

7-12-95

7/18/95: Signed last wk.  
by Charter people  
Due to sign 7/19/95  
per Sarah

## CHARTER SCHOOL CONTRACT

**THIS CONTRACT**, dated this \_\_\_\_\_ day of \_\_\_\_\_, 1995, is made and entered by and between the CHERRY CREEK SCHOOL DISTRICT #5, (District) and the CHERRY CREEK ACADEMY (CCA), as a tentative agreement. The contract is contingent upon meeting the stipulations expressed herein (denoted by\*).

### 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 C.R.S. §§ 22-30.5-102(2) and (3); and

**WHEREAS** on May 8, 1995, an Application was submitted by citizens of the District for formation of CCA as a charter school to operate within the School District (Exhibit A); and

**WHEREAS**, the District's Board of Education (BOE) has determined that the Application submitted to the District for the formation of CCA, as amended herein, complies with the purposes and requirements of the Charter School Act; and

**WHEREAS**, the District desires to approve the Application, as amended herein; and

**WHEREAS**, CCA seeks approval of its Application, as amended herein, subject to certain waivers from BOE policy and/or state law; and

**WHEREAS**, the District has the authority to waive only those BOE approved policies and/or regulations to the extent permitted by law; and

**WHEREAS**, the authority of the State Board of Education to provide waivers from requirements of state law only extends to provisions contained in Title 22 of the Colorado Revised Statutes; and

**WHEREAS**, implementation of the contract is contingent upon State Board- and District-approved waivers prior to the initiation of operation, and other matters as set forth herein;\*

**NOW, THEREFORE**, in consideration of the foregoing Recitals and the mutual understandings, releases, covenants and payments herein described, the parties agree as follows:

### AGREEMENT

1. **Mission Statement:** The mission statement contained in Section (a) of CCA's Application is hereby accepted by the District to the extent it is consistent with the principles of the General

Assembly's declared purposes for enacting the Charter Schools Act, as set forth in C.R.S. §§ 22-30.5-102(2) and (3). The school will be open to children who will be in grades K-6 in 1995-96.

2. **Goals, Objectives and Pupil Performance Standards:** The goals, objectives, and pupil performance standards set forth in the Application are hereby accepted by the District, subject to the conditions set forth below:

a. **Student Attendance, Conduct and Discipline.** Unless and until CCA adopts its own set of written policies, as provided below, CCA agrees that it shall comply with all BOE approved policies and regulations concerning student attendance, standards of conduct and discipline.

(i) CCA may adopt its own written attendance policy and shall be granted a waiver from the District's policy, so long as the policy is in compliance with Colorado's compulsory attendance laws, including, without limitation, hour requirements and the distinction made between excused and unexcused absences, and provided that the written attendance policy be submitted to the District and approved at least 30 days in advance of the anticipated opening date.\*

(ii) CCA may adopt its own set of written rules concerning student conduct and student discipline subject to compliance with District policies, as long as the developed rules are in compliance with applicable federal and state laws, including, without limitation, the grounds and procedures established by state statute for suspending, expelling or denying admission to a student, and provided that written rules for conduct and discipline be submitted to the District and approved at least 30 days in advance of the anticipated opening date.\*

b. **Student Welfare and Safety.** CCA shall comply with all BOE approved policies and regulations, and comply with all applicable federal and state laws, concerning student welfare, safety and health, including, without limitation, BOE policies and laws addressing the reporting of child abuse, accident prevention and disaster response, and any state regulations governing the operation of school facilities.

c. **Identification of Academically Low-Achieving Students.** CCA shall identify academically low-achieving students and shall provide its educational program to these students in a manner which best serves their needs.

