

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, but shall not be unreasonably withheld.

## **SECTION SIX: SCHOOL ENROLLMENT AND DEMOGRAPHICS**

**6.1. Student Grade Levels.** The School will serve students in grades K through 12. The School may also serve students in preschool beginning with the 2023-2024 school year.

**6.2. Student Demographics.** As required by the Colorado Charter Schools Act, C.R.S. §22-30.5-104(3), School enrollment procedures shall be conducted by the School in a nondiscriminatory manner. 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. The School has developed a student Recruitment and Enrollment Plan, **Attachment 8**, that addresses this recruitment and retention goal. Each year during the term of this Contract, by May 1, the School shall report to the District how the School has made progress in its recruitment efforts in accordance with the Recruitment and Enrollment Plan, and participate in good faith discussions with the District regarding its recruitment efforts.

**6.3. Maximum and Minimum Enrollment.** The School and the District agree that during the term of this Contract, the School's total enrollment shall not exceed the capacity of the School's facility and site. The projected enrollment, with all classrooms filled, is 524 full-time equivalent students. The minimum enrollment is determined to be the lowest enrollment necessary for financial viability, as reasonably determined by both Parties. To assure financial viability, the School must have 246 students enrolled in the School by August 1, 2022.

**6.4. Enrollment Procedures.** The School's enrollment procedures shall be established by the Charter Board and consistent with state and federal law, including C.R.S. § 22-30.5-104(3). The School will have a waiting list when the planned capacity of its facilities is reached.

**6.5. Eligibility for Enrollment/Admissions.** 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 ineligible 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. All enrollment decisions shall be made in accordance with applicable state and federal law and policy.

### **6.6. Enrollment Preferences, Selection Method, Timeline and Procedures.**

- A. It is agreed that enrollment preferences and selection methods are left to the discretion of the School so long as School complies with requirements of state and federal law, including allowance for equal educational opportunities. In this connection, the District authorizes, but does not require, the School to submit a weighted Lottery and Enrollment Policy to CDE for approval in connection with its Colorado Charter Schools Programs grant application and, if approved by CDE, implement such policy.

- B. School agrees to adhere to the enrollment preferences, timelines and procedures as described in **Attachment 9**.

**6.7. Student Registration and Enrollment.** Students shall register and enroll at MA according to its procedures established pursuant to Section 6.6 above. Once enrolled, the School is responsible for maintaining, updating, and transferring student information. The School is also responsible for sharing that information with the District as appropriate under state and federal law, including FERPA, and as required in this Contract. The School must use the District's student information system (currently Infinite Campus and Enrich) to share this information. If at any time in the future the District agrees, at its sole discretion, to waive this requirement and allow the School to use its own student information system, the School will use its own staff to timely input all necessary information into the District's student information system on or before reasonable deadlines established by the District.

**6.8. Admission Process and Procedures for Enrollment of Students with Disabilities.** To ensure that the needs of students with disabilities are met, the following procedures must be followed:

- A. The School shall conduct its admission process, including any lottery or similar process, without inquiry into the disability status of students.
- B. Following receipt of an application for enrollment and, if applicable, success in any lottery or similar process, the School shall determine whether a student has been identified as a child with disabilities eligible for special education and related services pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. § 1401 *et seq.* ("IDEA") or an individual with a disability under Section 504 of the Rehabilitation Act of 1973 ("Section 504"), and/or the Americans with Disabilities Act ("ADA"). If so, the School shall require that the student/District provide the most recent individualized education program ("IEP") or Section 504 plan.
- C. The School recognizes and agrees that it is solely and exclusively responsible for providing services and accommodations to students who have a disability within the meaning of Section 504 and the ADA, but are not eligible for special education and related services under the IDEA, and that nothing in this Contract shall be construed to require the District to provide services or accommodations to such students.
- D. When an applicant has an IEP, a screening team consisting of the School's Chief Action Officer or designee, the School special education coordinator, and a representative of the District (or BOCES), if requested, 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 student can receive a free appropriate public education (FAPE) in the least restrictive environment at the School in its existing programs with or without reasonable accommodations. If the screening team deems it appropriate, the School in collaboration with the District (or BOCES) shall convene a complete IEP team to make the final determination. If the determination is that FAPE is not available, the student's application for admission shall be denied. Every student who is admitted with an IEP from the previous school shall be placed directly

in a program that meets the requirements of such IEP, unless and until a review staffing by the IEP team is held and the IEP is changed.

- E. An application for attendance at School may be denied for a student with disabilities in the same manner and for the same reasons as such application may be denied for a student without disabilities.

**6.9. 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 Charter Schools Act.

**6.10. Extracurricular Activities.** Subject to the provisions of C.R.S. § 22-32-116.5 and this Contract, the School's students may participate in extracurricular activities at other schools in the School District provided that the prerequisites for participation are met and there is space available in the desired activity or program. Where such participation requires payment of a fee, MA or the student shall be responsible for payment of the fee consistent with the policies and practices of MA. The School and the student shall comply with all applicable rules of the District and the school of participation; all eligibility requirements; and all responsibilities and standards of conduct, including related classroom and practice requirements. The District is not required to provide transportation of the School's students to other schools in the District to enable them to participate in extracurricular and athletic practices, rehearsals, and meetings, or to otherwise expand transportation provided for such activities and events. The School and/or parents of students enrolled in the School shall be responsible for transportation for such activities for all students of the School, including students with disabilities, as necessary for such participation. In the event the District provides transportation for an extracurricular group or athletic team to participate in a competition, students of the School shall be provided District transportation from the same departure and return points as provided to the other District student participants in the activity. Nothing herein shall be construed to require modification by either party of any calendar or schedules for extracurricular programs. MA students shall not be eligible for enrollment in academic courses at other schools on a part-time basis. Subject to the provisions of C.R.S. § 22-32-116.5, the District's students may participate in extracurricular activities at the School provided that the prerequisites for participation are met and there is space available in the desired activity or program.

