

Summary
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Differences exist between documents.

New Document:

[EXHIBIT D CMSD Sponsorship Contract Near West Intergenerational School 7-1-22 NO ATTACHMENTS](#)

22 pages (285 KB)

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Old Document:

[Exhibit E CMSD Sponsorship Contract - NWIS 2021-2024 NO ATTACHMENTS](#)

21 pages (231 KB)

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SPONSORSHIP CONTRACT
FOR A COMMUNITY SCHOOL
BETWEEN
CLEVELAND MUNICIPAL SCHOOL DISTRICT
AND
NEAR WEST INTERGENERATIONAL SCHOOL

This Sponsorship Contract, made effective as of 12:01 a.m. on July 1, 2022, is by and between the Board of Education of the Cleveland Municipal School District (the “Sponsor”), a political subdivision of the State of Ohio (the “State”), and the governing authority of a community school called Near West Intergenerational School (the “School”), established as a nonprofit corporation under Ohio law whose IRN is 012030 (“Governing Authority”) (together, the Sponsor and the Governing Authority are referred to herein as the “Parties”).

WHEREAS, the Governing Authority, pursuant to Chapter 3314 of the Ohio Revised Code (“ORC”), desires to continue to operate a start-up community school located in the Cleveland Municipal School District, Cuyahoga County, Ohio; and

WHEREAS, the Sponsor is authorized to sponsor community schools under ORC Chapter 3314; and

WHEREAS, the Parties have previously entered into a start-up sponsorship contract for the term commencing July 1, 2019 and ending June 30, 2024; and

WHEREAS, the Parties wish to adopt this amended and restated Contract to supersede the previously adopted contract;

THEREFORE, the prior contract is amended in its entirety and reinstated herein.

A. OPERATION OF A COMMUNITY SCHOOL. The Governing Authority and the Sponsor agree that the Governing Authority may continue to operate a community school as permitted by law, subject to applicable requirements of federal law, the laws of the State, and the terms of this Contract.

B. COMMUNITY SCHOOL OBLIGATIONS. The Governing Authority, for itself and on behalf of the School, covenants and agrees as follows:

1. **LEGAL STATUS.** The School is established and operated as an Ohio nonprofit corporation under ORC Chapter 1702. The School shall maintain in good standing its status as a nonprofit corporation.

In accordance with ORC Chapter 3314, the School is a public school independent of the Sponsor or any other district or community school, independently operated and governed in its activities, business practices, and policies.

2. **CORPORATE RECORDS.** The School’s Articles of Incorporation, Appointment of Statutory Agent, Code of Regulations, and Taxpayer Employer ID Number are on file with the Sponsor. Should any of these documents be modified or created subsequent to this Contract being executed, the School shall submit the same to the Sponsor in a timely manner for the Sponsor’s review for consistency with federal

and state law and the provisions of this Contract.

3. **COMPLIANCE WITH STATE LAWS.** In accordance with ORC Section 3314.03(A)(11)(d), the School shall comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 3301.0711, 3301.0712, 3301.0715, 3301.0729, 3301.948, 3302.037, 3313.472, 3313.50, 3313.539, 3313.5310, 3313.608, 3313.609, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020, 3313.6024, 3313.6025, 3313.6026, 3313.643, 3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.668, 3313.669, 3313.6610, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.7112, 3313.721, 3313.80, 3313.814, 3313.816, 3313.817, 3313.818, 3313.86, 3313.89, 3313.96, 3319.073, 3319.077, 3319.078, 3319.238, 3319.318, 3319.321, 3319.39, 3319.391, 3319.393, 3319.41, 3319.46, 3320.01, 3320.02, 3320.03, 3321.01, 3321.041, 3321.13, 3321.14, 3321.141, 3321.17, 3321.18, 3321.19, 3323.251, 3327.10, 4111.17, 4113.52, 5502.262, and 5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., and 4167 as if it were a school district and shall comply with ORC Section 3301.0714 in the manner specified in ORC Section 3314.17. The School shall also comply with ORC Sections 3313.815, 3327.016, and 3327.02.
4. **ETHICAL AND RESPONSIBLE CONDUCT.** Officers and employees of the School shall comply with ORC Chapter 102 and Sections 2921.42, 2921.43, and 2921.44.
5. **HIGH SCHOOL CREDITS AND DIPLOMA.** If the School serves grades nine through twelve, it shall comply with ORC Sections 3314.03 (A)(11)(f), 3311.742, 3313.603(J), 3313.61, 3313.611, 3313.6114, 3313.614, 3313.617, and 3313.618.
6. **SCHOOL CALENDAR AND SCHEDULE.** The Governing Authority shall provide to the Sponsor the School's calendar and schedule for the upcoming school year and agrees that, except for minor modifications made due to epidemic, casualty, weather conditions, or changes of five or fewer consecutive work days, or other modifications as mutually agreed to between the Parties, the School shall adhere to the calendar and schedule.
7. **SCHOOL ANNUAL REPORT.** In accordance with ORC Section 3314.03(A)(11)(g), the Governing Authority shall submit within four months after the end of the school year a report of its activities and progress in meeting the goals and standards and its financial status to the Sponsor and the parents of all students enrolled in the School.
8. **REPORTING.** The Governing Authority shall send its monthly financials, including an enrollment report, a statement of financial position, a statement of activities, and a cash flow statement, to the Sponsor. If requested by the Sponsor, the Governing Authority also shall send the Sponsor annual reports as to staff and teacher turnover, student re-enrollment and retention data, and student expulsions and suspensions. This information should be disaggregated by available demographic categories whenever possible. The Sponsor may request

the school's internal assessment data as needed for ongoing oversight, reviewing the school's progress, and making suggestions for academic improvement. The Governing Authority shall respond timely under the circumstances to the Sponsor's reasonable inquiries regarding such information or other matters the Sponsor reasonably deems important in relation to its duties.

