



SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item# 8.1h

Meeting Date: March 7, 2013

Subject: Operational and Special Education Memorandum of Understanding
between Sacramento City Unified School District and Sol Aureus
College Preparatory (S.A.C. Prep)

- ☐ Information Item Only
- ☒ Approval on Consent Agenda
- ☐ Conference (for discussion only)
- ☐ Conference/First Reading (Action Anticipated: _____)
- ☐ Conference/Action
- ☐ Action
- ☐ Public Hearing

Division: Accountability Office

Recommendation: Approve Operational and Special Education Memorandum of Understanding between Sacramento City Unified School District and Sol Aureus College Preparatory (S.A.C. Prep)

Background/Rationale: The District approved the charter for Sol Aureus College Preparatory (S.A.C. Prep) on November 1, 2012 Board Meeting. By approving the charter, the District assumed certain oversight responsibilities over school pursuant to California's Charter Schools Act. It is best practice for the District to enter into an Operational Memorandum of Understanding ("MOU") and Special Education MOU with each charter school approved. The Operational MOU outlines the responsibilities and expectations between the District and the Charter School regarding the oversight fee paid by the Charter School to the District, the parties' respective fiscal and administrative responsibilities, their legal relationship and other matters of mutual interest, not explicitly addressed or resolved in the terms of each Charter School's charter. The Special Education MOU addresses the parties' relationship with respect to the provision of special education services.

Financial Considerations: N/A

Documents Attached:

Operational and Special Education Memorandum of Understanding between
Sacramento City Unified School and Sol Aureus College Preparatory (S.A.C. Prep)

Estimated Time of Presentation: N/A

Submitted by: Jennifer Lopez, Charter & Principal Network Oversight Coordinator
Approved by: Teresa Cummings, Chief Accountability Officer

**OPERATIONAL MEMORANDUM OF UNDERSTANDING BETWEEN
SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
AND
SOL AUREUS COLLEGE PREPARATORY**

This Operational Memorandum of Understanding ("Agreement") is entered into as of _____, 2013, by and between the Board of Trustees of the Sacramento City Unified School District ("District") and Sol Aureus College Preparatory ("Non-Profit"), a California non-profit public benefit corporation, operating the Sol Aureus College Preparatory Charter School ("Charter School"), a public charter school chartered by the District. The District and the Non-Profit are collectively referred to as the "Parties." This Agreement shall be enforceable only following execution by both Parties and ratification or approval by the governing boards of each of the Parties.

RECITALS:

- A. The District is the granting agency of the Charter School. The District approved the Charter School's charter ("charter") on March 3, 2003, for a term of five years, beginning on July 1, 2003 and expiring June 30, 2008. The District renewed the Charter School's charter on June 5, 2008 for a term of five years, beginning on July 1, 2008 and expiring on June 30, 2013. The District once again renewed the Charter School's charter on November 1, 2012 for a term of five years, beginning on July 1, 2013 and expiring on June 30, 2018. 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 the 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 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, 2018. The Agreement is also subject to termination in accordance with the processes 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 set forth in this Agreement, District policy, and applicable law.

3. Designation of School. The Charter School shall be known as the “Sol Aureus College Preparatory Charter School” or “S.A.C. Prep.” 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 ninety (90) days of the last day of instruction for the regular school year or by October 1, whichever date is earlier. To the extent that the State delays providing any of the required data to Charter School, the Charter School shall notify the District and the District shall provide a reasonable extension to Charter School for submitting such data. 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 copy of the Charter School’s 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.

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

(h) Data regarding the number of staff working at the 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 whether the Charter School implemented 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 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.

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 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). Assets or funds allocated or held by the Charter School for provision of its educational services shall be used consistent with applicable law and the terms of any funding restrictions. 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.

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 Non-Profit is a separate legal entity 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. Except as such reimbursement is limited by law, including but not limited to Education Code section 47613, 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 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.

