

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding by and between Science is Elementary, a California Non-Profit Public Benefit Corporation (“SiE”) and the Mountain View Whisman School District (“CLIENT”) is effective as of September 11, 2018 (“Effective Date”).

A. SiE agrees to develop a formal plan for consideration to the school board for new innovations in the method and approach of teaching science, as more specifically described in Exhibit A.

B. CLIENT desires SiE create this plan (“PROGRAM”).

The parties agree as follows:

1. Program

1.1 Program. SiE agrees to provide the services set forth in Exhibit A and as may be agreed between SiE and the CLIENT contact person(s) named in Exhibit A. SiE will report to the contact person(s), who will have the authority to act on the CLIENT’s behalf.

1.2 Independent Contractor. SiE is an independent contractor and neither SiE nor its employees will be deemed to be employees of CLIENT. SiE shall be responsible for determining the method, details and means of performing the PROGRAM. SiE may employ or engage the service of such employees and contractors as SiE deems necessary to perform the PROGRAM. SiE shall be responsible for payment of all income, social security and other taxes incurred for its employees, and for compliance with all applicable labor and employment requirements, including state worker’s compensation and other insurance coverage requirements. SiE acknowledges and agrees that neither SiE nor any of its employees will be eligible for any CLIENT employee benefits and, to the extent SiE otherwise would be eligible for any CLIENT employee benefits but for the express terms of this Agreement, SiE on behalf of itself and its employees and volunteers, expressly declines to participate in such CLIENT employee benefits.

2. Compensation

2.1 Fees. CLIENT agrees to pay SiE the fees set forth in Exhibit A.

2.2 Expenses. Fees do not include costs for materials or taxes (if any). CLIENT agrees to reimburse SiE for such reasonable out-of-pocket expenses incurred by SiE in the performance of the PROGRAM, subject to and in accordance with CLIENT’s expense reimbursement policies. SiE will provide CLIENT with original receipts and documentation for these expenses. Except for materials and taxes, or as otherwise may be expressly set forth in Exhibit A, SiE is not authorized to incur on behalf of CLIENT any expenses without CLIENT’s prior written consent.

2.3 Invoicing; Payment. SiE will invoice CLIENT as described in Exhibit A.

3. Term; Termination

3.1 Term. This Agreement shall be effective as of the Effective Date and continue in effect for the term set forth in Exhibit A, unless terminated in accordance with the terms of this Agreement.

3.2 Termination. Either party may terminate this Agreement if the other party materially breaches this Agreement and fails to cure the breach within thirty (30) days after receipt of written notice of the breach.

3.3 Effects of Termination. In the event of termination, SiE shall cease providing the PROGRAM and CLIENT shall pay SiE for the pro rata portion of the PROGRAM that has been performed but not compensated prior to termination.

4. Proprietary Rights and Confidentiality

4.1 Proprietary Rights. As between SiE and CLIENT, SiE retains all right, title and interest in and to SiE's name, trademarks, logos and branding, and the PROGRAM curricula, materials, know-how and techniques, any derivative works thereof, and all associated intellectual property rights.

4.2 Confidential Information. SiE and CLIENT acknowledge that each of them may have access to nonpublic confidential and proprietary information of the other party marked or otherwise identified as or that the receiving party should reasonably know is confidential or proprietary given the nature of the information and the circumstances of disclosure, including the terms of this Agreement and the non-public elements of SiE PROGRAM (the "Confidential Information"). Confidential Information shall not include any information that: (a) is or becomes generally known to the public without breach of any obligation owed to disclosing party; (b) was known to receiving party prior to its disclosure by disclosing party without breach of any obligation owed to disclosing party; (c) is received from a third party without breach of any obligation owed to disclosing party; or (d) was independently developed by receiving party without breach of any obligation owed to disclosing party. Each party agrees to preserve and protect the confidentiality of the disclosing party's Confidential Information in the same manner that it protects the confidentiality of its own confidential information of like kind (but in no event using less than reasonable care). Each party agrees not to disclose any of the disclosing party's Confidential Information without the prior written consent of the disclosing party or as required by law. Receiving party may disclose disclosing party's Confidential Information to receiving party's agents, attorneys and other representatives or any court of competent jurisdiction or any other party empowered as reasonably required to resolve any dispute between the parties. If receiving party is compelled by law to disclose Confidential Information of disclosing party, the receiving party shall provide disclosing party with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at disclosing party's cost, if disclosing party wishes to contest the disclosure and/or obtain a protective order. If receiving party discloses (or threatens to disclose) any Confidential Information of disclosing party in breach of confidentiality protections under this provision, disclosing party shall be entitled, in addition to any other remedies available to it, to injunctive relief without having to prove the inadequacy of damages or to post bond or other security. Upon any termination of this Agreement, the receiving party shall continue to maintain the confidentiality of the disclosing party's Confidential Information and, upon request, return to the disclosing party or destroy (at the disclosing party's election) all materials containing such Confidential Information

5. Warranty Disclaimer; Indemnification; Limitations of Liability

5.1 Disclaimer. Except as expressly set forth in this Agreement, SiE makes no, and specifically disclaims, any representations or warranties, express or implied, regarding the PROGRAM, including any implied warranty of merchantability or fitness for a particular purpose and implied warranties arising from a course of dealing or performance.

