

SECOND AMENDED CHARTER SCHOOL CONTRACT

THIS SECOND AMENDED CHARTER SCHOOL CONTRACT, dated this ___ day of June, 2013, is made and entered by and between the BOULDER VALLEY SCHOOL DISTRICT RE-2 (“School District”) and the HORIZONS K-8 SCHOOL, a charter school (“Horizons”), by the Horizons Council.

RECITALS

WHEREAS, the Colorado General Assembly has enacted the Charter Schools Act (“Act”), C.R.S. §§ 22-30.5-101 et seq., for certain purposes as enumerated in § 22-30.5-102(2) and (3); and

WHEREAS, on May 6, 1996, an application was received from the Horizons Council for the transformation of Horizons from a focus school to a charter school within the School District; and

WHEREAS, the School District’s Board of Education (“Board”) determined that the Application submitted to the School District for the formation of Horizons as a charter school complied with the purposes and requirements of the Charter School Act; and

WHEREAS, on September 26, 1996, the School District conditionally granted the Application and on May 8, 1997, approved a Charter School Contract for a three-year term; and

WHEREAS, Horizons timely filed an application for renewal of the charter for a five year term to commence as of July 1, 2000, which renewal was approved by the Board and formalized into a renewal contract dated February 24, 2000; and

WHEREAS, Horizons timely filed an application for a second renewal of the charter for a five year term to commence as of July 1, 2005, which renewal was approved by the Board and formalized into a renewal contract dated February 22, 2005;

WHEREAS, Horizons timely filed an application for a third renewal of the charter for a ten year term to commence as of July 1, 2010, which renewal was approved by the Board and formalized into a renewal contract dated January 26, 2010, with a ten-year term; and

WHEREAS, Horizons has continued to demonstrate significant progress toward the achievement of pupil performance standards identified in its application and has responsibly managed its funds;

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

AGREEMENT

1.0 Mission Statement. The statement contained in the Mission Statement Section of Horizons' original Application, and as it has been consistently carried through subsequent annual reports filed by Horizons, is accepted by the School District.

1.1 Unincorporated Nonprofit Association. Horizons and the School District hereby recognize and acknowledge that Horizons is an Unincorporated Nonprofit Association, with rights and authority to enter into contracts and to acquire rights in real property on its own behalf, pursuant to § 7-30-101, *et seq.*, C.R.S., subject to the provisions of the Act, other applicable laws, and the Amended Charter School Contract.

2.0 Goals, Objectives, and Pupil Performance Standards. The goals and objectives set forth in the Goals and Objectives Section of the Application and the pupil performance standards set forth in the Educational Program and Standards Section of the Application are accepted by the School District, as amended by this Contract, and subject to the conditions set forth below:

2.1 Student Attendance, Conduct, and Discipline. Unless Horizons adopts its own set of written policies that are approved by the School District, Horizons shall comply with and enforce all Board-approved policies and regulations concerning student attendance, standards of conduct, and discipline.

2.1.1 Horizons may adopt its own written attendance policy and shall be granted a waiver from the School District's policy, so long as the policy is in compliance with Colorado's compulsory attendance laws, including, without limitation, hour requirements and the distinction made between excused and unexcused absences.

2.1.2 Horizons may adopt its own set of written policies concerning student conduct and student discipline and shall be granted a waiver from corresponding School District policies as long as the developed policies are in compliance with applicable federal and state laws, including, without limitation, the grounds and procedures established by state statute for suspending, expelling, or denying admission to a student. Unless services are purchased from the School District, any general education services required by law to be provided to suspended or expelled students shall be the sole responsibility of Horizons. Any special education and related services required by law to be provided to suspended or expelled students shall be the responsibility of the School District as Horizons will purchase such services from the School District as set forth in this Contract.

2.2 Student Welfare and Safety. Horizons shall comply with all Board-approved policies and regulations, and comply with all applicable federal and state laws, concerning student welfare, safety, and health, including, without limitation, Board policies and laws addressing the reporting of child abuse, accident prevention and disaster response, crisis management plans, implementation of a Safe School Plan, as required by C.R.S. § 22-32-109.1(2), and any state regulations governing the operation of school facilities.

2.3 Accountability and Accreditation. Horizons shall operate under the auspices of, and be accountable to, the School District and the Board, and shall be subject to all Board-approved policies and regulations, unless specifically waived, as such may exist from time to time. Horizons shall comply with the educational accountability provisions of Colorado law, as amended from time to time, including, without limitation; the Educational Reform Act, C.R.S. §§ 22-7-401 *et seq.*; the School Accountability Reporting Act, C.R.S. §§ 22-7-601 *et seq.*; the Colorado Educational Accountability Act of 2009, C.R.S. §§ 22-11-101 *et seq.* (“Accountability Act”); the Colorado State Board of Education’s Accreditation Rules 1 CCR 301-1; and the terms of any Accreditation Contract between the School District and the State Board, as amended from time to time. Horizons shall provide an annual accountability report to the School District on or before October 15 of each year that shall include, but not be limited to, a School Improvement Plan, parent surveys evaluating Horizons in its delivery of educational services, and student testing results on the CSAP examination and any other assessments required by state law or School District policy.

2.3.1 Horizons shall maintain a rating of average or above, as demonstrated on any school accountability report issued by the state or demonstrate longitudinal progress of students on CSAP as measured by School District assessments. If Horizons receives a rating of low or below on any school accountability report issued by the state for two consecutive years following the commencement of this Contract, the Board may deem that such ratings constitute a material breach of this Contract, grounds for termination of the Contract, and/or grounds for denying a renewal application.

2.3.2 Horizons agrees that it has a duty to comply with the applicable provisions of the federal No Child Left Behind Act, 20 U.S.C. §§ 6301 *et seq.*, as amended, and its implementing regulations.

3.0 Community Support. The Board finds that sufficient support for the continuation of Horizons as a charter school exists.

4.0 Statement of Need. The Board has determined that the Statement of Need Section of the original Application sufficiently establishes a continuing need for educational choice within the School District and that Horizons' program meets that need in a manner that would promote the best interests of the school community to be served by Horizons.

5.0 Educational Program, Pupil Performance Standards, and Curriculum. The educational program, pupil performance standards, and curriculum set forth in the Educational Program and Standards Section of the Application are hereby accepted, as amended herein, and subject to the conditions set forth below. Horizons' educational program does not include an on-line program, pursuant to C.R.S. § 22-30.7-101 *et seq.*, and such a program will not be implemented by Horizons without advance Board approval.

5.1 Curriculum. The Horizons curriculum and instructional programs, as reviewed by the Board and contained within its original Application, are confirmed and

approved, subject to amendment from time to time by Horizons, with Board approval, and as may be required by applicable Board policies.

