

CHARTER SCHOOL CONTRACT

THIS CHARTER SCHOOL CONTRACT ("Contract"), dated this 3rd day of November 2005, is made and entered by and between the FALCON SCHOOL DISTRICT 49 ("School District") and BANNING LEWIS RANCH ACADEMY ("BLRA").

RECITALS

WHEREAS, the Colorado General Assembly has enacted the Charter Schools Act ("Act"), C.R.S. §§ 22-30.5-101 *et seq.*, for certain purposes as enumerated in § 22-30.5-102(2) and (3); and

WHEREAS, the School District Board of Education ("Board of Education") received a charter application ("Application") attached as Exhibit A, from BLRA, for the establishment of a BLRA as a charter school in the District; and

WHEREAS, on October 6, 2005, the Board of Education conditionally approved the Application submitted by for the establishment of BLRA as a charter school to commence the 2006-2007 school year; and

WHEREAS, the Parties now desire to approve the BLRA charter and the Contract in accordance with the terms stated herein.

NOW, THEREFORE, in consideration of the foregoing Recitals and their mutual understandings, covenants, and promises, the Parties agree as follows:

AGREEMENT

1.0 Mission Statement. The mission/vision statement contained in the Application is approved by the School District to the extent that it is consistent with the principles of the General Assembly's declared purposes for enacting the Act as set forth in C.R.S. § 22-30.5-102(2) and (3). The mission statement may be modified from time to time by BLRA's Governing Board and be submitted to the School District for review with any substantial or material changes being subject to approval by the School District.

2.0 Goals, Objectives, and Pupil Performance Standards. The goals, objectives and pupil performance standards set forth in the Application are accepted by the School District, as amended by this Contract, and subject to the conditions set forth below.

2.1 Student Attendance, Conduct, and Discipline. BLRA may adopt its own student discipline code, subject to prior approval by the School District, which approval shall not be unreasonably withheld so long as such code meets the minimum

requirements of state and federal law. Until such code is developed and approved by the School District or a waiver is granted by the Board of Education, BLRA students shall comply with all School District policies and regulations concerning student attendance, standards of conduct, and discipline. BLRA's Principal and Governing Board are the Board of Education's designees for matters of suspension, to include extended suspensions consistent with C.R.S. § 22-33-105(2)(a). In such matters, appeal may be made to the BLRA Governing Board. In cases where expulsion is either mandated by law or otherwise indicated, the cases shall be referred to the School District's designee. Any general education services required by law to be provided to suspended or expelled students shall be the sole responsibility of BLRA. Any special education and related services required by law to be provided to suspended or expelled students shall be the responsibility of the School District as set forth below. The Board of Education shall have final authority regarding appeals in student expulsion cases.

2.1.1 Attendance of students at BLRA shall be in compliance with Colorado's compulsory attendance laws including but not limited to hour requirements and the distinction made between excused and unexcused absences.

2.2 Student Welfare and Safety. BLRA shall comply with all Board of Education-approved policies and regulations (unless waived) and shall comply with all applicable federal and state laws concerning student welfare, safety, and health, including, but not limited to, Board of Education policies and laws addressing the reporting of child abuse, accident prevention and disaster response, and implementation of a Safe School Plan, as required by C.R.S. § 22-32-109.1(2), and any state regulations governing the operation of school facilities.

2.3 Identification of Academically Low-Achieving and At-Risk Students. BLRA shall identify academically low-achieving, at-risk students and "exceptional children," as defined in regulations adopted by the State Board of Education ("State Board"), and shall provide its educational program to these students in a manner that best serves their needs as set forth in the Application and this Contract.

2.4 Accountability and Accreditation. BLRA shall operate under the auspices of, and be accountable to, the School District and the Board of Education, and shall be subject to all Board of Education-approved policies and regulations, unless specifically waived, as such may exist from time to time. BLRA shall comply with the educational accountability provisions of Colorado law, as amended from time to time, including without limitation, the Educational Accountability Act of 1971, C.R.S. §§ 22-7-101 *et seq.*; the Educational Reform Act, C.R.S. §§ 22-7-401 *et seq.*; the School Accountability Reporting Act, C.R.S. §§ 22-7-601 *et seq.*; the Educational Accreditation Act of 1998, C.R.S. §§ 22-11-101 *et seq.*, the State Board's Accreditation Rules, 1 CCR 301-1, and the terms of any Accreditation Contract between the School District and the State Board, as amended from time to time. BLRA shall take action compatible with

applicable School District procedures, goals, and objectives, including but not limited to any improvement plan developed by the School District on or before September 1 of each year. Action shall include, but not be limited to, a School Improvement Plan, parent surveys evaluating BLRA in its delivery of educational services, and student testing results on the CSAP examination and any other assessments required by state law or School District policy, unless waived.

2.4.1 As is required of schools in the School District, BLRA shall maintain a rating of average or above, as demonstrated on any school accountability report issued by the State. If BLRA receives a rating of low or below on any school accountability report issued by the State following the implementation of this Contract, the School District shall be entitled to request a corrective action plan as otherwise provided in Paragraph 8.12. Should BLRA receive a rating of low or below on any school accountability report issued by the State for two consecutive years, the School District may compose an administrative team to work with BLRA to amend, refine, or better implement a corrective action plan agreed upon by both Parties, except that should BLRA receive two consecutive ratings of unsatisfactory at any time or three consecutive low ratings, the Board of Education may deem that such ratings constitute a material breach of this Contract, grounds for termination of this Contract, and/or grounds for denying any further renewal.

2.4.2 No Child Left Behind Act. BLRA agrees and understands that it has a duty to comply with the applicable provisions of the No Child Left Behind Act, 20 U.S.C. §§ 6301 *et seq.*, as amended, and its implementing regulations.

2.5 Use of Constitutional One Percent Funding. Attached as Exhibit C is BLRA's written plan, required by C.R.S. § 22-30.5-105(2)(b)(I), specifying how it will use the one percent increase in the statewide base per pupil funding, provided by Section 17 of Article IX of the Colorado Constitution, to raise student achievement. By May 1 of each year of this Contract, BLRA shall review and revise such plan for the following school year as well as any other report required by the State for submission to and approval by the School District.

3.0 Community Support. The Board of Education anticipates that sufficient support exists for the approval of BLRA as a charter school. By January 15, 2006, BLRA will submit a "minimum enrollment budget" that identifies the threshold for successful financial operations. By May 1, 2006, BLRA shall demonstrate that at least two-thirds of the number of students needed for the minimum enrollment budget have completed preliminary enrollment requirements. Failure to satisfy the foregoing requirements shall release the School District from any obligation to provide funding to BLRA and may be treated as a material breach of this Contract.

4.0 Statement of Need. [repealed — intentionally left blank]

5.0 Educational Program, Pupil Performance Standards, and Curriculum. The educational program, pupil performance standards, and proposed curriculum set forth in the Application, the attached Exhibit D, as well as the reports of progress to be submitted to the Board of Education, are to inform the Board as to the nature of the educational program offered by BLRA. The educational program is approved subject to the conditions set forth below. BLRA's educational program as reviewed by the Board of Education and contained in the Application does not include an on-line program pursuant to C.R.S. § 22-33-104.6, and BLRA shall not offer an on-line program during the term of this Contract.

5.1 Curriculum. BLRA shall have the authority and responsibility for refining the design and implementation of its educational program, subject to the conditions of this Contract, in a manner consistent with state law, including without limitation, requirements regarding content standards.

5.1.1 The educational program, pupil performance standards, and curriculum designed and implemented by BLRA shall align and meet or exceed any content standards adopted by the School District and shall be designed to enable each pupil to achieve such standards.

5.1.2 On or before May 1 of each year, BLRA will provide to the School District written information about new or materially-modified curriculum or program delivery systems anticipated to be offered during the ensuing school year. BLRA shall provide evidence reasonably acceptable to the School District of the complete scope and sequence of such program of instruction. The intent of this requirement is to ensure that students of BLRA continue to have sound educational foundations that meet or exceed state-approved content standards for applicable courses.