(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, with the exception of special education encroachment fees (which shall be computed and charged in accordance with the Special Education Memorandum Of Understanding between Sacramento City Unified School District and Sol Aureus College Preparatory (Special Education MOU) entered into concurrently herewith by the District and the Non-Profit). Prior to paying any expenses on the Charter School's behalf, District shall provide Charter School with reasonable notice and an opportunity to pay or dispute the expense directly.

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 in accordance with the terms of the Charter.

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 Charter School's governing board will annually appoint an external fiscal auditor, subject to the approval of the District. Said external fiscal auditor must be listed on the State Controller's Office website as approved to conduct such audits. The audit shall include, but not be limited to:

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

The Charter School shall complete its audit within ninety (90) days of the close of the fiscal year. A copy of the audit report shall be submitted to the District within thirty (30) days of completion, and no later than December 15 of the fiscal year following the fiscal year for which the audit was performed. The Charter School agrees to implement all audit recommendations to the District's satisfaction, unless other terms are agreed to between the District and the Charter School.

(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 shall be considered grounds for revocation of the charter, subject to reasonable opportunity on the part of the Charter School to amend and rectify findings of the above reports.

(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, or as otherwise required by law. 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, in writing, no later than thirty (30) days prior to entering into any debt whatsoever.

(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. Assets or funds allocated or held by the Charter School for provision of its educational services shall be used consistent with applicable law and terms of any funding restrictions.

(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 Manager, who shall not be authorized to expend petty cash.

(k) Purchasing Procedures. The Charter School shall adopt a procurement policy consistent with applicable law, which policy shall address the reasonable retention of documents related to the Charter School's procurement decisions.

(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 six hundred dollars (\$600). 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) Other Fiscal Control Policies. The Charter School shall develop and maintain other 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 student. 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. To the extent necessary to discharge its reasonable supervisory oversight activities, 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. All student records and information from such records shall be kept and maintained by the District in accordance with FERPA and may not be disclosed except with prior written consent of the parent or eligible student or as otherwise

authorized by law. 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 to the extent necessary for the District to discharge its oversight activities. The District, Charter School, and their 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 the 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 children will have access to the Charter School 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.*), except as otherwise agreed to by the parties, such as in a Facilities Use Memorandum of Understanding.

(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.

(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 section 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 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 no less than \$500,000.00, 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. The District will maintain insurance for facilities, consistent with the Facilities Use Agreement. This includes 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 Applicable Law. The Charter School agrees to comply at all times with applicable federal or state laws (which may be amended from time to time), which shall

include the following:

- The Brown Act (Cal. Gov. Code, §§ 54950 *et seq.*);
- The Public Records Act (Cal. Gov. Code, §§ 6250 *et seq.*);
- State conflict of interest laws: the Political Reform Act (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.*), Ed. 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 Charter School agrees to comply with key terms of the Brown Act and shall conduct the 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. Prior to opening, the Charter School 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 Charter School have participated in Brown Act training. The governing board of the Charter School 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 representative to the Charter School’s governing board in accordance with the provisions of Education Code section 47604. The Charter School agrees to provide to the District’s representative on the governing board 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 Charter School agrees that all of its records that relate in any way to the operation of the Charter School shall be treated as public records subject to the requirements 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) The addition of facilities and/or new sites;
- (f) Admission preferences;
- (g) Governance structure; and
- (h) Name changes of the Charter School.

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 dispute process as described in the charter. 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 Non-Profit and
Charter School at: Sol Aureus College Preparatory Charter School
(S.A.C. Prep)
Attn: Norman Hernandez, Director of Operations
2118 Meadowview Road
Sacramento, CA 95832
Facsimile: (916) 421-0601

23. Entire Agreement; Counterparts. This Agreement, including the Special Education MOU, 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: _____

Norman Hernandez
Director of Operations
Sol Aureus College Preparatory Charter School
(S.A.C. Prep)

Dated: _____

Jonathan Raymond
Superintendent
Sacramento City Unified School District

**SPECIAL EDUCATION MEMORANDUM OF UNDERSTANDING
BETWEEN SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
AND
SOL AUREUS COLLEGE PREPARATORY**