**6.11. Student Movement after October 1.** After October 1, any movement of students between the School and any other school, including a 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 of such school or such superintendent's designee. The School agrees to use the standard applicable administrative transfer process for such students. Requests for transfer from the School to a school serving the student's resident address shall not be unreasonably denied. Notwithstanding anything else herein, the School retains discretion to create and implement its own enrollment policies, consistent with Colorado and federal law and this Contract. See C.R.S. § 22-30.5-104(3) & 7(a). See also Section 6.6 of this Contract.

**6.12. Expulsion and Denial of Admission.** The authority to hold expulsion hearings shall remain with the District's Board of Education. Where the School's Administration and/or

Charter Board recommends a student for expulsion, the proceedings shall be referred to the District for handling through the District's expulsion processes. However, the Charter Board, or its designee shall make findings of fact and recommendations to the Superintendent or designee for use and consideration when the District implements its expulsion processes. Any decision to expel a charter school student by the District Board shall specify which District school(s) the student is expelled from attending and which schools, if any, the student may attend as an alternative. Any general education services required by law to be provided to suspended or expelled students, including the cost of services through enrollment in an alternative school in the District, shall be the sole responsibility of the School. 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, with all costs for such services to be borne by the School. All costs for truancy shall be paid for by the School.

**6.13. Continuing Enrollment.** Students who enroll in the School shall remain enrolled in the School through the twelfth grade, absent expulsion, graduation, court ordered placement, or IEP placement. Students wishing to transfer from the School to another school in the District for the following academic year may do so only through the District's within-District choice enrollment and transfer procedures.

**6.14. Volunteer Requirements.** The School shall not condition the enrollment of any student on the commitment of the student's parents to provide any number of volunteer hours or on otherwise donating volunteer hours to the School.

## **SECTION SEVEN: EDUCATIONAL PROGRAM**

**7.1. Vision.** Students prepared for success in a free society, promoting civic responsibility and contributing their talents in a flourishing republic by pursuing beauty, truth, and good.

**7.2. Mission.** Merit Academy will cultivate the minds and nurture the hearts of K-12 youth in the Ute Pass/Woodland Park region with instruction in the principles of moral character and civic virtue, employing honored foundations of classical education and Core Knowledge®.

### **7.3. School Goals, Objectives and Pupil Performance Standards.**

- A. **Student Performance.** The School agrees to make incremental progress towards meeting state academic standards as defined by the Colorado School Performance Framework, as well as making incremental progress in student academic growth and growth gaps. Incremental progress in each of these indicators will be defined as progress sufficient to receive a ranking of Improvement or better. Further, the School will establish reasonable and agreed-upon academic targets in its Unified Improvement Plan and are aligned to the performance goals and objectives described in the charter application. In the event the School does not meet its annually agreed-upon targets, the School must work with the District utilizing the School's interim assessment results, to develop quarterly benchmark targets in addition to the School's UIP targets.
- B. **Accreditation.** The School shall be accredited in accordance with written District guidelines and state law. The School acknowledges that these indicators

may change over time and that the District agrees to provide the School with opportunity for input into any proposed changes before they are finalized. The School shall comply with the educational accountability and or accreditation provisions of Colorado law, as amended from time to time, including but not limited to: the Educational Accountability Act of 2009, C.R.S. §§ 22-7-101 *et seq.*; the Education Reform Act, C.R.S. §§ 22-7-401 *et seq.*; the School Accountability Reporting Act, C.R.S. §§ 22-7-601 *et seq.*; Educational Accreditation Act of 1998, C.R.S. §§ 22-11-101 *et seq.*; and the Accreditation Rules of the State Board, including but not limited to tailoring educational programming to meet the individual needs of “exceptional children” as defined in such rules, unless waived.

- C. Identification for Support and Improvement Under ESSA. If the School has been identified or targeted for support and improvement, it must promptly address the areas identified as deficient.
- D. Finance, Governance, and Operations Standards. The School shall meet or exceed state standards for charter schools in the areas of finance, governance and operations.
- E. Opportunity for Comment. Reasonable progress towards all goals in this Contract shall be evaluated through the Colorado School Performance Framework, any additional federal requirements, and any other agreed-upon measures and metrics. The School will be given an opportunity for input and comment before the District finalizes its assessment of the School’s achievement on the objectives listed above.
- F. Student Welfare and Safety. The School shall comply, except as waived, with all District approved policies and regulations, and comply with all applicable federal and state laws, concerning student welfare, safety and health, including, without limitation, District policies and laws addressing the reporting of child abuse, accident prevention and disaster response and laws governing incidents of school violence under C.R.S. § 24-10-106.3, and any state regulations governing the operation of school facilities.
- G. Academically Exceptional Students. The School shall identify academically low-achieving, at-risk students, gifted and talented, and other “exceptional children” as defined by law, including in regulations adopted by the State Board, and shall provide its educational program to these students in a manner that appropriately serves their needs in accordance with applicable law and this Contract.

**7.4. Educational Program Characteristics.** The School shall implement and maintain the following characteristics of its educational program:

- A. Parent/Guardian Choice. We are honored to provide another choice for parents to educate their children.

