

**MEMORANDUM OF UNDERSTANDING
BETWEEN
MARICOPA UNIFIED SCHOOL DISTRICT
AND
PEAK TO PEAK MOUNTAIN CHARTER**

This Agreement (or “Memorandum of Understanding” or “MOU”) is executed by and between the Board of Trustees of the Maricopa Unified School District (“District”) on one hand and the Peak to Peak Mountain Charter (“Charter School”) on the other.

RECITALS:

- A. Maricopa Unified School District is a school district existing under the laws of the State of California.
- B. Peak to Peak Mountain Charter has developed and submitted a petition to establish a charter school.
- C. The parties to this agreement recognize that the laws of the State of California authorize the formation of charter schools for the purpose, among others, of developing new, innovative and more flexible ways of educating children within the public school system.
- D. By approving the charter petition, the District becomes the sponsoring district of the Charter School. This Agreement is intended to outline the parties’ agreements governing their respective fiscal and administrative responsibilities and their legal relationship and other matters of mutual interest not otherwise addressed or resolved in the terms of the Charter School’s charter.
- E. The Charter School shall commence operation in the 2013-2014 school year.
- F. The parties agree that this Agreement is consistent with the Charter document (“Charter”) as approved by the District Board of Education on May 9, 2013. If the terms of this Agreement conflict with the terms of the Charter, this Agreement shall control the handling or resolution of the particular issue in question. To the extent that this Agreement is inconsistent with any of the terms of the Charter, both parties shall meet to amend the Agreement to reach consistency, if the inconsistency is material to the terms of the Charter. If the parties do not reach agreement regarding the consistency, the parties agree to follow the procedures for dispute resolution as stated in the Charter.
- G. Written modification of this Agreement may be made by mutual agreement as set forth below.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements herein set forth, the Charter School and the District do hereby agree as follows:

AGREEMENTS:

I. TERM AND RENEWAL

- A. This agreement shall commence on the date upon which it is fully executed by both parties and shall run concurrently with the charter.
- B. Any modification of this Agreement must be in writing and executed by duly authorized representatives of both parties specifically indicating the intent of the parties to modify this MOU.
- C. The duly authorized representative of the Charter School is the Charter School Principal, or the Board of Directors of the Charter School. For purposes of amendment of this MOU, the Board of Directors is required to take action.
- D. The duly authorized representatives of the District are the District Board of Education and Superintendent, or designee. For purposes of amendment of this MOU, the Board is required to take action.
- E. This MOU will continue in effect until mutually modified in writing except that the MOU shall terminate upon the expiration, rescission, or revocation of the Charter. Amendments to the MOU may be made upon written agreement of both Parties.

II. DESIGNATION AND OPERATION OF SCHOOL

- A. The Charter School shall be known as the Peak to Peak Mountain Charter. The Charter School shall be operated as a non-profit public benefit corporation pursuant to California law and shall be responsible for all functions of the Charter School in accordance with the terms and conditions set forth in this Agreement and its charter.
- B. Grade Levels: It is recognized that the Charter School will serve students in grades K-8.

III. FUNDING

- A. As established by Education Code Section 47630 et. seq., the Charter School shall receive funding under the charter school funding model as follows:

1. A general purpose entitlement pursuant to Education Code Section 47633, which includes in-lieu property taxes and state aid.
 2. A categorical block grant amount pursuant to Education Code Section 47634.
 3. The Charter School is also entitled to lottery funds, pursuant to Education Code Section 47638.
 4. The Charter School is also entitled to class size reduction funds (if applicable), a variety of state and federal application based programs, as well as various grant opportunities. Except as otherwise noted in this Agreement, it shall be the responsibility of the Charter School to apply for this funding which is beyond the basic statutory entitlement.
 5. Any additional funds negotiated by the Charter School in accordance with Education Code Section 47636.
- B. In addition to the block grant funding specified above, the parties recognize the authority of the Charter School to pursue additional sources of funding.
1. The District has no obligation to apply for additional sources of funding for the Charter School. However, if the District applies for additional sources of funding in the form of grants and/or categorical funding at the request of and for the benefit of the Charter School, the District shall receive 1% of such funds or as required by the specific funding source.
 2. The Charter School shall cooperate fully with the District in application made by the District on behalf of the students of the Charter School.
 3. The Charter School agrees to comply with all regulations related to expenditures and receipt of such funds.
- C. The Charter School has elected to receive funding from the State directly, pursuant to Education Code Section 47651.
- D. The District shall transfer funding in lieu of property taxes to the Charter School in monthly installments by no later than the fifteenth of each month in accordance with Education Code Section 47635.