3. **Community Support:** The BOE finds that sufficient support for the formation of CCA appears to exist, as evidenced by the letters of intent that have been submitted to the organizers. It is agreed

that the school must have a minimum of 150 students officially registered by August 1, in order to begin operation in the 1995-96 school year. The maximum enrollment for the 1995-96 school year will be 368, subject to Building Code maximum occupancy Allowance for the facility.\*

4. Statement of Need: The BOE has determined that, subject to the terms herein, the Application sufficiently establishes a need for educational choice within the District and that the proposed program would serve that need in an appropriate manner.

5. Educational Program, Pupil Performance Standards and Curriculum: The educational program, pupil performance standards and curriculum set forth in the Application are hereby accepted, as amended herein, and subject to the conditions set forth below:

a. Curriculum. The District agrees to waive its curricular requirements, to the extent permitted by state law, but subject to the implementation by CCA of its instructional programs as outlined in its Application with the following stipulations:

(i) CCA shall have the authority and responsibility of designing and implementing its educational program subject to the conditions of this Contract, in a manner which is consistent with state law, including, without limitation, requirements regarding content standards. CCA will be accountable to meet or exceed District proficiency standards.

(ii) CCA agrees to comply with all state statutory requirements concerning subjects of instruction, unless specifically waived by the State Board of Education, 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 use of alcohol and controlled substances, C.R.S. § 22-1-110.

b. Records.

(i) CCA agrees to comply with all record keeping requirements of the BOE and/or federal or state law and shall provide any reports, as necessary, to meet the District's reporting obligations to the State Board and Colorado Department of Education.

(ii) CCA shall comply with all BOE approved policies and regulations, and applicable federal and state laws, concerning the maintenance and disclosure of student records, including, without limitation, the Colorado Open Records Law, C.R.S. § 22-72-204, et seq, and the Family

Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g.

c. **Nonreligious, Nonsectarian Status.** The educational program of CCA shall be nonreligious, nonsectarian and shall not discriminate against any student on the basis of race, creed, color, sex, national origin, religion, ancestry, disability or need for special education services.

d. **Open Enrollment.** Enrollment shall be open to any child who resides within, and is enrolled in the District, subject to the CCA's total enrollment limitations as contained in the Application.

e. **Admissions.** Students shall be considered for admission into the program without regard to race, creed, color, sex, national origin, religion, ancestry, disability or need for special education services, or ability to pay any fees. Students will be admitted on a first-come, first-served basis until July 15, 1995. In the event applications exceed 368 in the first year, selection of all students applying after July 15, 1995, will be on a lottery basis, with all siblings for whom space is being requested treated as a single lottery request, but in any event, not to exceed 368 students. In subsequent years, a first-come, first-served waiting list will be used to determine new students for entrance.

f. **Education of Students with Disabilities.** CCA agrees to comply with all BOE approved policies and regulations and the requirements of federal and state law concerning the education of children with disabilities.

g. **Tuition.** Tuition may not be charged to students other than for before- and after-school programs administered by CCA or extended kindergarten or preschool. Nonresident students may be enrolled in only special circumstances through inter-district choice, if space is available, under the provisions of District policy, and approved by the Superintendent as an exceptional circumstance.

6. **Evaluation of Pupil Performance and Procedures for Corrective Action:** The BOA approves CCA's methods for evaluating pupil performance and procedures for corrective action contained in the Application, subject to the conditions below and otherwise set forth in this Contract:

a. **Timeline.** CCA agrees to follow the three-year timeline, for achieving its goals as stated in the Application.

b. **Performance Assessment.** CCA agrees that assessment of student performance shall include, but not be limited to ITBS administration and analysis, as set forth in the Application, and agrees to provide this information to the Associate

Contract 2105  
from CCA 2105

Superintendent. CCA also agrees that the baseline data for evaluating student performance shall not be limited to ITBS testing. In addition, CCA must demonstrate to the District that CCA students demonstrate they are meeting or exceeding District proficiencies.

