

AN AGREEMENT BETWEEN

THE TRANSITIONAL SCHOOL DISTRICT OF THE CITY OF ST. LOUIS AND

KIPP ST. LOUIS
(Pruitt School)

THIS AGREEMENT (hereinafter referred to as the “Agreement”) is dated as of the 10th day of March 2015, by and between the Transitional School District of the City of St. Louis (the “District”), a school district organized and existing under the laws of the State of Missouri, and KIPP St. Louis (“KIPP”), a Missouri non-profit corporation organized and incorporated pursuant to Chapter 355 of the Revised Statutes of Missouri (RSMo.).

WHEREAS, pursuant to §162.621 and §162.1100, of the RSMo., the Special Administrative Board (the “SAB”) has general and supervising control, governance and management of the public schools and public school property of the District;

WHEREAS, pursuant to §160.400 et seq. of the RSMo., KIPP is authorized to operate a public charter school established under the state laws in the City of St. Louis;

WHEREAS, the SAB and KIPP, consistent with their individual missions have chosen to work together to expand the education opportunities available to the children of the City of St. Louis, and in furtherance thereof entered into an Agreement dated as of August 1, 2013 relating to KIPP’s use of Mitchell Elementary School, 955 Arcade Avenue, St. Louis, Missouri (as amended, the “Mitchell Agreement”); and

WHEREAS, the SAB and KIPP are committed to continuing to explore further development of the relationship and desire to enter into this Agreement relating to the Pruitt School.

THEREFORE, the District and KIPP (each, a “Party,” and collectively, the “Parties”), intending to be bound by the terms hereof, agree to the terms set forth in this Agreement.

Access to District Property

1. KIPP shall have the right to operate a public charter school (the “School”) within the building and grounds (including the surrounding land, landscaping, parking, lot, playground and play areas) commonly known as the Pruitt High School, 1212 N. 22nd Street, St. Louis, Missouri (the “Property”). The Parties acknowledge and agree that this Agreement does not create any tenancy of any kind in favor of KIPP with respect to the Property, and KIPP shall not be deemed to be a tenant of the Property for purposes of this Agreement. For purposes of operating the School in accordance with the terms of this Agreement, subject to any limitations set forth in this Agreement, KIPP shall have all rights of access to the Property that the District and/or the SAB has pursuant to its jurisdictional operational authority and power over the Property. Except as set forth in this Agreement, both the District and KIPP shall exercise their respective rights of access

to the Property in such a manner that does not materially interfere with the other Party's operations on the Property, and the District shall provide advance notice prior to accessing the Property, except in the case of emergency or as otherwise set forth expressly herein.

2. KIPP agrees and acknowledges that the right of access and use of the Property is solely limited to the operation of a charter school pursuant to the charter school laws of the State of Missouri. The SAB and District do not authorize KIPP to engage in any other activity not directly related to the operation of a public charter school. KIPP may in its discretion change the grade levels and the name(s) of the KIPP schools in the Property (subject to Paragraph 4 below).
3. KIPP agrees and acknowledges that in the event of an act of war, natural disaster, or act of terrorism that is beyond the control of the Parties, which prevents the District from fulfilling its statutory and constitutional obligation to provide education services to school age residents of the City of St. Louis, the District shall have the right to immediately suspend this Agreement and reoccupy the space. Without limiting the foregoing, the District agrees to work cooperatively, to the extent reasonably possible, in such an event to avoid an immediate suspension of this Agreement, and KIPP agrees to work cooperatively in such an event to enable mutual occupation of the Property to enable the District to fulfill its statutory and constitutional obligation to provide education services to school age residents of the City of St. Louis.
4. The Parties acknowledge and agree that the charter school located at Pruitt High School, 1212 N. 22nd Street, St. Louis, Missouri 63106 pursuant to this Agreement shall be known and publicly identified as "KIPP _____ @ Pruitt School" (with such other "KIPP" name that is reasonably selected by KIPP, it being understood that any such name shall end with "@ Pruitt School"). The name shall not thereafter be changed unless and until the school site is renamed by the SAB in accordance with published District policy and procedures regarding naming school sites.
5. KIPP shall use the Property exclusively for the operation of the School (which may include school district administrative offices so long as a school is operated in the Property) beginning with the 2015-16 academic year, and shall be granted access to the Property no later than August 1, 2015, *provided that* the District will work in good faith with KIPP to grant access to all or a portion of the Property before such time for the purpose of training or moving in equipment, all to the extent reasonably practicable in connection with, and without unreasonably interfering with, the execution of Recommissioning Scope of Work.

Term

6. This Agreement shall commence on the date hereof and continue thereafter unless terminated in accordance with the terms of this Agreement (hereinafter referred to as the "Term").

