

MEMORANDUM OF UNDERSTANDING

between

LUCERNE VALLEY UNIFIED SCHOOL DISTRICT

and

INNOVATIVE EDUCATION MANAGEMENT, INC.

THIS AGREEMENT ("Agreement") is entered into as of Oct 6, 2016, by Lucerne Valley Unified School District ("District"), a school district organized under the laws of the State of California, and Innovative Education Management, Inc., ("Administrator"), a duly organized California non-profit public benefit corporation, in its own capacity and on behalf of Sky Mountain Charter School ["SMCS"], a charter school organized under the laws of the State of California.

WHEREAS, the District is authorized by the State of California under the Charter Schools Act of 1992 [Ed. Code §47600, et seq.] to grant a charter to charter school petitioners for the purpose, among others, of developing new, innovative and more flexible ways of educating students within the public school system;

WHEREAS, the District approved the original charter for SMCS ("Charter") on May 16, 2007, for a term of five (5) years; and has subsequently renewed the Charter for two additional five (5) year terms;

WHEREAS, pursuant to this Agreement and its Charter, SMCS shall be operated by Administrator; and,

WHEREAS, the District and Administrator desire to memorialize their agreement regarding the funding of SMCS, the statutorily prescribed supervisorial oversight of SMCS, the respective duties of the parties to this Agreement, and the administrative services to be provided by Administrator to SMCS,

NOW THEREFORE, the District and Administrator agree as follows:

1. Term. This Agreement shall commence on July 1, 2017, and shall automatically be renewed for an additional fiscal year commencing July 1, 2018 and on July 1 of each successive year, unless written notice of intent to terminate or renegotiate is given by the District prior to April 1, 2018 or by April 1 for each successive year during but not to exceed beyond the maximum term of the renewed Charter.

2. Charter School Duties, School Accountability. SMCS shall perform all functions that relate to the educational services offered by the Charter School, subject to the terms and

conditions set forth in this Agreement, its charter, the Charter Schools Act of 1992, and any other applicable federal and state law.

SMCS shall comply with Education Code section 47606.5, as that statute may be amended from time to time, as well as its implementing regulations, if any. SMCS' Local Control and Accountability Plan ("LCAP") shall be provided to the District on or before July 1 annually, unless a different date is established by law. SMCS may utilize the State Board of Education's template to submit its performance audit pursuant to this section. To the extent practicable, SMCS shall report LCAP data in a manner consistent with how information is reported on a school accountability report card.

3. Administrator's Duties, Authority, and Compensation. Administrator shall have the responsibility and authority, consistent with federal and state law, on SMCS's behalf to: (1) contract for goods and services with the District and/or any appropriate third party; (2) prepare budgets and establish, administer, and maintain checking and other financial accounts and administer and disburse the funds therein; (3) perform the personnel services outlined herein and in the Charter; (4) procure insurance; (5) lease or otherwise contract with any appropriate third party for the use of facilities for school purposes and the operation and maintenance thereof; (6) purchase, lease or rent furniture, equipment and supplies; (7) receive, accept, and expend gifts, donations or grants of any kind in accordance with such conditions prescribed by the donor as are consistent with law and are not contrary to any of the terms of this Agreement; (8) perform the business and financial administration of the school; (9) together with SMCS, establish and conduct an educational program and curriculum as provided in the Charter; (10) together with SMCS, conduct extra- and co-curricular activities and programs; (11) conduct professional development for all principals, instructional personnel, and non-instructional personnel; (12) select and acquire instructional materials, equipment and supplies; (13) exercise such other powers as are provided for elsewhere in this Agreement to the extent consistent with this Agreement; (14) take all such other actions as Administrator may be necessary or desirable to properly and efficiently manage and operate SMCS.

SMCS shall pay to Administrator as compensation for administrative services it provides hereunder and pursuant to SMCS' charter an administrative fee as specified in SMCS annual budget(s), and an additional fee as compensation for Special Education administrative services as specified in SMCS Special Education annual budget(s), or such other amounts for administrative fees and special education administrative fees as may be provided for in revised budget(s).