- B. Academic Growth. Student academic growth is deeply important. We follow a curriculum that provides a rich, liberal arts education for all students. This curriculum aligns with the Colorado standards as detailed in the Core Knowledge/Colorado Standards Alignment document completed by the League of Charter Schools and adopted by the School. Monitoring both performance and growth assures a focus on academic rigor for each child.
- C. Positive Character Development. Moral development of our students is a critical part of our mission. Character education is deeply embedded in the day to day teaching whether it is talking about the character traits of historical figures being studied or comparing and contrasting traits of characters in a story. Character traits are talked about daily, recognized at the classroom and school level, and constantly reinforced by all staff. In order to recognize the importance of Character at the school level, the School will reward Character each month through core virtue assemblies or other avenues of awards.
- D. Economic Sustainability. We pledge to be prudent managers of public funds to ensure long-term educational effectiveness. We involve parents and staff in many decisions and advise them on situations regarding effective use of the resources we have.
- E. School Development. Offering the choice of our vision and mission to other families provides wonderful opportunities for parents and staff. We are a mobile society and school choice ensures that parents and staff have access to the type of educational environment they desire.

7.5 **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 this Contract. The educational program, pupil performance standards and curriculum designed and implemented by the School shall meet or exceed any content standards adopted by the state, shall be designed to enable each pupil to achieve such standards, and shall be consistent with the School's vision and mission.

7.6 **On-Line Programs.** The School's educational program as contained in the Application does not include an on-line program pursuant to C.R.S. §§ 22-30.7-101 *et seq.* and the School is accordingly prohibited from offering such online programs, unless environmental or pandemic circumstances warrant such programming on a temporary basis, not to extend beyond the then current school year without District approval.

7.7 **Graduation Requirements.** The School will adopt and follow the graduation requirements that meet Colorado's Higher Education Admissions Recommendations (HEAR) and align with the School's Mission and Vision.

7.8 **Tuition and Fees.**

- A. Tuition. The School shall not charge tuition, except as otherwise provided in C.R.S. § 22-20-109(5), C.R.S. § 22-32-115(1) and (2) and C.R.S. § 22-54-109, other than for before and after school programs or as otherwise permitted by law.

- B. Fees. Student fees may be charged by the School so long as in accordance with applicable Colorado law, including but not limited to the provisions of C.R.S. § 22-32-110(1)(o) & (p) and C.R.S. § 22-32-117.
- C. Indigent Students. The School shall waive all fees for indigent students in accordance with applicable federal and state law. On all fee lists and schedules, the School shall include notification of the policy of waiver of fees for indigent students. The School shall survey its student population for eligibility for free and reduced-price lunches under federal guidelines in accordance with State Board regulations.

7.9 **English Language Learners**. The School shall provide resources and support to English language learners. The School shall use the District's hiring qualifications for teaching staff (ex. Culturally and Linguistically Diverse endorsement from CDE) and English Language Development (ELD) programming model to ensure that English language learners are given meaningful access to grade level content, acquire proficiency in English, and achieve grade level standards. The School is responsible for hiring qualified staff to implement ELD programming. The School shall follow the District's procedures for identifying, assessing, monitoring and exiting English language learners. The School's ELD program staff shall attend all District trainings required of the District's ELD program staff. The School may use its per pupil allocation of the state English Language Proficiency Act (ELPA) funds toward the salary and benefits of the ELA specialist.

7.10 **Gifted and Talented Students**. The parties agree that the School's curriculum offers the potential of meeting the needs of students identified as gifted and talented. The District agrees to flow through to the School, on a per pupil basis, any state or federal funds received and granted to support such a program for those the School students who are properly identified and qualified using statutory criteria for the identification of such students.

7.11. **Students with Disabilities**.

- A. Students with 504 Plans. The School recognizes and agrees that it is solely and exclusively responsible for providing services and accommodations to students who have a disability within the meaning of Section 504 and the ADA but are not eligible for special education and related services under the IDEA, and that nothing in this Contract shall be construed to require the District (or BOCES) to provide services or accommodations to such students. The School agrees to follow District (or BOCES) policies in identifying students who are Section 504-eligible and providing those students with FAPE, including services and accommodations required by Section 504.
- B. Students with IEPs. The School agrees to comply with all District (and BOCES) policies and the requirements of federal and state laws and regulations/rules concerning the education of IDEA-eligible students with disabilities and shall provide special education programs and services at a level consistent with other schools in the District serving the same grade levels. The School, like other District schools, does not offer a full continuum of special education services on site. Special education services at the School shall be commensurate with those provided at other District schools. Specific services for students with more significant needs may not be available at the School. For residents of the District, such services are available at designated school sites or

through an out-of-district placement. For non-resident students, provision of such services is the responsibility of the Administrative Unit of residence.

- C. The IEP Team convened at the School shall have the authority to make offers of a FAPE and decisions regarding the staffing and methodology used to provide special education and related services at the School.
- D. The School shall implement a plan for meeting the needs of students with disabilities in accordance with all applicable state and federal laws, regulations, District (and BOCES) policies and procedures. Any material changes to the plan for serving students with disabilities, such as a change in placement to a more restrictive setting, may be made only with the approval of the District (or BOCES). If after enrolling a resident student and receiving per pupil revenue for the student based on October count funding, the School determines that it is unable to provide a FAPE, and the student is transferred into a more restrictive placement at another District school or a Separate School or Homebound placement, the School shall be responsible for the actual costs (less any state and federal funding actually received by the District for the student) associated with providing the student with FAPE for the remainder of the school year.
- E. The School shall assign special education teachers, related service providers and other support staff as necessary to meet student needs, which staff shall be licensed in accordance with federal requirements and Colorado law.
- F. The School agrees to promptly notify the District (and BOCES) of all charges, complaints or investigations concerning students with disabilities initiated by the U.S. Department of Education Office for Civil Rights (OCR), CDE's State Complaints Officer, IDEA due process proceedings, or other allegations brought in federal or state court relating to students with disabilities enrolled at the School. The School shall be responsible for providing and paying the cost of defense of any and all charges, complaints or investigations concerning special education at the School and shall be primarily responsible for managing the defense of and settlement of any such claims in cooperation with the District. The School agrees to indemnify and hold harmless the District from any and all liability, claims, and demands arising from or relating to the education of students with disabilities at the School.
- G. Pursuant to §§ 22-30.5-503(3) and 22-20-106, C.R.S., the District (or BOCES) serves as the Local Educational Agency ("LEA") and Administrative Unit ("AU") with oversight authority for delivering special education services to the School. The School will take direction from and work collaboratively with the District (or BOCES) with regard to the provision of special education services, evaluations and concerns, and shall provide for the attendance of any School employees who should be present at any meetings at which IEPs are developed or modified. If the School and the District (or BOCES) disagree as to the correct interpretation or application of a statute or regulation concerning the education of students with disabilities, the District's (or BOCES's) position shall control.
- H. The District (and BOCES) reserves the right to jointly direct with the School the development and/or modification of any IEP for special education students of the School. The District's (or BOCES's) Director of Special Education, or designee, shall



