

**OPERATIONAL MEMORANDUM OF UNDERSTANDING BETWEEN
SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
AND
ASPIRE PUBLIC SCHOOLS REGARDING
CAPITOL HEIGHTS ACADEMY**

This Operational Memorandum of Understanding (“Agreement”) is entered into as of July 1, 2012, by and between the Board of Trustees of the Sacramento City Unified School District (“District”) and Aspire Public Schools (“Non-Profit”), a California non-profit public benefit corporation, operating Aspire Capitol Heights Academy (“Charter School”), a public charter school chartered by the District. The District, the Non-Profit and the Charter School are collectively referred to as the “Parties.” This Agreement shall be enforceable only following execution by Parties and ratification or approval by the governing boards of District and Non-Profit.

RECITALS:

- A. The District is the granting agency of the Charter School. The District approved the Charter School’s charter (“charter”) on July 21, 2003 for a term of five (5) years, beginning on July 21, 2003 and expiring on June 30, 2008. The District renewed the Charter School’s charter on March 27, 2008 for a term of five years, beginning on July 1, 2008 and expiring June 30, 2013. The Charter School is operated by the Non-Profit.
- B. By approving the charter petition, the District assumed certain oversight responsibilities of the Charter School pursuant to California’s Charter Schools Act (Cal. Ed. Code, §§ 47600 *et seq.*). This Agreement is intended to outline the Parties’ agreements governing their respective fiscal and administrative responsibilities, their legal relationship, and other matters of mutual interest not otherwise addressed or resolved in the terms of the Charter School’s charter.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein set forth, the Non-Profit and the District do hereby agree as follows:

- 1. **Use of Terms.** Unless otherwise stated, for the purposes of this Agreement, the terms Charter School and Non-Profit may be used interchangeably, with the duties and responsibilities of the Charter School and the Non-Profit being the same under this Agreement.
- 2. **Term and Renewal.** This Agreement shall commence on the date upon which it is executed by both Parties, but shall not be effective absent ratification or approval by the governing boards of each of the Parties. The Agreement shall cover the remaining term of the charter, expiring on June 30, 2013. The Agreement is subject to termination during the term as set forth in this Agreement or as otherwise permitted by law. Renewal or extension of the charter and this Agreement shall be based, in part, on compliance with the terms of this Agreement, District policy, and applicable law.
- 3. **Designation of School.** The Charter School shall be known as “Aspire Capitol Heights

Academy”. The Charter School may not change its name, nor operate under any other name, without the prior express written approval of the District. The Non-Profit shall be responsible for all functions of the Charter School pursuant to the terms and conditions set forth in this Agreement and its charter. The Charter School shall not be located at more than one school site without the prior express written approval of the District. The Charter School shall not change locations without the prior express written approval of the District. Any change of location shall be considered a material revision of the charter petition under Education Code sections 47605 and 47607.

4. Programmatic Audit. The Charter School will compile and provide to the District an annual performance audit. The annual performance audit shall be submitted to the District within sixty (60) days of the last day of instruction for the regular school year or by September 1, whichever date is earlier. This audit will, at a minimum, include the following data:

(a) Summary data showing student progress toward the goals and outcomes specified in the charter from assessment instruments and techniques listed in the charter or otherwise required by the District.

(b) Information regarding the number of students taking and passage rate of the California High School Exit Exam (“CAHSEE”), if applicable.

(c) An analysis of whether student performance is meeting the goals specified in the charter. This data will be displayed on a school-wide basis and also disaggregated by major racial and ethnic categories and shall include analysis based on the Standardized Testing and Reporting (“STAR”) and CAHSEE programs of the State of California.

(d) The Charter School’s progress towards meeting its Academic Performance Index (“API”) and Adequate Yearly Progress (“AYP”) targets.

(e) Results of any additional internal assessments used by the Charter School.

(f) A summary of the Non-Profit governing board’s self-evaluation on prior-year management performance, including summary of major decisions and policies established during the year, and upcoming year goals, concerning Charter School.

(g) Data on the level of parent involvement in the Charter School’s governance (and other aspects of the Charter School, if applicable) and summary data from an annual parent and student satisfaction survey.

(h) Data regarding the number of staff working at the Charter School and their qualifications.

(i) A copy of the Charter School’s policies, including health and safety policies, and a summary of any major changes to those policies during the year.

(j) Information demonstrating the Charter School’s implementation of the means

stated in the charter to achieve a racially and ethnically balanced student population.

(k) An overview of the Charter School's admissions practices during the year and data regarding the numbers of students enrolled and the number on waiting lists.

(l) Analysis of the effectiveness of the Charter School's internal and external dispute mechanisms and data on the number and resolution of disputes and complaints.

(m) A report on student discipline, including the number of students suspended or expelled from the Charter School; and

(n) Any other information regarding the educational program and the administrative, legal and governance operations of the Charter School requested by the District and in compliance with the Charter School Act of 1992.

5. Funding.

(a) Basic Funding. The Charter School has elected to receive funding from the State directly, pursuant to Education Code section 47651. The District shall comply with Education Code section 47635 in providing the Charter School with its share of local funding. However, the Parties understand that in the event that such funds are not timely received by the District due to processing delays at either the state or county level, such funds shall be provided to the Charter School as soon as practicable after such funds are made available to the District. Except as otherwise noted in this Agreement, it shall be the responsibility of the Charter School to apply for funding beyond the basic statutory entitlements set forth in Education Code section 47633 and Education Code section 47634.1. The District recognizes the authority of the Charter School to pursue additional sources of funding. Any application for funding by the Charter School that depends on the support or creditworthiness of the District shall be presented to the District for its prior written approval.

(b) District Applications for Funding. When the District directly applies for additional sources of funding in the form of grants and/or categorical funding at the request of and for the benefit of the Charter School, the District will receive one percent (1%) of such funds at the time they are paid to the Charter School. Such funds shall not be considered revenue for purposes of the District's oversight fee set forth in section 8(b).