The Governing Authority shall also report annually in writing to the Sponsor financial data as required by the Ohio Auditor of State (the "Auditor of State"), and, if applicable, data regarding the structure and operations of the management company (if any) that directly pertain to the School's operation.

9. **SITE VISITS AND STUDENT RECORDS.** The Governing Authority shall permit the Sponsor to conduct site visits as determined reasonably necessary by the Sponsor. When appropriate, the Sponsor shall make reasonable efforts to provide prior notice of such visits and to not disrupt testing or the educational process or programming of the School. Such site visits may include any activities reasonably related to fulfillment of the Sponsor's oversight responsibilities including, but not limited to, inspection of the facilities; inspection of records maintained by the School; and interviews and observations of the principal and staff; and observations of classroom instruction.

The Governing Authority and the Sponsor agree and state that pursuant to the Family Educational Rights and Privacy Act ("FERPA"), encoded at 20 U.S.C. Section 1232, and its implementing regulations at 34 CFR Part 99, the Sponsor is an authorized representative of a state educational authority, that the School is permitted to disclose to the Sponsor personally identifiable information from an education record of a student without parental consent (or student consent where applicable), and that the Sponsor is authorized by federal, state, and local law to conduct audits, compliance evaluations, and enforcement activities of federal and state supported education programs. Accordingly, the Governing Authority agrees to grant to Sponsor's employees full and complete access as defined hereinafter to "education records" as defined by FERPA and all documents, records, reports, databases, and other information made available to or maintained by the School that are applicable to the Sponsor's responsibilities under Ohio law. Such information shall include, but shall not be limited to, the statewide education management information system established under ORC Section 3301.0714.

Access includes the ability to inspect electronic documents at the School, and the School shall enable the Sponsor to have remote self-service access in read-only format. The Governing Authority further agrees that, in accordance with ORC Section 3314.03(A)(28), the School's attendance and participation records shall be made available to the Sponsor, ODE, and the Auditor of State to the extent permitted by FERPA, 34 CFR Part 99, and ORC Section 3319.321.

The Sponsor shall be responsible for any costs or adverse consequence(s) resulting from an accidental or other deletion, release, or alteration of information or data systems or records of the School or of the Ohio Department of Education ("ODE") as a result of such access. The Sponsor agrees to comply with both FERPA and

state privacy laws, rules, and regulations and shall destroy the educational records when no longer needed for the purposes accessed.

10. **COOPERATION WITH MONITORING.** The Sponsor shall monitor the performance and legal compliance of the School. The Governing Authority and the School shall cooperate with and supply all of the needed information for the Sponsor's duties pursuant to Section D, below, of this Contract. To carry out its monitoring duties, the Sponsor may utilize a compliance management system and may require the School to designate a contact person for the compliance management system.
11. **DISPLAY OF NATIONAL AND STATE MOTTOS.** The School, unless it is an internet- or computer-based school, shall comply with ORC Section 3313.801 as if it were a school district.
12. **FINANCIAL PLAN.** The School shall submit to the Sponsor a financial plan detailing an estimated school budget for each year of the period of the Contract and specifying the total estimated per pupil expenditure amount for each such year. The plan shall specify for each year the base formula amount that will be used for purposes of funding calculations under ORC Section 3314.08. The School shall supply an updated five-year financial plan and budget at least annually to the Sponsor for review. The School's five-year budget appears as **ATTACHMENT 1**.
13. **FINANCIAL RECORDS.** The School shall submit financial reports monthly in the form and format requested by the Sponsor and at a minimum shall include a statement of financial position, a statement of activities, and a cash flow statement. The School's financial records shall be maintained pursuant to any applicable rules that may be adopted by the Auditor of the State and are to be maintained in the same manner as are financial records of school districts. Audits shall be conducted in accordance with ORC Section 117.10. The School shall meet the requirements and follow the procedures for program and financial audits established from time to time by the Auditor of State and ODE.
14. **FISCAL OFFICER.** The School shall have a designated fiscal officer licensed under ORC Section 3301.074 and shall maintain internal financial controls in accordance with ORC Section 3314.03. Before the fiscal officer enters upon his or her duties, either the Governing Authority shall maintain an employee dishonesty and faithful performance of duty policy applicable to the fiscal officer as provided in ORC Section 3.061, or the fiscal officer shall execute a bond, in accordance with ORC Section 3314.011, in an amount and with surety to be approved by the Governing Authority, payable to the State, conditioned for the faithful performance of all the official duties required of the fiscal officer. Any such bond shall be deposited with the Governing Authority, and a copy thereof, certified by the Governing Authority, shall be filed with the county fiscal officer. The fiscal officer shall be employed by or engaged under a contract with the Governing Authority, except as otherwise permitted by law and approved annually by both the Sponsor and the Governing Authority. In accordance with ORC Section 3314.037, the fiscal officer shall complete

training in public records and open meetings at least once per school year. If the fiscal officer changes, the Governing Authority shall notify the Sponsor in writing.

15. **DEBT.** The School may borrow money to pay any necessary and actual expenses of the School in anticipation of receipt of any portion of the payments to be received by the School pursuant to ORC Section 3314.08(C). The proceeds from the notes shall be used only for the purposes for which the anticipated receipts may be lawfully expended by the School. The School shall notify the Sponsor of any borrowing greater than 15 percent of its projected annual budget.
16. **FISCAL YEAR.** The fiscal year for the School shall be July 1 to June 30.
17. **LAWFUL PURPOSE.** The Governing Authority may carry out any act and ensure the performance of any function that is consistent with the Ohio Constitution, ORC Chapter 3314, other statutes applicable to community schools, and this Contract.
18. **LOCATION AND FACILITY.** The School shall be located at the following address: 3805 Terrett Ave., Cleveland, OH 44113. Pursuant to ORC Section 3314.03(A)(9), **ATTACHMENT 2** provides a detailed description of each facility used by the School for instructional purposes; the annual costs associated with leasing each facility that are paid by or on behalf of the School; the annual mortgage principal and interest payments that are paid by the School; and the name of the lender or landlord, identified as such, and the lender or landlord's relationship to the operator, if any.

