

IX. C.

Connecticut State Board of Education Hartford

To Be Proposed:

October 4, 2023

Resolved, That the State Board of Education, pursuant to Section 10-66tt of the Connecticut General Statutes, approves the contract for whole school management services between Booker T. Washington Academy, Inc. and Elevate Charter Schools, Inc. and directs the Commissioner to take the necessary action.

Approved by a vote of _____, this fourth day of October, Two Thousand Twenty-Three.

Signed: _____
Charlene M. Russell-Tucker, Secretary
State Board of Education

**Connecticut State Board of Education
Hartford**

To: State Board of Education

From: Charlene M. Russell-Tucker, Commissioner of Education

Date: October 4, 2023

Subject: Approval of Proposed Contract for Whole School Management Services Between Booker T. Washington Academy, Inc. and Elevate Charter Schools, Inc.

Executive Summary

Introduction and Parties

Booker T. Washington Academy, Inc. (BTWA) seeks Connecticut State Board of Education (CSBE) approval of its proposed contract for whole school management services with Elevate Charter Schools, Inc. (ECS). BTWA is a state charter school located in New Haven serving students in Grades K through 8. ECS is a not-for-profit, tax exempt charter management organization (CMO).

On September 6, 2023, the CSBE approved the charter amendment proposal of BTWA to contract for whole school management services with ECS. BTWA is now submitting the proposed contract for whole school management services between BTWA and ECS for approval.

Pursuant to Connecticut General Statutes (C.G.S.) Section 10-66tt(c), the governing council of a state or local charter school is required to submit any contract for whole school management services between such governing council and a CMO to the CSBE for review and approval. A copy of the contract for whole school management services is provided with this report.

BTWA’s charter was initially approved in 2014 and the school opened that year. The BTWA charter was most recently renewed and approved by the CSBE on June 3, 2020, for a three-year period which was extended for one year. The BTWA charter will expire on June 30, 2024.

The Statutory Framework and the Review Process

In addition to requiring CSBE approval of charter school-CMO contracts for whole school management services, Section 10-66tt sets certain standards for such contracts. For example, Section 10-66tt provides that the governing council of a state or local charter school shall not enter into a contract that: is contrary to state or federal law; entails a financial or other conflict of interest; amends, alters, or modifies any provision of the charter; has the effect of reducing the governing council’s responsibility for the operation of the charter school; or hinders the governing council in exercising effective supervision of the charter school.

Section 10-66tt also requires that a contract for whole school management services include, but need not be limited to:

1. the roles and responsibilities of the governing council of the charter school and the charter management organization, including all services to be provided under the contract;
2. the performance measures, mechanisms and consequences by which the governing council will hold the charter management organization accountable for performance;
3. the compensation to be paid to the charter management organization, including all fees, bonuses and what such compensation includes or requires;
4. financial reporting requirements and provisions for the governing council's financial oversight;
5. a choice of law provision that states that Connecticut state law shall be the controlling law for the contract;
6. a statement that the governing council of the charter school and the charter management organization shall ensure compliance with the provisions of Section 10-66uu; and
7. any such information required by the Commissioner of Education to ensure compliance with the provisions of this chapter.

Section 10-66uu establishes important transparency requirements. First, it states that each contract for whole school management services shall provide that the governing council of the charter school is entitled to receive a copy of all records and files related to the administration of the charter school, including the compensation paid to the CMO and any expenditures of compensation by the CMO. Second, it establishes that such records and files are subject to Connecticut's Freedom of Information Act once they are received by the governing council.

The contract for whole school management services between BTWA and ECS was reviewed by the Connecticut State Department of Education (CSDE) Legal Office, the Charter School Office, and the Office of Internal Audit to determine continued compliance with C.G.S. Section 10-66tt and Section 10-66uu. It is the CSDE's assessment that the contract for whole school management services between the BTWA and ECS complies with the law.

Additionally, in accordance with Section 10-66tt(c)(2), the CSDE solicited the views of the New Haven school district on the contract for whole school management services. The CSDE has not received a response from the New Haven School District.

Recommendation

The CSDE recommends that the Connecticut State Board of Education approve the contract for whole school management services between BTWA and ECS.

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Reviewed by: Mike McKeon
Director of Legal Affairs

**MANAGEMENT SERVICES AGREEMENT BY AND BETWEEN
ELEVATE CHARTER SCHOOLS AND
BOOKER T. WASHINGTON ACADEMY**

This Management Services Agreement (the “Agreement”) is effective _____, 2023, (the “Effective Date”) by and between Elevate Charter Schools, Inc., a Connecticut non-stock corporation/not-for-profit/tax exempt organization (“ECS”) and Booker T. Washington Academy, Inc., a Connecticut non-stock corporation/not-for-profit/tax exempt organization (the “School”) (each a “Party” and collectively the “Parties”).

WHEREAS, ECS is a Charter management organization as defined in Section 10-66aa(4) with the qualifications, experience, and expertise necessary to effectively provide essential programming and services to charter schools; and

WHEREAS, the School, led by its Board of Directors (the “School Board”), received approval of its application (“Charter Application”) to operate a public nonsectarian charter school (the “Charter”) in the State of Connecticut (the “State”) from the Connecticut State Board of Education (the “Authorizer”) on August 2, 2014 pursuant to Section 10a-66bb of the Connecticut General Statutes; and

WHEREAS, the Authorizer renewed the Charter on June 3, 2020 through June 30, 2024; and

WHEREAS, pursuant to the Charter, the School Board maintains the responsibility for school governance and is responsible for the oversight of charter school operations, the financial plan for operating the school and compliance with the Charter; and

WHEREAS, the School Board is entering into this Agreement with ECS to assist the School Board in meeting the obligations under the Charter and will provide oversight of this Agreement; and

WHEREAS, the Parties intend to create a relationship based on trust, common educational objectives, and clear accountability, through which the parties will work together to deliver an exceptional education program and experience to the students enrolled at the School; and

WHEREAS, the Parties intend to prioritize the following performance standards: School Performance, Stewardship, Student Population, and Legal Compliance; and

WHEREAS, ECS will provide certain services for the School Board as outlined in this Agreement and provide whole school management services as that term is defined in Section 10-66aa(4); and

WHEREAS, the Parties agree that the motivation of this Agreement is to create economies of scale and operational efficiency for the School; and

WHEREAS, the Parties wish to define their relationship and set forth the terms and conditions of their respective rights and responsibilities to each other.

NOW, THEREFORE, in consideration of the recitals and the mutual covenants, representations, warranties, conditions and agreements hereinafter expressed, the Parties agree as follows:

ARTICLE 1: CONTRACTUAL RELATIONSHIP

- A. Authority. The School Board has been granted a Charter by the Authorizer to organize and operate a public charter school, together with the powers necessary or desirable for carrying out the educational program set forth in the Charter. The School Board is authorized to execute an Agreement with a private entity for management services, provided that the Agreement shall comply with the laws of the State of Connecticut and the Authorizer’s requirements (the “Authorizer Requirements”), including, but not limited to, any necessary approval by the authorizer.
- B. Agreement. Acting under and in the exercise of such authority, the School Board hereby enters into this Agreement with ECS for specified functions relating to the provision of direct educational services and whole school management services of the School.
- C. Status of the Parties. ECS is a Connecticut non-stock corporation and is not a division or a part of the School Board or the School. The School is a Connecticut non-stock corporation and is a public charter school as authorized by the State of Connecticut, and is not a division or part of ECS. The relationship between ECS and the School Board is based solely on the terms of this Agreement. The Parties to this Agreement intend that the relationship between them created by this Agreement is that of an independent contractor and not an employer-employee. Except as expressly set forth in paragraph D below, no employee of ECS shall be deemed to be an agent of the School or the School Board (as the employer of employees hired for the School). ECS is solely responsible for the acts and omissions of its agents, employees and subcontractors. Employees of ECS, even those assigned to work exclusively at the School, are not employees of the School.
- D. Designation of School Officials for Purposes of FERPA. To the extent permitted by law, agents and employees of ECS having a legitimate educational interest in the School’s education records (including personally identifiable information), are hereby designated by the School Board as “school officials” of the School such that they are authorized access to educational records of the School students under 20 U.S.C. § 1232g, the Family Educational Rights and Privacy Act (“FERPA”). “Legitimate educational interest” shall be defined as having a responsibility for helping the student achieve one (1) or more of the educational goals of the School, or if the record is necessary in order for the employee to perform an administrative, supervisory, or instructional task or to perform a service or benefit for the student or the student’s family. Except as set forth in this paragraph D, no agent or employee of ECS shall be deemed to be an agent or employee of the School.
- E. Charter Contract Provisions. ECS acknowledges that a Charter Contract between the School and the State of Connecticut mandates that all of the School’s contracts contain certain provisions, including provisions relating to audits and non-discrimination. Said provisions are incorporated into this Agreement by reference. See Exhibit A. ECS further acknowledges that the School Board is entitled to receive copies of all records and files related to the administration of the School, including the

compensation paid to ECS and any expenditures of such compensation by ECS. ECS acknowledges that all such records and files are subject to the Connecticut Freedom of Information Act (“FOIA”) and may be disclosed by the School Board pursuant to and as required by FOIA, subject to applicable exemptions and redactions.