This Memorandum of Understanding (“Agreement”) is entered into as of _____, (“Effective Date”), by and between the Board of Trustees of the Sacramento City Unified School District (“District”) and Sol Aureus College Preparatory (“Non-Profit”), a California non-profit public benefit corporation, operating the Sol Aureus College Preparatory Charter School (“Charter School”), a public charter school chartered by the District. The District and the Non-Profit 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 (“charter”) on March 3, 2003, for a term of five years, beginning on July 1, 2003 and expiring June 30, 2008. The District renewed the Charter School’s charter on June 5, 2008 for a term of five years, beginning on July 1, 2008 and expiring on June 30, 2013. The District once again renewed the Charter School’s charter on November 1, 2012 for a term of five years, beginning on July 1, 2013 and expiring on June 30, 2018.
- 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. The Charter School shall be categorized as a “public school” within the District in conformity with California Education Code section 47641, subdivision (b) for the purposes of special education. The Charter School’s students will be students of the District for purposes of special education.
- D. The District will serve as the Charter School’s local educational agency (“LEA”) for the purposes of special education, and as such must take steps to ensure that all children with disabilities enrolled in the Charter School receive special education and designated instruction and services in conformity with their individualized education plans (“IEP”) and in compliance with the Individuals with Disabilities Education Act (“IDEA”) (20 U.S.C. § 1400 *et seq.*), its implementing regulations and all applicable state and federal law. (Ed. Code, § 47646(a).)
- E. 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 IDEA.

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. TERM

The term of this Agreement shall be from the Effective Date to June 30, 2018. This Agreement may be amended by mutual written agreement of the Parties at any time. This Agreement is subject to termination during the term of as permitted by law. This Agreement is also subject to termination if the Charter School becomes the LEA of another Special Education Local Plan Area (“SELPA”).

If at any time the Charter School desires to become a local educational agency (“LEA”) and seek membership in a SELPA other than the District’s SELPA, the Charter School shall confer with the District. The Non-Profit shall notify the District by March 1st of the prior calendar year if the Charter School intends to seek membership in another SELPA. The Charter School will also comply with all procedures, including but not limited to, dispute resolution and other procedures of the District’s SELPA, the receiving SELPA, and those procedures required by law. To the extent this constitutes a material revision of the Charter School’s Petition, the Charter School will comply with Education Code requirements necessary to amend the Petition.

IV. DESIGNATED REPRESENTATIVE

The District’s designated representative shall be the District’s superintendent who shall have the authority to act on behalf of the District. The Charter School shall designate a representative in writing and this representative shall have the authority to act on behalf of the Charter School, except to the extent action by the Governing Board of the Charter School is legally required.

V. NONDISCRIMINATION IN ADMISSIONS

All students will have access to the Charter School 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 AND THE ADA

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 unless otherwise agreed to in writing by the parties, such as in a Facilities Use Agreement.

VII. SPECIAL EDUCATION FUNDING

- A. Retention of Special Education Funds by the District. The Charter School, which has been deemed a public school of the District, shall participate in state and federal funding in the same manner as any other public school of the District. (Ed. Code, § 47646(a).) The parties agree that, pursuant to the division of responsibilities set forth in this Agreement, the District has agreed to provide special education and related services for the Charter School, consistent with the services it provides eligible students at its other public schools. Consistent with this division of responsibility, the District shall retain all state and federal special education funding allocated for Charter School students through the Sacramento City Special Education Local Plan Area (“SELPA”). The District shall be solely responsible, as necessary, to contract and pay for any special education services, except as otherwise agreed between the Parties.
- B. Charter School Contribution to Encroachment. The Charter School shall owe the District a pro-rata share of the District’s unfunded special education costs (encroachment) as estimated in the District’s current Fee Schedule for Services to Charter Schools (“Fee Schedule”) attached hereto as Appendix A. The encroachment amounts set forth in the Fee Schedule are subject to updating when the District’s actual unfunded special education costs become available. At the end of each fiscal year, June 30, the District shall calculate the Charter School’s pro-rata share of the District-wide encroachment for that year as calculated by the total unfunded special education costs of the District (including those costs attributable to the Charter School) divided by the total number of District enrollment (including Charter School students) and multiplied by the total number of Charter School enrollment. Charter School enrollment shall include all students, regardless of home district. Payments for encroachment shall be made by the Charter School to the District pursuant to the following schedule:

October 31: 25% of the Charter School’s estimated pro-rata share of encroachment based upon prior year encroachment, which shall be adjusted by a credit or deduction, to reflect any difference between Charter School’s actual pro-rata share for the prior year and actual payments made. If it is determined that the Charter School has paid more than its actual pro rata share of encroachment, such amounts shall be refunded to the Charter School, or at the sole option of the Charter School, applied to the encroachment of the following school year. If it is determined that the Charter School has paid less than its actual pro-rata share of encroachment, then the Charter School shall be required to pay the District the

difference.

January 31: 25% of the Charter School's estimated pro-rata share of encroachment based upon prior year encroachment.

April 30: 25% of the Charter School's estimated pro-rata share of encroachment based upon prior year encroachment.

July 15: 25% of the Charter School's estimated pro-rata share of encroachment based upon prior year encroachment.

If at any time, including through the updating of the amounts set forth in the Fee Schedule, it is determined by the District that the Charter School has paid more than its actual pro rata share of encroachment, the District will give notice of same within 30 days, and such amounts shall be refunded to the Charter School or, at the sole option of the Charter School, applied to the encroachment of the following school year. Similarly, if at any time it is determined by the District that the Charter School has paid less than its actual pro rata share of encroachment, the District will give notice of same within 30 days, and such amounts shall be paid by the Charter School or, at the sole option of the District, added to the encroachment of the following school year. In the event that the District and Charter School cannot agree as to the amount owed pursuant to the calculations, the matter shall be resolved pursuant to the dispute resolution provision in the Charter School's charter. However, the Charter School shall pay any undisputed amount based on the timelines prescribed in this section.

The District shall provide financial and other information needed to allow the Charter School to review and confirm the accuracy of the District's estimated and actual pro-rate encroachment calculations as reasonably requested by the Charter School. For the 2012-2013 school year, the Charter School's estimated pro-rata share of encroachment shall be calculated based upon District's actual preceding school year encroachment and an estimated Charter School ADA of 169.70.

VIII. PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES

A. General Provisions

1. Intent of the Parties. The Parties intend to ensure that all students with disabilities who attend the Charter School are provided a free appropriate public education ("FAPE") in compliance with the IDEA (20 U.S.C. § 1400, *et seq.*) and California Education Code section 56000, *et seq.*
2. Provision of Services. A child with disabilities attending the Charter School shall receive special education and related services in the same manner as a child with disabilities who attends another public school of the District. (Ed. Code, § 56145.) A full continuum of special education

programs and related services shall be provided to Charter School students as required by an individual student's IEP.

3. Division and Coordination of Responsibility. Where particular services are generally provided by staff at the local school site level, the Charter School, subject to District approval, and after consulting with a District program specialist, may provide staff and programming.
4. Days of Service. Special education services shall be available to the Charter School for the number of days specified in students' IEPs.
5. Staffing Requirements. All special education and related services must be provided by qualified personnel meeting state certification, licensing, registration or other applicable requirements. (34 C.F.R. § 300.156.) The District shall be responsible for screening and hiring employees to provide special education services for students enrolled in the Charter School in the same manner as for District schools.

To the extent allowable and consistent with the District's applicable collective bargaining agreements with its employees, the District shall consult with the Charter School regarding the assignment of employees providing special education pursuant to this Agreement.

To the extent that the District and/or SELPA provide training opportunities and/or information regarding special education to site staff, such opportunities and/or information shall be made available to Charter School staff.