4. Transportation. The District shall not be responsible for paying any costs in connection with transporting SMCS students for any purpose whatsoever.

5. Food Services. SMCS shall not provide food services to pupils enrolled in SMCS. The District shall not be responsible for paying any costs in connection with food service for SMCS students for any purpose whatsoever.

6. School Site. In furtherance of its commitment to serve the educational needs of the local school community, SMCS shall establish and maintain an administrative office site on District property within the geographic boundaries of the District. The District shall select and provide a rent-free facility for administrative purposes only.

7. Pupil Records. Except for records of special education students, all pupil cumulative files, student work portfolios, educational contracts, immunization records, and attendance verification for pupils enrolled in SMCS shall be maintained by Administrator at a centralized location designated by Administrator. Special education records shall be maintained at the Special Education Office maintained by Administrator. All records and access thereto shall be maintained in accordance with Education Code sections 49076 et seq.

8. Fingerprint and Criminal Record Summary Services. Under the direction of Administrator, SMCS shall require all its subcontractors and vendors whose duties include contact with students to verify that they have complied with the requirements of Education Code section 45125.1. Under the direction of Administrator, SMCS shall make employee fingerprint verification information available to the District upon request.

9. Defense and Indemnity. Day-to-day management of SMCS shall be performed entirely at Administrator's risk. Administrator and SMCS shall defend and indemnify District and its officers, agents, servants, representatives and employees, and hold them harmless from and against all loss, including loss of use, liability damage, claims, demands, actions and proceedings, any claims arising out of ADA funding issues, and all costs and expenses connected therewith, of whatsoever cause or nature caused in whole or in part by any negligent act or omission of Administrator or SMCS, or any of their officers, agents, servants, representatives, employees or subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable.

10. Insurance. As provided for in the Charter, Administrator shall maintain during the term of this Agreement comprehensive liability and property damage insurance comparable with other public schools and/or non-profit organizations of a similar type and size, to insure the District, its officers, agents, servants, representatives and employees from all claims for personal injury, including accidental death, to any person, as well as from all claims for property damage arising from operations under this Charter, in minimum amounts as follows:

Public liability: \$3,000,000 per person and \$5,000,000 per occurrence;

Property damage: \$500,000 per occurrence and \$1,000,000 aggregate.

The insurance policies as required by the Charter shall include the following: (1) a clause stating "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to District stating date of cancellation or reduction. Date of cancellation or reduction may not be less than thirty (30) calendar

days after date of mailing notice;" (2) language stating in particular those insured, extent of insurance, locations and operations to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period; and (3) a statement that the District and its officers, employees and agents are named as additional insureds under this policy described and that such insurance policy shall be primary to any insurance or self-insurance maintained by the District.

11. Special Education Services. SMCS shall provide a free appropriate public education for all eligible children with disabilities attending SMCS in accordance with state and federal legal mandates and as required by individual students' IEPs, as specified in a separate Memorandum of Understanding between the parties.

12. Supervisory Oversight Fee. The Parties agree that the District will incur costs in connection with its performance of supervisory oversight of SMCS as required by law, and that it is not in the best interests of either Party to require a mechanical assessment, accounting, billing and payment process to compensate the District for such costs. The Parties further agree that the District is providing the Charter School with substantially rent-free facilities as referenced by Education Code section 47613(b). Therefore, the Parties agree that the actual cost of the District's supervisory oversight of SMCS is three percent (3%) of all "Revenue of the Charter School", as defined in Education Code section 47613 (f), which states that "revenue of the charter school" means the amount received in the current fiscal year from the local control funding formula calculated pursuant to Section 42238.02, as implemented by Section 42238.03. Should anything in this provision require revision based upon a change in the law or regulation, the Parties shall meet without delay to cooperatively revise the MOU to ensure that the fees for oversight are consistent with the law. The Parties further agree that should the District be required by law or requested by SMCS to perform services on behalf of SMCS outside of its statutory supervisory oversight functions and other than as outlined above regarding administrative services, it will incur additional costs or expenses, which SMCS agrees are not included within the services under the Oversight Fee. However, no cost will be imposed upon or accrued by SMCS without prior negotiation and agreement between SMCS and the District of the terms and cost of said services.