ARTICLE 2: REPRESENTATIONS AND WARRANTIES

- A. Representations and Warranties of ECS. ECS represents and warrants as follows:
- i. Organization and Tax-Exempt Status. ECS is a non-stock, not-for-profit, tax-exempt corporation duly organized under the laws of the State of Connecticut, with the purpose and legal ability to contract to provide educational management services. ECS shall notify the School Board of any change in its corporate status, which change shall not affect this Agreement. Upon any such notification, it is the responsibility of the School Board to notify the Authorizer. Should the Internal Revenue Service require changes to this Agreement in conjunction with the ECS’s application for or continuation of tax-exempt status, both Parties will take all reasonable steps and agree to all reasonable modifications to effectuate the necessary changes
 - ii. Authority. ECS has all requisite power and authority to execute and deliver this Agreement, to perform its obligations hereunder, and to otherwise consummate the transactions contemplated hereby pursuant to this Agreement. This Agreement constitutes a valid and binding obligation of ECS, enforceable against ECS in accordance with its terms.
 - iii. Conduct of ECS. ECS has complied, and at all times during the Term of this Agreement shall comply, with all local, State and federal laws, regulations and Authorizer requirements that are applicable to ECS, which include, but are not limited to the Internal Revenue Code, applicable Connecticut Education Law and regulations, including the Connecticut Charter School Law and implementing regulations, and the Connecticut Revised Nonstock Corporations Act. ECS has maintained and will maintain adequate records of the activities and decisions of ECS to ensure and document compliance with all such laws and regulations. ECS shall also comply with any published policies and procedures adopted by the School Board.
 - iv. Integrity of Officers, Directors and Employees. No member, officer or employee of ECS has committed, or during the Term of this Agreement will commit, an act constituting a criminal offense, a morally offensive act, an act that could negatively impact the reputation of ECS or the School, or any other act involving dishonesty, disloyalty, fraud or breach of trust.
 - v. Certification as to Pending Claims. ECS certifies that, as of the date of this Agreement, there are no pending actions, claims, suits, or proceedings, to the knowledge of ECS threatened or reasonably anticipated against or affecting ECS or the School, which if adversely determined, would have a material adverse effect on the ability of the School Board or ECS to perform its obligations under this Agreement (“Claims”). ECS shall inform the School if such a pending action, claim, suit, or proceeding arises during the Term of this Agreement. Further, ECS warrants that any information it has furnished to the School concerning ECS’s

finances and staffing is accurate and the latest information available at the time of the execution of this Agreement.

- B. Representations and Warranties of the Board. The Board represents and warrants as follows:
- i. Organization and Tax-Exempt Status. The School is established as, and at all times during the Term of this Agreement shall be, a non-stock, not-for-profit tax-exempt corporation duly organized under the laws of the State of Connecticut, and with the Board as the School's Directors affirm the purpose and legal ability of the School Board to contract to operate a charter school and to contract for educational management services. Should the Internal Revenue Service require changes to this Agreement in conjunction with the School Board's application for or continuation of tax-exempt status, both Parties will take all reasonable steps and agree to all reasonable modifications to effectuate the necessary changes.
 - ii. Authority. The School Board represents that it has all requisite power and authority to execute and deliver this Agreement, to perform its obligations hereunder, and to otherwise consummate the agreements, contemplated hereby and thereby. This Agreement constitutes a valid and binding obligation of the School Board, enforceable against the School Board in accordance with its respective terms.
 - iii. Integrity of Officers, Directors and Employees. No member of the School Board, officer of School Board, or employee of School Board has committed, or during the term of this Agreement will commit, an act constituting a criminal offense, a morally offensive act, an act that could negatively impact the reputation of the School, or any other act involving dishonesty, disloyalty, fraud or breach of trust.
 - iv. Conduct of School Board of Directors. The School Board has complied, and at all times during the Term of the Agreement, shall comply, with all local, State and federal laws and regulations, Authorizer requirements that are applicable to School Board, which include, but are not limited to the internal revenue code, FERPA, Connecticut Education Law and regulations, including the Connecticut Charter School Law and implementing regulations, the Connecticut Revised Nonstock Corporations Act, Connecticut Freedom of Information Act, as well as its By-Laws and other such policies and procedures as the School Board may adopt. The School Board has maintained and will maintain adequate records of the activities and decisions of the School Board to ensure and document compliance with all such laws and regulations. The School Board agrees to provide ECS with copies of all such records and to allow ECS to, at ECS's discretion, assist with the preparation and retention of such records.
 - v. Certification as to Pending Claims. The School Board certifies that, as of the date of this Agreement, there are no pending actions, claims, suits, or proceedings, to the knowledge of the School Board threatened or reasonably anticipated against or affecting the School, which if adversely determined, would have a material adverse effect on the ability of the School Board or ECS to perform its obligations under this Agreement ("Claims"). The School Board shall inform ECS if such a pending action, claim, suit, or proceeding arises during the Term of this Agreement. Further, the School Board warrants that the information it has

furnished ECS concerning the Schools' facilities, finances, revenues, student enrollment and staffing is accurate and the latest information available at the time of the execution of this Agreement.

ARTICLE 3: PERSONNEL AND TRAINING

- A. Personnel Responsibility. The School Board shall employ all staff for the School including but not limited to highly qualified, principals and teachers, instructional support staff, pupil support staff, food service staff, custodial staff, secretarial support staff, security staff, and other staff required to operate the School. The School Board shall provide such staff pursuant to the staffing and compensation levels approved by the School Board in its annual budget (the "School Employees"). The School Board shall have the authority to select, evaluate, assign, discipline, and transfer School Employees consistent with applicable law and the provisions of this Agreement. ECS shall provide oversight as provided under this Agreement of the School Employees and assist with tasks including, but not limited to, preparing job applications for use by the School, posting the job descriptions, interviewing applicants, managing the criminal history background check process on behalf of the School, ensuring proper licensure and certification, providing whole school management services to the School and making recommendations to the School Board to hire, promote, demote or fire an employee. The ECS services noted in this Section shall supplement and shall not supplant the role and responsibilities of the School Board to the Board's Employees and the job descriptions and responsibilities of such employees to the Board. In addition, nothing herein shall be construed as having the effect of reducing the School Board's responsibility for the operation of the School, or which would hinder the School Board in exercising effective supervision of the School.
- B. Payroll. Payroll (including wages, salaries, taxes, fringe benefits (as defined in Exhibit A which is attached hereto and incorporated by reference herein), unemployment costs and required retirement costs) for School Board's employees will be withdrawn automatically from the Operating Account each pay period. ECS shall, on behalf of the School Board, make payments to the state retirement plan for eligible School Employees. Further, ECS shall, on behalf of or as requested by the School Board, facilitate payments to a private retirement plan approved the School Board for non-eligible School Employees. ECS shall make payments and process reimbursement for such retirement plans from the School's Operating Account. The Parties recognize that the provision of such services may include a true up of costs for such benefits if the actual cost of providing such services is more or less than what was originally reimbursed to ECS by the School Board. All records pertaining to teacher and administrator licensure as well as a copy of the employee handbook, shall be maintained physically on site or be directly accessible at all of the Schools' facilities.
- C. Criminal History Background Checks. ECS agrees that no individuals shall be assigned to perform any services under this Agreement that has not cleared the requisite criminal background check pursuant to applicable laws and specifically as required by Connecticut General Statutes § 10-66rr, child abuse and neglect registry and criminal history records checks of governing council members, charter management

organization members, charter school personnel and contractors. Pursuant to this section of state statute and in compliance the State Board of Education, the School Board shall require that members of the governing council of the School and members of a charter management organization (which shall be facilitated by ECS pursuant to this Agreement) to submit to a records check of the Department of Children and Families child abuse and neglect registry, established pursuant to section 17a-101k, and to state and national criminal history records checks before the state board grants initial certificates of approval for charters pursuant to section 10-66bb, or before such members may be hired by the School Board or ECS. The governing council of a state or local charter school shall require each contractor doing business with the School, who performs a service involving direct student contact, to submit to a record check of the Department of Children and Families child abuse and neglect registry, established pursuant to section 17a-101k, and to state and national criminal history records checks before such contractor begins to perform such service. Any criminal history records check shall be updated as required by applicable law and in compliance with the State Board of Education.

