

Charter School Contract  
Between the  
Crook County School District  
and  
Powell Butte 501  
for  
Powell Butte Community Charter School

May 7, 2010

## CHARTER SCHOOL CONTRACT

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## CHARTER SCHOOL CONTRACT

THIS CONTRACT is made and entered into by and between the Crook County School District (“District”) and Powell Butte 501, Inc. (PB 501), an Oregon non-profit corporation doing business as the Powell Butte Community Charter School (PBCCS), a registered assumed name.

### RECITALS

**WHEREAS**, the Oregon Legislature has entered ORS Chapter 338 for certain purposes enumerated in that chapter; and

**WHEREAS**, on October 26, 2009 an Executive Summary (Exhibit A) was submitted by Friends of Powell Butte for the formation of the Powell Butte Community Charter School as a public charter school within the District; and

**WHEREAS**, the District has determined that the Application/Proposal submitted by Friends of Powell Butte on December 7, 2009 (Exhibit B) for the Establishment of Powell Butte Community Charter School, amended herein, complies with the purposes and requirements of ORS Chapter 338 with the exception of further development of a sound financial system as well as enrolment/population cap to mitigate drain field capacity; and

**WHEREAS**, the District Board has determined that the Powell Butte Community Charter has demonstrated sustainable support for the charter school by teachers, parents, students, and other community members, including comments received at two public hearing held at Powell Butte Elementary School and Crook County Middle School respectively (attached and incorporated as Exhibit L); has demonstrated the capability of PBCCS in terms of support and planning to provide comprehensive instructional programs to students centered around Place Based Education for students and that PBCCS’ Application and Proposal address the criteria required in the proposal process in ORS 338.045 and in District Policy; and

**WHEREAS**, by resolution adopted February 8, 2010, (attached and incorporated as Exhibit L) the District Board conditionally granted the application contingent upon negotiation and execution of a contract and a rental agreement acceptable to PB 501 and the District and other elements enumerated in Section 2 of this Contract; and

**WHEREAS**, this Contract between PB 501 and the District, including the Exhibits, will constitute the full and complete agreement between the parties regarding the governance and operation of the Powell Butte Community Charter School with the Contract taking precedence over all other Exhibits; and

**WHEREAS**, the parties desire that the PBCCS be authorized to operate and conduct its affairs in accordance with the terms of this Contract and ORS Chapter 338.

**NOW, THEREFORE,** in consideration of the foregoing recitals and mutual understandings, releases, covenants and payments herein described, the parties agree as follows:

## CONTRACT

### 1. Grant of Charter

Powell Butte 501, doing business as the Powell Butte Community Charter School, is granted, in accordance with ORS Chapter 338 and the terms and conditions of this Contract, a charter to operate a single public charter located within the boundaries of and in conjunction with the Crook County School District as described herein.

### 2. Effective Date and Conditions Precedent

- A. This Contract shall commence on July 1, 2010, and shall expire on June 30, 2013, subject to the possibility of termination or extension pursuant in Section 2, Paragraph C and/or D of this Contract.
- B. Before PBCCS may begin to operate as a public charter school sponsored by the District, the following conditions must be met:
- (i) PBCCS shall provide the District that they have entered into an agreement to either purchase, lease, rent or otherwise secure a facility within District boundary, and acceptable to the District by July 1, 2010.
  - (ii) PBCCS shall secure the appropriate and necessary building, conditional use and safety permits for the charter facility and give proof of same to the District by September 1, 2010. Upon receipt of these permits PBCCS shall provide a certified copy of same to the District Business Manager.
  - (iii) PBCCS shall secure the necessary occupancy permits for the charter school facility by August 20, 2010 or sooner if students are in the building.
  - (iv) PBCCS shall secure building/property/business insurance (Commercial General Liability Insurance, Liability Insurance, Automobile Liability Insurance, Hired and Non-Owned Automobile Insurance, Workers' Compensation Insurance, Honesty Bond covering all employees, volunteers and Board, Errors and Omission Insurance, Molestation, and Property Insurance) in the amounts determined by District Administrative Rule and proof of this insurance must be delivered to the District by July 1, 2010 and the PBCCS insurance policy must name the District as an additional insured.

- (v) The dates of these conditions precedent may be altered by written mutual assent of the District and PBCCS.
- C. It is the intent of PBCCS and the District to grant a charter under this Contract for three (3) school years. If PBCCS will be unable to meet, or fails to meet, any conditions precedent, PBCCS shall promptly notify the District, and PBCCS's first year of operation will be delayed until the following September of 2011. In the event that this delay takes place, the term of this Contract will be extended by one year, to allow for three (3) school years of operation by PBCCS, and all required conditions precedent will need to be met by agreed upon calendar dates.
- D. Should PBCCS fail to honor the conditions precedent under this Contract at any time then this contract shall be terminated as described in Section 6 (I) of this Contract.

3. Educational Program, Student Assessment and Curriculum

A. Age and Grade Range

- (i) For the first school year covered by this Contract, enrollment shall be open to any child eligible to attend grades served subject to state law (currently ORS 338.125(1)).
  - (ii) PBCCS may provide instruction to students in grades K-6 during the 2010-2011 school year. K-7 during the 2011-2012 and K-8 in the 2012-2013 school year.
  - (iii) As provided in Oregon State Statutes, currently ORS 338.115(5), PBCCS shall maintain an active enrollment of at least twenty-five (25) full-time students. The District may terminate this Contract with 30 days notice if student enrollment in PBCCS falls below 25 students for thirty (30) days or longer during any school year.
  - (iv) The total maximum enrollment for the first year of operation shall not exceed 146 enrolled students, inclusive of students in grades K-6 and 166 students during the 2011-2012 academic year inclusive of grades K-7 and third year (2012-2013) 186 students in grades K-8. The students shall reside within the District boundary; however, if PBCCS has not reached maximum enrollment in a given year, students from outside the District boundary may be admitted as space allows. The student cap would also be limited by fire code as to occupancy, whichever is less, fixed cap by Contract or occupancy number as regulated by fire department or another government agency or mitigating circumstances associated with the facility.
- B. The PBCCS Proposal states that for the first year of operation PBCCS wants to give preferential treatment to Powell Butte attendance area Crook County School District students. PBCCS intends to petition ODE for a waiver. The intent of the waiver is for PBCCS to limit

enrollment to Powell Butte attendance area (Exhibit S) resident students and thus, provide said resident students and their siblings with preference to attend PBCCS. The CCSD will not support such a waiver request as the Powell Butte Community Charter School Friends/Cohort has publicly stated and its Charter Proposal advocated, that Powell Butte Community Charter is to serve all Crook County School District resident students. (Exhibit M)

### C. Curriculum

The District agrees to waive its curricular requirements, to the extent permitted by state law, but subject to the implementation of PBCCS' instructional programs outlined in Section 3 (C) below and in the Charter Proposal/Application (See Exhibit B.)

- (i) PBCCS shall have the authority and responsibility of designing and implementing its educational program revolving around Place Based Learning/Service Learning, subject to the conditions of this Contract in a manner which is consistent with state law.
- (ii) The educational program, pupil performance standards and curriculum designed and implemented by PBCCS shall meet or exceed any content standards adopted by the State of Oregon and shall be designed to enable each pupil to achieve such standards and PBCCS shall provide evidence through journals, project portfolios and assessments, inclusive of projects, tests, exams, and state tests that student performance meets or exceeds the state standards and current Powell Butte Elementary State Assessment scores.
- (iii) PBCCS will comply with all state requirements concerning academic content areas defined in ORS 329.045.

### D. Educational Program

- (i) PBCCS will provide an outline, syllabi and lesson plans for each first semester course/class of its core curriculum and educational program(s) offered. These materials are to be completed by September 1, 2010 and attached to this Contract as Exhibits F, G, and H respectively and posted on the PBCCS web page. The second semester course outline, syllabi and lesson plans are to be posted on PBCCS' web page and submitted to the CCSD on or before December 1, 2010.
- (ii) PBCCS shall maintain a copy of each student assessment by class, administered or required; including but not limited to quizzes, lesson/chapter tests, exams, projects, journals, papers, etc. and make same available to the District upon request.
- (iii) PBCCS' curriculum and educational program shall contain a specific English Language Learners (ELL) Program Plan and Policies, submitted to ODE, as well as a specific Talented and Gifted (TAG) Program Proposal for screening and

serving ELL and TAG students and submit same to the District and ODE on or before September 1, 2010. (See Exhibits O and P.)