"Supervisory Oversight" as used in the Education Code section 47613 is defined in Education Code sections 47604.32 and 47604.33 to mean the District's performance of duties to include the following:

- Identifying at least one (1) staff member as contact person for SMCS;
- Visiting SMCS at least annually;
- Ensuring that SMCS complies with all reports required of charter schools by law;
- Monitoring the fiscal condition of SMCS;

-Providing timely notification, in accordance with the law, regarding whether the charter's renewal is granted or denied, the charter is revoked, or the charter will cease operation for any reason; and,

-Reviewing annual reports and assessing the fiscal condition of SMCS pursuant to Education Code section 47604.33.

13. Administrative Services. Administrator shall provide all administrative services to SMCS as may be required for the efficient operation of SMCS. These administrative services include, but are not limited to, all the powers, authority, and responsibilities set forth in Section 3 above, as well as the responsibility for administering processes and procedures related to pupil records, insurance, student discipline, state testing, pupil attendance, and compliance with external funding requirements.

14. Payment Schedule. SMCS shall pay the supervisorial oversight fee, and any administrative services fee in quarterly installments on the tenth day of July, October, January, and April of each school year covered by this Agreement.

15. Change in Level of Service Delivery. The District agrees to provide SMCS at least thirty (30) days written notification of any change in the delivery of services as provided herein.

16. SMCS Funding. SMCS shall receive all funding it is statutorily entitled to receive.

17. Direct Funding. SMCS has elected to receive funding from the State directly, pursuant to Education Code section 47651. The District shall comply with Education Code section 47635 in providing the Charter School with its share of local funding. However, the Parties understand that in the event that such funds are not timely received by the District due to processing delays at either the state or county level, such funds shall be provided to the Charter School as soon as practicable after such funds are made available to the District. The District recognizes the authority of SMCS to pursue additional sources of funding. Any application for funding by SMCS that depends on the support or creditworthiness of the District shall be presented to the District for its prior written approval.

SMCS is eligible for a general-purpose entitlement allocated through the Local Control Funding Formula ("LCFF") under Education Code sections 42238 *et seq.* In addition to LCFF funding, SMCS may continue to receive Block Grant Funding for eligible expenses from prior years consistent with state law. Except as otherwise noted in this Agreement, it shall be the responsibility of SMCS to apply for funding and to comply with the SB 740 process.

SMCS shall receive its funding in accordance with applicable law. Should anything in this MOU require revision based upon change in law or regulation, the Parties shall meet without delay to cooperatively revise the MOU to ensure consistency with the law. Any future revision of the Charter Schools Act to revise the manner in which charter schools

are funded shall not be interpreted to prevent SMCS' direct receipt of full funding in accordance with applicable law.

18. Mandated Costs. SMCS shall obtain a claiming number from the State Controller's Office for any funds spent by SMCS on mandated activities, and shall be allowed to complete and file its own mandated cost reimbursement claims. Monies received from mandated cost reimbursements shall not be included as "revenue" defined in paragraph 12 above for purposes of calculating any fee in this Agreement. SMCS shall reimburse the District for any funds spent by the District on mandated activities on behalf of SMCS. For any such expenditures, the District shall submit a mandated cost claim with the State and shall pass through to SMCS any reimbursement(s) it receives therefor from the State. Each party agrees to provide the other party a copy of each cost claim prior to submission of the claim.

19. Additional Funding Sources. SMCS shall receive funding from the California State Lottery. SMCS acknowledges that the Lottery funds per ADA may vary depending upon Lottery receipts and other factors. SMCS may also receive funding from new or "one-time" funding sources made available to schools or school districts by the State of California to the extent that SMCS and/or its pupils establish entitlement to any such funds. Upon request, the District shall provide SMCS with any non-confidential documents related to new funding requests and may assist SMCS in applying for any grant and/or additional funding source. Prior to securing any grant and/or additional funding, SMCS shall notify the District and provide a hold harmless, indemnification, or other mutually acceptable security arrangement with the District, reflective of the level of risk to the District for any repayment of any grants and/or additional funding.

