Cherokee County School District

Agenda Request Form

Meeting Date	Agenda Item Number
June 20, 2024	Action Item 3

Title

Mountain Education Memorandum of Understanding

Requested Action

School Board Consideration of Superintendent's Recommendation for Approval of the Memorandum of Understanding (MOU) and Special Lease Agreement with Mountain Education Center for FY25

Summary Explanation and Background

Pursuant to HB87, the Superintendent, School Board Attorney and staff have been in discussion with Mountain Education Center representatives relative to the attached Memorandum of Understanding (MOU) and Special Lease Agreement.

Respective Board approvals of the attached MOU and Special Lease Agreement will allow both entities to proceed with the continuation of the Mountain Education Center location at Etowah High School.

Financial Impact

In-Kind: TBD

Exhibits: (List)

Memorandum of Understanding
Special Lease Agreement

Source of Additional Information

Mary Elizabeth Davis, PhD	770.479.1871
Dr. Debra Murdock	770.479.1871
Kenneth Owen	770.479.1871

Collaborative Operating Agreement
Between Cherokee County School District and
Mountain Education Center, Inc.

This Collaborative Operating Agreement ("Agreement") is between the Cherokee County School District, (hereinafter "Resident School System") and Mountain Education Center, Inc. (hereinafter "ME").

WHEREAS, ME operates a Completion Special School, providing opportunities for students who have dropped out of high school, are at risk of dropping out of high school, need to recover credits, or would otherwise benefit from a non-traditional setting to obtain a high school diploma;

WHEREAS, the Resident School System may have program students, as defined in O.C.G.A. § 20-2-2096.1 who would benefit from attending ME; and

WHEREAS, the Resident School System and ME desires to enter into this Agreement pursuant to the authority outlined in O.C.G.A. § 20-2-2096.1 et seq. to provide program students the opportunity to attend ME, based on availability of classroom space;

NOW THEREFORE; pursuant to the authority of the State Constitution and for the purposes set forth, the Parties enter into this Agreement as follows:

1. This Agreement shall be effective from July 1, 2024, through June 31, 2025. It may be renewed for subsequent one (1) year terms, not to exceed the term of the charter approved for ME.

2. Either party may terminate this agreement by providing thirty (30) days' notice prior to the end of this Agreement or any renewal term.

   The Resident School System will have the right to terminate this Agreement immediately upon written notice to ME if ME fails to perform any of its obligations hereunder and such failure continues for five (5) business days after receipt of written notice from the other party of such default.

   The Resident School System will have the right to terminate this Agreement immediately and without notice if it has reason to believe that ME may impose a health or safety risk to any student of the Resident School System.

   The termination of this Agreement will not affect the enforceability of any obligation under this Agreement that have accrued prior to the effective date of termination.

3. ME shall provide educational programs and services to program students of the Resident School System pursuant to O.C.G.A. § 20-2-2096.3.

4. For each program student who attends ME pursuant to this Agreement, the Resident School System shall pay to the ME an amount not less than a proportional share of QBE formula earnings (as defined in O.C.G.A.§ 20-2-2096.1(10)) QBE grants.

5. ME shall invoice the Resident School System at the end of each semester for each program student. The Resident School System shall pay the invoice within thirty (30) days.

6. The Resident School System shall designate student liaisons. The number of and qualifications of these employees will be mutually agreed upon by the Parties, annually.

7. Eligibility, placement, IEP's/504 plans, including modifications, implementation, manifestations, due process hearings, and education of Program Students with IEP's/504 will be the responsibility of ME unless otherwise directed.

8. Notwithstanding the foregoing, both parties will work collaboratively to provide these students with an appropriate education.

9. Both parties shall cooperate and provide information and data needed by the other for reporting requirements.

10. ME shall utilized CCSD School Resource officers contracted at the standard rate.

11. The Resident School System may provide additional consideration to ME in regard to facilities, technology, or other services as indicated in the facility use agreement below:

Special Lease Agreement for Facility Use (if applicable for physical campus)

This Special Lease Agreement for Facility Use is entered into by and between Mountain Education Center, Inc., referred to as the "Lessee" or "ME" and the Cherokee County School District, referred to as the "Owner" or "CCSD". The Owner agrees to lease a portion of 6500 Putnam Ford Road Woodstock, GA 30189 to the Lessee for the purpose of operating a Mountain Education (ME) in Cherokee County.