maintain the same oversight responsibilities and authority as in all other the District Schools. The School shall use the District- (or BOCES-) approved special education forms and procedures and shall document compliance with the requirements of federal and state laws and regulations, including procedural due process. The District (or BOCES) 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 (or BOCES) shall have the right to require such changes necessary to comply with law and shall have the right to request other changes on behalf of students with disabilities.

- I. The School's special education teachers and all related service providers are required to participate in compliance-oriented training and meetings sponsored by the District (or BOCES), and newly hired special education teachers shall participate in a state-approved induction program.
- J. The District (and BOCES) uses an online Individual Education Program (IEP) data management system to provide a standardized format for the IEP process and in meeting accountability requirements for special education. The School agrees to use the same data management system used by the District (and BOCES). If at any time the District agrees to allow the School to use its own data management system, the School will use its own staff to timely input all necessary IEP-related documents into the District's (and BOCES's) data management system on or before reasonable deadlines established by the District (and BOCES).
- K. The School must report to the District (and BOCES) its anticipated budgetary allocation and hiring plan for all special education teachers and related service providers who will be employed for the following year. Such staffing plan must be adequate to implement the IEPs of students enrolled in the School. No later than the first day of the opening of School, all special education teachers and related providers must be hired, appropriately qualified, and available to serve the identified needs of the students.
- L. On an ongoing basis, the District (and BOCES) will assess the performance of the School with regard to special education. If – in the District's sole discretion – the District finds the School's performance with regard to special education to be deficient pursuant to state and federal law, the District may take remedial steps. Such steps may include, but will not be limited to, increasing the District's level of oversight of the School. Should the District determine that any remedial steps are necessary, the District will oversee implementation of these steps. In the instance where the District takes on responsibility for tasks that would otherwise be carried out by the School due to noncompliance, the District may retain commensurate funds for District (and BOCES) staffing and resources expended on such tasks. Such circumstances are expected to be highly unusual. A written agreement specifying the services to be provided and their cost shall be executed, which agreement shall constitute an amendment to the Charter Contract, at the time of any such unusual intervention.

**SECTION EIGHT: FINANCIAL MATTERS**

**8.1. Revenues/Funding.**

A. During the term of this Contract, the Parties agree that the District shall provide funding to the School in the amount of one hundred percent (100%) of the per pupil revenues ("PPR"), as defined by C.R.S. § 22-30.5-112(2)(a.5)(II), for each funded FTE pupil enrolled at the School, plus any applicable capital construction revenue payments pursuant to C.R.S. §22-54-124, minus the following: (a) the actual amount of the School's per pupil share of the actual central administrative overhead costs of the District (up to five percent of PPR), as provided by law, (b) deductions for purchased services as agreed to in writing by both parties, and (c) other deductions as provided herein, and shall be adjusted as provided herein. Any subsequent CDE audits of District 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 to the School.

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 shall provide to the School an itemized accounting on the calculation of all of its central administrative costs within 90 days after the end of the fiscal year as required by law. The actual central administrative overhead costs shall be the amount charged to the School. **Such amount shall be estimated at 3.5% and withheld in monthly installments prior to the annual reconciliation of actual overhead costs.** Any difference between the amount initially charged to the School or withheld by the District, and the actual cost of such overhead administrative costs shall be reconciled and paid to the owed party, up to the 5% cap referenced above.

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B. Financial Adjustments. Any CDE audits of district 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 to the School, spread out over the remaining months in the school year, rather than as a "lump sum" in any one month's distribution.

C. The School shall receive a proportionate share of funding provided under the Exceptional Children's Education Act, C.R.S. §§ 22-20-101 *et seq.* ("ECEA") and the Individuals with Disabilities Education Act, §§ 20 U.S.C. 1401 *et seq.* ("IDEA"), for special education, calculated in accordance with the following formula:

$$\frac{\text{Total District ECEA \& IDEA Revenue}}{\text{Total \# of Identified Students in the District}} \times \text{\# of Identified Students at the School}$$

Such funding shall be provided upon receipt by the District (or BOCES), for each year this Contract is in effect. The School shall provide and bear the cost of special education services at the school at a level comparable to schools in the District serving the same grade levels, including related services and required paraprofessional support. The District (or BOCES) will provide access to trainings, professional development, systematic support and guidance for special education while the School will hire its own special education teacher(s) subject to review of licensing. In addition, the District (or BOCES) will provide oversight and support from central administrators and access to District-wide (or BOCES-provided) special education programs. As consideration for the District's (or BOCES's) assumption of these responsibilities, the School shall pay the District its proportionate share of indirect costs based on total enrollment, including administration, relating to the District's (or BOCES) special education program. The School and the District shall reasonably cooperate with each other in connection with defense of special education administrative complaints; however, the School remains responsible for the costs of all awards, judgments, settlements and reasonable costs, expenses and attorney fees incurred by the District (or BOCES) in connection with such matters. The School will provide the District (and BOCES) with evidence that special education service providers meet educational and certification or licensing requirements of state law, documentation of the nature and duration of services provided for each student with disabilities by such service providers, and other information required to complete applications for federal and state funds for students with disabilities.