5.1.3 BLRA agrees to comply with all state statutory requirements concerning subjects of instruction, unless specifically waived by the Board of Education and the State Board, including, without limitation, instruction in the areas of state and federal history and civil government, C.R.S. § 22-1-104; honor and use of the United States Flag, C.R.S. § 22-1-106; the federal Constitution, C.R.S. § 22-1-108; and the effect of using alcohol and controlled substances, C.R.S. § 22-1-110.

5.1.4 The Board of Education and BLRA understand the need for a comprehensive public grievance resolution process including complaints regarding curriculum. Prior to the beginning of the 2006-2007 school year, BLRA will adopt and distribute to the parents or guardians of its students a written policy for resolving public complaints. The Governing Board of BLRA shall hear the final administrative appeal on such matters.

5.2 Records.

5.2.1 BLRA shall comply with all record-keeping requirements of the Board of Education and federal and state law and shall provide any reports as necessary to meet the School District's reporting obligations to the State Board, Colorado Department of Education ("CDE"), U.S. Department of Education or other governmental entities. The School District and BLRA shall cooperate in the preparation of a list and schedule of such reports to assist BLRA in complying with these requirements.

5.2.2 BLRA shall comply with all Board of Education-approved policies and regulations, and applicable federal and state laws, concerning the maintenance, retention, and disclosure of student records, including, without limitation, the Colorado Public Records Law, C.R.S. §§ 24-72-204 *et seq.*, and the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g. The Board of Education, its Superintendent, and their designees (whom the School District has determined to have legitimate educational interests) shall have access to all records of BLRA in the same manner as they would have access to the records of any other public school in the School District. Student records include, without limitation, immunization records, class schedules, records of academic performance, disciplinary actions, attendance and standardized test results, and documentation required under federal and state law regarding the education of students with disabilities.

5.3 Nonreligious, Nonsectarian Status. The educational program of BLRA shall be nonreligious, nonsectarian, and, consistent with applicable law and School District policy, shall not discriminate against any student on the basis of race, creed, color, national origin, sex, marital status, religion, ancestry, or disability.

5.4 Enrollment.

5.4.1 Enrollment shall be open to any child who resides within the School District and to any child who resides outside the School District, subject to compliance with Colorado public schools of choice statutes, Board of Education policy, and this Contract. Students shall be selected from BLRA's wait list by lottery, giving priority in the following order: (1) students resident in the BLRA attendance area; (2) siblings of students currently enrolled in BLRA; (3) students resident in the District, and (4) non-District residents. BLRA will follow District Policies JC, JFBA, and JFBA-R (as in existence on the date of this contract), regarding enrollment, provided that: (1) BLRA's attendance area will be defined by the boundaries of the Banning-Lewis Ranch Development; (2) BLRA will make all administrative and board decisions required to implement Policies JC, JFBA, and JFBA-R; and (3) Students admitted to BLRA shall be allowed to continue in the program until they withdraw, are expelled, or matriculate.

5.4.2 The BLRA building will have a maximum capacity of 810 students. To insure that student enrollment does not exceed building capacity, the parties agree that BLRA under no circumstances shall BLRA enroll more than 810 students without the prior approval of the Board of Education. BLRA further agrees that it will make a good faith effort to maintain an ideal student enrollment as close as possible to 675 students and that this element of its performance shall be reviewed every five years in accordance with 8.11, below.

5.5 Admissions Procedures. Students shall be considered for admission into the program in all cases without regard to race, creed, color, national origin, sex, religion, ancestry, or disability. Denial of admission shall be handled in a manner consistent with state law and School District policy and regulation.

5.6 Education of Students with Disabilities. BLRA agrees to comply with all Board of Education-approved policies and regulations and the requirements of federal and state law concerning the education of children with disabilities by providing special education and related services. The Parties hereby acknowledge that delivery and administration of special education and related services, and payment therefor, will follow the "insured model" under C.R.S. § 22-30.5-112(2)(a.8), unless the parties negotiate "alternative arrangements for the provision of and payment for" such services. The parties hereby mutually commit to ongoing good faith negotiation under this statutory provision, with a goal of adopting an addendum to this contract, no later than January 15, 2006, that will: (1) identify the special education or related services to be provided directly by the charter school; (2) identify the special education, related services, administration, legal defense and/or other aspects of special education to be provided by the school district; (3) identify the appropriate allocation of special education funding and school and district financial responsibility corresponding to the agreed division of service responsibility; and (4) correspond to the revised, balanced budget to be submitted by the charter school on January 15, under 3.0, above. The addendum to be adopted shall modify this section 5.6 and may modify 2.1, 5.6.2, 7.1.5, 7.2.1.2, 7.2.7 or other provisions of this contract. The Parties hereby acknowledge that a failure to agree on an alternative arrangement to the insured model will not constitute a unilateral imposition of conditions or otherwise invoke any dispute resolution process.

5.6.1 Following enrollment of a District resident student, BLRA and the School District shall determine whether the student has been identified as a child with disabilities. If so, BLRA shall obtain a copy of the student's individualized educational program ("IEP"). A properly constituted IEP team shall be convened to determine whether BLRA is an appropriate placement for the student, and if so, what services are to be provided by BLRA teacher and what services will be provided by the School District.

5.6.2 If a student with disabilities who is not a resident of the School District applies for admission to BLRA, enrollment acceptance is contingent upon an appropriate IEP team meeting being convened to determine if a free appropriate public education is available for the student at BLRA. The student will not be accepted as a student at BLRA if the IEP team finds that a free appropriate public education is not available for the student at BLRA. If the nonresident student with disabilities is one for whom tuition may be charged or excess costs collected, the School District is entitled to collect said monies on behalf of BLRA.

5.6.3 BLRA shall remain solely responsible for the costs of providing those services required under an IEP that are typically provided by regular classroom teachers through the normal classroom program, including without limitation, the cost of the classroom teacher, typical classroom supplies, and services and supplies generally made available to all students. BLRA shall be responsible for ensuring that its employees properly carry out the applicable requirements of each IEP.

5.7 Section 504 and English Language Learners. As a recipient of federal funds, BLRA is responsible for complying with the provisions of Section 504 of the Rehabilitation Act of 1973 as to students with disabilities who qualify for protections thereunder and Title VI of the Civil Rights Act of 1964 as to students who are not native speakers of English who qualify for protections thereunder. BLRA also agrees to follow School District policy in identifying students who are English Language Learners and to provide them appropriate educational services. The School District will provide such services at cost to BLRA or will consider BLRA's plan to provide services to ELL students at its site (approval of which will not be unreasonably withheld). If BLRA provides such services directly, it will be eligible for the allocation of funds back to BLRA not to exceed any amounts charged to BLRA under the ELL insured model for that budget year and categorical funds, if any, generated by services provided to such students.

5.8 Tuition and Fees. BLRA may not charge tuition to students who reside in the School District, except for before/after school programs, intersession programs, pre-school programs, summer programs, or extended kindergarten programs administered by BLRA. If BLRA enrolls a nonresident student with disabilities, the School District shall collect from the school district of residence tuition for excess costs incurred in educating the child, pursuant to CDE guidelines developed in accordance with C.R.S. § 22-20-109(5). Student fees may be charged by BLRA so long as they are in accordance with applicable Colorado law and regulations, including but not limited to, the provisions of C.R.S. §§ 22-32-110(1)(o) and (p) and 22-32-117. BLRA shall provide the School District with a schedule of any changes in fees for the ensuing school year by May 1 of each year.