- (iv) PBCCS curriculum and educational program shall contain specific policies on addressing Special Education Students and 504 Students and submit to the District on or before September 1, 2010. (See Exhibit Q.)
- (v) PBCCS shall develop a School Technology Plan by September 1, 2010, as well as maintain and submit to the District and ODE. (See Exhibit R.)
- (vi) TAG students require Personal Education Plans (PEP) and Modified Lessons. PBCCS shall retain a copy of each TAG student's PEP and Modified Lessons signed by the teacher and respective parent, and have said Plans ready for review by the District or the Oregon Department of Education.
- (vii) Failure to comply with (i) through (vi) will be cause for termination within thirty (30) days notice of the second request.

#### E. Records

PBCCS shall comply with all record keeping requirements of State and Federal Law pertaining to student records and shall cooperate with the District by providing key reports or records to the District, as necessary, to meet the District's reporting obligations to the Oregon Department of Education or the U.S. Department of Education. Failure to do so in a timely manner will be cause for termination within thirty (30) days of notice of the second request.

#### F. Non-Discrimination

The PBCCS education program, without limitation, shall conform to all statutory and constitutional provisions prohibiting discrimination on the basis of age, race, creed, color, sex, national origin, religion, ancestry, disability, marital status, sexual orientation, or political beliefs and/or affiliations.

#### G. Non-Religious

PBCCS educational program shall be nonsectarian and non-religious. The educational program shall not be affiliated with any non-public sectarian school or religious organization.

#### H. Admission

- (i) Admission of students to PBCCS shall be conducted in accordance with state law (currently ORS 338.125 (1)) and federal law. "Admission means that the student has (1) applied to PBCCS; (2) successfully completed the lottery, if applicable.
- (ii) In the case of a student who is eligible for special education and related services under the Individual with Disabilities Education Act, the resident student



district's Individual Education Plan or Program (IEP) team must have deemed PBCCS to be a proper placement for the student to remain admitted unless the custodial parent exercises his/her right to have the student removed from special education.

I. Enrollment Process

- (i) PBCCS is a school of choice. Enrollment at PBCCS must be voluntary. All students, including students with disabilities, who are residents of the District, are eligible for enrollment. Students who are not residents of the Crook County School District are eligible to enroll based on current ORS 338.125(2), and may be admitted as space allows. Otherwise, age and grade are the only criteria for enrollment.
- (ii) The enrollment process will conform to process articulated in Exhibit B.
- (iii) This process may be modified in accordance with any waiver granted by the Oregon State Board of Education.

J. Enrollment Preferences after First Year

- (i) As provided in ORS 338.125(1), in subsequent years of operation, PBCCS may give admissions preference to students who were enrolled full-time in PBCCS during the last semester, in the prior year and siblings of students enrolled and in attendance at PBCCS during the last semester of the prior year.
- (ii) Once the students in J(i) above are identified up until the cap has been met, all other students will be selected through an equitable lottery, as described in Section 3, Paragraph H.

K. Dual Enrollment

PBCCS shall not permit a charter school student to attend on either a full-time or part-time basis both PBCCS and another public school or another public charter school, or a non-public school without prior District approval. If PBCCS becomes aware that any student at PBCCS is enrolled and attending another public school, another public charter school or a non-public school on a full-time or part-time basis, PBCCS will notify the District and will request that the parent or guardian of such student take appropriate action to reduce the student's full-time enrollment and attendance to one school.

L. Student Attendance, Conduct and Discipline

- (i) PBCCS shall implement a system of uniform student conduct (Exhibit I - Student Handbook). PBCCS shall notify its students of the student's rights and responsibilities at the beginning of each school year, or as a student meets the admission requirements as stated in this Contract. PBCCS shall maintain

accurate enrollment data and records of average daily membership and shall provide this data to the District on a monthly basis by no later than the 5<sup>th</sup> day of the month for the preceding month.

- (ii) PBCCS shall notify the District immediately upon a student being expelled from PBCCS. The continued education of non-resident student(s) expelled from PBCCS shall be PBCCS' responsibility.
- (iii) PBCCS student conduct and discipline will comply with ORS 339.240-339.280, and will comply with the District's Code of Conduct.

M. Education of Students with Disabilities

PBCCS shall comply with all District policies and regulations and the requirements of federal and state law concerning the education of children under the Individuals with Disabilities Education Act (IDEA). Compliance by PBCCS includes, but is not limited to, the following:

- (i) PBCCS shall comply with all District policies regarding discipline of special education students.
- (ii) The Individual Education Plan and Program (IEP) team are determined by federal law.
- (iii) The student's IEP team will determine the appropriate educational program and placement for the student. PBCCS shall abide by the IEP team's decision on program and placement. The parent/guardian shall be informed that there is a process to have their child removed from IDEA qualification.
- (iv) PBCCS staff shall comply with training required by an IEP team for the delivery of services to a PBCCS special education student. The District will provide a licensed special education teacher to monitor the implementation of IEP services, write IEP's and communicate with parents for District resident students. The District may assess a fee to PBCCS for assisting and/or providing special education services for non-District students attending PBCCS.
- (v) For determining funding for special education students in PBCCS the "Resident School District" shall be the school district in which the student's parent or guardian or person in parental relationship to the student resides. The Resident School District shall be responsible for providing any required special education and related services to the student. Amounts from the State School Fund for those students shall be distributed through the Resident School District as follows: an additional amount shall be added to the ADM of the PBCCS as described in ORS 327.013(7)(a)(A). The payment per ADMw in the PBCCS that is attributable to the student who is eligible for special education and related services shall equal an amount that is 47.5% of the school district's General Purpose Grant per ADMw as calculated under ORS 237.013 but shall not be

greater than the District's proportional share of ADMw for IEP students capped. If the Resident School District is not the District, the Resident School District for each ADMw that is attributable to a student enrolled for special education and related services shall transfer 50% of the ADMw as calculated under ORS 327.013 to the District who is the PBCCS sponsor.

- (vi) The District and PBCCS, by mutual agreement, has the discretion to determine which specialized programs will be offered at the PBCCS site.
- (vii) For a nonresident PBCCS student eligible under IDEA, PBCCS and the District shall enter into a written agreement with the resident district for the provision of special education services to the student. The District is in no way responsible for these services or the costs thereof and may elect to not provide services to the non-resident PBCCS student.
- (viii) The student's IEP team may recommend any appropriate placement for the student based on the student's qualified needs, whether in or out of PBCCS. PBCCS shall not change the student's placement or IEP without IEP team action.
- (ix) If it is required as a related service on a PBCCS student's IEP, the District will provide transportation to PBCCS. If the District is not the Resident School District, PBCCS will negotiate with the District for transportation.
- (x) If, after a student is enrolled and attending PBCCS, the staff of PBCCS suspects a student may be eligible for special education and/or related services under IDEA, PBCCS shall comply with District practices and policies for referral of the student for evaluation.
- (xi) PBCCS will ensure that all individuals applying for admission to PBCCS receive equal opportunity for admission without regard to whether individuals are considered disabled under any applicable state or federal law.

#### N. Tuition and Fees

PBCCS shall not charge tuition to students attending PBCCS. PBCCS shall not charge tuition for programs, classes or courses of study which are part of the regular school program. PBCCS may charge reasonable fees for textbooks (including deposits applied damages), instructional materials, operational after-school programs and student activities pursuant to state law (currently ORS 339.141, 339.147 and 339.155).

#### O. Student Welfare and Safety

PBCCS shall comply with all applicable state and federal laws concerning student welfare, safety and health, including, without limitation, the reporting of child abuse, accident prevention and disaster response, and any local, state or federal regulations governing the operation of school facilities.