5.1.1 Horizons shall have the authority and responsibility for refining the design and implementation of its educational program, subject to the conditions of this Contract, in a manner that is consistent with state law, including, without limitation, requirements regarding content standards. By August 1 of each year, Horizons will have available and provide to the School District's Curriculum and Instruction Division upon request a summary of its yearly curriculum plan for the ensuing school year in order to determine that the plan is consistent with the Application. Prior to commencement of instructional programs in Horizons based on a materially modified curriculum or program delivery system, Horizons shall provide evidence reasonably acceptable to the School District of the complete scope and sequence of such program of instruction. The intent of this requirement is to ensure that students of Horizons continue to have sound educational foundations that meet or exceed state-approved content standards for applicable courses. Horizons' courses shall also meet or exceed the content standards of the School District, as approved from time to time by the Board of Education.

5.1.2 Horizons agrees to comply with all state statutory requirements concerning subjects of instruction, unless specifically waived by the State Board of Education, including, without limitation, instruction in the areas of state and federal history and civil government, C.R.S. § 22-1-104; honor and use of the United States Flag, C.R.S. § 22-1-106; the federal Constitution, C.R.S. § 22-1-108; and the effect of use of alcohol and controlled substances, C.R.S. § 22-1-110.

5.1.3 Horizons shall keep in force through its Council Bylaws (attached as Exhibit A), or substituted bylaws approved by the School District, a process, approved by the School District, for resolving public complaints, including complaints regarding curriculum, that provides an opportunity to be heard and an appeal process similar to current School District policies and procedures, except that the final administrative appeal shall be heard by the Horizons Council Board, rather than the Board of Education of the School District.

5.2 Records.

5.2.1 Horizons agrees to comply with all record keeping requirements of the Board and/or federal or state law and shall provide any reports, as necessary, to meet the School District's reporting obligations to the State Board, Colorado Department of Education, and U.S. Department of Education.

5.2.2 Horizons shall comply with all Board-approved policies and regulations, and applicable federal and state laws, concerning the maintenance, retention, and disclosure of student records, including, without limitation, the Colorado Public Records Law, C.R.S. §§ 24-72-204 *et seq.*, and the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g. The Board, its Superintendent, and their designees (whom the School District has determined to have legitimate educational interests) shall have access to all records of Horizons in the same manner as they would have access to the records of any other public school in the District. Student records include, without limitation, immunization records, class

schedules, records of academic performance, disciplinary actions, attendance and standardized test results, and documentation required under federal and state law regarding the education of students with disabilities.

5.3 Nonreligious, Nonsectarian Status. The educational program of Horizons shall be nonreligious, nonsectarian, and, consistent with applicable law and School District policy, shall not discriminate against any student on the basis of race, creed, color, national origin, sex, marital status, sexual orientation, gender identity/expression, religion, ancestry, or disability.

5.4 Enrollment.

5.4.1 Enrollment shall be open to any child who resides within the School District and to any child who resides outside the School District subject to compliance with Colorado open enrollment statutes, Board policy, and this Contract.

5.4.2 The School District and Horizons agree that, for the term of this Agreement, Horizons' total funded enrollment shall be established on an annual basis. Prior to May 1 of each year, Horizons shall determine the desired number of students ("Student Target") to be enrolled at Horizons for the following school year. The Student Target for any year may not be more than eight students larger than the number of students enrolled for the previous year, and may not exceed a total of 348 enrolled students. This limitation on the number of enrolled students is acknowledged by the School District and Horizons as necessary to facilitate the academic success of the students enrolled in Horizons, to facilitate Horizons' ability to achieve its mission and goals, and to ensure that Horizons' enrollment does not exceed the capacity of Horizons' facility and site.

5.4.3 Horizons and students enrolling in Horizons are subject to and shall comply with the School District's open enrollment policy and regulations, applicable to other School District schools, as amended from time to time. Horizons may enroll students who have never been enrolled in the School District prior to the close of open enrollment, up to the opening date of the enrollment count "window," as designated by the Colorado Department of Education and consistent with the provisions of the Public School Finance Act of 1994 or successor act ("Finance Act"), for purposes of determining eligibility for funding under paragraph 7.1 below and may enroll students who will not be eligible for funding at any time thereafter up to the applicable Student Target.

5.4.4 In recognition of Horizons' agreement to the enrollment numbers herein, should Horizons' enrollment drop below its Student Target during any school year, Horizons may accept students from its wait list to fill available positions in order to stay as close as possible to the enrollment limit, so long as Horizons coordinates the acceptance of such additional students in advance with the Superintendent or designee. In considering any potential future modification to the enrollment limit, the School District shall take into account, among other things, the financial and programmatic impacts upon the School District and Horizons, the success of Horizons in meeting the goals and objectives of its Application and the requirements of this Contract, the level of community support, and student demand as evidenced by Horizons'

wait list. Horizons and students enrolling in Horizons are subject to the School District's open enrollment policy and regulations, except for enrollment priorities as provided in the Application and enrollment deadlines as established by the Superintendent or designee.

5.4.5 Horizons students may apply for enrollment in individual classes at School District high schools on the same basis as students from other School District middle schools including, without limitation, satisfying any prerequisites and space availability. Students from other School District schools may apply for enrollment in individual classes at Horizons on a space-available basis. If such enrollment of students who have been included in the funded pupil count, result in a net transfer, during a given semester, from or to Horizons of more than ninety (90) hours of instruction per semester for any one student, then either Horizons or the School district, as the case may be, shall reimburse the other, within sixty days after the end of each fiscal year, at the rate of one-fourteenth of the State's per-pupil revenue funding, net of purchased services, for each semester hour that one party's enrollment under this section exceeds the other's.

5.5 Admissions. Students shall be considered for admission into Horizons pursuant to the School District's open enrollment procedures and eligibility criteria for admission into school programs, as modified by the Enrollment provisions of Paragraph 5.4 of this Contract, and in all cases without regard to race, creed, color, national origin, sex, marital status, sexual orientation, gender identity/expression, religion, ancestry, or disability. Horizons shall not use or consider gender, race, or other protected classification in any admission or enrollment process or decisions. Subject to final approval by the Board and the Horizons Council, and in compliance with applicable law, the School District and Horizons agree to cooperate in the evaluation and potential implementation of enrollment preferences for certain at-risk and other under-served populations in the School District, and in providing additional support to Horizons as may be mutually agreed upon to serve such populations successfully. Denial of admission shall be handled consistent with state law and School District policy and regulation. Except for the enrollment priorities stated herein and in the Application or unless otherwise approved in writing by the Superintendent or designee, Horizons shall follow the same lottery and open enrollment process and timelines as other schools within the School District.

5.6 Education of Students with Disabilities or Limited English Proficiency. Horizons agrees to comply with all Board-approved policies and regulations and the requirements of federal and state law concerning the education of children with disabilities by providing special education and related services. Unless otherwise agreed by the Board of Education, Horizons shall comply with this obligation by contracting with the School District to provide special education and related services as provided herein. Following enrollment of a District resident student, Horizons and the School District shall determine whether the student has been identified as a child with disabilities. If so, the parties shall obtain a copy of the student's individualized education program ("IEP"). A properly constituted staffing team shall be convened to determine whether Horizons is an appropriate placement for the student and, if so, what services are to be provided by Horizons and what services will be provided by the District. Where a student's special education needs or need for English as a Second Language ("ESL") services can be appropriately met by Horizons' certified staff, the student(s) needing

such services will receive them, to the extent appropriate, on the Horizons campus. To the extent that ESL services or special education and related services are required pursuant to a student's IEP that cannot be provided by Horizons, the School District will do so in a manner consistent with its approach for other schools of the School District, in consideration of the provisions for funding in paragraph 7.1.4 below.

5.6.1 If a student with disabilities who is not a resident of the School District applies for admission to Horizons, enrollment acceptance is contingent upon an appropriate IEP team meeting being convened to determine if a free appropriate public education is available for the student at Horizons. The student will not be accepted as a student at Horizons if the IEP team finds that a free appropriate public education is not available for the student at Horizons. If Horizons and the School District determine that the non-resident student requires transportation as a related service, Horizons shall be solely responsible for arranging for the financing and provision of said services. If the non-resident student with disabilities is one for whom tuition may be charged or excess costs collected, the School District is entitled to collect said monies on behalf of Horizons, except for any transportation cost reimbursement which would revert to Horizons.

5.6.2 Horizons shall remain solely responsible for the costs of providing those services required under an IEP and that are typically provided by regular classroom teachers through the normal classroom program, including without limitation, the cost of the classroom teacher, typical classroom supplies and services and supplies generally made available to all students. Horizons shall be responsible for ensuring that its employees properly carry out the applicable requirements of each IEP.

5.7 Tuition and Fees. Tuition may not be charged to resident or nonresident students other than for optional before- and after-school programs, intersession programs, pre-school programs, summer programs, or extended kindergarten programs administered by Horizons. In the case of the enrollment at Horizons of a nonresident student with disabilities, the School District shall collect the tuition charge for the excess costs incurred in educating the child from the school district of residence pursuant to guidelines developed by the Colorado Department of Education ("CDE") in accordance with C.R.S. § 22-20-109(5). Student fees may be charged by Horizons so long as such fees are in accordance with applicable Colorado law and regulations including, but not limited to, the provisions of C.R.S. §§ 22-32-110(1)(o) and (p) and 22-32-117, and Board policy and regulations. Horizons shall provide to the School District a schedule of all proposed fees for the ensuing year by May 1 of each year.

5.8 Extracurricular Activities. Horizons students may try out for nonacademic activities at other schools in the School District at the school they normally would have attended based upon their residence, provided that the prerequisites for participation are met. Where such participation requires payment of a fee, the Horizons student or Horizons shall be responsible for payment of the fee that shall be equal to 150 percent of the fee amount the school of participation would charge an enrolled student to participate in the activity.

6.0 Evaluation of Pupil Performance and Procedures for Corrective Action. The Board accepts Horizons' methods for evaluating pupil performance as contained in the Plan for

Evaluating Student Performance Section of the original Application. The Board of Education accepts Horizons' proposal for the use of multiple tools for assessment of student performance that shall include, but not be limited to, standardized achievement tests. Horizons agrees to cooperate with School District administrators to coordinate testing and the reporting of test data with the School District's statistical reporting needs and to implement any testing requirements and assessments that may be required to meet the School District's obligations under the provisions of Colorado law including, without limitation, , the Accountability Act, and the provisions of the No Child Left Behind Act, 20 U.S.C. § 6311(b)(3). Horizons shall pay to the School District the pro-rata costs associated with all such tests and assessments such as, but not limited to, the cost of test booklets and scoring and tabulating results.

7.0 Economic Plan, Budget, and Annual Audit. The provisions of this Contract shall supersede and control over any conflicting language contained in the Application concerning budget and funding.

7.1 Funding.

7.1.1 Subject to the enrollment limits in Section 5.4 and other provisions of this Contract including, without limitation, purchased services, and so long as Horizons is a District charter school, the School District shall provide funding for each funded student ("Student FTE") enrolled in Horizons during each fiscal year of the term of the Charter (commencing with the 2010-2011 fiscal year) as follows: (i) 100 percent of the School District per pupil revenues ("PPR"), as defined by C.R.S. § 22-54-103(9.3); (ii) 100 percent of the per pupil revenue attributable to the School District's November 1991 budget election; (iii) a "fair share" per pupil to Horizons, as annually determined by the Board, of the November 1998 budget election; (iv) a "fair share" per pupil attributable to the School District's November 2002 budget election; and (v) a "fair share" per pupil attributable to the School District's November 2005 budget election. Unless amended, the foregoing funding amounts shall include the one percent increase in state base per pupil funding as provided by the Colorado Constitution art. IX, §17 and required by C.R.S. § 22-30.5-112(2)(a)(III)(B). So long as Horizons is occupying School District facilities, the minimum per pupil amount allocated by the School District to the capital reserve fund under C.R.S. § 22-54-105(2), shall be retained by the School District (or deemed to be allocated to Horizons and reimbursed to the School District) as part of the cost for the operation, maintenance, repair, and reserve for depreciation of the facilities used by Horizons. Horizons shall also be eligible to apply for capital reserve project funds on the same basis as other schools in the School District. The parties agree that the funding levels provided for in this Contract, including the purchased services and allocated costs, comply with the financing guidelines of the Act. The term "enrolled" as used in this Contract shall be deemed to mean enrolled as of the counting dates or periods and in accordance with the requirements of the Finance Act, C.R.S. §§ 22-54-101 et seq., and CDE regulations.

7.1.2 So long as Horizons is not in material breach of this Contract, any funding provided by the School District hereunder will be made available to Horizons throughout the year consistent with the School District's procedures for its other schools, commencing on July 1, 2010, for the first year and on July 1 in each year of the Charter thereafter, subject to enrollment limits, adjustments, deductions, or purchased services as

provided in this Contract. The funding on July 1 will be based on the approved Proposed Budget for that year. Funding will be adjusted after the approval of the Revised Budget to reflect budgeted transfers. Funding again will be adjusted after the official October count. When adjustments in funding are made, based upon these enrollment count dates, any increases or decreases shall apply to the total school year but shall be spread over the remaining months of the fiscal year. Expenditures, within the applicable funding allocated to Horizons, shall be made by the School District on Horizons' behalf as part of the purchased Business Services.

7.1.3 To the extent the School District experiences any reduction or receives any increase in state equalization support by state audit attributable to Horizons' enrollments or a legislative rescission or a modification to per pupil equalization funding, proportionate reductions or increases will be made to Horizons' funding by adjustment or set off in subsequent months. Adjustments will be accomplished by the School District upon thirty days' prior written notice. Further, if any significant alteration is made to the Finance Act, the parties shall reexamine and renegotiate in good faith the funding of Horizons to take into consideration the changes in the Finance Act. The parties acknowledge that under the current version of the Finance Act, neither Horizons nor the School District will receive funding for students in the year of enrollment if the student first enrolls in Horizons or the School District after the October count date.

7.1.4 In consideration of the special education and ESL services to be provided by the School District under paragraph 5.6, Horizons agrees that it will submit appropriate documentation by Horizons to the School District's Director of Special Education regarding the Horizons' special education program, including the number of active IEPs at Horizons and the number of special education staff at the school and their responsibilities,

7.1.4.1 If Horizons does not purchase the schools portion of SPED Central Services, then the School District will deduct from the funding provided in this paragraph 7.1 the amount of the School District's average, per pupil special education and ESL costs (items numbered 2 and 3 on Exhibit B) multiplied by Horizons' total student funded enrollment. Horizons shall receive, as a credit against such costs, a proportionate share of the categorical reimbursement funding provided to the School District by the federal and state governments for special education, ESL, and for English Language Proficiency Act ("ELPA").

7.1.4.2 If Horizons does purchase the schools portion of SPED Central Services, then upon the submission (preferably by May 1 of each year) of appropriate documentation by Horizons to the School District's Director of Special Education regarding the Horizons' special education program, including the number of active IEPs at Horizons and the number of special education staff at the school and their responsibilities, the School District shall allocate funds back to the benefit of Horizons for that portion of the salaries and benefits of those staff members at Horizons who have been approved by the School District and Horizons to provide special education services under this Contract, consistent with the students' IEPs. If this allocation has not been determined by the Director or designee by June 30 of each year, then the amount for the next fiscal year shall be based upon the School District's average per pupil special education costs at school locations multiplied by Horizons' total funded enrollment and

shall be subject to annual reconciliation by the School District to assure eligibility for federal and state reimbursement.

7.1.4.3 With respect to categorical programs other than special education, ESL, and ELPA, Horizons may apply for state and federal funding, if any, to the extent that Horizons is serving students who are eligible for such aid, complies with the conditions and requirements of such programs and applicable law, fulfills the reporting requirements under such programs, and is not receiving services under such programs from the School District.

7.1.5 The level of funding provided by the School District for Horizons in Paragraph 7.1.1 above and the term of such funding is based upon the intention and commitment that Horizons will be occupying School District facilities at the Burke Campus Facility, as set forth in Paragraph 7.1.6, below. If for any reason Horizons is no longer able or permitted to occupy the Burke Campus, then the level of funding in Paragraph 7.1.1 shall be reconsidered and Horizons and the School District agree to negotiate in good faith an adjustment in the total funding, provided for in this Contract.

7.1.6 The School District agrees to provide a facility for Horizons at the Burke Campus, as contemplated by the Site Lease between the School District and the Trustee under the BEST Construction Award, and a Sublease between the Public School Capital Construction Assistance Board, as lessor, and Horizons, as lessee (“Sublease”), for the duration of the term of Horizon’s Charter or the Sublease, whichever first occurs, and for any renewals thereof approved by the Board.

7.1.7 Requests by Horizons to fund any necessary additional capital construction projects through ballot questions for approval of bonded indebtedness and/or a special mill levy shall be submitted in writing (with a capital construction plan as specified in C.R.S. § 22-30.5-404(3) and other supporting documentation) to the School District as far in advance of the November election date as possible, and such requests shall be considered and action thereon shall be taken in accordance with governing law. As provided in the Act, funding to Horizons under this Contract shall be reduced by the amount of any direct payments of principal and interest due on any bonds that may be issued on behalf of Horizons by a governmental entity other than the School District for the purpose of financing capital construction that were made by the State Treasurer or the School District on behalf of Horizons, plus administrative costs associated with the making of such direct payments.

7.1.8 By June 30, 2010, and by the end of June of each year thereafter during the term of the charter, Horizons’ ending fund balance shall comply with the emergency reserve requirements of Article X, Section 20 of the Colorado Constitution (“TABOR” or “TABOR Reserve”).

7.2 Budget. Horizons’ annual budget is subject to the following:

7.2.1 The per pupil funding shall be determined in accordance with paragraph 7.1 above.

7.2.2 Horizons shall be responsible for all costs associated with its school operations, including the cost of contracting for goods and services, scheduled payments for advances from the School District for capital construction paid prior to July 1, 2013, and the cost of certain purchased services and allocated costs of the School District as set forth in Exhibit B, attached and incorporated by this reference. The services identified on Exhibit B shall be provided to Horizons by the School District during the term of this Contract at the School District's annually budgeted costs as set forth in Exhibit B. For those services identified as "optional" on Exhibit B, Horizons shall inform the School District by no later than April 1 of each year of the services it intends to purchase for the following fiscal year. If Horizons does not purchase optional services, it shall be responsible for performing those activities or services itself in the same manner as is required by law of other schools in the School District, unless otherwise waived in writing by the Superintendent or designee. The School District shall provide Horizons with access to projected service rates for services by May 1. Exhibit B includes a detailed description of each service and allocated cost charges together with cost estimates provided by the School District for the 2009-2010 fiscal year. Costs of purchased services and central administrative overhead charges shall be reconciled annually to actual costs within 90 days after the end of each fiscal year to the extent required by C.R.S. 22-30.5-112(2)(a.4). Any difference between the amount initially charged and the actual cost shall be paid to the owed party.

7.2.3 Subject to Paragraph 10.2.3, the School District will provide legal services through the School District's legal counsel for defense of suits, actions, and claims against Horizons for which the School District provides insurance coverage in accordance with Exhibit C. Legal services shall also be provided by the School District's in-house legal counsel for the defense of matters involving contract claims so long as Horizons is being charged for legal services as part of purchased services under Exhibit B. Legal counsel shall not be provided for disputes between Horizons and the School District or where there exists a conflict of interest between the School District and Horizons as determined by the School District. The provision of a defense is conditioned upon prompt notification by Horizons to the School District of all claims, including threatened or reasonably anticipated claims or actions; full cooperation with the School District and legal counsel in defending the claim and Horizons not compromising, settling, negotiating, or otherwise similarly dealing with the claim without the express consent of the Board of Education. Horizons acknowledges that in the event of a dispute between Horizons and the School District, the School District's legal counsel will represent the School District and not Horizons with respect to such dispute. However, any potential conflict arising from the representation of Horizons by the School District's legal counsel shall be resolved in accordance with the Colorado Rules of Professional Conduct. Horizons shall have access to legal consultation and advice where such assistance is requested through the School District's Superintendent or designee. Except as provided above, in other cases, legal services that are requested by Horizons shall be provided at Horizons' expense.

7.2.4 In further consideration of the funding provisions, the School District agrees that it will defend any federal complaint or due process hearing request related to a student with disabilities in attendance at Horizons, to the extent of any alleged involvement of a School District employee or a Horizons' employee, who has been authorized by the School District to provide services, in a violation of state or federal law. Within ten days after the

receipt of any federal complaint or due process hearing request that includes allegations against Horizons and/or the School District employees, the parties will meet to explore efficiencies and to determine the course of action in providing a defense including, without limitation, the potential for a joint defense. The parties agree that the intent of this provision is that each party shall defend at its expense any obligation incurred as a result of actionable claims or omissions by its own employees and the School District shall defend Horizons' employees who have been authorized to provide services for and on behalf of the School District.

7.2.5 On or before April 1 and September 1 of each year, Horizons shall identify the total Student FTEs who have enrolled. By May 1 of each year, Horizons shall provide to the Board its proposed balanced budget for the upcoming fiscal year based upon the Student Target established by Horizons pursuant to Paragraph 5.4 of this Contract. The projected Horizons balanced budget, when incorporated into the School District's budget and accepted by the Board for each fiscal year, will be attached and incorporated into this Contract as an exhibit, and will be subject to adjustment based upon current state funding data as it becomes available during the budget adoption process. The budget format used by Horizons shall be consistent with the requirements of applicable Colorado law (currently form CDE-18). The budget may be modified prior to October 1 of each year so long as it continues to present a balanced financial plan, consistent with this Contract and state law, to provide the instructional services represented by Horizons. Any modified budget shall be submitted to the Superintendent or designee.

7.3 Financial Records and Annual Audit. Horizons agrees to establish, maintain, and retain appropriate financial records in accordance with all applicable federal, state, and local laws, rules, and regulations, and make such records available to the School District, as requested, from time to time; provided that, for those services that the School District agrees to perform under this Contract, the School District will maintain and make available such records. Horizons shall similarly make the records (except the personnel files) of any of its supporting I.R.C. § 501(c)(3) organizations available to the School District upon request. Horizons agrees to cooperate in an independent, outside audit by a certified public accountant of its and, if required by the School District, its supporting organizations' financial and administrative operations on an annual basis. The Horizons audit shall be performed by the School District's independent auditors in conjunction with the audit of the School District itself. The results of the audit shall be provided to the School District in written form within the same statutory time limits required of the School District and shall be published and posted as required by law. Any cost associated with the audit of Horizons (but not of its supporting organizations) is included in amount designated on Exhibit B for central administrative overhead costs.

8.0 Governance and Operation. The provisions of the Horizons Council Bylaws, or substituted bylaws approved by the School District, concerning the nature and extent of parental, professional educator, and community involvement in the governance and operation of Horizons is accepted by the School District to the extent permissible under federal and state law and subject to all conditions of this Contract and to the policies and regulations of the School District, as amended and adopted from time to time (except to the extent waived by the Board as provided in this Contract). In addition, the governance and operation of Horizons shall conform to the following requirements:

8.1 Conflict of Interest. Members of the Horizons Council and other committees or governing bodies of Horizons shall comply with state law and Board policies and regulations regarding ethics and conflict of interest.

8.2 Nonreligious, Nonsectarian Status. Horizons agrees that it shall operate, in all respects, as a nonsectarian, nonreligious, non-home-based public school. Horizons shall not be affiliated with any nonpublic sectarian school or religious organization. Negotiation by Horizons of an occupancy lease from a religious institution shall not be construed as affiliation.

8.3 Commitment to Nondiscrimination. Horizons shall comply with all applicable federal, state, and local laws, rules, and regulations and School District policies, prohibiting discrimination on the basis of race, creed, color, national origin, sex, marital status, sexual orientation, gender identity/expression, religion, age, ancestry, or disability.

8.4 Accountability Committee. The Horizons Council shall serve as the school advisory council and, unless otherwise determined by the School District to be exempt, shall have a composition of members consistent with the requirements of Colorado law that will participate in the accountability process in accordance with Board policy and state law. All records created and maintained in accordance with the provisions of this Contract, Board policy, and federal and state law shall be open to inspection by the School District.

8.5 Open Meetings Law. Horizons acknowledges and agrees that it is subject to the provisions of the Colorado Open Meetings Law, C.R.S. §§ 24-6-401 *et seq.*, and that it will comply with the provisions of such law in connection with all of its activities. Public notice of all regular and special meetings of the Horizons Council shall be given and posted in accordance with law.

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

8.7 Operational Powers. Subject to the conditions and provisions of this Contract, and pursuant to the provisions of the Horizons Council Bylaws, or substituted bylaws approved by the School District, Horizons shall be fiscally responsible for its own operations within the limitations of any funding provided by the School District and other revenues derived by Horizons consistent with law.

8.7.1 Horizons shall have authority to exercise independently, also consistent with federal and state law, the following powers (including such other powers as provided for elsewhere in this Contract and in the Horizons Council Bylaws, or substituted bylaws approved by the School District, to the extent consistent with this Contract): purchase goods and services in accordance with law and Board policy; prepare a proposed budget; select

personnel and determine their compensation; procure insurance at its expense; purchase, lease, or rent furniture, equipment, supplies, facilities, and transportation; retain fees collected from students in accordance with law; and accept and expend gifts, donations, or grants of any kind in accordance with such conditions prescribed by the donor as are consistent with law and not contrary to any of the terms of this Contract.

8.7.2 Horizons shall comply with applicable provisions of TABOR. Horizons shall not have any authority to enter into any agreement or make any commitment that gives rise to a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever on the part of Horizons or the School District without the prior express written consent of the School District.

8.7.3 In exercising its powers, Horizons shall comply with all presently existing applicable Board-approved policies and regulations, except as amended by this Contract, unless a specific waiver is obtained. All School District-approved policy and regulation changes will be available to Horizons when made available to other schools within the School District. Horizons shall furnish to the Board copies of all written policies or procedures it may develop with respect to any matter relating to its operations and educational program upon adoption of such policies by the Horizons Council or by the body designated with such authority in Horizons' bylaws. Horizons agrees to comply with future School District-approved policies and regulations unless Horizons demonstrates to the School District that any such policy would materially interfere with essential elements of Horizons' educational program as implemented pursuant to its Application as amended herein. In that case, the parties agree to negotiate the potential for a waiver of such policy.

8.7.4 Horizons shall clearly indicate to vendors and other entities and individuals outside the School District with which or with whom Horizons desires to transact business that the obligations of Horizons under any agreement are solely the responsibility of Horizons and are not the responsibility of the School District.

8.7.5 All cash gifts or donations and all gifts or donations of property, having a reasonable value in excess of \$5,000, shall be reported by Horizons to the School District by recording the same in the financial records required under paragraph 7, above. Horizons shall report to the Board of Education within fourteen days the acceptance of any gift or donation in excess of \$10,000 and shall obtain the prior approval of the Board of Education for any grant and any gift or donation that would involve any condition or obligation on the part of the School District. Grants and gifts to Horizons and Horizons' fund raising activities shall be consistent with School District policies, unless otherwise approved by the Board of Education, but will not affect funding by the School District pursuant to this Contract. All non-consumable grants, gifts, and donations shall be considered the property of the School District, unless otherwise provided in writing by the donor.

8.7.6 Unless otherwise agreed in writing by the School District, Horizons shall not have the authority to enter into a contract or subcontract for the management or delivery of its instructional program or services by any person or entity that is not a teacher or administrator employed directly by Horizons itself or the School District. This provision shall

not prevent Horizons from engaging independent contractors to teach selected, specific classes from time to time, as needed.

8.8 Waivers. Horizons will be granted certain waivers from Board-approved policies and regulations upon approval by the Board of Education of acceptable replacement policies. The waivers from Board policies, and the conditions therefor, and the waivers from state law to be requested jointly, if any, are set forth in attached Exhibit D, which is hereby incorporated into this Contract.

8.9 Bidding Requirements. Unless purchased from or through the School District, and except insofar as necessary to receive and administer the BEST Construction Award, contractual services and purchases of supplies, materials, and equipment shall be procured through a system of competitive bidding, as required by Board policy and state law.

8.10 Periodic Review of Progress. Horizons shall be subject to a review of its operations and finances by the Board or a designee upon reasonable advance written notice. Horizons shall, by October 15 of each year, provide to the School District a written report concerning its operations, including, without limitation, progress made towards achieving its educational goals and objectives, content standards, policy development issues, student performance standards, student attendance and discipline information, personnel matters, and other provisions of its Application.

8.11 Financial Reports. Horizons shall be responsible for confirming with the School District, within twenty days following the end of each month, written revenue and expenditure reports with comparisons to budget and, on an annual basis, a financial statement that reports the costs of administration, instruction, and other spending categories, consistent with the format required by state law. End of year reports and any required audit financial information shall be sent electronically to the School District by August 31 of each year.

8.12 Term. It is the intent of the Board of Education of the School District that the Charter and this Contract are to be effective as of the date first written above but provide for a term of operation for funding purposes commencing July 1, 2010, through June 30, 2020. Although this Contract is for operation of Horizons as a charter school in the School District for a period of ten years, any financial commitment on the part of the School District contained in this Contract is subject to annual appropriation by the Board of Education and the parties agree that the School District has no obligation to fund the financial obligations under this Contract other than for the then current year of the Contract term; that the School District has not irrevocably pledged and held for payment sufficient cash reserves for funding Horizons or for providing services described herein for the entire term of the Contract. Renewal of the Charter may be sought by Horizons in accordance with C.R.S. § 22-30.5-110(2).

8.13 Termination.

8.13.1 This Contract may be terminated, and the Charter revoked by the Board, for any of the grounds provided by state law, C.R.S. § 22-30.5-110(3) , and/or for any material breach of this Contract by Horizons. Horizons shall first be given a reasonable

opportunity to cure the breach after receiving written notice of the breach from the School District. Horizons shall also give the School District written notice of any alleged material breach of this Contract by the School District. The School District shall be given a reasonable opportunity to cure the breach after receiving written notice of the breach from Horizons. For this purpose, reasonable opportunity to cure shall mean cure within fourteen days of the effective date of such notice, or in the case of breaches which cannot practically be cured within fourteen days, commencement of the cure within fourteen days and diligent pursuit of the cure to the satisfaction of the School District until the cure is complete; and, to the extent reasonably practical, the School District shall exhaust the dispute resolution provisions set forth in paragraph 12.9. Should Horizons choose to terminate this Contract and revoke its Charter before the end of the Contract term, it may do so with the Board's approval, at any time, upon thirty days' advance written notice. In the event of termination, all assets not requiring return or transfer to donors or grantors or required for discharge of existing liabilities and operations of Horizons shall be returned to the School District. Unless a donor or grantor specifically provides otherwise in writing, all gifts, donations, and grants shall be assumed to be made to the School District for the benefit of Horizons and shall be included among the assets returned to the School District upon termination of this Contract.

8.13.2 During the period after the School District gives Horizons written notice of a termination or a material breach, in addition to any other rights, the School District shall also have the following additional rights and powers to (a) require Horizons to promptly take such actions as may be necessary to freeze bank accounts and other assets of Horizons and/or to require School District approval of any expenditure or disposition of assets, and to (b) receive full and complete access to all Horizons' records, data, and information. In the event the School District should exercise its rights under this paragraph, to the extent reasonably possible it will endeavor to allow the school to continue to operate during any cure period and completion of the dispute resolution process.

8.13.3 Notwithstanding any other provision of this Contract, in the case of any breach which the Board reasonably determines to pose a serious threat to Horizons or School District students, the community, or the property rights of the School District or Horizons, the School District may, but shall not be required to, take immediate control of Horizons and may exercise any portion or all power and authority of the Horizons' Council or governance authority for such period of time as may be necessary to reasonably control such threat. These additional rights of the School District shall continue during the pendency of any dispute resolution process with respect to such breach.

8.14 Dissolution. In the event Horizons should cease operations for whatever reason, including the nonrenewal or revocation of the Charter, it is agreed that the Board shall supervise and have authority to conduct the closure of the business and affairs of Horizons, including the authority under Section 14.22 of the Sublease; provided, however, that in doing so, the School District does not assume any liability incurred by Horizons beyond the funds allocated to it by the School District under this Contract. The School District's authority hereunder shall include, but not be limited to, the return and/or disposition of any assets acquired by purchase or donation by Horizons during the time of its existence, consistent with any donor conditions.

9.0 Employment Matters. The Employee Relationships Section of the original Application concerning employment matters and specific personnel policies are accepted to the extent specifically described below and subject to the following conditions and other provisions of this Contract:

9.1 Hiring of Personnel. Horizons may choose to observe for the term of the charter, to the extent possible, the Master Agreement between the School District and the Boulder Valley Education Association, except as modified herein, and through the waivers requested by Horizons and granted by the State Board. Such determination by Horizons, however, shall not entitle Horizons' teachers to enforce the provisions of the Master Agreement in any manner whatsoever against the School District. Teachers and other paid staff at Horizons shall not accrue credit in the School District toward non-probationary status, unless expressly provided to the contrary in Section 9.10 herein. In the absence of the School District's prior written consent, Horizons agrees not to hire any individual who has been nonrenewed or dismissed by the School District. Otherwise, the School District agrees that Horizons may select its personnel directly without prior authorization from the Board, subject to compliance with all federal and state rules and regulations, including, without limitation, requirements concerning the recruitment of applicants, the use of background and criminal checks, and certification and/or licensing requirements for teachers and the principal, except as may be waived by the State Board. Unless just cause exists to disapprove, Horizons' personnel selections shall be approved by the School District within twenty days, provided Horizons has complied with the preceding sentence. The School District shall endorse applications for alternative certification or licensing by Horizons teachers; provided, however, that Horizons shall be responsible for any costs associated with such application and approval process. Horizons shall inform the School District's Superintendent or designee of all personnel selected in order that their hiring may be approved by the Board. Horizons may terminate the employment of any personnel so long as such employees are not terminated for constitutionally impermissible reasons. The Board of Education reserves the right to terminate the employment of any personnel for cause (other than for unsatisfactory performance), after consultation with the Horizons Council Board or substituted governing body approved by the School District. Horizons shall comply with the requirements of the No Child Left Behind Act that certain employees be "highly qualified."

9.2 Employee Compensation, Evaluation, and Discipline. The School District agrees to cooperate with Horizons in considering the waiver of Board-approved policies and regulations concerning the compensation, evaluation, promotion, discipline, and termination of employees at Horizons, subject to compliance with all applicable state rules and regulations, unless specific waivers are obtained from the State Board of Education. School District policies will remain in effect and be followed by Horizons until the adoption by the Horizons of policies regarding these matters that are in compliance with applicable law and approved by the School District.

9.2.1 The supervision and evaluation of the teaching staff within Horizons will be carried out as set forth in the Horizons Council Bylaws or substituted bylaws approved by the School District; provided, however, that all such evaluations shall be conducted

or supervised by a person who has satisfied state evaluator training requirements, unless a waiver of state requirements is obtained by the School District and Horizons.

9.2.2 Horizons shall be responsible for annually evaluating the performance of the school's Principal pursuant to the Horizons Council Bylaws, or substituted bylaws approved by the School District. The written results of such evaluation and the evaluation report shall be submitted to the Superintendent on or before July 1 of each year for its review. It is agreed that the Principal shall at all times possess a valid Colorado certificate or license to teach, issued by the Colorado Department of Education.

9.2.3 Horizons shall adopt its own 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 to the extent that such are not currently set forth in the Application. School District policies shall remain in effect until the adoption by the Horizons Council, or substituted governing body approved by the School District, of policies regarding these matters that are in compliance with applicable law and approved by the School District.

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

9.3 Payroll. Employees shall be paid through the payroll department of the School District using its procedures for recording employee work hours, overtime, absences, leaves, vacation, and other adjustments, as contained in applicable Board-approved policies and regulations.

9.4 Benefits. Homeroom teachers and administrators at Horizons shall receive the same insurance benefits as are provided to other comparable School District employee groups. Unless otherwise agreed in writing, all benefit programs will be handled and administered by the School District for Horizons consistent with the procedures utilized by the School District's Business Services Division.

9.5 PERA Membership. All employees at Horizons shall be members of the Public Employees' Retirement Association and subject to its requirements. Horizons shall be responsible for the cost of the School District's/employer's respective share of any required contributions.

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

9.7 Employee Welfare, Safety, and Training. Horizons shall comply with all Board-approved policies, and applicable federal and state laws, concerning employee welfare, safety, and health issues, including, without limitation, the requirements of federal law for a drug-free workplace, and statutorily required training concerning the Child Protection Act of 1987, C.R.S. §§ 19-3-301 et seq.

9.8 Employee Records. Horizons shall comply with all Board-approved policies and regulations, as modified and not waived herein, and applicable federal and state laws, concerning the maintenance and disclosure of employee records, including, without limitation, the requirements of the Colorado Public Records Law, §§ 24-72-204 et seq.

9.9 Employee Conflicts of Interest. All employees at Horizons shall comply with the Board's policy and regulation, and applicable state law, concerning employee actual and potential conflicts of interest.

9.10 District Teachers. The provisions of this Section 9.10 shall apply only to those teachers currently employed by the School District at Horizons. Horizons' teachers shall not accrue years of service toward non-probationary status in the School District. Former School District teachers who have been employed at Horizons and who have received a leave of absence will no longer be considered employees of the School District for any purpose other than the protections under the Colorado Governmental Immunity Act. In the event the charter is revoked during the term, those teachers currently assigned at Horizons who are then in good standing, may apply for open teaching positions for which they are qualified within the School District. While they are not assured of selection, if selected by the School District, such teacher shall be placed on the salary schedule in a way that gives credit for their prior teaching experience at Horizons, including the term as a charter school.

9.10.1 The School District shall have no obligation for career longevity stipends for any current or former Horizons' teacher.

9.10.2 Horizons' employees will not be eligible to participate in the School District's sick leave bank. Horizons may establish its own sick leave bank.

10.0 Insurance and Legal Liabilities.

10.1 Insurance. It is agreed that during the initial term of this Contract, the School District will provide insurance coverages as set forth in Exhibit C, attached and incorporated into this Contract, which are consistent with the coverages available to the School District itself. In particular, any such coverages that are applicable to the School District's actions in connection with the BEST Construction Award shall also apply to Horizons' actions, subject to applicable law, including the provisions of the Colorado Governmental Immunity Act. Horizons agrees that it will coordinate all risk management activities through the School District's risk management staff. This will include the prompt reporting of any and all pending or threatened claims, filing of timely notices of claim, cooperating fully with the School District in the defense of any claims, and complying with the defense and reimbursement provisions of the Colorado Governmental Immunity Act and the School District's applicable insurance

policies. Horizons shall neither compromise, settle, negotiate, nor otherwise affect any disposition of potential claims asserted against it without the School District's prior written approval.

10.2 Legal Liabilities. Horizons shall operate in compliance with all Board-approved policies and regulations and all applicable federal, state, and local laws, rules, and regulations, unless specifically waived as indicated in attached Exhibit D or unless such waiver is obtained from the proper authority pursuant to the procedures of paragraph 10.2.1 below subsequent to the execution of this Contract.

10.2.1 Waivers. Waivers from specific Board-approved policies or regulations and/or state law may be requested by Horizons by submitting such a request, in writing, to the School District's Superintendent in compliance with state regulations. The request shall include the reasons why Horizons is in need of or desires the waiver and alternative or substitute policies proposed, if any. The Superintendent shall have ten school days to review the request and, thereafter, will present the matter before the Board at its next regular meeting. The Board shall have twenty school days to consider the matter prior to rendering a decision at a regular meeting. Waivers of Board-approved policies and regulations may be granted only to the extent permitted by state law. In the event the School District policy or regulation from which Horizons seeks a waiver is required by state law, or where Horizons otherwise requests release from a state regulation, the School District agrees to jointly request such a waiver from the State Board of Education, if the School District's Board first approves the request.

10.2.2 Faith and Credit. Horizons agrees that it will not extend the faith and credit of the School District to any third person or entity. Horizons acknowledges and agrees that it has no authority to enter into a contract or incur obligations that would bind the School District, including, without limitation, any waiver or modification of the provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 *et seq.*, and it agrees to include a statement to this effect in each contract it enters into with third parties. Horizons acknowledges that its authority to contract is limited by the same provisions in law or School District policy that apply to the School District itself, including but not limited to TABOR. Horizons also is limited in its authority to commit its funds by the amount of funds obtained from and held on its behalf by the School District, as provided hereunder, or from other independent sources.

10.2.3 Indemnification. To the extent not covered by insurance, not otherwise provided in this Contract, or not barred by the Colorado Governmental Immunity Act, Horizons agrees to indemnify and hold the School District, its Board, agents, and employees harmless (to the extent of any funding that would otherwise have been made available to Horizons under this Contract) from all liability, claims, and demands on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss, or damage or any other losses of any kind whatsoever brought in connection with or related to the operations of Horizons and/or the conduct of any of Horizons' employees, agents, representatives, or volunteers that are proximately caused by those employees assigned at Horizons or agents of Horizons. This indemnity shall not extend to any negligent or intentional acts of any School District employee who is not assigned primarily to Horizons. The foregoing provision shall not be deemed a relinquishment or waiver of any kind

of applicable limitations of liability provided by the Colorado Governmental Immunity Act or other law. Horizons' indemnification and hold harmless obligation hereunder shall include all reasonable attorneys' fees, costs, and expenses incurred by the School District in defense of such suits, actions, grievances, charges or proceedings.

10.2.4 Indemnification by Independent Entities/Governmental Immunity.

In the event Horizons authorizes, with the School District's approval, another person or entity to operate a before- and/or after-school, preschool, day care, intersession, extended day kindergarten, or other program as an independent contractor that rents a portion of the Horizons' facility or charges Horizons for services provided off-campus, such person or entity shall provide separate insurance coverage for general liability and errors and omissions with limits consistent with the School District policies and naming Horizons, the School District, and the property owner as additional insureds. Such person or entity will also agree to indemnify and hold Horizons, the School District, and the property owner harmless from all liability, claims, and demands on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss, or damage, tort and civil rights claims, or any other losses of any kind whatsoever that arise out of or are in any manner connected with such person's or entity's operations. Nothing contained in this Contract shall be deemed a relinquishment or waiver by the School District or Horizons of any kind of applicable limitations of liability provided by the Colorado Governmental Immunity Act.

11.0 Transportation. The School District and Horizons acknowledge and agree that transportation will not be provided to students attending Horizons. If Horizons subsequently determines to provide transportation during the term of this Contract, Horizons may contract with the School District for transportation services at cost, by separate written agreement as an addendum to this Contract.

12.0 Miscellaneous Provisions.

12.1 Entire Agreement. This Contract, with attachments, contains all terms, conditions, and provisions hereof and the entire understandings and all representations of understandings and discussions of the parties relating thereto, and all prior representations, understandings, and discussions are merged herein and superseded and canceled by this Contract. All provisions of this Contract shall supersede and control over any conflicting or inconsistent language contained in the original Application. For purposes of all references in this Contract and the original Application or state law or any understanding any party hereto may have, the Charter of Horizons shall be this Contract and the original Application, to the extent the original Application is not superceded or modified by this Contract.

12.2 Amendment. This Contract may only be modified or amended by further written agreement executed by the parties hereto.

12.3 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 days after mailing when sent by certified mail, postage

prepaid, to Horizons' Lead Teacher, in the case of notice being sent to Horizons, or to the Office of the Superintendent for notice to the School District.

12.4 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.

12.5 Invalidity. If any provision of this Contract is determined to be unenforceable or invalid for any reason, the remainder of the Contract shall remain in effect, unless otherwise terminated by one or both of the parties in accordance with the terms contained herein.

12.6 Interpretation. In the event of any disagreement or conflict concerning the interpretation or enforcement of this Contract, the original Application, and Board of Education policies, procedures, regulations, or other requirements, other than those for which waivers have been granted, it is agreed that the provisions of this Contract and Board policies shall control over the original Application and that compliance by Horizons shall be required and measured in the same manner as may be applied and expected by the School District of a majority of its other schools.

12.7 Standing and Capacity. The Horizons Council, or substitute governing body approved by the School District, shall have standing and capacity to enter into and enforce any of the terms of this Contract on behalf of Horizons. Any action by Horizons' representative body on behalf of Horizons shall be limited to enforcing the terms of this Contract and recovering the amounts provided for herein and shall not include any action or proceeding for other amounts or damages.

12.8 Assignment. Horizons shall not assign its Charter nor any of its rights or obligations under this Contract to any person or entity, including, without limitation, a body corporate formed by Horizons, without the prior written approval of the Board of Education.

12.9 Dispute Resolution. In the event any dispute arises between the School District and Horizons concerning this Contract, including, without limitation, the implementation of or waiver from any policies, regulations, or procedures, such dispute shall first be submitted to the Superintendent of the School District or her or his designee for review. Thereafter, representatives of the School District and Horizons shall meet and attempt in good faith to negotiate a resolution of the dispute. In the event these representatives are unable to resolve the dispute informally pursuant to this procedure, they shall submit the matter to an independent mediator, who shall be agreed upon by the parties within ten (ten) calendar days following either party's request for mediation (the "moving party"). If the parties are unable to agree upon a mediator within that time, the moving party shall obtain a list of five names from the Judicial Arbitrator Group, Denver, Colorado, and submit them to the other party (the "non-moving party"), who shall strike one, return the list to the moving party, and so forth, until one name remains. The remaining person shall be selected as the mediator. This striking process shall be completed within ten (10) calendar days after delivery of the list to the non-moving party. The mediation shall be scheduled and concluded within thirty (30) days of the mediators' selection. The

mediation process shall be closed to the public and all information submitted during mediation shall be confidential to the extent provided by law. At the conclusion of the mediation, if the dispute is still not resolved, the mediator shall make an advisory recommendation to the Board of Education of the School District, which shall make a determination within thirty (30) days of receipt. The decision of the Board shall be final; provided, however, Horizons may appeal to the State Board of Education concerning those matters within its jurisdiction under the Act.

12.10 Mutual Cooperation. The parties pledge to collaborate in good faith, through two-way communication and mutual respect, to attempt to informally and amicably resolve any issues that may arise between them. To promote their common goals within the School District, the parties agree to avoid competition between and dispensing negative information about the educational programs offered by either.

12.11 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 School District and, subject to the provisions of Section 12.7. 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.

12.12 Order of Precedence. In the event of any disagreement or conflict concerning the interpretation of this Contract, the Original Application, Board policies or regulations, or other requirements, it is agreed that this Contract and Board policies and regulations shall control, unless waived.

IN WITNESS WHEREOF, the parties have executed this Contract as of the date first above written.

HORIZONS K-8 SCHOOL

By: _____
John McCluskey, Council Co-Chair
For the Horizons Council

ATTEST:

Daniel Conroy, Council Co-Chair
For the Horizons Council

BOULDER VALLEY SCHOOL DISTRICT RE-2

By: _____
Jim Reed, President
Board of Education

ATTEST:

Sandra M. Eicher, Secretary

Approved as to form:

School District Attorney

4852-1620-3274, v. 2