5.9 Extracurricular Activities. Subject to the provisions of C.R.S. § 22-32-116.5 and this Contract, BLRA students who meet the prerequisites for participation may try out for nonacademic activities, not offered at BLRA, at another school in the School District or as otherwise permitted by state law. BLRA and the BLRA student shall comply with all applicable rules of the School District and the school of participation, all eligibility requirements, and all responsibilities and standards of conduct, including related classroom and practice requirements. Where such participation requires the payment of a fee, BLRA or the student shall be responsible for payment of any such fees which shall not exceed 150 percent of the fee amount the school of participation would charge an enrolled student to participate in the activity.

6.0 Evaluation of Pupil Performance and Procedures for Corrective Action. The Board of Education acknowledges BLRA's potential use of multiple tools for assessment of student performance including its use of CSAP as the standardized achievement test used for assessment. BLRA shall cooperate with School District administrators to coordinate testing and reporting of CSAP and other state or federal required test data with the School District's statistical reporting needs. BLRA shall conduct all State-required standardized testing using forms and schedules prescribed by the School District and to otherwise implement any testing requirements or assessments necessary to meet the School District's obligations under Colorado law including, without limitation, the Educational Accountability Act and the Educational Accreditation Act and the provisions of the No Child Left Behind Act, 20 U.S.C. § 6311(b)(3). BLRA shall pay to the School District the pro-rata costs associated with all such tests and assessments such as, but not limited to, the cost of test booklets and the scoring and tabulating results.

6.1 Time Line. BLRA agrees to follow its timeline for achieving its goals as stated in the Application.

6.2. With respect to each subject area not tested under the Colorado Student Assessment Program ("CSAP") for which the School District has developed assessments designed to measure achievement of standards, BLRA shall administer the same assessments on the same schedule as the School District. In addition, BLRA shall also participate in the other normed assessments that the District uses to measure student performance.

7.0 Economic Plan, Budget, and Annual Audit. The proposed balanced budget for the initial five-years of the charter (2006-2007, 2007-2008, 2008-2009, 2009-2010, and 2010-2011) is attached hereto as Exhibit E and incorporated herein by reference. This budget shall be updated and, as revised, deemed incorporated herein as provided in 3.0 above.

7.1 Funding.

7.1.1 Subject to the provisions of this Section 7.1, Paragraph 5.4, and any other applicable provisions herein, the School District shall provide per pupil funding for BLRA during the first year of this Contract (commencing with the 2006-2007 fiscal year) in the amount of one hundred percent (100%) of the School District per pupil revenues ("PPR"), as defined by C.R.S. § 22-30.5-112(2)(a.5)(II). The foregoing funding amount shall include the one percent (1%) increase in state base per pupil funding as provided by Colo. Const. art. IX § 17 and required by C.R.S. § 22-30.5-112(2)(a)(III)(B). For purposes of calculating enrollment, kindergarten students shall count as one-half of one funded FTE pupil. The term "funded Student FTE," as used in this paragraph, shall be deemed to mean a full-time equivalent student enrolled as of the counting dates or periods and set forth in the Public School Finance Act of 1994, C.R.S. §§ 22-54-101 *et seq.* ("Finance Act"), or corresponding provisions in any successor acts and State Board regulations. The Parties agree that funding levels provided for in this Contract, including the purchased services and allocated costs, comply with the financing guidelines of the Act.

7.1.2 Subject to the School District's rights and remedies at law or in equity and as otherwise provided in this Contract, as long as BLRA is in existence as a school chartered by the School District, any funding provided by the School District will be made available to BLRA throughout the year, at times generally consistent with the School District's procedures for its other schools in twelve (12) equal installments payable on or about the 25th of each month, beginning in July of each school year. The first payment shall be based upon the number of student FTE's enrolled as of May 1 of the preceding year (or, for the first year, included in the May 1 count submitted to the District). Funding under this Contract shall commence on July 1, 2006, for the first year and on July 1 in each year of term thereafter, subject to adjustments, deductions, and set-offs for purchased services or other amounts as provided in this Contract.

7.1.3 On or before February 15 of each year of the Charter, BLRA and the School District will begin negotiations in conjunction with the School District's and BLRA's budget development and adoption process concerning funding for the ensuing fiscal year. In future fiscal years, it is agreed that the amount of funding (revenue) provided to BLRA from the School District shall not be less than one hundred percent (100%) of the School District's PPR multiplied by the number of funded Student FTE's enrolled in BLRA subject to adjustments and deductions negotiated under this Contract.

7.1.4 During each year this Contract is in effect, the School District will adjust the funding to reflect the actual funded FTE pupil count as of October 1, subject to the building capacity. The parties acknowledge that under the current version of the School Finance Act, neither BLRA nor the School District will receive funding for students in the year of enrollment if the student first enrolls in BLRA or the School

District after the October 1 count date. Any adjustments in funding will be made in a single lump sum or in installments in the same manner as the School District is funded, to be paid to or deducted from BLRA no later than the next monthly payment after receipt by or deduction from the School District. In addition, to the extent the School District experiences any reduction or increase in state equalization support by a legislative rescission or other action, proportionate reductions or increases will be made to BLRA by adjustment or set-off in subsequent monthly payments.

7.1.4.1 Each party desires to purchase instructional services from the other as permitted by C.R.S. § 22-30.5-112(2)(b) for students who transfer between charter and non-charter schools after October 1 each year. In order to reasonably determine whether such compensation is due, and, if so, the amount thereof, on the first school day following February 1 of each year:

§ BLRA shall identify all full and part-time students enrolled in BLRA on such date that were enrolled in the School District (but not BLRA) on the October 1 count date; and

§ the School District shall identify all full and part-time students enrolled in the School District on such date that were enrolled in BLRA on the October 1 count date.

Each February count shall be conducted according to CDE's regulations and standards applicable to the annual October 1 count and shall identify whether a student was or was not included in BLRA's October 1 count. BLRA and the School District shall each submit its count and any supporting documentation to the other on or before February 15 of each year. On or before March 15 of each year, the School District shall issue a written report to BLRA identifying the students transferred between them according to the February count. If the net number of students who have transferred from BLRA to the School District, less the number who transferred from the School District to BLRA, is within three percent, plus or minus, of BLRA's October 1 funded pupil count no adjustment shall be made to the payment. If the net transfer exceeds three percent, then for each such student transfer (and not simply the number of students in excess of the three percent standard), the party which initially counted the student shall pay the other .5 (50 percent) of the per pupil revenues and .5 of any other applicable revenues received for such student as compensation for instructional services provided to the student by the receiving party.

7.1.5 The School District will credit BLRA for a proportionate share of funding provided under the Exceptional Children's Educational Act, C.R.S. §§ 22-20-101 *et seq.*, and the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1401 *et seq.* ("IDEA") for special education, and under the English Language Proficiency Act,

C.R.S. §§ 22-24-101 *et seq.*, for students who are second language learners, and other federal and state grant sources. The credit may be effected by reducing the overall cost of special education and ELL services of the School District to determine a "net" cost, or by allocating such funds to BLRA to the extent it is providing such services. BLRA may apply for state and federal funding, if any, that is provided for gifted and talented students and for other state and federal categorical programs on the same basis as other School District schools, to the extent that BLRA is serving students who are eligible for such aid; complies with the conditions and requirements of such programs and applicable law; fulfills the reporting requirements under such programs; and is not purchasing such services under such programs from the School District where the cost has been determined on a "net" basis.

7.1.6 Requests by BLRA to fund necessary capital construction projects through ballot questions for approval of bonded indebtedness and/or a special mill levy shall be submitted in writing (with a capital construction plan as specified in C.R.S. § 22-30.5-404(3) and other supporting documentation) to the School District as far in advance of the November election date as possible, and in no event later than June 1 of the election year. Such requests shall be considered and action thereon shall be taken in accordance with governing law. As provided in the Charter Schools Act, funding to BLRA under this Contract shall be reduced by the amount of any direct payments of principal and interest due on any bonds that may be issued on behalf of BLRA by a governmental entity other than the School District for the purpose of financing capital construction that were made by the State Treasurer or the School District on behalf of BLRA, plus administrative costs associated with the making of such direct payments.