- (i) PBCCS is responsible for reporting child abuse and neglect in accordance with state law (currently ORS 339.370, 372 and 375). In the event that a PBCCS employee reports an incident of child abuse and/or neglect pursuant to state law PBCCS shall immediately inform the District Superintendent's Administrative Assistant of the incident giving rise to the report and supply the Administrative Assistant with a copy of the written report.
- (ii) PBCCS will oversee that its employee(s) completes the Child Abuse Form accurately and completely and file same in safe and secure location that is available for review by the District or ODE.
- (iii) PBCCS shall comply with state and federal law relating to drug administration to students.
- (iv) PBCCS shall comply with OAR 584-020-0041, the Teacher Standards and Practices Commission requirements that the chief administrator report certain acts of gross neglect of duty of licensed staff.
- (v) Failure to comply with Student Welfare and Safety may be cause for termination of this Contract.
- (vi) PBCCS will retain the services of a Crossing Guard Monitor for the morning arrival of students and the afternoon release of students or whenever students are released if this practice is required recommended by the Insurance Carrier and not prohibited by ODOT. This Crossing Guard shall be provided and is to wear a reflective vest or jacket at all times he/she acts as the Crossing Guard and is to display the appropriate stop sign.

P. School Year; School Day; Hours of Operation

PBCCS shall operate a regular school year instructional program (September – June). PBCCS must comply with applicable instructional hours pursuant to ORS 338.115 and OAR 581-022-1620. PBCCS calendar may differ from the District's calendar. PBCCS will determine its school calendar annually and will provide a copy of the following school year's calendar to the District on or before May 1<sup>st</sup> of each year – except in 2010, PBCCS shall provide the CCSD with its school year calendar within 30 days after this Contract is signed.

Q. Education Model

Subject to applicable state law, federal law, and terms of this Contract, PBCCS shall be allowed to promote and implement learning situations that are flexible with regard to environment (in school classroom and in Crook County environs), time, structure and pedagogy.

#### R. Participation in District Offerings

- (i) PBCCS may participate in District extracurricular sponsored activities. PBCCS students may, upon request, be allowed to participate in District sponsored programs subject to availability and guidelines as determined by the District and subject to the same costs as District students. Including Out-Door-School.
- (ii) PBCCS may request that its students be able to use certain District facilities in the same manner that other District students are able to use them and subject to all applicable District policies relating to use of such facility and availability. Examples of such facilities include but not limited to track, football field, baseball field, tennis courts, computer laboratory, auditorium, etc. In response to such a request, the parties will negotiate in good faith separate agreements whereby PBCCS may use such a facility.
- (iii) The District shall not be required to provide transportation for a PBCCS student to and/or from an extracurricular activity. However, the District may provide transportation services to a PBCCS student to and/from an extracurricular activity on a cost basis. The District is not required to add or extend established bus routes or provide transportation services to accommodate a PBCCS student(s) but may do so providing PBCCS pays all associated costs of serving and maintaining such an extension or addition.

#### 4. Evaluation of Student Performance and Procedures for Corrective Action

##### A. Reasonable Progress

PBCCS shall pursue and achieve the progress stated in the PBCCS Application and Proposal (Exhibit B) toward achievement of the goals, objectives, activities, and student performance standards consistent with those set forth in this section, provided that such goals, objectives, activities, and student performance standards remain at all times in compliance with Oregon Law and the provisions of this Contract.

##### B. Curriculum Alignment

The learning goals and student guided activities for PBCCS students will be aligned to the State of Oregon Education Departments standards as well as the National Content Standards.

##### C. Student Assessment

- (i) PBCCS will fully participate in District and statewide assessments developed by the ODE under 329.485, as well as any additional assessment(s) developed by the ODE, the United States Department of Education or the Oregon Legislature to implement the federal No Child Left Behind (NCLB) assessment requirements. PBCCS will administer the Oregon statewide assessments to its students on the

same schedule as the District and in conformity with District protocols and processes which are in keeping with state law.

- (ii) PBCCS plans to use universal screening(s) for success to measure and report student growth. PBCCS will test all students three times a year using such assessments in the core curriculum (language arts, writing, math and science) using such instruments as DIBELS, MAZE as well as District Math and Writing Formative Assessments and will use their respective scores for planning interventions and use the percentile rankings for measurement and reporting as well as base line data for school improvement and staff development activities.
- (iii) PBCCS shall include OAKS student results as well as administer all other District grade level assessments and report student performance on all assessments in its annual report to its students, the District, District's residents. PBCCS will reimburse the District for the printing of the PBCCS student's state report card. PBCCS and the District will identify student performance that has fallen below anticipated achievement level(s).
- (iv) If any assessment, mentioned in Section 4, Paragraph C of this Contract, is discontinued, PBCCS shall select a new assessment protocol and provide notice of the change to the District. Upon this occurrence, PBCCS and the District shall determine the new method(s) of evaluating student progress under this Contract through the new assessment(s).
- (v) The assessment of PBCCS students shall include goals related to OAKS allowing for a comparison between PBCCS students and former Powell Butte elementary students and District student achievement.
- (vi) In order to ensure an accurate testing procedure and environment for its students, PBCCS will make staff available for training alongside District employees in state assessment process and procedures and is to employ all state protocols for test administration. Cost of substitutes or staff time to be borne by PBCCS.
- (vii) For the purpose of this Contract, a determination of student achievement will be based on the data collected from PBCCS OAKS testing as well as DIBELS and all other District grade level assessments and report PBCCS student performance on all assessments in its annual report to its students as well as portfolios and journals and student papers for Placed Base Projects/Service Learning activities. The state assessment standards will be used provided that the cell size of PBCCS students tested is at least 40 and provided an adequate measure of performance in comparison to similar District schools, and subgroups.
- (viii) Once the cell size of PBCCS students tested is at least 40, the percentage of students meeting or exceeding the standard at any grade level using statewide assessment, must be within one standard deviation of the District's students who meet or exceed the standard at that grade level and within the same subgroup.

D. Information from the District

The District will provide PBCCS the same assessment result information as all other District schools with disaggregated data for comparison and goal-setting as well as for school improvement purposes.

E. Student Participation on State Tests

PBCCS will require all students to participate in State of Oregon Assessment Tests and ensure that no less than 98 percent of the students in each grade applicable will participate in the statewide assessments with an ultimate goal of 100 percent participation.

F. Student Performance

PBCCS will pursue Adequate Yearly Progress (AYP) as established by the state of Oregon under the federal No Child Left Behind Act (NCLB) of 2002 and as measured by participation rates and scores on the Oregon Statewide Assessments, attendance and any other criteria used by the state to determine AYP for all public schools. PBCCS will be subject to applicable federal and state sanctions for any failure to make AYP.

G. Subgroup

Each subgroup identified in NCLB for which there is the minimum cell size for accountability purposes as determined by the Oregon Department of Education will make Adequate Yearly Progress, as established above and measured by the Oregon Statewide Assessments.

H. Corrective Action

If the percentage of students meeting or exceeding performance and achievement standards under Section 4, Paragraph C, at any grade level in PBCCS is lower than recent history or comparable District students' performance and achievement standards, PBCCS shall develop, subject to District approval, a written Plan of Correction utilizing SMART goals to describe the action(s) that PBCCS will undertake to successfully meet or exceed PBCCS' performance goals and the District's percentages.

- (i) PBCCS shall deliver the written Plan of Correction, complete with staff development activities as applicable, to the District within sixty (60) days of PBCCS receiving the assessment scores. Failure to do so will be cause for the District take action to terminate the Contract.

I. Failure to Follow Plan of Correction/Staff Development Plan/Application or Proposal

If PBCCS fails to follow any of the actions stated in any of the Plans of Correction or Staff Development Plans as state above or as stated in the Application/Proposal the District shall issue a written notice to PBCCS that it must comply within the terms of the written Plan of

Correction or Application/Proposal immediately. If, after 15 calendar days, PBCCS is not in compliance with the either the Plan of Correction; Staff Development Plan; Application or Proposal, the District may begin the process of terminating this Contract.

J. District Reporting State Assessment Results

The District shall report to PBCCS the same state assessment result information as all District schools within 10 days of receiving the scores. The report will be forwarded via the internet.

