

MEMORANDUM OF UNDERSTANDING
REGARDING WYATT ACADEMY AND UNIVERSITY PREPARATORY SCHOOLS

This Memorandum of Understanding (“MOU” or “Agreement”) is entered into by and between Wyatt Academy, a Colorado nonprofit corporation and public charter school (“Wyatt”) and University Preparatory Schools (“U Prep”), a Colorado nonprofit corporation and public charter school (“U Prep”), who are referred to individually as a “Party” and together as the “Parties.”

Recitals

WHEREAS, Wyatt Academy has been providing a high quality education to students as a public charter school in Denver, Colorado since 1998;

WHEREAS, Wyatt wants to continue its legacy of supporting and uplifting the North Central Denver community and find a way to continue delivering on its promise to provide a high quality educational experience for its students and families beyond the 2023-24 school year;

WHEREAS, U Prep is a growing network of schools serving the same community as Wyatt and continues to be healthy and stable with a strong central office, an engaged Board of Directors, long-term financial solvency, a team of exceptional leaders and highly capable educators who are deeply committed to a shared vision of providing a school of choice in our community, the highest quality education and critical community support for years to come;

WHEREAS, in order to effectuate this shared vision Wyatt believes that combining with and providing resources to U Prep, in exchange for U Prep’s commitment to offer its existing, and potential future students and families a high quality, mission-aligned educational experience is in the best interests of its community;

WHEREAS, U Prep wants to partner with Wyatt and, as best as possible, carry forward the legacy of Wyatt and its commitment to providing a high quality education to its students and valuable resources to its families and the broader community;

NOW THEREFORE, This MOU includes the terms and conditions by which U Prep makes certain commitments to Wyatt and in exchange Wyatt makes certain commitments to U Prep, to include support for U Prep carrying out its commitments by combining resources with U Prep to include a transfer of assets to U Prep from Wyatt in connection with combining with U Prep for the benefit of Wyatt families and the broader community, all as further described in this

MOU. In consideration of the mutual covenants, representations, and agreements contained herein, the Parties agree as follows:

1. Purpose. The purpose of this Agreement is as follows:

- a. To support each Party's vision to provide long term, sustainable, high quality educational options to students and families in the North Central region of Denver;
- b. To enable Wyatt to carry its legacy of high-quality education and meaningful supports for families and community forward into the future, even after ceasing operations, through highly intentional support and with deep commitments from U Prep;
- c. To better serve those who would be future Wyatt students, families and staff through U Prep's continued operation of its two existing, high-quality, mission-driven and community-centered public charter schools within the same region of North Central Denver as Wyatt.

2. Wyatt Commitments. Wyatt agrees to the following:

- a. Wyatt agrees to meaningfully engage with U Prep staff to provide a better understanding of the Wyatt model and academic programming along with existing community supports and services to better enable U Prep to meet its commitments to, as deemed appropriate, carry forward to mission and vision of Wyatt.
- b. Wyatt agrees to support the combination with U Prep by transferring certain of its assets to U Prep ("Transferred Assets") through the process described below:
 - i. Wyatt will determine, through conservative estimates, the projected costs associated with all expenses related to closing out its organizational operations as a non-profit entity and public charter school, including a contingency as determined by Wyatt ("Projected Expenses");
 - ii. Wyatt will deduct the Projected Expenses from its currently projected 2023-24 fiscal year end fund balance, as determined by Wyatt, to calculate its anticipated remaining cash balance after meeting its Projected Expenses, which calculated remainder shall be the "Transfer Funds;"
 - iii. Based on the above calculation, the Transfer Funds will then be multiplied by .8 or 80% and that amount will be transferred to U Prep within two (2) business days of the mutual execution of this Agreement. If Wyatt ceases operating as a public charter school at the end of the 2023-24 school year, then if needed for Wyatt to meet its financial commitments prior to September 30, 2024, U Prep will, upon written request from Wyatt, re-transfer such requested portion of the Transfer Funds back to Wyatt,

except that any such re-transfer shall not exceed 25% of the amount of Transfer Funds originally transferred to Wyatt and any such ability to request a re-transfer of any portion of the Transfer Funds shall expire and be permanently extinguished beginning on September 30, 2024.

Alternatively, if in the event of extraordinary circumstances, Wyatt continues operating as a public charter school authorized by DPS in the 2024-25 school year, prior to June 30, 2024 and at the written request of Wyatt, U Prep will re-transfer up to 75% of the originally transferred Transfer Funds back to Wyatt.