7.2 Budget.

7.2.1 Funded Enrollment. The budget for the first year will be based upon a projected enrollment of Student FTE's and grade-level configuration with teacher FTE's that will ensure that BLRA will not incur a deficit.

7.2.1.1 On or before May 1, 2007 and each year thereafter, BLRA shall identify the total Student FTE's enrolled (subject to the enrollment cap described in paragraph 5.4.2 herein) and provide to the Board of Education its proposed balanced budget for the upcoming fiscal year. The projected BLRA balanced budget when accepted by the Board of Education for each fiscal year will be attached and incorporated into this Contract as an exhibit, and will be subject to adjustment based upon current state-funding data as it becomes available during the budget adoption process. The budget format used by BLRA shall be consistent with the requirements of applicable Colorado law (currently CDE-18) and the School District. The budget may be modified prior to October 1 of each year so long as it continues to present a balanced financial plan, consistent with this Contract and state law, to provide the instructional

services represented by BLRA. Any modified budget shall be submitted to the School District Superintendent or designee.

7.2.1.2 The budget shall appropriately account for the school's responsibility to provide and/or pay for special education services as otherwise provided by agreement of the parties.

7.2.2 Central Administrative Overhead Costs. In BLRA's budget for the first year, and each year thereafter, an allowance equal to the previous years actual percentage of total per pupil revenues ("PPR") of School District PPR used for central administrative overhead costs shall be included in the BLRA budget for central administrative overhead costs, as defined by C.R.S. § 22-30.5-112(2)(a.5)(I), and retained by the School District from the funding provided to BLRA. The central administrative overhead costs and other purchased services shall be reconciled to actual costs detailed by line item within 90 days after the end of the fiscal year as required by C.R.S. §22-30.5-2112(2)(a.4)(I), and any difference between the amount initially charged to BLRA and the actual costs shall be paid to the owed party.

7.2.3 Tabor Reserve. In BLRA's budget for the first year, and each year thereafter, the three percent (3%) TABOR reserve shall be included in the budget. By June 30th of each fiscal year, BLRA's, ending fund balance must comply with the emergency reserve requirements of Article X, Section 20 of the Colorado Constitution.

7.2.4 Purchased Services. BLRA's budget for the first year, and each year thereafter, will identify, with as much specificity as is consistent with CDE's recommended budgeting requirements and the Financial Policies and Procedures Manual, the services to be purchased by BLRA, either from the District or third-parties. Other than SASI, BLRA will handle its own purchasing (consistent with state law and District policy), payroll, benefits (including unemployment and workers compensation), and accounting (consistent with state chart of accounts and other requirements of CDE as well as applicable law).

7.2.4.1 BLRA shall be responsible for all costs associated with its school operations, including the cost of contracting for goods and services. The following services may be purchased by BLRA from the School District at cost during the term of this Contract: property, casualty and liability insurance, health services; instructional services; staff development; business services; media services; maintenance services; food services; assessment; and accountability/volunteer program. If BLRA does not purchase these optional services from the School District, it shall be responsible for performing those activities or services itself, in the manner required by law for other schools in the School District.

7.2.4.2 Annually, when adopting its budget, or as soon thereafter as the costs thereof have been provided to BLRA by the School District and in no case later than May 1 of each year, BLRA will commit to purchasing certain services from the School District for the entire ensuing budget year. Costs of services shall be adjusted annually by the School District based upon its adopted budget for the ensuing fiscal year and shall be reconciled annually, at either party's option, to actual costs within ninety (90) days after the end of each fiscal year to the extent contemplated by C.R.S. § 22-30.5-112(2)(a.4) and any difference between the amount initially charged to BLRA and the actual cost shall be paid to the owed party. All services are based on a per pupil allocation. Transportation services are not provided under this Contract subject to Section 11.0 below.

7.2.5 Capital Reserve. For the 2006-2007 budget year and budget year thereafter, BLRA shall annually allocate the minimum per pupil dollar amount specified in C.R.S. § 22-54-105(2)(b) multiplied by the number of students enrolled in the charter school, to a fund created by the charter school for capital reserve purposes, as set forth in C.R.S. § 22-45-103(1)(c) and (1)(e) or solely for the management of risk-related activities, as identified in C.R.S. § 24-10-115, and Article 13 of Title 29, C.R.S., or among such allowable funds. These monies shall be used solely for the purposes set forth in C.R.S. § 22-45-103(1)(c) and (1)(e) and may not be expended by BLRA for any other purpose.

7.2.6 Defense of Claims. The School District shall provide legal services through the School District's legal counsel for defense of suits, actions, and claims against BLRA for which the School District provides insurance coverage. Such legal services shall not be provided for the defense of matters involving disputes between BLRA and the School District. As a condition of the School District's obligation to defend, BLRA agrees to comply with guidelines and directives from the School District's Risk Manager and promptly notify the School District of all claims including threatened or reasonably anticipated claims or actions; cooperate fully with the School District and legal counsel in defending the claim; and refrain from compromising, settling, negotiating, or otherwise similarly dealing with the claim without express consent of the Board of Education. BLRA acknowledges that in the event of a dispute between BLRA and the School District, the School District's legal counsel shall represent the School District and not BLRA with respect to such dispute. Any potential conflict arising from the representation of BLRA by the School District's legal counsel shall be resolved in accordance with the Colorado Rules of Professional Conduct.

7.2.6.1 If BLRA elects not to contract with the School District for the performance of fingerprinting and background checks required by law, BLRA shall assure that such fingerprinting and background checks are conducted in accordance with state law and shall provide to the School District, upon its request, documentation establishing such compliance.

7.2.6.2 If BLRA elects not to contract with the School District for student health services, BLRA shall provide hearing and vision screening in accordance with the requirements of state law and support any accommodations for chronic health conditions required under federal and state law. BLRA shall further assure compliance with state law and School District policy/regulation regarding immunization of students, that medications are administered in accordance with state law, and that health services are provided in accordance with the Nurse Practice Act. C.R.S. §§ 12-38-101 *et seq.*

7.3 Financial Records and Annual Audit. Financial statements are to be submitted to the School District quarterly. BLRA agrees to establish, maintain, and retain appropriate financial records in accordance with all applicable federal, state, and local laws, rules, and regulations, and make such records available to the School District as requested from time to time; provided that, for those services that the School District agrees to perform under this Contract, the School District will maintain and make available such records. BLRA agrees to cooperate in an independent, outside audit by a certified public accountant of its financial and administrative operations on an annual basis. The BLRA audit shall be performed by the School District's independent auditors in conjunction with the audit of the School District itself. BLRA agrees to provide all relevant information to the auditors by September 30 of each year and to cooperate in finalizing the audit on or before October 20. The results of the audit shall be provided to the School District in written form within the same statutory time limits required of the School District and shall be published and posted as required by law. Any cost associated with the audit of BLRA shall be added to the amount designated on Exhibit F for purchased Business Services. If Business Services are not purchased by BLRA, the auditors may charge an additional fee at reasonable market rates to be negotiated between BLRA and the auditor for the annual audit and a separate audit report. This charge will be paid by BLRA. In the event BLRA fails to provide the financial information to the School District in the form and on the dates provided for in this Contract or as otherwise required by the state or federal government, the School District, after providing notice to BLRA, may withhold up to ten percent (10%) of any payment due the school until such time as BLRA complies with the financial reporting requirements.

