

## **AGENDA ITEM: Surrender Agreements**

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### **BASIS Schools, Inc. for the operation of BASIS Scottsdale Primary**

The Board approved a replication application for BASIS Schools, Inc. in January 2013 for the operation of BASIS Scottsdale East. The contract was executed in December 2013 and the name was subsequently changed to BASIS Scottsdale Primary. On February 11, 2014, a charter representative notified staff that, due to property acquisition challenges, the school will not be operational for the 2014-2015 school year. Because the school will not be able to open within the approved timelines, the charter is being surrendered.

### **Kin Dah Lichii Olta**

The Board issued a Notice of Intent to Revoke Charter. The Board, after proceeding through the hearing process in the matter, subsequently ordered a rehearing for the purpose of correcting an exhibit. The Charter Holder has since agreed to the terms of the Surrender Agreement.

### **Board Options**

The Board may adopt the terms of the Surrender Agreement. Staff recommends the following language for consideration: I move that the Board adopt the Consent Agreement for the Voluntary Surrender and Termination of the Charter Contract for BASIS Schools, Inc. for the operation of BASIS Scottsdale Primary and for Kin Dah Lichii Olta.

**CONSENT AGREEMENT FOR THE VOLUNTARY SURRENDER AND  
TERMINATION OF THE CHARTER CONTRACT**

This Consent Agreement for the Voluntary Surrender and Termination of the Charter Contract ("Agreement") is made by and between BASIS Schools, Inc. ("Charter Operator"), a nonprofit corporation organized under the laws of the state of Arizona for the purpose of operating BASIS Scottsdale Primary, a proposed charter school, and the Arizona State Board for Charter Schools ("Board") collectively referred to herein as the "Parties."

**JURISDICTION**

The Board is charged by Arizona Revised Statutes ("A.R.S.") §§ 15-182(E)(1) and (2) and 15-183(R) with granting charter status to qualifying applicants for charter schools and exercising general supervision over the charter schools it sponsors. An approved plan to establish a charter school is effective for fifteen years. A.R.S. § 15-183(I). The charter may be amended at the request of the governing body of the charter school and on approval of the Board. A.R.S. § 15-183(G). The Board may revoke a charter of a school it sponsors at any time if the charter school breaches one or more provisions of its charter. A.R.S. § 15-183(I)(3). The charter may be renewed for successive period of twenty years. A.R.S. § 15-183(I)(1).

**RECITALS**

1. A charter contract ("Charter") was executed on December 2, 2013 between the Charter Operator and the Board for the purpose of operating a charter school.
2. Pursuant to A.R.S. § 15-183 and the Charter, the Board sponsors the Charter Operator to operate one school site to serve students in grades Kindergarten through Twelve.
3. Kristen Jordison, Carolyn McGarvey and Craig Barrett are the Charter Representatives and persons authorized to execute documents on behalf of the Charter Operator.
4. On February 11 2014, the Charter Operator notified the Board that, due to property acquisition challenges, the School will not be operational for the 2014-2015 school year.

**AGREEMENT**

The Parties agree as follows:

1. The Charter Operator voluntarily tenders and surrenders the Charter to its sponsor, the Board, with the intent to voluntarily terminate its Charter effective February 28, 2014 for the purpose of further performance.
2. The Board accepts the surrender of the Charter for the operation of the School.
3. The Charter between the Charter Operator and the Board for the operation of the School is terminated effective February 28, 2014 for the purpose of further performance.
4. This Agreement is not binding on the Parties until both the Board and the Charter Operator's governing board accept it by the number of votes necessary to pass a measure at a public meeting. This Agreement is effective immediately upon its approval and execution by the authorized representatives of the Charter Operator and the Board.
5. If the Board rejects this Agreement or any part of it, then this Agreement is null and void, and not binding on the Charter Operator or the Board.
6. The Charter Operator shall submit any outstanding grant reports and shall refund any outstanding grant monies or allocation of education funds in the amount determined by the Department in the manner directed by the Department.
7. The Charter Operator understands that it has the legal right to consult with an attorney prior to entering into this Agreement.
8. The Parties shall be responsible for their own attorneys' fees and costs in this matter.