7. Economic Plan, Budget and Annual Audit: The terms stated in this Contract shall supersede and control any conflicting language contained in the Application.

a. **Funding.**

(i) During the first year of the Contract, the District shall provide funding to CCA in the amount of \$4,325 for each District resident student enrolled in CCA, and the prorated state reimbursement for Special Education students staffed and served in the school. In addition, CCA shall receive additional funding of \$202 per student for initial start-up costs in 1995-96 only. This \$202 per pupil will not be continued in subsequent years. So long as CCA is not in material breach of this Contract, this funding will be made available to CCA in monthly installments, as of July 1, 1995, payable when this tentative agreement becomes binding. In the event the school is not operating with students in attendance by October 1, 1995, payments to CCA will cease until such time as the school is officially in session with students in attendance. If the school fails to open during the 1995-96 school year, those funds paid to the school prior to October 1, shall be refunded by CCA to the District. The term "enrolled" as used in this provision shall be deemed to mean enrolled as of the official counting dates or periods and in accordance with the School Finance Act of, 1994, C.R.S. § 22-54-101, et seq, and State Department of Education regulations.\* If the State Auditor disallows counting of some of its students, then its funding for the following school year will be reduced by the same amount.

(ii) The basis for preliminary funding will be the 300 budgeted students. In the event the enrollment count beginning September 25, 1995, is less or greater than 300, subsequent monthly payments will be increased or decreased to adjust for the actual count retroactive to July 1, 1995. The District may adjust the funding in any subsequent months to reflect the actual student count as compared to the count used at the beginning of the school year. In addition, to the extent the District experiences any reduction in state equalization support by a legislative rescission or other action, proportionate reductions will be made to CCA by adjustment or set off in subsequent months. The basis

for funding until official enrollment counts (October 2, 1995) will be the 300 budgeted students.

(iii) On or before March 15 of each year of the Charter, CCA and the District will begin negotiations concerning funding for the ensuing fiscal year in order that the amounts may be determined in conjunction with the District's and CCA's budget development and adoption process. In future fiscal years, it is agreed that the amount of funding provided to CCA from the District shall not be less than 80 percent of the District's per pupil operating revenues, as defined the School Finance Act of 1994, multiplied by the number of pupils enrolled in CCA.

(iv) The proportionate share of state and federal resources generated by CCA students with disabilities, or the staff serving them, shall be directed to CCA. CCA will be eligible to apply for federal and state grant funds under the same conditions as other district schools. If requested, the District will provide Special Education services according to the projected fee of \$71,240 (see Exhibit B), based on a school enrollment of 200. The fee will be adjusted according to actual enrollment. Any state reimbursement for transportation of handicapped students will be retained by the District.

(v) If a student who has been included in the enrollment count of the District transfers to CCA during the school year, the unallocated pro-rata portion of per-pupil funding in paragraph 7a(i) above shall be allocated to CCA. If a student withdraws, from CCA and returns to the District, the unallocated, pro-rata share of funds shall be returned to or retained by the District, and if a student withdraws from CCA and does not return to the District, but the District for any reason loses the state funding allocated to said student, the District shall not be obligated to continue to provide funds for said student to CCA.

(vi) CCA must provide an address of record, the name of the contact person for fiscal purposes, and where funds are to be sent at least 30 days in advance of when funds are to be made available.

(vii) CCA will make no supplemental budget requests to the District to cover unanticipated expenditures or debts.

b. **Budget.** The 1995-96 Budget set forth in the Application is amended as follows:

(where is bud and Applic? )

(i) The per-pupil funding for the first and subsequent years shall be determined in accordance with paragraph 7a above.

*Trans. has been  
referred upon to*

(ii) CCA shall be responsible for all costs associated with its school operations, including the cost of contracting for goods and services. Support and contract services may be provided to CCA, such as insurance and food services, by the District in accordance with mutually agreeable cost schedules and agreements. Other areas may be considered, as well.

