

**AGREEMENT BETWEEN LA MESA-SPRING VALLEY SCHOOL DISTRICT AND
SPARROW ACADEMY FOR CONTINUED OPERATION OF CHARTER SCHOOL
WITH CONDITIONS**

THIS AGREEMENT FOR CONTINUED OPERATION OF CHARTER SCHOOL WITH CONDITIONS is entered into between the La Mesa Spring-Valley School District (“District”), and Sparrow Academy, a California nonprofit public benefit corporation operating Sparrow Academy Charter School (“Charter School”), under the District’s oversight. The District and Charter School shall be individually referred to herein as a “Party” and collectively referred to as the “Parties.”

RECITALS

WHEREAS, the revocation of a charter is governed by the standards and criteria set forth in Education Code section 47607 and its implementing regulations.

WHEREAS, on May 18, 2021, the Governing Board of the District approved the Charter Petition to renew Charter School for a five-year time period, beginning July 1, 2021 through June 30, 2026 (“Charter”). On or about May 19, 2021, the District and Charter School also entered into a Memorandum of Understanding (“MOU”). Pursuant to Education Code section 47607.4 (enacted by Senate Bill 114), the Charter term was automatically extended by one additional year, through June 30, 2027.

WHEREAS, beginning as early as 2021, the District, as part of its statutory oversight, engaged with the Charter School regarding concerns about its compliance with the Charter and the MOU, including the condition of Charter School’s facilities.

WHEREAS, the District continued to extensively engage with Charter School regarding concerns, including issuing Notices of Concern on July 31, 2023 and August 14, 2023. These Notices addressed, among other things, concerns related to Charter School’s facilities, fiscal practices, and the provision of special education services.

WHEREAS, a significant number of the concerns identified by the District remained unresolved at the end of 2023, causing the District to further investigate and examine potential violations of the Charter, MOU and Charter School’s ability to continue to implement its program.

WHEREAS, as a result of the District’s engagement and investigation, on March 19, 2024, the District’s Governing Board approved the issuance of a Notice of Violation (“NOV”) to Charter School pursuant to Education Code section 47607(d), detailing material violations of the conditions, standards, and procedures of the Charter and MOU, as well as violations of the law.

WHEREAS, on April 19, 2024, Charter School timely issued a response to the District, demonstrating that it made good faith efforts and, in the view of the District, had remedied some but not all of the violations listed in the NOV.

WHEREAS, on April 19, 2024, Charter School also submitted a request to the District for a material revision to the Charter (“Material Revision”) to implement Charter School’s proposed relocation to the school facilities located at the St. Luke’s site, transition to serve as its own local education agency (LEA) for special education purposes and to join the El Dorado Charter Special Education Local Plan Area, and other legal updates to the Charter as required by Education Code section 47607(b).

WHEREAS, following Charter School’s response to the NOV and submission of request for a material revision, the District has met with and extensively engaged with Charter School regarding the steps promised to remedy the remaining material violations addressed in the NOV.

WHEREAS, notwithstanding the District’s concerns regarding Charter School’s operations and fiscal management, Charter School has made good faith efforts toward remedying certain violations identified in the NOV.

WHEREAS, the Parties acknowledge that the District could, in its discretion, choose to proceed with the issuance of a Notice of Intent to Revoke, but the Parties deemed it in their best interests to enter into this Agreement to provide Charter School an opportunity to meet defined conditions within a specified period of time to remedy outstanding violations identified in the NOV, while also providing the District a remedy in the event Charter School fails to do so or commits additional violations.

WHEREAS, through this Agreement the Parties intend to provide a structure for such correction without the continued expense and uncertainty related to the charter revocation process.

WHEREAS, the Parties have entered into this Agreement freely and voluntarily and acknowledge the responsibilities of Charter School under this Agreement are consistent with the terms of the Charter. The Parties further acknowledge and agree that this Agreement is not subject to legal challenge as an alleged violation of any terms of the Charter Schools Act (Education Code section 47600, *et seq.*) or any other applicable law concerning the operation, revocation, or closure of a charter school in California.

NOW THEREFORE, in consideration of the promises, covenants, and provisions set forth herein, the receipt and adequacy of which consideration is hereby acknowledged, the Parties agree as follows:

TERMS & CONDITIONS

- I. Purpose.** The purpose of this Agreement is to provide for Charter School’s continued operation and the District’s agreement not to proceed with the pending revocation proceedings contingent upon Charter School’s compliance with all conditions and terms set forth in this Agreement. The Parties agree that Charter School’s unexcused failure to comply with any material condition or term set forth in this Agreement, the Charter, or MOU is cause for the District to commence proceedings to revoke Charter School’s Charter if Charter School does not otherwise voluntarily close and surrender its Charter.

