

ADDENDUM TO AGENDA  
ELK GROVE UNIFIED SCHOOL DISTRICT  
Regular Meeting of the Board of Education  
Board Room, Education Center  
9510 Elk Grove-Florin Road  
Elk Grove, CA 95624  
July 1, 2013  
Closed Session – 5:30 p.m.  
Regular Session – 6:00 p.m.

This meeting is being conducted by teleconference at the following location: 1913 Stonepine Avenue, Hudson, WI 54016 and Steve Ly will be participating from the teleconference location. Each teleconference location is open to the public and any member of the public has an opportunity to address the Board of Education from a teleconference location in the same manner as it that person attended the regular meeting location. The Board of Education will control the conduct of the meeting and determine the appropriate order and time limitations on public comments from the teleconference location.

<u>Item</u>	<u>Time – Approximate</u>
CLOSED SESSION – 5:30 p.m.	30 Minutes

2A. Conference with Legal Counsel – Existing Litigation (Government Code Section 54956.9(d)(1)

Name of Case: State of California, et al., ex rel. David Sherwin, Plaintiffs,  
v. Office Depot, Inc., Defendant; Case No. 2:12-cv-09952-FMO-CW

OPEN MEETING - 6:00 p.m.

IX. Public Hearing/Action Item

- |   |           |
|---|-----------|
| 3. California School Employees Association (CSEA) Tentative Agreement – <b>Delete</b> | 5 Minutes |
|---|-----------|

XII. Consent Agenda – Action

- 17A. Approval for District Technology Services to Renew the Microsoft Licensing Agreement

**AMERICAN WITH DISABILITIES COMPLIANCE NOTICE**

In compliance with the Americans with Disabilities Act, those requiring special assistance to access the Board meeting room, to access written documents being discussed at the Board meeting, or to otherwise participate at Board meetings, please contact the Board Secretary, Arlene Hein, at (916) 686-7700. Notification of at least 24 hours prior to the meeting will enable the District to make reasonable arrangements to ensure accessibility to the Board meeting and to provide any required accommodation, auxiliary aids or services.

**DOCUMENT AVAILABILITY**

Documents provided to a majority of the Governing Board regarding an open session item on this agenda will be made available for public inspection in District office located at 9510 Elk Grove-Florin Road, Elk Grove, CA during normal business hours.

**Board Agenda Item**

Supplement No. \_\_\_\_\_

Meeting Date July 1, 2013**Subject:**Department: Technology Services**Approval for District Technology Services to renew the Microsoft licensing agreement.****Action Requested:**

The Board of Education is asked to approve an agreement with Software House International to renew the District's on-going 36 month Microsoft licensing agreement.

**Discussion:**

The District uses many Microsoft products, which require on-going licensing. The licensing ensures Microsoft software compliance and that all computer systems are secure and as current as possible. Without up-to-date licensing, some services and systems stop working. The contract is a 36 month contract that is paid annually. The district's current 36 month licensing agreement expires July 31, 2013. The new agreement will start August 1, 2013 and expire July 31, 2016.

**Financial Summary:**

An ongoing funding source has been budgeted through Technology Services General Fund for the annual payments. The term of the agreement has annual payments of \$184,000.

Prepared By: Steve MateDivision Approval: 

Prepared By: \_\_\_\_\_

Superintendent Approval: 

# Program Signature Form

MBA/MBSA number

01C35680

Agreement number

Proposal ID

**Note:** Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

Contract Document	Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
Enrollment for Education Solutions	X20-02452
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

### Customer

**Name of Entity (must be legal entity name)\*** Elk Grove Unified School District

**Signature\*** 

**Printed First and Last Name\*** Steve Mate

**Printed Title\*** Director, Technology Services

**Signature Date\*** 6/26/13

**Tax ID** 94-6002501

*\* indicates required field*

### Microsoft Affiliate

**Microsoft Licensing, GP**

**Signature** \_\_\_\_\_

**Printed First and Last Name**

**Printed Title**

**Signature Date**

(date Microsoft Affiliate countersigns)

**Effective Date**

(may be different than Microsoft's signature date)

**Optional 2<sup>nd</sup> Customer signature or Outsourcer signature (if applicable)**

### Customer

**Name of Entity (must be legal entity name)\*** Elk Grove Unified School District

**Signature\*** 

**Printed First and Last Name\*** Carrie Hargis

**Printed Title\*** Director, Fiscal Services & Compliance

**Signature Date\*** 6/26/13

*\* indicates required field*

### Outsourcer

**Name of Entity (must be legal entity name)\***

**Signature\*** \_\_\_\_\_

**Printed First and Last Name\***

**Printed Title\***

**Signature Date\***

*\* indicates required field*

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

**Microsoft Licensing, GP**  
Dept. 551, Volume Licensing  
6100 Neil Road, Suite 210  
Reno, Nevada 89511-1137  
USA

**Prepared By:** Name of Preparer

Email of Preparer

## Enrollment for Education Solutions

Enrollment Number <i>Microsoft to complete</i>		Qualifying Enrollment Number (if applicable) <i>Partner to complete</i>	
Previous Enrollment Number (if applicable) <i>Partner to complete</i>			

**This Enrollment must be attached to a signature form to be valid.**

Please note that by entering into this Enrollment for Education Solutions ("Enrollment") Institution, regardless of whether it is a primary/secondary school or a higher/further education entity, becomes part of the Campus Program. Institution's reseller will use the Campus Program tools and pricing infrastructure to register Institution for this Enrollment. All communications from Microsoft will indicate that Institution is part of the Campus Program.