6. Contracts with Non-District Providers. The Charter School shall not contract with any outside person or agency for the provision of special education and/or related services to Charter School students without the prior written approval of the District. Moreover, any such contracts may only be entered into with nonpublic schools or agencies properly certified by the State of California.
7. Student Records. The Charter School is responsible for obtaining the cumulative files, prior and/or current IEPs and other special education information on any student enrolling from a non-District school. The Charter School shall forward copies of all such information to the District. The District will ensure that the Charter School is provided with notification and relevant files of all students transferring to the Charter School from a District school, who have an existing IEP, in the same manner that ensures the forwarding of such information between District schools. All records and files will be released with the signed permission of the Parent/Guardian.

8. Notice of Procedural Safeguards. The District shall provide the Parent/Guardian with a notice of procedural safeguards when: a Parent/Guardian asks for a copy; the first time a child is referred for special education assessment; each time a child is reassessed; each time a Parent/Guardian requests a due process hearing; and each time a change of placement is implemented because of a violation of a code of student conduct. (20 U.S.C. § 1415(d)(1)(A); 34 C.F.R. §§ 300.504(a) and 300.530(h); Ed. Code, §§ 56301(d)(2), 56321, 56500.1 and 56502.)

B. Enrollment, Identification and Evaluation

1. Enrollment Information. The Charter School shall include on its enrollment form(s) a question regarding whether the student seeking to enroll in the Charter School is, or may be, a student eligible for special education and related services. The Charter School shall provide the District with a list of special education students enrolled in the Charter School at the beginning of each school year and shall update the list on a quarterly basis.
2. Identification and Referral. The District shall work cooperatively with the Charter School in identifying and referring students who have or may have exceptional needs that qualify them to receive special education services. The District will develop, maintain, and implement policies and procedures to ensure identification and referral of students who have, or may have, such exceptional needs. These policies and procedures will be in accordance with California law and District policy. The Charter School will implement the District's policies and procedures. The District shall provide the Charter School with any assistance that it generally provides its other public schools in the identification and referral processes. A pupil shall be referred for special education instruction and services only after the resources of the regular education program have been considered and, where appropriate, utilized. (Ed. Code, § 56303.)
3. Assessment. District staff shall conduct all necessary special education assessments of Charter School students, including but not limited to initial assessments, annual assessments and triennial assessments, unless the parties agree otherwise in writing. All such assessments will be conducted by qualified personnel and comply with state and federal law and regulations. (20 U.S.C. § 1414(a)-(c); 34 C.F.R. §§ 300.300-305; Ed. Code, § 56320; Cal. Code Regs., tit. 5, § 3023.) Except as provided by state and federal law, the District and the Charter School may not conduct an assessment without first obtaining the written consent of the Parent/Guardian. (20 U.S.C. § 1414(a)(1)(D); 34 C.F.R. § 300.300; Ed. Code, § 56321.)

If a Parent/Guardian refuses to consent to an assessment that the District

or the Charter School believes is required to provide a Charter School student with FAPE, the Charter School shall immediately notify the District.

The Charter School shall not refer its students for independent educational evaluations without prior written approval of the District.

4. Interim Placement. For students with a current IEP who enroll in the Charter School from a school outside the District, the Charter School and the District shall confer and either implement the student's existing IEP to the extent possible, or otherwise provide the student with an interim placement, not to exceed 30 days, in accordance with all applicable state and federal law. Before the expiration of the 30 day period, the interim placement shall be reviewed by the IEP team and final recommendations made. (Ed. Code, § 56325.)

The Charter School shall notify the District immediately of students who may fall into this category. The District will provide consultative assistance and necessary services to the Charter School to help transition such students.

5. Attendance Monitoring. The Charter School shall monitor attendance for related services on a monthly basis to ensure students are accessing all services outlined in their IEPs.