D. Mill Levy Funds, Sales Tax Funds, and Capital Expenditures. The District shall pay to the School its proportionate share of the Mill Levy Override Funds for which it is eligible. After first using the sales tax revenues it receives from the City of Woodland Park to satisfy all annually appropriated principal and interest payments associated with the District's Certificates of Participation and the administrative fees charged by the City to the District, the District shall pay to the School its proportionate share of any remaining sales tax revenues the District receives for schools and education from the City of Woodland Park for funds generated from the City's April 5, 2016 ballot issue. The School agrees to use such funds in accordance with District guidelines and the ballot language. Funds shall be made available to the School on the same schedule that they are made available to other District schools. The Parties agree to coordinate their communications that are directed to the City of Woodland Park, Teller County, and any local voters of the District to emphasize the Parties' mutual interest in access to funding to support all of the public schools in the District, including the School.

E. Bond and Mill Levy Funds

- i. Bond Issues. Pursuant to C.R.S. §22-30.5-404, the District shall allow for representation by charter schools on the District's long-range planning committee and any committee established by the District to assess and prioritize the District's capital construction needs and shall notify charter schools of the committee's meeting schedule. School and other District

charter schools shall cooperate in determining the person or persons who will represent the interests of charter schools on the committee. In the event that the District hereafter considers an election issue for bonded indebtedness, the District shall invite each District charter school to participate in discussions regarding the possible submission of such a question at the earliest possible time but no later than June 1 of the applicable election year. The School may ask the District to include the capital construction needs of the School in such question, and if it determines not to include the same the School may request the District to separately submit a question for the voters that includes capital construction needs of the School in accordance with current C.R.S. §22-30.5-404 and 405.

- ii. Mill Levy. Pursuant to C.R.S. §22-30.5-118 and C.R.S. §22-30.5-119, if the District has a planning committee regarding a potential Mill Levy ballot question for the electorate, the District must allow the charter schools authorized by the District to have at least one representative on the District's planning committee. The District must notify the charter schools of the planning committee's meeting schedule. The charter schools of the District shall cooperate in determining the representative. The District shall invite each charter school in the District to participate in any discussions about submitting a ballot question to authorize additional local revenues (such as a mill levy) at least by June 1 of the election year. The District shall pay to the School its proportionate share of the Mill Levy Override Funds as approved by the District's Board of Education. The School agrees to use such funds in accordance with District guidelines. Funds shall be made available to the School on the same schedule that they are made available to other District schools. The additional local revenues that the School receives as a result of inclusion in a District ballot question are in addition to, and do not replace, the moneys the School receives from the District pursuant to C.R.S. §22-30.5.112 to §22-30.5-112.3.

- F. Federal Categorical Aid. Each year the District shall provide to the School the School's proportionate share of applicable and eligible federal ESSA funding (e.g., Titles I through 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 CDE 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.
- G. State Categorical Aid. On or before January 15 of each school year, the District shall provide to the School the School's proportionate and applicable share of applicable state categorical aid (e.g., English Language Proficiency, Gifted and Talented, capital construction funds, or transportation funding) 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 CDE, as required or evidence of students enrolled in the School that are eligible for such funds.

- H. Significant Changes to the Public-School Finance Act. The Parties agree that if the Public School Finance Act of 1994, C.R.S. § 22-54-101 *et seq.*, is significantly changed, then the Parties will re-negotiate the financial portions of this Contract that are affected so that they align with the new public school finance law.
- I. The District will provide charter liaison services by assigning these duties to an employee or retaining an independent contractor to act as the liaison between the District and the School. Such employee or independent contractor shall be mutually agreed upon by the District and the School.

**Disbursement of Per Pupil Revenue.**

- A. Commencing on July 1 of each fiscal year of the Contract term, the District per pupil revenue funding under this Section will be made available to the School in monthly installments on the 25th of each month, subject to annual appropriation and the District's receipt of the funding, adjustments, deductions and annually contracted services as set forth in **Attachment 10** and as provided in this Contract. The School District will transfer and deposit such monthly payments into a separate account established by the School in the financial institution of its choosing.
- B. Adjustment to Funding. The District's disbursement of funds shall be adjusted as follows: December 15 of each year, funding may be revised 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 provided by the District under this Contract. 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.
- C. Budget. The School shall prepare and administer its budget in accordance with the laws and regulations governing charter school budgets and the state mandated chart of accounts. The School shall present its balanced budget to the District on or before June 1 of each year, so that the District can review the School's balanced budget for the upcoming fiscal year in order that the amounts may be coordinated in conjunction with the District's and the School's budget development and adoption process. Any significant changes in adjustments in the amounts withheld by the District for special education, support and access to District-wide programs, central administrative overhead costs, other direct purchases of services and agreed direct costs necessitated by changes in revenue and/or expenses shall be memorialized in writing. The School's provision of its balanced budget and any subsequent approved revisions shall be submitted to the District along with the Charter Board's resolution approving the budget or budget revision.