(c) Expenditure of Funds. The Charter School agrees to comply with all regulations related to expenditures and receipt of its funds (including compliance with federal and state compliance regulations and certifications). Without limitation to the foregoing, the Charter School agrees that all revenue received from the District and the State shall only be used as outlined herein and in the charter for the provision of educational services for school age children enrolled in and attending the Charter School and shall not be used for purposes other than those set forth in the Charter School's charter and any authorized amendments. The Charter School will provide the District with written monthly notice when the Charter School withdraws funds deposited by the Sacramento County Superintendent of Schools in the Sacramento County Treasury for the account of the Charter School and re-deposits those funds in a financial

institution selected by the Charter School. Such notice is provided when the Charter School provides the District with monthly bank statements from the banks where all Charter Schools accounts are held. Within fifteen calendar days of opening an account at a bank or other financial institution, the Charter School will provide written notice to the District of the commencement of that account, the type of account, the financial institution or bank and any identifying account numbers.

(d) Compliance with Procedures. To the extent that the Charter School is required to submit records or information to the District or the County Office of Education in order to confirm funding, those records must be prepared by the Charter School in conformance with District or county procedures.

6. Legal Relationship. Pursuant to its charter and Education Code section 47604, the Charter School is operated by the Non-Profit. The Charter School and the Non-Profit are separate legal entities from the District. As such, the District shall not be liable for the debts or obligations of the Charter School or the Non-Profit to the maximum extent permitted by applicable law. It is agreed that it is the Parties' intent that the District shall incur no unreimbursed cost or expenses of any type whatsoever as a result of its relationship with the Charter School. The Charter School may not enter into a contract or agreement to be managed or operated by any other non-profit public benefit corporation (or any other corporation or entity) without the express written prior approval of the District.

7. Complaints. Complaints filed in writing with the Charter School, whether formal or informal and including complaints filed with any governmental entity other than the District, must be provided to the District within three (3) working days of receipt by the Charter School. If any such complaint raises an issue or issues that may be grounds for revocation or non-renewal of the charter, the District may request that the Charter School report to the District on how such complaints are being addressed, and the Charter School agrees to provide such information upon the District's request. The Charter School shall make such information available to the District for inspection and copying upon request during regular business hours or, upon request, the Charter School shall deliver to the District within ten (10) business days a current copy of any requested records or information. Under all circumstances, the Charter School will cooperate fully in the release of information to the District to assist in the District's oversight obligations.

8. Fiscal Relationship.

(a) Administrative Services. The District's Fee Schedule for Services to Charter Schools ("Fee Schedule") for the 2012-2013 school year is attached hereto as Appendix A. The Charter School may purchase any of the "Optional Administrative Services" designated by the District. If the Charter School elects to purchase such services, the District's agreement to provide those services shall be reduced to writing and signed by the Parties in a separate agreement. The District reserves the right to annually revise the Fee Schedule to reflect the District's then-calculated rates, and the rates stated by each such revision shall apply to services the Charter School is purchasing from the District. If the Charter School contracts for services that require the District to provide labor beyond the current work and vacation calendars of District employees, then the Charter School shall pay the actual cost of these services. The items

identified as “Special Education Program Encroachment” and “Special Education Transportation Encroachment” are not applicable as Charter School will serve as its own LEA for the purposes of special education.

(b) Oversight Fee. The Parties agree that the District will incur costs in connection with its performance of supervisory oversight of the Charter School as required by law, and that it is not in the best interests of either Party to require a mechanical assessment, accounting, billing and payment process to compensate the District for such costs. The Parties further agree that the District is not providing the Charter School with substantially rent-free facilities as referenced by Education Code section 47613(b). Therefore, the Parties agree that the actual cost of the District’s supervisory oversight of the Charter School is one percent (1%) of all Charter School’s general purpose entitlement and categorical block grants, as defined in subdivisions (a) and (b) of Education Code section 47632.

“Supervisory Oversight” as used in the Education Code section 47613 is defined in Education Code sections 47604.32 and 47604.33 to mean the District’s performance of duties to include the following:

- Identification of at least one (1) staff member as contact person for the Charter School.
- Visiting the Charter School at least annually.
- Ensuring that the Charter School complies with all reports required of charter schools by law.
- Monitoring the fiscal condition of the Charter School.
- Providing timely notification regarding whether the charter’s renewal is granted or denied, the charter is revoked, or the charter will cease operation for any reason.
- Reviewing annual reports and assessing the fiscal condition of the Charter School pursuant to Education Code section 47604.33.

(c) Payment for Administrative Services, Oversight Fee and Expenses. On a quarterly basis, the District shall provide a written invoice and, as necessary, supporting expense information, to the Charter School detailing the amount due for services performed by the District, the oversight fee due pursuant to section 8(b), and any expenses paid by the District on the Charter School’s behalf.

Payment on invoices provided to the Charter School pursuant to this section shall be due within thirty (30) calendar days of receipt unless Charter School has provided written notice to District that it disagrees with invoiced charges. Payments shall be made to the District’s Business Services Department. The Charter School may only withhold payment for services, fees or expenses that it has specifically contested. The Charter School shall make payment by check.

(d) Distribution of Assets Upon Revocation or Closure. Should the Charter School, as an entity separate from the Non-Profit, cease to exist (by revocation or nonrenewal of its charter or by voluntary closure), and upon a final audit and the payment of, or provision for payment of, all debts and liabilities of the Charter School, any public funds held by or for the Charter School and any assets of the Charter School purchased with public funds shall be distributed as described in the approved charter and as subject to the California Nonprofit Public Benefit Corporation Act.

9. Fiscal Controls.

(a) Fiscal Policies. The Charter School shall adopt and meet generally accepted accounting principles and shall adopt policies to ensure the Charter School's funds are used to most effectively support the Charter School's mission and to ensure that funds are budgeted, accounted for, expended, and maintained in an appropriate fashion. Such policies will include, but not be limited to the following:

- (1) Expenditures shall be made in accordance with the annual budget adopted by the Charter School's governing board;
- (2) The Charter School's funds shall be managed and held in a manner that provides a high degree of protection of the Charter School's assets; and
- (3) All transactions shall be recorded and documented in an appropriate manner that allows reporting to the State, the District, and/or the County Office of Education.

(b) Attendance Accounting. The Charter School will establish and maintain an appropriate attendance accounting system to record the number of days students are actually in attendance and engaged in activities required of them by the Charter School. The annual audit (see section 9(c) below) will review actual attendance accounting records and practices to ensure compliance. The Charter School's attendance accounting practices will be in conformance with applicable law.