5.2 Indemnification. Each party will ("Indemnifying Party") defend the other party ("Indemnified Party") against any third party claim, suit or proceeding brought by a third party based on a claim arising from the Indemnifying Party's willful misconduct or gross negligence and will indemnify and hold the Indemnified Party harmless from any damages and costs, including attorneys' fees, awarded against the Indemnified Party as result of such claim; provided, the Indemnified Party (a) promptly gives written notice of the claim to the Indemnifying Party; (b) gives the Indemnifying Party sole control of the defense and settlement of the Claim (but the Indemnified Party may participate in such defense at its own cost and the Indemnifying Party may not settle any claim in a manner that imposes any obligation or liability

on the Indemnified Party without the Indemnified Party's prior written consent); and (c) provides the Indemnifying Party, at the Indemnifying Party's expense, all reasonable assistance.

5.3 Limitations of Liability. Except with respect to confidentiality and indemnification obligations, to the maximum extent permitted by law, neither party will be liable to the other party or anyone else for (a) any incidental, consequential, special, indirect or punitive damages, however caused on any theory of liability, even if advised of the possibility of any such loss or damage and notwithstanding the failure of the essential purpose of any remedy, or (b) direct damages in excess of the amounts actually received by SiE from CLIENT during the twelve (12) months preceding the cause of action giving rise to the claim.

6. Miscellaneous

6.1 Public Announcements. The parties may publicly announce and disclose the fact that SiE provides its PROGRAM to CLIENT.

6.2 Force Majeure. Neither party will be liable for failure to perform any of its obligations under this Agreement (other than payment) because of any cause beyond the reasonable control of such party.

6.3 Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of California without reference to conflict of law principles.

6.4 Dispute Resolution. Each party agrees to use its/his best efforts to resolve any disputes arising out of this Agreement, including meetings between CLIENT executives and SiE. If after such discussions the parties are unable to resolve the dispute, before resorting to litigation or arbitration, the parties agree to try mediation, and share the cost of the mediation equally. If the parties are unable to resolve the dispute through mediation, then the dispute will be finally settled by binding arbitration in Mountain View, California, in accordance with the rules of the American Arbitration Association by one arbitrator appointed in accordance with said rules. The arbitrator shall apply California law, without reference to rules of conflicts of law or rules of statutory arbitration, to the resolution of any dispute. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof, and for such purposes, the parties consent to the non-exclusive personal jurisdiction of, and venue in, the state and federal courts within Santa Clara County, California.

6.5 Legal Notices. Any legal notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient upon receipt, when delivered personally or by courier, overnight delivery service or confirmed email, 48 hours after being deposited in the regular mail as certified or registered mail with postage prepaid, if such notice is addressed to the party to be notified at such party's address or facsimile number as set forth below, or as subsequently modified by written notice.

6.5.1 Legal notice to SiE may be given at: tzipor@scienceelementary.org or 1954 Old Middlefield Way, Mountain View, CA 94043

6.6 Entire Agreement; Amendment; Waiver. This Agreement expresses the entire understanding, and supersedes and terminates any prior oral or written agreements, with respect to the subject matter hereof. This Agreement may be amended only by written agreement of the parties. Any term of this Agreement may be waived only by written agreement of the party against whom the waiver is enforced. The failure of a party at any time to require performance by the other party of any provision of this Agreement shall not affect the such party's right to require future performance of such provision or any other provision of Agreement.

6.7 Severability. If any provision of this Agreement is held to be unenforceable under applicable law, such provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions shall remain in effect. If such provision cannot be so modified, then such provision shall be excluded from this Agreement and the balance of the Agreement shall remain effective and be interpreted and enforced as if such provision were so excluded.

6.8 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

Mountain View-Whisman School District

Science is Elementary

By: _____

By: _____

Name: _____

Name: Tzipor Ulman _____

Title: _____

Title: CEO _____

Date: _____

Date: 9/11/18 _____

EXHIBIT A

Objective:

To develop a formal plan for consideration to the school board for new innovations in the method and approach of teaching science to be piloted in the district at one or more elementary schools beginning August 2019.

Deliverables:

Initial Draft of Proposal Consideration by Superintendent: December 10, 2018

Final Draft for March 21 Board Meeting: Submitted March 1, 2019

Activities:

- Develop a research-based plan for implementation of a new model of elementary science teaching to be piloted at one or more elementary schools in the district beginning August 2019.
- Provide guidance on scheduling and funding options for innovation model.
- Discuss and evaluate alternatives and implications (including union and other considerations).
- Identify partners.

Tasks:

- Conduct research.
- Budgeting and associated costs.
- Meeting with district administration as well as principals (as needed).
- Draft of proposal.
- Revisions to proposal as needed/requested.

Compensation:

\$4880 in two installments

Invoice Date: December 10, 2018 (\$2440)

Invoice Date: March 21, 2019 (\$2440)

Term:

September 11, 2018 – March 21, 2019

CLIENT Contact Person

Name: Dr. Ayinde Rudolph

Title: Superintendent

Address: 1400 Montecito Ave., Mountain View, CA 94043

email: arudolph@mvwsd.org

Phone: 650-526-3552