(iii) On or before April 15 of each year, CCA shall submit to the BOE its proposed budget for the upcoming school year for BOE approval. The budget accepted by the BOE for the 1995-96 school year is attached and incorporated into this Contract as Exhibit C, subject to the following paragraph (iv):

(iv) A revised budget, which shall include written detail on start-up amortization and be based on the per-pupil funding amount in this contract, shall be submitted to the District and is subject to District approval.\*

- Audit:  
Comm. in  
vol. of 6/16  
35,375 previously  
scheduled for  
Dist's 05/96 audit*
- c. **Annual Audit.** CCA agrees to maintain appropriate financial records in accordance with all applicable federal, state and local laws, rules and regulations, and make such records available to the District, as requested, from time to time. CCA agrees to engage and participate in an independent, outside audit by a certified public accountant of its financial and administrative operations on an annual basis. The results of the audit shall be provided to the District in written form within the same statutory time limits required of the District and shall be published and posted as required by law. Any cost associated with the audit of CCA shall be borne by CCA.

8. **Governance and Operation:** The nature and extent of parental, professional educator and community involvement in the governance and operation of CCA is accepted by the District to the extent permissible under federal and state law and subject to all conditions of this Contract, including, without limitation, the stipulations set forth below:

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

b. **Commitment to Nondiscrimination.** CCA shall comply with all applicable federal, state and local laws, rules and

regulations, including, without limitation, the constitutional provisions prohibiting discrimination on the basis of disability, age, race, creed, color, sex, national origin, religion or ancestry.

c. **Accountability.** CCA shall operate under the auspices of, and accountable to, the District and subject to all BOE approved policies and regulations unless specifically waived.

d. **Open Meetings Law.** CCA 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.

e. **Free and Reduced Priced Meals.** If a lunch program is offered, CCA shall provide, at its cost, free and reduced priced meals to needy students in accordance with Board policy and applicable federal and state law.

f. **Operational Powers.** Subject to the above conditions, CCA shall be fiscally responsible for its own operations within the limitations of any funding provided by the District and other revenues derived by CCA consistent with law, and shall have authority to independently exercise, also consistent with federal and state law, the following powers (including such other powers as provided for elsewhere in this Contract and in the Application to the extent consistent with this Contract): contract for goods and services; prepare a budget; select personnel and determine their compensation; procure insurance; lease facilities for school purposes; purchase, lease or rent furniture, equipment and supplies; and 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 not contrary to any of the terms of this Contract. The District shall be given written notice of all accepted gifts, donations and grants, and any conditions thereof, within seven (7) school days of receipt. In exercising these powers, CCA shall comply with all applicable BOE approved policies unless a specific waiver is obtained. CCA shall furnish to the BOE, for its review, copies of all written policies or procedures it may develop with respect to any matter relating to its operation and educational program upon adoption of such policies by CCA's Governing Board.

g. **Waivers.** CCA wishes to apply for certain waivers from BOE approved policies and/or regulations and, where appropriate, waivers from certain state laws from the State Board of Education. Those waivers, and the reasons therefor, have been submitted separately and are incorporated into a separate BOE action, which is hereby incorporated into this Contract. The contract between the District and CCA will not be considered binding until District Administration has received official



notice of the waiver approvals from the Commissioner of Education on behalf of the State Board of Education.\*

**h. Bidding Requirements.** Unless purchased from or through the District, contractual services and purchases of supplies, materials and equipment shall be procured through a system of competitive bidding, as required by BOE policy and state law.

**i. Semiannual Review.** CCA shall be subject to a semiannual review of its operations and finances by the BOE or a designee.

**j. Financial and Educational Reports.** CCA will be responsible for submitting a monthly financial report to the Chief Financial Officer of the District within 30 days of the reports ending date. This will include a written revenue and expenditure report with comparison to budget. CCA shall also be responsible for submitting a written educational report to the Associate Superintendent, on a quarterly basis, which includes a specific enrollment section and demonstration of student performance relative to the District proficiencies. This report will concern its operations, including, without limitation, progress made towards its educational goals and objectives, policy development issues, student attendance and student discipline information, and personnel matters.