IV. LEGAL RELATIONSHIP

- A. The Parties recognize that the Charter School is a separate legal entity. The Charter School shall be operated as a non-profit public benefit corporation under Education Code Section 47604. As such, in accordance with Education Code Section 47604(c), if the District complies with all oversight responsibilities required by law, the District shall not be liable for the debts or obligations of the Charter School or for claims arising from the performance of acts, errors, or omissions by the Charter School.

V. FISCAL REPORTING

- A. The Charter School shall annually prepare and submit the following reports to the District and the County Superintendent of Schools:
- On or before July 1, a preliminary budget.
 - On or before December 15, an interim financial report reflecting changes through October 31.
 - On or before March 15, a second interim financial report reflecting changes through January 31.
 - On or before September 15, a final unaudited report for the full prior year.
- B. **AVERAGE DAILY ATTENDANCE:** The Charter School will be responsible for its daily and monthly attendance accounting. The Charter School will submit the attendance reports in accordance with State requirements to the District's attendance officer in a timely manner and in a format, which is consistent with District process and software.

VI. DISTRICT OVERSIGHT/SERVICES

- A. In accordance with Education Code Section 47613, the District may charge for the actual costs of supervisory oversight not to exceed 1 percent of the revenue of the Charter School. "Revenue" is defined in accordance with Education Code Section 47613(f) as the general purpose entitlement and categorical block grant, as defined in Education Code Section 47632(a) and (b).
- B. Charter School and the District agree that "supervisory oversight," as used in Education Code Section 47613 and Education Code Section 47604.32, shall include the following:

- All activities related to the Charter revocation and renewal and processes as described in Section 47607.
- Activities relating to monitoring the performance and compliance of the Charter School with respect to the terms of its Charter, related agreements, and all applicable laws.
- Participating in the dispute resolution process described in the Charter.
- Review and timely response to the Charter School’s Annual Independent Fiscal and Performance Audit.
- Identify at least one Staff member as a contact person for the Charter School.
- Visit the Charter School at least annually.
- Monitor the fiscal condition of the Charter School.
- Provide timely notification to the California Department of Education if any of the following circumstances occur:
 - A renewal of the charter is granted or denied.
 - The charter is revoked.
 - The Charter School will cease operation for any reason.

C. The Charter School and District also agree to the following services arrangement:

Description of Service	Fee	Description of How Fee Shall Be Calculated/Other Information
District’s use of Charter School’s Facilities	None	To be provided free of charge for District’s provision of professional development or other use. Charter School requests District provide advanced written notice of 30 calendar days prior to use.
Consultation with District Administration	Up to \$5,750 in year 1	This is in addition to the 1% oversight fee discussed in Section VI., Subsection A., and subject to the school’s financial capacity at P-2 in year one. Charter School expects to provide funds to District no later than March 1, 2014.

- E. Additional services may be contracted by the Charter School from the District if available pursuant to a separate written agreement between the Parties.

VII. SPECIAL EDUCATION SERVICES/SECTION 504

The following provisions govern the application of special education to Charter School students:

- A. It is understood that all children will have access to the Charter School and no student shall be denied admission due to disability. The Charter School shall be solely responsible for compliance with Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act (“ADA”). The charter school shall operate consistent with the requirements of the ADA and Section 504 of the Rehabilitation Act.
- B. The Charter School shall be deemed a public school of the District for purposes of special education. The Charter School shall be held solely responsible for compliance with the Individuals with Disabilities in Education Act (“IDEA”) and state special education law both in regard to the provision and financing of services.
- C. Payment of Actual Costs.

The Charter School shall be responsible for the actual cost of the provision of legally appropriate special education and related services to Charter School students regardless of whether the actual costs exceed state and federal funding allocations. These costs include, but are not limited to, assessment, IEP meetings, placement and related services. This responsibility for excess costs shall satisfy the Charter School’s obligation under Education Code Section 47646(c).