**8.2. Enrollment Projections.** The School shall provide the District with its latest and best estimates of its anticipated enrollment (broken down by funded and unfunded) for the next school year by February 28, along with any discussion or plans under consideration for any increase or decrease of enrollment greater than 10 percent (10%) of the official enrollment for the current school year. The Parties agree 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 MA's enrollment or otherwise inhibiting the growth of MA.

**8.3. TABOR Reserve.** School's ending fund balance shall comply with the emergency reserve requirements of Article X, Section 20 of the Colorado Constitution ("TABOR Reserve"). The School will establish a TABOR Reserve account and ensure that balances are appropriate, in keeping with Colorado Constitutional requirements and consistent with state and District policies and law.

**8.4. 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 MA's authority to 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 MA, where feasible, shall include the following provisions:

- A. The contractor acknowledges that MA is not an agent of the District, and accordingly contractor expressly releases the District from any and all liability under this agreement.
- B. Any financial obligations of MA arising out of this agreement are subject to annual appropriation by its Board of Directors.

**8.5. Annual Audit and Trial Balance.**

- A. Annual Audit. The School will undergo an independent, outside governmental audit by a certified public accountant, selected by the District, of its financial and administrative operations on an annual basis, in accordance with state and CDE rules and regulations. After completion of two audit cycles, the School may submit a request to the Superintendent to select its own auditor, which the Superintendent will consider and, if appropriate in the Superintendent's sole discretion after consulting with appropriate District staff, will allow. The results of the audit shall be provided to the School District in written form by October 15 of each year and shall be published and posted as required by law. The School will bear the costs of its independent audit. The final audit shall be provided to the District on or before October 31. If, for causes within the School's control, the audit is not provided to the District by October 15 and October 31 of each year as outlined above, 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. If the failure to provide the audit to the District by October 31 is due to causes beyond the School's control, the School shall nevertheless use its best efforts to provide the audit to the District at the earliest possible time. The School shall comply with all

deadlines as set by CDE and the District. Any requests for extensions must be approved by the District.

- B. **Trial Balance.** The School shall transmit the final trial balance to the District using the CDE chart of accounts with the submission of the annual audit in accordance with the dates and procedures outlined above.

**8.6. Quarterly Reporting.** The School shall prepare quarterly financial reports for the District in compliance with C.R.S. §22-45-102(1)(b) and post required reports pursuant to C.R.S. §22-44-301 et seq. Such reports shall be submitted to the District electronically to the Superintendent or designee no later than thirty (30) 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.

**8.7. Non-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. When the School submits its annual audit, the School shall certify that assets, funds, liabilities and financial records of the School have been kept separate from assets, funds, liabilities and financial records of any other person, entity, or organization, including any EMP with which School has an agreement.

**8.8. Loans.** No loans may be made by the School to any person or entity (other than an affiliated entity) for any purpose without District approval.

**8.9. Direct Costs/District Services.** The School shall be responsible for all costs associated with its operations, including the cost of contracting for goods and services. The School may purchase from the District the services and materials specified in **Attachment 10** at the costs as calculated in accordance with provisions of the Charter Schools Act. Costs shall be re-determined each subsequent year this Contract is in effect and attached as an addenda to **Attachment 10**. Annually, when adopting its budgets, the School will commit to purchasing the services it selects from the District for the entire budget year. If the School wishes to terminate a contracted service during a budget year, it may do so by mutual agreement with the District. Costs shall be adjusted annually by the District based upon its then-current budget and reconciled to actual costs within ninety (90) days after the end of each fiscal year as required by C.R.S. §22-30.5-112(2)(a.4), and any difference between the amount initially charged to MA and the actual cost shall be paid to the owed party. If the School does not purchase optional services, it shall be responsible for performing those activities or services itself, in the manner required by law for other schools in the school district, unless otherwise waived. The Parties acknowledge and agree that the provision of services, whether there are charges for such services, and the amount of charges for such services, may be negotiated at the end of each fiscal year for the immediately following fiscal year. The parties mutually recognize that the District is barred from withholding funding for direct costs unless the payment of such costs has been negotiated and memorialized in writing prior to the beginning of each fiscal year.

#### **SECTION NINE: PERSONNEL**

**9.1. Employee Matters.** The parties agree that teachers and other staff employed at the School are employees of the School and are not employees of the District. The School is solely responsible for selecting, supervising, disciplining, determining compensation for, and terminating

its employees. No person employed by the School shall be considered an employee of the District by virtue of such employment, and the District shall have no liability or responsibility for such persons. The School acknowledges that full-time District employees are under contract with the District and, as such, may not be employed by or provide contract services for the School during the school year. The School agrees that it shall not interfere with the employment relationship of full-time District employees by soliciting them for employment or contract services for the School during the school year. The District shall have no obligation to employ School employees who are released from or leave the School.

- A. Hiring of Personnel. All persons who perform services as an employee for the School shall be considered "at-will" employees of the School unless otherwise expressly agreed by the Charter Board. Personnel may be selected by the School subject to compliance with all state and federal rules and regulations, including, without limitation, requirements concerning the recruitment of applicants and the use of background and criminal checks, unless a specific waiver is obtained from the State Board of Education or other proper authority. The School may terminate the employment of any personnel without cause and for any reason not prohibited by law.
- B. Employee Compensation, Evaluation and Discipline. Personnel at the School will be employees of the School, unless otherwise agreed by the Charter Board. The School shall adopt written policies in compliance with federal and state law concerning the recruitment, promotion, discipline, and termination of personnel; methods for evaluating performance; and a plan for resolving employee-related problems, including complaint and grievance procedures. Final administrative appeals in matters regarding employment and employee discipline shall be determined by the Charter Board and not by the District's Board. Nothing in this Section shall be construed to alter the at-will status of any employee of the School.