**k. Term.** The Charter and this Contract are effective as of the date first written above for a period of five years, terminating, if not before, on June 30, 2000.

**l. Termination.** This Contract may be terminated, and the Charter revoked by the BOE, 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, upon thirty (30) days advance written notice being given to CCA. Should CCA choose to terminate this Contract and revoke its Charter before the end of the Contract term, it may do so with the BOE's approval, at any time, upon thirty (30) days' advance written notice. In addition to the foregoing grounds for termination or revocation, this Contract may be terminated by the District in the event the District does not for any reason budget and appropriate sufficient funds to meet the District's obligations under this Contract for any fiscal year beyond the July 1, 1995-June 30, 1996, fiscal year. Any such termination based on lack of budget shall be accomplished upon thirty days' advance written notice being given to CCA.

**m. Dissolution.** In the event CCA should cease operations for whatever reason, including the nonrenewal or revocation of the Charter, it is agreed that the BOE shall supervise and have authority to conduct the winding up of the business and affairs of CCA; provided, however, that in doing so, the District does not assume any liability incurred by CCA beyond

the funds allocated to it by the District under this Contract. The 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 CCA during the time of its existence.

n. **Director of School.** The Director, shall be certified, or shall have such experience, training and knowledge, as may be approved by the District's Superintendent, necessary to fulfill the duties of the position, and shall be knowledgeable of, charged with and accountable for, ensuring compliance with federal and state laws with matters concerning, but not limited to, child abuse reporting, open-meetings laws, public records act, student due process rights, non-discrimination, and special education.

o. **Closed Forum School.** The school will operate as a closed forum consistent with all other elementary and middle schools in the District.

9. **Employment Matters:** The guidelines set forth in the Application concerning employment matters such as employee relationships, job descriptions, and terms and conditions of employment are accepted by the District, and shall supersede the requirements of any BOE approved policies or regulations, to the extent permitted by law, and subject to the following conditions in addition to all other provisions of this Contract:

a. **Hiring of Personnel.** To the full extent allowed and provided by law, all persons who perform services for CCA shall be considered "at-will" employees or volunteers of CCA. The District agrees that CCA may select its personnel directly without prior authorization from the BOE, subject to compliance with all federal and state rules and regulations, including, without limitation, requirements concerning the recruitment of applicants and the use of background and criminal checks. CCA shall inform the District's Superintendent or designee of all personnel selected and the BOE may direct for good cause that any selected employee not be hired. The BOE may direct CCA to terminate the employment of any CCA personnel for cause, after consultation with the Governing Board. CCA shall submit a quarterly personnel report to the Superintendent identifying each person employed at CCA, the level of employment (0-100%), and the position held. The Governing Board of CCA may terminate the employment of any personnel so long as such employees are not terminated for constitutionally impermissible reasons.

b. **Employee Compensation, Evaluation and Discipline.** The District agrees to waive all BOE approved policies and regulations concerning the compensation, evaluation, promotion, discipline and termination of CCA employees subject to compliance with all state and federal laws, rules, and

regulations, unless specific waivers are obtained from the State Board of Education.

(i) CCA Governing Board shall be responsible for evaluating the performance of the schools' Director on an annual basis. The written results of such evaluation and the evaluation report shall be submitted to the BOE on or before July 1 of each year for its review and recommendations to the Governing Board concerning any deficiencies, areas for growth, improvement, remediation, or termination.