20. Budget, Reports, and Inquiries. Under the direction of Administrator, SMCS shall prepare and submit to the District the following financial information:

No later than June 30 of each school year, a proposed budget for the upcoming fiscal year showing estimated revenues and expenditures based on identified and reasonable assumptions; and,

Every second month, financial reports displaying the financial status of SMCS.

In accordance with and in addition to responding to inquiries as required by Education Code section 47604.3, SMCS and Administrator shall immediately notify the District in writing of any request for special audits or information or any investigation by any federal, state or local government agency, or a grand jury. SMCS shall provide District with any and all requested information relating to any audit or inquiry, as District, in its sole discretion, may request. SMCS shall at all times keep District fully informed regarding all aspects of any such inquiry, investigation or audit and shall provide District ample notice of any meetings, conferences, or discussions, related to an inquiry, investigation, or audit, so that District has a timely opportunity to participate. District shall at all times have full access to any conclusions, findings, or reports related to any inquiry, investigation or audit.

21. Suspensions and Expulsions. SMCS shall ensure that pupils suspended from SMCS are provided with an appropriate alternative educational program during the period of the pupil's suspension from school. For any expellable act listed in Education Code 48900 et seq., and in the event the student(s) parents have not agreed to a stipulated expulsion, SMCS shall conduct its expulsion proceeding in accordance with the requirements of Constitutional due process of notice and opportunity to be heard. Whenever a pupil is expelled from SMCS, if the student is not a resident of the District, SMCS shall notify the pupil and the pupil's parents or guardians in writing of the pupil's duty to attend the school district in which the residency of either the parent or legal guardian is located. SMCS shall also notify the school district in which the residency of either the parent or legal guardian is located when the pupil is given notice of a pending expulsion for any expellable act listed in Education Code 48900 et seq.

22. District Reports. The District agrees to file all reports specifically required by law to be filed with the California Department of Education or any other state or federal agency by a local educational agency on behalf of the District and/or SMCS. SMCS shall promptly provide the District with any information, data, or documentation necessary for the District to timely file such reports in accordance with law. SMCS shall be responsible for filing all other reports as may be required by law.

23. Attendance Reporting and Other Data. SMCS shall develop and provide the District with a copy of its annual attendance calendar and, subject to District oversight and approval, establish and maintain an attendance reporting system to record and account for ADA as defined in Title V California Code of Regulations section 11960. SMCS will timely report ADA figures to District as necessary to enable the school to receive the funding specified in this Agreement. SMCS shall, upon reasonable written request, provide the District with a monthly attendance report of all pupils enrolled in SMCS, no later than the 15th calendar day of the following month. The District shall, upon its request, be provided with a password and access to Administrator's File Maker data base. SMCS shall submit enrollment and demographic information to the California Education Data System (CBEDS), CALPADS, or otherwise to the extent and in the manner specifically required by law or regulations applicable SMCS. Upon request, SMCS shall provide the District with documentation of the teacher/student ratio for SMCS.

24. State Mandated Testing. SMCS shall annually notify the District in writing at least sixty (60) calendar days in advance of the date and location of state mandated testing, and the total number of such tests SMCS expects to administer to SMCS pupils. Under Administrator's direction, SMCS shall provide the District with individual pupil and school-wide test results of all such tests separately tabulated for all pupils enrolled in SMCS, and shall institute measures to ensure the security of all testing materials.

25. Financial Statement and Records. Upon reasonable request, the District agrees to provide SMCS with documentation of all expenditures and costs allocated and billed to SMCS under the provisions of this Agreement.