- D. Chief Schools Officer. The Chief Schools Officer shall be selected and employed by the ECS Board and be responsible for overseeing the academic and operational performance of the School, and shall delegate to and assign ECS personnel as may be necessary to implement ECS's obligations and duties under this Agreement. ECS will supervise the Chief Schools Officer. The Parties recognize that the Chief Schools Officer may work for other schools managed by ECS and any such decision to hire, fire and/or discipline such Chief Schools Officer rests solely with ECS. Prior to the employment of a new Chief Schools Officer, ECS will solicit input from the School Board on the quality and character traits desired in a new Chief Schools Officer and allow input from the School Board in the selection of the new Chief Schools Officer. Notwithstanding the foregoing, ECS shall have the sole authority to hire and fire the Chief Schools Officer. At the request of the School Board, ECS will review the performance of the Chief Schools Officer with the School Board and consider the School Board's input (which is not binding on ECS). ECS agrees to alert the School Board when taking an action that would alter the employment status of the Chief Schools Officer, unless that decision is to protect the safety and welfare of the students and staff of the School. Upon receipt of written notification indicating that the School Board is not satisfied with the performance of the Chief Schools Officer, ECS agrees to review the Chief Schools Officer's performance and report its findings to the School Board. If ECS concurs with the School Board findings and there is no resolution to the problems, ECS will provide a replacement Chief Schools Officer. The employment agreement with the Chief Schools Officer and the duties and compensation of the Chief Schools Officer shall be determined by ECS.
- E. Principals. Prior to the selection of any principal, ECS shall recommend three (3) candidates to the School Board. From such recommendations, the School Board shall select highly qualified principals as are required by the School Board and consistent with the State Board of Education's regulations and pursuant to the annual budgeting process. Such principals shall hold a valid principal's licensure for the state of

Connecticut or meet the requirement for licensure reciprocity. At the request of the School Board, ECS will review the performance of each School principal with the School Board, provided that nothing herein shall diminish the ultimate responsibility for the evaluation and employment the Principals by the School Board. Upon receipt of written notification indicating that the School Board is not satisfied with the performance of a School principal, ECS agrees to review the School principal's performance and report its draft findings to the School Board to be considered by the School Board. If the Board should terminate any School Principal, ECS will provide three (3) recommendations for a replacement School Principal. The employment agreement with the School Principal(s) and the duties and compensation of the School Principal(s) shall be determined by the School Board.

- F. Teachers. As part of the annual budgeting process, ECS shall make a recommendation to the School Board regarding the number of highly qualified teachers and the applicable grade levels and subjects required for the operation of the School pursuant to the Charter. ECS shall provide the School Board assistance in the selection of such highly qualified teachers, qualified in the grade levels and subjects required, as are required by the School. Such teachers may, at the discretion of the School, work at the School on a full or part-time basis. If assigned to the School on a part-time basis, such teachers may also work at other schools operated by ECS in the same region. Each teacher assigned to or retained by the School shall be a highly qualified teacher with a valid teaching license or temporary special permit issued by the State of Connecticut Board of Education, to the extent required under the applicable laws or meet the requirement for licensure reciprocity. Nothing herein shall diminish the ultimate responsibility for the evaluation and employment of teachers by the School.
- G. Support Staff. As part of the annual budgeting process, ECS shall make a recommendation to the School Board regarding the number of support staff required for the operation of the School pursuant to the Charter. The School Board shall provide the School with such support staff, qualified in the areas required, as are required by the School. Such support staff may, in the discretion of the School, work at the School on a full or part-time basis. If assigned to the School Board on a part-time basis, such support staff may also work at other schools operated by ECS in the same region. Each support staff employee assigned to or retained by the School Board shall have received the training and hold the certificates, degrees, or licenses legally required for the position to which they are assigned under applicable laws. Nothing herein shall diminish the ultimate responsibility for the evaluation and employment of support staff by the School.
- H. Employment Records. The Board is responsible for maintaining the employment records for all School Personnel. ECS shall, pursuant to this Agreement, manage the employment records for all School Personnel during the Term of this Agreement.
- I. Employee Complaints and Grievances. The Parties agree that an employee of a Party with a complaint or grievance (if any) will utilize the policy of his or her employer that

is applicable to the complaint or grievance and will not be permitted to use the policy of the Party that is not his or her employer, except as permitted by Applicable Law.

- J. Investigations. The Parties agree to reasonably cooperate in any investigation relating to the School that may involve each other's employees to the extent reasonably necessary to promptly and accurately complete any such investigation.

ARTICLE 4: FUNCTIONS OF ECS

- A. Responsibility. Under the direction of the School Board, ECS shall be responsible for providing whole school management services for the School. The Parties recognize that the School Board retains the responsibility to ensure services are being provided as required by applicable laws and the Authorizer. Further, the School Board has hired a third party unaffiliated with ECS to manage the school's finances and budgeting process. Accordingly, ECS shall not be responsible for financial services to the school unless otherwise articulated in this Agreement or in a separate written agreement between the Parties. ECS shall provide such direct education and functions including, but not limited to, the following:
- i. Academic services including but limited to:
 - a) Implementation and administration of the educational program;
 - b) Administration of extra-curricular and co-curricular activities and programs;
 - c) Creating, training and overseeing of student codes of conduct (as specified in Board Policy if applicable);
 - d) Oversight of the transportation program for the School;
 - e) Oversight of the School's summer school programming;
 - f) Oversight of the School's college and career (dual enrollment) programming;
 - ii. Operational services including but limited to:
 - a) Providing the School Board (or the School Board's vendor) with per pupil enrollment information to assist in the School Board's pupil accounting;
 - b) Providing the School Board with information to assist the School Board (or the School Board's vendor) with Budget preparation, including the annual budget as set forth in Article 6, Paragraph B, and amended budgets throughout the year, as necessary, and the School Board's (or the School Board's vendor) financial management services, as defined in this Agreement;
 - c) Oversight of the selection and acquisition of instructional and non-instructional material, equipment and supplies and the maintenance of an inventory system of all equipment;
 - d) Supervision of the preparation of required routine authorizer reports with prior review by the School Board. Such routine authorizer reports shall not include documents, including but not limited to applications, reports, presentations and related materials, prepared for charter renewal ("Charter Renewal Documents"), subject to subpart iv, below. Notwithstanding, ECS shall provide financial information required by the State Board of Education as supplied by the School Board (or the School Board's third party vendor);
 - e) Supervision of school support services such as food service, facilities maintenance and other necessary services;

- f) Supervision of the preparation of local, state, and federal reports with prior review by the School Board;
- g) Information and technology system development and management;
- h) Supervision of the preparation of applications for grants and special programs as requested by the School Board; any such grants or funds secured directly on behalf of ECS shall remain property of ECS for the duration of this Agreement and shall remain with ECS in the event of termination. Likewise, any grants or funds secured directly on behalf of the School shall remain property of the School for the duration of this Agreement and shall remain with the School in the event of termination; provided, however, that in both instances, the terms and conditions set forth in any grant agreement shall be controlling and be complied with by ECS and the School Board, as applicable.
- i) Processing funding applications for special programs and facility improvements as requested by the School Board.

iii. Other Services including but not limited to:

- a) Development of critical processes and procedures governing operations of the School as determined by the Parties and as approved by the School Board;
- b) Participation in strategic planning with the School Board for the continuing educational and financial benefit of the School.

iv. Charter Reauthorization Services. Notwithstanding subsection ii, subpart d, above, the Parties agree that ECS will assist the School Board with Charter School Reauthorization Services. Notwithstanding, the Parties agree that ECS may recommend a third party vendor to assist with the Charter Reauthorization Services and that the School Board may, in its sole discretion, contract with such third party and be responsible for paying the vendor directly.

B. Educational Goals and Program. ECS shall implement the educational goals and programs set forth in the Charter, including, but not limited to, methods of pupil assessment, admission policy and criteria, school calendar and school day schedule, age and grade classifications for pupils to be enrolled, and methods to be used to monitor performance towards targeted educational outcomes. In the event that ECS determines that it is advisable to modify the educational goals and programs set forth in the Charter, ECS will provide written notification to the School Board specifying the changes it recommends and the reasons for the proposed changes. No changes in the educational goals and programs shall be implemented without the prior written approval of the School Board and a Charter amendment approved by the School Board and Authorizer (if required by the Authorizer). ECS shall provide the School Board with periodic written reports specifying the level of achievement of each of the School's educational goals set forth in the Charter and detailing its plan for meeting any educational goals that are not being attained, such reports to be submitted on a regular periodic basis and upon request of the School Board.

C. Subcontracts. It is anticipated that ECS will utilize subcontracts to provide some of the services it is required to provide to the School under this Agreement. School Board

approval of subcontracts is not required unless the cost for these subcontracted services exceeds the funds appropriated for that purpose of the School's approved budget or School Board approval is required by the Charter or by the School Board's procurement policy. All subcontracts will be in writing, will be subject to the provisions of this Agreement, and will be consistent with this Agreement. No subcontract permitted hereunder will relieve or discharge the ECS from any representation, obligation or liability under this Agreement. Nothing in this Section shall be deemed to create a right for ECS to seek reimbursement from the School for expenses that ECS may incur in subcontracting.