(c) Annual Financial Audit. The Nonprofit's governing board will annually appoint an external fiscal auditor, as described in the approved charter. Said external fiscal auditor must be listed on the State Controller's Office website as approved to conduct such audits or as may customarily perform such audits on behalf of California charter schools. The audit shall include, but not be limited to:

- (1) An audit of the accuracy of the Nonprofit's financial statements;
- (2) An audit of the Nonprofit's attendance accounting and revenue claims practices; and
- (3) An audit of the Nonprofit's internal control practices.

The Charter School shall complete its audit and submit it to the District no later than December 15 of the fiscal year following the fiscal year for which the audit was performed. The Nonprofit agrees to implement all audit recommendations regarding audit exceptions or deficiencies as related to the Charter School subject to standard accounting practices.

(d) Financial Reports. In addition to the foregoing requirements, the Charter School shall annually prepare and submit the following reports to the District and the County Superintendent of Schools:

- (1) On or before July 1, an adopted budget;
- (2) On or before December 15, a first interim financial report, reflecting changes through October 31;
- (3) On or before March 15, a second interim financial report, reflecting changes through January 31; and
- (4) On or before September 15, a final unaudited report for the full prior fiscal year.

Failure to submit accurate and complete financial information as required hereby may be considered grounds for revocation of the charter if the District finds by substantial evidence that Charter School violated any of the provisions set forth in Education Code Section 47607(c), and subject to cure provisions set forth in Education Code Sections 47607(d) and 47607(e).

(e) Voter Approved Measures. In the event that the District seeks and receives a voter approved bond or parcel tax, the Charter School shall have no entitlement to any portion of the funds unless otherwise negotiated in advance. The Charter School agrees that it has no entitlement to funds currently being received, if any, by the District under former parcel tax or bond elections.

(f) Loans. The Charter School agrees that it shall establish a fiscal plan for repayment of any loans received by the Charter School in advance of receipt of such loans. It is agreed that all loans sought by the Charter School shall be authorized in advance by the governing board of the Charter School and shall be the sole responsibility of the Charter School. The District will have no obligation with respect to any loans received by the Charter School to finance its operations, and any such loan shall be the sole responsibility of the Charter School. Upon request, the Charter School will provide information regarding any such loan to the requesting agency pursuant to Education Code section 47604.3. The Charter School shall notify the District of debt incurred in the form of a loan.

(g) Advance of Funds. The District may in its sole discretion advance funds to the Charter School. In addition, the District may in its sole discretion provide a line of credit for the Charter School.

(h) Cash Flow and Reserve. The Parties agree that the maintenance of a sufficient level of funding reserve is in the best interest of Charter School and its successful operation. Accordingly, Charter School shall maintain reserves of no less than three percent (3%). An explanation of any projected drop in reserves below the three percent (3%) level must be included in the Charter School's assumptions in the adopted budget for the fiscal year.

(i) Third Party Debts and Liabilities. Subject to accounting principles applicable to California nonprofits, assets or funds allocated or held by the Charter School for provision of its educational services shall not be used to satisfy any third party debts or liabilities, including

those of the Non-Profit. Without limitation to the foregoing, no Charter School monies shall be allocated or spent on the debts or liabilities of any party or organization that is associated with founding this Charter School.

(j) Banking Arrangements. In addition to those obligations set forth in section 5(c) above, the Charter School's business manager will reconcile the Charter School's ledger(s) with its bank accounts or accounts in the County Treasury on a monthly basis and prepare (1) a balance sheet, (2) a comparison of budgeted to actual revenues and expenditures to date, and (3) a cash flow statement, which will be submitted with the reports listed above in section 9(d). The Charter School will deposit all funds received as soon as practical upon receipt. A petty cash fund, not to exceed two hundred dollars (\$200), may be established with an appropriate ledger to be reconciled twice monthly by the Non-Profit Business Manger, who shall not be authorized to expend petty cash.

(k) Purchasing Procedures. With respect to all purchases of services or physical assets over five thousand dollars (\$5,000), the Charter School must maintain documentation for a five (5) year period of a good faith effort to secure the lowest possible cost for comparable goods or services. Charter School's governing board shall not approve purchase orders or check requests lacking such documentation.

(l) Property Inventory. The Charter School's head of school or his or her designee shall establish and maintain an inventory of all Charter School non-consumable goods and equipment valued at more than five thousand dollars (\$5,000). This inventory shall include the original purchase price and date, a brief description, serial numbers, and other information appropriate for documenting the School's assets. Property shall be inventoried on an annual basis and lists of any missing property shall be presented to the Charter School's governing board. Said inventory, or copies thereof, shall be provided to the District immediately upon request.

(m) Payroll. The Charter School will prepare payroll checks, tax and retirement withholdings, tax statements and perform other payroll support functions. The President of the Charter School's governing board or his or her designee will establish and oversee a system to prepare time and attendance reports and submit payroll check requests. The Charter School's head of school or his or her designee and the Charter School's business manager will review payroll statements monthly to ensure that (1) the salaries are consistent with staff contracts and personnel policies and (2) the proper tax, retirement, disability, and other withholdings have been deducted and forwarded to the appropriate authority. All staff expense reimbursements will be on checks separate from payroll checks. Upon hiring of staff, a personnel file will be established with all appropriate payroll-related documentation including a federal I-9 form, tax withholding forms, retirement data and use of sick leave.

(n) Fiscal Control Policies. The Charter School shall develop and maintain fiscal control policies as recommended by independent certified public accountants retained by the Charter School to advise it on fiscal control policy matters.

10. Reporting to the District.

(a) Enrollment.

1. Annual enrollment reporting. The Charter School recognizes the need to achieve sufficient enrollment each year so that the Charter School remains fiscally viable. On an annual basis and no later than January 15 of each year, the Charter School shall provide the District a copy of its estimated maximum enrollment plans and anticipated grade level offerings for the following school year. The Charter School shall also provide a list of students meaningfully interested in enrolling in the Charter School the following school year (including their name, residential address and telephone number) and the district of residence for each year. The Charter School recognizes that this information is critical to District planning for the next year.

2. Monthly enrollment reporting. No later than the 15th calendar day of every month, the Charter School shall provide the District with a copy of its student enrollment list for the prior month, including the name, residential address, residential telephone number, and school district of residence for each student. In the alternative, the Charter School may provide the District with access to the enrollment attendance data program of the Charter School.

(b) Reporting to Public Agencies. The Charter School shall submit to the District a copy of all reports or other documents that the Charter School is required to submit to any state or other public agency in the State of California. Such reports will be submitted to the District, when submitted to the state or other public agency.

(c) Notification to District Regarding Governing Body Composition. The Charter School shall annually (on or before July 1) send to the District a list of its directors and officers. The District shall be provided with immediate notice of any change in the composition of these directors or officers.

(d) School Calendar and Schedules. The Charter School shall provide by August 1 of each year the school calendar and bell schedule for the following school year, including calculation of instructional minutes. If summer school, extended day or intersession is offered, the Charter School shall provide calendars and bell schedules for such programs.

(e) Cumulative File Information. The District and Charter School shall promptly forward to each other all cumulative file information, including, but not limited to, information regarding special education and related services, whenever a student transfers from a District school to the Charter School, or vice versa.

(f) Performance Assessments. The Charter School shall forward results from statewide assessments to the District promptly upon receipt by the Charter School, but in no event later than thirty (30) days after such receipt.

(g) Student Records. The Charter School hereby designates the employees of the District as having a legitimate educational interest such that they are entitled upon request access

to the Charter School's education records under the Federal Educational Rights and Privacy Act ("FERPA") and related state laws regarding student records. At a minimum, such records include emergency contact information, health and immunization data, attendance summaries, and academic performance data from all statewide student assessments pursuant to Education Code sections 60605 and 60851. The Charter School and the District, and their respective officers and employees, shall comply with FERPA and state laws regarding student records at all times.

11. Special Education and Related Services; English Learners. The Parties have concurrently herewith entered into a Special Education Memorandum Of Understanding between Sacramento City Unified School District and Aspire Public Schools Regarding Capitol Heights Academy (Special Education MOU). In addition to the terms thereof, the following terms govern the provision of special education and related services to Charter School students:

(a) Compliance with Applicable Law. All students residing in the State of California will have access to the Charter School subject to ordinary enrollment processes and limitations and no student shall be denied admission due to disability. The Charter School shall be solely responsible for compliance with Section 504 of the Rehabilitation Act of 1973 ("Section 504") (29 U.S.C. §§ 794 *et seq.*) and the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 *et seq.*).

(b) Student Study Team. The Charter School agrees to implement a Student Study Team ("SST") Process, a general education function that develops strategies for students in the general education classroom. The SST shall develop and monitor implementation of Section 504 plans for eligible students as appropriate.

(c) SELPA Membership. The Parties agree to implement and comply with the Individuals with Disabilities Education Act ("IDEA") (20 U.S.C. § 1400 *et seq.*) as specified in the Special Education MOU. The Charter School is its own local educational agency ("LEA") and has obtained membership in a special education local plan area ("SELPA") other than the District's SELPA.

(d) English Learners. The Charter School will annually administer the California English Language Development Test ("CELDT") to all eligible students. The Charter School will be responsible for all components necessary to comply with state and federal testing and reporting of English Learners.

12. Human Resources Management.

(a) Charter School Exclusive Employer. All employees of the Charter School are employees of the Non-Profit and shall have no right to employment by the District. The Non-Profit shall have sole responsibility for employment, management, dismissal and discipline of employees of the Charter School.

(b) Compliance with Fingerprinting Requirements. Throughout the term of the Charter and this Agreement, all employees of the Charter School, parent volunteers who will be

performing services that are not under the direct supervision of a certificated teacher, and onsite vendors having unsupervised contact with students, will submit to background checks and fingerprinting in accordance with the provisions of Education Code sections 44237 and 45125.1. The Charter School will provide certification to the District that all employees and volunteers or vendors have clear criminal records summaries prior to their having any unsupervised contact with students. The Charter School will maintain on file and have available for inspection, during District site visits, evidence that the Charter School has performed criminal background checks for all employees and documentation that vendors have conducted required criminal background checks for their employees prior to any unsupervised contact with students.

(c) STRS/PERS. If the Charter School decides to offer existing or new employees of the Charter School the opportunity to participate in the State Teachers' Retirement System ("STRS") or the Public Employees' Retirement System ("PERS"), the Charter School shall be responsible for entering into a contract with STRS and/or PERS or the District. At the request of the Charter School, the District shall create any reports required by STRS or PERS and may charge the Charter School for the actual costs of such reporting services.

(d) NCLB. The Charter School will be responsible for ensuring its staff is compliant with all provisions of the federal No Child Left Behind Act ("NCLB").

13. Indemnification. The Non-Profit shall promptly defend, indemnify, and hold harmless the District, its officers, directors, employees, agents, representatives, volunteers, administrators, successors, and assigns (collectively hereinafter the "Indemnified Parties") from and against any and all alleged or actual breach of any obligation imposed under this Agreement, or any other actual or alleged breach of any duty or obligation owed to the District or any third party, including any Charter School student (including any student placed with a school other than the Charter School, or in any nonpublic, nonsectarian school or in any other special services to address special need or disability situations) or employee, by the Non-Profit or its officers, directors, employees, agents, representatives, volunteers, guests, students, administrators or trustees, successors or assigns. The District shall promptly defend, indemnify, and hold harmless the Non-Profit, its officers, directors, employees, agents, representatives, volunteers, administrators, successors, and assigns (collectively hereinafter the "Charter Indemnified Parties") from and against any and all alleged or actual breach of any obligation imposed on the District under this Agreement, or any other actual or alleged breach of any duty or obligation owed to the Charter School or any third party, arising from the District's sole or separate negligence.

In the event of a third party claim or potential claim covered by these provisions, the Parties agree to take all steps reasonable or necessary to cooperate in defending and protecting their joint interests, and in expediting all reasonable or necessary efforts to gain coverage for the Parties under any liability policy or indemnity agreement issued in favor of the Non-Profit and/or District, including indemnity rights or agreements existing in contracts between the Non-Profit and/or District and any third party (such as contract with a supplier of goods or services), and further including efforts to reduce defense costs (through joint representation whenever possible), expenses and potential liability exposures.

14. Insurance and Risk Management. The Non-Profit shall, for itself and the Charter School, and at its sole cost and expense, purchase and maintain during the entirety of this Agreement, insurance or indemnity protection as follows, as well as any additional insurance as may be required by law:

(a) Liability Insurance. Occurrence-based liability indemnity protection, having a combined limit of liability of no less than five million dollars (\$5,000,000) per claim and in the aggregate, and a per occurrence deductible of no greater than five thousand dollars (\$5,000), whether purchased in the form of a single policy/agreement or by way of multiple policies/agreements, including excess or umbrella policies or agreements, that extends coverage for, among other things, educators' legal liability, property damage liability, employment practices liability, automobile (owned, non-owned, and hired) liability, personal injury and advertising injury liability, directors and officers, and errors and omissions liability, with such coverage extended to the Charter School, its governing board, its officers, agents, employees, and volunteers. To the fullest extent allowed by law, and in keeping with the Non-Profit's indemnity obligations described above, the Indemnified Parties shall be included as "additional insureds" or "additional covered parties" under each of the Non-Profit's liability policies or agreements, with such coverage evidenced by duly issued "additional insured" or "additional covered party" endorsement(s) and/or duly issued certificate(s) of insurance, which must affirmatively state that the required coverage shall not be reduced or prematurely terminated or cancelled absent 30-days notice to District.

(b) Workers' Compensation. In accordance with the California Labor Code, the Non-Profit shall purchase and maintain workers' compensation and employers' liability insurance or indemnity protection adequate to protect the Charter School from claims under California's Workers' Compensation Act, with a limit of liability that is no less than \$500,000 and is consistent with statutory limits, and that extends coverage and protection to Charter School employees and volunteers. Evidence of such coverage shall be provided in the form of a duly issued certificate of insurance which must affirmatively state that the required coverage shall not be reduced or prematurely terminated or cancelled absent 30-days notice to District.

(c) Property Insurance. Property damage coverage sufficient to replace, at current market value and in compliance with any enhanced building codes or disability access ordinances, regulations or laws, all personal property, fixtures, and property owned or under the care, custody, or control of the Charter School. Evidence of such coverage shall be provided in the form of a duly issued certificate of insurance or coverage which must affirmatively state that the required coverage shall not be reduced or prematurely terminated or cancelled absent 30-days notice to District.

(d) Bond. Fidelity and crime coverage extending to wrongful acts with respect to money or property owned by or under the care, custody or control of any Charter School employee, volunteer, agent or representative. Evidence of such coverage shall be provided in the form of a duly issued certificate of insurance or coverage which must affirmatively state that the required coverage shall not be reduced or prematurely terminated or cancelled absent 30-days notice to District.

15. Compliance with Law Applicable to Public Agencies. The Charter School agrees to comply at all times with laws which generally apply to public agencies and to comply with federal or state laws (which may be amended from time to time), including but not limited to the following:

- The Brown Act (Cal. Gov. Code, §§ 54950 *et seq.*);
- The Public Records Act (Cal. Gov. Code, §§ 6250 *et seq.*);
- The Political Reform Act (Cal. Gov. Code, §§ 87100 *et seq.*);
- The Child Abuse and Neglect Reporting Act (Cal. Penal Code, §§ 11164 *et seq.*);
- The Individuals with Disabilities Education Rights Act (“IDEA”) (20 U.S.C. §§ 1400 *et seq.*);
- The Americans with Disabilities Acts (42 U.S.C. §§ 12101 *et seq.*);
- The U.S. Civil Rights Acts, including Title VII of the 1964 Civil Rights Act;
- The California Fair Employment and Housing Act (“FEHA”) Cal. Gov. Code, §§ 12900 *et seq.*);
- The Age Discrimination in Employment Act (“ADEA”) 29 U.S.C. §§ 621 *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §§ 794 *et seq.*), Education Code sections 220 *et seq.*;
- The Uniform Complaint Procedure (5 Cal. Code Regs., tit. 5, §§ 4600 *et seq.*);
- The Family Educational Rights and Privacy Act (“FERPA”) 20 U.S.C. §§ 1232g *et seq.*); and
- The No Child Left Behind Act (“NCLB”) 20 U.S.C. §§ 6301 *et seq.*).

(a) Brown Act and Governing Board Meetings. During the term of the Charter, the Nonprofit agrees to comply with the Brown Act and conduct the applicable meetings of its governing board in accordance with the Brown Act, including making public the agendas of such meetings in advance, as required by the Brown Act. The Nonprofit will provide verification by letter to the District that all members of the Governing Board, administrative staff, and any other staff deemed appropriate by the Nonprofit have participated in Brown Act training. The governing board of the Nonprofit shall conduct public meetings at such intervals as are necessary to ensure that the board is providing sufficient direction to the Charter School through implementation of effective policies and procedures. The District reserves the right to appoint a voting member to the Nonprofit’s governing board in accordance with the provisions of Education Code section 47604. The Nonprofit agrees to provide to the District’s representative on the governing board, if any, a complete board packet of information being submitted to the board before each meeting, in sufficient time for review. Governing board adopted policies, meeting agendas and minutes shall be maintained and shall be available for public inspection and to the District during site visits (or upon request).

(b) Public Records Act. The Nonprofit agrees that records that relate to the operation of the Charter School shall be treated as public records subject to the requirements and exemptions of the Public Records Act (Cal. Gov. Code, § 6250 *et seq.*) as well as Education Code section 47604.3.

16. Participation in Special Programs and Services; Transportation.

(a) Sports and Other Activities; Student Insurance. In the event that the Charter School wishes to have its students or staff participate in a program or service offered by the District other than those specified by this Agreement, advance approval and arrangements must be made and confirmed in writing, and expenses for such participation may be charged to the Charter School. The District has sole discretion whether to allow the Charter School to participate in such District programs or services, including California Interscholastic Federation activities. Charter School participation in California Interscholastic Federation (“CIF”) activities and sports are subject to the rules and regulations of CIF. Charter School students may participate at their own expense in student insurance coverage programs offered by the District.

(b) Transportation. Unless otherwise agreed with the District, the Charter School shall be responsible for any transportation offered to students who enroll in the Charter School.

17. Amendments to Charter. Changes to the Charter deemed to be material amendments may not be made without District consideration and approval. Amendments to the Charter considered to be material changes include, but are not limited to, the following:

- (a) Substantial changes to the educational program (including the addition or deletion of an educational program), mission, or vision;
- (b) Changing to (or adding) a non-classroom-based program, if originally approved as a classroom-based program;
- (c) Proposed changes in enrollment that differ by more than 10 percent +/- of the enrollment originally projected in the charter petition;
- (d) Addition or deletion of grades or grade levels to be served;
- (e) Locations of facilities and/or new sites;
- (f) Admission preferences; and
- (g) Governance structure.

18. Amendments to Agreement. Any modification of this Agreement must be in writing and executed by duly authorized representatives of both Parties specifically indicating the intent of the Parties to modify this Agreement. No such modification or amendment shall be effective absent approval or ratification by the governing boards of both Parties.

In the event of changes in laws, the District and the Charter School agree to negotiate modifications to this Agreement as required by applicable law.

19. Dispute Resolution. Any and all disputes arising out of the interpretation or performance of this Agreement shall be subject to the following procedure until a resolution is reached. Once the Parties have exhausted the procedures stated in (a)-(c), below, each may pursue a remedy as entitled to them by law. Notwithstanding the foregoing, if any such dispute concerns facts or circumstances that may be cause for revocation of the Charter, the District shall not be obligated by the terms of this section as a precondition to revocation.

(a) The disputing party shall provide written notice of the dispute to the other party. Thereafter, the Charter School's CEO or designee shall meet with the District's Superintendent or designee within thirty (30) days to attempt informal resolution of the dispute.

(b) In the event this informal meeting fails to resolve the dispute, both Parties or their designees, within sixty (60) days counting from the initial informal meeting date, shall identify two governing board members from their respective boards who shall jointly meet with the Charter School's CEO or designee and the District's Superintendent or designee and attempt to resolve the dispute.

(c) If this joint meeting fails to resolve the dispute, the District and the Charter School or Nonprofit shall enter into non-binding mediation before a mutually agreed upon mediator, with the costs of the non-binding mediation to be split evenly between the Parties. The format of the mediation shall be developed jointly by the District and the Charter School or Nonprofit, and shall incorporate informal rules of evidence and procedure, unless both Parties agree otherwise. Notwithstanding the foregoing, the findings or recommendations of the mediator shall be non-binding, unless the governing boards of the Non-Profit and the District jointly agree to bind themselves.

Exercise of any dispute mechanism authorized by this Agreement shall not, in and of itself, constitute a material violation of the charter or otherwise be grounds for revocation.

20. Severability. If any provision or any part of this Agreement is for any reason held to be invalid or unenforceable or contrary to law, the remainder of this Agreement shall not be affected thereby and shall remain valid and fully enforceable.

21. Venue. The Parties agree that any legal action to enforce the terms of this Agreement shall be brought in the appropriate court in Sacramento County, California.

22. Notices. All notices, requests, and other communications under this Agreement shall be in writing and submitted in writing to the addresses set forth below. Notice shall be deemed given on the second day following the mailing of notice by certified mail.

To the District at: Sacramento City Unified School District
Attn: Chief Accountability Officer
5735 47th Ave.
Sacramento, CA 95824
Facsimile: (916) 643-2190

To the Charter School at: Kristin Murphy
Principal
Aspire Capitol Heights Academy
2520 33rd Street
Sacramento, CA 95817
Facsimile: (916) 739-8529

To the Non-Profit at: Delphine Sherman
Aspire Public Schools
1001 – 22nd Avenue
Oakland, CA 94606
Facsimile: (510) 434-5010

23. Entire Agreement; Counterparts. This Agreement contains the entire agreement of the Parties with respect to the matters covered hereby, and supersedes any oral or written understandings or agreements between the Parties with respect to the subject matter of this Agreement. This Agreement may be executed in counterparts, each of which shall constitute an original. Facsimile copies of signature pages transmitted to other Parties to this Agreement shall be deemed equivalent to original signatures on counterparts.

Dated: _____
Wayne Hilty
Chief Financial Officer
Aspire Public Schools

Dated: _____
Jonathan Raymond
Superintendent
Sacramento City Unified School District

**SPECIAL EDUCATION MEMORANDUM OF UNDERSTANDING
BETWEEN SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
AND
ASPIRE PUBLIC SCHOOLS
REGARDING CAPITOL HEIGHTS ACADEMY**

This Memorandum of Understanding (“Agreement”) is entered into as of _____, 2012, (“Effective Date”), by and between the Board of Trustees of the Sacramento City Unified School District (“District”) and Aspire Public Schools (“Non-Profit”), a California non-profit public benefit corporation, operating Capitol Heights Academy Charter School (“Charter School”), a public charter school chartered by the District. The District, the Non-Profit and the Charter School are collectively referred to as the “Parties.” This Agreement will set forth the responsibilities of the Parties with respect to the delivery and financing of special education services to children enrolled in the Charter School.

I. RECITALS

- A. The District is the granting agency of the Charter School. The District approved the Charter School’s charter on July 21, 2003 for a term of five (5) years, beginning on July 21, 2003 and expiring on June 30, 2008. The District renewed the Charter School’s charter on March 27, 2008 for a term of five years, beginning on July 1, 2008 and expiring June 30, 2013.
- B. The Charter School is operated by Non-Profit, a non-profit public benefit corporation. All obligations imposed hereby on the Charter School are equally imposed on Non-Profit.
- C. This Agreement has the purpose of clarifying the roles and responsibilities of the Parties with regard to students who are enrolled and attend the Charter School and are or may be eligible for special education and related services under the Individuals with Disabilities Education Act (“IDEA”) (20 U.S.C. § 1400 *et seq.*).

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements herein set forth, the Charter School and the District do hereby agree as follows:

II. USE OF TERMS

The Parties agree that unless otherwise stated herein, for the purposes of this Agreement, the terms “Charter School” and “Non-Profit” may be used interchangeably, with the duties and responsibilities of the Charter School and Non-Profit being the same under this Agreement.

III. PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES

- A. It is the intent of the Parties that the Charter School shall be its own local educational agency (“LEA”), pursuant to California Education Code section

47641, subdivision (a). The Charter School has obtained membership as an independent LEA in the El Dorado County Special Education Local Plan Area ("SELPA"). The Charter School has provided the District with verifiable written assurances that they participate as an LEA in the El Dorado County SELPA.

- B. The Charter School will serve as its own LEA for the purposes of special education, and as such, the Charter School is solely responsible, at its own expense, for insuring that all children with disabilities enrolled in the Charter School receive special education and designated instruction and services in conformity with their individualized education programs and in compliance with the IDEA (20 U.S.C. §§ 1400 *et seq.*), its implementing regulations and all applicable state and federal law. (34 C.F.R. § 300.209(c); Ed. Code, § 47646(a).)

IV. TERM

The term of this Agreement shall be from the Effective Date until June 30, 2013. This Agreement may be amended by mutual written agreement of the Parties at any time. This Agreement is subject to termination during the term as permitted by law.

V. NONDISCRIMINATION IN ADMISSIONS

All students residing in the State of California will have access to the Charter School subject to ordinary enrollment processes and limitations and no student shall be denied admission due to his or her disability. (20 U.S.C. § 1412(a)(2); 34 C.F.R. § 300.209; Ed. Code, § 47605(d).)

VI. SECTION 504 OF THE REHABILITATION ACT OF 1973 AND THE AMERICANS WITH DISABILITIES ACT

The Parties agree that this Agreement is intended to address the responsibilities of the Parties with respect to the provision and financing of special education services under the IDEA and does not cover services or accommodations required under Section 504 of the Rehabilitation Act of 1973 ("Section 504") (29 U.S.C. §§ 794 *et seq.*), or under the Americans with Disabilities Act of 1990 ("ADA") (42 U.S.C. §§ 12101 *et seq.*). The Charter School shall be solely responsible, at its own expense, for compliance with Section 504 and the ADA.

VII. INDEMNIFICATION, INSURANCE AND RISK MANAGEMENT

- A. The Non-Profit shall comply with the terms set forth in paragraph 13 of the Operational Memorandum of Understanding between Sacramento City Unified School District and Aspire Public Schools Regarding Capitol Heights Academy (Operational MOU) concurrently entered into herewith, which terms are incorporated as if fully set forth herein.

- B. The Non-Profit shall, for itself and the Charter School, comply with the terms set forth in paragraph 14 of the Operational MOU, which terms are incorporated as if fully set forth herein.

VIII. MISCELLANEOUS PROVISIONS

- A. **Venue.** The validity of this Agreement and any of its terms or provisions as well as the rights and duties of the Parties shall be governed by the laws of the State of California, and venue shall lie only in Sacramento County Superior Court.
- B. **Modifications.** No modifications, amendments, changes, or variations or any kind to this Agreement are authorized without written consent, evidenced by execution of an amendment by an authorized representative of each Party.
- C. **Interpretation.** The language herein shall be construed as jointly proposed and jointly accepted, and in the event of any subsequent determination of ambiguity, all Parties shall be treated as equally responsible for such ambiguity.
- D. **Integrated Agreement.** This Agreement is intended by the Parties as the final expression of their agreement with respect to such terms as are included herein and as the complete and exclusive statement of its terms and may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement, nor explained or supplemented by evidence of consistent additional terms. Each of the Parties acknowledges that no one has made any promise, representation or warranty whatsoever, express or implied, written or oral, not contained herein to induce them to execute this Agreement, and that this Agreement is not executed in reliance upon any such promise, representation or warranty.
- E. **Non-Assignability.** This Agreement may not be assigned by the Parties.
- F. **Binding Effect.** This Agreement is binding upon the successors and assigns of the Parties, subject to the non-assignability restrictions set forth in subsection E above.
- G. **Survival of Covenants.** Notwithstanding termination of the Agreement, the indemnification provisions shall survive and be fully enforceable notwithstanding the termination date of the Agreement.

- H. **Notices.** All notices required by this Agreement may be sent by United States mail; postage pre-paid, to the Parties as follows:
To the District at:

Sacramento City Unified School District
Attn: Chief Business Officer
5735 47th Ave.
Sacramento, CA 95824
Facsimile: (916) 643-2190

To the Non-Profit and Charter School at:

Nate Monley
Principal
Capitol Heights Academy
2520 33rd Street
Sacramento, CA 95817
Facsimile: (916) 739-8529

Any notices required by this Agreement sent by facsimile transmission or electronic mail to the facsimile and electronic mail addresses above shall be considered received on the business day they are sent, provided they are sent during in the receiving Party's business hours and provided receipt is confirmed by telephone, facsimile, or electronic mail, and further provided the original is promptly placed into the United States mail, postage pre-paid, and addressed as indicated above.

- I. **Warranty.** Each person below warrants and guarantees that s/he is legally authorized to execute this Agreement on behalf of the designated entity and that such execution shall bind the designated entity to the terms of this Agreement.
- J. **Counterparts.** This Agreement may be signed in counterpart such that the signatures may appear on separate signature pages. Facsimile or photocopy signatures shall have the same force and effect as original signatures.

K. Ratification. This Agreement shall not be effective until the respective governing boards have ratified this Agreement.

Dated: _____

Nate Monley
Principal
Aspire Capitol Heights Academy

Dated: _____

Jonathan Raymond
Superintendent
Sacramento City Unified School District

**SPECIAL EDUCATION MEMORANDUM OF UNDERSTANDING
BETWEEN SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
AND
ASPIRE PUBLIC SCHOOLS
REGARDING CAPITOL HEIGHTS ACADEMY**

This Memorandum of Understanding (“Agreement”) is entered into as of _____, 2012, (“Effective Date”), by and between the Board of Trustees of the Sacramento City Unified School District (“District”) and Aspire Public Schools (“Non-Profit”), a California non-profit public benefit corporation, operating Capitol Heights Academy Charter School (“Charter School”), a public charter school chartered by the District. The District, the Non-Profit and the Charter School are collectively referred to as the “Parties.” This Agreement will set forth the responsibilities of the Parties with respect to the delivery and financing of special education services to children enrolled in the Charter School.

I. RECITALS

- A. The District is the granting agency of the Charter School. The District approved the Charter School’s charter on July 21, 2003 for a term of five (5) years, beginning on July 21, 2003 and expiring on June 30, 2008. The District renewed the Charter School’s charter on March 27, 2008 for a term of five years, beginning on July 1, 2008 and expiring June 30, 2013.
- B. The Charter School is operated by Non-Profit, a non-profit public benefit corporation. All obligations imposed hereby on the Charter School are equally imposed on Non-Profit.
- C. This Agreement has the purpose of clarifying the roles and responsibilities of the Parties with regard to students who are enrolled and attend the Charter School and are or may be eligible for special education and related services under the Individuals with Disabilities Education Act (“IDEA”) (20 U.S.C. § 1400 *et seq.*).

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements herein set forth, the Charter School and the District do hereby agree as follows:

II. USE OF TERMS

The Parties agree that unless otherwise stated herein, for the purposes of this Agreement, the terms “Charter School” and “Non-Profit” may be used interchangeably, with the duties and responsibilities of the Charter School and Non-Profit being the same under this Agreement.

III. PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES

- A. It is the intent of the Parties that the Charter School shall be its own local educational agency (“LEA”), pursuant to California Education Code section

47641, subdivision (a). The Charter School has obtained membership as an independent LEA in the El Dorado County Special Education Local Plan Area ("SELPA"). The Charter School has provided the District with verifiable written assurances that they participate as an LEA in the El Dorado County SELPA.

- B. The Charter School will serve as its own LEA for the purposes of special education, and as such, the Charter School is solely responsible, at its own expense, for insuring that all children with disabilities enrolled in the Charter School receive special education and designated instruction and services in conformity with their individualized education programs and in compliance with the IDEA (20 U.S.C. §§ 1400 *et seq.*), its implementing regulations and all applicable state and federal law. (34 C.F.R. § 300.209(c); Ed. Code, § 47646(a).)

IV. TERM

The term of this Agreement shall be from the Effective Date until June 30, 2013. This Agreement may be amended by mutual written agreement of the Parties at any time. This Agreement is subject to termination during the term as permitted by law.

V. NONDISCRIMINATION IN ADMISSIONS

All students residing in the State of California will have access to the Charter School subject to ordinary enrollment processes and limitations and no student shall be denied admission due to his or her disability. (20 U.S.C. § 1412(a)(2); 34 C.F.R. § 300.209; Ed. Code, § 47605(d).)

VI. SECTION 504 OF THE REHABILITATION ACT OF 1973 AND THE AMERICANS WITH DISABILITIES ACT

The Parties agree that this Agreement is intended to address the responsibilities of the Parties with respect to the provision and financing of special education services under the IDEA and does not cover services or accommodations required under Section 504 of the Rehabilitation Act of 1973 ("Section 504") (29 U.S.C. §§ 794 *et seq.*), or under the Americans with Disabilities Act of 1990 ("ADA") (42 U.S.C. §§ 12101 *et seq.*). The Charter School shall be solely responsible, at its own expense, for compliance with Section 504 and the ADA.

VII. INDEMNIFICATION, INSURANCE AND RISK MANAGEMENT

- A. The Non-Profit shall comply with the terms set forth in paragraph 13 of the Operational Memorandum of Understanding between Sacramento City Unified School District and Aspire Public Schools Regarding Capitol Heights Academy (Operational MOU) concurrently entered into herewith, which terms are incorporated as if fully set forth herein.

- B. The Non-Profit shall, for itself and the Charter School, comply with the terms set forth in paragraph 14 of the Operational MOU, which terms are incorporated as if fully set forth herein.

VIII. MISCELLANEOUS PROVISIONS

- A. **Venue.** The validity of this Agreement and any of its terms or provisions as well as the rights and duties of the Parties shall be governed by the laws of the State of California, and venue shall lie only in Sacramento County Superior Court.
- B. **Modifications.** No modifications, amendments, changes, or variations or any kind to this Agreement are authorized without written consent, evidenced by execution of an amendment by an authorized representative of each Party.
- C. **Interpretation.** The language herein shall be construed as jointly proposed and jointly accepted, and in the event of any subsequent determination of ambiguity, all Parties shall be treated as equally responsible for such ambiguity.
- D. **Integrated Agreement.** This Agreement is intended by the Parties as the final expression of their agreement with respect to such terms as are included herein and as the complete and exclusive statement of its terms and may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement, nor explained or supplemented by evidence of consistent additional terms. Each of the Parties acknowledges that no one has made any promise, representation or warranty whatsoever, express or implied, written or oral, not contained herein to induce them to execute this Agreement; and that this Agreement is not executed in reliance upon any such promise, representation or warranty.
- E. **Non-Assignability.** This Agreement may not be assigned by the Parties.
- F. **Binding Effect.** This Agreement is binding upon the successors and assigns of the Parties, subject to the non-assignability restrictions set forth in subsection E above.
- G. **Survival of Covenants.** Notwithstanding termination of the Agreement, the indemnification provisions shall survive and be fully enforceable notwithstanding the termination date of the Agreement.

- H. **Notices.** All notices required by this Agreement may be sent by United States mail; postage pre-paid, to the Parties as follows:
To the District at:

Sacramento City Unified School District
Attn: Chief Business Officer
5735 47th Ave.
Sacramento, CA 95824
Facsimile: (916) 643-2190

To the Non-Profit and Charter School at:

Nate Monley
Principal
Capitol Heights Academy
2520 33rd Street
Sacramento, CA 95817
Facsimile: (916) 739-8529

Any notices required by this Agreement sent by facsimile transmission or electronic mail to the facsimile and electronic mail addresses above shall be considered received on the business day they are sent, provided they are sent during in the receiving Party's business hours and provided receipt is confirmed by telephone, facsimile, or electronic mail, and further provided the original is promptly placed into the United States mail, postage pre-paid, and addressed as indicated above.

- I. **Warranty.** Each person below warrants and guarantees that s/he is legally authorized to execute this Agreement on behalf of the designated entity and that such execution shall bind the designated entity to the terms of this Agreement.
- J. **Counterparts.** This Agreement may be signed in counterpart such that the signatures may appear on separate signature pages. Facsimile or photocopy signatures shall have the same force and effect as original signatures.

K. Ratification. This Agreement shall not be effective until the respective governing boards have ratified this Agreement.

Dated: _____

Nate Monley
Principal
Aspire Capitol Heights Academy

Dated: _____

Jonathan Raymond
Superintendent
Sacramento City Unified School District