If the location has been or will be leased, the lease shall not be signed unless in accordance with the budget approved by the Sponsor. In accordance with ORC Section 3314.032, the School shall not lease any parcel of real property from an operator or management organization with which the Governing Authority has contracted for services until an independent professional in the real estate field verifies by addendum that at the time the lease was agreed to, the lease was commercially reasonable. If the location has been or will be purchased by the School, the contract of sale and related documents shall not be signed unless in accordance with the current or a revised budget approved by the Sponsor. After leasing or purchase, a copy of the lease or conveyance documents, and all subsequent amendments, modifications, or renewals thereof shall immediately be provided to the Sponsor. Any facility used for or by the School shall meet all health and safety standards established by law for Ohio community school buildings. In the event that the School desires to change its location, the new location shall be subject to approval of the Sponsor, which approval shall not be unreasonably withheld, based on factors mutually agreed to between the Parties.

19. **STATE ASSUMPTION OF SPONSORSHIP.** The Governing Authority recognizes that ODE may take over the sponsorship of the School in accordance with the provisions of ORC Section 3314.015(C).
20. **SPONSOR INTERVENTION.** The Governing Authority recognizes the

Sponsor's authority to assume the operation of the School under the conditions specified in ORC Section 3314.073(B), subject to the notice and due process provisions in ORC Chapter 3314. The School shall have a reasonable time under the circumstances to cure the condition(s) before any suspension, termination, or takeover of operations by the Sponsor.

21. **HEALTH, SAFETY, AND WELFARE.** The Governing Authority recognizes:
 - a. The authority of public health and safety officials to inspect the facilities of the School and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations;
 - b. The authority of the Sponsor to suspend the operation of the School under ORC Section 3314.072, subject to the notice and due process requirements of that Section, if the Sponsor has evidence of conditions or violations of law at the School that pose an imminent danger to the health and safety of the School's students and employees; and
 - c. The authority of ODE to suspend the operation of the School under ORC Section 3314.072 if the Sponsor fails to take such action.
22. **LEARNING OPPORTUNITIES.** The School is authorized to provide learning opportunities in grades kindergarten through eight to a minimum of 25 students for a minimum of 920 hours per school year. A description of the learning opportunities that will be offered to students, including both classroom-based and non-classroom-based learning opportunities that are consistent with criteria for student participation established by ODE under ORC Section 3314.08(H)(2), is stated in this Contract in the Educational Plan described in Section B, subsection 30 of this Contract and attached as **ATTACHMENT 3**. If the School uses a blended learning model, as defined in ORC Section 3301.079, additional information about the model is also provided in **ATTACHMENT 5**.
23. **NONSECTARIAN SCHOOL.** The School shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, and shall not be operated by a sectarian school or religious institution.
24. **STATE ACADEMIC INTERVENTION.** The School shall comply with ORC Section 3302.04 and 3302.041, except that any action required to be taken by a school district pursuant to these Sections shall be taken by the Sponsor.
25. **START OF SCHOOL YEAR.** The School shall open for operation not later than the 30th day of September each school year, unless the mission of the School as specified under ORC Section 3314.03(A)(25) is solely to serve dropouts. If the School fails to open by September 30th in its initial year of operation or within one (1) year after the adoption of a contract pursuant to R.C. 3314.02(D), the Contract shall be void, unless the mission is to serve dropouts.

26. MANAGEMENT BY THIRD PARTIES. The Governing Authority may contract with a third-party operator or management company for management or operation of the School. The Governing Authority shall provide the Sponsor with a copy of any contract it enters into with an operator or management company (“management agreement”) without delay upon execution. Acceptance of copies of the management agreement by the Sponsor shall not be deemed an approval or opinion regarding the legality of any such terms under Ohio law and is not binding upon the Sponsor. If the Governing Authority changes a material term of a management agreement, it shall provide the Sponsor with notice of the terms of any management agreement as modified by the proposed changes promptly after their execution. In addition:

- a. The Governing Authority shall adhere to the ethics, fiscal, and other laws regarding its relationship with the operator or management company and shall not agree to any terms in the management agreement violating any ethical, fiscal, or other laws, rules, and regulations.
- b. The management agreement shall include criteria to be used for its early termination and notification procedures and timeline for its early termination or nonrenewal.
- c. The Governing Authority shall annually evaluate the operator’s or management company’s performance. The Governing Authority shall consider, but need not limit its consideration to, the operator’s or management company’s performance with the School’s academics and fiscal operations, if such services are provided under the management agreement. The Governing Authority shall provide the Sponsor with the evaluation.
- d. The management agreement shall stipulate, and the operator or management company shall keep accurate records of, which entity owns all 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 the operator or management company. The management agreement shall comply with ORC Section 3314.0210.
- e. If the operator or management company provides goods and services of any kind to the School in excess of 20 percent of the School’s gross annual revenues, including a la carte services as well as any operational fees, then the operator or management company shall provide a detailed accounting of the nature and costs of the goods and services it provides to the School, in accordance with ORC Section 3314.024. This information shall be summarized in the footnotes of the financial statements of the School and shall be subject to audit during the course of the regular financial audit of the School. This information shall also be sufficient to permit the School’s fiscal officer to comply with the duties described in Section B, subsection 14 of this Contract, with respect to transactions undertaken by the operator or management company on behalf of the School.