- D. Place of Performance. Instructional services other than field trips, student internships, and off-site dual enrollment will normally be performed at the facilities of the School. ECS may perform functions other than instruction, such as purchasing, professional development, and administrative functions at off-site locations, unless prohibited by applicable law. The School Board shall provide ECS with the necessary office space at the sites to perform all services described in this Agreement. If the School Board should expand the School to any other locations in the future, such expansion will be accomplished by amendments to this Agreement and the Charter and may, at ECS's discretion, require a separate agreement for charter management services
- E. Acquisitions. All acquisitions made by ECS for the School Board using any funds belonging to the School, including, but not limited to, instructional materials, equipment, supplies, furniture, computers, and other technology, shall be owned by and remain the property of the School Board. ECS will not add any fees or charges to the cost of the equipment, materials, and supplies purchased from third parties when it seeks reimbursement for the cost of these acquisitions from the School Board. All supplies, materials, and equipment procured for the School Board by ECS shall be inventoried by an acceptable method of inventory, and an inventory of the School Board's equipment for the School shall be maintained so that it can be clearly established which property belongs to the School.
- F. Pupil Performance Standards and Evaluation. ECS shall oversee and ensure implementation of pupil performance evaluations which permit evaluation of the educational progress of each student, using measures of student and school performance required by the Charter and such additional measures as shall be mutually agreed upon between the School Board and ECS, which are consistent with the Charter. Notwithstanding, the ultimate authority to ensure performance for the students attending the School rests with the School Board.
- G. Student Recruitment. ECS shall be responsible for the oversight of the recruitment process for students subject to the provisions of the Charter and the policies adopted by the School Board. Students shall be selected in accordance with the procedures set forth in the Charter and in compliance with applicable law. In exercising its oversight, ECS shall follow all applicable procedures regarding student recruitment, enrollment, and lottery management, and shall be responsible for publication of appropriate public notices and scheduling of open houses, as may be required.

- H. Student Due Process Hearings. ECS shall comply with the requirements of state and federal law regarding discipline, special education, confidentiality, and access to records, to the degree that it is consistent with the School Board's own obligations. The School Board shall retain the ultimate right and responsibility to provide due process as required by law and to determine whether any student will be expelled.
- I. Legal Requirements. ECS shall provide educational programs that meet the requirements imposed under applicable law and the Charter, unless such requirements are or have been waived.
- J. Rules and Procedures. The School Board shall adopt rules, regulations, and procedures applicable to the School, and ECS is directed to comply with and enforce the rules, regulations, and procedures adopted by the School Board. ECS shall assist the School Board in its policy making function by recommending the adoption of reasonable rules, regulations, and procedures applicable to the School Board, subject to approval by the School Board. Notwithstanding the foregoing, nothing herein shall be construed as having the effect of reducing the School Board's responsibility for the operation of the School (including the development and approval of School policies), or which would hinder the School Board in exercising effective supervision of the School.
- K. School Year and School Day. The school year and the school day shall be as provided in the Charter and as defined annually by the School Board.
- L. Authority. ECS shall have authority and power necessary to undertake its responsibilities described in this Agreement except in the case(s) wherein such power may not be delegated by law.
- M. Charter with Authorizer. ECS will not act in a manner that will cause the School Board to be in breach of its Charter with the Authorizer.
- N. Financial Health. The Parties acknowledge that ECS is not responsible for oversight and administration of the School Board's financial oversight of the School and that the School Board retains this responsibility as required by applicable laws. Notwithstanding, ECS shall do all things reasonably and professionally required to prevent the Schools' finances from experiencing any operating or fund balance deficits and shall do all things and take such action reasonably and professionally required to keep the School solvent, consistent with this Agreement.
- O. Compliance with the Charter and Authorizer Requirements. ECS agrees to perform its duties and responsibilities under this Agreement in a manner that is consistent with the School's obligations under the Charter, the Authorizer Requirements and applicable law. The provisions of the Charter shall supersede any competing or conflicting provisions contained in this Agreement. Any material action or inaction by ECS that is not cured and which causes the Charter to be revoked, terminated, or suspended or

which causes the Charter to be put in jeopardy of revocation, termination, or suspension by the Authorizer is a material breach of this Agreement by ECS.

- P. **Additional Services.** ECS may, but is not obligated to, provide additional services to the School upon request. ECS and the School Board agree to negotiate in good faith additional compensation for such additional services. The proposed budget prepared by ECS each year for review and approval by the School Board shall contain details regarding the costs and expenses related to any such requested additional services. Such additional services may include, but are not limited to, tutoring program support and facilities management. ECS may perform functions off-site, except as prohibited by applicable law. ECS may utilize web-based systems to provide support and counsel to the School. ECS will bill the School for additional services by an invoice which details each additional service, the amount billed for each additional service, and the basis for the amount billed, i.e., hourly rate, or other basis for determining the amount billed. Such invoices will be available for review by the Authorizer.

ARTICLE 5: DUTIES AND OBLIGATIONS OF THE SCHOOL BOARD

- A. **School Board Policy Authority.** The School Board is responsible for determining the fiscal and academic policies that will govern the operation of the School, including, but not limited to, policies relative to the conduct of students while in attendance at, or en route to, school, and policies and regulations governing the procurement of supplies, materials, and equipment to be used at the School. The School Board shall exercise good faith in considering the recommendations of ECS on issues including, but not limited to, policies, rules, regulations, procedures, curriculum, and budgets, subject to the constraints of law and the requirements of the Charter. Notwithstanding the foregoing, nothing herein shall be construed as having the effect of reducing the School Board's responsibility for the operation of the School (including the development and approval of School policies), or which would hinder the School Board in exercising effective supervision of the School.
- B. **Building Facility.** The School Board is responsible for the acquisition by either purchase or lease of building facilities that comply with all of the requirements of the Charter and applicable law. The School Board may hire ECS as an additional service related to the building, including but not limited to the supervision of new building acquisition, facility upgrades or improvements, or temporary modular. Such additional services will require a separate written agreement and will be provided by ECS at a mutually agreed upon costs.
- C. **Legal Counsel.** The School Board shall select and retain legal counsel to advise it regarding its rights and responsibilities under the Charter, this Agreement, and applicable law. Such legal counsel shall advise on the negotiation of this Agreement and shall not represent ECS or any ECS owner(s), director(s), officer(s), or employee(s). While the School Board's counsel and ECS's counsel may meet and confer on issues, the School Board shall not seek direct advisement from ECS's legal counsel.

- D. Audit. The School Board shall select and retain the independent auditor to perform the annual financial audit in accordance with the Charter and applicable state law. The School Board shall retain full responsibility for managing and completing the audit and Form 990 for the School. The School Board shall comply with the Charter Authorizer in the selection of the School Board's auditor.
- E. Budget. The School Board is responsible for adopting a budget in accordance with the relevant provisions of the General Statutes of Connecticut and asserts that it has adequate resources to fulfill its obligations under the Charter, including, but not limited to, its oversight of ECS, the organization of the School, negotiation of the Charter and any amendments, payment of employee costs, insurance required under the Charter and this Agreement, the annual financial audit, and retention of the School Board's legal counsel and consultants. In addition, the School Board is responsible for approving necessary amendments to the budget to reflect necessary deviations from the adopted budget. The budget may be amended from time to time as deemed necessary by the School Board.
- F. School Funds. The School Board shall determine the depository institution of all funds received by the School. All funds received by the School Board on behalf of the School shall be deposited in the School's depository account. Signatories of the Operating Account shall include the School Board Treasurer and School Principal, in accordance with the School's fiscal policies and procedures adopted by the School Board. Notwithstanding the foregoing, nothing herein shall be deemed to permit the transfer of state and federal funds from the School to the ECS in violation of Connecticut General Statutes §10-66mm and Connecticut Agency Regulation §10-66mm-4. An Account for immediate needs such as a Petty Cash Account, shall include the School Principal(s) as signatories. All interest or investment earnings on deposits shall accrue to the School. The School Board shall pay its obligations under this Agreement on a consistent and timely basis.
- G. Governmental Immunity. The School Board shall have the sole power to determine when to assert, waive, or not waive its governmental immunity, to the extent applicable.
- H. Charter with Authorizer. The School Board will not act in a manner in which will cause the School to be in breach of its Charter with the Authorizer.
- I. Evaluation of ECS. The School Board will select and ECS will approve a rubric at the time of the Execution of this Agreement. Any revisions to this rubric must be agreed to in writing by the Parties no later than May 30th for the following academic year.
- J. Compliance with Connecticut General Statutes Section 10-66uu: The School Board and ECS as required by the terms of this Agreement shall ensure compliance with the Connecticut General Statutes Section 10-66uu. ECS further acknowledges that the School Board is entitled to receive copies of all records and files related to the administration of the School, including the compensation paid to ECS and any

expenditures of such compensation by ECS. ECS acknowledges that all such records and files are subject to the Connecticut Freedom of Information Act (“FOIA”) and may be disclosed by the School Board pursuant to and as required by FOIA, subject to applicable exemptions and redactions.