(ii) CCA shall adopt 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; provided, however, CCA shall not have the authority, by virtue of such policies or procedures or other action of the Governing Board, to change the "at-will" nature of the employment relationship.

c. **PERA Membership.** All CCA employees shall be members of the Public Employee's Retirement Association and subject to its requirements. CCA shall be responsible for the cost of the District's/employer's respective share of any required contributions.

d. **Equal Opportunity Employer.** CCA affirms that it shall not discriminate against any employee on the basis of race, creed, color, sex, national origin, religion, ancestry, age or disability in its recruitment, selection, training, utilization, termination or other employment-related activities.

e. **Employee Welfare and Safety.** CCA shall comply with all BOE approved policies, 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.

f. **Employee Records.** CCA shall comply with all BOE approved policies and regulations, and applicable federal and state laws, concerning the maintenance and disclosure of employee records, including, without limitation, the requirements of the Colorado Open Records Law § 24-72-201 et seq.

g. **Employee Conflicts of Interest.** All CCA employees shall comply with the BOE's policy and regulation, and applicable state law, concerning employee actual and potential conflicts of interest.

h. **District Teachers.** Current teachers of the District who are selected for employment by CCA are eligible for a one-year leave of absence from their employment with the District, consistent with state law, and may be eligible for two additional one-year leaves of absence upon mutual agreement of the teacher and the District, and subject to all District policies related to leaves of absence and subject to state law. The status of any teacher in the District employed by CCA shall not be affected by such employment, however, the teacher will not be eligible to move vertically on the District's salary schedule. Upon returning to the employment of the District, CCA teachers in good standing will be provided a position with the District, although not necessarily in the same position or facility as he or she previously held, subject, however, to all applicable District employment, compensation and personnel policies.

i. **Teacher Contract.** The CCA teacher contracts shall stipulate that employment with CCA will not count as service in terms of non-probationary status or salary advancement in the Cherry Creek School District. In addition, the contract will state that the teacher will have no expectation of employment in the District.

10. **Insurance and Legal Liabilities:** The following stipulations and guidelines will govern:

a. **Insurance.** It is agreed that during the initial term of this Contract, the District will provide insurance coverage as set forth in Exhibit D, attached and incorporated into this Contract, which is consistent with the coverage available to the District itself. CCA agrees that it will coordinate all risk management activities through the District's risk management office. This will include, but is not limited to, the prompt reporting of any and all pending or threatened claims, filing of timely notices of accidents, injuries or claims, cooperating fully with the District in the defense of any claims and complying with the Colorado Governmental Immunity Act and the payment or reimbursement of deductibles on the District's applicable insurance policies. CCA shall neither compromise, settle, negotiate nor otherwise affect any disposition of potential claims asserted against it without the District's, and/or its insurers, prior written approval. In consideration of the District's providing the described insurance coverage, CCA agrees to pay to the District \$55.00 per student enrolled in CCA. CCA will be responsible for deductibles up to \$5,000.

b. **Legal Costs.** Legal costs up to \$5,000 for CCA will be paid by the District, and any costs beyond that level will be billed to CCA and directly paid by CCA to the attorney of their choice. Legal representation for insured losses will be

assigned by the insurance company providing coverage for the claim.

c. **Legal Liabilities.** CCA shall operate in compliance with all BOE approved policies and regulations and all applicable federal, state and local laws, rules and regulations, unless specifically waived or unless such waiver is obtained from the proper authority pursuant to the procedures of paragraph (i) below subsequent to the execution of this Contract.

(i) Waiver. Waivers from specific BOE approved policies or regulations and/or state law may be requested by CCA by submitting such a request, in writing, to the District's Superintendent. The request shall include the reasons why CCA is in need or desires the waiver. The Superintendent shall have ten (10) school days to review the request and, thereafter, will present the matter before the BOE at its next regular meeting. The BOE will review the request at the next regular meeting, and take action at the following meeting to approve or disapprove the waiver request. Waivers of BOE approved policies and regulations may be granted only to the extent permitted by state law. In the event the District policy or regulation from which CCA seeks a waiver is required by state or federal law, or where CCA otherwise requests release from a state regulation, the District agrees to jointly request such a waiver from the State Board of Education, if the District's BOE first approves the request.

(ii) Faith and Credit. CCA agrees that it will not extend the faith and credit of the District to any third person or entity. CCA acknowledges and agrees that it has no authority to enter into a contract that would bind the District and that CCA's authority to contract is limited by the same provisions in law or BOE policy that apply to the District itself. CCA also is limited in its authority to contract by the amount of funds obtained from the District, as provided hereunder, or from other independent sources. All contracts entered into by CCA shall provide that the District incurs no liability or obligation for payment or performance of any obligation or contract entered into by CCA. CCA's Governing Board shall hereby be delegated the authority to approve contracts to which CCA is a party, subject to the requirements and limitations of the Colorado constitution, state law, BOE approved policies and the provisions of this Contract.

(iii) Indemnification. To the extent not covered by insurance or otherwise barred by the Colorado Governmental Immunity Act, CCA agrees to indemnify and hold the District, its BOE, agents and employees 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 or any other losses of any kind whatsoever, including the District's costs and attorneys fees, which arise out of or are in any manner connected with CCA's operations. 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.

11. **Facility:** CCA is responsible for leasing or purchasing an appropriate space adequate to appropriately house and educate Cherry Creek students (see Exhibit E, attached). CCA is responsible for preparing the facility to meet applicable codes, ADA requirements, and minimum acceptable standards, and paying all costs associated therewith. It is further stipulated that CCA will furnish the District Administration with appropriate documents demonstrating certificates of occupancy for the school's educational purposes, building/content values for insurance purposes, and lease agreements to the District Risk Manager.\*

12. **Accountability Committee Feedback:** CCA agrees to respond to the concerns and suggestions made by the District Accountability Ad Hoc Review Committee. The response should be submitted to the Associate Superintendent.\*

13. **Transportation:** The District will not be obligated, or expected, to provide transportation for CCA students, except those students who qualify for special education transportation.

14. **Miscellaneous Provisions:**

a. **Entire Agreement.** This Contract, with attachments, contains all terms, conditions, provisions, understandings, representations, and discussions of the parties relating thereto, and all prior representations, understandings and discussions are merged herein and superseded and canceled by this Contract.

b. **Amendment.** This Contract may only be modified or amended by further written agreement executed by the parties hereto.

c. **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 acknowledgement of receipt) or three (3) days after mailing when sent by certified mail, postage prepaid to the Director's office, in the case of notice being sent to CCA, or to the Office of the Superintendent for notice to the District.

d. **No Waiver.** The parties agree that no assent, expressed 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.

e. **Dispute Resolution.** In the event any dispute arises between the District and CCA 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 Superintendent of the District or his designee for review. Thereafter, representatives of the District and CCA shall meet 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, they shall submit the matter to the BOE for its consideration. The decision of the BOE shall be final; provided, however, CCA may appeal to the State Board of Education concerning those matters within its jurisdiction under the Act.

f. **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.

g. **Terms.** In the event of any conflict between the terms of this contract and the Application, the terms of this contract shall control.

h. **Inclusion.** It is agreed that all recitals, set forth above are considered a part of this contract, and that CCA will open no sooner than 30 days after satisfying all stipulations and contingencies set forth in this contract.

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

**ACADEMY CHARTER SCHOOL**

By: \_\_\_\_\_  
J. Scott Laudenslager, President

**CHERRY CREEK SCHOOL DISTRICT #5**

\_\_\_\_\_  
Dee P. Wisor, President  
Board of Education

**ATTEST:**

\_\_\_\_\_  
Secretary

Revised 7/12/95



**ADDENDUM TO  
CHARTER SCHOOL CONTRACT**

**STIPULATIONS REQUIRED IN THE CONTRACT WITH THE  
CHERRY CREEK ACADEMY CHARTER SCHOOL**

The following are stipulations that must all be met by the Cherry Creek Academy organizers, at least 30 days in advance of opening:

- Approval of requested waivers of Cherry Creek School District Board of Education Policies.
- Approval of requested waivers of Colorado state statute and/or Colorado Department of Education regulation by the Board of Education. Submission by CCA organizers of a joint request with the Board of Education to the Colorado State Board of Education for approval of these waivers, action approving the waivers by the State Board, and official notification of the District by the Commissioner of Education to the approval of the waivers.
- Approval by the District of CCA's written attendance policy(ies) at least 30 days in advance of anticipated opening date.
- Submission and approval of CCA's written policies for student conduct and student discipline at least 30 days in advance of anticipated opening date.
- Official registration of a minimum of 150 students by August 1, 1995, in order to begin operating in the 1995-96 school year, by September 1, 1995.
- Provide the District an address of record, the name of the contact person for fiscal purposes, and where funds are to be sent at least 30 days in advance of when funds are to be made available.
- Provide appropriate documents demonstrating certificates of occupancy for the school's educational purposes, building/contents values for insurance purposes, and lease agreements to the District's Risk Manager in advance of the anticipated opening date.
- Revised budget as noted in the contract.
- Respond to the concerns and suggestions by the District Accountability Ad Hoc Review Committee.

## AMENDMENT TO CHARTER SCHOOL CONTRACT

THIS AMENDMENT dated this \_\_\_\_\_ day of \_\_\_\_\_, 1995, by and between the CHERRY CREEK SCHOOL DISTRICT NO. 5 (herein "District") and the CHERRY CREEK ACADEMY, INC., a Colorado not for profit corporation (herein "CCA"), amends and modifies that certain Charter School Contract dated July 21, 1995, between the parties hereto (herein the "Contract").

### RECITALS

WHEREAS, paragraph 7(a) of the Contract provided for certain funding to CCA by the District in monthly installments; and

WHEREAS, CCA has encountered substantial capital needs in connection with its start-up costs and facility remodeling; and

WHEREAS, CCA has requested that the Contract provisions relative to the monthly installment funding be modified to assist CCA in meeting the immediate financing needs; and

WHEREAS, the District is willing to modify the Contract as more particularly set forth herein;

NOW, THEREFORE, in consideration of the premises, the Recitals above set forth, and the terms, covenants and conditions herein provided, the parties agree as follows:

### AGREEMENT

1. The provisions of paragraph (7)(a)(i) of the Contract are hereby amended to read as follows:

(a) Funding.

(i) During the first year of the Contract, the District shall provide funding to CCA in the amount of \$4,325.00 for each District resident student enrolled in CCA, and the prorated State reimbursement for special education students staffed and served in the school. In addition, CCA shall receive additional funding of \$202.00 per student for initial start-up costs in the 1995-96 school year only. This \$202.00 per pupil will not be continued in subsequent years. The funding provided for herein will be made in equal monthly installments; provided, however, in addition to the monthly installment due for October, 1995, the District will provide CCA an additional \$125,000.00. This additional advance will be repaid to the District by deducting the amount of \$10,000.00 from the monthly installment to be paid in May, 1996, and by deducting the amount of

\$115,000.00 from the monthly installment due in June, 1996. In no event shall the District's obligation to CCA exceed the per pupil and special education funding as herein provided. The term "enrolled," as used in this provision, shall be deemed to mean enrolled as of the official counting dates or periods and in accordance with the School Finance Act of 1994, C.R.S. §22-54-101, et seq., and State Department of Education regulations.\* If the State Auditor disallows counting of some of the CCA students, then its funding for the following school year will be reduced by the amount of the per pupil funding for all such disallowed students.


2. In all other respects, the terms and conditions of the Contract shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals effective the day and year first above written.

CHERRY CREEK ACADEMY, INC.

BY   
President

CHERRY CREEK SCHOOL DISTRICT  
NO. 5

By   
Dee P. Wisor, President  
Board of Education