26. Compliance with External Source Funding Requirements. SMCS shall comply with all terms and conditions of any external source funding requirements applicable to funding received by SMCS. SMCS shall expend such money solely on behalf of the designated students when so required by the funding source. SMCS shall provide documented evidence quarterly to the District that SMCS is in compliance with all such requirements, and shall provide the District with all reports, data, and information reasonably necessary for the District to meet any reporting, certification, or other requirements for such funding.

27. Dispute Resolution. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement or breach thereof the parties hereto shall act in good faith to settle the dispute, claim, question, or disagreement in accordance with the dispute resolution process prescribed in the Charter.

28. Charter Renewal. In the event SMCS seeks to renew the term of the Charter, SMCS shall submit a written petition for renewal to the District no earlier than 18 months prior to the termination date of the Charter. The District shall take action to grant or deny renewal request no later than its first regular board meeting in December of 2021.

29. Independent Contractor Status. The parties to this Agreement agree that the relationship between them created by this Agreement is that of independent contractors, and not employer/employees. No agent, employee, or servant of Administrator or SMCS shall be deemed to be an employee, agent or servant of the District, except as expressly acknowledged in writing by the District. No agent, employee, or servant of the District shall be deemed to be an employee, agent or servant of Administrator or SMCS, except as otherwise expressly acknowledged in writing by SMCS.

30. Construction and Enforcement. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

31. Entire Agreement. This Agreement and any attachments hereto shall constitute the full and complete agreement between the parties hereto. All prior representations, understandings and/or agreements are merged herein and are superseded by this Agreement.

32. Amendments. This Agreement may be altered, amended, changed, or modified only by written agreement between the parties hereto or their designees.

33. Invalidity of Provisions of this Agreement. If, for any reason, any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

34. Conflicts. In the event of a conflict between any provision of this Agreement with the Charter or with any rule, regulation or procedure of SMCS, or any federal and state law, the terms of the Charter and the terms of this Agreement, in that order of priority, shall control.

35. Nondiscrimination. Neither SMCS nor Administrator shall discriminate against any person or group thereof upon the basis of race, color, religion, sex, ancestry, physical and/or mental disability, marital status or national origin in the operation of SMCS.

36. Assignment. This Agreement shall not be assigned without the written consent of the other parties, provided however, the parties may delegate the performance, but not the responsibility for their respective duties hereunder.

37. No Waiver. No written waiver of any provision of this Agreement as agreed to by both parties, shall be deemed or shall constitute a waiver of any other provision, nor shall such waiver constitute a continuing waiver unless otherwise expressly agreed.

38. Survival. All representations, warranties and indemnities made herein shall survive termination of this Agreement.

39. Notices. All notices, consents, demands, or another communications for one party or the other required or permitted in this Agreement shall be in writing and shall be either personally delivered or sent by a nationally recognized overnight courier, telecopier or by registered or certified U.S. mail, postage prepaid, addressed as set forth below (except that a party may, from time to time, give notice changing the address for this purpose). A notice shall be effective on the date personally delivered, on the date delivered by a nationally recognized overnight courier, on the date set forth on the receipt of a telecopier or a facsimile, or upon the earlier of the dates set forth on the receipt of registered or certified mail, or on the fifth (5th) day after mailing.

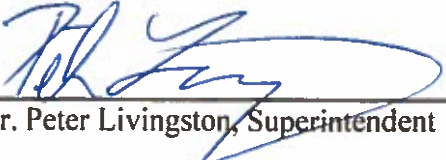
40. Attorney's Fees. Except as provided for in the Charter, in any action, proceeding or arbitration arising out of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs.

Date:

Date:

District
Lucerne Valley Unified School District
10790 Barstow Road
Lucerne Valley, CA. 92356
Phone: (760) 248-6108
Fax: (760) 248-6677
email: peter_livingston@lucernevalleyusd.org

Administrator
Innovative Education Management, Inc.
4535 Missouri Flat Road, Ste. 1A
Placerville, CA 95667
Telephone: (530) 295-3566
Fax: (530) 295-3583
email: jjones@ieminc.org


Mr. Peter Livingston, Superintendent

Dr. Jason Jones, CAO