- K. Operational Services. As set forth in Article 4 above, the School Board remains responsible for the following operational services, including but not limited to:
- i. Financial services including accounting, bookkeeping services, accounts payable, and accounts receivable; and
 - ii. Oversight of the selection and supervision of all School Employees – including but not limited to ensuring a high-quality job performance, managing personnel matters, providing professional development and training, supervising performance of teachers in the classroom and student academic progress, and all other related personnel matters.
- L. School Evaluation of ECS. In assessing ECS’s performance of the tasks set forth under this Agreement (including, without limitation, its responsibilities under Article 4 of this Agreement), ECS shall be accountable to the School Board for the performance of students who attend the School during the Term of this Agreement. The School Board shall evaluate ECS’s performance on an annual basis in order to assess the performance of ECS and its fulfillment of its obligations outlined in this Agreement (including, without limitation, its responsibilities under Article 4 of this Agreement), consistent with Connecticut General Statutes §10-66tt. The School Board will conduct such evaluation no later than August 1st of each year or as otherwise directed by the School Board, and in the course of such evaluation the School will analyze a wide variety of data, review ECS work samples, meet with a sampling of staff, and engage in other activities designed to obtain a detailed picture of ECS’s performance. The results of such evaluation shall be presented to the ECS Board by the Principal of the School and shall be used by the School Board in determining whether to renew this Agreement. A term sheet setting forth the performance evaluation measures and timelines related to evaluating ECS is attached hereto as Exhibit B.

ARTICLE 6: FINANCIAL ACTIVITIES

- A. Funding Sources. Except as specifically excluded by the terms of this Agreement, the term “Funding or Funding Sources” shall include all funds received by or on behalf of the Charter School, including but not limited to:
- i. Funding from the State of Connecticut and from any and all other federal, state or local government, or political subdivision thereof, or any federal, State or local authority, agency or commission.
 - ii. Special education funding provided by Federal, State and Local Governments to the School that is directly allocable to special education students in the School.
 - iii. Gifted and Talented funding provided by Federal, State and Local Governments that is directly allocable to Gifted and Talented students in the School.
 - iv. At-Risk funding provided by Federal, State and Local Governments to the School that is directly allocable to At-Risk students in the School.

- v. Funding provided by Federal, State and Local Governments to the School that is directly allocable to students in the School with limited English proficiency.
- vi. Federal, State and Local grant sources, including but not limited to Title I, II, III and IV, Charter School start-up funds, and other federal and state funds which is directly allocable to the School.
- vii. Federal ERate funds.
- viii. ESSER and future state or federal funds provided to the School.
- ix. Grants received by the School Board for the School for which educational and administrative services will be required of ECS.
- x. The School Board may advance funds to ECS for the fees or expenses associated with the School's operation provided that documentation for the fees and expenses are provided for School Board ratification. The Funding shall be expended by ECS in accordance with the approved Budget and as otherwise authorized by the School Board. The expenditure of Funding received from governmental entities shall be consistent with all applicable regulations and policies, and in the case of private donations, the directives of the donor where applicable. For the avoidance of doubt, any Funding received by the School by a particular Funding Source that are earmarked for a particular purpose (e.g. Special Education Funding) shall be used by the School solely for such purpose. The amount of such earmarked Funding shall be used solely for the purpose of calculating the amount of the Service Fee. By way of example, if the total Funding received by the School for a particular month is \$50,000, of which \$10,000 is Special Education Funding, the amount of the Service Fee owed by the School to ECS would be \$5,000 (i.e., 10% of \$50,000). However, the School would have access to, and the right to utilize, the entire \$10,000 in Special Education Funding it received solely for the School's special education needs. Nothing herein shall be deemed to permit the transfer of state and federal funds from the School to the ECS in violation of Connecticut General Statutes §10-66mm and Connecticut Agency Regulation §10-66mm-4.

B. Budget.

- i. The School Board shall manage the budget, accounting, and financial reporting functions for the School in accordance with Authorizer requests, the provisions of the Charter and the approved Annual Budget by the School Board in a timely manner. As previously noted, the School Board may determine it is in the best interest of the School to contract with a third party vendor for such services. Notwithstanding, the Board retains the ultimate responsibility for such management.
- ii. ECS shall prepare and submit to the School Board for its approval for each Fiscal Year (July 1-June 30), a Draft Annual Budget for the School. Each Annual Budget shall state an estimate for the coming Fiscal Year for (i) Total Funding; (ii) Operating Expenses; (iii) Reserve Expenses; (iv) Audit Expenses; and (v) Fund Balance.
- iii. Reserve Expenses means the amount of money reflected in the Annual Budget that The School Board must deposit into an account for Reserve Expenses. The

Reserve Expense Account shall be used for the establishment of reasonable reserves for long-term renewal and replacement of the School Facility or portions thereof.

- iv. The School Board must approve the School's Annual Budget in a public meeting of the School Board. If the School Board does not approve the Annual Budget, the School Board shall give specific reasons therefore and continue to deposit the balance of Total Funding into the Charter School Operating Account pursuant to its obligations in Article V. The School Board acknowledges that a Final Budget shall be completed and approved no later than June 30 annually.
 - v. ECS may suggest amendments to the Annual Budget(s) not less frequently than semi-annually in order to reflect the results of the most recent student count and may make such other modifications as it may from time to time find necessary. Any such amendment shall only be valid if approved by the express vote of the School Board. ECS shall report any changes upon which the Annual Budget was based within fifteen (15) days after ECS becomes aware of any such change.
 - vi. ECS shall manage the School according to its Annual Budget.
- C. Service Fee. ECS shall be entitled to compensation for its services in the amount of ten percent (10.0%) of "Funding or Funding Sources" which shall be set forth within the approved Annual Budget (the "Service Fee"). At no time will all or substantially all of the Charter School's state tuition support be paid to ECS as required by the Authorizer. Each year, the annual budget may adjust the Service Fee to account for increased services requested, cost of inflation, market adjustments in pay for School Employees to remain competitive in the market place and/or attract and retain high-quality School Employees, or increases in costs of services and goods not directly reimbursed by the School Board. Any request for an increase in Service Fee shall be documented with written evidence of the justification of an increased fee. The School Board shall review and make a determination on the proposal from ECS, giving the request all due consideration. If the Parties fail to agree on a proposal to increase the Service Fee, the Service Fee shall remain in the amount of no less than ten percent (10.0%) of Funding or Funding Sources. Notwithstanding the foregoing, for the Term of this Agreement, ECS shall provide the School Board with a credit equaling fifty percent of the Service Fee (effectively reducing the Service Fee to five percent (5%) to credit the School Board for the services and training provided to the ECS staff prior to the formation of ECS and for recognition of the transition of such staff from the School Board to ECS ("Credit"). In any renewal of this Agreement, the School Board shall be entitled to such credit for up to five (5) total years of credit (including the credit provided in this Agreement) unless otherwise agreed to in writing by the Parties.
- D. Availability of Funds. ECS shall only be required to perform its responsibilities under this Agreement to the extent that there are sufficient Funding to make payments in accordance with the terms of the Budget.
- E. Financial Reporting. ECS shall provide the School Board with:
- i. The projected Annual Budget as required by the terms of this Agreement.

- ii. Detailed statements of all Funding received, and detailed statements of all expenditures for services and or expenses rendered or incurred to or on behalf of the School Board, whether incurred on-site or off-site, upon request.
 - iii. Monthly financial statements by approximately one week before the School Board meeting which include a balance sheet, statement of Funding and expenditures. The School Board, via the School Board's Finance Committee, shall create a schedule where they will meet with ECS for a discussion of the budget (amend if needed) and the current expenditures/income (grants, etc.).
 - iv. Other information on a periodic basis to enable the School Board to (i) monitor ECS's performance and the efficiency of its operation of the School, and (ii) furnish reports and information which the School is required to provide pursuant to its Charter and/or applicable laws.
- F. Access to Records. ECS shall keep accurate financial records pertaining to its operation of the School, together with all the School financial records prepared by or in the possession of ECS, and retain all of these records in accordance with applicable state and federal law and the Authorizer Requirements. Financial, educational, operational, and student records that are now or may in the future come into the possession of ECS remain the School Board's records and are required to be returned by ECS to the School Board upon demand, provided that ECS may retain copies of records necessary to document the services provided to the School Board and its actions under the Agreement. The Parties shall maintain the proper confidentiality of personnel, student, and other records as required by law. All School records shall be physically or electronically available, upon request, at the School's physical facilities. The financial, educational, operational, and student records pertaining to the School are public documents subject to disclosure in accordance with the provisions of applicable law unless an exception applies. This Agreement shall not be construed to restrict the Authorizer's or the public's access to these records under applicable law or the Charter.
- G. Marketing. Marketing and development costs paid by or charged to the School Board shall be limited to those costs specific to the School program and may include costs for the marketing and development of the School.