7. Unless terminated pursuant to the provisions set forth herein, the Agreement shall continue, provided that each of the following additional conditions are met:
 - a. KIPP shall be continuously in possession of its charter to operate the School and remain authorized to operate a charter school in accordance with the laws of the State of Missouri throughout the Term of this Agreement; and
 - b. KIPP shall at all times comply in all material respects with all applicable local, state, and federal laws relating to operation of a charter school, including the provisions of §160.400 – §160.425 of the RSMo. Prior to terminating this Agreement pursuant to this Paragraph 7(b), the District shall provide written notice specifically identifying the local, state, and/or federal law the District has reason to believe was materially violated and, to the extent reasonably practicable, a description of the acts or omissions of KIPP causing such alleged violation. Upon receipt of said notice, KIPP shall have thirty (30) days to respond to such notice and cure the alleged violation. Upon provision by KIPP of notice and reasonably satisfactory evidence of having cured the violation within the thirty (30) day curative period, the notice of violation shall be rescinded and this Agreement shall not be terminated. In the event of a good faith dispute regarding whether or not an alleged violation is material, is ongoing or has been cured, KIPP shall have the right to file for injunctive relief suspending any proposed termination of this Agreement, and any such termination of this Agreement shall be suspended pending resolution of such action for injunctive relief.
 - c. Throughout the term of this Agreement, as a material term and condition of this Agreement, KIPP acknowledges and agrees that the District shall receive credit for all KIPP Annual Performance Report data (“APR”) and Core data generated by KIPP students’ performance on the Missouri Assessment Program (“MAP”), or any successor measurement of student performance utilized by the Missouri Department of Elementary and Secondary Education (“DESE”) to determine the accreditation status of the District for all current and future KIPP school sites operating in the City of St. Louis; and
 - d. The KIPP school(s) shall maintain a minimum Annual Performance Report (“APR”) score as measured under the Missouri School Improvement Plan 5 (“MSIP 5”), or any successor standard adopted by DESE or the State Board of Education of not less than fifty percent (50%) of APR earned points on the current MSIP 5 criteria or an equivalent status to accredited as scored or measured on any successor standard utilized by DESE or the State of Missouri to determine the accreditation status of the District, subject in all cases to the probationary procedure described in Paragraph 47 below; and
 - e. The District must be able to receive credit with DESE for the MSIP related data from KIPP students for purposes of assessing the District’s accreditation status pursuant to MSIP, or any successor standard adopted by the State of Missouri. KIPP shall not be required to provide any data to the District that (a) it does not

report directly to DESE or (b) that is otherwise not required to be reported under applicable federal or Missouri State requirements.

f. All KIPP APR and Core data reported directly to DESE by KIPP and relied upon determine the accreditation status of the District shall be accurate.

Capital Improvements to District Property

8. By August 1, 2015, the Property shall be recommissioned in accordance the scope of work of capital improvements to the Property as set forth in Exhibit A attached and incorporated into this Agreement (the “Recommissioning Scope of Work”). The Recommissioning Scope of Work is designed to ensure that the Property meets District standards determined by the SAB to be consistent with, but not to exceed standards applied to schools re-commissioned by the SAB since 2008. The allocation of financial responsibility for the Recommissioning Scope of Work is as follows: (1) the District contribute the initial Two Hundred Thousand Dollars (\$200,000.00) to the Recommissioning Scope of Work, and the District’s commitment shall not exceed such amount, and (2) the shall bear up to the next \$2,300,000 to the Recommissioning Scope of Work.

The District, as the owner of the Property, shall have the responsibility and oversight to bid, perform and/or sub-contract out the Recommissioning Scope of Work (as further described in and subject to Paragraph 14 below). The District shall make every effort to ensure that the Property to be “move-in” ready by August 1, 2015.

9. Representative for KIPP. KIPP shall be entitled to appoint a representative (the “KIPP Representative”) of its choosing (reasonably acceptable to the District) who shall serve as its representative during the performance of the Recommissioning Scope of Work. The District shall make reasonable accommodations to the KIPP Representative so that it shall at all times have reasonable access to review the preparation for and the progress of the performance of the Recommissioning Scope of Work. The District shall provide reasonable opportunity for the KIPP Representative to provide input on the Recommissioning Scope of Work, and shall give due consideration to such input.

In connection with the foregoing, the District and the KIPP Representative shall work together cooperatively to schedule job meetings on a weekly or other periodic basis as may be necessary or desirable by the Parties. It is anticipated that the District’s project manager and other appropriate subcontractors would be invited to attend such periodic meetings with the KIPP Representative on an as-needed basis (and without unduly interfering with the execution of the Recommissioning Scope of Work). The purpose of the job meetings will be to enable the KIPP Representative to reasonably monitor construction progress; review with the District’s representatives any requested change orders; assist in expediting completion of the Recommissioning Scope of Work in accordance with the Contract Documents; and review other relevant items as the Parties

may determine necessary or desirable. To the extent any construction contingency or reserve remains after full completion of the Recommissioning Scope of Work,

The KIPP Representative may request change orders and minor changes in the Recommissioning Scope of Work. The District shall consider those in good faith and use commercially reasonable efforts to implement such requests, to the extent consistent with the Recommissioning Scope of Work and applicable law, *provided, however,* that KIPP acknowledges and agrees that the District has and shall retain final authority to direct the Recommissioning Scope of Work.