- II. **Interaction with MOU.** The Parties entered into the MOU on or about May 19, 2021. This Agreement is a separate agreement between the Parties. If any provision of this Agreement conflicts with the MOU, the terms of this Agreement shall prevail.

- III. **Responsibility.** Sparrow Academy, the California nonprofit public benefit corporation that operates Charter School, shall be responsible for, and have all the rights and benefits attributable to Charter School, and where this Agreement obligates Charter School to a particular course of action, Sparrow Academy is coextensively required to fulfill such obligations.

- IV. **Term.** This Agreement shall commence on the date upon which it is executed by both Parties and continue through June 30, 2027.

- V. **Charter School Requirements.** Charter School agrees to comply with all of the following terms and conditions:
 - 1. **Remit Payment.** On or before June 30, 2024, Charter School shall remit payment to the District for the full outstanding balance as of April 2024 of its *Charter School Contribution to District-Wide Special Education Costs* in the amount of \$264,060.21.

 - 2. **Monthly Budget Reports.** On or before the 15th of each calendar month, Charter School shall provide the District’s Superintendent or designee with a monthly budget report for the preceding month. This monthly report shall, at a minimum, include the following information:
 - a. *Financial Summary;*
 - b. *Actual to Budget Summary;*
 - c. *Monthly Cash Balance Over Time;*
 - d. *Fiscal Year Balance Sheet Summary with the following breakdown: Assets, Fixed Assets, Other Assets, Total Assets, Liabilities and Net Assets, Current Liabilities, Long Term Liabilities, Total Net Assets, Net Increase or Decrease in Net Assets, Ending Net Assets, Total Liabilities and Net Assets; and*
 - e. *A variance report that describes any change from the preceding month.*
 - f. *A detailed cash flow showing information by major object for revenue and expenses.*

In the discretion of the District’s Superintendent or designee, the District can request additional information be included in the monthly budget report. Any such request will be in writing to the Charter School’s Executive Director.

- 3. **In-Person Budget Meeting.** Charter School’s Executive Director shall attend an in-person meeting with the District’s Superintendent or designee within two weeks after the Charter School Board’s adoption of the First Interim Report, Second Interim Report, Budget, and Unaudited Actuals, subject to the District’s availability to schedule such a meeting within this timeframe. The purpose of these meetings shall

be to review these budget documents and address any District questions or concerns related to Charter School's fiscal status. This meeting shall take place *prior* to the District making any certification concerning Charter School to the San Diego County Office of Education, subject to the District's availability to schedule such a meeting within this timeframe.

- 4. Apply to Join SELPA.** Charter School shall apply and meet all required deadlines to join the El Dorado Charter SELPA and Los Angeles County Charter SELPA beginning in the 2025-2026 school year. Charter School shall provide the District with a copy of its SELPA applications and shall also provide timely updates to the District concerning the status of the application process, including notifying the District within one (1) business day of receiving final approval or denial from SELPA. In the event Charter School joins either SELPA, Sections V.5 through V.8, below shall no longer apply to Charter School and shall be deemed deleted from this Agreement effective as of the effective date of Charter School's membership in such SELPA.
- 5. Administrator Attendance of all IEP Meetings.** A Charter School administrator or approved "administrator's designee" shall attend every single Individualized Education Programs ("IEP") meeting held. Prior to the start of each school year, Charter School shall provide to the District's Superintendent or designee a list of the names of two (2) certificated employees who may serve as an "administrator's designee" for that school year. No other employees may serve as an "administrator's designee" without prior written approval from the District's Superintendent or designee and undergoing the training required in Section V.6, below. Additionally, in the event Charter School utilizes an "administrator's designee" during an IEP meeting, the employee serving as the designee may not have any other role during that IEP meeting.
- 6. Special Education Training.** Prior to the start of any school year, both the Executive Director and any employee listed by Charter School as an "administrator's designee" shall undergo training as determined by the District. In the event the District approves a request by Charter School to modify the list of individuals who may serve as an "administrator's designee" after the school year has commenced, any new employee in this position shall similarly undergo training, which shall be completed prior to attending an IEP in his/her designee capacity. The District shall exclusively determine the content and length of the training provided in this Section.
- 7. Notice of Complaint.** In the event Charter School's Executive Director learns that a parent/guardian has filed or intends to file a complaint regarding special education eligibility or services, or on behalf of a student with a disability, including but not limited to, with the Charter School, SELPA, California Department of Education, Office of Civil Rights, or Office of Administrative Hearings, the Charter School's Executive Director shall, within one (1) business day, notify the District's Superintendent or designee in writing, including a copy of the complaint (if filed) or a summary of the allegations as understood at the time.