The School shall immediately notify the District and other appropriate authorities, in accordance with state law, of discipline of employees at the School arising from misconduct or behavior that may have resulted in harm to students or others or that may have constituted violations of law or applicable District policy/regulations.

**9.2. Instructional Providers.** The School shall employ or otherwise utilize in instructional positions those individuals who the School deems are qualified, consistent with applicable state and federal law (unless waived) as applied to Colorado charter schools, not school districts.

**9.3. Background Checks, Fingerprinting.** The School or its EMP, as directed by the School, shall establish and implement procedures to assure that background checks (including a check for a criminal record) of all employees are conducted to the extent required by applicable laws, rules and regulations. *See* C.R.S. §§ 22-30.5-110.5 & -110.7. The School shall also ensure that all independent contractors and companies that place employees in the School complete the above requisite background checks.



## SECTION TEN: FACILITIES

10.1. **School Facilities.** The School shall be responsible for the construction, renovation and maintenance of any facilities owned or leased by it, although any leased facilities shall be subject to the agreement between the School and any appropriate third party as to renovation and maintenance arrangements. The School shall provide the District with a copy of the lease, deed, closing statement or other facility agreement granting the School the right to use the same within five (5) business days of closing, refinancing or leasing. The School shall comply with C.R.S. § 22-32-124, and shall obtain all applicable use permits or certificates of occupancy necessary for the facilities owned or leased by it to be used and occupied as a school. The District shall have access at all reasonable times to any such facilities for purposes of inspecting the same and as provided in Section 3.1 above. The School may establish or move its location only with the written approval of the District. The School shall be limited to a single campus. Campus here means contiguous plot of land. Any growth to a new or to additional campuses or facilities is subject to District approval.

10.2. **Use of District Facilities.** The School may not use District facilities for activities and events without prior written consent from the District. The Parties agree that the School may request the District Board and Superintendent to allow it to locate the School at a District facility, and such permission will not be unreasonably withheld. If the Parties mutually agree that the School may use a District facility, the terms of such use shall be negotiated and set forth in a separate Facility Use Agreement executed by the School, the Superintendent and the Board President.

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. However, should such impracticability occur, the District will look favorably toward allowing MA the use of under-utilized District facilities until such time as the impracticability condition is corrected.

## SECTION ELEVEN: CHARTER RENEWAL, REVOCATION AND SCHOOL-INITIATED CLOSURE

11.1. **Renewal Process.** The School shall submit its renewal application no later than December 1 of the year prior to the year in which the School's charter expires. At least fifteen (15) calendar days prior to the date on which the District Board will consider whether to renew the charter, District personnel shall provide to the District Board and School a written recommendation, including the reasons supporting the recommendation, concerning whether to renew the charter. The District Board shall rule by resolution on the renewal application no later than February 1 of the year in which the charter expires, or by a mutually agreed upon date following a public hearing where the School shall have the opportunity to address the District Board about its renewal request. If the Board of Education decides to not renew the Contract, it shall detail the reasons in its resolution with reasonable specificity and all such reasons must be supported by evidence and consistent with applicable law including the Act.

11.2. **Renewal Application Contents.** In addition to contents required by law, the renewal application may include comments and additional information provided by the School about its progress toward meeting the District's accreditation indicators. The format of the renewal

application shall be provided to the School by the District prior to September 1 of the year in which the application is due.

**11.3. Criteria for Renewal or Non-renewal and Revocation.** The District may terminate, revoke or deny renewal of the Contract for any of the grounds provided by state law, C.R.S. § 22-30.5-110(3), as they exist now or may be amended, or material breach of this Contract. Grounds for termination, revocation, or denial also include, but are not limited, to the following:

- A. Pursuant to C.R.S. §22-11-210(1)(d), the School is accredited with a priority improvement plan or turnaround plan for a combined total of five (5) consecutive years or any lesser number of years established by the State Board of Education after which closure or restructuring is required.
- B. The School is accredited with a turnaround plan and does not attain a higher accreditation rating at its next performance review in accordance with C.R.S. § 22-11-406(3).

**11.4. Termination and Appeal Procedures.** The District shall provide the School written notice of the grounds for termination and the date of the termination hearing before the District Board. Prior to providing this notice, the District shall, to the extent practicable, send the School a notice of concern and a notice of breach, the content of which are described in Section 3.2. Termination shall not take effect until the School has exhausted its opportunity to appeal such decision to the State Board of Education. The District may impose other appropriate remedies for breach (see Section 3.2).

**11.5. School-initiated Closure.** Should the School choose to terminate this Contract before the end of the Contract term, it may do so in consultation with the District at the close of any school year and upon written notice to the District given at least ninety (90) days before the end of the school year. Notice would ideally be given by January 1 to allow families to take advantage of district choice enrollment dates.

**11.6. Dissolution.** In the event the School should cease operations for whatever reason, including the non-renewal or revocation of this Contract, the School agrees to continue to operate its educational program until the end of the school year or another mutually agreed upon date. The District shall supervise and have authority to conduct the winding up of the business and affairs for 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 and state law. 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, without acquiring any equity interest in any facilities if such facilities are held by a related Building Corporation, under lease to the School. The District's authority hereunder shall include, but not be limited to:

- A. The return and/or disposition of any assets acquired by donation or purchase by the School during the time of its existence, subject to the limitations of Section 11.7 below, and,
- B. Reassignment of students to different schools within the District. School personnel and the School's Board of Directors shall cooperate fully with the

winding up of the affairs of the School including convening meetings with the 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. All non-consumable grants, gifts and donations of assets purchased from these revenue sources shall be considered the property of the School unless otherwise identified by the donor in writing. Assets not purchased with public funding provided by the District may be donated to another mutually agreeable not-for-profit organization.