10. Escrow of Funds.

Concurrently with the execution of this Agreement, in order to secure its financial obligations under this Agreement with respect to the Recommissioning Scope of Work, KIPP shall (i) fund into an escrow account (the “Escrow Account”), at Commerce Bank (or another bank selected by KIPP and reasonably acceptable to the District), the sum of \$500,000 (the “KIPP Escrow Funds”) and (ii) deliver to the District a promissory note of \$1,600,000 payable to the District with a term of 60 days. Within 60 days after the date of this Agreement, KIPP shall cause an additional \$1,600,000 to be funded into the Escrow Account, and such additional funds, together with the initial funds deposited on the date hereof, shall be referred to as the “KIPP Escrow Funds.” The deposit of the KIPP Escrow Funds shall constitute repayment of the promissory note, which shall be canceled at the time such KIPP Escrow Funds are deposited. The KIPP Escrow Funds shall be released pursuant to a separate escrow agreement reasonably acceptable to KIPP, the District and the selected bank, with funds to be released on joint instruction by KIPP and the District to satisfy KIPP’s financial obligations under this Agreement with respect to the Recommissioning Scope of Work. KIPP and the District agree that the instruction to release funds for payment of the Recommissioning Scope of Work shall be provided within three (3) business days of presentment of an invoice or other demand for payment to the District and shall not be unreasonably withheld by either Party.

To the extent that actual costs to complete the Recommissioning Scope of Work exceed \$2,300,000, such costs will be borne by KIPP. To the extent that actual costs to complete the Recommissioning Scope of Work is greater than \$200,000 but less than \$2,300,000, the portion of the KIPP Escrow Funds remaining in the escrow account shall be returned to KIPP, such costs will be borne by KIPP. If the bids for the scope of work substantially exceed \$2,300,000 in the aggregate (which includes the \$200,000 work on the Property that will be undertaken by the District), KIPP would have the right to terminate this Agreement and not move forward with the Recommissioning Scope of Work (subject to any cancellation and termination fees for under the subcontracts to perform the Recommissioning Scope of Work). In such event, the District would use all reasonable efforts, and KIPP will reasonably cooperate in such efforts, to provide a temporary solution for the 2015-16 school year for the planned new KIPP school that would have otherwise opened in the Property in the Fall of 2015.

11. Subject to the terms and conditions of this Agreement, the District shall provide KIPP with the use of the Property. After completion of the Recommissioning Scope of Work,

the Parties agree that the Property must be suitable and appropriate for use as a school and that said Property complies with all federal, state, and local fire, safety, and building codes and occupancy approvals (if any) and requirements applicable to public schools, including but not limited to the abatement of "Hazardous Materials." The term "Hazardous Materials" shall mean: (i) "Hazardous Substances" as defined by the Comprehensive Environmental Response Compensation Liability Act (CERCLA) 42 U.S.C. 9601, et seq.; (ii) "Hazardous Wastes" as defined by the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6902, et seq.; (iii) "Hazardous Waste" as defined by the Missouri Hazardous Waste Management Law, RSMo. 260.350, et seq.; (iv) any pollutant or contaminant or hazardous, dangerous, or toxic chemicals, materials, or substances within the meaning of any other applicable federal, state, or local law, regulation, ordinance, or requirement, including consent decrees and administrative orders, relating to or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous waste, substance, or material, all as amended or hereafter amended; (v) more than one hundred (100) gallons of crude oil or any fraction thereof, which is liquid at standard conditions of temperature and pressure sixty (60) degrees Fahrenheit and 14.7 pounds per square inch absolute; (vi) any radioactive material, including any source, special or nuclear or by-product materials as defined at 42 U.S.C. 2011, et seq., as amended or hereafter amended; and (vii) asbestos in an amount or condition that would require abatement.

12. Subject to the financial limitations set forth in Paragraph 8 above, the Parties agree that the Recommissioning Scope of Work shall comply as required by applicable law with the structural accessibility requirements of the Americans with Disabilities Act of 1990 (the "ADA"), and the structural accessibility requirements of Section 504 of the Rehabilitation Act of 1973 ("Section 504"), and all similar state and local laws, rules and regulations, including structural modifications, where necessary, to facilitate program access and compliance with "readily achievable barrier removal" requirements under Title III of ADA.
13. KIPP shall be responsible for complying with all non-structural aspects of the ADA, Section 504, and all similar state and local laws, rules and regulations applicable to the operation of a charter school, students, and employees.
14. The Recommissioning Scope of work, and all other repairs, renovations, capital improvements, or construction at the Property shall be performed by the District (or its subcontractors) and shall comply with the requirements of §177.161, §171.171, and Chapter 290 of the RSMo. This provision does not apply to minor non-structural cosmetic or decorative changes to the Property, which may be performed by KIPP Personnel as set forth in Paragraph 15 below.
15. KIPP shall be responsible for the cost of any additional building improvements beyond the Recommissioning Scope of Work deemed necessary by KIPP to provide education services to KIPP students. All improvements, except for minor non-structural cosmetic or decorative changes, shall be subject to written District approval, which shall not be unreasonably withheld.

16. The District shall be permitted to have access to the Property at all reasonable times for inspection or for any other reasonable purpose, provided that such access does not unreasonably interfere with the programs or operations of KIPP. The District shall give KIPP advance notice prior to visiting or accessing the Property (except for emergency work performed pursuant to Paragraph 21 below).
17. KIPP shall not change any locks or otherwise limit the District's access to the Property without prior written approval from the District. KIPP shall provide the District with copies of all keys, access cards, access codes, security codes, and/or other entry control devices for all entry, alarm and other security systems installed by KIPP.
18. Any environmental remediation, reporting, or liability shall be the responsibility of the District. KIPP agrees to give prompt written notice to the District of any defective environmental conditions.

Responsibilities of the Parties Relating to Property

19. KIPP shall, throughout the Term of this Agreement, take good care of the Property and fixtures and appurtenances therein, including any personal property provided by the District. Except for ordinary wear and tear, KIPP shall be responsible for all damage or injury to the Property or any other part of the building and the systems and equipment thereof, including personal property, whether requiring structural or nonstructural repairs cause by or resulting from carelessness, omission, neglect or improper conduct of KIPP, its agents, employees, invitees or licensees, or which arise out of any work, labor, service or equipment done for or supplied to KIPP, or arising out of the installation, use or operation of the property or equipment of KIPP. KIPP shall also be responsible for all damage to the Property caused by the moving of KIPP's fixtures, furniture, and equipment. Any repairs made on or to the Property or the facilities and systems for which KIPP is responsible pursuant to this Paragraph shall be performed by the District at KIPP's expense.
20. KIPP agrees to provide prompt notice to the District of any defective condition for which the District may be responsible pursuant to this Agreement.
21. Following KIPP's occupancy of the Property, the District shall maintain in good working order and repair the exterior and the structural portions of the Property, including the building plumbing, electrical, heating, air conditioning, ventilation and entry control systems, and windows serving the Property, and shall be responsible for repair of any damage to the Property for which KIPP would otherwise be responsible if caused by the willful acts or gross negligence of the District or its agents or contractors. The District shall use all reasonable efforts to perform any work pursuant to this Paragraph expeditiously and in a manner designed to minimize interference with KIPP's normal school operations at the Property and, to the extent reasonably possible, shall schedule all service visits in advance with KIPP; however, except in case of emergency, the District shall not be required to have work performed on an overtime basis.

22. KIPP shall be responsible for contracting directly for services necessary for school operations at the Property, including but not limited to: gas, water, electric, telephone service, wireless/internet service, custodial services and waste removal. The costs and expenses for these services shall be the sole and direct responsibility of KIPP. KIPP agrees to indemnify the District against any claims for payment for services provided to KIPP at the Property for which KIPP has financial obligation pursuant to this Agreement.
23. At its sole discretion, the District may make available to KIPP desks, chairs, and other standard furniture and supplies as is typically used in the District's own classrooms to the extent reasonably available out of surplus or excess furniture and supplies owned by the District, if any.

Personnel

24. The Parties agree the terms of this Agreement do not constitute the formation of a joint venture, employer-employee, or other relationship and no form of agency exists between the Parties. KIPP represents and warrants that it is now and shall remain a separate and independent entity from the District. Accordingly, no employee, contractor, subcontractor, agent, or representative of KIPP ("KIPP Personnel") shall be deemed to be the employee, contractor, subcontractor, agent, or representative of the District and at no time shall any such employee, contractor, subcontractor, agent or representative of KIPP hold him or herself out to be an employee of the District. The District will not provide any retirement benefits, life insurance, vacation benefits, health benefits, or similar benefits that are afforded to District employees to the KIPP Personnel. KIPP shall not be bound by any collective bargaining or union agreement in connection with its hiring or employment of KIPP Personnel that is binding on the District as a result of this Agreement.
25. KIPP shall be solely responsible for hiring, employing, evaluating, compensating and providing benefits for all KIPP Personnel, including academic and administrative staff, including but not limited to teachers, principals, assistant principals, deans, assistant deans, guidance counselors, paraprofessionals, special education staff, instructors, curriculum developers, staff developers, director of school operations, school manager, registrar, office coordinator, information technology specialists, and all support staff (custodians, clerical, etc.).

Without limiting the generality of the foregoing, for purposes of compliance with teaching staff certification requirements (e.g., Highly Qualified Teacher requirements, 20% non-certified allowance for Charter Schools, etc.), KIPP's staff will be separately evaluated from the District's staff as an independent charter school.

Governance

26. Except as set forth in this Agreement, the District and KIPP shall operate independently and neither Party shall have any role in the governance or oversight of the other Party's operations. Notwithstanding the foregoing, the KIPP Executive Director and the District Superintendent shall meet periodically to discuss the performance under this Agreement,

the Mitchell Agreement and any other agreements related to additional schools that the Parties may enter into from time to time.

27. Without limiting the District's continued receipt of credit for KIPP student data for determining District accreditation, KIPP shall have a right to report on its performance as a separate entity and to affiliate with the national KIPP organization. As an independent charter school, KIPP shall continue to own its own data.
28. KIPP acknowledges and agrees that consistent with KIPP's status as an independent public school pursuant to §160.400.1 RSMo, KIPP shall be solely responsible for compliance with all local, state, and federal laws relating to the operation of Missouri public charter schools including, but not limited to the provision of a Free Appropriate Public Education ("FAPE") pursuant to the Individuals with Disabilities in Education Act ("IDEA"), Title VI, Title VII, Title IX, Chapter 167 of the RSMo., the Family Educational Rights and Privacy Act ("FERPA"), and non-structural aspects of Section 504 of the Rehabilitation Act.
29. KIPP shall be solely responsible for the development and execution of school policies, including but not limited to those policies relating to instruction, curriculum, textbook selection, student discipline, teacher hiring, training, evaluation, supervision and termination, calendar (including vacations), and school hours.
30. KIPP assumes all responsibility for the charter school and all school related activities on the Property. KIPP shall follow all applicable laws with respect to the recruitment of children into a Missouri public charter school.
31. Nothing in this Agreement shall be construed to confer upon KIPP any responsibility or authority, including subpoena power, over the District and/or the SAB, which shall continue to operate as a separate legal entity with all rights and privileges pertaining thereto.
32. Nothing in this Agreement shall be construed to confer upon the SAB any responsibility or authority, including subpoena power, over KIPP and/or its Board of Directors, which shall continue to operate as a separate 501(c)(3) entity with all rights and privileges pertaining thereto, including, without limitation, the right to pursue such other funding opportunities as KIPP considers attractive and in its best interests. It is understood by KIPP that the District does not endorse any fundraising efforts by KIPP, whether or not associated with the activities and duties contemplated by this Agreement. Fundraising materials used by KIPP or fundraising activities engaged in by KIPP associated with this Agreement shall not state that the District endorses such fundraising efforts.

Indemnification; Insurance

33. To the extent permitted by law, KIPP shall indemnify, defend and hold the District and the SAB and its employees, directors, officers, managers, members, and agents harmless from and against any and all third party claims, suits, damages, losses, liabilities, expenses and costs (including reasonable attorneys' fees) and personal injury and bodily

injury (including death, sickness, and disease) to the extent caused by the KIPP's (i) material breach of any obligation, representation or warranty contained herein and/or (ii) negligence or willful misconduct on the part of KIPP or its employees, contractors, subcontractors, or agents.

34. While KIPP shall remain an independent charter school organization, KIPP shall maintain during the Term of this Agreement, with the District named as additional insured therein as its interests may appear, for the duration of this Agreement the insurance outlined in (A) through (F) below, which shall be a combined requirement under this Agreement and the Mitchell Agreement.

A. Commercial general liability insurance covering the Property and KIPP against claims for bodily injury, personal injury and property damage under a policy of commercial general liability insurance with a per location combined single limit of at least Two Million Dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage, containing broad form contractual liability coverage.

B. Workers compensation insurance as required by law.

C. Excess liability or umbrella liability policy with a limit of not less than Five Million and 00/100 Dollars (\$5,000,000) written on a so-called "following form" basis.

D. Comprehensive automobile insurance covering all owned, non-owned and hired automobiles of KIPP (if KIPP utilizes the same) with limits not less than One Million and 00/100 Dollars (\$1,000,000) per occurrence and Three Million and 00/100 Dollars (\$3,000,000) in the aggregate for liability and not less than One Million and 00/100 Dollars (\$1,000,000) per accident for property damage.

E. Employers liability insurance with limits not less than Five Hundred Thousand and 00/100 Dollars (\$500,000) per accident for bodily injury by accident; Five Hundred Thousand and 00/100 Dollars (\$500,000) by disease; and Five Hundred Thousand and 00/100 Dollars (\$500,000) per employee for bodily injury by disease.

F. Sexual molestation / harassment liability insurance covering legal costs and losses with a limit of not less than Five Hundred Thousand and 00/100 Dollars (\$500,000).

If the Parties enter into an agreement relating to a further KIPP school, the Parties shall reassess the above insurance requirements in good faith and make appropriate adjustments with respect thereto.

35. KIPP shall provide the District with one or more certificates of insurance certifying that all insurance required to be carried under the terms of this Agreement is in full force and effect, which may be combined with the certificate required under the Mitchell Agreement. Such certificate(s) of insurance will state a thirty (30) day non-cancellation clause. Such certificate(s) of insurance shall specifically designate the District in the following form and manner:

The Special Administrative Board of the Transitional School District of the City of St. Louis, their officials, officers, department heads, employees, agents, servants, successors and assigns.

Attention: Special Administrative Board
801 N. 11th Street
St. Louis, Missouri 63101

36. All insurance provided for in this Agreement shall be effected under enforceable policies issued by insurers licensed to do business in the State of Missouri. The Board also reserves the right to change or increase the required insurance coverage or to require additional forms of coverage effective on any extension of the Term, and any further extension thereafter in order to require KIPP to maintain commercially reasonable levels of insurance coverage regarding its operations at the Property.
37. Pursuant to the District's statutory waiver of Sovereign Immunity protections pursuant to §537.600 of the RSMo., the District shall indemnify, defend and hold KIPP and its employees, directors, officers, managers, members, and agents harmless from and against any and all third party claims, suits, damages, losses, liabilities, expenses and costs (including reasonable attorneys' fees) and personal injury and bodily injury (including death, sickness, and disease) to the extent solely caused by the (i) dangerous condition of property and/or (ii) negligent operation of a motor vehicle by a District employee in the course of performing duties for the District. The District's indemnification of KIPP pursuant to this Agreement is limited to the damages and liability limitations set forth in §537.610 RSMo.
38. Nothing in Paragraphs 33 through 37 shall be deemed a relinquishment or waiver of any kind of applicable limitations of liability provided or available to any of the Parties under applicable state governmental immunities law or a waiver of either Party's rights under any workers compensation act, disability act, or other employment benefits act, whether in tort, contract or otherwise.
39. Each Party shall give written notice to the other Party of the assertion of any claim or commencement of any litigation relating to this Agreement as to which the Party providing the notice is claiming a right of indemnification from the other Party under this Agreement within thirty (30) days of receipt of the claim or commencement of litigation, provided that failure or delay in providing such written notice shall not alleviate the indemnifying Party's obligations hereunder (except to the extent such indemnifying Party's rights are actually prejudiced by such failure or delay in providing such written notice). Each Party shall cooperate with the other Party in the defense of the claim or litigation at their sole cost and expenses. The indemnifying Party shall have full authority to assume control of the defense of any such claim or litigation, provided that the indemnified Party may participate in any such defense at its sole cost and expense. This provision applies only to third-party claims relating to indemnification under this Agreement, and not to disputes between the District and/or the SAB, on the one hand, and KIPP, on the other hand, related to this Agreement or otherwise.

KIPP Student Data

40. The Parties agree that the data for the KIPP school operated at the Property shall be handled as described in Exhibit B.

Future KIPP School

41. The District agrees to commit to the development of a future KIPP school subject to the District and KIPP arriving at mutually agreeable terms regarding the location of the future KIPP school and KIPP's use of District property.

Eminent Domain

42. In the event any governmental authority after the date of this Agreement appropriates all or any portion of the Property or adjacent property such as to render the Property unusable for use as a school as contemplated by this Agreement using its power of eminent domain, KIPP agrees and acknowledges that (a) KIPP shall not have a right to receive any compensation paid to the District from such governmental authority, and (b) such appropriation by a governmental authority shall not constitute a breach of this Agreement. In such event, the District agrees to use its reasonable best efforts to assist KIPP in relocating the School.

Services

43. The District will use reasonable efforts to make available various District services, including Special Education, Alternative Education, Food Services, Transportation, or Security. The District shall not be required to provide any services that may impact the District's ability to provide services to students enrolled in the St. Louis Public School District. Services provided pursuant to this paragraph shall be at the District's then current costs, as reasonably determined by the District. KIPP agrees to make any requests for services pursuant to this paragraph prior to May 1 each year, and may combine its request for services in connection with the requests under the Mitchell Agreement or any other agreement the Parties may enter into for additional schools from time to time after the date hereof. Use of such elective services shall be at KIPP's sole election, on a year-to-year basis, and the cost shall be disclosed to KIPP in advance prior to KIPP's election to utilize such services. All elective services shall require execution of a separate written agreement by and between the Parties.

Termination; Damages

44. This Agreement shall be terminated automatically upon the revocation or expiration of the charter or other authority issued by the State of Missouri to KIPP to operate a public school at the Property. KIPP may renew its charter any number of times and this will not be considered an expiration of the charter for purposes of this Paragraph and will not be grounds for termination of this Agreement, unless such renewal is denied.

45. This Agreement shall be terminated in the event of involuntary loss of sponsorship.

46. This Agreement shall be terminated automatically in the event it is ever determined by DESE or any other local, state, or federal agency, or by operation of law that the District is unable to receive credit for KIPP students' performance for purposes of determining the District's accreditation. Such termination shall take effect, and KIPP shall vacate the Property at the end of the academic year during which it is determined that the District cannot receive credit for KIPP student performance; unless such notice of determination is received after May 1st in the academic year. If the determination is made after May 1st, KIPP may continue to occupy the Property through the next following academic year, in which case KIPP shall be responsible for all Building and Property expenses related to its occupancy in such academic year. Upon such termination and following its exit from the Property, KIPP shall have no claim for reimbursement of any monies expended on capital improvements on the Building or Property.

Provided the conditions of Paragraphs 7(a) –(f) above are satisfied, the District shall take no action to cause the District not to be able to receive credit from DESE for KIPP students' performances that would give rise to a termination right under this Paragraph 46 or otherwise.

47. If the KIPP School(s) fail to maintain a minimum APR score of fifty (50) percent of APR points as measured by MSIP 5, or an equivalent status to accredited pursuant to any successor system of scoring or measurement of school performance utilized by DESE or the State Board of Education to determine the accreditation status of the District, the District shall place KIPP on a three-year probationary period. If KIPP fails to achieve fifty (50) percent or higher APR scores or the equivalent status of accredited pursuant to any successor system of scoring or measurement within three years, the Agreement may be terminated at the sole discretion of the District. The District will provide ninety (90) days' notice to KIPP prior to termination.

48. Subject to the limitations contained in this Agreement, and provided that the conditions in Paragraphs 7 (a) – (e) and 44 through 47 above are satisfied (subject to any probationary periods contemplated therein), KIPP shall have the right to continuously utilize the Property to operate as a public charter school.

49. In the event the District terminates this Agreement or improperly denies KIPP access to the Property, in violation of the terms contained herein and KIPP establishes that the conditions in Paragraphs 7 (a) – (e) and 44 through 47 above were satisfied at the time of termination or denial of access (subject to any probationary or cure periods contemplated therein), KIPP shall be entitled to liquidated damages in an amount equal to one (1) fiscal year of state aid allocated to the School being operated at the Property from DESE during the fiscal year that the denial of access/termination occurred. KIPP and the District agree that the damages that KIPP would sustain as a result of any such a termination or denial of access would be substantial, but difficult to ascertain and this liquidated damages provision constitutes a fair and reasonable amount of compensation.

a. KIPP may terminate this Agreement at any time effective upon thirty (30) days written notice to the District. KIPP agrees to vacate the Property at the effective time of such notice of termination. In the event of termination pursuant to this

Paragraph, KIPP further agrees and acknowledges that all improvements, fixtures, and appurtenances including, but not limited to the improvements described in Paragraph 10 of this Agreement, become the property of the District.