ARIZONA STATE BOARD FOR CHARTER SCHOOLS

\_\_\_\_\_  
By: Janna Day  
President, Arizona State Board for Charter Schools

Date: \_\_\_\_\_

BASIS Schools, Inc.

\_\_\_\_\_  
By: Kristen Jordison, Carolyn McGarvey or Craig Barrett  
Charter Representatives, BASIS Schools, Inc.

Date: June 4, 2014

COPY mailed this

\_\_\_\_\_ day of \_\_\_\_\_, 2014 to:

BASIS Schools, Inc.

Attention: BASIS Schools, Inc., Charter Representatives

7975 North Hayden Road, Suite B100

Scottsdale, AZ 85258

By \_\_\_\_\_



# KIN DAH ŁICHI'Í ÓLTA'

## HOME OF THE WOLVERINES

Steven Kee  
President

Harriette Leuppe  
Vice President

Christine Wallace  
Board Member

Linda Youvella  
Board Member

Ora James  
Principal

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### RESOLUTION TO RATIFY VOTE OF KIN DAH LICHI'I OLTA', INC. GOVERNING BOARD TO SURRENDER ARIZONA STATE BOARD FOR CHARTER SCHOOLS CHARTER CONTRACT AND APPROVAL OF SETTLEMENT AGREEMENT

- WHEREAS: The Kin Dah Lichi'i Olta', Inc., ("KDLO") is a Navajo Nation non-profit corporation and tribal organization of the Navajo Nation which operates an Arizona charter school grades 7 and 8 ("Charter School") under the laws of the State of Arizona; and
- WHEREAS: The KDLO Charter School Board (hereinafter "KDLO Board") is the governing body of KDLO, duly elected to serve in the best interest of the Charter School; and
- WHEREAS: The KDLO Board is the entity legally authorized and empowered to act for and on behalf of the Charter School and to oversee, insure and generally direct its operation and management; and
- WHEREAS: On January 8, 2014, the Arizona State Board for Charter Schools ("State Board") served a Notice of Intent to Revoke Charter ("Revocation Notice") on the Charter School; and
- WHEREAS: The Revocation Notice was based on the Charter School's academic performance scores for the prior three school years which had remained below the established Arizona state standards for charter schools; and
- WHEREAS: On March 18, 2014, pursuant to Arizona charter school law, an administrative hearing before the State of Arizona Office of Administrative Hearings was held to determine if the allegations contained in the Revocation Notice were true and whether grounds existed to revoke KDLO's Charter; and
- WHEREAS: On April 22, 2014, the Administrative Law Judge issued a Recommended Decision to stay the revocation of KDLO's Charter if KDLO were able to achieve an academic performance grade of A, B or C for the 2013-2014 school year, but that revocation was appropriate if KDLO were issued an academic performance grade of D or F; and
- WHEREAS: On June 19, 2014, the Recommended Decision of the Administrative Law Judge was certified and became the final administrative decision; and
- WHEREAS: On or about July 11, 2014, the KDLO Board was informed by the KDLO Principal that the projected academic performance grade for the KDLO Charter School for the 2013-2014 school year would likely be a grade of D or F; and

WHEREAS: The KDLO Board, having been fully informed through its legal counsel of the options it may pursue relative to the Charter School, including the voluntary surrender and termination of its Charter Contract with the Arizona State Board for Charter Schools; and

WHEREAS: The KDLO Board having received and considered the input from the surrounding Chapters, including the Kin Dah Lichi'i and Ganado Chapters; and

WHEREAS: The KDLO Board, after careful and diligent review, consideration and discussion, determined that it was in the best interest of the Charter School to enter into a settlement agreement for the voluntary surrender and termination of the Charter Contract with the Arizona State Board for Charter Schools; and

WHEREAS: On July 22, 2014, at a duly convened Special Meeting of the KDLO Charter Board, the Board did thereby motion to approve a voluntary surrender and termination of the Charter Contract; said motion passing 3 in favor, 0 opposed, and 1 abstention; and

WHEREAS: Legal counsel for the KDLO Charter School has reviewed the Settlement Agreement for the Voluntary Surrender and Termination of the Charter Contract ("Settlement Agreement"), attached as *Exhibit A* and recommends approval of said Settlement Agreement by the KDLO Board in the form presented; and

WHEREAS: The KDLO Board has received and reviewed the Settlement Agreement attached as *Exhibit A* and has had the opportunity to consult with KDLO's legal counsel regarding its contents and hereby finds that it is in the best interest of the KDLO Charter School to approve said Settlement Agreement.