The Charter School will submit to the District invoices for special education and related services provided on a periodic basis. The District will pay invoices from Special Education Funds on a timely basis. If the special education costs related to Charter School special education students are less than the amount of state and federal funds provided by the Kern County SELPA, the Charter School agrees those excess funds are to remain in the Special Education Funds with the District to be used to fulfill the Charter School’s obligations under this agreement in future years. If, under rules or regulations enforced by the local SELPA, the funding must be used within a stated time or be returned to the SELPA, the funding at risk of being returned may be used by the District to pay special education expenses of the District, and such use constitutes additional contribution by the Charter School toward encroachment of

special education costs and expenses into District general revenue under Education Code Section 47646(c).

- D. Charter School shall assure that a free appropriate public education (FAPE) will be provided for all children with disabilities enrolled in Charter School in accordance with state and federal legal mandates. Charter School will be considered the district of residence for special education responsibility. A full continuum of special education programs and related services shall be provided by Charter School as required by individual student's IEPs.
- E. Charter School operates as a school within the District and not as a separate LEA.
- F. Charter School shall employ credentialed employees or contract with a California approved Nonpublic Agency who shall be familiar with and accept responsibility for, and provide services for:
 - 1. Child Find;
 - 2. Interim Programs;
 - 3. Referral;
 - 4. Assessment;
 - 5. Special Education Instruction;
 - 6. Due process;
 - 7. Discipline/manifestation determination.
- G. Charter School agrees to cooperate with District staff in ensuring that students with disabilities enrolled at Charter School shall be served in accordance with the Kern County SELPA Local Plan.
 - 1. The District shall provide a District contact who will work collaboratively with the Charter School and who is responsible for oversight of the Charter School special education program.
 - 2. Charter School shall submit to the District all required reports in order to comply with the SELPA and state requirements.
 - 3. The Kern County SELPA shall allocate funding to the District for the provision of special education services in accordance with the NISER AB 602 Implementation Plan. Charter School shall be responsible for all special education costs in excess of revenue received. Charter School, in cooperation with the District, shall document that all state and federal special education funds are used for the sole purpose of providing special education instruction and/or services to identified students with disabilities. Such funds shall be used to supplement and

not supplant other sources of federal state, and local funds apportioned to Charter School by the LEA.

4. By March 1 of each year, Charter School shall submit a proposed budget for special education services to the District for approval, based on estimated costs. Proposed budget revisions may be submitted by September 30 and December 31. Charter School shall submit reimbursement claims on a monthly basis incurred through special education costs up to that amount annually.
5. Charter School shall provide the District with required reports concerning special education students, including annual and tri-annual IEP meeting notices, discipline data, alternative assessment and other reports as required by District special education staff.
6. District shall review Charter School's special education program, policies and procedures to ensure compliance with District and SELPA policies and all applicable state and federal laws.
7. Charter School shall indemnify and hold the District harmless from and against any and all liability arising from acts or omissions of the Charter School related to the provision of special education services to students enrolled in the Charter School for the time period in which students are enrolled in the Charter School. This indemnification shall include the legal defense of the District using Charter School selected counsel, its officials, employees, and against special education due process hearing requests and/or complaints to state or federal agencies. Charter School shall indemnify District against any damages, including compensatory damages that may be awarded or agreed to for the Charter School's failure to provide appropriate and/or compliant special education services to students enrolled in the Charter School.

The District shall indemnify and hold the Charter School harmless from and against any and all liability arising from acts or omissions of the District related to the provision of special education services to students enrolled in the Charter School. This indemnification shall include the legal defense of the Charter School using District selected counsel, its officials, employees, and against special education due process hearing requests and/or complaints to state or federal agencies. The District shall indemnify Charter School against any damages, including compensatory damages that may be awarded or agreed to for the District's failure to provide appropriate and/or compliant special education services to students enrolled in the Charter School. The District's indemnification obligation shall not arise solely from vicarious liability, from the District's status as LEA for purposes of special education, or from any alleged failure to conduct required

oversight, but requires active negligence or other fault by the District or its agents or employees.

VIII. INSURANCE AND RISK MANAGEMENT

- A. The Charter School will maintain, at its own expense, its own insurance policies for the operation of the Charter School, including but not limited to general liability, property, and errors and omission policies. Policy types and amounts will be commensurate with the recommendations of amounts and types by the District’s insurer for a school of similar type and size in the area. Additional insurance may also be obtained by the Charter School as necessary or required by law.
- B. The District shall be named as an additional insured under all insurance carried on behalf of the Charter School.
- C. The Charter School shall provide the District with certificates of insurance upon request by the District.