The Owner and ME enter into this Agreement in recognition and reliance upon the fact each party is a public, governmental entity subject to an array of Georgia legislative and regulatory obligations, which obligations serve to provide further and necessary assurances to each party, the public and the taxpayers of the State of Georgia. The Owner and ME further recognize the unique and specialized nature of the educational services to be provided by ME pursuant this Agreement. Finally, the Owner and ME recognize and rely upon the fact that the leadership of each party holds

educational certification(s) as issued by the Georgia Professional Standards Commission and are therefore subject to the Georgia Code of Ethics for educators.

The Owner leases to Lessee a portion of 6500 Putnam Ford Road Woodstock, GA 30189, and the surrounding parking facilities and Lessee agrees to lease a portion of the of 6500 Putnam Ford Road Woodstock, GA 30189, (as defined below) upon the following terms and conditions:

1. Unless terminated as provided herein the lease will be for an initial term beginning on July 1, 2024, and ending on June 31, 2025, and for renewable, 12 months terms beginning July 1 and ending June 30 of each year thereafter. Unless terminated as provided herein this lease may be renewed upon the same terms and conditions upon the party's mutual written agreement. The parties will endeavor to reach an agreement regarding renewal on or before June 1 preceding the expiration.
2. The lease includes those classrooms, bathrooms, cafeteria and administrative spaces as indicated on Exhibit "A" from 4:00 pm until 10:00 pm, Monday-Friday each week during which ME is in session, as well as regular work hours on Monday-Thursday for office/administrative staff.

3. Lessee will abide by all State and Federal laws that pertain to Education and employment during its lease of Owner's facility.

4. ME will pay the cost upon demand of any actual damage to Owner's personal or real property resulting from ME's use of Owner's school, reasonable wear and tear excepted.

5. In the Owner's sole discretion but only upon ME's written request, the Owner may agree to make certain renovation and/or improvements to the facilities. In such an event ME will reimburse Owner for the actual cost of any renovation to the existing school facility that may be necessitated by ME's use of the Owner's property.

6. ME will be responsible for the hiring, firing, payment and supervision of its employees, including School Resource Officers. ME may hire the Owner's teachers and employees so long as the duties and hours of employment do not conflict with teachers' or employees' duties and responsibilities to the Owner. The Owner will have no right to manage or control ME's employees, nothing herein will be construed or interrupted to imply that Owner's employees and ME's employees are joint or borrowed servants. The Owner will not be considered the "Statutory Employer" of a ME employee solely because of the nature of employment. ME agrees to contract CCSD School Resource officers at the standard rate of compensation.

7. CCSD Technology Staff will coordinate with ME to establish a secure connection to ME core operational systems using the CCSD network resources available on-premise along with equipment provided by ME (or their agent). ME will employ and utilize a dedicated Technician who is familiar with the CCSD network infrastructure at 6500 Putnam Ford Road Woodstock, GA 30189 and who will be able to escalate, to the proper CCSD Technology personnel, issues requiring advanced or immediate resolution. ME will provide, manage and secure all Student and Staffing laptops and/or desktop, storage carts, applications and other

technologies needed for instruction and operation. CCSD Technology division will limit support to ensuring Internet connectivity. ME acknowledges that equipment, practices or services provided and utilized cannot expose CCSD's network infrastructure to security vulnerabilities. In such an event, CCSD reserves the right to take corrective measures to re-establish security. ME acknowledges that occasional network maintenance and updates must occur and at times may present disruption to operations. CCSD will proactively inform ME of any scheduled maintenance events that could have impact on their operations and will work diligently to provide quick resolution to disruptive events, within CCSD's control, that is unexpected. ME will provide a FortiGate appliance to provide Content Filtering (outside of CCSD's Content Filtering Platform) and provide connectivity to the corporate office. This will provide ME with autonomy over content separate from CCSD restrictions. The initial installation of the appliance will be coordinated with CCSD Networks and CCSD personnel. ME will reimburse upon request and presentation of supporting documentation the actual cost including employees' actual hourly rate of pay and benefits incurred in responding to and repairing any damage or viral infection to the District's intranet, network, servers or computer infrastructure caused by the improper or negligent use of the CCSD's intranet or network.

8. ME will ensure that the facility is used in an appropriate and clean manner during the term. CCSD will provide custodial services for the facility in coordination with ME.

9. No portions of the building or grounds will be subleased without the express written consent of the Owner. The Lessee agrees to use the facility for educational and related uses only. Lessee will not use the facility for any other purposes or for any illegal purpose. The Lessee, its employees, and its students are only allowed access to those areas of the facility as specified in this Agreement.

10. During the term of this Contract, ME will maintain Comprehensive General Liability Insurance (GL) and Professional Liability/Errors and Omissions Insurance (E and O) with individual limits of not less than one million dollars, Georgia statutory limits for Worker's Compensation Insurance, and a minimum of $500,000 in limits for Employer's Liability Insurance, to cover its personnel engaged in the performance of the services herein described as well as damages or other claims or expenses including attorney fees arising as a result of the performance of such services. ME also holds a $5 million umbrella insurance policy.

11. A Certificate of Insurance, in a form satisfactory to the CCSD, underwritten by financial stable companies ("A" rated or better), evidencing said coverage will be issued to CCSD as Certificate Holder 15 days prior to the start date for the term of the Lease and prior to the performance of any services. No insurance will be accepted unless written by a company licensed by the State Insurance Commissioner to do business in the State of Georgia at the time the policy is issued, and the company must, in addition, be acceptable to CCSD.

12. This lease may be terminated for the following:
    a. For the convenience of either party with at least 30 days written notice;

b. For breach of a material term of this lease, provided that the non-breaching party provide the breaching party with a written notice of default that allows the breaching party at least ten calendar days to cure the default;
c. Upon a change in State or Federal law that requires termination;
d. Upon mutual agreement;
e. Immediately upon the second default of non payment of any of the agreed upon sums required to be paid or reimbursed by this lease.

13. In the event the facilities are needed for educational purposes, the Owner reserves the right to relocate the ME campus to other comparable and available school facilities within CCSD with at least 30 days written notice, and the parties agree that ME may, in its sole discretion, terminate this agreement pursuant to Section 13(a) above in any such event.

14. Nothing herein contained shall be construed to constitute a waiver of governmental, sovereign or official immunity of either ME or the District. Nothing herein contained shall create a partnership between or joint venture by the parties hereto or constitute any party as the agent of the other. No party will hold itself out contrary to the terms of this section and agreement. Accordingly, no party will become liable by any representation, act or omission of the other contrary to the provisions hereof. This Agreement is not for the benefit of any third party and will not be deemed to give any right or remedy to any such party whether referred to herein or not.

15. ME will abide by and follow the Owner's school calendar except as may be otherwise set forth in ME's published school calendar. ME acknowledges and agrees to close its school operation upon the unexpected closing of the Owner's school operation.

16. Any notices or other communication under this Agreement is to be in documented form. Any notice or other communications including invoices may be delivered personally or by U.S. first class mail, by postal service or commercial overnight delivery or may be transmitted by electronic means using the following contact information.

If to the CCSD, contact:

Superintendent, Cherokee County Schools
Dr. Mary Elizabeth Davis
1205 Bluffs Parkway
Canton, GA 30114

770-479-1871

If to Mountain Education Center, Inc., contact:

Mr. Stan Davis, Superintendent
Mountain Education
1963 Tom Bell Road
Cleveland, Georgia 30528

706.219.4664

Any notices given under this Agreement are deemed to have been given on the date dispatched or transmitted, or if given personally, on the date such notice document was personally delivered. Contact information in this paragraph may be changed by the respective parties upon a documented notice delivered pursuant to this paragraph.

17. This Agreement will be deemed to have been executed in White County, Georgia and will be governed by, construed, interpreted and enforced in accordance with the laws of the State of Georgia.

18. If any term or provision under this Agreement, or any portion of this Agreement, is held to be invalid or unenforceable, it will not affect any other term or provision under this Agreement or any part of this Agreement.

19. This contains the full, entire and integrated lease and understanding between Owner and ME with respect to the covenants, promises and agreements in this lease and no representations, warranties, provisions, covenants, agreements or understandings, written or oral, not in this agreement or lease contained or referred to will be of any force or effect. This lease may not be modified or amended except in writing signed by both parties to this lease.

20. The terms of this Agreement are jointly negotiated by and between the parties. As such, the parties agree that any principle of construction or rule of law that provides that, in the event of any inconsistency or ambiguity, an agreement will be construed against the drafter of the agreement, will have no application to the terms and condition of this Agreement.

21. Time is of the essence in this Agreement.

22. Signatories hereto represent and warrant that he or she is duly authorized and has the legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of this Agreement and the performances of such party's obligations hereunder have been duly authorized and that the Agreement is valid and a legal agreement binding upon each party and enforceable in accordance with its terms.

23. The parties affirm and agree that each party shall be bound by the Open Records Act as well as O.C.G.A. 20-14-45 et seq., including but not limited to the public disclosure of any document (such as the entities budget, audits, etc.) required to be disclosed pursuant to that Code section.

Mountain Education Center, Inc.

By: _____
Mr. Stan Davis
Superintendent

Date: _____

Cherokee County School District

By: _____
Mary Elizabeth Davis, PhD.
Superintendent

Date: _____

Exhibit "A"

(Facility and Site Description)

Leased by Mountain Education Center, Inc.

«Site_Address»