NOW, THEREFORE, BE IT RESOLVED that the KDLO Board approves the Settlement Agreement for the Voluntary Surrender and Termination of the Charter Contract in the form attached as *Exhibit A* and further, authorizes Linda Youvella as the authorized Charter Representative to execute said Settlement Agreement.

#### CERTIFICATION

The foregoing resolution was adopted by a vote of 3 for, 0 against, 0 abstention, and 1 non-voting by the Governing Board of the Kin Dah Lichi'i Olta', Inc., at a duly called meeting of the Board held August 1, 2014, at 5:30 p.m., Kin Dah Lichi'I Olta School Library, Kindahlichii, Arizona.

  
KDLO Governing Board President

1 THOMAS C. HORNE  
2 Firm Bar No. 014000  
3 Attorney General

4 Kim S. Anderson (#010584)  
5 Assistant Attorney General  
6 Education and Health Section  
7 1275 West Washington Street  
8 Phoenix, Arizona 85007  
9 Telephone: (602) 364-0402  
10 Facsimile: (602) 364-0700  
11 E-mail: [kim.anderson@azag.gov](mailto:kim.anderson@azag.gov)

12 Attorneys for the Arizona State Board for Charter Schools

13 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

14 **STATE OF ARIZONA**

15 In the Matter of:  
16  
17 **KIN DAH LICH'I OLTA', INC.**, a non-  
18 profit corporation, operating  
19 **KIN DAH LICH'I OLTA'**, a charter school

No. 14F-FSRV-003-BCS-rhg

20 **SETTLEMENT AGREEMENT**  
21 **FOR THE VOLUNTARY**  
22 **SURRENDER AND**  
23 **TERMINATION OF THE**  
24 **CHARTER CONTRACT**

25 This Settlement Agreement for the Voluntary Surrender and Termination of the Charter  
26 Contract ("Agreement") is made by and between Kin Dah Lichi'i Olta' ("Charter Operator"), a  
27 nonprofit corporation operating Kin Dah Lichi'i Olta', a charter school ("the School"), and the  
28 Arizona State Board for Charter Schools ("Board") collectively referred to herein as the  
"Parties."

29 **I. LEGAL AUTHORITY**

30 1. The Board is charged by Arizona Revised Statutes ("A.R.S.") §§ 15-182(E)(1) and  
31 (2) and 15-183(R) with granting charter status to qualifying applicants for charter schools and  
32 exercising general supervision over the charter schools it sponsors.





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**III. SETTLEMENT TERMS AND AGREEMENT**

1. The Charter Operator and the Board agree that pursuant to A.R.S. §15-241(U), the Charter Operator is subject to the revocation and termination of its Charter due to its poor academic performance.

2. The Charter Operator and the Board agree that A.R.S. §§ 15-183(Q) and 41-1092.07(F)(5) provide that informal disposition of this matter may be made by stipulation, agreed settlement, consent order or default.

3. The Charter Operator and the Board agree that in consideration of the Parties foregoing their option to proceed with the continuing charter revocation proceedings, it is in the best interests of the Board and the Charter Operator to mutually resolve this matter.

4. The Charter Operator agrees to voluntarily tender and surrender its Charter to its sponsor, the Board, with the intent to terminate its Charter for the purpose of further performance.

5. The Board accepts the surrender of the Charter for the operation of the School.

6. The Charter between the Charter Operator and the Board for the operation of the School is terminated effective July 31, 2014.

7. The Charter Operator agrees to provide a complete copy of each student’s educational record to the student’s parent or legal guardian for each student enrolled in the School in the 2013-2014 school year.

8. The Charter Operator agrees to notify the Board of the location of the School’s student records no later than August 8, 2014.

9. The Charter Operator agrees that it has submitted all requisite student level data for its receipt of state equalization funding for the 2013-2014 school year to the Department through the Student Accountability Information System (“SAIS”).

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10. The Charter Operator is entitled to receive state equalization assistance funds for the 2013-2014 school year to which it is entitled under the school funding formula provided in Arizona law, but no more.