5. Economic Plan, Budget , Monthly Report and Annual Report Audit Report

A. Funding

- (i) For Kindergarten through eighth grade students the District shall provide funding to PBCCS in an amount per weighted average daily membership (ADMw) of PBCCS that is equal to a minimum of 80 percent of the amount of the District's charter school rate per ADMw as calculated under ORS 327.013 for PBCCS students except as amended by this Contract under Section 3, Paragraph K, subparagraph (v) for students eligible for special education services under IDEA. Funding shall be determined based on enrollment as of the date by which the District must submit its October Report to the Oregon Department of Education. So long as PBCCS is not in violation of ORS Chapter 338, this funding will be made available to PBCCS, commencing on the date set forth according to the distribution schedule set forth in Section 5, Paragraph C, subparagraph (vi) below. The District is not to advance funds to PBCCS. The District will adjust the funding to reflect the actual funded pupil count as of December 1<sup>st</sup> and adjust each payment after September to reflect actual ADMw. In addition, to the extent the District experiences any reduction or increase in its state funding "Charter School Rate" under ORS 338.155, proportionate reductions or increases will be made to PBCCS by adjustment. This amount is calculated by the Oregon Department of Education and provided to the District on the State School Fund District Estimate that the Department of Education periodically provides to school districts.
- (ii) Any financial commitment on the part of the District contained in this Contract is subject to appropriation by the State of Oregon and the parties agree that the District has no obligation to fund PBCCS operations except as expressly provided herein or in ORS Chapter 338.
- (iii) PBCCS shall provide enrollment data regarding numbers of in-district students, out of district students, and former home school students. Enrolled student in attendance counts will be submitted on or before the 5<sup>th</sup> day of the month for the preceding month of each school year: July through June. The July, August and September reports and thus payments due from the District based on those reports, will be based on the Charter School projected ADMw. For the first estimate, projections as of July 5, 2010 will be based on projected enrollment but



only forth coming if the Oregon Department of Education forwards SSF and there is a contract in place. Should the estimate be higher or lower than the actual October 5, 2010 ADMw enrolled than the July, August and September payments will be adjusted and if lower the October payment will reflect the difference.

- (iv) The District shall pass through funding to PBCCS consistent with requirements of ORS 338.157 Poverty Adjustment.
- (v) Loss of state or federal funds to the District due to PBCCS not meeting ODE or Federal requirements or any other reduction of the SSF in part or in total due to the District attributed to PBCCS shall be made up to the District by PBCCS in proportion to PBCCS' cause for the loss.
- (vi) Should ODE's Remote School Funding for PBCCS be forthcoming, this SSF amount shall be a direct pass through without the 20% CCSD recapture.

#### B. Budget

- (i) On or before May 1 of each year, PBCSS shall submit to the District a copy of the PBCCS proposed budget for the upcoming school year.
- (ii) On or before July 1 of each school year, PBCCS shall submit to the District a copy of the PBCCS adopted budget for the upcoming school year.
- (iii) PBCSS shall be responsible for all costs of subcontracting for goods and services, except as expressly provided in this Contract. All goods and services shall be undertaken through a PBCCS purchase order, consistent with state law and accounted for.
- (iv) PBCCS' fiscal year shall begin July 1 of each year and end on June 30 of the subsequent year to coincide with the District's fiscal year.
- (v) The cost of any service(s) provided to PBCCS by the District above and beyond the terms of this Contract shall be deducted from the payments due to PBCCS from the District's payment outlined in Section 5, Paragraph A of this Contract. The parties shall have a mutually written agreement on the type of service(s) and any affiliated costs prior to the District implementing any such service.
- (vi) PBCCS shall have a goal of retaining a minimum ending fund balance of at least 2% of total revenue from State School Funds, and a minimum operating contingency budget of 6% of State School Funds. These balances will not include any funds derived from grants.
- (vii) PBCCS shall not loan PBCCS funds to any other entity.

- (viii) PBCCS shall notify the District of any short-term loans secured by PBCCS. PBCCS shall not carry any loans over the end of the fiscal year, save for loans for facility acquisition or development.

C. Financial Records, Audits and Accounting Reports

- (i) PBCCS agrees to establish, maintain and retain appropriate financial records in accordance with applicable state and federal laws and to make such records available to the District upon the District requesting them. In addition, PBCCS shall submit quarterly income and expense reports and submit monthly balance sheet showing liabilities to PBCCS by the 15<sup>th</sup> of each month, beginning October 15, 2010. If these financial records have not been reviewed at the time of submission to the District, any corrections required upon review by PBCCS Board shall be submitted to the District the following month.
- (ii) PBCCS shall have an annual audit of its accounts and compliance standards in accordance with Municipal Financial Audit Law, ORS 297.405 and 297.998. PBCCS shall submit this audit to the District by October 15 of each year beginning October 15, 2011.
- (iii) PBCCS shall provide to the District a copy of PBCCS' completed Internal Revenue Service form 990 by November 15<sup>th</sup> of each year.
- (iv) PBCCS shall operate in accordance with generally accepted accounting principles (GAAP) of fiscal management and accounting requirements and any other accounting requirements specifically for schools.
- (v) PBCCS shall submit by the 5<sup>th</sup> of each month, to the District, student ADM counts for purposes of calculating distribution of ADMw funding to PBCCS.
- (vi) The District shall distribute to PBCCS funds as determined in Section 5, Paragraph A, subparagraph (i) of this Contract, in the following amounts on or before the following dates of each month and as of October 25 the amount is based on actual ADMw. Forwarding of SSF revenue is contingent upon ODE forwarding SSF to the District:
- July 25 = 16.66 percent unless 501 is pending
  - August 25 = 8.33 percent
  - September 25 = 8.33 percent
  - October 25 = 8.33 percent unless the July-August was not accurate
  - November 25 = 8.33 percent unless the July-August was not accurate
  - December 25 = 8.33 percent
  - January 25 = 8.33 percent
  - February 25 = 8.33 percent
  - March 25 = 8.33 percent

- April 25 = 8.33 percent
- May 25 8.33 percent unless ODE makes adjustments

(a) The parties mutually agree that the above payment schedule is intended to follow the disbursement schedule of the State School Fund payments to the District under ORS 327.095. The parties further agree that should the disbursement schedule of the State School Fund be modified during the term of this Contract, the disbursement schedule of payments from the District to PBCCS shall be modified to reflect such changes. The District shall still be required to transfer payment due to PBCCS under this Contract within ten (10) business days of the receipt of such payment from the State School Fund. [For example, should the Oregon Legislature amend the State School Fund disbursement schedule and move the May 2011 payment to July, the District shall not be required to transfer the payment to PBCCS until ten (10) business days after the District has its State School Fund disbursement on July 2011.

(b) An annual reconciliation adjustment per ODE final ADMw calculation will occur after the District receives the report. There will be an adjustment with the final [May or June] payment, as provided in state law, to reflect changes in calculation of ADMw and changes, if any, in the Charter School Rate, as well as changes with respect to funding during prior school years that may be based on final calculations of ADMw and the Charter Schools' Rate that are not finalized until after the end of a school year.

(vii) In the event that this Contract is revoked, terminated or not renewed by the District, PBCCS shall refund to the District all unspent public funds that were paid to PBCCS by the District after all debt has been paid.

(viii) The parties acknowledge that under ORS.338.155(9)(b) PBCCS may be entitled to other state sources of funds from the Oregon Department of Education that are available to school districts based solely on the weighted average daily membership (ADMw) of the school district which are not included in this Contract. The District will cooperate pursuant to District policy. PBCCS will be entitled to their respective share of any grant that PBCCS participates in that is dispersed in amounts related to District enrollment, and the enrollment calculation includes PBCCS students in the district. The share PBCCS is entitled to will be based on the PBCCS ADMw included in the grant calculation as long as PBCCS is an active participant in the grant proper, parameters and requirements. The District will retain 20% of these funds allocated to PBCCS. If PBCCS students are not a factor in the grant's calculations and/or the District is not required by Statute or Administrative Rule to share funds with PBCCS then PBCCS may not receive any funds. Each instance will be reviewed on a case by

case basis. The District has final determination to share these type of funds or not. There is no appeal. The District's decision is final.

- (ix) The parties acknowledge that under ORS 338.155(9)(a) PBCCS may apply for any grant that is available to school districts or non-chartered public schools from the Oregon Department of Education, federal government or private entity. The District will cooperate in applying for such funds and if the District must act as fiscal agent the District will charge a five (5) percent indirect cost to account for, manage and disperse the funds.
- (x) PBCCS may accept gifts, donations or grants pursuant to ORS Chapter 338, provided that such gifts, grants or donations may be accepted if not contrary to applicable law or the terms of this Contract. In the event that PBCCS solicits funding from other sources than the District, it shall comply with all applicable state and federal laws regarding the holding of and reporting of such charitable contributions. PBCCS shall annually report all gifts, donations, fund-raisers, and grants to the District by recording same in the financial records described in Section 5, paragraph C above and by maintaining program records, accounting for all fund-raiser activities.
- (xi) PBCCS shall provide the District with all copies of letters and the audit report from PBCCS' certified auditor to the PBCCS Board or the PBCCS Principal/Director.