8.0 Governance and Operation. The Governance and Operation section of the Application concerning the nature and extent of parental, professional educator, and community involvement in the governance and operation of BLRA is acceptable to the School District to the extent permissible under federal and state law and subject to all conditions of this Contract and to the policies and regulations of the School District, as amended and adopted from time to time (except to the extent waived by the Board of Education as provided in this Contract). In addition, the Application is amended as follows, which amendments and other provisions of this Contract shall supersede and control over any conflicting language contained in the Application. BLRA shall provide training and orientation for each member of its Governing Board in matters concerning

responsibilities for governance and operation as provided in this Contract, BLRA's bylaws, relevant policies, and applicable law. The School District may require BLRA to provide documentation from time to time during the term that such orientation and training has occurred. BLRA shall further adopt, no later than December 15, 2005, such resolutions and/or amendments to its articles and/or bylaws as may be necessary or appropriate to effectuate a rule that each member regularly appointed to the Board by other Board members (that is, neither elected by parents, nor appointed to fill a vacancy in a parent-elected seat) must have at least five years of experience in managing within an appropriate educational or business organization with at least ten (10) persons under their supervision.

8.1 Conflict of Interest. Members of the BLRA Governing Board and other committees of BLRA shall comply with state law and Board of Education policies and regulations regarding ethics and conflicts of interest.

8.2 Nonreligious, Nonsectarian Status. BLRA agrees that it shall operate in all respects as a nonsectarian, nonreligious, non-home-based public school. BLRA shall not be affiliated with any nonpublic sectarian school or religious organization.

8.3 Commitment to Nondiscrimination. BLRA shall comply with all applicable federal, state, and local laws, rules, regulations, and School District policies prohibiting discrimination on the basis of race, creed, color, national origin, sex, marital status, religion, age, ancestry, or disability.

8.4 Open Meetings Law. BLRA acknowledges and agrees that it is subject to the provisions of the Colorado Open Meetings Law, C.R.S. §§ 24-6-401 *et seq.*, and that it will comply with the provisions of such law in connection with all of its activities. Public notice of all regular and special meetings of the Governing Board and all other committees of BLRA to which the Open Meetings Law applies shall be given and posted in accordance with law.

8.5 Indigent Students. BLRA shall waive all fees for indigent students in accordance with Board of Education policy and applicable federal and state law. If requested by the School District, BLRA shall survey its student population for eligibility for a reduced-cost meal or free meal under federal guidelines and in accordance with State Board of Education regulations. On all fee lists and schedules, BLRA shall include notification of its policy of waiving fees for indigent students. BLRA shall comply with all state and federal requirements regarding the provision of services to students eligible for a reduced-cost meal or free meal, if and when BLRA offers food service. This paragraph shall not apply to charging of fees for any full-time kindergarten or pre-school tuition program offered by BLRA.

8.6 Operational Powers. Subject to the conditions and provisions of this Contract, BLRA shall be fiscally responsible for its own operations within the limitations of any funding provided by the School District and other revenues derived by BLRA consistent with law.

8.6.1 BLRA shall have authority to exercise independently, consistent with federal and state law, the following powers (including such other powers as provided for elsewhere in this Contract) to the extent consistent with this Contract and within its adopted budget: contract for goods and services; lease facilities for school purposes; prepare a proposed budget; select, hire, evaluate and terminate personnel, and determine their compensation; contract for professional services; procure insurance; purchase, lease, or rent furniture, equipment, and supplies; retain fees collected from students in accordance with law; and accept and expend gifts, donations, or grants of any kind in accordance with the conditions prescribed by the donor, as consistent with law and not contrary to any of the terms of this Contract.

8.6.2 Except for its management agreement with Mosaica Education, Inc., BLRA shall not have authority to enter into a contract or subcontract for the management or administration of its core instructional program or services, including special education and related services and shall not enter into any other contracts beyond the scope of the express authority delegated under this Contract. BLRA shall not make a substantial modification in its instructional program without the prior written consent of the Board of Education. The foregoing shall not prevent BLRA from engaging independent contractors to teach selected, specific courses. BLRA shall insert the following language in every contract which it enters into with an independent contractor or subcontractor: *"It is acknowledged that Falcon School District 49 (School District) is not a party to this agreement. BLRA has no authority to enter into any agreements that obligate the School District in any manner whatsoever. The School District has no financial obligation under this agreement nor any obligation to undertake any action in furtherance of the contractual relationship established herein."*

8.6.3 BLRA shall comply with applicable provisions of Article X, Section 20 of the Colorado Constitution. BLRA shall not have any authority to enter into any agreement or make any commitment that gives rise to a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever on the part of BLRA or the School District without the prior express written consent of the School District.

8.6.4 In exercising its powers, BLRA shall comply with all applicable Board of Education-approved policies, except as amended by this Contract and except as otherwise required by law, unless a specific waiver is obtained. Upon adoption by the Board of Education, all policy changes will be forwarded to BLRA when distributed to other schools within the School District. BLRA shall furnish to the Board of Education copies of all written policies or procedures it may develop relating to its

operations and educational program. BLRA agrees to comply with future policies unless waived. In that case, the Parties agree to negotiate the potential for a waiver of such policy. In order to facilitate communication on policy matters, each party agrees to provide the other with notice, including agenda information as otherwise required by law, of each regular meeting of its board.

8.6.5 BLRA shall clearly indicate to vendors and other entities and individuals outside the School District that the obligations of BLRA under any agreement are solely the responsibility of BLRA and are not the responsibility of the School District.

8.6.6 BLRA shall report to the School District all gifts or donations to the school or to any of its affiliated or supporting organizations of cash or property having a reasonable value in excess of \$5,000 by recording the same in the annual audit required under Section 7 above. BLRA shall report to the Board of Education within fourteen days the acceptance of any gift or donation to the school or to any of its affiliated or supporting organizations in excess of \$50,000, and shall obtain prior Board of Education approval for the acceptance of any grant, gift, or donation that would involve any condition or obligation on the part of the School District. Grants and gifts to BLRA will not affect funding by the School District pursuant to this Contract. All such non-consumable grants, gifts, and donations to BLRA shall be considered the property of the School District, unless otherwise provided in writing by the donor. BLRA shall have the right to use such donated items, in accordance with the conditions prescribed by the donor, during the term of this Contract; provided however, that no gift, donation, or grant shall be accepted by BLRA if it is subject to any condition contrary to law or contrary to this Contract.

8.7 Waivers. BLRA will be granted certain waivers from Board of Education-approved policies and regulations upon approval by the Board of Education of acceptable replacement policies pursuant to paragraph 10.2.1. The waivers from Board of Education policies and the conditions therefor, and the waivers from state law to be requested jointly are set forth in attached Exhibit G, which is hereby incorporated into this Contract

8.8 Bidding Requirements. As required by Board of Education policy and state law, contractual services (except professional services) and purchases of supplies, materials, and equipment shall be procured through a system of competitive bidding, when over \$10,000, unless purchased from or through the School District.

8.9 Periodic Review of Progress. BLRA shall be subject to a review of its operations and finances by the Board of Education or a designee, upon reasonable advance written notice. BLRA shall, by July 1 of each year, provide to the School District a written report, according to the format and/or categories specified by the School District, concerning its operations, including, without limitation, progress made towards

achieving its education goals and objectives, content standards, policy development issues, student performance standards, student attendance and discipline information, personnel matters, and other provisions of its Application and this Contract.

8.10 Financial Reports. BLRA shall be responsible for providing to the School District quarterly or upon written request, within thirty days of the request, written revenue and expenditure reports with comparisons to budget and a financial statement that reports the costs of administration, instruction, and other spending categories, consistent with the format required by state law.