11. The Charter Operator agrees to refund any overpayment of state equalization assistance funds in the amount determined by the Department in the manner directed by the Department.

12. The Charter Operator shall expend the Classroom Site Funds for the 2013-2014 school year to which it is entitled under the provisions of Arizona law in a manner consistent with its intent as specified in A.R.S. § 15-977.

13. The Charter Operator agrees to refund any overpayment of Classroom Site Funds in the amount determined by the Department in the manner directed by the Department.

14. The Charter Operator agrees to submit any outstanding grant reports and to refund any outstanding grant monies or allocation of education funds in the amount determined by the Department in the manner directed by the Department.

15. The Charter Operator shall expend the Instructional Improvement Funds for the 2013-2014 school year to which it is entitled under the provisions of Arizona law in a manner consistent with its intent as specified in A.R.S. § 15-979.

16. The Charter Operator agrees to refund any overpayment of Instructional Improvement Funds in the amount determined by the Department in the manner directed by the Department.

17. Nothing in this Agreement is intended to prevent the Charter Operator from exercising its rights under statutes or regulations to contest amounts determined by the Department to be owed by the Charter Operator.

1 18. The Charter Operator is not precluded from submitting an application to establish a  
2 charter school in the future.

3 19. This Agreement is not binding on the Parties until both the Board and the Charter  
4 Operator's governing board accept it by the number of votes necessary to pass a measure at a public  
5 meeting. This Agreement is effective immediately upon its approval and execution by the  
6 authorized representatives of the Charter Operator and the Board.  
7


8 20. If either party rejects this Agreement or any part of it, then this Agreement is null and  
9 void and not binding on the Parties and the Parties shall proceed with the pending hearing.


10 21. The Charter Operator has consulted with an attorney prior to entering into this  
11 Agreement.

12 22. Each party shall be responsible for its own attorney's fees and costs in this matter.  
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14 ARIZONA STATE BOARD FOR CHARTER SCHOOLS  
15

16 By: Janna Day  
17 President, Arizona State Board for Charter Schools  
18 Date: \_\_\_\_\_

19 KIN DAH LICHI'I OLTA'  
20   
21 By: Ronald Arias or Linda Youvella  
22 Charter Representative, Kin Dah Lichi'i Olta'  
23 Date: 08/01/2014

24   
25 Approved as to Form  
26 R. Gehl Tucker  
27 Counsel for Kin Dah Lichi'i Olta'  
28 Date: 8/1/14

1 COPY emailed this  
2 \_\_\_\_\_ day of \_\_\_\_\_, 2014 to:

3 R. Gehl Tucker  
4 Attorney for Kin dah Lichi`i Olta`, Inc.  
5 gt@h2m2law.com

6 Samantha B. Kelty  
7 Attorney for Kin dah Lichi`i Olta`, Inc.  
8 sbk@h2m2law.com

9 Linda A. Samels  
10 Attorney for Kin dah Lichi`i Olta`, Inc.  
11 linda@h2m2law.com

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**KIN DAH LICH'I' OLTA, INC.  
GOVERNING BOARD MEETING  
SPECIAL CHARTER SCHOOL  
JULY 22, 2014**

**MINUTES**

**I. CALL TO ORDER**

The Kin Dah Lichi'i Olta, Inc., Special Charter School meeting was called to order by Linda Youvella, President at 5:40 p.m.

**II. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited by all in attendance.

**III. ROLL CALL**

Arlinda C. Segay, Personnel Technician/OA called roll. Those present for a quorum were Steven Kee, Harriette Leuppe, Christine Wallace, and Linda Youvella.

**IV. APPROVAL OF AGENDA**

Linda Youvella read the agenda into record.

Christine Wallace motioned to approve the agenda as is. Harriette Leuppe seconded the motion. Votes: 3 in favor (Kee, Leuppe, Wallace) 0 opposed, 0 abstention, and 1 non-voting (Youvella).

**V. REPORT**

**A. Charter School Update by Senator Carlyle Begay via Telephone**

Mr. Begay did not call in.