IX. SPECIAL PROGRAM/SERVICES AND/OR ACTIVITIES/SPORTS

In the event that either party to this MOU wishes to have its students and or staff participate in a program/service/activity offered by the other party, advance approval and arrangements must be made. It is fully recognized that expenses for such participation may be charged. Such arrangements must be made with the appropriate site administration in advance and confirmed in writing.

X. FERPA: Family Educational Rights and Privacy Act

The District hereby designates employees of the Charter School as having a legitimate educational interest such that they are entitled to access to education records under 20 U.S.C.A.1232(g), the Family Educational Rights and Privacy Act and California Education Code 49076(b)(6) (“FERPA”) as to District pupils who are enrolled in the Charter School. The Charter School hereby designates the employees of the District as having a legitimate educational interest such that they are entitled to access to education records under FERPA. The Charter School, its officers and employees shall comply with FERPA at all times.

XI. BROWN ACT/PUBLIC RECORDS ACT

The Charter School shall conduct its Board of Directors meetings regarding the Charter School according to the Brown Act. In addition, the Charter School understands and agrees to comply with the Public Records Act (Government Code Section 6250 et seq.) as well as Education Code Section 47604.3.

XII. PUPIL TRANSPORTATION

The Charter School shall be responsible for any transportation offered to students who enroll in the Charter School with the exception of transportation required through an IEP which shall be provided under Section VII of this MOU.

XIII. LEGAL SERVICES

The Charter School will be responsible for procuring its own legal counsel and the costs of such service.

XIV. CHARTER SCHOOL CLOSURE

As also provided in the Charter School's corporate bylaws, on liquidation or dissolution of the corporation, all properties and assets remaining after payment, or provision for payment, of all debts and liabilities of the corporation shall be distributed to a California public school or charter school operated by or as a nonprofit public benefit corporation that has established its exempt status under Internal Revenue Code section 501(c)(3).

XV. CHARTER SCHOOL FACILITIES AND ASSETS

If the Charter School does not obtain a facility through a facilities use agreement with the El Tejon Unified School District, the Charter School shall secure such facility through separate agreement, or secure an alternate facility and provide the District a copy of a lease and certificate of occupancy, as appropriate, no later than 30 calendar days prior to commencing the 2013-14 school year (or as otherwise agreed to by the parties).

If the Charter School does not obtain assets and resources from the El Tejon Unified School District as reflected in the Charter School's submitted budget, the Charter School shall provide the District an updated budget reflecting additional costs, as deemed appropriate by the Charter School, for the provision of all resources necessary to successfully implement the education program set forth in the Charter no later than 30 calendar days prior to commencing the 2013-14 school year (or as otherwise agreed to by the parties).

XVI. SEVERABILITY

The terms of this MOU are severable. In the event that any of the provisions are determined to be unenforceable or invalid for any reason, the remainder of the charter shall remain in effect, unless mutually agreed otherwise by the District and the Charter School. The District and Charter School agree to meet to discuss and resolve any issues or differences relating to provisions in a timely, good faith fashion.

XVII. NOTIFICATION

All notices, requests, and other communications under this agreement shall be in writing and mailed to the proper addresses as follows:

To the District at: Superintendent
 Maricopa Unified School District
 955 Stanislaus Street
 Maricopa, CA 93252

To the Charter School at: Principal
 Peak to Peak Mountain Charter
 Pine Mountain Club, CA 93222

XVIII. ENTIRE AGREEMENT

This Agreement contains the entire agreement of the parties with respect to the matters covered hereby, and supersedes any oral or written understandings or agreements between the parties with respect to the subject matter of this agreement. No person or party is authorized to make any representations or warranties except as set forth herein, and no agreement, statement representation or promise by any party hereto which is not contained herein shall be valid or binding. The undersigned acknowledges that she/he has not relied upon any warranties, representations, statements or promises by any of the parties herein or any of their agents or consultants except as may be expressly set forth in this Agreement. The parties further recognize that this agreement shall only be modified in writing by the mutual agreement of the parties.

**** Signatures on the Following Page ****

Dated: _____

Peak to Peak Mountain Charter School

Dated: _____

Maricopa Unified School District

The Charter was approved on May 9, 2013 by the Board of Education of the Maricopa Unified School District by the following vote:

AYES: _____

NOES: _____

ABSTAINS: _____

Certification by the Superintendent.