8.11 Term. The Board of Education intends that the Charter is to be effective as of the date first written above for a period of thirty-one fiscal years and are to terminate on June 30, 2037. The Board further intends that this Contract is to be effective as of the date first written above for a period of five fiscal years or through and until June 30, 2011. BLRA may apply for renewal of this Contract consistent with procedures set forth in 8.11.1, below. Reference to section 8.11.1 as a basis for renewal of the Contract shall not be construed to limit the ability of the District to consider any relevant aspect of the charter school's behavior or performance in deciding upon renewal, including, without limitation, all factors it could by law consider in approving a charter renewal. Although this Contract provides for a 31-year Charter, any financial commitment on the part of the School District contained in this Contract is subject to annual appropriation by the Board of Education. The Parties agree that the School District has no obligation to fund the financial obligations under this Contract, other than for the then-current year of the Contract term, and that the School District has not irrevocably pledged and held for payment sufficient cash reserves for funding BLRA or for providing services described herein for the entire term of the Contract. Following the 31-year term, BLRA may apply for renewal of the charter and contract in accordance with procedures set forth in state law and School District policy/regulation.

8.11.1 Comprehensive Five Year Review. On or before June 30, 2011 and every five years thereafter, the School shall submit to a comprehensive review of its operations. Such review shall include a comprehensive external review of the School's governance and operations, including a comparison of the School's strengths and weaknesses with other Colorado charter schools of similar size and with similar programming, by a team of 3-5 persons selected by the School or an agency contracting with the School. The external review costs shall be paid by the School. The School shall provide all documentation and information reasonably requested by the external review committee in order to complete its analysis and prepare a report. In the event the external report identifies issues which the District Board concludes are items of noncompliance with this Renewal Contract or with law, the District Board may exercise any of its remedies under this contract, as appropriate. This provision does not preclude the School District from using other means to assess the performance of BLRA.

8.12 Termination.

8.12.1 This Contract may be terminated and the Charter revoked by the Board of Education for any of the grounds provided by state law, C.R.S. § 22-30.5-110(3) and (4), and/or for any material breach of this Contract. BLRA shall be given a reasonable opportunity to cure the breach after receiving written notice and a corrective action plan and timeline from the School District. Reasonable opportunity to cure shall mean: a) cure within thirty (30) days of the effective date of such notice and compliance with the corrective action plan; or b) in the case of breaches which cannot practically be cured within thirty (30) days, commencement of the cure within thirty (30) days and diligent pursuit of the cure to the satisfaction of the School District until the cure meets the criteria set forth in the corrective action plan. Should BLRA choose to terminate this Contract and revoke its Charter before the end of the contract term, it may do so with the Board of Education's approval, at any time, upon thirty (30) days' advance written notice. In the event of termination, all assets including facilities and equipment not requiring return or transfer to donors or grantors or required for discharge of existing liabilities and operations of BLRA, shall be returned to the School District. BLRA shall maintain an inventory of assets in accordance with guidelines provided by the School District and its independent auditors. Unless a donor or grantor specifically provides otherwise in writing, all gifts, donations, and grants shall be assumed to be made to the School District for the benefit of BLRA and shall be assumed to be made to the School District for the benefit of BLRA and shall be included among the assets returned to the School District upon termination of this Contract.

8.12.2 During the period after the School District gives BLRA written notice of a termination or a material breach, in addition to any other rights, the School District shall also have the following additional right and power to a) require BLRA to promptly take such actions as may be necessary to freeze bank accounts and other assets of BLRA and/or to require School District approval of any expenditure or disposition of assets and b) receive full and complete access to all BLRA records, data, and information.

8.12.3 Notwithstanding any other provision of this Contract, in the case of any breach which the Board of Education reasonably determines poses a serious threat to BLRA or School District students, the community, or the property rights of the School District or BLRA, the School District may, but shall not be required to take immediate control of BLRA and may exercise any portion or all power and authority over BLRA for such period of time as may be necessary to deal with such threat. These additional rights of the School District shall continue during the pendency of any dispute resolution process or State Board appeal with respect to any alleged breach.

8.13 Dissolution. In the event BLRA should cease operations for whatever reason, including the nonrenewal or revocation of the Charter, it is agreed that

the Board of Education shall supervise and have authority to conduct the closure of the business and affairs of BLRA; provided, however, that in doing so, the School District does not assume any liability incurred by BLRA beyond the funds allocated to it by the School District under this Contract. Dissolution, revocation or non-renewal will not be final until such time as the initial appeal period for those matters within the jurisdiction of the State Board has expired or been exhausted at the administrative level. To the extent reasonably practical, the School District shall exhaust all appeals and/or the dispute resolution provisions set forth in paragraph 12.9. The School District's authority hereunder shall include, but not be limited to, the return and/or disposition of any assets acquired by purchase or donation by BLRA during the time of its existence, consistent with any donor conditions.

8.14 Crisis Response Plan. BLRA shall maintain a Crisis Response Plan that is consistent and coordinated with the District's Crisis Response Plan.

9.0 Employment Matters. The Employee Relations section of the Application concerning employment matters such as employee relationships, job descriptions, and terms and conditions of employment and specific personnel policies are accepted to the extent specifically described below and subject to the following conditions and other provisions of this Contract. The Parties agree that teachers and other staff employed at BLRA are employees of BLRA or of Mosaica Education, Inc., and are not employees of the School District. BLRA and/or Mosaica are solely responsible for selecting, supervising, disciplining, determining compensation for, and terminating its employees. No person employed by BLRA or Mosaica shall be considered an employee of the School District by virtue of such employment, and the School District shall have no liability or responsibility for such persons.

9.1 Hiring of Personnel. All persons who perform services for BLRA shall be considered "at-will" employees or volunteers of BLRA or Mosaica Education, Inc. BLRA may select its personnel directly without prior authorization from the Board of Education, subject to compliance with this Section 9.1 and all federal and state rules and regulations, including, without limitation, requirements concerning the recruitment of applicants and the use of background and criminal checks. BLRA agrees not to hire, nor to permit Mosaica's assignment to the school of, any individual who has been nonrenewed (for reasons other than elimination of the position or reduction in force) or dismissed by the School District. The BLRA Governing Board may terminate the employment of any personnel so long as such employees are not terminated for legally impermissible reasons.

9.1.1 All teachers hired by BLRA or Mosaica shall be "highly qualified" as the term is defined under applicable state and federal law.

9.2 Employee Compensation, Evaluation, and Discipline. The School District agrees to cooperate with BLRA in considering waiver of Board of Education-approved policies and regulations concerning the compensation, evaluation, promotion, discipline, and termination of employees of BLRA subject to compliance with all applicable state rules and regulations, unless specific waivers are renewed from the State Board of Education. School District policies will remain in effect and be followed by the BLRA Governing Board as to employees of BLRA, if any, until the adoption by the BLRA Governing Board of policies regarding these matters that are in compliance with the applicable law and approved by the School District.

9.2.1 The supervision and evaluation of the teaching staff, if any, employed by BLRA will be carried out as set forth in the Employee Relations and Governance and Operations sections of the Application and Contract

9.2.2 The BLRA Board, with input from parents and faculty shall be responsible for annually evaluating the performance of the school's administrator.

9.2.3 BLRA has adopted its own written policies in compliance with federal and state law concerning the recruitment, promotion, discipline, and termination of personnel; methods for evaluating performance; and a plan for resolving employee-related problems, including complaint and grievance procedures. However, BLRA shall not have the authority, by virtue of such policies or procedures or other actions of the BLRA Governing Board to change the "at-will" nature of the employment relationship.

9.2.4 BLRA shall notify the School District and other appropriate authorities, in accordance with state law, of discipline of employees of BLRA or employees of Mosaica working at BLRA arising from misconduct or behavior that may have resulted in harm to students or others or that constituted violations of law or policy.

9.3 Payroll. Employees of BLRA, if any, shall be paid through the School District payroll department (if Business Services are contracted) using procedures for recording employee work hours, overtime, absences, leaves, vacation, and other adjustments, as contained in applicable Board of Education-approved policies and regulations. If Business Services are not purchased from the School District, BLRA will put policies, procedures, and systems in place to ensure compliance with all applicable state and federal laws.

9.4 Benefits. Unless purchased from the School District, BLRA will have the right to determine the benefits it will provide to its employees.