- iv. The remaining Transfer Funds, less any reserves required to satisfy or make provision for its remaining liabilities and wind up its operation as a nonprofit corporation, as determined by Wyatt, shall be transferred to U Prep by September 30, 2024. Any funds remaining after Wyatt completes its wind-up may be transferred to U Prep as determined by the Wyatt board.
 1. Funds shall be transferred by way of check or bank/wire into a bank account designated by U Prep.
 - v. In the course of collaborating together, Wyatt and U Prep agree to work in good faith to identify any elements of Wyatt's assets that may be of value in U Prep's efforts to carry forward Wyatt's legacy, including without limitation any art work, decorations, curriculum, logos, fonts, cultural items, technology, software, furniture, or other personal or intellectual property ("Wyatt Property"). Wyatt shall provide U Prep a right of first refusal to acquire such identified Wyatt Property as additional Transferred Assets hereunder once Wyatt is no longer utilizing said Property, such right to be exercised by U Prep within thirty (30) days after Wyatt gives written notice that it is no longer utilizing the property identified in the notice.
 1. U Prep shall have no obligation to take possession of or oversee the distribution of any Wyatt Property.
 - vi. All Transferred Assets are provided to U Prep with the understanding and commitment that they are a contribution towards and in support of U Prep's commitments to make an effort to carry forward Wyatt's legacy, along with honoring its mission and vision, as set forth herein.
- c. Upon completion of the transfer of any Transfer Funds, or upon U Prep taking possession of any Wyatt Property, those Transfer Funds or Wyatt Property items are collectively referred to herein as the "Transferred Assets."
 - d. Wyatt agrees to provide U Prep with all available information and copies of documentation regarding the Transferred Assets, and to complete/execute any

documents reasonably requested by U Prep, including without limitation any bill of sale, transfer documents, licensing agreements, acts, deeds, or the like for the purpose of vesting such property rights in the Transferred Assets that allow U Prep to fully exercise its proprietary rights in the Transferred Assets. Except to the extent expressly permitted in this MOU, once any Transferred Assets are transferred to U Prep, such asset shall not be subject to repossession and shall be considered the property of U Prep.

- e. Wyatt agrees to facilitate communication and access to Wyatt families to benefit from the resources and commitments U Prep is making in this Agreement.
 - i. Specifically, Wyatt will intentionally and thoughtfully connect Wyatt families with employees of U Prep to support them in engaging in DPS School Choice, learning about the opportunities that will exist at U Prep campuses, and ultimately, transitioning to a new school environment (whether or not that environment is ultimately a U Prep campus).
- f. Wyatt agrees to facilitate communication and access to Wyatt staff to benefit from the resources and commitments U Prep is making in this Agreement.
 - i. Specifically, Wyatt will intentionally and thoughtfully connect Wyatt staff with employees of U Prep to support them in engaging in career exploration, ensuring they have meaningful opportunities to learn about employment possibilities with U Prep as they consider their next steps should they remain in professions within the education field.

3. U Prep Commitments. U Prep agrees to the following:

- a. U Prep agrees to engage with Wyatt staff, students, families and community to better understand the Wyatt model, academic programming, and community resources/supports, and is committed to make adjustments, as reasonably determined by U Prep, prior to the 2024-25 school year to its own educational model and community resources/supports to best ensure that the experience of Wyatt students, families and staff who choose to transition to U Prep benefit from an educational model that includes areas of alignment with the Wyatt model of education.
- b. In recognizing the volume and quality of family support services provided by Wyatt, during the Spring of 2024 U Prep will ensure it learns about after-school and summer programming currently available to Wyatt families. U Prep will then make reasonable efforts to continue those family support programs into the 2024-25 school year. This will occur either through the expansion of existing U Prep programs (i.e. current partnership with Boys and Girls Club of Metro Denver) or through the potential addition of new programs, all to occur as reasonably determined by U Prep.