#### D. Non-Compliance Consequences

Notwithstanding Section 5, Paragraph A, subparagraph (i) and Section 5 Paragraph C, subparagraph (vi) of this Contract, if PBCCS has not submitted in a timely fashion the proposed budget, the adopted budget, the required annual audit, and any other information required by law, or this Contract, by the date PBCCS is obligated to provide the information to the District, or the District requests additional documentation in regards to PBCCS financial stability and it is not produced within 20 days of the request or up to 30 days if mutually agreed upon, PBCCS shall be in default of this Contract, and the parties shall pursue a resolution under Section 11, Paragraph L (Dispute Resolution).

#### 6. Buildings and Facilities

- A. PBCCS may change its physical location or obtain additional facilities at another site provided PBCCS fulfills the obligations and provides the information set forth in this section with respect to such new or additional facilities and provided further that PBCCS notifies the District by April 1 of the proposed change in location for the following school year.
- B. Should any individual(s), group(s) or entity bring a legal action against the District asserting that the District is, or was, in violation of the Establishment Clause of the First Amendment to the United States Constitution or Section 5, Article I of the Oregon Constitution due to PBCCS' operation as a public charter school within the District, PBCCS shall defend and

hold the District harmless from any judgment or order. This shall include PBCCS holding the District harmless, and reimbursing the District for any and all costs associated with defending such an action. This shall include, but not be limited to, fees, court costs, attorney fees and fines.

- C. Pursuant to state law District shall make public a list of unused buildings and portions of buildings that may be suitable for the operation of a charter school, and this list shall be provided to PBCCS within 30 days of receipt of written request by PBCCS. This does not require that such unoccupied premises be sold or leased to PBCCS.

## 7. Governance and Operation

Powell Butte 501 (PB 501) shall govern and operate the charter school set forth in its corporate documents (Exhibit J) to the extent permissible under federal and state law and subject to all conditions in this Contract.

### A. Corporate Status

- (i) This Contract is made with the understanding the PB 501 is an Oregon non-profit corporation that operates a charter school in conjunction with the District within the District's boundary. PB 501 is and shall remain for the term of this Contract an Oregon non-profit corporation. For this Contract to go forward the PB 501 must provide proof of its non-profit corporate status. Before making any changes to its Articles of Incorporation or Bylaws, PB 501 shall provide notice to the District and provide a copy of its changed Articles of Incorporation or Bylaws to the District within 30 calendar days after enacting the changes to its Articles of Incorporation or Bylaws.
- (ii) The parties recognize that PB 501 is an Oregon non-profit corporation currently doing business as the "Powell Butte Community Charter School." The parties further recognize that PB 501 is legally authorized to engage in other lawful activities consistent with its Bylaws and Oregon law, including, but not limited to the operation of other educational programs and charter schools. If and when PB 501 decides to operate another business entity or educational program other than a charter school, PB 501 shall notify the District of its intent as soon as possible and such notification shall be prior to PB 501's final decision to operate another business entity or educational program. Such notification is a mandatory requirement of this contract. Upon notification, the District and PB 501 will as necessary negotiate terms that are mutually acceptable to the parties that address the District's concerns about liability and financial issues and agree on an amendment to this Contract which satisfies those concerns.
- (iii) If PB 501 fails to notify the District of its intent to operate other business entities or operations, the parties agree that this is a material breach of the Contract and the District may exercise its rights to termination under the Contract.

- (iv) PBCCS shall maintain all accounts and funds for PBCCS separate from any other charter school operated by PB 501 in conjunction with other sponsoring districts. At no point will PBCCS inter-mingle funds intended for use at the PBCCS with any other PB 501 venture or charter school established in another district. It is acceptable to share administration costs and other joint expenses incurred in school operations, accounting for these expenses separately by each charter school and school district.
- (v) There is no relationship between the District and any other charter school that may be operated by PB 501 in conjunction with any other sponsoring school districts. No liabilities of PB 501 other than those resulting directly from the operations of PBCCS under this Contract shall be imputed to PBCCS or the District. At no time will money distributed to PBCCS by the District under this Contract or under a District grant be expended for any purpose or obligation other than those arising from the operations of PBCCS under this Contract, nor shall such funds be used to satisfy any obligation incurred by the PB 501 outside of the operations of PBCCS under this Contract.
- (vi) To ensure the financial separation between PBCCS and other PB 501 ventures, PBCCS shall utilize accounting techniques to keep all PBCCS finances separate from PB 501 and other PB 501 operated charter school finances. All financial reports due to the District under this Contract shall demonstrate that all funds distributed to, and/or intended for the use at PBCCS are not commingled with or expended towards the liabilities of any PB 501 operations outside of PBCCS proper.

B. Nonreligious, Nonsectarian Status

PBCCS agrees that it shall operate in all respects as a nonsectarian, nonreligious public charter school. PBCCS shall not be affiliated with any nonpublic sectarian school or religious organization. This section shall not preclude PBCCS from leasing or renting a facility from a church or religious organization.

C. Nondiscrimination

PBCCS, without limitation, shall uphold statutory and constitutional provisions prohibiting discrimination on the basis of disability, age, race, creed, color, sex, national origin, religion, ancestry, marital status, political beliefs and/or affiliations, or sexual orientation.

D. Public Meeting and Public Records

PBCCS and its Board of Directors are subject to provisions of Oregon Public Meeting Law, ORS 192.610 to 192.690 and Oregon Public Records Law, ORS 192.410 to 192.505.

E. Operational Powers

Subject to the conditions and provisions of this Contract, PBCCS, through its Board of Directors, shall be fiscally responsible for its own operations within limitations of any funding provided by the District and other revenues derived by PBCCS consistent with law.

- (i) PBCCS shall have the authority to exercise independently, also consistent with federal and state law, all powers granted to nonprofit corporations and charter schools so long as such powers are not inconsistent with the terms of this Contract, including without limitation the following powers (and including such other powers as provided for elsewhere in this Contract):
  - a) Making all personnel decisions, including hiring, firing and discipline of teachers and classified staff;
  - b) Contract for goods and services necessary for operation of PBCCS;
  - c) Prepare a budget;
  - d) Procure insurance and necessary bonds;
  - e) Lease facilities for school purposes;
  - f) Retain fees collected from students in accordance with state law;
  - g) Purchase, lease or rent furniture, equipment and supplies;
  - h) Organize and carry out fund raising efforts;
  - i) Accept and expend gifts, donations, or grants of any kind in accordance with such conditions prescribed by the donors as are consistent with law and not contrary to any term of this Contract.

F. Third Party Contracts

To be consistent with the PB 501 Application and Proposal, PBCCS shall not enter into any contract for comprehensive school management or educational services to be performed in substantial part by an entity not a party to this Contract.

G. Annual Report and Site Visit(s)

(i) Annual Report

PBCCS shall submit an annual report each October 15<sup>th</sup> beginning October 15, 2011, to the District and to the State Board of Education which will include, without limitation, the following:

- a) The annual municipal audit required under Section 5, Paragraph C of this Contract and including proof of Insurance(s) (Exhibit E).
- b) A copy of the latest PBCCS Board Policy book;
- c) A copy of the latest PBCCS Teacher and Student Handbooks;
- d) A copy of latest IDEA, 504, ESL, TAG handbooks/protocols;
- e) A copy of the latest PBCCS Technology Plan;
- f) Information on the performance of the school overall, including summary enrollment levels, attendance rates, student conduct and discipline data, an

analysis of the students' progress toward meeting academic goals and objectives, summary data on the school's educational accomplishments and operational goals including logs and/or journals on participation as well as portfolios of place based learning projects and activities; an outline of SMART goals for school improvement for the coming year inclusive of how the education plan as well as staff development plan are going to be measured; and

- g) Any other information the District reasonably deems necessary to demonstrate that PBCCS is in compliance with state and federal law and the terms of this Contract. The District will notify PBCCS of any additional information it requires by August 1<sup>st</sup> of each year.
- h) Upon mutual agreement by the District and PBCCS, the date which the annual report is due may be modified. If the date is changed, the need for any additional information under these subparagraphs (i-vi) will be communicated to PBCCS 45-90 calendar days prior to the modified due date.

(ii) Site Visitation

District Board and staff members may visit the PBCCS site or any site which PBCCS is performing Place Based Education or Service Learning activities at any time during operating hours in a way that does not interfere with instruction. Pursuant to state law (currently ORS 338.095(1)), the District or its designee will visit at least annually the PBCCS site and review the public charter school's compliance with the terms and charter provisions (Exhibit K-Site Evaluation). Other visits will take place after reasonable notice given PBCCS, in a similar manner as District officials visit District schools.

H. Term

This Contract becomes effective on June 30, 2010, providing PB 501 has proof of nonprofit corporate status, and will last for a period of three (3) school years, subject to the possibility of termination or extension pursuant to Section 2, Paragraph C of this Contract.

I. Termination

- (i) To the extent allowed by ORS Chapter 338 the District may revoke the charter and terminate this Contract on any of the following grounds:
  - a) Violation of or failure to meet, and sustain any of the terms of this Contract or ORS 338; or
  - b) Failure to meet the student performance requirements stated in Section 4 of this Contract and in the Application/Proposal; or
  - c) Failure to correct any violation of a federal or state law that is described in ORS 338.115; or
  - d) Failure to maintain insurance as described in Section 9, Paragraph A of this Contract; or
  - e) Failure to maintain a safe, orderly, sanitary, healthy working and learning environment; or



- f) Failure to maintain financial stability. PBCCS shall be deemed to be financially stable if it can meet the following:
- i. Reports positive net income from operations (excluding federal charter school implementation grant funding), a positive cash balance, current assets in excess of current liabilities, and a positive unreserved ending fund balance.
  - ii. Funds disbursed to PBCCS by the District, pursuant to Section 5 of this Contract and ORS 338.155, are not utilized for any PB 501 ventures or liabilities not associated with or arising out of PBCCS and the performance of this Contract.
  - iii. The determination of financial stability will be made from evaluation of the Statement of Revenues, Expenditures and Changes in Fund Balances from Governmental Funds and the Balance Sheet for Governmental Funds included in audited financial statements, and any other financial reports due to the District from PBCCS under this contract.
- g) The District shall provide sixty (60) calendar days' prior written notice of its intent to terminate the charter Contract. This notification must include the grounds for termination and be sent to PBCCS' business address if not delivered in person. PBCCS may appeal the District's decision to terminate the charter Contract directly to the District's Board. PBCCS must request this appeal in writing to the District, and the District has 30 calendar days in which to provide PBCCS a hearing on the proposed termination. The District Board's decision may only be appealed to the State Board of Education according to ORS 338.105. The State Board of Education will, where possible, issue its final order in 60 days of the District's notification; if this is not possible PBCCS shall remain open pending issuance of the State Board of Education's final order.
- h) Notwithstanding Section 7, Paragraph I, subparagraph (i) and (ii), the District may terminate PBCCS immediately if PBCCS is endangering the health or safety of the students enrolled in PBCCS. PBCCS may appeal this decision in writing to the District Board. The District Board has 10 calendar days to provide an opportunity for a hearing. Under this subparagraph, PBCCS shall remain closed at the discretion of the District.
- i) Except pursuant to Section 7.h PBCCS may only terminate this charter at the end of a semester. PBCCS shall notify the District in writing at least 180 calendar days, prior to the proposed effective date of termination, dissolution or closure of PBCCS.
- j) In the event of termination of PBCCS as a public charter school, all assets purchased with public funds paid to PBCCS by the District in accordance with this Contract shall be given to the State Board of Education for disbursement in accordance with state law (currently ORS 338.105(6)).

J. Dissolution

In the event PBCCS should cease operations as a public charter school for whatever reasons, including but not limited to, the non-renewal or revocation of its charter, or dissolution of the non-profit corporation, it is agreed that PBCCS' legal authority to operate as a private school or other program governed by the state and federal non-profit law shall not be abridged.

K. Property Inventory Control

(i) PBCCS shall maintain records of purchase orders and invoice records for all assets with a purchase price over \$300.00 individually or in aggregate. These records shall indicate whether the assets were purchased with public funds, or non-public funds. The PBCCS shall provide the District with a list of these records no later than July 15<sup>th</sup> of each year, beginning July 15<sup>th</sup>, 2011, that the PBCCS. For the purposes of this section, public funds shall include any and all funds distributed to PBCCS;

- i. By the District, pursuant to ORS 338.155 and ORS 338.165;
- ii. By the Oregon Department of Education, including any and all federal grant funds that PBCCS may apply for and awarded by the Oregon Department of Education; or
- iii. By any agency, division or branch of the United States Government, or any entity created by an agency, division or branch of the United States Government.

(ii) Any asset which was purchased by PBCCS with public funds shall be given to the State Board of Education upon termination pursuant to ORS 338.105(6). PBCCS may retain any asset which was purchased with non-public funds upon termination. If PBCCS does not maintain records of purchase orders and invoice records for all assets, or cannot provide records showing that an asset was purchased with non-public funds, then it shall be assumed the asset was purchased with public funds, and upon termination the assets in question shall be given to the State Board of Education pursuant to ORS 338.105(6).

L. Complaint Policy

PBCCS shall establish a written policy for resolving complaints against PBCCS, including complaints regarding curriculum. A written copy of this policy shall be forwarded to the District by August 30, 2010.

8. Employment Matters

PBCCS shall be the employer of all PBCCS employees. Employees of PBCCS shall not be considered, for any purpose, District employees. PBCCS employees shall not be entitled to, or be covered by, any collective bargaining agreement that the District has entered into with any of its respective employees or their exclusive representative for purposes of collective bargaining.

District employees may choose to contract with PBCCS to provide educational or support services on behalf of PBCCS.

A. Criminal Background Checks - Employees

PBCCS shall not knowingly employ an individual for whom a criminal background investigation has not been initiated or who has been convicted of an offense that would preclude that individual from working in a public school in Oregon. No later than October 15<sup>th</sup> of each school year that PBCCS operates as a public charter under this contract, PBCCS shall provide to the District a list containing the names and job positions of all its employees and this list shall be maintained and updated each time a new employee is hired. Such a list shall also indicate for each employee the date of initiation of the criminal background investigation required by Oregon Law (currently ORS 181.534, 181.539, 326.603, 326.607 and 342.232) and all known results of the investigation. Criminal background checks must be completed before employees have contact with children.

B. Criminal Background Checks - Volunteers

PBCCS shall not knowingly allow a volunteer for whom a criminal background check has not been initiated or who has been convicted of an offense that would preclude that individual from working in a public school in Oregon. No later than October 15<sup>th</sup> of each school year that PBCCS operates as a public charter under this contract, PBCCS shall provide to the District a list containing the names of all volunteers and this list shall be maintained and updated each time a new volunteer is allowed to support a teacher/administrator. Such a list shall also indicate for each volunteer the date of initiation of the criminal background check required by Oregon Law (currently ORS 181.534, 181.539, 326.603, 326.607 and 342.232) and all known results of the investigation. Criminal background checks must be completed before a volunteer has contact with children.

C. Teacher and Administrator Licensure and Registration with the Teacher Standards and Practices Commission (TSPC)

- i. At least one-half of the total full-time equivalent (FTE) teaching and administrative staff at PBCCS shall be licensed by TSPC pursuant to ORS 342.135; 342.136, 342.138 or 342.140.
- ii. Any teaching or administrative staff not licensed by the Oregon Teacher Standards and Practice Commission (TSPC) will register with TSPC in accordance with ORS 338.135(7)(a-c) and OAR 584-023-0005.

D. Highly Qualified Staff for Purposes of No Child Left Behind

All teachers and paraprofessionals employed by PBCCS who are licensed or registered with TSPC shall also comply with OAR 584-100-0090 or 584-100-0095, as applicable. All teachers teaching in core areas shall be highly qualified as directed by NCLB standards.

E. Building Administrator

PBCCS may employ a TSPC certified or registered building level administrator either full or part-time.

F. Professional Development

The District will invite PBCCS staff to participate in all professional development activities offered through the District. PBCCS staff will pay the same rate as District staff to participate in professional development trainings, workshops and other activities if there is a fee. The District will recommend to the Education Service District that Charter Staff pay the same rate as District Staff for ESD training and professional development activities. PBCCS plans to inservice/train teachers in Place Based Learning Strategies and Effective Practices as discussed in the Charter Proposal/Application. This training should be completed prior to September classes.

9. Insurance and Legal Liabilities

A. Insurance

PBCCS shall, at its own expense, secure and retain and provide proof of the following insurance and in the amounts delineated in District policy as of the time this Contract is executed:

- (i) Commercial and General Liability Insurance in the amount of not less \$3,000,000 combined single limit per occurrences/\$3,000,000 general annual aggregate covering PBCCS, the governing board, employees and volunteers against liability for damages because of personal injury, bodily injury, death, or damage to property including loss of use thereof. Coverage to include, but not limited to, contractual liability, advertisers' liability, employee benefits liability, professional liability and teachers' liability, molestation.
- (ii) Liability Insurance for Directors and Officers in an amount not less than \$3,000,000 each loss/\$3,000,000 each policy year covering PBCCS, the governing board, employees and volunteers against each liability arising out of wrongful acts and employment practices. Continuous "claims made" coverage will be acceptable, provided the retroactive date is on the effective date the Charter came into effect.
- (iii) Automobile Liability Insurance and Auto Hired and Non-owned Insurance, in an amount not less than \$3,000,000 combined single limit covering the PBCCS, the governing board, employees and volunteers against liability for damages because of bodily injury, death or damage to property, including the loss of use thereof arising out of ownership, operation, maintenance or use of any vehicle. The policy is to include under insured and uninsured motorist coverage at the limit equal to bodily injury limits;

- (iv) Workers' Compensation Insurance shall be maintained pursuant to Oregon Laws (ORS Chapter 656). Employers' liability insurance with limits of \$1,000,000 each accident, \$1,000,000 disease for each employee/volunteer and \$1,000,000 policy limit;
- (v) Honesty Bond to cover all employees and volunteers. The limits to be determined by the governing board, but no less than \$50,000. Coverage shall include faithful performance and loss on moneys and securities;
- (vi) Property Insurance shall be required on all owned or leased buildings and equipment and supplies (i.e., books). The insurance shall be written to cover the full replacement cost of the building and/or equipment/supplies on an "all risk of direct physical loss basis," including earthquake and flood perils.

G. Additional Insurance Requirements

- (i) The District shall be named an additional insured on commercial and general liability, property and automobile insurance policies. The policies shall provide a 90-day written notice of cancellation or material change(s) to the District. A certificate evidencing all of the above insurance shall be furnished to the District on July 1, of each year, assuring coverage for the coming school year through June 30 of the following year.
- (ii) PBCCS shall also hold harmless and defend the District from any and all liability, injury, damages, fees or claims arising out of PBCCS operations or activities;
- (iii) The District shall be loss payee on the property insurance if PBCCS leases or rents any real or personal District property;
- (iv) The insurance carriers shall be admitted companies and the coverage provided must be acceptable to the District.

H. Legal Liabilities

- (i) PBCCS shall operate at all times, in accordance with the public charter state or federal school laws, ODE and TSPC regulations and directives, the terms of the approved Application/Proposal and terms and provisions of this Contract.

The following federal and state laws apply to PBCCS pursuant to state law (currently ORS 338.115(1) and shall be observed by PBCCS:

- (a) Federal law including applicable provisions of the No Child Left Behind Act of 2001 and any modifications, addendums;
- (b) Public records law (ORS 192.410 to 192.690);
- (c) Public meetings law (ORS 192.610 to 192.690);
- (d) Municipal audit law (ORS 291.405 to 291.555 and 297.990);
- (e) Criminal records law (ORS 181.539, 326.607 and 342.232);

- (f) Textbooks (ORS 337.150);
  - (g) Tuition and fees (ORS 339.141 and 339.155);
  - (h) Discrimination (ORS 659.150 and 659.155);
  - (i) Tort claims (ORS 30.260 and 30.300);
  - (j) Federal, State, ODE and Crook County Health and Safety statutes and rules;
  - (k) Statewide assessment system developed by the Oregon Department of Education for Mathematics, Science, Language Arts/Writing under ORS 329.455(1) and 329.485;
  - (l) Reporting of suspected Child Abuse (ORS 419B.045);
  - (m) Any statute or rule that establishes requirements for instructional time;
  - (n) Essential Skills as determined by ODE;
  - (o) Prohibition on infliction of corporal punishment (ORS 339.250(12) and molestation);
  - (p) Academic Content Standards and Instruction (ORS 329.045);
  - (q) ODE regulations and rules surrounding School Improvement Plans and Professional Development Plans;
  - (r) Oregon Government Ethics Law (ORS Chapter 244) for charter schools and Board members and employees
  - (s) Any statute or rule listed in this Contract or Proposal/Application
  - (t) ORS Chapter 338
- (ii) PBCCS and the District will also comply with any statute adopted by the Legislature and any validly adopted administrative rule promulgated by the Oregon State Board of Education (OSBE) or the Oregon Teacher Standards Commission (TSPC) regarding public charter schools.
- (iii) PBCCS shall furnish to the District copies of any written policies, handbooks, or procedures it may develop with respect to any matter relating to its operation and educational program(s) within 20 calendar days of adoption or presenting to employee(s).
- (iv) Pursuant to Section 7 any liabilities incurred by any entity operated by PB 501 outside the purview of the PBCCS and this Contract shall be separated from the PBCCS and these liabilities will not be imputed to PBCCS or the District, nor may they be satisfied from funds disbursed to PBCCS under this Contract.

#### I. Waiver

PBCCS may apply to the State Board of Education for a waiver consistent with ORS 338.025. PBCCS shall notify the District in writing thirty (30) calendar days prior to requesting a waiver from the state Board of Education. The written notification shall state the waiver being sought, the reasons for the waiver and how the waiver will meet one or more of the waiver criterion outlined in state law (currently ORS 338.025(2)).

- (i) The District may vote to not support the waiver and state so should the State Board of Education or ODE ask for the District's position.

J. Full Faith and Credit

PBCCS agrees that it shall not extend the full faith and credit of the District to any third person or entity. PBCCS acknowledges and agrees that it has no authority to enter into a contract that would bind the District. PBCCS' governing Board has the authority to approve contracts to which PBCCS is a party subject to the requirements and limitations of the Oregon Constitution, state law and provisions of this Contract.

K. Indemnification

- (i) To the extent not covered by insurance or otherwise barred by the Oregon Tort Claims Act in ORS Chapter 30, PBCCS agrees to indemnify and hold the District, its Board, agents and employees harmless from all liability, claims, and demands on account of injury, loss or damage, including, without limitation, claims arising from (1) the possession, occupancy or use by PBCCS of property PBCCS or its landlord, its faculty, employees, students, patrons, guests or agents; (2) civil rights violations, bodily injury, other losses of any kind whatsoever which arise out of the acts or omissions of PBCCS. This indemnification shall not apply to any liability, claims or demands resulting from the negligence or wrongful act or omission of any District Board member, officer or employee. This indemnification shall not apply to any liability, claims, or demands resulting from negligence or wrongful act of any District employee working at PBCCS whose negligence or wrongful act or omission is caused in whole or in part, or directed by the District. This indemnification shall not apply to any damages incurred regarding any act or omission of PBCCS or the PBCCS Board that is later determined to be required by law or this Contract. PBCCS agrees to indemnify, hold harmless and defend the District from all contract claims in which PBCCS has obligated the District without the District's prior written approval. The foregoing provision shall not be deemed a relinquishment or waiver of any kind of applicable limitations of liability provided in the Oregon Tort Claims Act.

- (ii) To the extent not covered by insurance or otherwise barred by the Oregon Tort Claims Act in ORS Chapter 30, the District agrees to indemnify and hold PBCCS, its Board, agents and employees harmless from all liability, claims, or demands on account of injury, loss or damage, including without limitation, claims arising from civil rights violations, bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever which arise out of the acts or omissions of the District. This indemnification shall not apply to any liability, claims, or demands resulting from the negligence or wrongful act or omission of any PBCCS Board member, PBCCS officer or employee. This indemnification shall not apply to any liability, claims, or demands resulting from the negligence or wrongful act of any PBCCS employee working at the District whose negligence or wrongful act or omission is caused in whole or in part, or directed by PBCCS. This indemnification shall not apply to any damages incurred regarding any act or omission of the District or the District Board that

is later determined to be required by law or this Contract. The foregoing provision shall not be deemed a relinquishment or waiver of any kind of applicable limitations of liability provided in the Oregon Tort Claims Act.

- (iii) This indemnification, defense and hold harmless obligation on behalf of PBCCS and the District shall survive the termination of this Contract. Any indemnified party shall have the right, at its own expense, to participate in the defense of any suit, without relieving the indemnifying party of any of its obligations hereunder.

L. District Disclaimer of Liability

The parties to this Contract expressly acknowledge that PBCCS is not operating as an agent, or under the direction and control of, of the District Board except as required by law or this Contract, and that the District Board assumes no liability for any loss or injury resulting from:

- (i) The acts or omissions of PBCCS, its governing Board, trustees, agents, or employees;
- (ii) The use and occupancy of the building occupied by PBCCS or any matter in connection with the condition of such building; or
- (iii) Any debt or contractual obligation incurred by PBCCS.

M. ADA/§504 Obligations

PBCCS acknowledges that it is legally responsible to comply with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 as revised and ORS Chapter 659 with respect to its students, staff and patrons. PBCCS shall indemnify and hold harmless the District from all claims under these statutes.

N. Transportation

- (i) In accordance with ORS 338.145, PBCCS shall be responsible for providing transportation to students who reside within the District boundary and who attend PBCCS. PBCCS shall adopt a transportation plan and submit same to the District by August 1<sup>st</sup> of 2010 and May 1<sup>st</sup> thereafter.
- (ii) PBCCS students may obtain transportation through the student's parent/guardian or on existing District school route(s) of a given year/semester. Routes are determined by the District. The District shall not be obligated to add or extend bus routes to accommodate transportation for PBCCS' students. A District bus may stop at the PBCCS facility to drop-off and pick-up PBCCS students, if the PBCCS facility and the student is on a designated District bus route. The District will provide transportation to PBCCS students along existing public school bus lines within the District so long as there is space available on the bus.



- a. Should PBCCS hold school when the District does not, then all transportation shall be PBCCS' responsibility with all costs paid by PBCCS.

## 10. Renewal of Charter

- A. Renewal shall be governed by state law (currently ORS 338.065).
- B. In the event on non-renewal PBCCS shall provide and attach to the annual report for PBCCS' third year of operation, a transition plan illustrating PBCCS' efforts to ease transition of students back to District programs.

## 11. Miscellaneous Provision

### A. Entire Agreement

This Contract, including Exhibits, contains all terms, conditions and provisions hereof and the entire understanding and all representations of understanding and discussions of the parties relating thereto, and all prior representations, understandings and discussions are merged herein and superseded and canceled by this Contract.

### B. Separate Contract for Lease of Building, Rent or Lease of Materials, Equipment, Furniture

Should PBCCS opt to Lease the District's Powell Butte Elementary School or Rent or Lease District furniture, equipment or materials the District will enter into a separate Lease/Rental Agreement.

### C. Governing Law

This Contract shall be governed by, subject to and construed under the laws of the State of Oregon. The parties intend that where this Contract references state or federal law or Oregon Administrative Rule they be bound to any amendment to such law upon the effective date of such amendments to the extent they apply to charter schools. If, at any time during the term of this Contract, a change in state or federal law or Oregon Administrative Rule requires modification of this Contract, PBCCS and the District will review this Contract and conform it accordingly.

### D. Assignment

PBCCS shall not, under any circumstances, assign, delegate, or contract with any entity to provide the educational program described in this Contract and the attached Exhibits. It is expressly understood that the charter granted by this Contract to operate the educational program runs solely and exclusively to PBCCS. This does not limit PBCCS' right to enter into contracts and agreements relating to matters other than educational

program and operation of the educational program to the full extent allowed under Oregon law.

E. Terms and Conditions of Application

The parties of this Contract agree that Exhibits A and B set forth the overall goals, standards and general operational policies of PBCCS, and that Exhibits A and B are not complete statement of each detail of PBCCS' operation. To the extent that PBCCS desires to implement specific policies, procedures or other specific terms of operation that supplement or otherwise depart from those in Exhibits A and B, PBCCS shall be permitted to implement such policies, procedures and specific terms of operation, provided that such policies, procedures and specific terms of operation are consistent with goals, standards and general operational policies set forth in this Contract, Exhibits and ORS Chapter 338.

F. Conflict Between Application and Contract

The parties agree and acknowledge that should there be a conflict between any provision of this Contract and the Charter Application/Proposal, the Contract provision(s) shall supersede any provision contained in the Charter Application/Proposal. Furthermore, failure by PBCCS to perform any non-material term of provision of the Application/Proposal shall not be a breach of this Contract unless such failure is specifically described as a breach of Contract.

G. District and PBCCS Liaison

The District shall designate, for the purposes of this Contract, the District Superintendent, and the Superintendent may designate a designee either by area or category, as the official District liaison between the District and PBCCS. PBCCS shall designate, for the purposes of this Contract, the PBCCS Principal as the official liaison between PBCCS and the District. All contacts between PBCCS and the District and between the District and PBCCS shall be through the liaison or Superintendent's designee.

H. Amendment

This Contract may be modified or amended only by written agreement between PBCCS and the District Board.

I. Notice

Any notice required, or permitted, under this Contract, shall be in writing and shall be effective upon personal delivery (subject to verification of service or acknowledgement of receipt) or three (3) business days after mailing when sent by certified mail, postage paid, to the office of the Director of PBCCS or the office of the District Liaison.

J. Definition of Business Day

For the purpose of this Contract, “business day” means any day in which the District administrative offices are open. “Business day” does not include Saturdays, Sundays, official state holidays listed in ORS 336.010, federal holidays, days the District schools are closed for holiday or winter (Christmas Break) or Spring Break, any days in which the District administrative office is closed due to inclement weather or any day the District administrative office is closed due to action taken by, or ordered to be closed by, the District Board of Directors or its designee, any instrumentality of the City of Prineville, any instrumentality of Crook County, the State of Oregon or the federal government.

K. Address of Parties for Purpose of Written Notice

For the District:

Crook County School District  
471 NE Ochoco Plaza Drive  
Prineville, Oregon 97754

For PBCCS:

Powell Butte Community Charter School  
13650 SW Highway 126  
Powell Butte, Oregon 97753

Should these addresses change the parties agree to notify the other party within ten (10) calendar days of the address change.

L. No Waiver

The parties agree that no assent, express or implied, to any breach by either of them of any one or more of the covenants and agreements expressed herein shall be deemed or to be taken to constitute a waiver of any succeeding or other breach.

M. Severability

If any provision of this Contract is determined to be unenforceable or invalid for any reason of law or state rule, the remainder of the Contract shall remain in effect, unless otherwise terminated by one or both parties in accordance with the terms of this Contract.

N. Delegation

The parties agree and acknowledge that with regard to this Contract between the District and PBCCS, the functions and powers of the District Board may be exercised by their respective Liaison, provided that any ultimate decision regarding renewal, non-renewal or revocation of this Contract be made only by the District Board.

O. Prior Actions

It is expressly agreed and understood that before PBCCS may begin operations as a charter school, PBCCS shall have taken, completed, and satisfied on or before the date specified herein, any action or obligation which is required to be completed, and any

failure to do so shall constitute grounds for the District to require the delay specified in Section 2, Paragraph C.

P. Attorney Fees

If any suit, action or arbitration is commenced or instituted to interpret or enforce the terms of this Contract, to exercise any remedy on account of a default, or otherwise relating to the provisions of this Contract, the prevailing party or non-defaulting party shall be entitled to recover from the losing or defaulting party its reasonable attorney fees and costs, in addition to all other sums provided by law, at trials or arbitration or any court proceedings. Such sums shall be determined by the court or arbitrator.

Q. Incorporation of Application/Proposal and Other Exhibits

- i. PBCCS expressly affirms that the signatory on its behalf, who sign below has the authority to enter into this Contract on behalf of PBCCS and that the Board of Directors of PBCCS has duly approved this Contract. PBCCS shall provide a copy of its written resolution authorizing PBCCS to enter into this Contract, to the District.
- ii. The District expressly affirms that the signatory on its behalf, who sign below has the authority to enter into this Contract on behalf of the District and that the District Board of Directors has duly approved this Contract.

IN WITNESS WHEREOF, the parties have executed this Contract as of the date first above written.

Crook County School District:

Powel Butte 501, Inc.:

By: \_\_\_\_\_  
School Board Chair  
Crook County School District

By: \_\_\_\_\_  
Board Chair  
Powell Butte 501, Inc.

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

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

Approve as to Form:

District Counsel