

MEMORANDUM OF UNDERSTANDING BETWEEN THE
WARNER UNIFIED SCHOOL DISTRICT AND EXCEL ACADEMY CHARTER SCHOOL
Effective 7/1/2024 - 6/30/2031

The governing board of the Warner Unified School District ("District") granted a charter petition ("Charter") to Excel Academy Charter School ("School" or "Charter School") pursuant to the terms of the Charter Schools Act of 1992, as amended. This Charter, among other matters, calls for the District and School to enter into a mutually agreeable memorandum of understanding ("Agreement") regarding the funding entitlements of the School pursuant to the Charter Schools Act. The School and District intend to use this agreement as the basis for developing similar understandings in future fiscal years.

This Agreement shall serve to clarify the status of the School and define the responsibilities of the parties. This agreement provides for oversight, direct and indirect services to be provided by the District to School and the remuneration to be paid by School to the District. Education Code Section 47607(b) provides the procedure for a material revision of an existing charter. To the extent that this Agreement is inconsistent with any of the terms of the Charter, the Charter shall supersede the terms of this Agreement. Both Parties agree to meet in good faith to negotiate necessary changes to align the Charter and the Agreement.

I. PURPOSE OF THIS MEMORANDUM OF UNDERSTANDING

- A. Outline specific funding sources anticipated to be available to the School.
- B. Define the oversight responsibility and services the District will provide to the School.
- C. Clarify responsibilities of each party.

II. TERM

- A. This Agreement is valid for the term of the Charter granted to Excel Academy Charter School, from July 1, 2024 through June 30, 2031. It may be modified or terminated with the written mutual consent of the governing bodies of the District and School.
- B. This Agreement is automatically terminated if the School's charter is revoked or non-renewed in compliance with Education Code Section 47604.5 or 47607, or rescinded by the Charter School.

III. CHARTER SCHOOL AUTHORITY

- A. The School, in performing its duties and obligations under this Agreement and its Charter, shall have the power and authority, consistent with federal and state law and subject to other terms and conditions of this Agreement to, among other powers and authorities:
 1. Contract for goods and services with the District and/or any third party.
 2. Prepare a budget.
 3. Perform the personnel services not otherwise assumed by the District as outlined herein.
 4. Procure insurance.
 5. Lease or otherwise contract with any third party for the use of facilities for school purposes and the operation and maintenance thereof; Purchase, lease or rent furniture, equipment and supplies.
 6. 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 Agreement.
 7. Perform the business administration of the School;

8. Establish and conduct an educational program and curriculum for the School as provided in the School's charter.
9. Conduct extra and co-curricular activities and programs;
10. Conduct professional development for all administrators, instructional personnel, and non-instructional personnel.
11. Select and acquire instructional materials, equipment and supplies.
12. Exercise such other powers as are provided for elsewhere in this Agreement to the extent consistent with this Agreement.
13. Generally, take such other actions as may be necessary or desirable to properly and efficiently operate the School.
14. Engage in any activity not prohibited by applicable law or the terms of its Charter.

IV. ORGANIZATIONAL STRUCTURE

- A. The School shall be governed by an incorporated non-profit public benefit corporation ("Corporation") with the opportunity to contract for specific services and operational support from the District, public or private organizations and/or management companies. The administrator of the School shall conduct the day-to-day operations of the School by the power delegated to him/her by the School's governing board. All powers, rights and obligations not otherwise reserved herein to the District are hereby delegated to the School consistent with its Charter, any policies and procedures, this Agreement, and all applicable laws. The School should be allowed to carry on any activity in order to effectuate its goal of educating students that is not inconsistent with an express provision of its Charter or applicable law.
- B. In accordance with applicable California laws and the Act, the Corporation shall designate and maintain a Corporate Board of Directors and Corporate Officers with three to five members. Directors of the School shall be selected and appointed in accordance with the corporate bylaws of the School. The District shall have the authority to appoint one board member.
- C. The School recognizes its responsibility to promote public access to its deliberation and documents. Therefore, the School Board of Directors will comply with the Ralph M. Brown Act (Gov. Code §§ 54950, et seq.) and all other statutes specifically applicable to charter schools operated as nonprofit corporations.
- D. All employees of the Charter will be employees of Excel Academy Charter School and not employees of the District. The Charter School Board of Directors shall adopt and the administrator shall implement Employment Agreements, Personnel Reviews and other policies and procedures to further the Charter School's goals as outlined in the Charter.
- E. The Charter School shall be solely responsible for all costs and expenses related to the Charter and its operation, including but not limited to, costs of insurance, reserves, staff and operations.
- F. The Charter School shall have no authority to enter contracts for or on behalf of the District. Unless otherwise agreed to by the parties or provided by law, any contracts, purchase orders, or other documents shall be the Charter School's sole responsibility.

V. 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. General purpose entitlement computed by the local control funding formula pursuant to Education Code Section 42238.02, as implemented by Education Code Section 42238.03.
2. General-purpose funding that consists of state aid, local property taxes, and other revenues applied toward a school district's local control funding formula, pursuant to Education Code Section 42238.02, as implemented by Education Code Section 42238.03.
3. Lottery funds, pursuant to Education Code Section 47638.
4. 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 funding that is beyond the basic statutory entitlement.
5. Any additional funds negotiated between the District and the Charter School in accordance with Education Code Section 47636.
 - a) In addition to LCFF, the parties recognize the authority of the Charter School to pursue additional sources of funding.
 - b) The Charter School has elected to receive funding from the State directly, pursuant to Education Code Section 47651.
 - c) 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.
 - d) The School may apply for and receive loans from the District, and/or public or private agencies independently from the District. The District shall not be liable for the repayment of any principal, interest, penalties or legal cost associated with such loans.
 - e) Banking Arrangements: The Charter School shall maintain an account at a federally insured commercial bank or credit union. The Charter School will deposit all funds received as soon as practical upon receipt.
 - f) Payroll Service: The Charter School may contract with any reputable, bonded, and insured payroll contractor to prepare payroll checks, tax and retirement withholdings, tax statements and to perform other payroll support functions.

VI. BOND FUNDS

- A. The Charter School expressly waives any right to share in general obligation or construction bonds that have been or may be passed by the voters of the Warner Unified School District.

VII. LEGAL RELATIONSHIP

- A. The Parties recognize that the Charter School is a separate legal entity. The Charter School shall be operated by a non-profit public benefit corporation under Education Code Section 47604. As such, in accordance with Education Code Section 47604(d), 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.
- B. With respect to its operations under this Agreement, the District and the Charter School shall, to the fullest extent permitted by law, hold harmless, indemnify, and defend each other, their officers, their trustees, directors, and employees from and against any and all claims, demands, actions, suits, losses, liability expenses and costs arising under

this Agreement including, without limitation, attorneys' fees and costs arising out of injury to any persons, including death or damage to any property caused by, connected with, or attributable to their willful misconduct, negligent acts, errors or omissions of their directors, trustees, officers, employees, agents and consultants under this Agreement. The District shall be named as an additional insured under all insurance carried on behalf of the Charter School.

VIII. DISTRICT OVERSIGHT

A. In consideration for the actual costs of supervisory oversight by the District, the Charter School shall pay an amount not to exceed one percent (1%) of the revenue of the Charter School (hereinafter, the "Oversight Fee") pursuant to Education Code section 47613. "Supervisory oversight" for purposes of this section shall include those duties listed in Education Code section 47604.32(a), only. "Revenue" for purposes of this calculation means the amount received in the current fiscal year from the local control funding formula calculated pursuant to Section 42238.02, as implemented by Section 42238.03.

"Revenue" for purposes of this calculation shall not include Charter School fund-raising activities, private donations, other public grants, or any other source of income developed by the Charter School. Payment by the Charter School shall be made in accordance with the provisions of Paragraph XVI below. These costs are in addition to, and not in lieu of, other costs set forth herein.

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:

1. All activities related to the Charter revocation and renewal and processes as described in Education Code Section 47607.
2. 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.
3. Participate in the dispute resolution process described in the Charter. Charter School is aware that the District's discretion to revoke a charter is not proscribed as a requirement to participate in the Dispute Resolution Process.
4. Review and timely response to the Charter School's Annual Independent Fiscal Audit.
5. Select a representative to act as a liaison to the charter school.
6. Visit the Charter School at least annually.
7. Monitor the fiscal condition of the Charter School.
8. Provide timely notification to the California Department of Education if any of the following circumstances occur:
 - a. A renewal of the charter is granted or denied.
 - b. The charter is revoked.
 - c. The Charter School will cease operation for any reason.

IX. SERVICES

A. In addition to the supervisory oversight responsibilities and the one percent (1%) oversight fee described in Paragraph VIII (A) above, the District shall collaborate with the Charter School

about services annually and shall be compensated by the Charter School as more fully set forth below.

1. Provide substantially rent-free use of the District's facilities throughout the school year which include office and meeting spaces, classrooms, computer technology, science labs, sport facilities, which shall be subject to the Parties entering into facilities agreement setting forth the terms, conditions, and obligations of the Parties as related to such use.
 2. Access to District instructional materials and other resources throughout the school year to support social-emotional wellness, and interventions to keep students on track for promotion.
 3. Provide staff development and training relative to online curriculum options.
 4. Provide District testing services, including access to testing locations at District facilities.
 5. Provide technical support for attendance accounting and student information data management.
 6. Provide consulting, planning and staff development (for services beyond the scope of Supervisorial Oversight.
- B. As consideration for the additional services provided by the District to the Charter School, the District shall charge the Charter School an amount equal to two percent (2%) of the revenue of the Charter School (as the term "revenue" is defined in Education Code section 47613(f)). Payment by the Charter School shall be made in accordance with the provisions of Paragraph XVI below.

X. SPECIAL EDUCATION SERVICES

- A. It is understood that this agreement covers only the delivery of special education services under the Individuals with Disabilities Education Act (IDEA) and implementing California laws and regulations. This Agreement does not cover services or accommodations required under Section 504 of the Rehabilitation Act or under the Americans with Disabilities Act. The School agrees to assume responsibility for compliance with Section 504 and ADA.
- B. The School is responsible for compliance with the IDEA. As an LEA, the School receives special education funds in the manner specified in the allocation plan of the SELPA.

XI. DATA REPORTING

- A. Average Daily Attendance. The School will develop an attendance-reporting calendar and maintain a system to record and account for ADA in the manner above specified. The School will report ADA figures to the District for annual reporting and when requested and the district will be given data after the completion of the most current learning period.
- B. California Basic Educational Data System (Enrollment). The School shall complete and submit enrollment and other necessary demographic information to the California Basic Educational Data System (CBEDS).
- C. Other Data. The District and School shall work cooperatively to supply any other information necessary to enable the School and District to calculate entitlement to all available funding sources.
- D. State Testing. The School shall submit as required all data related to the mandated State testing programs.

XII. BUDGET AND FINANCE

- A. The School shall prepare and submit the following financial information to the District and County Superintendent of Schools:
 - 1. On or before July 1, a preliminary budget. On or before July 1, 2020, and annually thereafter, an annual update (Local Control and Accountability Plan) required pursuant to Education Code Section 47606.5.
 - 2. On or before December 15, an interim financial report this report shall reflect changes through October 31.
 - 3. On or before March 15, a second interim financial report, this report shall reflect changes through January 31.
 - 4. On or before September 15, a final unaudited report for the full prior year. Written contemporaneous records that document all revenues received by
 - a. The School, from all sources.
 - b. The District shall provide all necessary backup data in its possession.
 - c. The School shall promptly respond to all reasonable inquiries regarding its financial records (Education Code Section 47604.3).

XIII. AUDIT

- A. The School will contract and pay for an independent annual audit of the School's financial affairs. The audit will verify the accuracy of School's financial statements, reporting practices and amounts paid to the District. The audit will be conducted in accordance with generally accepted accounting principles and in compliance with the audit provisions of the Charter.
- B. The Charter School Board of Directors will review any audit exceptions or deficiencies and determine the means for resolving any such exceptions or deficiencies. Audit exceptions must be resolved to the satisfaction of the District governing board and in accordance with the procedures detailed in the Charter and Education Code Section 47605(c)(5)(l).

XIV. INSURANCE AND RISK MANAGEMENT

- A. The Charter School will, at its own expense, provide and maintain insurance policies for the operation of the Charter School, including but not limited to general liability, property, and errors and omission policies.
- 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.

XV. MATERIAL REVISION OF THE CHARTER

- A. Any Material Revision, as this term is defined below, to the Charter may be made only with District's approval. The Charter School may submit to District any proposed Material Revision to the Charter in accordance with District's policies and procedures that are in effect at the time of the submission.
- B. Material Revision Defined. Changes to the Charter that constitute a Material Revision include, but are not limited to, the following (each referred to as a "Material Revision" and collectively referred to as "Material Revisions"):

1. Change in the legal status (i.e. changing from a nonprofit public benefit corporation to a non-incorporated entity), or ownership of the Charter School.
2. Substantive change to Charter School's mission statement.
3. Elimination of any grade levels that Charter School is required to serve or expansion to serve any grade levels that are not in accordance with the Charter.
4. Change in Charter School's calendar affecting the number of days of instruction that Charter School is required to provide pursuant to the Charter and state law.
5. Change in Charter School's admission preferences from those set forth in the Charter.
6. Substantive change to Charter School's educational program (e.g., moving from nonclassroom-based to classroom based except as required by law or upon written approval by District).

C. Non-Material Revision. A Non-Material Revision, as this term is defined in this Section, may be made effective by Charter School through written notification to the District. A "Non Material Revision" includes, but is not limited to, the following:

1. Change to Charter School's mailing address, telephone, and/or facsimile number.
2. Change of the individual who serves as a Party's Authorized Representative.
3. Amendment to the bylaws of Charter School (where Charter School is operated as a public nonprofit benefit corporation) provided that the amendment is consistent with existing policies.
4. Non-substantive change to Charter School's educational program in terms of either content or methodology as required by law or upon written approval by the District.
5. Addition, deletion, or relocation of existing resource centers; (However, The Charter School will inform/notify the District Superintendent (or designee) in writing before opening a new learning center or student facility.
6. Change of management or structure of the Board, including the composition of the Board (e.g., the addition or reduction of board members to the range included in the corporate Bylaws)
7. Any necessary changes that need to be made in order to stay in compliance with laws passed after the signing of this contract.

XVI. Payment Schedule

- A. In accordance with the provision of Education Code Section 47635, the District shall provide the Charter School it's in lieu of property tax funding. The District shall annually transfer to each of its charter schools funding in-lieu of property taxes equal to the greater of the following two amounts:
1. The average amount of property taxes per unit of average daily attendance, including average daily attendance attributable to charter schools, received by the local educational agency, multiplied by the charter school's average daily attendance.
 2. The statewide average general-purpose funding per unit of average daily attendance received by school districts, as determined by the State Department of Education, multiplied by the charter school's average daily attendance in each of the four corresponding grade level ranges:

transitional kindergarten, kindergarten, and grades 1, 2, and 3; grades 4, 5, and 6;
grades 7 and 8;
and grades 9 to 12, inclusive.

- B. In accordance with the provision of Education Code Section 47635, the sponsoring local educational agency shall transfer funding in lieu of property taxes to the charter school in monthly installments, by no later than the 15th of each month.

XVII. MISCELLANEOUS

- A. Amendments, Modification and Supplements. Amendments, modifications, and supplements to this Agreement are allowed and will be binding on the parties after the effective date provided such amendments, modification and supplements (1) are in writing, signed by an authorized representatives of both parties, and (2) by reference incorporate this Agreement and identify the specific sections or clauses contained herein which are amended, modified and supplemented or indicate that the material is new. The term, "this Agreement" shall be deemed to include any future amendments, modifications and supplements.
- B. Assignment. Neither party may assign or delegate its obligations under this Agreement without the prior written consent of the other.
- C. Attorney's Fees. In the event any party to the Agreement shall be required to initiate legal proceedings (i) to interpret or to enforce performance of any term or condition of their Agreement; (ii) to enjoin any action prohibited hereunder; or (iii) to gain any other form of relief whatsoever, the prevailing party shall be entitled to recover such sums, in addition to any other damages or compensation received, as will reimburse the prevailing party for reasonable attorneys' fees and court costs incurred on account thereof notwithstanding the nature of the claim or cause of action asserted by the prevailing party.
- D. Compliance with Laws and Regulations. The parties shall comply with all federal, state and local laws and regulations applicable to their performance as described in this Agreement.
- E. Consent. Where consent, approval or mutual agreement is required of a party, it shall not be unreasonably withheld or delayed.
- F. Default. If either party refuses or fails in any material respect properly to perform its obligations under this Agreement, or violates any of the material terms or conditions of the Agreement, such refusal, failure or violation shall constitute default. In such an event, the non-defaulting party may so notify the other party in writing of the default and allow that party a period of thirty (30) calendar days to cure such default. If the defaulting party does not cure such default within said thirty (30) calendar days; the non-defaulting party shall have the right to terminate this Agreement upon written notice to the other party. Termination of this Agreement shall not equate to revocation of the charter which may only be accomplished in accordance with Education Code Section 47607 and its implementing regulations. Notwithstanding rights provided through this clause, all service fees for current month and previously certified student attendance shall still be due and payable per the terms of this agreement. If such default is for failure of the District to pay service fees that have already been transferred to the District from State or other granting

entity, then the District shall only be granted a period of ten (10) working days to cure such default.

- G. Charter Revocation. Should either the California State Board of Education, San Diego County Office of Education or the District revoke the Charter managed under this agreement, this Agreement shall be canceled. All remaining ongoing financial obligations of the Parties shall remain in effect beyond revocation of the Charter until those obligations are fulfilled.
- H. Entire Agreement. Except for written amendments, supplements or modifications made after the execution of this Agreement, this Agreement and its attachments represent the entire agreement between the parties hereto with respect to the subject matter of this Agreement and supersedes all prior renegotiations, representations and agreements, either oral or written.
- I. Forces Outside the Control of the Parties (Force Majeure). In the event performance of this Agreement, or any obligations hereunder, is prevented, restricted or interfered with by reason of acts of God, wars, revolution, civil commotion, acts of public enemy, embargo, acts of the government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing or boycotts, unavailability of equipment from vendors, or any other circumstances beyond the reasonable control and without the fault or negligence of the party affected, the party affected, upon giving prompt notice to the other party, shall be excused from such performance on a day-to-day basis to the extent of such prevention restriction, or interference (and the other party shall be excused from such performance on a day-to-day basis until the delay, restriction or interference has ceased), provided, however, that the party so affected shall use its best reasonable efforts to avoid and remove such cause of nonperformance and both parties shall proceed whenever such causes are removed or cease.
- J. Severability. If any provision or any part of this agreement is for any reason held to be invalid and/or unenforceable or contrary to public policy, law, or statute and/or ordinance, the remainder of this agreement shall not be affected and shall remain valid and fully enforceable.
- K. Governing Law. This Agreement shall be governed by and interpreted or construed in accordance with the laws of the State of California, County of San Diego.
- L. Headings. The headings in this Agreement are inserted for convenience and identification only and are in no way intended to define or limit the scope, extend or intents of this Agreement or any of the provisions hereof.
- M. Taxes and Assessments. Each party shall be responsible for payment of taxes, including federal, state and municipal taxes, chargeable or assessed with respect to its employees, such as Social Security, unemployment, worker's compensation, disability insurance, and federal and state withholding.
- N. Insolvency. Either party may terminate this Agreement by notice, in writing, if the other party admits insolvency, makes an assignment for the benefit of creditors, or has a trustee or receiver appointed over all or any substantial part of its assets.
- O. Successors. This Agreement shall be binding on and inure to the benefit of the respective successors and permitted assigns of the parties.
- P. Notifications. All notices, requests, and other communications under this agreement shall be in writing and mailed to the proper addresses as follows.

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| To the District at: Warner Unified School District 30951 CA-79 Warner Springs, CA 92086 | To the Charter at: Excel Academy Charter School 1 Technology Drive, Ste I-811 Irvine, CA 92805 |
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IN WITNESS WHEREOF, the parties agree to execute this Agreement.

Warner Unified School District

By: Andrea Sissons Date: 6/11/2024

Excel Academy Charter School

By: Heidi Gasca Date: June 11, 2024