

**MODIFICATION NO. 11
TO OHIO COMMUNITY SCHOOL CONTRACT
BY and BETWEEN
Educational Service Center of Lake Erie West ("Sponsor" or "ESCLEW")
AND
Constellation Schools: Westpark Community Elementary ("Governing Authority" or
"School")**

WHEREAS, the ESCLEW and the Governing Authority entered into an amended and restated Community School Contract ("Contract") effective on July 1, 2012; and


WHEREAS, the ESCLEW and the Governing Authority agree to the following modifications;

NOW THEREFORE, the parties modify the Contract as follows:

1. Attachment 3.2 shall be replaced in its entirety with the attached.

ALL OTHER SECTIONS, SUBSECTIONS, TERMS, OR PROVISIONS OF THE CONTRACT SHALL REMAIN IN FULL FORCE AND IN EFFECT UNLESS OTHERWISE SPECIFICALLY MODIFIED HEREIN.

**Educational Service Center of
Lake Erie West**


By: 
(Signature)

Its: Superintendent

with full authority to execute this Contract
for and on behalf of **Sponsor**
and with full authority to bind **Sponsor**.

Date: 8.31.2021

**Governing Authority of
Constellation Schools:
Westpark Community Elementary**

By: 
(Signature)

Its: President

with full authority to executive this Contract
for and on behalf of **Governing Authority**
and with full authority to bind **Governing Authority**.

Date: 8/20/21

ATTACHMENT 3.2

MANAGEMENT BY THIRD PARTY OPERATOR

1. Copy of Fully Executed Operator Contract

NOTE: Check here [_____] if the School is not currently managed by a third party. If the School decides to engage an operator in the future, this will require a contract modification.

Under R.C. 3314.032(A), new or renewed operator contracts entered into on or after February 1, 2016 must include the following:

- Criteria to be used for early termination of the operator contract,
- Required notification procedures and timeline for early termination or non-renewal of the operator contract, and
- A stipulation of which entity owns all community school facilities and property including, but not limited to, equipment, furniture, fixtures, instructional materials and supplies, computers, printers, and other digital devices purchased by the governing authority or management company. Any stipulation regarding property ownership must comply with the requirements of R.C. 3314.0210.



Constellation Schools LLC

"The Right Choice for Parents and a Real Chance for Children"

REVISED MANAGEMENT AGREEMENT

This Agreement, made this 19th day of November, 2020 by and between Constellation Schools LLC (hereinafter referred to as "CS") and Constellation Schools: Stockyard Community Elementary (hereinafter referred to as "School") (together, the "Parties") amends and revises the previously executed agreement and is for the purpose of setting forth the management and administration arrangement agreed to by the Parties with respect to the operation of the School.

WHEREAS, the School has entered into a contract with Educational Service Center of Lake Erie West ("Sponsor") for the Purpose of operating a community school within the Cleveland Metropolitan School District in Cuyahoga County, Ohio; and

WHEREAS, the parties wish to enter into an agreement for their mutual benefit;

NOW, THEREFORE, the parties agree as follows:

1. **CONTRACT TERM AND EARLY TERMINATION.** This Agreement, effective on the date stated above, shall be for a term that runs concurrently with the current term of the existing sponsor contract which remains in effect through June 30, 2023 and any extension thereof. Subject to the School being a party to a valid sponsorship agreement with an Ohio sponsor, this Agreement shall automatically renew for additional one (1) year terms unless either party notifies the other in writing of its intention to renegotiate or terminate the Agreement at least one hundred and eighty (180) days prior to the expiration of the current Term. Either party may terminate or not renew this Agreement for material breach of the terms of this Agreement by prior written notice to the other, which must be received by the other party by January 10 of the year of termination or non-renewal, which shall be effective on June 30 of that year. Such notice shall detail all alleged material breaches of this Agreement justifying termination or non-renewal. The other party shall have thirty (30) day period to cure the reasons for termination. If the terminating or non-renewing party does not accept the cure provided, the Parties shall proceed to dispute resolution (as defined in Paragraph 15 below).
2. **SERVICES.** CS will provide business, financial, and other management services to the School during the term of this Agreement. Services to be provided by CS include:
 - a. CS will provide Superintendent, Treasurer, and Business Management Services;
 - b. Facilities management, including the coordination of all facility repairs and maintenances, cleaning services, grounds maintenance, proposed alterations, plans for future development, security planning and coordination of related contractor services;
 - c. Marketing and media relations;
 - d. Human Resources services, including recruitment of personnel, interviewing candidates, updating and revising position descriptions, preparing employment contracts, and conducting BCI/ FBI criminal background checks;
 - e. Centralized purchasing and inventory control;
 - f. EMIS reporting assistance;
 - g. Financial services, including employment of a qualified school treasurer to act as the School's designated fiscal officer, financial reporting and record-keeping, bookkeeping services, preparation of financial statements, monitoring banking relationships, obtaining annual tax return filings, obtaining annual audits, preparation and monitoring of budgets, developing and maintaining fiscal models consistent with an internal audit function, maintaining financial accounting policies and procedures, and any statutory duties set forth in the Ohio Revised Code;
 - h. Educational Services, including Curriculum Development evaluation and review, evaluation of student assessments and accountability systems, coordination of standardized testing, updating and revising policies and procedures, establishment of conflict resolution plan, coordination of consolidated local plan, development and

maintenance of a viable technology plan, gifted plan, and special education plan, coordination of summer school and before/after school programs, and assisting with the breakfast and lunch program;

- i. Coordination of Professional and Staff Development, including the development and monitoring of teacher certification requirements and coordination of Local Professional Development Committee and Resident Educator program (does not include teacher mentoring and coaching).

Notwithstanding the foregoing, the School hereby designates CS as its agent, and CS hereby accepts such appointment, to undertake, or cause to be undertaken, any demolition, acquisition, construction, and/or development necessary or desired by the School which is related to any property owned or leased by the school.

3. PERSONAL PROPERTY. All personal property of the School, including equipment, furniture, fixtures, instructional materials and supplies, computers, printers, and other digital devices, shall be listed in **Exhibit A**. Exhibit A shall indicate whether each item is owned by the School or by CS. Any personal property purchased by CS after February 1, 2016 with state funds paid to CS by the School as payment for services rendered for use in the operation of the School shall be the property of the School.
4. REAL PROPERTY. Any facility owned by CS or the School shall be detailed in **Exhibit B**, which will include a description of the ownership of the property and, if CS leases the property to the School, an addendum to the lease demonstrating that an independent professional in the real estate field has verified that, at the time the lease was agreed to, the lease was commercially reasonable. In the event that this Agreement is terminated, title to the real property shall be retained by whichever party holds the deed.
5. MANAGEMENT FEE. The School agrees to pay for the above services during the term, and any renewal thereof, a fixed fee equal to One Hundred Thirty-Two Thousand Five Hundred and 00/100 Dollars (\$132,500.00) (the "Fixed Fee") plus a sum equal to 6.25% of the 2021 fiscal year Foundation payment received by the School, as reported in the Monthly Community School Foundation Report (the "Percent Fee") (collectively, the "Total Fee"). Notwithstanding anything to the contrary in this Agreement, the Fixed Fee shall in no event be less than fifty percent (50%) of the Total Fee and the Percent Fee shall be capped, if necessary, by an amount sufficient to meet this requirement. The Total Fee shall be due and owed at the beginning of the term or any renewal thereof, as applicable. CS may draw upon the annual obligation periodically. In addition to the Total Fee, the School shall reimburse CS for all out-of-pocket expenses that it may incur in carrying out the above listed activities.
6. SECURITY DEPOSIT. The School has paid to CS a refundable security deposit in the amount of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00). The Security deposit shall be used to secure payment of any outstanding obligations upon termination of the Agreement.
7. REPORTS. CS will provide the School with reports, information, and documentation that the School deems necessary, and CS deems to be reasonable.
8. SERVICE PROVIDERS. CS will use its best efforts to locate service providers (i.e. independent contractors) necessary to carry out this Agreement, and in so doing CS shall comply with all state and federal laws relating to governing the engagement and assignment of such providers. Non-licensed/certificated personnel will be appropriately supervised.
9. INDEMNIFICATION. CS agrees to indemnify, defend and hold harmless the School from any loss, cost, expense, obligation, liability, fee, (including, but not limited to reasonable attorney fees) or other expenditures incurred by the School due to any claims, actions or lawsuits brought against the School as a result of (i) the performance of CS, its employees, agents, subcontractors, representatives and assigns (collectively, "CS's agents") pursuant to the terms of this Agreement; (ii) the negligence, recklessness or intentional misconduct of CS or CS's agents; or (iii) any breach of this agreement by CS or CS's agents. Likewise, the School agrees to indemnify, defend and hold harmless CS from any loss, cost, expense, obligation, liability, fee (including, but not limited to reasonable attorney fees) or other expenditures incurred by the CS as a due to any claims, actions or lawsuits brought against CS as a result of (i) the