## **SECTION TWELVE: GENERAL PROVISIONS**

**12.1. Order of Precedence.** In the event of any conflict among the organic documents and practices defining this relationship, it is agreed that the Contract shall take precedence over policies of either Party and the Application, applicable policies of the District that have not been waived shall take precedence over policies and practices of the School and the Application, and policies of the School or mutually-acceptable practices developed during the term of the Charter Contract shall take precedence over the Application.

**12.2. Amendments.** No amendment of the Contract shall be valid unless ratified in writing by the District Board and the Charter Board 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 are superseded by this Contract.

**12.4. Non-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 and applicable federal laws of the United States. If any provision of this Contract or any application of the 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 and the School. 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 covenants and agreements expressed herein shall be deemed or be taken to constitute a waiver of any succeeding or 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 acknowledgment of receipt) or three (3) days after mailing when sent by certified mail, postage prepaid, to the established address of the School's prime operating facility, in the case of notice being sent to the School, to the Chief Action Officer at 739 Gold Hill Pl., Woodland Park, CO 80863 or to the Superintendent at the District's Administrative Offices, 155 Panther Way, Woodland Park, CO 80863 in the case of notice being sent to the District. Either Party may change the address for notice by giving written notice to the other Party.

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 District policies, regulations, procedures or other requirements, other than those for which waivers have been granted, it is agreed that the provisions of this Contract and District policies/regulations shall control over the Application, and that compliance by the School shall be required and measured in the same manner as may be applied and expected by the District of a majority of its other schools.

*[Signature Page Follows.]*

IN WITNESS HEREOF, the Parties have executed this Contract as amended as of the date written below.

**DISTRICT:**

WOODLAND PARK SCHOOL DISTRICT RE-2

\_\_\_\_\_  
David Rusterholtz  
Board of Education President

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary, Board of Education

**SCHOOL:**

MERIT ACADEMY

\_\_\_\_\_  
Nicole Waggoner  
Board President

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary, Board of Directors

**List of Attachments**

- Attachment 1: April 13, 2022 Memorandum of Understanding
- Attachment 2: Merit Academy Articles of Incorporation and Bylaws
- Attachment 3: Sample Conflict of Interest Form
- Attachment 4: Education Management Provider (EMP) Agreement Requirements
- Attachment 5: Automatic Waivers of State Laws
- Attachment 6: Non-Automatic Waivers of State Laws and Rules (with rationale and replacement plan)
- Attachment 7: Waivers of District Policies (with rationale and replacement plan)
- Attachment 8: School's Recruitment and Enrollment Plan
- Attachment 9: School's Enrollment Policy (with Enrollment Preferences, Selection Method, and Enrollment Timeline and Procedures)
- Attachment 10: District Services Contract

**ATTACHMENT 1: APRIL 13, 2022 MEMORANDUM OF UNDERSTANDING**

## Memorandum of Understanding

This Memorandum of Understanding ("MOU") is entered into and is effective as of April 13, 2022 (the "Effective Date") by and between the Woodland Park School District (the "District") and Merit Academy ("Merit") referred to herein each, as a ("Party"), and together, as the ("Parties").

### Recitals

WHEREAS, Merit previously applied to the District for charter authorization; and

WHEREAS, Merit was approved as a contract school by ERBOCES; and

WHEREAS, Merit now desires to transfer to District authorization as a charter school; and

WHEREAS, as a contract school, Merit opened successfully in the fall of 2021 and functions operationally and academically in the manner proposed in the original application (as a classical academy); and

WHEREAS, the Parties agree that a pathway involving a brand new application process would, in many respects, be unnecessary and artificial; and

WHEREAS, the boards of directors of the Parties agree that any and all requirements to ensure future success can be included in the resulting charter contract; and

WHEREAS, because the District staff and community wish to move forward with attention on consequential matters in this time of great pressure and change in public education, the District board wishes to move directly to the contracting phase;

NOW, THEREFORE, in consideration of the foregoing recitals, the Parties hereby:

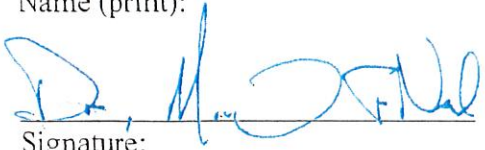
1. Establish a period of no longer than 90 days to complete and sign a charter contract for a term of five years to begin on July 1, 2022; and
2. Agree that reasonable pre-opening and operating conditions, to include finance, staffing, exceptional student services, enrollment, and educational program plans acceptable to the District board will be included in the charter contract; and
3. Agree that the essential elements of the previous charter application will be incorporated in the resulting charter contract; and
4. Agree that if the Parties are unsuccessful in reaching agreement on a charter contract, the District board will open a charter application window within fifteen days and Merit will be provided the opportunity to submit an original application and accorded every opportunity to be fairly and fully considered within the standard charter application process.


[Signature Page Follows]



Woodland Park School District

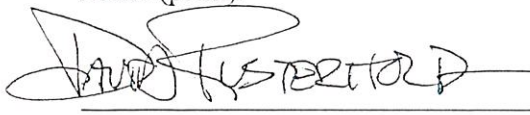
Mathew Neal  
Name (print):

  
Signature:

  
Superintendent

April 29<sup>th</sup> 2022  
Date:

David Rusterholtz  
Name (print):

  
Signature:

\_\_\_\_\_  
President of the Board

4 / 29 / 2022  
Date:

Merit Academy

Nicole Waggoner  
Name (print):

  
Signature:

\_\_\_\_\_  
President of the Board

April 29<sup>th</sup>, 2022  
Date: