

AGREEMENT FOR
CHARTER SCHOOL BUSINESS & ADMINISTRATIVE SERVICES
DATED AS OF MAY 16, 2024 (THE "EFFECTIVE DATE")

THIS AGREEMENT FOR CHARTER SCHOOL BUSINESS & ADMINISTRATIVE SERVICES (this "Agreement"), between **CONTRA COSTA SCHOOL OF PERFORMING ARTS**, to which reference is made herein as the "School", and **DELTA MANAGED SOLUTIONS, INC.**, to which reference is made herein as "DMS," is entered into between the parties in connection with charter school business and administrative services to be provided by DMS to the School, as described in the Scope of Services attached hereto.

1. **Services.** The School hereby engages DMS as an independent contractor during the Term (as defined below), and DMS hereby accepts such engagement, to perform, as requested by the School, those services set forth in the Scope of Services attached hereto as **Exhibit A** (the "Scope of Services," and the foregoing services, the "Services"). The School acknowledges and agrees that DMS may perform the Services at any suitable time and location as DMS chooses.

2. **Representations, Warranties and Covenants of DMS.** DMS hereby represents, warrants and covenants to the School that:
 - A. DMS shall not receive a fee from any source other than the School for the Services, except as may be disclosed to the School in writing, and has no arrangement with respect thereto with any party other than the School regarding such Services.

 - B. Upon the expiration or termination of this Agreement, DMS shall return to the School any and all property, documentation, records and confidential information that is the property of the School.

 - C. DMS is an independent private business and is not acting in any other professional capacity than as represented in this Agreement and the Scope of Services.

3. **Agreements of DMS.** DMS hereby agrees as follows:
 - A. DMS will provide, as requested by the School, Services that reasonably conform to the Scope of Services. The School shall have thirty (30) days following the performance of any Services or the delivery of any work product in order to notify DMS of any alleged non-conformity in such Service or work product (any such notice, a "Notice of Non-Conformity"). Promptly following its receipt of a Notice of Non-Conformity, DMS shall undertake commercially reasonable efforts to correct such non-conformity by re-performing the Service or re-delivering the work product, as applicable. The foregoing re-performance by DMS shall be the School's sole remedy with respect to any non-conforming work product or Services under this Agreement. All Services or work product shall be deemed to have fully conformed with the Scope of Services if a Notice of Non-Conformity is not received within such thirty (30)-day period.

 - B. In providing such Services, DMS will make available the experience of its organization so as to represent the School.

- C. During the Term, DMS may represent, perform services for, and contract with as many additional clients, persons or companies as DMS, in its sole discretion, sees fit, provided that such performance does not interfere with DMS's performance of the Services under this Agreement.
4. **Term of the Agreement.** The term of this Agreement shall be **twelve (12)** months, for the period beginning on **July 1, 2024**, and ending on **June 30, 2025** (such period, the "Term"), unless earlier terminated in accordance with Section 10.
5. **Compensation.** DMS shall receive the following amounts in consideration of its performance of the Services:
- A. **Services Fee.** The school shall pay to DMS a service fee equal to **2.85%** of **total annual School revenues** for each fiscal year during the Term of this Agreement (the "Service Fee"), paid in equal monthly installments for each month during the Term of this Agreement beginning with the first month of the Term and payable on the 1st of each month. Monthly payments shall be pro-rated based on the most recent approved School budget available (the "Initial School Budget") and include any adjustments needed for changes in projected revenues throughout that fiscal year. The final calculated Service Fee payable to DMS for each July-June fiscal year during the Term shall be based on final Unaudited Actuals using P-2 Average Daily Attendance (ADA) as originally reported, and the School shall make a true-up payment to DMS equal to the difference between the Services Fee as calculated using the Initial School Budget and as calculated using the Unaudited Actuals, which shall be payable to DMS within thirty (30) days of the finalization of the Unaudited Actuals. Notwithstanding the foregoing, Service Fees are calculated based on originally reported P-2 ADA, and any subsequent reductions to revenues due to ADA reductions shall not result in a corresponding reduction of Services Fees for the applicable year.
- DMS's Services Fee covers all Services set forth in the Scope of Services attached hereto and unless expressly provided in the Scope of Services includes all travel and other out-of-pocket costs. Additional services (including but not limited to: financing/cash flow loan services and private grant application and management services, STRS/PERS back reporting) may be made available to the School at an additional cost, to be negotiated between DMS and the School via separate agreement prior to the incurrence of such additional services.
6. **Contract Renewal.** This Agreement shall be renewable for consecutive single or multiple fiscal year terms by the mutual agreement of the parties, if pursuant to DMS's discretion the School qualifies for a multiple fiscal year agreement, each such term beginning at the end of the prior period's agreement. Pricing for future years will be negotiated at the time of renewal.
7. **Entire Agreement; Amendments.** This Agreement is the entire agreement between the parties respecting the subject matter hereof and supersedes any and all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter. This Agreement may be amended only in a writing signed by all of the parties hereto. This Agreement is renewable by amendment, subject to all terms and conditions herein unless otherwise agreed by the parties.
8. **Assignment.** This Agreement may not be assigned by either party hereto without the written consent of the other party.

9. **Notice.** During the term of this Agreement, the School shall not seek any third party to perform alternative services for the School which would in any way reduce the Services to be performed under this Agreement, as described in the Scope of Services attached hereto, without the prior written consent of DMS, which shall not be unreasonably withheld.

10. **Termination.** Termination of this Agreement may occur upon one of the following:

A. **Material Breach:** Either party hereto may terminate this Agreement for cause, which shall mean a material breach by the other party of any of their representations, warranties, covenants or obligations under this Agreement, upon written notice to the other party. Such termination shall be effective: (i) five (5) days following the other party's receipt of such notice if such breach is based on the failure to pay any fee hereunder; or (ii) thirty (30) days following the other party's receipt of such notice for any other breach, in each case if such breach remains uncured following the expiration of such period. Upon termination by either party, DMS shall be paid compensation as described under Paragraph 5, Compensation, above incurred through the date of termination.

B. **School Closure:** This Agreement shall be terminated upon school closure. Such termination shall be effective: one full month past the school closure date. DMS shall be paid compensation as described under Paragraph 5, Compensation, above incurred through the date of termination. DMS services will cease upon termination date.

1. Closure services are not included in early termination of this agreement and shall be agreed upon under a new agreement.

11. **Information.**

A. **Ownership and Accuracy.** The School, its officials, staff, and board will be providing DMS various data, records, studies, computer print-outs and other information and representations as to the facts relating to the School and its operations. DMS will be using and relying upon such data, records, studies, computer print-outs and other information provided by the School in the preparation of DMS's work products. All such data, records, studies, computer print-outs and other information, and compilations created therefrom, are considered as and shall remain the property of the School. DMS shall not be obligated to establish or verify the accuracy or completeness of the information furnished to DMS by the School, its officials, staff, or board, and DMS bears no liability for any such information ultimately deemed to be false, misleading, inaccurate, violating the intellectual property rights of any third party, or otherwise violating any law, regulation or order. In the event of any such determination, the School shall defend, indemnify and hold DMS harmless from and against any claim, suit, proceeding or loss, damages, or liability of any kind arising from or related to the information provided by the School, its officials, staff, and board to DMS.

B. **Confidentiality.** The School and DMS agree that each will ensure no use, dissemination, or disclosure of any confidential information of the other party to any person, firm or business, except as necessary to perform the obligations or exercise the rights or privileges of the receiving party set forth in this Agreement and the Scope of Services, and then only as agreed by the parties. Each party agrees it will receive all confidential information in trust and confidence and

it will treat all confidential information with the same degree of care as it accords to its own confidential information of like sensitivity, but in no event less than a reasonable level of care.

12. **Standards.** DMS shall perform the Services in accordance with competent professional standards within the industry in which DMS practices. DMS shall not be liable for mistakes of judgement or other actions taken in good faith unless such error results from an intentionally wrongful or grossly negligent act of DMS. The liability of DMS to the School for any breach of these standards arising out of or related to this Agreement or the Services performed hereunder shall not exceed the total amount of the fees paid to DMS under this Agreement.
13. **Severability.** If any provision of this Agreement is unenforceable or invalid under any applicable law or is so held by applicable court decision(s), such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole. In such event, such unenforceable or invalid provision shall be changed by the parties and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision as originally contemplated by the parties within the limits of applicable law or court decision(s).
14. **Waiver.** The failure of either party to require performance by the other party of any provision hereof shall not affect the full right to require such performance at any time thereafter unless otherwise agreed by the parties in writing; nor shall the waiver by either party of a breach of any provision hereof by the other party be taken or held to be a waiver of the provision itself with respect to subsequent breaches thereof unless otherwise agreed by the parties in writing.
15. **Counterparts; Scan/Facsimile.** This Agreement may be signed in counterparts and shall be effective against signatures by scan/facsimile (in an email, PDF or otherwise). Each counterpart when so executed shall constitute an original and all of which together shall constitute one and the same instrument.
16. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of California. DMS and the School agree that no legal action may be brought against the other party regarding any alleged breach of this Agreement more than two (2) years after the date the claim giving rise to such action became known by the party asserting the claim or exercising reasonable diligence should have been known to that party.
17. **Independent Contractor.** DMS's relationship to the School is and shall remain at all times during the Term as that of an independent contractor. Nothing in this Agreement or in the activities contemplated by the School and DMS shall be deemed to create an agency, partnership, employment, or joint venture relationship between the School and DMS. The School acknowledges that DMS is not an accounting or law firm, and no services or written or oral communications made by DMS during the course of providing services are or should be construed as tax or legal advice. DMS neither assumes nor underwrites any liability of the School and acts only as a provider of the Services, which are ministerial in nature. In the event the School hires an employee of DMS within six (6) calendar months of that employee working for DMS, the School shall pay to DMS a finder's fee equal to twenty-five percent (25%) of (i) the employee's annual salary at time of hire as paid by the School, or (ii) the employee's most recent annual salary at DMS, whichever is greater, and which shall be due and payable to DMS immediately upon hire and which obligation survives the termination of this Agreement.

18. **Government Code.** DMS and its representatives are not public officials or participating in governmental decisions, as those terms are used in Section 87100 of the California Government Code or otherwise. No actions or opinions necessary for the performance of DMS's duties under this Agreement will cause DMS to be a public official or to be participating in governmental decisions, as those terms are used in Section 87100 of the California Government Code or otherwise.

IN WITNESS WHEREOF, this Agreement has been executed and delivered for and in the names and on behalf of the School and DMS as of the date set forth above.

CONTRA COSTA SCHOOL OF PERFORMING ARTS

DELTA MANAGED SOLUTIONS, INC.

By: _____

By: _____

Name:

Name: Joanne Fountain

Title:

Title: Chief Executive Officer

EXHIBIT A

**CONTRA COSTA SCHOOL OF PERFORMING ARTS / DELTA MANAGED SOLUTIONS, INC.
SCOPE OF SERVICES**

In performing under this Agreement, DMS shall perform services that reasonably conform to those as described below:

FISCAL SERVICES:

- ❖ DMS shall provide and administer a comprehensive web-based accounting system, including all requisite fund accounting and general ledger and accounts payable/receivable modules (the "Accounting System"). The Accounting System will be fully SACS-compliant and capable of producing standardized SACS reports for financial reporting to the School's authorizer and other public agencies as required. The Accounting System will be accessible for viewing by authorized School staff, state and local entities for review and audit reconciliation. The School shall be responsible for the cost and maintenance of the hardware and/or software and any other costs, if any, to establish any local internet connections to access the web-based Accounting System from the school site.
- ❖ DMS shall provide ongoing regular reporting of fiscal status to the School's board and staff. This shall include attendance at select board meetings requiring DMS participation. Such attendance may be by electronic means. Board meeting attendance, whether electronic or in-person, is limited to events requiring DMS participation, and a DMS representative will not be required to generally attend every board meeting. The School shall be responsible for timely notifying DMS of scheduled board meetings at which DMS attendance is requested. The School must specifically request actual attendance in writing, and absent circumstances warranting special/emergency board meetings, timely notification shall be one (1) week in advance absent prior scheduling conflicts. DMS must be provided the board agenda for review of DMS-related items prior to public posting.
- ❖ DMS shall coordinate and assist with the School's budgeting process, including preparation of the original budget and all interim budgets, revising and discussing with School staff and/or Finance Committee members (if applicable), providing professional advice on actual and projected line-item revenues and expenditures, attending budget approval board meetings if needed, and preparation and filing of authorizer-required and State-required budget forms.
- ❖ DMS shall provide advisory services in relation to the School's monthly cash flow needs, including computation of expected monthly revenues based on current and projected Average Daily Attendance (ADA) (as provided by the School), coordination of expenditure timing to match revenue flow (see Scope of Services - Purchasing/Procurement below) and other similar services as required. DMS may, at its own discretion, advance funds to the School to cover short-term working capital needs. Generally, this would only be done to meet crucial payroll expenditures when the School will be receiving other revenues close in time. In such event, DMS shall be repaid from the first available funds received by the School after the advance, unless DMS consents, at its own discretion, to a later payment date. DMS consent to a later payment date shall not in any way excuse the School from full repayment of any advance. Any such advances shall not carry an interest rate or origination fees. DMS can coordinate long term cash flow financing for the School, if requested and subject to the School's qualification, for an additional fee to be determined at such time via separate agreement.

- ❖ DMS shall assist the School in developing a satisfactory system of financial controls to ensure financial stability, including working with the School to develop a Fiscal Procedures & Policies Manual, if requested. School staff is responsible for implementing the accounting and fiscal controls and procedures as outlined in the School's approved policies and procedures.
- ❖ DMS shall assist the School in establishing and maintaining an external bank account(s) outside of the County Treasury and will administer and reconcile all banking transactions through this external bank account(s) and the School's County Treasury account(s). Accounts will be held in the School's name; DMS will hold no School bank account(s), nor be a signatory on School account(s).
- ❖ DMS shall work directly with the School's chosen independent auditor regarding the School's annual audit to ensure all necessary financial information is provided in a full and timely manner. DMS shall not be involved in the attendance portion of the audit except to prepare reports using attendance data provided by the School (see Scope of Services - Compliance/Reporting below) and to provide copies of the School's P-1, P-2, and Annual ADA reports to the auditor as needed.

PAYROLL SERVICES/RISK MANAGEMENT:

- ❖ DMS shall provide the School with a comprehensive payroll system, including calculation and payment of all federal and state payroll tax liabilities, California State Teachers' Retirement System (STRS) and Public Employees' Retirement System (PERS) contribution calculations and payments (if applicable), and other benefits calculations and payments directly related to payroll processing. The payroll system supports 401a/403b/457 plan payment processing if the School offers such plans as a benefit to employees, and DMS processes all such contributions in coordination with the School's 401a/403b/457 third party administrator (TPA). DMS services do not include 401a/403b/457 TPA duties, which should be performed by a TPA specializing in this area to ensure continuing qualification of such plans under the Internal Revenue Code. DMS services do not include back reporting or correcting California State Teachers' Retirement System (STRS) and Public Employees' Retirement System (PERS) outside of the applicable contracted term unless the back reporting falls within a prior contracted term.
- ❖ DMS shall assist the School in obtaining any necessary accounts for payroll tax payment and reporting and shall coordinate payment of federal and state payroll taxes and filing of federal and state payroll tax reporting as the School's Reporting Agent. Legally, the School is still obligated to ensure timely filing of returns and payment of any taxes due, even if it uses a Reporting Agent. DMS shall not generally be responsible for reporting pursuant to the Affordable Care Act (ACA) to the extent such reporting is based on information for which the School's healthcare broker is responsible. DMS can print ACA reporting if all such data required for the reporting is available in the accounting system referenced in this Scope of Services, based on DMS discretion, or based on data provided by the School's healthcare broker if the data is provided in an acceptable uploadable format for the accounting system.
- ❖ DMS shall assist the School in obtaining any necessary accounts for STRS/PERS reporting, which DMS shall file pursuant to required procedures for such reports in the School's county(ies).
- ❖ DMS shall work with the School's bank to establish direct deposit of employee pay if the School's bank allows such electronic transactions via upload. The School's bank must allow for upload, rather than manual entry, of direct deposit files.
- ❖ DMS shall provide advice at the School's request regarding employee hiring, leave, and termination practices as related to payroll services, including recommending federal and state employment documents if requested, assisting the School in establishing a California Department of Justice account for LiveScan fingerprinting if not already established, and responding to basic credentialing questions, and shall advise the School to seek legal or other professional counsel regarding such matters when appropriate. These

services do not include performing credential or human resources audits and do not include COBRA, 401a/403b/457, or ACA third party administration duties.

- ❖ DMS shall assist the School in researching and obtaining appropriate employee benefits and insurance packages, including coordinating between staff and insurance plan providers, and will assist in soliciting alternative providers for better rates and/or services at the School's request. DMS functions only as a facilitator/advocate on behalf of the School, is not an insurance provider or broker, and receives no commissions or referral fees from third party providers for this assistance to the School.
- ❖ DMS shall assist the School in researching and obtaining appropriate insurance policies for liability, property, workers' compensation, and other insurance necessary for operation of the School and shall assist in soliciting alternative providers for better rates and/or services at the School's request. DMS functions only as a facilitator/advocate on behalf of the School, is not an insurance provider or broker, and receives no commissions or referral fees from third party providers for this assistance to the School.

PURCHASING/PROCUREMENT:

- ❖ The School shall be responsible for initial creation and approval of all purchases, including inputting such orders into the accounting system. The School is solely responsible for ensuring that all items ordered are suitable for public educational purposes (e.g. non-religious materials). Once purchases are approved by the School's authorized staff, the School shall further be responsible for delivering approved purchase orders (POs) to vendors (i.e. placing the order). All POs shall reflect School as the shipping and billing address (which may include School staff addresses for shipping if authorized by School). Once the order is received by the School, School staff is responsible for marking items as received, including marking items as received in the accounting system.
- ❖ Invoices shall be sent to the School. Once School approves invoices for payment, the School shall forward all invoices to DMS via DMS SHARE within five (5) business days of receipt. DMS shall enter all invoices into the accounting system for payment, matching invoices to existing approved and received POs where applicable. For invoices without a corresponding PO, the School's submission of the invoice to DMS via SHARE shall be considered approval for payment.
- ❖ Assuming School has adequate cash flow, at least every ten (10) business days, DMS shall prepare a payment voucher containing all approved invoices to date, print all checks, and deliver all checks to School via overnight service (if available in the School's geographic area) for review, signature and delivery to vendors, integrating accounts payable with Fiscal Services as described in this Scope of Services for payment timing optimization and coordination of purchasing activities to coincide with timing of revenue limit receipts.
- ❖ DMS shall make all received invoices sent directly to DMS by the vendor available in PDF format to the School via password-protected access to DMS SHARE, so that authorized School staff may review all current and prior invoices online (dating back to the first non-implementation month of DMS-provided services to the School). Scanning and uploading of such invoices shall generally occur within no more than ten (10) business days of receipt of invoice by DMS absent extenuating circumstances.
- ❖ Throughout the purchasing and accounts payable process, all account activity will be visible to School staff on the accounting system, showing the amount paid from each account code, including from individual student accounts if any. The point at which transactions become visible in the accounting system depends on the purchasing method chosen by the School.
- ❖ On a monthly basis, DMS shall prepare and deliver a summary and detail warrant report to the School's Board for review and approval on the Board's consent agenda, showing all non-payroll-related payments

made in the prior month. Payroll registers and evidence of payroll payments are available at any time for authorized School staff review and a payroll register detail is provided to the School staff with each pay run, but these are not part of the monthly summary and detail warrant register sent to the Board for review and approval.

- ❖ School is responsible for aligning all purchases with Board-approved purchasing policies and obtaining all required board approval or ratification for purchased items. All employee reimbursements must be accompanied by School approval for payment. Employee reimbursements will be processed in the same manner as vendor invoices but prioritized for payment at the earliest available payment batch.
- ❖ DMS shall reconcile purchasing activities with the School's external banking account(s). Accounts will be held in the School's name; DMS will hold no School bank account(s), nor be a signatory on School account(s).
- ❖ School shall minimize the use of on-site checks to critical time-sensitive payments only. In the event the School must use an on-site check, School shall immediately provide DMS with a scanned copy of the check and documentation of the item paid, at the time of the on-site check writing. School agrees to provide DMS with view-only online access to all School bank accounts (including credit card accounts).
- ❖ DMS shall assist School in obtaining a business credit card for use by School staff, if requested and subject to the School's qualification. School shall not use debit cards linked to the School's main operating account unless no credit card accounts can be obtained. For credit card purchases, DMS shall consider the credit card statement as the invoice for recordkeeping and audit purposes and shall consider receipt of the statement as authorization for payment of the credit card balance in full. All underlying receipts and documentation for individual credit card purchases shall be retained by School staff on-site.
- ❖ At the School's request, DMS shall assist the School in developing and approving a fixed asset capitalization policy, clarifying what items constitute fixed assets for accounting purposes. The School shall implement and maintain an updated on-site physical inventory of fixed and non-capitalized assets based on the approved policy and shall provide appropriate reporting to DMS of such inventory in order to coordinate with Fiscal Services as described in this Scope of Services. DMS shall be responsible for maintaining the fixed asset register in the accounting system, computing depreciation and average life, and coordinating such fixed asset register with auditors during the School's annual audit.

COMPLIANCE/REPORTING:

- ❖ At the School's request, DMS shall assist the School in preparing and submitting all state-required attendance reports, including but not limited to 20-day, P-1, P-2, and Annual ADA reports, from raw attendance data provided by the School. DMS shall have no responsibility for verifying the accuracy of raw attendance data as provided or for preparing weekly or monthly attendance summaries from the School's student information system.
- ~~❖ DMS shall assist the School in preparing and submitting all CALPADS reporting, including but not limited to Fall 1, Fall 2, EOY 1, 2, 3, and 4, from raw data provided by the School. DMS shall have no responsibility for verifying the accuracy of the raw data as provided by the school.~~
- ❖ DMS shall assist the School as needed with submitting the Consolidated Application and Reporting System (CARS) reporting, federal Cash Management quarterly reporting, SB740 funding determination forms and/or Facility Grant applications, special education maintenance of effort (MOE) reporting, Quarterly Benchmark Reporting under the Public Charter Schools Grant Program, ESSA per-pupil expenditure (PPE) reporting, and related state and federal program compliance and budget reporting. School shall be responsible for all other CALPADS data and reporting not specified above, LCAP creation (except for minimum proportionality percentage calculations and goal/service expenditure estimates or equivalent

LCAP financially-related reporting, which DMS shall provide), SARC preparation (except for per-student expenses and teacher salary information which DMS shall provide), and all State-mandated testing. School shall be responsible for forwarding any requests for information or submittals received from the California Department of Education (CDE) (or other agencies to which the School is required to provide a response), for which the School requests DMS's assistance in providing response for any financially related portions, to DMS's offices immediately upon receipt.

- ❖ DMS is not responsible for preparation or submittal of federal and state income tax forms relating to the School's tax-exempt status, including but not limited to IRS Form 1023, IRS Form 990, FTB Form 3500, and FTB Form 199. These forms are generally handled by the School's attorney or independent auditor, respectively. DMS shall timely provide all financial information requested by the School, attorney, or independent auditor to timely complete these filings.

DMS and the School shall be jointly responsible for training of the School, its officials, and staff regarding the use of any software or ministerial coordination required between DMS and the School. The School, its officials, staff, and parents agree to comply with and adhere to any licensing requirements of any and all software acquired and implemented by DMS according to all terms and conditions of use for such software.