performance of the School, its employees, agents, subcontractors, representatives and assigns (collectively, the "School's agents") pursuant to this Agreement; (ii) the negligence, recklessness or intentional misconduct of the School or the School's agents; or (iii) any breach of this Agreement by the School or the School's agents.

CS shall indemnify the School for financial losses up to the amount of the management fee specified in Section 5 herein in the event such losses occur as a direct result of the existence of a business or familial relationship between the governing authority of the School or any of its officers or employees and CS or any of CS' officers or employees, unless such position with the governing authority or the business relationship is created pursuant to the operating agreement itself.

10. ADDITIONAL SERVICES. Nothing herein prevents the School from contracting with CS for certain additional support services at rates negotiated between CS and the School on a fee for service basis, so long as such services are not part of the services performed under this Agreement.
11. EMPLOYMENT OF CS EMPLOYEES. The School shall not offer employment to any CS employee assigned to the School during the current academic year without the express written consent of CS. The School shall not employ or contract with any CS employee for a period of two (2) years after such person leaves CS, for any reason, without the written consent of CS.
12. NONDISCRIMINATION. Neither party to this Agreement will discriminate against any person on the basis of race, color, religion, disability, national origin, age, or sex.
13. SUCCESSION. This Agreement shall inure to the benefit of CS and the School, and their respective successors, and permitted assigns. CS may assign this Agreement at its discretion and the School may assign this Agreement with the prior written consent of CS.
14. NOTICES. Any notice required or permitted to be given under this Agreement shall be sufficient if in writing, and if sent by certified mail to the last known address for the School, Attention: Board Chairman, and to the principal office of CS at 5730 Broadview Road, Parma, Ohio 44134, Attention: Board Chairman, respectively.
15. DISPUTE RESOLUTION. The Parties agree that each will make every good faith effort to resolve any and all disputes under this Agreement amicably before taking any legal action in court, including submitting to non-binding mediation. If a dispute is not settled between CS and the School, non-binding mediation shall take place by a mediator provided by the Ohio State Bar Association and acceptable to both Parties. Each party shall pay for its own attorney fees.
16. TIME IS OF THE ESSENCE. Time is of essence, and this Agreement.. The Agreement is not effective until executed by each party.
17. ENTIRE AGREEMENT. This Agreement constitutes the entire understanding and contract between the Parties. All prior representations or agreements that are not explicitly contained herein are null and void and of no effect.

This Agreement may only be modified in a writing executed by each party hereto.

CONSTELLATION SCHOOLS, LLC

By: 
Executive Director

Date: 11/19/20

CONSTELLATION SCHOOLS: STOCKYARD COMMUNITY ELEMENTARY

By: 
President

Date: 11/19/20

EXHIBIT A

PERSONAL PROPERTY

All personal property located at the School is either owned directly by the School or is leased through a third party leasing company. Leased items include copy machines, postage machines and technology equipment.

The management company, Constellation Schools, LLC does not own or lease any equipment used by or located at the School.

EXHIBIT B
SCHOOL FACILITY REAL PROPERTY

All real property which the school operates out of is owned 100% by the school.
A copy of the deed is available for review at the management company offices.

The address of the property is 3200 West 65th Street, Cleveland, Ohio 44102.