**VI. NEW BUSINESS**

**B. Charter School Budget Update**

Shirley Norton, Acting Business Manager stated she, Mrs. James, and Ms. Wallace met with Jeff Hunt of Homeland Business Services (HBS) yesterday. She was told by the Board member to concentrate on State Equalization and Impact Aid only. She stated State Equalization has a negative balance of \$35,300.08 and Impact Aid has a balance of \$35,219.28. The rest of the funds are restricted and will not be used for shared costs. If the Charter School is surrendered, the restricted funds will remain at the school. School Year (SY) 13-14 ended and in SY14-15. No new money has been received to date. The SY14-15 estimated expense is \$27,752 for legal and audit services, travel to Phoenix, AZ, HBS, and Board stipends. This total does not include shared costs for Transportation, Food Service, Administration, Facility, and telephone. NTUA's bill of \$300 for June 2014 is forthcoming and anticipates close out by July 30, 2014.

Ms. Wallace stated there is no shared cost for the custodian, for that position was transferred to Grant. Ms. Wallace requested the shared cost list and asked if the shared cost is included in the budget. Ms. Norton responded once the shared cost is calculated, the deficit will increase. Ms. Wallace also asked what the new contract amount will be if pay is increased for HBS. Ms. Norton responded Jim Nelson was not in the office; therefore, did not know. Ms. Norton also said the school attorney is not part of the shared cost, for there are two separate purchase orders for Charter and Grant, and cost varies depended on services. The attorney's bill for May and June 2014, plus projected services of \$1,500 totals \$7,780.

Mrs. James stated she is worried about the amount of money left and with CSF money restricted, she did not know how things will turn out. She called the Arizona Department of Education to ask what happens to the Charter building, bus, etc., but was not able to contact anyone.

Christine Wallace motioned to accept the Charter School Budget Update. Harriette Leuppe seconded the motion. Votes: 3 in favor (Kee, Leuppe, Wallace), 0 opposed, 0 abstention, and 1 non-voting (Youvella).

The Governing Board recessed at 6:14 p.m. and was back on record at 6:28 p.m.

**C. Consideration and Possible Action to Continue with the Charter School or Negotiate a Surrender Agreement**

Mrs. James stated there are documentations attached from Linda Samels, who would like to get information as soon as possible so she can respond to the Charter attorney before August 4, 2014.

Ms. Youvella stated this was a hard decision for Board members to make because parents and the public were approaching them and asking questions. Kindahlichii Chapter, who are stakeholders have a lot to say about what goes on in their community and understood they voted to surrender the Charter school. There are students from other communities too and asked what they think. She further stated she submits reports to Cornfields Chapter and their next planning meeting is the first week in August. Though she has been in contact with Chapter officials, she has not heard back from them.

Mr. Kee stated he stood by to continue with litigation and informed the stakeholders of the Board meeting, but none are in attendance. The surrender will give KDLO the opportunity and recognition to reapply in another year or two. Mr. Kee also referenced President Barack Obama's quote that he gave while visiting the Standing Rock Sioux reservation and also stated there is still hope for the students today, tomorrow, and future. He will lay down his weapon peacefully, for he is doing it for his community.

Ms. Leuppe stated she agreed with Mr. Kee's statement, for there were not many parents in attendance at the Kindahlichii Chapter meeting. The Chapter knows what we have been through and feels they made a wise decision as they can always reapply for Charter again.

Steven Kee motioned to negotiate a Surrender Agreement per what was presented by legal counsel and Business Consultant, Jeff Hunt regarding the budget. Harriette Leuppe seconded the motion. Votes: 3 in favor (Kee, Leuppe, Wallace), 0 opposed, 0 abstention, and 1 non-voting (Youvella).

**VII. ADJOURNMENT**

Next scheduled Regular Board Meeting, August 13, 2014, Kin Dah Lichi'l Olta' Library.

Christine Wallace motioned to adjourn the Special Charter School meeting. Steven Kee seconded the motion. Votes: 3 in favor (Kee, Leuppe, Wallace) 0 opposed, 0 abstention, and 1 non-voting (Youvella). The meeting adjourned at 6:40 p.m.

Recording Secretary: Arlinda C. Segay, Personnel Technician/OA

  
\_\_\_\_\_  
Linda Youvella, Governing Board President

8.1.14  
\_\_\_\_\_  
Date