Limitations on Authority

50. The rights, powers, and authority of both Parties are subject to the following conditions and limitations:

- a. Neither Party shall have the authority to perform any act on behalf of the other except as expressly authorized in this Agreement or otherwise expressly authorized in writing;
- b. without the approval of the other Party, neither Party will authorize or obligate the expenditure of any funds or create any liability or expense for the other Party; and
- c. any contracts or obligations will require the signatures of both Parties.

Notices

51. Communications relating to this Agreement shall be by certified mail, return receipt requested, or facsimile, or overnight courier to the following addresses or as may be later designated by written notice to the other Party:

District:

St. Louis Public School District
Attention: Secretary, Special Administrative Board
801 North 11th Street
St. Louis, Missouri 63101

KIPP:

KIPP St. Louis
2647 Ohio Avenue
St. Louis, MO 63118
Attention: Executive Director

General

52. Successors and Assigns. KIPP and its successors and assigns are bound to the District in respect to all terms, covenants, agreements, and obligations hereunder. KIPP may not assign this Agreement without the prior written consent of the other Party. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

The District and its successors and assigns are bound to KIPP in respect to all terms, covenants, agreements, and obligations hereunder. The District may not assign this Agreement without the prior written consent of the other Party. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

53. **Choice of Law.** This Agreement is governed, construed, and interpreted in accordance with the laws of the state of Missouri without regard to any conflict of laws provision. Any legal action relating to this Agreement shall be governed by the laws of the State of Missouri and the Parties agree to the exclusive exercise of jurisdiction and venue over them by a court of competent jurisdiction located in the City of St. Louis, Missouri. The Parties expressly agree that no action concerning this Agreement, or an alleged breach thereof, may be commenced anywhere but in St. Louis, Missouri.
54. **Force Majeure.** Neither Party shall be liable if the performance of any part or all of this Agreement is prevented, delayed, hindered, or otherwise made impracticable or impossible by reason of any strike, flood, riot, fire, explosion, war, act of God, sabotage, accident, or any other casualty or cause beyond either Party's control and which cannot be overcome by reasonable diligence and without unusual expense.
55. **Waiver.** Waiver by the either Party of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or of any other term, covenant, or condition. No term, covenant, or condition of this Agreement can be waived except by written consent of the waiving Party and forbearance or indulgence by such Party in any regard whatsoever shall not constitute a waiver of the same to be performed by the other Party to which the same may apply and, until complete performance by such other Party of the term, covenant, or condition, the forbearing or indulging Party shall be entitled to invoke any remedy available to it under this Agreement or by law despite any such forbearance or indulgence.
56. **Severability.** If, for any reason, any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.
57. **Survival.** All representations, warranties, and statements of liability responsibility made herein shall survive termination or cancellation of the Agreement.
58. **Amendments.** The Agreement may be altered, amended, changed, or modified only by agreement in writing executed by a representative from the District and KIPP who is authorized to so execute.
59. **No Third Party Beneficiary Rights.** No third party may enforce or rely upon any obligation of, or the exercise of or failure to exercise any right of, the District or KIPP in the Agreement. Nothing in this Agreement, whether express or implied, is intended to create any rights or remedies on any third party beneficiary.

60. Remedies. All rights and remedies of the Parties, in law or equity, are cumulative and may be exercised concurrently or separately. The exercise of one (1) remedy will not be an election of that remedy to the exclusion of other remedies.
61. Waiver of Jury. EACH PARTY AGREES TO WAIVE, AND HEREBY DOES WAIVE, ITS RIGHTS TO A JURY WITH RESPECT TO ANY LITIGATION BETWEEN THE PARTIES ARISING OUT OF THIS AGREEMENT.
62. Headings; Construction. The headings of the various articles, sections and paragraphs in this Agreement are for convenience and reference only and are not intended to be a part of, or affect the meaning or interpretation of, this Agreement, but are, instead, used only to specify the content of the articles, sections and paragraphs. Whenever the context shall require, the words denoting the singular number shall include the plural number, words denoting the plural number shall include the singular number, and words denoting one gender shall include any other gender.

Exhibits

63. The Parties agree to the terms and conditions of this Agreement and any Exhibits attached hereto and incorporated herein by reference. The Parties agree that if there are any conflicting terms and conditions between this Agreement and the Exhibits, the terms and conditions of this Agreement shall prevail.

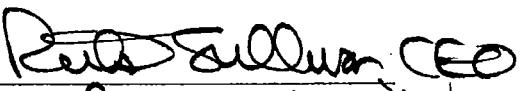
Entire Agreement

64. This Agreement and any Exhibits hereto shall constitute the entire understanding of the Parties as to the subject matter hereof and supersedes all prior agreements, discussions, and correspondence pertaining to the subject matter hereof. Any preprinted terms and conditions on any order, invoice, or statement hereunder by either Party will be of no force and effect. This Agreement, together with any Exhibits, may not be amended, waived, or discharged except by written document signed by both Parties.

This Agreement and any amendments hereto may be executed in one or more counterparts, each of which shall be deemed to be an original by the Parties executing such counterpart, but all of which shall be considered one and the same instrument. For purposes of this Agreement, the displayed or printed image of a manually signed document (or signature page thereto) transmitted by any electronic means, including by facsimile machine or as a scanned attachment to e-mail, is to be treated as an original document, the signature of any person reproduced in the displayed or printed image, for purposes hereof, is to be considered as an original signature, and such image has the same binding effect as an original document bearing an original manual signature. At the request of any Party hereto, any document so transmitted is to be re-executed in original form by the persons who executed the transmitted document.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and do each hereby represent and warrant that their respective signatory whose signature appears below has been and is, on the day and year first written above, fully authorized by all necessary and appropriate actions to execute this Agreement.

TRANSITIONAL SCHOOL DISTRICT
OF THE CITY OF ST. LOUIS


Name: RICK SULLIVAN
Title: CEO

KIPP ST. LOUIS

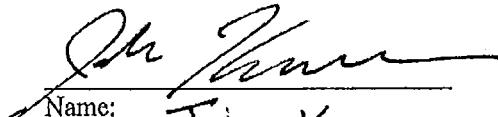

Name: John Kemper
Title: KIPP St. Louis Board Chair

Exhibit A

[Attached]

Scope of Work
ATTACHMENT A
Detailed Scope of Work
Pruitt Recommissioning Project

GENERAL

- Install white boards throughout
- Install intrusion locks on all classrooms, offices and common areas
- Replace ceiling tiles throughout
- Repair/replace damaged ceiling grid throughout
- Repair/replace damaged plaster and drywall throughout
- Install ADA signage throughout
- Scrape, prime and repaint all existing painted surfaces throughout
- Install carpet tiles in library and band room
- Refinish and restripe gym floors
- Replace VCT in classrooms, hallways and offices, as needed
- Repair/replace flashing, as needed
- Repair elevator call buttons

MECHANICAL

- Hydro test boiler(s)
- Replace tubes as necessary
- Inspection of boiler (s) (fill, operate and repair)
- Replace sump pump and damaged/missing piping
- Test and replace pneumatic controls and devices as necessary
- Upgrade fire sprinkler system to meet current code requirements
- Install properly sized (18,000 BTU, minimum) window units, with electrical circuitry in all classrooms, offices and common areas

ELECTRICAL

- Upgrade electrical service as needed to accommodate building upgrades
- Upgrade fire alarm system as necessary to meet or exceed current code compliance
- Upgrade all lighting in classrooms, offices, and hallways (See Specs)
- Install motion sensors on all upgraded lighting (See Specs)
- Upgrade exterior lighting throughout
- Replace all exit signs and emergency lighting
- Install card reader at main entrance (See Specs)
- Upgrade existing PA system (See Specs)
- Upgrade existing clock system (See Specs)
- Install all electrical circuits need to power new water coolers
- Upgrade existing camera system, with DVR

PLUMBING

- Replace all damaged and/or missing copper
- Replace any damaged commodes, urinals and lavatories
- Upgrade water coolers with ADA compliant units

OPTIONAL ITEMS- ALTERNATE BID [Accepted by KIPP]

- Overlay parking area with asphalt, 2" minimum thickness, compacted and stripe parking areas

OPTIONAL ITEMS- ALTERNATE BID

[To be added to scope upon mutual agreement of KIPP and the District

Replace all interior doors

Trim trees and foliage around perimeter of building and property

Replace all exterior doors, frames and hardware throughout

Install properly sized rooftop units on the gymnasium, auditorium and cafeteria

Install an automation system to control the rooftop units, boilers and air handlers. Acceptable manufacturers are Trane, Johnson and Delta

END OF SPECIFICATION

EXHIBIT B

KIPP STUDENT DATA

Consistent with the DESE MSIP 5 reporting requirements and guidelines, periodic data transfers and screen prints will be necessary to assist with predictive analysis and establishing targets, especially as this relates to student attendance, an accountability measure used to gauge student performance (MSIP 5: Standard **xx**). Nothing in this Exhibit shall modify, amend or substitute for the evaluation standards and procedures described in Paragraph 7 (d) or Paragraph 47 of the Agreement (relating to the use of KIPP's Annual Performance Report Scores pursuant to MSIP 5 or any successor standard adopted by DESE or the State Board of Education as described therein).

1. Core Data/MoSIS State Reporting

KIPP shall submit the District copies of data for state reporting to the District within two (2) business days of submission by KIPP to DESE (to include all core data reporting cycles) per the following schedule:

Core Data Cycles and Reporting Screens Required:

August Cycle, Due August 30th

Screen 02 – District Data
Screen 08 – Attendance Center
Screens 10/10A – School Calendar (Planned)

October Cycle, Due October 15th

Screen 16 – Enrollment, Membership and Summer School
Screen 18 – Educator Data
Screen 22 – Sending School Courses and Enrollment

February Cycle, Due February 15th

Screen 15 – Home School/Free and Reduced Lunch
Screen 16 – Enrollment, Membership and Summer School

June Cycle, Due June 30th

Screen 10/10A – School Calendar (Actual)
Screen 14 – Student Attendance

2. Each screen print must be signed, dated, and submitted electronically no later than the two business days of submission to DESE. In addition, a screen print confirming the submission and certification of the appropriate MOSIS data file must also be provided to the District. Validation of information reflected in the screen prints will be made by way of review of the certified MOSIS data file.

In addition to the above-referenced screen prints, a data file shall be submitted quarterly, containing student level data relative to enrollment, attendance, and benchmarks in a mutually agreeable format such as electronic spreadsheets other electronic word processing format.