- c. In the Spring of 2024 U Prep will learn about existing services provided by Wyatt to support families in aspects of their lives beyond educational programming and U Prep will make an effort to enhance existing services within the U Prep network or potentially add new programming (i.e. continuation of Food for Thought, access to mental health services, etc.), all to occur as reasonably determined by U Prep.
- d. U Prep agrees to ensure that all students and families at Wyatt have an opportunity to learn about U Prep charter schools, meet with current U Prep staff, students, and families, tour the school, and otherwise become familiar with what it's like to attend school at U Prep.
- e. U Prep will devote resources and staff to meet with and be available to Wyatt families, including resources to support multi-lingual families, to assist them in navigating the Denver Public Schools' ("DPS") School Choice process, whether these families ultimately select U Prep as their next school or not, to ensure Wyatt families are supported in their ability to choose their next school of choice in DPS. U Prep is committed to working with any Wyatt family interested in benefitting from the assistance U Prep is committed to providing. The overall intent and purpose of this service is to ensure that each Wyatt family:
 - i. Understands they have choices for their next school;
 - ii. That while U Prep is not the only option, an understanding that U Prep is committed to working with Wyatt to ensure appropriate aspects of the Wyatt model, programming and services will carry forward with U Prep;
 - iii. Has the support necessary to exercise an informed choice in DPS' School Choice process.
 - 1. Wyatt, alongside of U Prep, is committed to continuing to work with Wyatt families throughout the Winter and Spring of 2024, as needed, to accomplish this.
- f. U Prep agrees to ensure that all staff persons at Wyatt have an opportunity to learn about career opportunities available in the U Prep network, to meet with current U Prep staff, tour the school, attend professional development sessions, and review seminal U Prep materials/documents (i.e. Core Identity Statement, Vision of Excellence Rubric, Evaluation Tools, Compensation & Benefits packages, etc.) and otherwise become familiar with what it's like to work for U Prep. U Prep is committed to develop and provide existing employees of Wyatt an expedited decision-making process for hiring through which qualified and selected candidates, as determined at the sole discretion of U Prep, will be offered an "at-will" job opportunity to work at U Prep beginning in the 2024-25 school year by March 8, 2024.
- g. As described within Wyatt's commitments, U Prep agrees, as reasonably determined by U Prep , to utilize the Transferred Assets in support of its efforts to

carry forward the legacy of Wyatt, along with its mission and vision, to serve students in the North Central Denver area. The support of the Transferred Assets will better ensure U Prep is positioned to be a long-standing, resilient institution that delivers on the promise of a high-quality education for students, including valuable family and community services and resources.

- h. To facilitate a successful integration of the Wyatt mission and vision with the U Prep model, U Prep will appoint at least one (1) Wyatt stakeholder to its board of directors for a three-year period beginning with the 2024-25 school year. The Wyatt stakeholder will be selected by the U Prep board of directors, in consultation with Wyatt leadership.]

4. Mutual Commitments. Both Parties agree to the following:

- a. The Parties agree to designate certain staff persons, and provide them the time in their work schedule necessary, to carry out the commitments agreed to in this Agreement.
- b. The Parties agree to work collaboratively with one another and the designated leadership of both Parties agree to keep in regular communication, to fulfill the purposes of this Agreement.
- c. The Parties agree to work together to coordinate any announcements or other communications related to this Agreement or the commitments outlined in this Agreement to ensure the accurate messaging, collaboration, and that the best interests of the Parties, and the students and families being served.
 - i. Both parties agree to cover 50% of the costs associated with utilizing external, and mutually agreed upon, communications support.
- d. Both Parties agree to comply with all applicable state and federal rules and regulations, including without limitation the Family Educational Rights Protection Act of 1974, 20 U.S.C. § 1232(g); 34 CFR Part 99 (“FERPA”). Student records are defined for purposes of this Plan of Merger in the same manner as defined under FERPA. The Parties recognize and agree that, for purposes of FERPA, the Parties each have a legitimate educational interest to disclose a student’s educational record as needed to carry out this Agreement, and in connection herewith, the Parties define “school officials” and “legitimate educational interest” as permitted by FERPA, broadly enough to permit the carrying out of this Agreement.
- e. U Prep and Wyatt shall cooperate with each other and proceed, as promptly as is reasonably practicable, to seek to obtain all necessary consents and approvals from any required third parties, and to endeavor to comply with all other legal or

contractual requirements for or preconditions to the execution and consummation of the agreements under this MOU.

- f. U Prep and Wyatt shall each be responsible for and bear all of its own costs and expenses incurred in connection with this MOU, including expenses of its employees, incurred at any time.

5. Additional Agreements. The Parties further agree to the following terms, conditions, and representations:

- a. This Agreement was developed and entered into through arms-length negotiations and is based solely on the terms of this Agreement. Nothing herein will be construed to create a merger, agency, affiliate relationship, partnership, joint venture, or any other legal relationship of any kind binding the Parties' corporate structures together, whatsoever, except to the extent expressly provided for herein.
- b. Neither party will make representations that they are an agent or representative of the other party and neither party will be the agent of the other except to the extent specifically provided for in this Agreement or in a future, written authorization.
- c. In carrying out this Agreement neither party is assuming any of the liabilities, contracts, debts, commitments, leases, or any similar obligations of the other party, now or in the future, and each Party agrees to be solely responsible for its own of the aforesaid, now and into the future.
- d. Each Party by entering into this Agreement represents that is not aware of any pending or threatened litigation that would materially affect its ability to carry out its obligations under this Agreement. Each Party shall notify the other Party within two business days if it becomes aware of a change in circumstances that would modify this representation.
- e. The Parties and their representatives will cooperate in connection with each Party's reasonable due diligence requests and investigation of any matters related to this Agreement and the Transferred Assets, including contracts, liabilities, operations, records and other aspects of the Parties' operations associated with the Transferred Assets.
- f. Except as and to the extent required by law or agreed by the Parties, the Parties shall not disclose or use any Confidential Information (as defined below) at any time or in any manner other than in connection with this Agreement. For purposes of this subsection (f), "Confidential Information" means any nonpublic information about the Parties, other than information which (i) is generally available to or known by the public other than as a result of improper disclosure by the receiving Party or (ii) is obtained by the receiving Party from a source other than the disclosing Party provided that such source was not bound by a duty

