limitation, any award relating to both Tenant's leasehold estate and the District's reversionary interest in the fee simple estate, without deduction, claim or setoff for any present or future estate of Tenant. Tenant hereby assigns and relinquishes to the District all right, title and interest in such award and, upon request, shall execute all documents required to evidence such result. Notwithstanding the foregoing, Tenant may share in any award to the extent of any amount allocated to Tenant's undepreciated Alterations. In the event of a total taking of the School, this Lease shall terminate upon the date title vests in the condemning authority. Thereafter, the parties shall be relieved of all further obligations. Notwithstanding such termination, Tenant shall remain liable for all matters arising under this Lease prior to such termination.

The District shall have no obligation to restore the School or improvements or otherwise perform any work upon same as a result of any such taking.

In the event of condemnation of the School or any portion thereof, and, if such condemnation may reasonably be expected to disrupt Tenant's operations at the School for more than thirty (30) days, Tenant may terminate this Lease upon fifteen (15) days written notice to the District. Any such notice of termination shall cause this Lease to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Lease and the parties shall make an appropriate adjustment as of such termination date with respect to payments due to the other under this Lease. Termination of this Lease shall not affect Tenant's obligations under this Lease arising prior to such termination.

## 16. MISCELLANEOUS

16.1. **Entire Agreement.** The terms, conditions and provisions of the Charter Contract, are incorporated by specific reference and are fully set forth herein. This Lease and any Exhibits attached hereto and forming a part hereof, as if fully set forth herein, along with the Charter Contract, constitute all agreements, conditions and understandings between the District and Tenant. To the extent that there is a conflict between any term, condition or provision of this Lease and the Charter Contract, this Lease shall govern unless specifically provided otherwise. All representations, either oral or written, shall be deemed to be merged into this Lease. Except as herein otherwise provided, no subsequent alteration, waiver, change or addition to this Lease shall be binding upon the District or Tenant unless reduced to writing and signed by them.

16.2. **Notices.** All notices, consents, approvals, demands and elections (collectively, "notices") to be given or delivered by or to any party hereunder shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service, or national overnight delivery service (provided in each case a receipt is obtained), or alternatively shall be sent by United States Certified Mail, with Return-Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services, or national overnight delivery service, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designed the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

a. If to the Tenant, at:

Executive Director  
Chavez/Huerta K-12 Preparatory Academy  
2727 W. 18<sup>th</sup> Street  
Pueblo, Colorado 81003

b. If to the District, at:

Superintendent  
Pueblo City Schools

315 West 11<sup>th</sup> Street  
Pueblo, Colorado 81003

Any party may from time to time change the address to which notice under this Lease shall be given such party, upon three (3) days prior written notice to the other parties.

16.3. Severability. If any term of this Lease or the application thereof to any person or circumstances shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each remaining term of this Lease shall be valid and enforceable to the fullest extent permitted by law.

16.4. Broker's Commission. Tenant represents and warrants that Tenant has not dealt with any real estate salesperson, agent, finder or broker in connection with this Lease and agrees to indemnify, defend and hold harmless the District from and against any claims or demands of any such salesperson, agent, finder or broker claiming to have dealt with Tenant. The foregoing indemnification shall include all costs, expenses and fees, including reasonable attorney's fees at trial and all appellate levels, expended or incurred in the defense of any such claim or demand.

16.5. Waiver. The waiver by either party of any default of any term, condition or covenant herein contained shall not be a waiver of such term, condition or covenant, or any subsequent default of the same or any other term, condition or covenant herein contained. The consent or approval by the District to or of any act by Tenant requiring the District's consent or approval shall not be deemed to waive or render unnecessary the District's consent to or approval of any subsequent similar act by Tenant. No waiver of any provision of this Lease shall be effective against any party hereto unless it is in writing and signed by the party(s) waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

16.6. Governing Law. This Lease shall be governed by and interpreted according to the laws of the State of Colorado.

16.7. Radon. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Colorado. Additional information regarding radon and radon testing may be obtained from the state health department. Radon monitoring, testing and remediation, if any, shall be the responsibility of and at the sole cost of the Tenant.

16.8. Time of the Essence. Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

16.9. Non-exclusivity of Remedies. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

16.10. Construction. No party shall be considered the author of this Lease since the parties hereto have participated in negotiations and drafting of this document to arrive at a final agreement. Thus, the terms of this Lease shall not be strictly construed against one party as opposed to the other party based upon who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof is held by a court of competent jurisdiction to be invalid, such determination shall not affect the remaining portions of this Lease and the same shall remain in full force and effect.

16.11. Effective Date of Agreement. This Lease is expressly contingent upon the approval of the District, and shall become effective only when signed by Tenant and duly authorized representatives of the District.

16.12. Force Majeure. Any party delayed by a Force Majeure Event, as defined herein, in performing under this Lease shall use reasonable efforts to remedy the cause or causes of such Force Majeure Event. A delay due to a Force Majeure Event shall serve to toll the time to perform under this Lease. "Force Majeure Event" shall mean any act of God, fire, flood, earthquake, explosion, riot, sabotage, windstorm, failure of utility service, or labor dispute.

16.13. Binding Effect. This Lease shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective legal representatives, successors and assigns.

16.14. Recording. Neither this Lease, nor any memorandum or short form hereof, shall be recorded in the Public Records of Pueblo County, Colorado.

16.15. Headings. The paragraph headings or captions appearing in this Lease are for convenience only, are not part of this Lease, and are not to be considered in interpreting this Lease.

16.16. Amendment. This Lease may be modified and amended only by written instrument executed by the parties hereto.

16.17. Incorporation by Reference. Exhibits attached hereto and referenced herein shall be deemed to be incorporated in this Lease by reference. The Charter Contract is also incorporated herein.

16.18. Tenant's Property. The District agrees and acknowledges that all of the personal property of Tenant stored within the School shall remain the property of Tenant, and, upon expiration or earlier termination of this Lease, shall be removed by Tenant. Tenant acknowledges that the School is being provided in an unfurnished state and that Tenant is solely responsible for providing furniture, equipment and other items of personal property, including but not limited to office and classroom furniture and computers, necessary to operate the charter school.

IN WITNESS WHEREOF, the parties hereto have duly executed this Lease as of the day and year first above written.


[Signature page follows]

PUEBLO SCHOOL DISTRICT NO. 60  
A/K/A PUEBLO CITY SCHOOLS

By:   
Phyllis K. Sanchez, President

6-27-17  
Date

APPROVED AS TO FORM:

  
Richard E. Bump  
Caplan and Earnest LLC  
Attorneys for Pueblo School District No. 60

6-19-2017  
Date

CHAVEZ/HUERTA K-12 PREPARATORY  
ACADEMY

By:   
Steven L. Trujillo, President

6/21/17  
Date

APPROVED AS TO FORM:

  
Douglas Gradisar  
Gradisar, Trechter, Ripperger & Roth  
Attorneys for Chavez/Huerta K-12 Preparatory  
Academy

6/21/17  
Date

## EXHIBIT A - LEGAL DESCRIPTION

A parcel of land, located with the SW1/4 of the NE1/4 of Section 27, Township 20 South, Range 65 West of the 6<sup>th</sup> Principal Meridian, more particularly described as follows:

Beginning at a point on the East line of said SW1/4 of the NE1/4, said point being the Northwest corner of Block 6, of Hyde Park, according to the recorded plat thereof, said point also being 111.3 feet South of the Northeast corner of the said SW1/4 of the NE1/4; thence South along the said East line of the said SW1/4 of the NE1/4 a distance of 456 feet to a point, said point also being the point of intersection of the North alley line of Block 7 of said Hyde Park with the said East line of the said SW1/4 of the NE1/4; thence Westerly, along the said North alley line extended Westerly, a distance of 955.3 feet; thence Northerly, parallel to the said East line of the said SW1/4 of the NE1/4, a distance of 456 feet; thence Easterly along the South line of 18<sup>th</sup> Street, according to the plat of Hyde Park, extended Westerly, a distance of 955.3 feet, more or less, to the point of beginning

County of Pueblo, State of Colorado

Also known as: 2500 W. 18<sup>th</sup> Street, Pueblo, Colorado 81003

4852-8361-5306, v. 2