- 8. Notice of Discipline.** In the event Charter School issues discipline to a student with a known or suspected disability that results in an out of school suspension or other exclusionary consequence where a student is removed from a structured or unstructured educational setting for disciplinary reasons, Charter School shall notify the Superintendent or designee of that occurrence within one (1) business day of the discipline being issued. In the event Charter School plans to recommend expulsion for a student with a known or suspected disability, it shall immediately notify the District Superintendent or designee in writing, including any documentation related to the recommendation. This notification shall occur prior to Charter School issuing the student a Notice of the Recommended Expulsion.
- 9. Request for Student Records.** Charter School shall promptly respond to any parent/guardian request for records within the timeframes required under the law.
- 10. Pre-Referral Process and Intervention.** No later than thirty (30) days prior to the start of the 2024-2025 school year, Charter School shall submit to the District's Superintendent or designee a written plan for how Charter School will implement the following "Pre-Referral Process and Intervention" provision set for in the Parties' May 19, 2021 MOU:

The Charter School shall implement a process (e.g., Student Study Team) to monitor and guide referrals of general education students for special education evaluations and services, such that general education interventions are utilized and exhausted before the Charter School refers the student for a special education evaluation... (See MOU, page 15-16, Paragraph 5).

Such written plan for implementation of the above-cited MOU provision shall describe the use of tiered, scientific, research-based interventions. Charter School's Executive Director shall thereafter attend an in-person meeting with District staff to address the written plan to determine whether it sufficiently demonstrates compliance with the above-cited MOU provision and applicable laws, particularly with respect to the obligation to provide a free appropriate public education in the least restrictive environment. In the event the District determines that Charter School's written plan is insufficient, the Parties shall work together to address any of the District's concerns.

- 11. Special Education Monthly Report.** On or before the 15th of each calendar month, Charter School shall provide the District's Superintendent or designee with a monthly special education report for the preceding month. This monthly report shall, at a minimum, include the following information:
- a. List of all existing compensatory education agreements, including the total number of hours owed, completed, and remaining.*
 - b. Number of IEP meetings held and name of administrator who attended.*
 - c. List of pending or anticipated complaints described in Section V.7.*
 - d. List of any new student discipline cases described in Section V.8.*

- e. *List of requests for student records received as described in Section V.9. with confirmation of when the Charter School provided records or anticipates doing so.*

In the discretion of the District's Superintendent or designee, the District can request additional information be included in the monthly special education report. Any such request will be in writing to the Charter School's Executive Director.

12. Written Notice to Parents/Guardians for the 2024-2025 School Year. No later than two (2) weeks after the effective date of this Agreement, Charter School shall submit for approval by the District's Superintendent a proposed communication to Charter School parents/guardians. This communication shall advise parents/guardians of the revocation proceedings, this Agreement (including a link to a full copy of the Agreement on Charter School's website), and that there is a possibility Charter School's Charter could be revoked by the District mid-school year. Upon approval by the District's Superintendent, this communication shall be sent by Charter School to any parent/guardian who has enrolled their child for the 2024-2025 school year. The manner of delivery of this communication should be consistent with Charter School's best practices for ensuring receipt of school communications. Finally, this communication should be sent no later than thirty (30) days before the start of the 2024-2025 school year.

13. Continuity in Administration. Charter School shall notify the District within one (1) business day of learning that its Executive Director plans to resign or that the position of Executive Director will otherwise become vacant (even on an interim basis). In such event, the District and Charter School shall schedule an in-person meeting within five (5) business days to address Charter School's plans for filling the vacancy.

14. Board Member Resignation. Charter School shall notify the District within one (1) business day of learning that one of the Charter School's Board members plans to resign or has resigned from that Board of Directors. In such event, Charter School shall keep the District's Superintendent timely informed regarding the steps taken to fill the vacancy and timeline for doing so.

VI. District Agreements. In exchange for Charter School's promises set forth in Section V, the District agrees to do the following:

- 1. Cessation of Current Revocation Proceedings.** Upon execution of this Agreement, the District will discontinue the current revocation proceedings pursuant to the NOV. This Agreement shall be deemed as timely notice of such discontinuance to Charter School's Board of Directors in compliance with Title 5 of the California Code of Regulations, section 11968.5.2(d)(2).

- 2. Submission of Good Standing Confirmation Form.** Upon execution of this Agreement, the District shall prepare and submit to the California School Finance Authority a "Good Standing Confirmation Form" (CSA Form 1119), acknowledging

that, at this time, Charter School has no pending or outstanding Notices of Violation described in Education Code section 47607(g), and has no unresolved or outstanding Notices of Intent to Revoke as described in Education Code section 47607(h).

3. Consideration of Material Revision. On or before June 30, 2024, the District's Governing Board shall consider the approval of Charter School's Material Revision.

VII. Breach. Charter School's failure to comply with Section V, in whole or in part, shall constitute a material breach of this Agreement, and a material breach of this Agreement shall constitute a material violation of any of the conditions, standards, or procedures set forth in the Charter and MOU for purposes of revocation under Education Code section 47607.

VIII. Remedy for Breach. If the District reasonably determines, in its sole discretion (exercised in good faith), that Charter School has breached this Agreement for any reason, including but not limited to failure to meet the requirements set forth in Section V, the District shall notify Charter School in writing of the material breach ("Notice of Breach"). Upon Charter School's receipt of a Notice of Breach, the Charter School shall voluntarily and permanently close, effective at the end of the semester during which the material breach occurred, or another date, as exclusively determined by the District. Upon receipt of a Notice of Breach, the Charter School's Board of Directors shall take action within five (5) business days to acknowledge the Notice of Breach and to initiate the closure of Charter School consistent with the Education Code, the California Code of Regulations, Title 5 (including but not limited to Section 11962), the Charter, and MOU.

If the Charter School's Board of Directors fails to take action as required by this Section or otherwise disputes that Charter School is in material breach of the Agreement, the Charter, or MOU, the District may commence revocation proceedings against Charter School pursuant to District's authority under Education Code section 47607 based upon the alleged material breach of this Agreement, the Charter, or MOU; and/or any other reason authorized under the law.

In consideration of the District agreeing not to proceed with the current revocation proceedings, Charter School expressly agrees that in the event the District determines that Charter School has breached the Charter, MOU, or this Agreement, then Charter School shall be responsible for all of the District's costs and reasonable attorneys' fees incurred as a result of the District initiating and conducting a new revocation process. Charter School shall not be responsible for such costs and attorneys' fees in the event: (1) Charter School voluntarily closes as provided above, or (2) Charter School obtains a final and successful appeal decision regarding the District's decision to revoke the Charter (under the process set out in Education Code section 47607).

IX. No Restriction on the District's Oversight Rights. This Agreement, and the conditions contained herein, are recognized and understood by Charter School to be in addition to the District's right to take any actions, consistent with its oversight authority under Education Code section 47600, *et seq.*, concerning Charter School.

- X. Consideration.** The Parties have bargained for and expressly agree that the rights and obligations of each Party contained in this Agreement constitute sufficient consideration supporting this Agreement.
- XI. Interpretation.** The language of this Agreement shall be construed as jointly proposed and jointly accepted, and in the event of any subsequent determination of ambiguity, the Parties shall be treated as equally responsible for such ambiguity.
- XII. Severability.** If any term, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired, or invalidated in any way.
- XIII. Provision Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
- XIV. Interpretation.** No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
- XV. Venue.** The validity of this Agreement and any of its terms or provisions as well as the rights and duties of the Parties shall be governed by the laws of the State of California, and venue shall lie only in San Diego County Superior Court.
- XVI. Integration/Entire Agreement of the Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties and approved by the District's Governing Board and Charter School's Board of Directors.
- XVII. Counterparts.** This Agreement may be executed in counterparts, and all counterparts together shall be construed as one document.
- XVIII. Signature Authority.** Each person below warrants and guarantees that she/he is legally authorized to execute this Agreement on behalf of the designated entity and that such execution shall bind the designated entity to the terms of this Agreement subject to approval by the Parties' respective governing boards.
- XIX. Agreement Contingent Upon Board Approval.** This Agreement is subject to the approval of both the District's Governing Board and Charter School's Board of Directors.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties execute the Agreement, as dated below.

La Mesa-Spring Valley School District

Sparrow Academy, a California nonprofit
public benefit corporation

David Feliciano, Superintendent

Michelle D'Augusta, Executive Director

Date: _____

Date: _____