9.5 PERA Membership. Employees of BLRA, if any, shall be members of the Public Employees' Retirement Association and subject to its requirements. BLRA

shall be responsible for the cost of the School District's/employer's respective share of any required contributions.

9.6 Equal Opportunity Employer. BLRA affirms that, consistent with applicable law and School District policies, it shall not discriminate, and it shall take reasonable steps to prevent discrimination by Mosaica, against any employee of BLRA or any employee of Mosaica working at BLRA, on the basis of race, creed, color, national origin, sex, marital status, religion, age, ancestry, or disability in its recruitment, selection, training, utilization, termination, or other employment-related activities.

9.7 Employee Welfare, Safety, and Training. BLRA shall, with respect to employees of BLRA, if any, and employees of Mosaica, comply or assure compliance with all Board of Education-approved policies, unless waived, and applicable federal and state laws, concerning employee welfare, safety, and health issues, including, without limitation, the requirements of federal law for a drug-free workplace, and statutorily required training concerning the Child Protection Act of 1987, C.R.S. §§ 19-3-301 *et seq.*

9.8 Employee Records. As to its employees, if any, BLRA shall comply with all Board of Education-approved policies and regulations, as modified and not waived herein, and applicable federal and state laws, concerning the maintenance and disclosure of employee records, including, without limitation, the requirements of the Colorado Public Records Law, C.R.S. §§ 24-72-204 *et seq.*

9.9 Employee Conflicts of Interest. Employees of BLRA, if any, and of Mosaica, shall comply with the Board of Education's policy and regulation and applicable state law concerning actual and potential employee conflicts of interest.

9.10 District Teachers.

9.10.1 Teacher Leave of Absence From School District. During the first year that a teacher employed by the School District is employed by BLRA, such teacher shall be considered to be on a one-year leave of absence from the School District. Such leave of absence shall commence on the first day of services for the charter school. This leave of absence will expire at the end of one year and, unless the following "Notice and Renewal" procedure is followed, the School District will automatically schedule the teacher for return to the District to a position for which the teacher possesses the appropriate qualifications and certification.

9.10.2 Notice and Renewal. If the teacher desires a renewal of the one-year leave of absence in order to continue teaching at BLRA, written notice and request for renewal must be given to the School District prior to April 1 of the leave year. Subsequently, the teacher will be considered to be on a second one-year leave of absence. Upon a timely notice and request by the teacher, as set forth herein, the second one-year

leave of absence shall be renewed for an additional one-year period at the discretion of the School District. In no event will teachers' leaves exceed three years in length.

9.10.3 Consequences of Extended Leaves. Teachers who do not request a second or third year leave of absence or who complete three years leave of absence and do not return to the District will no longer be considered employees of the School District.

10.0 Insurance and Legal Liabilities.

10.1 Insurance. Subject to the provisions of this Contract, it is agreed that during the term the School District will make available for purchase by BLRA insurance coverages consistent with the coverages available to the School District itself. If not purchased from the School District, BLRA shall provide comparable insurance coverage (as reasonably determined by the School District's risk manager) and the School District shall be an additional, named insured. Whether insurance is purchased from the School District or not, BLRA agrees that it will coordinate all risk management activities through the School District's risk management office. This will include the prompt reporting of any and all pending or threatened claims including but not limited to, notices of claims, charges of discrimination, complaint or other notice of potential litigation, the filing of timely notices of claim, cooperating fully with the School District in the defense of any claims, and complying with the defense and reimbursement provisions of the Colorado Governmental Immunity Act and the School District's applicable insurance policies. BLRA shall neither compromise, settle, negotiate, nor otherwise affect any disposition of potential insured claims or claims asserted against it which might adversely affect the School District without the School District's prior written approval. In consideration of the School District providing the described insurance coverages, BLRA agrees to pay to the School District the amounts set forth on the attached Exhibit F related to Contracted Purchased Services (as annually revised consistent with the School District's budget for risk management) multiplied by the number of funded FTE pupils enrolled in BLRA. Any annual deductibles applicable to any claim under the insurance coverage provided to BLRA hereunder will be paid by BLRA for non-purchased School District services at the rate of \$5,000 per occurrence and \$10,000 in the aggregate and the insurance coverage shall include the same coverage as is provided for employees and authorized volunteers of the School District itself.

10.2 Legal Liabilities. BLRA shall operate in compliance with all Board of Education-approved policies and regulations and all applicable federal, state, and local laws, rules, and regulations, unless specifically waived as indicated in attached Exhibit H (policy waivers) or unless such waiver is obtained from the proper authority pursuant to the procedures of paragraph 10.2.1 below, subsequent to the execution of this Contract. In no event shall the School District, its directors, officers, employees, or agents be

responsible or liable for the acts or omissions of BLRA, its directors, officers, employees, or agents.

10.2.1 Future Waivers. Following the effective date of this Contract, waivers from specific Board of Education-approved policies or regulations and/or state law may be requested by BLRA by submitting such a request, in writing, to the School District's Assistant Superintendent for Learning Services or designee. The request shall include the reasons BLRA is in need of or desires the waiver and any alternative or substitute policies proposed. The Assistant Superintendent for Learning Services or designee shall have ten school days to review the request and, thereafter, will present the matter before the Board of Education at its next regular meeting. The Board of Education shall have twenty school days to consider the matter prior to rendering a decision at a regular meeting. Waivers of Board of Education-approved policies and regulations may be granted only to the extent permitted by state law. In the event the School District policy or regulation from which BLRA seeks a waiver is required by state law, or where BLRA otherwise requests release from a state regulation, the School District agrees to jointly request such a new or renewed waiver from the State Board, if the School District's Board of Education first approves the request. Waivers are neither necessary nor appropriate when a statute or rule by express terms does not apply to a charter school, nor when a district power or duty has been fully delegated, as more specifically stated in this Contract, to the School. BLRA is expected to only seek waivers if a statute or rule applies to the School and substantially interferes with its ability to conduct its educational program. Notwithstanding the foregoing, in the event of any question by BLRA about whether the policy or regulation does apply, BLRA should seek clarification from the Superintendent or designee. Thereafter, if the question is not resolved, the presumption shall be that the policy or regulation does apply, pending application for waiver or conclusion of the dispute resolution process.

10.2.2 Faith and Credit. BLRA shall not attempt to, purport to, or actually extend the faith and credit of the School District to any third person or entity. BLRA acknowledges and agrees that it has no authority to enter into a contract or incur obligations that would bind the School District, including, without limitation, any waiver or modification of the provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 *et seq.*, and it agrees to include a statement to this effect in each contract it enters into with third parties. BLRA acknowledges that its authority to contract is limited by the same provisions in law or School District policy that apply to the School District itself, including but not limited to Article X, Section 20 of the Colorado Constitution. BLRA also is limited in its authority to commit its funds by the amount of funds obtained from and held on its behalf by the School District, as provided hereunder, or from other independent sources.

10.2.3 Indemnification. To the extent of claims not covered by insurance or otherwise barred by the Colorado Governmental Immunity Act and to the

extent permitted by law, BLRA and the School District agree to indemnify and hold the other harmless from all liability, claims, and demands on account of injury, personal injury, sickness, disease, death, property loss, or damage or any other losses of any kind whatsoever brought in connection with or related to their respective operations and/or the conduct of any of their employees, agents, or representative or that are proximately caused by their employees or agents. The foregoing provision shall not be deemed a relinquishment or waiver of any kind of applicable limitations of liability provided by the Colorado Governmental Immunity Act. The indemnification and hold harmless obligation hereunder shall include all reasonable attorney fees, costs, and expenses incurred by the other in defense of said suits, actions, grievances, charges, and/or proceedings.

10.2.4 Indemnification by Independent Entities/Governmental Immunity. BLRA shall require Mosaica Education, Inc., and any other person or entity with which it contracts to operate a before and/or after school, preschool, day care, intersession, extended day kindergarten, or other program within a BLRA facility, to provide separate insurance coverage for general liability and errors and omissions with limits consistent with the School District policies and naming BLRA, the School District, and the property owner as additional insureds. Such person or entity will also agree to indemnify and hold BLRA, the School District, and the property owner harmless from all liability, claims, and demands on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss, or damage, tort and civil rights claims, or any other losses of any kind whatsoever that arise out of or are in any manner connected with such person's or entity's operations. Nothing contained in this Contract shall be deemed a relinquishment or waiver by the School District or BLRA of any kind of applicable limitations of liability provided by the Colorado Governmental Immunity Act.

11.0 Transportation. The School District and BLRA acknowledge and agree that transportation will not be provided to students attending BLRA. If BLRA subsequently determines to provide transportation during the term of this Contract, BLRA may contract with the School District for transportation services at cost, by separate written agreement, as an addendum to this Contract.

12.0 Facility. BLRA's facility shall be located on an approximately 8.5 acre parcel in Village I of the Banning Lewis Ranch Development that is to be conveyed to the School District by Banning Lewis Ranch Management Company, LLC, and then conveyed by the School District to BLRA upon which a school facility will be constructed. The parties recognize and acknowledge that the foregoing satisfies the School District's responsibility to work with BLRA to ensure that BLRA's capital construction needs are met. The parties further recognize and agree that this contract does not create any rights, privileges, or interests inuring to Banning Lewis Ranch Management Company, LLC, or otherwise release Banning Lewis Management

Company, LLC, from any obligations it may have to the School District as a result of applicable law.

13.0 Transition Plan. By March 1, 2006, BLRA and the District shall agree upon a plan for the effective transition of students and educational records between BLRA and other District schools.

14.0 Miscellaneous Provisions.

14.1 Entire Agreement. This Contract, with attachments, contains all terms, conditions, and provisions hereof and the entire understandings and all representations of understandings and discussions of the Parties relating thereto, and all prior representations, understandings, and discussions are merged herein and superseded and canceled by this Contract. All provisions of this Contract shall supercede and control over any conflicting or inconsistent language contained in the Application. For purposes of all references in this Contract and the Application or state law or any understanding any party hereto may have, the Charter of BLRA shall be this Contract and the Application, to the extent the Application is not superceded or modified by this Contract.

14.2 Amendment. This Contract may only be modified or amended by further written agreement executed by the Parties hereto.

14.3 Notice. Any notice required, or permitted, under this Contract, shall be in writing and shall be effective upon personal delivery (subject to verification of service or acknowledgment of receipt) or three days after mailing when sent by certified mail, postage prepaid, to BLRA at the address on file with the School District in the case of notice being sent to BLRA, or to the Office of the Assistant Superintendent for Learning Services or designee, for notice to the School District.

14.4 No Waiver. The Parties agree that no assent, express or implied, to any breach by either of them of any one or more of the covenants and agreements expressed herein shall be deemed or be taken to constitute a waiver of any succeeding or other breach.

14.5 Invalidity. If any provision of this Contract is determined to be unenforceable or invalid for any reason, the remainder of the Contract shall remain in effect, unless otherwise terminated by one or both of the Parties in accordance with the terms contained herein.

14.6 Interpretation. In the event of any disagreement or conflict concerning the interpretation or enforcement of this Contract, the Application, and Board of Education policies, procedures, unless waived, regulations, or other requirements, other than those for which waivers have been granted or for those not granted and still

involved in the dispute resolution process, it is agreed that the provisions of this Contract and Board of Education policies shall control over the Application and that compliance by BLRA shall be required and measured in the same manner as may be applied and expected by the School District of a majority of its other schools.

14.7 Standing and Capacity. The BLRA Governing Board shall have standing and capacity to enter into and enforce any of the terms of this Contract on behalf of BLRA. Any action by the BLRA representative body on behalf of BLRA shall be limited to enforcing the terms of this Contract and recovering the amounts provided for herein and shall not include any action or proceeding for other amounts or damages.

14.8 Assignment. BLRA shall not assign its Charter nor any of its rights or obligations under this Contract to any person or entity, including, without the prior written approval of the Board of Education, which approval may be withheld for any reason or no reason as determined by the Board of Education at its sole discretion.

14.9 Dispute Resolution. In the event any dispute arises between the School District and BLRA concerning this Contract, including, without limitation, the implementation of or waiver from any policies, regulations, or procedures, such dispute shall first be submitted to the Assistant Superintendent for Student Achievement or designee for review. Thereafter, representatives of the School District and BLRA shall meet within ten (10) business days and attempt in good faith to negotiate a resolution of the dispute. In the event these representatives are unable to resolve the dispute informally pursuant to this procedure, the party that initiated the action in the first instance shall inform the other party of an intent to invoke C.R.S. § 22-30.5-107.5. Within thirty days after receipt of written notice, the Parties shall have agreed upon an independent mediator. If the Parties are unable to agree upon a mediator within that time, the moving party shall obtain a list of five names from the Judicial Arbitrator Group, Denver, Colorado, and submit them to the other party, who shall strike one, return the list to the moving party, and so forth, until one name remains. The remaining person shall be selected as the mediator. This striking process shall be completed within ten days after delivery of the list to the non-moving party. The mediation shall be scheduled and concluded within one hundred and twenty days of the moving party's written request for mediation, with final written findings entered by the mediator and served on both Parties within said one hundred twenty days timeframe. The mediation process shall be closed to the public and all information submitted during mediation shall be confidential to the extent provided by law. If the Parties are unable to resolve the dispute, the mediator shall make a confidential recommendation to the Parties. The Board shall in turn make a decision on the matter and release the mediator's recommendation. For purpose of this Contract, the release of such finding, pursuant to C.R.S. § 22-30.5-107.5(3)(b), shall mean the same date as the Board releases its decision. The Board's action on the recommendation shall be final and binding, subject only to such appeal as may be

authorized by law. Participation in the dispute resolution process shall constitute neither an admission nor denial of State Board of Education jurisdiction over the dispute.

14.10 Mutual Cooperation. The Parties pledge to collaborate in good faith through two-way communication and mutual respect, to attempt to informally and amicably resolve any issues that may arise between them. To promote their common goals of addressing the educational needs of all students within the School District, the Parties agree to avoid competition between and dispensing negative information about the educational programs offered by either. They acknowledge that they are cooperatively involved in making a reasonable continuum of educational services available for students of the School District who are at risk. Toward this end, the Parties agree that if a student should withdraw from BLRA or another school of the School District, they will cooperate in the potential integration of the student back into another program as may be appropriate to the student's needs. The School District shall make reasonable efforts to distribute to BLRA, in the same manner as it does to other schools, information concerning new or amended laws, regulations and policies which may apply to BLRA. However, this provision shall not relieve BLRA of its obligation to comply with applicable federal and state laws and regulations and School District policies.

14.11 No Third Party Beneficiary. The enforcement of the terms and conditions of this Contract and all rights of action relating to such enforcement shall be strictly reserved to the School District and BLRA, subject to the provisions of Section 14.7. Nothing contained in this Contract shall give or allow any claim or right of action whatsoever by any other or third person. It is the express intent of the Parties to this Contract that any person receiving services or benefits hereunder shall be deemed an incidental beneficiary only.

14.12 Order of Precedence. In the event of any disagreement or conflict concerning the interpretation of this Contract, the Application, Board of Education policies unless waived or regulations, or other requirements, it is agreed that the Contract and Board of Education policies and regulations shall control, followed by the Application.

IN WITNESS WHEREOF, the Parties have executed this Contract as of the date first above written.

BANNING LEWIS RANCH CHARTER ACADEMY

By: Kimberly A. Hellkamp
President, Governing Board

Attest:

[Signature]
Secretary

FALCON SCHOOL DISTRICT NO. 49

By: [Signature]
President, Board of Education

Attest:

[Signature]
Secretary, Board of Education

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