of confidentiality to any Party with respect to such information. If this MOU is terminated, each Party shall promptly return to the other Party any Confidential Information in its or their possession. This provision shall survive termination of this Agreement.

6. Dispute Resolution. Any disputes arising under this MOU shall be resolved as follows:

- a. Both parties are deeply committed to the success of the collaborative and mutually beneficial efforts outlined within this Agreement. With this in mind, both parties agree to the following process should an issue, concern, or dispute arise.
 - i. Communicate first with the other Party via a direct communication channel (i.e. phone, in-person, email, etc.) and work to address the issue or conflict in good faith;
 - ii. Should this direct approach not result in a satisfactory resolution, the parties agree to engage with a mutually agreeable third party mediator and to work together in good faith to resolve the issue/conflict;
 - iii. The Parties shall mutually share in the cost of any mediation.
- b. In the unlikely case that direct engagement in conflict resolution and/or the use of a third party mediator does not resolve the issue then either Party may pursue any legally available recourse in a court of competent jurisdiction.
- c. The Parties may mutually agree to terminate this MOU at any time, subject to the mutually agreed upon terms and conditions of any such termination.
- d. If any dispute occurs after a Transferred Asset has been transferred then the Transferred Asset shall remain with U Prep, unless mutually agreed upon otherwise. Either Party may seek legally available remedies, including without limitation any damages, in a court of competent jurisdiction.

7. Miscellaneous. This Agreement shall be subject to the following provisions:

- a. Neither party shall be considered in breach of this Agreement if the performance of any part or all of this Agreement is prevented, delayed, hindered or otherwise made impracticable or impossible by the other party, or by reason of any strike, flood, hurricane, 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.
- b. This Agreement shall constitute the full, entire and complete agreement between the parties hereto. All prior representations, understandings and agreements are superseded and replaced by this Agreement.

- c. This Agreement may be altered, changed, added to, deleted from or modified only through the voluntary, mutual consent of the parties in writing, and said written modification(s) shall be executed by both parties.
- d. No party shall assign this Agreement without written consent of the other party. A party shall have the right to terminate this Agreement if an unauthorized assignment occurs.
- e. No waiver of any provision of or default under this Agreement shall be deemed or shall constitute a waiver of any other provision or default unless expressly stated in writing.
- f. If any provision or any part of this Agreement is determined to be unlawful, void or invalid, that determination shall not affect any other provision or any part of any other provision of this Agreement and all such provisions shall remain in full force and effect.
- g. This Agreement is not intended to create any rights of a third party beneficiary.
- h. This Agreement does not restrict or waive either party's governmental immunity.
- i. This Agreement is made and entered into in the State of Colorado and shall be interpreted according to and governed by the laws of that state. Any action arising from this Agreement, shall be brought in a court of competent jurisdiction in Denver, Colorado.
- j. All notices required or permitted to be given hereunder shall be given in writing and shall be effective when received by (i) personal delivery, (ii) electronic transmission (e-mail) during normal business hours, if verified by a written or electronic record of the transmission, or (iii) overnight courier or overnight U.S. Mail; provided that any such communication is addressed to the parties at their respective addresses and/or e-mails.
- k. The headings in the Agreement are for convenience and reference only and in no way define, limit or describe the scope of the Agreement and shall not be considered in the interpretation of the Agreement or any provision hereof.
- l. This Agreement may be executed electronically and in any number of counterparts, each of which shall be an original, but all of which together shall constitute one Agreement. Facsimile copies and electronic copies (e.g. .PDFs) of executed signatures to this Agreement, as well as electronic signatures made in compliance with the Electronic Signatures in Global and National Commerce Act (ESIGN) and the Uniform Electronic Transactions Act (UETA) (e.g. DocuSign), will be accepted with the same force and effect as original signatures to this Agreement.

[Signature page follows]

Executed: _____, 2024

WYATT:

Wyatt Academy,
a Colorado nonprofit corporation

U PREP:

University Preparatory School,
a Colorado nonprofit corporation

By:

Name:

Title:

By:

Name:

Title:
