

Juan “Mike” Vuittonet, Chairman  
Board of Trustees  
Joint School District No. 2  
1303 E. Central Drive  
MERIDIAN, Idaho 83642

## **R.E. Corrective Action Plan**

Mr. Vuittonet:

On April 3, 2013, Joint School District No. 2 (hereinafter “MERIDIAN”) acting through its Board of Trustees transmitted to NORTH STAR Charter School (hereinafter “NORTH STAR”) a Notice of Defect (hereinafter “Notice”). The Notice required that NORTH STAR would reply in 30 days. (It should be noted that 30 days is the least amount of time allowable for such a response under law; the legal authority permits longer response times.) Although there was no date on the originally transmitted Notice of Defect, and notwithstanding difficulties in the mailing process, Superintendent Clark and I verbally agreed on April 29, 2013 that the deadline date for a response to the Notice would be May 3, 2013. On that same date, NORTH STAR requested a 30-day extension of time to respond. On May 1, 2013, MERIDIAN, acting through Superintendent Clark, notified NORTH STAR that they had denied the request thereby committing MERIDIAN to a demand that NORTH STAR respond in the least possible amount of time permissible under the statute.

The Notice specifically and uniquely identifies the following as the condition which must be addressed in the Corrective Action Plan:

“(d) failed to demonstrate fiscal soundness. In order to be fiscally sound, the public charter school must be (i) fiscally stable on a short-term basis, that is, able to service all upcoming obligations; and (ii) fiscally sustainable as an on-going concern, that is, able to reasonably demonstrate its ability to service any debt and meet its financial obligations for the next fiscal year...” (emphasis added)

The “next fiscal year” for NORTH STAR is July 1, 2013 to June 30, 2014.

### **Process**

Legal Authority. The procedural due process which governs these matters is set forth within Idaho Code §33-5209 and §67-5242, to be read in conjunction with IDAPA 08.02.04.301 and 303. This legal authority constitutes the controlling (and the only controlling) basis for proceeding forward in this matter.

Analysis. Legal authority requires that NORTH STAR respond by submitting a Corrective Action Plan that must “describe in detail the terms and conditions by which the public charter school will cure the defect at issue, including a reasonable time frame for completion.” IDAPA 08.02.04.301. Please note that the legal authority leaves the content of the Corrective Action Plan to the discretion of the public charter school (NORTH STAR) and does not include authority which allows MERIDIAN to pass judgment on the sufficiency of that plan. In other words, there is no legal authority which empowers MERIDIAN to approve or disapprove the Corrective Action Plan as submitted. The public charter school has the absolute legal right to a reasonable amount of time to attempt to implement its plan, and after the passage of such time, MERIDIAN must judge the sufficiency of the plan only on the basis of results in achieving the remediation of the defect. In this case, the only defect legally at issue is that cited in the Notice (that, “fiscal soundness” as considered in terms of ability to service all upcoming obligations and sustainability as an on-going concern. This letter sets forth NORTH STAR’s Corrective Action Plan in response to the Notice.

As noted above, upon receipt of this Corrective Action Plan, MERIDIAN is legally obligated to afford NORTH STAR a “reasonable time” to execute the Corrective Action Plan. IDAPA 08.02.04.303. Given the nature of the plan, the time frames involved, and importance of the issue to NORTH STAR, it is imperative that MERIDIAN afford a reasonable time to conclude negotiations which are now underway and far-advanced (as described below), to document the results of the negotiations and to implement the negotiated agreement. In this context, 45 days constitutes a reasonable time to conclude the Corrective Action Plan. The legal authority leaves to the public charter school the discretion to identify the amount of time which is reasonable as a required element of its plan and MERIDIAN may only object to that time if it is “unreasonable”. The burden would then be on MERIDIAN to demonstrate that the time determined by NORTH STAR (45 days) would be unreasonable. The provision of a reasonable time to implement and cause to be effective the Corrective Action Plan (in response to the Notice of Defect) is a right that belongs to NORTH STAR. It is not discretionary to MERIDIAN and may not be denied to NORTH STAR. After the passage of 45 days, if MERIDIAN believes that the defect has not been corrected, it has the option of proceeding to a revocation process, and again, NORTH STAR would have at least 30 days to respond to a notice of revocation; a public hearing would then follow after that response to the notice of revocation. We note that MERIDIAN is limited in its actions, procedures and motivations to those parameters specifically and explicitly set forth in the Idaho Code and IDAPA (the legal authority identified above.

### **Corrective Action Plan Details**

The Corrective Action Plan as required is as follows: Within a reasonable time (45 days) NORTH STAR will conclude and effectuate the following:

1. Short-Term Fiscal Stability: Since receipt of the Notice, NORTH STAR has received the proceeds of a private loan in the amount of \$70,000 and proceeds of a loan from the NORTH STAR PTO in the amount of \$13,000. NORTH STAR has also properly drawn on its Repair and Replacement Reserve (based on actual repair and replacement expenses already paid by NORTH STAR) in the amount of \$50,000. The amounts have been used to pay usual expenses up through the end of the month of April. The loans will be repaid with State Funding sums (expected to be approximately \$300,000) due approximately May 17<sup>th</sup>.
2. Short-Term Fiscal Stability: In addition to the above, NORTH STAR has properly requested and expects to receive approximately \$100,000 properly drawn from Repair and Replacement Reserve, again based upon repairs and replacements already undertaken and paid by NORTH STAR. Documentation supporting the draw-down has been submitted to the trustee and as of May 3<sup>rd</sup> we are awaiting processing. Repair and Replacement Reserves will be replenished over the course of the next year as provided by the terms of that reserve fund and pursuant to the plan set forth below.
3. Short-Term Fiscal Stability: Between May 3, 2013 and the conclusion of the steps outlined below, all accounts will be serviced within 90 days of invoice receipt except for accounts as to which forbearance agreements are in place. All accounts payable will be paid and brought current no later than June 30, 2013.
4. Short-Term Fiscal Stability: Based upon the Forbearance Agreement below, NORTH STAR will pay all personnel costs (salaries, benefits and taxes) on time through the end of the current fiscal year (and through the 2013-2014 fiscal year).
5. Short-Term Fiscal Stability: All normal year-end activities of the school (including graduation, testing, prom, and preparation for summer fund-raising events, among others) will occur in a timely manner and all costs associated therewith will be paid in accordance with the provisions above.
6. Short-Term Stability and Long-Term Stability as an On-going Concern: (“next fiscal year”) Stability: A Forbearance Agreement will be executed between NORTH STAR and a Majority of the Bondholders. Under the terms of the Bond Indenture, a Majority of Bondholders may agree to a Forbearance Agreement which is binding on all Bondholders. Please note that the drafting of such a Forbearance Agreement is already in process and is in advanced stages of negotiation. The Trustee (acting on behalf of a Majority of the Bondholders) and personnel at NORTH STAR are actively engaged in due

diligence and determination of appropriate quantitative values as indicated below. The Forbearance Agreement is an essential element of the Corrective Action Plan, and NORTH STAR expects that this element of that plan will be in place within the requisite “reasonable time”, that is, 45 days. The Forbearance Agreement will contain the following provisions:

- a. Long-Term Stability as an On-going Concern: A one year term of forbearance on bond debt service and bond obligations and covenants sufficient to allow normal operation of the school with ability to timely service all obligations, to continue through the end of the next fiscal year, in accordance with the long-term financial stability requirements under Idaho Code 33-5209 (2)(d)(ii).
- b. Stability Subsequent to Period of Statutory Concern: An agreement to work in good faith to achieve an agreement as to terms to assure the financial stability of NORTH STAR in years subsequent to 2013-2014, including necessary adjustments to bond debt service and other bond terms.
- c. Long-Term Stability as an On-going Concern: Protection for NORTH STAR from any consequences of any defaults or covenant failures under the bond agreements during the term of the Forbearance Agreement.
- d. Short-Term Stability: the Trustee will disburse in a timely manner from an existing Interest Reserve (current balance at approximately \$1.5 Million) of \$550,000 +/- 5%. This sum will allow the 2012-2013 fiscal year to be completed with complete service of all obligations for the year, as required by Idaho Code 33-5209. Trustee will agree to cause such amounts (in a single payment or in periodic payments) to reach NORTH STAR in sufficient time to allow NORTH STAR to make timely payment for the remainder of Fiscal year 2012-13 and Contract year 2012-2013.
- e. Long-Term Stability as an On-going Concern: Agreement for Forbearance of sufficient debt service obligations under the bond to assure that NORTH STAR can service the remaining debt, meet its financial obligations, and continue to provide services at the high level of quality which is currently the trademark of NORTH STAR. The exact amount of the debt service reduction will be agreed on by the parties in the 45 day implementation period and will be sufficient to satisfy the requirement of Idaho Code 33-5209.

- f. Other legal terms as necessary to appropriately effectuate the Forbearance Agreement including confession of default, remedies for breach of the Forbearance Agreement and other protections for the bondholders as necessary.

As developments occur within the 45 day period, NORTH STAR commits that it will keep MERIDIAN advised and will provide a copy of the Forbearance Agreement and any other supporting materials as they become effective and available. We will provide a final report at the 45 day mark.

We reiterate that there is no statutory or regulatory authority which empowers MERIDIAN to pass judgment or approve or disapprove the Corrective Action Plan. NORTH STAR submits this as its plan and has the statutory right to a reasonable time to effectuate its plan.

We are highly confident (based on virtually aspect of the negotiation and due diligence process) that the plan will be successful and that we will have good news, perhaps even before the passage of the 45 day period.

Sincerely,

Jim Miller, Chairman  
Board of Trustees  
NORTH STAR Charter School