- f. The management agreement shall provide that all moneys loaned to the School by the operator or management company, including facility loans or cash flow assistance, shall be accounted for, be documented, and bear interest at a fair market rate.
- g. Any individuals performing supervisory or administrative services for the School under the School's contract with the operator or management company shall complete training in public records and open meetings at least once per school year, in accordance with ORC Section 3314.037.
- h. The management agreement shall provide that if this Contract is terminated for cause based on academic or fiscal performance, the School shall be able to terminate the management agreement.
- i. If the School takes action in good faith under this subsection and later finds it is non-compliant, such action shall not constitute a material breach of this Contract.
- j. If there exists any business or familial relationship between the Governing Authority or any of its officers or employees and an operator or management company contracted by the School or any of that operator or management company's officers or employees, other than the management agreement itself, the School shall obtain from the operator or management company an agreement indemnifying the School for financial losses to the School due to conflict of interest, up to the amount of the moneys received by the operator or management company.

27. COMPREHENSIVE SCHOOL PLAN. In accordance with ORC Section 3314.03(B), the Governing Authority shall have on file with the Sponsor a comprehensive plan (the "Comprehensive Plan") that contains the following: (1) the process by which the Governing Authority is to be selected, which may be provided by citation to the relevant provision(s) of Governing Authority's Code of Regulations under ORC Chapter 1702; (2) the management and administration of the School; (3) the instructional program and educational philosophy of the School; and (4) the School's internal financial controls. If the School is a new community school converting from an existing district public school or educational service center under ORC Section 3314.02, its Comprehensive Plan shall include alternative arrangements for current district public school students who choose not to attend the converted school and for teachers who choose not to teach in the School or building after conversion. When submitting its Comprehensive Plan, the Governing Authority shall also submit copies of all policies and procedures it has adopted regarding internal financial controls, which must be approved by the Sponsor. The Governing Authority shall adhere to and comply with the Comprehensive Plan and any of its policies and procedures regarding internal financial controls and shall ensure that any contractor engaged to perform any related services understands and complies with these requirements. The School shall submit its Comprehensive Plan annually to the Sponsor or verify that the Sponsor has the current Comprehensive Plan on file.

28. **GOVERNANCE.** The Governing Authority shall be responsible for carrying out the provisions of this Contract. In addition:
- a. The Governing Authority shall consist of no fewer than five members, and no person shall serve on the governing authorities of more than five start-up community schools at the same time, unless otherwise permitted by law.
 - b. No person shall serve on the Governing Authority or operate the School under contract with the Governing Authority so long as the person (1) owes the State any money or is in a dispute over whether the person owes the State any money concerning the operation of a community school that has closed; (2) would otherwise be subject to ORC Section 3319.31(B), with respect to refusal, limitation, or revocation of a license to teach, if the person were a licensed educator; or (3) has pleaded guilty to or has been convicted of theft in office under ORC Section 2921.41, or has pleaded guilty to or has been convicted of a substantially similar offense in another state.
 - c. Each Governing Authority member shall annually file a disclosure statement about immediate relatives or business associates in accordance with ORC Section 3314.02(E)(7).
 - d. In accordance with ORC Section 3314.037, each Governing Authority member shall complete training in public records and open meetings at least once per school year.
 - e. If the Governing Authority contracts with an attorney, accountant, or entity specializing in audits, the attorney, accountant, or entity shall be independent from any operator or management company with which the School has contracted.
 - f. The Governing Authority shall provide, upon request, the name and address of each of its members to the Sponsor and to ODE. The Governing Authority shall make available at a publicly accessible area in the School's office and on the School's website the following information:
 - i. A list of the current names of the Governing Authority's members and officers;
 - ii. Contact information for the Governing Authority (email address for school business and contact phone number for the Governing Authority); and
 - iii. The schedule and location of Governing Authority board meetings for the school year.
29. **CHANGES IN GOVERNING AUTHORITY MEMBERS.** The Governing Authority shall notify the Sponsor in writing within 30 days of any changes in members of the Governing Authority, including notice of new members'

names, qualifications, biographical information, addresses, and phone numbers. If necessary in order for the School's employees to participate in the state retirement systems, then at the School's request the Sponsor shall provide for pre-approval of Governing Authority members in writing, and such pre-approval shall not be unreasonably withheld. No denial of such pre-approval shall be on the basis of age, gender, race, disability, national origin, sexual orientation, political affiliation or other characteristic protected by law. A representative of the Sponsor and a representative of the School shall confer on a possible denial of pre-approval before final determination by the Sponsor.

30. **EDUCATIONAL PLAN.** The educational program of the School, including its mission, the characteristics, ages, and grades of the students it is expected to attract, the focus of the curriculum, and a description of how it will fulfill its civic function of helping to prepare students to be informed and engaged citizens, is attached as **ATTACHMENT 3** and incorporated by reference. The School is not planning to seek designation as a STEM school equivalent under ORC Section 3326.032. In accordance with ORC Section 3314.03(A)(11)(j), if the School operates a preschool program that is licensed by ODE under ORC Sections 3301.50 through 3301.59, the School shall comply with those Sections and with the minimum standards for preschool programs prescribed by rules adopted by the State Board under ORC Section 3301.53.

The School's mission, the ages and grades of its students, its focus, and the characteristics of students the School is expected to attract shall not be materially changed, nor shall the School seek designation as a STEM school equivalent under ORC Section 3326.032, without prior written notice to Sponsor and a 30-day opportunity for the Sponsor to comment or object. All other categories may be modified without prior notice to the Sponsor in the ordinary course of business.

Modifications under this Section shall take effect on July 1 unless otherwise agreed to by the Parties.

31. **ACCOUNTABILITY PLAN.** **ATTACHMENT 4** sets forth the performance standards by which the Sponsor will evaluate the School, including academic goals to be achieved and the method for determining progress, which include statewide achievement assessments. The accountability plan includes the intervention protocol identifying what conditions may result in what types of Sponsor interventions.
32. **TIMELY ADMINISTRATION OF ASSESSMENTS.** The School shall timely administer the assessments that shall include statewide achievement tests and other assessments required by law. The Governing Authority shall comply with any changes in state assessment tools.
33. **PAYMENT.** Pursuant to the ORC Section 3314.03, the Governing Authority shall pay to the Sponsor the amount of two percent of the total amount of payments for operating expenses that the School receives from the State, excluding health and wellness funds, high quality awards, and other specially

designated awards as may be enacted by the Ohio legislature, for grades Kindergarten and above, in consideration for the monitoring and oversight of the Sponsor pursuant to this Contract. Such payments shall be made on or before the 25th of the following months for the previous three months: January, April, July, and October.

34. **ADMISSIONS.** The School shall have its current admissions policy and procedures on file with the Sponsor. The School shall submit its admissions policy and procedures annually to the Sponsor or verify that the Sponsor has the current policy and procedures on file. The admission policy and procedures shall be followed and may not be changed without the written consent of the Sponsor, which consent shall not unreasonably be withheld.

The admission policy and procedures shall comply with ORC Section 3314.06 and, if applicable, Section 3314.061. In accordance with ORC Section 3314.03(A)(19), the admission policy and procedures shall do one of the following: (1) Prohibit the enrollment of students who reside outside the boundaries of the Sponsor; (2) Permit the enrollment of students who reside in school districts adjacent to the Sponsor; or (3) permit the enrollment of students who reside in any other school district in the state.

At a minimum, the policy and procedures at all times shall specify that the School will not discriminate in its admission of students to the School on the basis of sex, race, religion, creed, color, national origin, disability, intellectual ability, athletic ability or measurement of achievement aptitude. Pursuant to ORC Section 3314.06, the School may limit admission to students who have obtained a certain grade level or are within a certain age group, or who meet a definition of at-risk agreed upon by the Parties.

The policy and procedures shall provide a preference in admission to returning students and siblings of returning students and shall permit, at a minimum, the enrollment of students who reside within the boundaries of the Sponsor. If the policy and procedures allow for the enrollment at the School of students from outside the boundaries of the Sponsor, they shall give priority to students residing within the boundaries of the Sponsor, subject to exceptions provided for by Ohio and federal law.

In accordance with, and subject to the Governing Authority's adoption of any of the preferences allowed by, ORC Section 3314.06, if the number of applicants exceeds the capacity of the School's program, classes, or facilities, then, subject to the exceptions required or permitted by that Section, students shall be selected for admission on the basis of a random lottery.

The School shall be open and accessible to all students regardless of race, religion, color, national origin, creed, gender, intellectual ability, athletic ability or performance, special need, sexual orientation, proficiency in English, physical or mental disability, or academic achievement or measure of achievement aptitude. Upon admission of any student with a disability, the School shall comply with all federal and state laws regarding the education of handicapped students, per ORC

Section 3314.06.

- 35. STUDENT DEMOGRAPHICS.** The Governing Authority shall annually assess and compare the School's student demographic data with those of the community it serves and determine whether there are any significant disparities between the two as to race, ethnicity, gender, socio-economic status, participation in special education, limited English proficiency/English Language Learner status, homelessness, and Cleveland residency. Where there is a significant disparity, the Governing Authority shall submit to the Sponsor a brief explanation for the disparity and any measures the School employs or plans to employ to address it.
- 36. ENROLLMENT AND ATTENDANCE.** The Governing Authority shall adopt an enrollment and attendance policy that complies with ORC Sections 3314.03 and 3314.11, including by:
- a. Setting forth the School's procedures for student dismissal (*i.e.*, suspension, expulsion, or emergency removal);
 - b. Providing for the verification of residence and address for students enrolling in or attending the School;
 - c. Requiring a student's parent or guardian to notify the School when there is a change in the parent's or the student's primary residence;
 - d. Automatically withdrawing a student from the School if the student, without a legitimate excuse, fails to participate in 72 consecutive hours of the learning opportunities afforded to the student, or as otherwise required by law.

The enrollment and attendance policy shall be available for public inspection in accordance with ORC Section 3314.03(A)(27).

- 37. BREAKFAST AND LUNCH PROGRAMS.** If the School's student enrollment requires the School under ORC Section 3314.18 to provide a school lunch and/or school breakfast program, possibly with a summer extension or intervention, the School shall implement such a program in accordance with the requirements of that Section, including, for a breakfast program, those of ORC Section 3313.818.
- 38. EMPLOYEES.** Although the Governing Authority may employ or contract for teachers and non-teaching employees necessary to carry out its mission and fulfill this contract, no employment contract shall extend beyond the term of this Contract. In addition:
- a. The School shall make arrangements for providing health and other benefits to its employees.
 - b. The School shall hire only teachers who are licensed in accordance with ORC Sections 3319.22 through 3319.31, except for (1) non-certificated persons engaged to teach up to 12 hours per week pursuant to ORC Section 3319.301,

and (2) if the School is a Montessori school as described in ORC Section 3319.261, holders of an alternative resident educator license pursuant to that Section.

- c. In accordance with ORC Section 3314.037, the School's chief administrative officer and other administrative employees shall complete training in public records and open meetings at least once per school year.
- d. Charter School Neutrality Statement. The Sponsor understands and confirms its commitment to meet its obligation under ORC Chapters 3314 and 4117 with respect to community schools and the rights of employees in those schools to seek to join together for purposes of collective bargaining. In addition, the Sponsor recognizes the right of the Cleveland Teachers Union (CTU) as a labor organization to seek to organize and represent, for purposes of collective bargaining, teachers and paraprofessionals employed by community schools located within the boundaries of the Cleveland Municipal School District. The Sponsor agrees that it shall not place, nor attempt to place, restrictions on the employees or governing authorities of any community school with respect to whether the employees of such community school should join or not join CTU or any labor organization.
- e. If the School is a recipient of moneys from a grant awarded under the federal Race to the Top program, Division (A), Title XIV, Section 14005 and 14006 of the "American Recovery and Reinvestment Act of 2009," Pub. L. No 111-5, 123 Stat. 115, the School shall pay teachers based upon performance in accordance with ORC Section 3317.141 and shall comply with ORC Section 3319.111 as if it were a school district.

39. INSURANCE. General liability, errors and omissions, directors and officers, and other customary insurance coverage (a school policy) at all times shall be maintained by the Governing Authority for the School, for itself and its employees, in amounts not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The insurance coverage shall not only cover the School and the Governing Authority and its employees but also the Sponsor and the Sponsor's Board, officers, and employees as additional insureds in their role as Sponsor. NOTE: Being named as Certificate Holder does not constitute being an additional insured, and coverage as additional insureds is required, unless not commercially and reasonably available. The Governing Authority shall provide evidence of such coverage and shall ensure that the insurer shall notify the Sponsor in writing at least 30 days in advance of any material adverse change to, or cancellation of, such coverage.

40. HIRING OF SPONSOR EMPLOYEE ON LEAVE. If the Sponsor provides a leave of absence to a person who is thereafter employed by the School, the Governing Authority and the School shall defend, indemnify and hold harmless the Sponsor and its Board members, Superintendents, employees, and agents from liability arising out of any action or omission of that person while that person is on such leave or employed by the Governing Authority. Nothing in this subsection, however, obligates this Sponsor to provide such a leave of absence.

41. **CONTRACT REVIEW.** The Governing Authority or its authorized representatives shall meet with the Sponsor at least once yearly before the end of the School's fiscal year to review the terms and provisions of this Contract, at a time and place acceptable to both Parties.
42. **BACKGROUND CHECKS.** All background checks (Federal Bureau of Investigation or Ohio Bureau of Criminal Identification and Investigation) of teachers, staff members, or the Governing Authority members shall be conducted by a contractor in compliance with ORC Section 3319.31.
43. **INSTRUCTION AND TRAINING FOR CARDIAC EMERGENCY.** The School shall comply with the requirements of ORC Sections 3313.6021 and 3313.6023, unless it is:
 - a. An internet- or computer-based community school; or
 - b. A community school in which a majority of the enrolled students is comprised of children with disabilities as described in ORC Section 3314.35(A)(4)(b).

C. SEPARATE AGREEMENTS, HOLD HARMLESS.

1. **SERVICE AGREEMENTS.** To the extent permitted by law, the Sponsor and the Governing Authority may enter into one or more separate agreement(s) under which the Sponsor will provide services to the School. Services provided under such an agreement, and the amount and manner in which the Governing Authority will pay for such services, shall be mutually agreed upon in a separate writing between the Governing Authority and the Sponsor. No such agreement shall extend beyond the termination date of this Contract.
2. **FACILITY USE.** If the school is located in any facility of the Sponsor, the Parties agree to negotiate by separate agreement their rights and responsibilities regarding the use of that facility.
3. **HOLD HARMLESS.** Other than as required by law, the Sponsor shall have no obligations to the School, or to the parents of children enrolled at the School, by way of this Contract, and the Governing Authority hereby indemnifies, defends, and holds the Sponsor harmless from claims, demands, causes of action, threatened actions, losses, damages, or costs arising from any of the following:
 - a. A failure of the Governing Authority or any of its officers, directors, employees, agents, or contractors to perform any duty, responsibility, or obligation imposed by law or this Contract;
 - b. An action or omission by the Governing Authority or any of its officers, directors, employees, or contractors that results in injury, death, or loss to person or property, breach of contract, or violation of statutory law or common law (state and federal), or liabilities;

- c. Any sum that the Sponsor may pay or become obligated to pay on account of: (1) any inaccuracy or breach of any representation under this Contract by the Governing Authority; or (2) liabilities to lenders, vendors, the State, receivers, parents, students, the Governing Authority, or to parties on account of the Governing Authority; and
- d. As to the indemnification and hold harmless clause, but not the duty to defend, any liabilities incurred by the Sponsor or any of its officers, directors, employees, agents or contractors as a result of an action or legal proceeding at law or equity brought against the Sponsor by the Governing Authority if the legal proceeding or action is found to be without merit, or is dismissed with prejudice, and the right to appeal such judgment or order has been exhausted or has expired.

D. SPONSORSHIP DUTIES.

- 1. **OPENING ASSURANCES.** In accordance with ORC Section 3314.19, the Sponsor shall provide the following assurances in writing to ODE not later than 10 business days prior to the opening of the School's first year of operation or, if the School is not an internet- or computer-based community school and it changes the building(s) from which it operates, the opening of its first year in the new location(s):
 - a. That the Sponsor has filed a current copy of this Contract, and shall file any subsequent modifications to the Contract, with ODE;
 - b. That the School has submitted to the Sponsor a plan for providing special education and related services to students with disabilities and has demonstrated the capacity to provide those services in accordance with ORC Chapter 3323 and federal law;
 - c. That the School has a plan and procedures for administering the achievement and diagnostic assessments prescribed by ORC Sections 3301.0710, 3301.0712, and 3301.0715;
 - d. That the School's personnel have the necessary training, knowledge, and resources to properly use and submit information to all databases maintained by ODE for the collection of education data, including the statewide education management information system established under ORC Section 3301.0714 in accordance with methods and timelines established under ORC Section 3314.17;
 - e. That all required information about the School has been submitted to the Ohio education directory system or any successor system;
 - f. That the School shall enroll at least the minimum number of students required by ORC Section 3314.03(A)(11)(a) in the school year for which the assurances are provided;

- g. That all classroom teachers are licensed in accordance with ORC Sections 3319.22 through 3319.31, except for (1) non-certificated persons engaged to teach up to 12 hours per week pursuant to ORC Section 3319.301, and (2) if the School is a Montessori school as described in ORC Section 3319.261, holders of an alternative resident educator license pursuant to that Section;
- h. That the School's fiscal officer is in compliance with ORC Section 3314.011;
- i. That the School has complied with ORC Sections 3319.39 and 3319.391 with respect to all employees and that the School has conducted a criminal records check of each of its Governing Authority members;
- j. That the School holds all of the following:
 - i. Proof of property ownership or a lease for the facilities used by the School;
 - ii. A certificate of occupancy;
 - iii. Liability insurance for the School, as required by ORC **Section 3314.03(A)(11)(b)**, that the Sponsor considers sufficient to indemnify the School's facilities, staff, and Governing Authority against risk;
 - iv. A satisfactory health and safety inspection;
 - v. A satisfactory fire inspection; and
 - vi. A valid food permit, if applicable;
- k. That the Sponsor has conducted a pre-opening site visit to the School for the school year for which the assurances are provided;
 - i. That the School has designated a date it will open for the school year for which the assurances are provided that is in compliance with ORC Section 3314.03(A)(25);
 - ii. That the School has met all of the Sponsor's requirements for opening and any other requirements of the Sponsor; and
 - iii. That if the School operates using the blended learning model, as defined in ORC Section 3301.079, the Sponsor has reviewed the information provided in **ATTACHMENT 5**.

2. OTHER SPONSOR DUTIES. The Sponsor shall also perform the following:

- a. Monitor the School's compliance with all laws applicable to the School and with the terms of this Contract;
- b. Monitor and evaluate the academic and fiscal performance and the

organization and operation of the School on at least an annual basis;

- c. Report on an annual basis to ODE and to the parents of students enrolled in the School the results of the evaluation conducted regarding the academic and fiscal performance and the organization and operation of the School;
- d. Provide technical assistance to the School in complying with laws applicable to the School and terms of the Contract and other technical assistance programs specifically designed to meet the needs of the School;
- e. As it may determine necessary in accordance with this Contract, take steps to intervene in the School's operation to correct problems in the School's overall performance, declare the School to be on probationary status pursuant to ORC Section 3314.073, suspend the operation of the School pursuant to ORC Section 3314.072, or terminate this Contract pursuant to ORC Section 3314.07;
- f. Have in place a plan of action to be undertaken in the event the School experiences financial difficulties or closes prior to the end of a school year;
- g. Have a representative of the Sponsor review the enrollment and financial records of the School monthly;
- h. Make best efforts to notify the School upon receipt of communications with third parties concerning complaints about the School or the Governing Authority;
- i. Communicate with the Auditor of State regarding an audit of the school or condition of financial and enrollment records of the School and maintain a presence at any and all School meetings with the Auditor of State; and
- j. Update this Contract when appropriate to ensure consistency with changes in law.

E. COMBINING AND NOTING DATA ON STATE REPORT CARD. Pursuant to ORC Section 3302.03(I)(3), the Sponsor intends to exercise elections to (1) have data regarding the academic performance of students enrolled in the School combined with comparable data from schools operated by the Sponsor for the purpose of calculating the performance of the Sponsor as a whole on its state report card for each school year during the term of this Contract; and (2) have the number of students attending the School noted separately on the Sponsor's state report card for each school year during the term of this Contract. Pursuant to that Section, the Governing Authority approves both of these elections concerning combining and noting data on the Sponsor's state report card for each school year during the term of this Contract.

At all times, the School shall be entitled to its own separate state report card under state law, and nothing in this Section E shall operate to prevent the School from such right.

F. OTHER PROVISIONS.

1. **SCHOOL CLOSURE.** In the event that this Contract is not renewed or is terminated, or the School otherwise permanently closes and ceases its operation as a community school:
 - a. In accordance with ORC Section 3314.074, and consistent with ORC Chapter 1702, the assets of the School shall be distributed first to the retirement funds of employees of the School, next to employees of the School and then private creditors who are owed compensation, and then any remaining funds shall be paid to ODE for redistribution to the school districts in which the students who were enrolled in the School at the time it ceased operation were entitled to attend school under ORC Sections 3313.64 or 3313.65.
 - b. Employees of the School shall be kept informed of the closure process and timeline, including the implications for the availability of benefits to employees and former employees. If there is a collective bargaining agreement that applies, the layoff or other provisions of the collective bargaining agreement shall be followed. In the absence of a collective bargaining agreement, the School may elect to treat employees as laid-off or treat their positions as abolished. Expiring employee contracts may be non-renewed or terminated. Employment records shall be secured and made available to the Sponsor upon request.
 - c. The School and the Sponsor shall cooperate in good faith in implementing the closure protocol adopted pursuant to the Sponsor's policy on renewal, non-renewal, and termination of community school sponsorship contracts.
2. **TUITION.** In accordance with ORC Section 3314.08(F), the School may only charge tuition for out-of-state students.
3. **SPECIAL EDUCATION.** The School shall abide by all legal requirements under the federal Individuals with Disabilities in Education Act, 20 U.S.C. 1400 et seq., as amended from time to time, and all federal and state implementing law, rules and regulations, as amended from time to time.
4. **DISPUTE RESOLUTION.** Provisions establishing procedures for resolving disputes or differences of opinion between the Sponsor and the Governing Authority of the School are as follows:

All disputes arising out of or in connection with this Contract shall first be addressed at a meeting between a designated representative of the Sponsor and a designated representative of the Governing Authority. If those parties cannot resolve the dispute, the matter shall be submitted to the Cleveland Bar Association, with each party choosing three mediators. If there is an overlap among the respective choices, then that person shall serve as one of the three mediators, but if there is no overlap among the choices, then each party shall identify its first choice, and the two mediators so chosen shall select a third. The Parties shall make

every attempt to fully and finally resolve such disputes through mediation and shall equally split all fees or costs of any third-party mediator.

5. RENEWAL/NON-RENEWAL.

- a. The Governing Authority shall undergo a high-stakes review prior to contract renewal or at least every five years. The renewal process shall be conducted in accordance with the Sponsor's policy on renewal, nonrenewal, and termination of community school contracts and its renewal application, which shall be available on its website. Renewal shall be subject to the Sponsor's reasonable determination that the Governing Authority has complied with applicable law and terms of this Contract and that the School's progress in meeting the academic, organizational, and financial goals prescribed over the term of this Contract have been satisfactory.
- b. The Sponsor may choose to non-renew this Contract at its expiration for any of the following reasons:
 - i. Failure to meet student performance requirements;
 - ii. Failure to meet generally accepted standards of fiscal management;
 - iii. Material violation of any provision of this Contract or applicable state or federal law; and
 - iv. Other good cause, so long as in accordance with the criteria set out in the Sponsor's policy on renewal, nonrenewal, and termination of community school sponsorship contracts.
- c. No later than the 15th day of January in the year in which the Sponsor intends to non-renew the School's contract, the Sponsor shall notify the School of the proposed action in writing. The notice shall include the reasons for the proposed action in detail, the effective date of the termination or nonrenewal, and a statement that the School may, within 14 calendar days of receiving the notice, request in writing an informal hearing before the Sponsor.
- d. If the School does not intend to renew this Contract, the School shall notify the Sponsor in writing of its intent to not renew at least 180 days prior to the Contract's expiration, or otherwise in compliance with state law. The School also may terminate this Contract during any other contract year, upon at least 180 days prior written notice to the Sponsor; provided, however, that this annual right of the School to terminate the Contract shall only be effective if or after the current Chief Executive Officer of the Sponsor is no longer serving the Sponsor in that capacity. Non-renewal or termination of the Contract initiated by the School shall be effective on June 30 unless otherwise agreed to by the Parties.

6. TERMINATION.

- a. The Sponsor may choose to terminate this Contract prior to its expiration for any of the following reasons:
 - i. Extreme underperformance;
 - ii. An egregious violation of law;
 - iii. Violation of the public trust that imperils students' health and well-being or public funds; or
 - iv. Other good cause, so long as in accordance with the Sponsor's policy on renewal, nonrenewal, and termination of community school sponsorship contracts, including the Sponsor's suspension of the School's operation under ORC Section 3314.072.
- b. Unless the Sponsor has suspended operations of the School in accordance with ORC Section 3314.072 and its procedural requirements, a termination shall be effective only at the conclusion of the instructional year.
- c. The Sponsor shall notify the Governing Authority of the termination in writing. The notice shall include the reasons for the proposed action in detail, the effective date of the termination or nonrenewal, and a statement that the School may, within 14 calendar days of receiving the notice, request in writing an informal hearing before the Sponsor.

7. ASSIGNMENTS AND MODIFICATIONS. This Contract and its terms shall not be assigned or delegated without the written approval of the other Party. No modifications to this Contract shall be valid and binding unless signed by both the Sponsor and the Governing Authority and attached to this Contract.

8. FILING WITH ODE. This Contract shall be filed with ODE.

9. NOTICE. Any notice to one Party by the other shall be satisfied upon receipt, and delivered by personal delivery to the person being addressed or by certified mail, return receipt requested, to the following persons and addresses, except that a notice other than that required by Section F.5 or Section F.6 of this Contract may be delivered by email if receipt of such delivery is acknowledged by the recipient:

SPONSOR:
Matthew Rado
Executive Director of Charter Schools
Cleveland Municipal School District
1111 Superior Ave. E., Suite 1800
Cleveland, OH 44114

GOVERNING AUTHORITY:
Chair, Board of Directors
Near West Intergenerational School
3805 Terrett Ave.
Cleveland, OH 44113

10. **SEVERABILITY.** Should any term, clause or provision of this Contract be deemed invalid or unenforceable by a court of competent jurisdiction, all remaining terms, clauses and provisions shall remain valid and enforceable and in full force and effect, and the invalid or unenforceable provision shall be stricken and replaced with a provision as near as possible to the Parties' original intent.
11. **INTEGRATION CLAUSE.** This Contract, including all attachments or amendments, constitutes the entire agreement of the Parties with respect to its subject matter, superseding all prior understandings, agreements or communications, whether oral or written.
12. **SIGNATURE IN COUNTERPART.** Multiple signature pages shall be construed as one and facsimile signatures shall be construed as originals. Each Party shall attach a resolution of its board of directors approving this Contract.

[Signatures on the following page]

In Witness Whereof, the Parties have freely and voluntarily set their hands:

Cleveland Municipal School District

Eric S. Gordon, Chief Executive Officer

Date

Anne E. Bingham, Board of Education Chair

Date

Derek M. Richey, Chief Financial Officer

Date

Near West Intergenerational School

By: _____

Date

Printed Name: _____

Its: _____

_____ By checking here, the Governing Authority attests that this Contract has been reviewed by an attorney who is independent from the Sponsor and the operator or management company engaged by the Governing Authority, if any, in accordance with ORC Section 3314.036.