
AGENDA ITEM: Surrender Agreement – American Charter Schools Foundation dba Silver Horizon High School

Issue

American Charter Schools Foundation dba Silver Horizon High School (“Charter Holder”) has submitted a Voluntary Surrender and Charter Termination Agreement (“Surrender Agreement”).

Background

The Charter Holder is authorized to operate Silver Horizon High School serving grades 9 through 12. On August 29, 2019, the Charter Holder notified the Board that the school would not be opening for the 2019-2020 school year, which would have been its first year of operation, due to the Charter Holder being unable to locate a suitable site for the school to occupy.

A copy of the proposed terms of the Surrender Agreement is included in Appendix A.

Appendix A

VOLUNTARY SURRENDER AND CHARTER TERMINATION AGREEMENT

This Voluntary Surrender and Charter Termination Agreement (“Agreement”) is made by and between American Charter Schools Foundation dba Silver Horizon High School (“Charter Operator”), a nonprofit corporation organized under the laws of the state of Arizona, and the Arizona State Board for Charter Schools (“Board”), collectively referred to herein as the “Parties”.

RECITALS

1. The Charter Operator is authorized to operate Silver Horizon High School (“the School”) pursuant to A.R.S. § 15-181 et seq. and a charter contract (“Charter”) executed on November 27, 2018, between the Charter Operator and the Board.
2. Michele Kaye and Theodore Frederick are the Charter Representatives and each are persons authorized to execute documents on behalf of the Charter Operator.
3. On August 29, 2019, the Charter Operator notified the Board that the School would not be opening for the 2019 -2020 school year, its first year of operation, due to the Charter Operator being unable to locate a suitable site for the School to occupy.

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 11:59 p.m. on August 29, 2019 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 11:59 p.m. on August 29, 2019 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 as of 11:59 p.m. on August 29, 2019 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 maintain, in accordance with the records retention schedules provided by the Arizona State Library, Archives and Public Records division of the Arizona Secretary of State's Office, any records created or received related to the operations of the School or the Charter Operator's responsibilities under its Charter.

7. Since the Charter Operator never operated the School, the Charter Operator is not entitled to receive and did not receive state equalization assistance funds.

8. The Charter Operator shall submit any outstanding grant reports and shall refund any outstanding grant monies in the amount determined by the Arizona Department of Education ("Department") in the manner directed by the Department.

9. 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.

10. The Charter Operator understands that it has the legal right to consult with an attorney prior to entering into this Agreement.

11. The Parties shall be responsible for their own attorneys' fees and costs in this matter.

ARIZONA STATE BOARD FOR CHARTER SCHOOLS

By: Kathy Senseman
President, Arizona State Board for Charter Schools
Date: _____

AMERICAN CHARTER SCHOOLS FOUNDATION DBA SILVER HORIZON HIGH SCHOOL



By: Michele Kaye
Charter Representative, American Charter Schools Foundation dba Silver Horizon High School
Date: 9/10/19

COPY emailed this
_____ day of _____, 2019 to:

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American Charter Schools Foundation dba Silver Horizon High School
michele.kaye@leonagroup.com

Theodore Frederick
American Charter Schools Foundation dba Silver Horizon High School
ted.frederick@kaizenfoundation.org

By _____