ARTICLE 7: TERM

- A. Term. This Agreement shall be effective as of the Effective Date and shall expire on June 30, 2024 ("Term"). However, the Term of this Agreement is subject to a continued Charter from the Authorizer and continued funding from the State of Connecticut.
- B. Renewal. This Agreement shall be automatically renewed for an additional term commencing on the last day of the initial term; unless written notice of intent to terminate or renegotiate is given by either party at least one hundred and twenty (120) days prior to expiration of the Agreement.

ARTICLE 8: TERMINATION

- A. Termination by the School Board for Cause. This Agreement may be terminated by the School Board for cause prior to the end of the term specified in Article 3 in the event that ECS materially breaches any of the material terms and conditions of this Agreement and fails to remedy such breach within 90 days after receipt of written notice of such breach from the School Board, unless such breach is incapable of being reasonably cured within 90 days in which case this Agreement may be terminated if ECS fails to initiate and diligently prosecute a cure for such breach within 90 days after receipt of such written notice.
- B. Termination by ECS for Cause. This Agreement may be terminated by ECS for cause prior to the end of Term if the School materially breaches any of the material terms and conditions of this Agreement and fails to remedy such breach within 90 days after receipt of written notice of such breach from the School, unless such breach is incapable of being reasonably cured within 90 days in which case this Agreement may be terminated if the School fails to initiate and diligently prosecute a cure for such breach within 90 days after receipt of such written notice; a material breach by the School Board may include, but is not limited to, a failure to carry out its responsibilities under this Agreement, such as a failure to make payments to ECS as required by this Agreement; a failure to give consideration to material recommendations of ECS on a repeated basis (i.e., the hiring or termination of a principal or other key employees, approval of material amendments to the budget); or violating the Charter or applicable law. In order to terminate this Agreement for cause, ECS is required to provide the School Board with written notification of the facts it considers to constitute material breach and the period of time within which the School Board has to remedy this breach, unless such time period is otherwise set forth herein. After the period to remedy the material breach has expired, ECS may terminate this Agreement by providing the School Board with written notification of termination.
- C. Termination by Loss of Charter. This Agreement shall automatically terminate in the event that the School Board no longer possesses a Charter to operate a public school academy, including, but not limited to, a termination or revocation of the Charter or a failure to renew an existing Charter.
- D. Authorizer Required Termination or Amendment. This Agreement shall be terminated or amended with no cost or penalty to the School Board, and no recourse to the Authorizer or any third party affiliated with or engaged by Authorizer, by ECS or any sub-agreement person or entity of ECS, in the event the Authorizer determines to exercise its prerogative under the Charter to require the termination or amendment of this Agreement.
- E. Change in Law. If any federal, state, or local law, regulation, or court decision has a material adverse impact on the ability of either party to carry out its obligations under this Agreement, then either party, upon written notice to the other, may request renegotiation of the Agreement. If the Parties are unable or unwilling to renegotiate the

terms within ninety (90) days after said notice, the party requesting the renegotiation may terminate this Agreement on one hundred-twenty (120) days further written notice.

- F. Termination upon Bankruptcy. The School Board may terminate this Agreement if ECS shall under such law as shall be applicable to it commence any case or proceeding, or file any petition in bankruptcy, or for reorganization, liquidation or dissolution, or be adjudicated, insolvent or bankrupt, or shall apply to any tribunal for a receiver, intervener, conservator or trustee for itself or for any substantial part of its property; or if there shall be commenced against it any such action and the same shall remain undismissed for more than sixty (60) days.
- G. Termination upon Judicial Order or Revocation of License. The School Board may terminate this Agreement if ECS is found by an administrative or judicial body to have made fraudulent use of funds, or if an administrative or judicial body has revoked any license that may be required for ECS to carry on its business and perform its obligations and functions under this Agreement.
- H. Effective Date of Termination. In the event this Agreement is terminated by either party prior to the end of the Term, absent mutual written agreement, the termination will not become effective until the end of the school year in which this Agreement was terminated.
- I. Rights to Property upon Termination. Upon termination of this Agreement, anything purchased with state school aid funds (or other School funds) shall remain the exclusive property of the School Board. ECS shall have the right to reclaim any usable property or equipment (including, but not limited to, desks, computers, copying machines, fax machines, and telephones) that were purchased by ECS with ECS funds. Fixtures and building alterations or any kind are the sole property of the School Board.
- J. Transition. In the event of termination of this Agreement for any reason by either party prior to the end of the Agreement's Term, ECS shall provide the School Board reasonable assistance for up to ninety (90) days after the effective date of the termination to allow a transition back to a regular school program or to transition to another education service provider. ECS may charge a reasonable fee for such services, which shall be no higher on a per month basis than the average standard monthly fee paid during the regular term of this Agreement. Upon termination, ECS shall without charge (i) close the books on the then-current fiscal quarter; (ii) organize and prepare the School Board's records for transition to a new ESP, if any; (iii) organize and prepare student records for transition to a new ESP, if any; and (iv) provide for the orderly transition of employee compensation and benefits to a new ESP, if any, without disruption to staffing.

ARTICLE 9: ARBITRATION

- A. Good Faith Negotiation of Disputes. The Parties agree to cooperate in good faith in all actions relating to this Agreement, to communicate openly and honestly, and generally to attempt to avoid disputes in connection with this Agreement. If, nevertheless, a dispute should arise in connection with this Agreement, the Parties agree to use their best efforts to resolve such dispute in a fair and equitable manner and without the need for expensive and time-consuming litigation. In the event any dispute arises between the School Board and ECS concerning this Agreement, it shall be resolved in accordance with the following alternative dispute resolution procedure.
- B. Binding Arbitration. Any controversy or claim arising out of or relating to this Agreement, the relationship resulting in or from this Agreement, the breach of any duties hereunder or any other relationship, transaction or dealing between the Parties (collectively “Disputes”) will be settled by binding arbitration in accordance with the Commercial Arbitration Rules of The American Arbitration Association. Notwithstanding anything set forth herein to the contrary, all notices, arbitration claims, responses, requests and documents will be sufficiently given or served if mailed or delivered to the parties hereto as described in the Notice provision of this Agreement. Any award rendered by the arbitrator(s) may be entered as a judgment or order and confirmed or enforced by either Party in any State or federal court having competent jurisdiction thereof. If either Party brings or appeals any judicial action to vacate or modify any award rendered pursuant to arbitration or opposes the confirmation of such award and the Party bringing or appealing such action or opposing confirmation of such award does not prevail, such Party will pay all of the costs and expenses (including, without limitation, court costs, arbitrators fees and expenses and attorneys' fees) incurred by the other Party in defending such action. Additionally, if either Party brings any action for judicial relief in the first instance without pursuing arbitration prior thereto, the Party bringing such action for judicial relief will be liable for and will immediately pay to the other Party all of the other Party's costs and expenses (including, without limitation, court costs and attorneys' fees) to stay or dismiss such judicial action and/or remove it to arbitration. The failure of either Party to exercise any rights granted hereunder shall not operate as a waiver of any of those rights. This Agreement concerns transactions involving commerce among the several states. The arbitrators will not be empowered to award punitive damages. The agreement to arbitrate will survive termination of this Agreement. IF THIS AGREEMENT IS FOUND NOT TO BE SUBJECT TO ARBITRATION, THE PARTIES KNOWINGLY AND WILLINGLY WAIVE ANY RIGHT THEY HAVE UNDER APPLICABLE LAW TO A TRIAL BY JURY IN ANY DISPUTE ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE ISSUES RAISED BY THAT DISPUTE.
- C. Arbitration of Termination by the School Board. Not later than 30 days following a Notice of Termination, either Party may submit the matter to arbitration by delivering written notice to the other. Within seven (7) days following the date of the written notice, each side shall designate a recognized and independent educational professional as its panel representative; within seven (7) days thereafter, these representatives shall designate the neutral. The arbitrators shall convene a hearing as soon as possible thereafter. Each Party may present witnesses, documentary, and other evidence in its behalf, but strict rules of evidence shall not apply. The arbitrators shall permit the filing

of briefs upon request of either Party. The arbitrators shall issue a written opinion concerning the matters in controversy together with their award. They shall issue their award within 30 days following the close of the hearing, and judgment upon the award may be entered in any court having jurisdiction thereof.

ARTICLE 10: PROPRIETARY INFORMATION

- A. Proprietary Materials. Each of the Parties shall own its own intellectual property, including without limitation all trade secrets, know-how, proprietary data, documents, and written materials in any format. Any materials created exclusively by ECS related to the School Board shall be owned by ECS, and any materials created exclusively by the Board related to the School Board shall be owned by the Board. The Parties acknowledge and agree that neither has any interest in or claim to the other Party's proprietary materials. Notwithstanding the foregoing, materials and work product jointly created by the Parties shall be jointly owned by the Parties and may be used by the individual Party as may be agreed upon by both Parties from time to time.
- B. Name. ECS owns the intellectual property right and interest to the name Elevate Charter Schools and any and all derivations thereof. During the Term of this Agreement, the ECS grants to the School Board a non-exclusive non-assignable license to use the name as it relates to the School Board and the relationship the Parties have pursuant to this Agreement.
- C. Required Disclosure. The School Board shall be permitted to report any new teaching techniques or methods of significant revisions to known teaching techniques or methods to the Authorizer and to the Connecticut State Department of Education, which teaching techniques or methods may thereafter be made available to the public.

ARTICLE 11: INDEMNIFICATION

- A. Indemnification of ECS. To the extent permitted by law, the School Board shall indemnify and hold ECS (which term for purposes of this Paragraph A, includes ECS's officers, directors, and employees) harmless against any and all claims, demands, suits, or other forms of liability that may arise out of, or by reason of, employment of former employees, prior relationships with vendors and any noncompliance by the School Board with any agreements, covenants, warranties, or undertakings of the School Board contained in or made pursuant to this Agreement; and any misrepresentation or breach of the representations and warranties of the School Board contained in or made pursuant to this Agreement. In addition, and to the extent permitted by law, the School Board shall reimburse ECS for any and all reasonable legal expenses and costs associated with the defense of any such claim, demand, or suit. The indemnification requirements of this Paragraph may be met by the purchase of insurance in a form and amounts acceptable to ECS.
- B. Indemnification of the School Board. ECS shall indemnify and hold the School Board (which term for purposes of this Paragraph C, includes the School Board's officers, directors, agents, and employees) harmless against any and all claims, demands, suits,

or other forms of liability that may arise out of, or by reason of, any noncompliance by ECS with any agreements, covenants, warranties, or undertakings of ECS contained in or made pursuant to this Agreement and any misrepresentation or breach of the representations and warranties of ECS contained in or made pursuant to this Agreement. In addition, ECS shall reimburse the School Board for any and all reasonable legal expenses and costs associated with the defense of any such claim, demand, or suit. The indemnification requirements of this paragraph may be met by the purchase of insurance in a form and amounts acceptable to the School Board.

- C. Indemnification for Negligence. To the extent permitted by law, the School Board shall indemnify and hold harmless ECS, and ECS's Owners, Board of Directors, partners, officers, employees, agents, and representatives, from any and all claims and liabilities which ECS may incur and which arise out of the negligence or intentional activity of the School Board's directors, officers, employees, agents, or representatives. ECS shall indemnify and hold harmless the School Board, and the School Board's Board, officers, employees, agents, and representatives, from any and all claims and liabilities which the School Board may incur and which arise out of the negligence or intentional activity of ECS's owner, directors, officers, employees, agents, or representatives.

ARTICLE 12: INSURANCE

- A. Insurance for the School. ECS shall secure and maintain, on behalf of the School Board, such policies of insurance as required by the Authorizer and the Charter. This coverage shall include the building and related capital facilities if they are the property of the School Board. ECS shall maintain such insurance in amounts and on such terms as required by the provisions of the Charter, including the indemnification of ECS required by this Agreement.
- B. Insurance for ECS. ECS shall secure and maintain such policies of insurance as required by the Authorizer and the Charter, with the School Board and Authorizer listed as additional insureds. ECS shall maintain such insurance in amounts and on such terms as are reasonably acceptable to the School Board and as required by the provisions of the Charter, including the indemnification of the School Board required by this Agreement. ECS shall, upon request, present evidence to the School Board and Authorizer that it maintains the requisite insurance in compliance with the provisions of this paragraph. The School Board shall comply with any information or reporting requirements applicable to ECS under ECS's policy with its insurer(s), to the extent practicable. Any policy of insurance maintained by ECS must include coverage for sexual molestation or abuse, must name the Authorizer as an additional, named insured, and shall not be changed, revoked, or modified absent thirty (30) days' notice to the Authorizer. In the event the Authorizer modifies the level, type, scope, or other aspects of such coverage, then ECS shall undertake like and similar modifications within thirty (30) days of being notified of such change.
- C. Workers' Compensation Insurance. ECS shall assist the School in procuring and maintaining workers' compensation insurance when and as required by law, covering

the employees of the School Board. Payment for workers' compensation insurance will be withdrawn automatically from the Operating Account.

ARTICLE 13: COMPLIANCE WITH CHARTER

- A. Charter. The Parties hereby agree to comply with the Charter and the Authorizer Requirements.
- B. School Board Due Diligence. The School Board hereby agrees to perform the necessary due diligence of ECS and provide all information to the Authorizer pursuant to the Authorizer Requirements, if any.
- C. School Board Members. All School Board members and their respective spouses and immediate family members hereby agree that they do not have any direct or indirect ownership, employment, Agreement or management interest in ECS. The relationship between the School Board and ECS shall be consistent with the conflicts of interest and prohibited familial relationship provisions set forth in the Charter and applicable law.
- D. Agreement. This Agreement is an arms-length, negotiated agreement between an informed School Board and ECS. The School Board shall not approve this Agreement until all School Board members have been given the opportunity to review the Agreement with the School Board's legal counsel. Prior to the School Board's approval of this Agreement, the School Board shall obtain a legal opinion from its legal counsel, in the form provided in the Authorizer Requirements. The School Board shall only approve this Agreement with a formal vote at a public School Board meeting. Prior to the School Board's vote on this Agreement, the School Board shall provide an opportunity for public comment on this Agreement.
- E. Information Reporting. ECS is hereby required to make information concerning the operation and management of the School, including, but not limited to, information in the Charter, including all exhibits, attachments, and the like, available to the School Board as deemed necessary by the School Board in order to enable the School Board to fully satisfy its obligations under the Charter. ECS shall make information available to the School as deemed necessary by the School Board in order to enable the School Board to fully satisfy its transparency reporting under the Charter, and also at least the information that a school district is required to disclose under applicable law for the most recent fiscal year for which that information is available.

ARTICLE 14: MISCELLANEOUS

- A. Sole Agreement. This Agreement supersedes and replaces any and all prior agreements and understandings between the School Board and ECS.
- B. Force Majeure. Notwithstanding any other sections of this Agreement, neither Party shall be liable for any delay in performance or inability to perform due to acts of God or due to war, riot, embargo, fire, explosion, sabotage, flood, accident, labor strike, or other acts beyond its reasonable control; provided either party may terminate this

Agreement in accordance with the termination provisions contained in this Agreement if sufficient grounds exist as provided in the Article of this Agreement governing termination.

- C. Governing Law. This Agreement shall be governed by, construed, interpreted and enforced in accordance with the laws of Connecticut, without giving effect to the principles of conflict of laws thereof; provided, however, that the Federal Arbitration Act (“FAA”), to the extent applicable and inconsistent, will supersede the laws of Connecticut and shall govern. If any action is brought to enforce an arbitral award rendered pursuant to subsection 2 of this Section, venue for such action shall be in the courts of the State of Connecticut. The Parties hereby irrevocably waive any objection which either may now or hereafter have to the laying of venue of any actions or proceedings arising out of or in connection with this Agreement brought in the courts referred to in the preceding sentence and hereby further irrevocably waive and agree not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum.
- D. Agreement in Entirety. This Agreement constitutes the entire agreement of the Parties.
- E. Official Notices. All notices and other communications required by the terms of this Agreement shall be in writing and sent to the parties hereto at the facsimile number or address set forth below. Notice may be given by: (i) by facsimile with written evidence of confirmed receipt by the receiving party of the entire notice, (ii) certified or registered mail, postage prepaid, return receipt requested, or (iii) personal delivery. Notice shall be deemed to have been given on the date of transmittal or personal delivery if given by facsimile or personal delivery, or upon the date of postmark if sent by certified or registered mail. Notices to the Charter School Board shall be sent to the current address of the then current School Board President or Chairman, with a copy to the then current School Board attorney. The address of the parties hereto for the purposes aforesaid, inclusive of the address of the initial School Board President or Chairman and School Board attorney, are as follows:

Rev. Kelcy Steele
Chair
Board of Directors
Booker T. Washington Academy
804 State Street
New Haven, CT 06511
Phone: (203) 691-6535

CC:
Attorney Mark J. Sommaruga
Pullman & Comley LLC
90 State House Square
Hartford, CT 06103
Phone: (860)-424-4388

With a copy to:

Elevate Charter Schools:
John Taylor
Chief Executive Officer
Elevate Charter Schools
2666 State Street
Hamden, CT 06517

CC:
Lisa Holtzmuller
Barton Gilman LLP
75 Federal Street, 9th Floor
Boston, MA 02110

- F. Assignment. Either Party may only assign this Agreement with the written consent of the other.
- G. Amendment. This Agreement shall not be altered, amended, modified or supplemented except in writing and approved by the School Board (and to the extent necessary, the Authorizer) and signed by both the President of the School Board and the Chief Executive Officer of ECS.
- H. Waiver. No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provision. Nor shall such waiver constitute a continuing waiver unless otherwise expressly stated.
- I. Cost and Expenses. If any Party commences an action against another Party as a result of a breach or alleged breach of this Agreement, the prevailing Party shall be entitled to have and recover from the losing party its reasonable costs and attorneys' fees (including those incurred at appellate levels).

- J. Delegation of Authority. Nothing in this Agreement shall be construed as delegating to ECS powers or authority of the School Board, which are not subject to delegation by the School Board under applicable law.

[SIGNATURE PAGE TO FOLLOW]

DRAFT

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date and year first above written.

ELEVATE CHARTER SCHOOLS, INC.

By: _____
Name: John Taylor
Title: CEO
Date:

BOOKER T. WASHINGTON ACADEMY, INC.

By: _____
Name: Rev. Kelcy Steele
Title: School Board President
Date:

DRAFT

EXHIBIT A

III. AUDIT AND INSPECTION OF PLANTS, PLACES OF BUSINESS AND RECORDS:

A. The State and its agents, including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General, and State's Attorney and their respective agents, or where applicable, federal agencies, may, at reasonable hours, inspect and examine all of the parts of the School's and each of its Contractor Parties,' including a Charter Management Organization (CMO), plants and places of business which, in any way, are related to, or involved in, the performance of this Agreement. The Charter Board shall comply with federal and state single audit standards as applicable.

B. The Charter Board shall maintain, and shall require each of its Contractors Parties' including a CMO, if applicable, to maintain accurate and complete Records. The Charter Board shall make all of its and the Contractor Parties', including a CMO if applicable, Records available at all reasonable hours for audit and inspection by the State and its agents.

C. The State shall make all requests for any audit or inspection in writing and shall provide the Charter Board with at least twenty-four (24) hours' notice prior to the requested audit and inspection date. If the State suspects fraud or other abuse, or in the event of an emergency, the State is not obligated to provide any prior notice.

D. The Contractor will pay for all costs and expenses of any audit and inspection which reveals information that, in the sole determination of the State, is sufficient to constitute a breach by the Contractor under this Contract. The Contractor will remit full payment to the State for such audit or inspection no later than thirty (30) days after receiving an invoice from the State.

E. The Charter Board shall keep and preserve or cause to be kept and preserved all of its and Contractor Parties' Records until three (3) years after the latter of (i) final payment under this Agreement, or (ii) the expiration or earlier termination of this Agreement, as the same may be modified for any reason. The State may request an audit or inspection at any time during this period. If any Claim or audit is started before the expiration of this period, the Charter Board shall retain or cause to be retained all Records until all Claims or audit findings have been resolved.

F. The Charter Board shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Charter Board shall cooperate with an exit conference.

G. The Charter Board must incorporate this entire Section verbatim into any contract or other agreement it enters into with any Contractor Party.

IV. NONDISCRIMINATION:

B. The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, status as a veteran, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to ensure that applicants with job-related qualifications are employed and that employees

are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, status as a veteran, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved; (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an “affirmative action-equal opportunity employer” in accordance with regulations adopted by the Commission; (3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers’ representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the Contractor agrees to comply with each provision of this Section and C.G.S. §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to C.G.S. §§ 46a-56, 46a-68e and 46a-68f; and (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and C.G.S. § 46a-56. If the contract is a public works contract, municipal public works contract or contract for a quasi-public agency project, the Contractor agrees and warrants that he or she will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works or quasi-public agency projects.

* * *

H. (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to C.G.S. § 46a-56; and (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and C.G.S. § 46a-56.

Exhibit B

See attached.

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EVALUATION TERMS FOR ELEVATE CHARTER SCHOOLS, INC.

<u>Criterion</u>	<u>Rating</u>	<u>Comments</u>
<p>Education and Instruction Related Services</p> <ul style="list-style-type: none"> • Managing the implementation and administration of educational programs. • Managing the administration of extra-curricular and co-curricular activities and programs. • Creating, training and overseeing of student code of conduct (as specified in the School’s policy, if any). • Overseeing the transportation program for the School. • Overseeing the School’s summer school programming, if any. • Overseeing the School’s college and career programming, if any. • Reporting on educational progress of students by analyzing results of assessments and diagnostics tests. • Overseeing selection and acquisition of instructional and curricular materials, equipment and supplies. 	<p>__ Exceeds expectations __ Satisfactory __ Needs improvement __ Unsatisfactory</p>	
<p>Business Operations</p> <ul style="list-style-type: none"> • Supporting business administration of the School • Assisting with preparation and maintenance of the operating procedures of the School. • Assisting with process of identifying, selecting and contracting with School service providers (audit, legal, payroll, custodial, etc.) • Assisting with acquisition of non-instructional materials, supplies and equipment for use at the School. • Facilitating the School’s purchase and procurement of information technology equipment and services. 	<p>__ Exceeds expectations __ Satisfactory __ Needs improvement __ Unsatisfactory</p>	

EVALUATION TERMS FOR ELEVATE CHARTER SCHOOLS, INC.

<ul style="list-style-type: none"> • Arrange for the subcontracting with third parties for after-school programs. • Supervising school support services such as food service, facilities maintenance and other necessary services. • Developing and managing an information and technology system. 		
<p>Fundraising and Strategy</p> <ul style="list-style-type: none"> • Supervising the preparation of applications for grants and special programs upon request. • Processing funding applications for special programs and facility improvements upon request. • Conducting fundraising activities on behalf of School. • Assisting School with grant compliance obligations. • Providing information to School’s stakeholders upon request. • Participating in strategic planning with the School Board for the continuing educational and financial benefit of the School. • Overseeing the student recruitment process. 	<p>__ Exceeds expectations __ Satisfactory __ Needs improvement __ Unsatisfactory</p>	
<p>Compliance and Performance</p> <ul style="list-style-type: none"> • Supervising the preparation of required school authorizer reports. • Assisting School with legal and regulatory compliance obligations. • Providing School’s Board reports on the education, operational and performance of School. 	<p>__ Exceeds expectations __ Satisfactory __ Needs improvement __ Unsatisfactory</p>	

EVALUATION TERMS FOR ELEVATE CHARTER SCHOOLS, INC.

<p>Human Resources</p> <ul style="list-style-type: none"> • Assisting with recruitment and screening tasks, including preparing job applications for use by the School, posting job descriptions, interviewing applicants, facilitating the criminal history background process and ensuring proper licensure and certification. • Providing general human resources support including assisting with staff training, determining staff needs and recommending the adoption of administrative procedures and policies concerning personnel issues. • Providing recommendations to the Board regarding the hiring, promotion and demotion of school employees. • Recommending three (3) principal candidates to the School Board for any principal position. • Reviewing performance of School principal upon request of School. • Providing assistance in the selection of highly qualified teachers, qualified in the grade levels and subjects required, as are required by the School. • Managing of the employment records school personnel. 	<p> <input type="checkbox"/> Exceeds expectations <input type="checkbox"/> Satisfactory <input type="checkbox"/> Needs improvement <input type="checkbox"/> Unsatisfactory </p>	
<p>Budgeting and Financial Services</p> <ul style="list-style-type: none"> • Facilitating School's purchase of financial management software and systems. • Assisting with School's budget preparation. • Assisting with School's per pupil accounting. 	<p> <input type="checkbox"/> Exceeds expectations <input type="checkbox"/> Satisfactory <input type="checkbox"/> Needs improvement <input type="checkbox"/> Unsatisfactory </p>	

EVALUATION TERMS FOR ELEVATE CHARTER SCHOOLS, INC.

<p>Financial Reports</p> <ul style="list-style-type: none"> • Ensuring the preparation of financial statements and reports required by law. • Ensuring the provision of monthly and quarterly unaudited financial statements. • Ensuring preparation of monthly budget to actual reports. • Cooperating with School’s independent auditors. 	<p>___ Exceeds expectations ___ Satisfactory ___ Needs improvement ___ Unsatisfactory</p>	
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<u>Rating</u>	<u>Rating Description</u>
Exceeds Expectations	ECS exceeds the expectations of School by providing an excellent level of service, e.g., producing reports ahead of schedule, anticipating problems and responding immediately to urgent requests, working extraordinarily flexible hours to meet the school organization’s needs, or providing supplementary detail or support “beyond the call of duty”. ECS consistently advances School’s mission.
Satisfactory	ECS consistently meets all performance expectations in timeliness, accuracy, responsiveness, efficiency, and integrity. In the rare event of failing to meet expectations, ECS acknowledges the deficiency and takes clear and decisive action to address it.
Needs Improvement	ECS has occasionally failed to meet School’s expectations, or has made a material error but otherwise has performed satisfactorily. In response to such failure, ECS is slow to respond or challenges the facts rather than focusing on solving the problem proactively.
Unsatisfactory	ECS consistently fails to meet School’s expectations, is inflexible when urgent or ad hoc requests are made, does not respond quickly to calls or emails, subverts the School’s mission by its actions and behaviors, and does not embody the values of the School.

General Comments and Feedback:

As Secretary of the School, on behalf of the Board of Directors, I affirm that the Board of Directors has completed this Evaluation for the 20__-20__ school year.

Name:
Title: Secretary