C. Individualized Education Programs (IEPs)

1. IEP Team Membership. IEP team membership shall be in compliance with state and federal law and shall include a designated representative of the Charter School and a designated representative of the District. (20 U.S.C. § 1414(d)(1)(B); 34 C.F.R. § 300.321; Ed. Code, § 56341(b).)
2. IEP Meetings. Responsibility for arranging and providing notice for all IEP team meetings shall be allocated in accordance with the District's general practice and procedure and applicable law. The Charter School shall be responsible for having the designated representative of the Charter School and other members of the student's IEP team, including at least one general education teacher knowledgeable about the regular education program at the Charter School in attendance at the IEP team meeting. District staff and Charter School staff shall consult as needed and work cooperatively to review individual students' assessment data and progress prior to IEP meetings and discuss how special students' needs may be most effectively met. However the District staff and Charter School shall not predetermine any aspect of the IEP. The Parent/Guardian shall be given a copy of the procedural safeguards upon notice of each IEP meeting. (Ed. Code, § 56341.)

3. IEP Contents. The District and the Charter School shall use the SELPA forms to complete the IEPs. Each IEP must include, but is not limited to: a statement of the child's present levels of educational performance; measurable annual goals; the special education and related services and supplementary aids and services to be provided to the child; an explanation of the extent, if any, to which a child will not participate with non-disabled children; the dates, frequency, location and duration of services for the child; and a statement of how the child's progress toward his or her annual goals will be measured. (20 U.S.C. § 1414(d)(1)(A); 34 C.F.R. § 300.320; Ed. Code, § 56345.)
4. Parental Consent to the IEP. The Parties may not implement an IEP to which a Parent/Guardian does not provide written consent. If a Parent/Guardian consents to only part of an IEP, the District and the Charter School must implement the portion of the IEP to which the Parent/Guardian consented. (Ed. Code, § 56346(e).) Notification of the other party is required any time a Parent/Guardian refuses to consent to any portion of an IEP. Anytime a Parent/Guardian refuses to consent to any portion of an IEP that the Charter School believes is required to provide a student with FAPE, the Charter School must notify the District.

D. Program and Services

1. Eligibility and Placement. Decisions regarding eligibility, goals/objectives, program, placement and exit from special education shall be the decision of the IEP team. Services and placements shall be provided to all eligible Charter School students in accordance with the policies, procedures and requirements of the District, the SELPA and applicable law. Whenever the Charter School takes, proposes or refuses to initiate or change the identification, evaluation or educational placement of a Charter School student, the Charter School must, in consultation with the District, provide the Parent/Guardian with prior written notice of such action. (34 C.F.R. § 300.503.)

In the event that either party believes that placement in a District program is necessary to provide a student with FAPE, such placement shall only be made by an IEP team comprised of representatives of the Charter School and the District.

2. Independent Study. No Charter School student eligible for special education and related services may participate in independent study, unless his or her IEP provides for such participation. The determination regarding the appropriateness of independent study for a particular student shall be made by the IEP team. (Ed. Code, § 51745(c).)

3. Referral to Nonpublic or Private Schools. The Charter School shall not make referrals for placement at nonpublic schools, private schools or residential placements without consultation with and prior written approval of the District. However, the decision to refer a student to a nonpublic or private school shall be an IEP team decision. If a parent unilaterally places a student at a nonpublic school, private school or in a residential placement, the Charter School shall immediately notify the District upon learning such information.
4. Transition Services. The District and the Charter School shall jointly ensure the provision of appropriate transition services to Charter School students in the same manner they are provided to other eligible students in the District. (20 U.S.C. § 1414(d)(1)(A)(viii); 34 C.F.R. §§ 300.43 and 300.320; Ed. Code, § 56345.1.) Transition services shall be provided in conformity with applicable state and federal law. Transition services will be addressed in each charter school student's IEP no later than age 16.
5. Transportation. The District shall provide transportation to any Charter School student, if required by that student's IEP. The Charter School shall not provide special education transportation to its students, unless the Parties agree otherwise. The Charter School shall pay the Special Education Transportation Encroachment to the District as set forth in Appendix A, per student transported, as calculated in paragraph VII(B), above. All special education transportation shall be provided in the same manner it is provided to other eligible students in the District.

IX. DISCIPLINE OF SPECIAL EDUCATION STUDENTS

- A. Suspension and Expulsion. The Charter School shall have discipline policies that comply with all applicable portions of the California Education Code and Federal Code of Regulations, title 34 section 300.530, *et seq.* The Charter School shall provide a copy of such policies to the District. These include, but are not limited to policies regarding suspension, expulsion, conducting functional analysis assessments, drafting and reviewing behavior interventions plans, and conducting manifestation determination reviews. If a Charter School student is suspended for more than 10 days in any school year and/or commits an expellable offense, the Charter School shall immediately notify the District and the District shall provide necessary assistance to support the discipline process, including, but not limited to, manifestation determination reviews.

X. COMPLAINTS AND DISPUTE RESOLUTION

- A. Parent Concerns. The Charter School shall instruct Parents/Guardians to raise concerns regarding special education services, related services and rights to District and/or Charter School staff. Whenever a Parent/Guardian raises a concern regarding special education and/or related services, the Charter School

shall immediately inform the District. The District representative in consultation with the Charter School's designated representative shall respond to and address the Parent/Guardian concerns.

- B. Complaints. In consultation with the Charter School, the District shall address/respond/investigate all complaints received under the Uniform Complaint procedure involving special education. The Charter School shall cooperate fully with reasonable requests from the District for information and documentation related to such complaints.
- C. Due Process Hearings. In consultation with the Charter School, the District may initiate a due process hearing related to the provision of FAPE to a Charter School student, if the District determines it is legally necessary to meet the District's responsibilities under federal and state law.

The District and the Charter School shall work together to defend any due process hearing brought by a student enrolled in the Charter School. If such hearing arises out of or results from the Charter School's negligent or wrongful acts or omissions in the performance of this Agreement, the Charter School shall indemnify the District to the fullest extent pursuant to Section XIII of this Agreement. If such hearing arises out of or results from the District's negligent or wrongful acts or omissions in the performance of this Agreement, the District shall indemnify the Charter School to the fullest extent pursuant to Section XIII of this Agreement. In the event that the District determines that legal counsel representation is needed, the District/Charter School shall be jointly represented by legal counsel, selected by the District, unless there is a conflict of interest.

The Charter School and District shall cooperate fully with reasonable requests from one-another for information and documentation related to due process hearings in which the District and/or the Charter School is a party.

XI. SELPA ACTIVITIES

The District Superintendent or designee shall represent the Charter School at all SELPA activities as it represents the need of all schools in the District. Reports to the Charter School regarding SELPA decisions, policies, etc. shall be communicated to the Charter school as they are to all other schools within the District. To the extent that District staff has the opportunity to participate in committee meetings of the SELPA as representatives of their District, such opportunities shall be made available to Charter School staff.

XII. COST CONTAINMENT EFFORTS

Charter School and District acknowledge the importance of containing the costs of providing special education services to individual students so that these costs do not exceed the amount the District would normally expend if the student being served were attending a District school. Accordingly, Charter School agrees to fully cooperate with

the District in order to achieve cost efficiencies to the extent expected of and practiced by other schools in the SELPA and SELPAs serving similar student populations.

XIII. INDEMNIFICATION, INSURANCE AND RISK MANAGEMENT

- A. The Non-Profit agrees to the terms set forth in paragraph 13, Indemnification, of the Operational Memorandum Of Understanding between Sacramento City Unified School District and Sol Aureus College Preparatory 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, Insurance and Risk Management, which terms are incorporated as if fully set forth herein.

XIV. 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, together with the Operational Memorandum of Understanding, 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 set forth in the Operational Memorandum of Understanding 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 the Charter School at:

Sol Aureus College Preparatory Charter School
(S.A.C. Prep)
Attn: Norman Hernandez, Director of Operations
2118 Meadowview Road
Sacramento, CA 95832
Facsimile: (916) 421-0601

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 District's governing board has ratified this Agreement.

Dated: _____

Norman Hernandez
Director of Operations
Sol Aureus College Preparatory Charter School
(S.A.C. Prep)

Dated: _____

Jonathan Raymond
Superintendent
Sacramento City Unified School District