

THIRD AMENDMENT TO CHARTER SCHOOL CONTRACT

This Third Amendment to Charter School Contract is entered into effective May 8, 2018 by and between Apex Community School, a Colorado nonprofit corporation and Charter School (“Apex”) and Douglas County School District Re 1 (the “District”).

RECITALS

WHEREAS, on November 15, 2016, the Board of Education (the “Board”) of the District approved Apex’s charter application and granted Apex a charter for a term of five years, with operations to begin in the Fall of 2018, subject to Apex’s compliance with certain conditions, including enrollment benchmarks; and

WHEREAS, on December 13, 2016, Apex and the District entered into a charter contract with an effective date of July 1, 2017 (“Original Contract”), which Apex and the District subsequently amended on March 10, 2017 and September 19, 2017 (respectively, the First Amendment and Second Amendment, and collectively with the Original Contract, the “Apex Charter Contract”); and

WHEREAS, the Apex Charter Contract incorporated the Board’s approval conditions by reference; and

WHEREAS, as a condition of its approval, Apex was required to have a minimum of 435 written expressions of intent to enroll by November 3, 2017, and 367.5 full-time equivalent students (“Student FTEs”) committed to various grade levels by January 5, 2018; and

WHEREAS, Apex did not meet the November 3, 2017 benchmark in a timely manner and notified the Board in December 2017 that it would not meet the January 5, 2018 benchmark in a timely manner; and

WHEREAS, on December 30, 2017, the Board adopted a resolution extending the Apex charter and charter contract for one year and required Apex to (a) postpone its opening date to the Fall of 2019, (b) comply with new conditions of approval, including enrollment benchmarks, recommended by District staff and adopted by the Board, (c) present to the District evidence that the verified enrollment as of the close of the Open Enrollment Period in December of 2018, as determined by the District Chief Financial Officer, is sufficient for Apex to be a viable and going concern with a balanced budget, (d) collaborate with the District for the potential joint use of the Apex facility; and (e) meet any and all other requirements associated with opening and operating a District charter school (collectively the “Modified Conditions of Approval; and

WHEREAS, on May 8, 2017, the Board adopted a resolution establishing new conditions of approval, including enrollment benchmarks, for Apex to open in the Fall of 2019 (each condition an “Apex Milestone”, and collectively the “Apex Milestones”);

WHEREAS, the District and Apex desire to amend the Apex Charter Contract to reflect the revised contract terms and conditions of approval adopted by the Board on December 30, 2017 and May 8, 2018.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are hereby incorporated into the terms of this Agreement.

2. Effective Date and Term.

- a. The Recitals section of the Apex Charter Contract is amended by changing the effective date from July 1, 2017 to July 1, 2018.
- b. Section 2.1 of the Apex Charter Contract is amended by deleting the first sentence and replacing it with the following new first sentence:

“This Contract is effective as of July 1, 2018 and shall continue through June 30, 2023.”

3. Conditions Precedent. Section 2.4 of the Apex Charter Contract shall be deleted in its entirety and replaced with the following new Section 2.4:

2.4 Conditions Precedent. The Parties acknowledge and agree that the District’s obligations hereunder are conditioned on the School’s satisfaction of the Modified Conditions of Approval, including, but not limited to, the Apex Milestones. If the School fails to satisfy the Modified Conditions of Approval and each of the Apex Milestones within the timeframes designated therein, then the District shall have the right to terminate the Apex Charter contract by giving written notice of such termination to the School. In the event of such termination, the District shall be released from all obligations under the Apex Charter contract.

4. Ratification. Except as expressly modified herein, the Apex Charter Contract remains in full force and effect and is hereby ratified and confirmed.

WHEREFORE, the parties have executed this agreement as of the date first above set forth.

DOUGLAS COUNTY SCHOOL DISTRICT RE 1

By: _____
David Ray, President

APEX COMMUNITY SCHOOL
a Colorado nonprofit corporation

By: _____
Mark Welle, President