This Enrollment is entered into between the entities identified in, and as of the effective date listed in, the signature form ("Enrollment Effective Date"). Institution represents and warrants that it is the same Institution that entered into the Campus and School Agreement identified on the signature form ("Agreement") or an Affiliate of Institution. The Agreement must be at least version 3.4 in order for the Enrollment to be valid.

This Enrollment consists of (1) this document and the signature form, (2) the terms of the Agreement, (3) the Supplemental Terms and Conditions for Online Services (Academic), (4) the Supplement for Microsoft Live@edu (if applicable) located at <http://www.microsoft.com/licensing/contracts>, and (5) any supplemental contact information form.

The terms and conditions in this Enrollment supersede any conflicting terms and conditions in the Agreement.

**Enrollment Term.** This Enrollment will expire either 12 or 36 full calendar months from the Enrollment Effective Date, depending on Institution's election below and may be terminated earlier as provided in the Agreement. *Please select **only one** initial Enrollment term option:*

<input type="checkbox"/>	12 Full Calendar Months	<input checked="" type="checkbox"/>	36 Full Calendar Months
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**Prior Enrollment.** If renewing Subscription Licenses from a Previous Enrollment or Agreement, the Previous Enrollment or Agreement number must be identified in the designated box above.

### 1. **Contact information.**

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. *The asterisk ("\*") indicates required fields.* Microsoft may disclose contact information as necessary to administer this Enrollment.

- a. **Primary contact information.** Institution must identify an individual from inside its organization to serve as the primary contact. This contact is also the default online administrator for this Enrollment and will receive all notices unless Institution provides Microsoft written notice of a change. The online administrator may appoint other administrators and grant others access to online information.

**Name of entity (must be legal entity name)\*** Elk Grove Unified School District

**Contact name\*:** First Steve Last Mate  
**Contact email address\*** smate@egusd.net  
**Street address\*** 9360 Elk Grove-Florin Road, Suite 2  
**City\*** Elk Grove  
**State/Province\*** CA  
**Postal code\*** 95624  
**Country\*** US  
**Phone** 916-686-7710  
**Tax ID** 94-6002501  
*\* indicates required fields*

- b. Notices and online access contact information.** Complete this only if Institution wants to designate a notices and online contact different from the primary contact. This contact will become the default online administrator for this Enrollment and receive all notices. This contact may appoint other administrators and grant others access to online information.

☒ Same as primary contact

**Name of entity\***

**Contact name\*:** First Last

**Contact email address\***

**Street address\***

**City\***

**State/Province\***

**Postal code\***

**Country\***

**Phone**

☐ This contact is a third party (not Institution)

Warning: This contact receives personally identifiable information of Institution.

*\* indicates required fields*

- c. Online Services Manager.** This person will receive communications concerning registration for Online Services ordered under this Enrollment. This contact may appoint other administrators and grant others access to online information.

☒ Same as primary contact

**Name of entity\***

**Contact name\*:** First Last

**Contact email address\***

**Street address\***

**City\***

**State/Province\***

**Postal code\***

**Country\***

**Phone**

*\* indicates required fields*

- d. Language preference.** Select the language for notices. English
- e. Microsoft account manager.** Provide the Microsoft account manager contact for Institution.

**Microsoft account manager name:**

**Microsoft account manager email address:**

- f. Reseller information.**

**Reseller company name\*** SHI International Corp

**Street address (PO boxes will not be accepted)\*** 290 Davidson Ave

**City\*** Somerset  
**State/Province\*** NJ  
**Postal code\*** 08873  
**Country\*** USA  
**Contact name\***  
**Phone** 888-764-8888  
**Contact email address\*** msteam@shi.com  
*\* indicates required fields*

The undersigned confirms that the information is correct

**Name of Reseller\*** SHI International Corp

**Signature\*** \_\_\_\_\_

**Printed name\***

**Printed title\*** Contracts Specialist

**Date\***

*\* indicates required fields*

**Changing a reseller.** If Microsoft or the reseller chooses to discontinue doing business with one another, Institution must choose a replacement. If Institution intends to change the reseller, it must notify Microsoft and the former reseller in writing on a form provided at least 30 days prior to the date on which the change is to take effect. The change will take effect 30 days from the date of Institution's signature.

## **2. Definitions.**

Capitalized terms used but not defined in this Enrollment shall have the meaning given to them in the Agreement.

"Additional Product" means any Product other than a Desktop Platform Product that Institution chooses to license under this Enrollment;

"Alumni" means any Graduate, or former Student, Faculty or Staff of the Institution.

"Desktop Platform Product" means any Product identified on the Product List as such and that Institution chooses to license under this Enrollment (Desktop Platform Products may only be licensed on an Organization-wide basis under this program);

"Faculty" means any employees, contractors and volunteers who teach or perform research for Institution and use an Institution Qualified Desktop;

"Graduate" means a Student who has completed (1) a grade or a level in a school or an educational institution in Institution's Organization that qualifies the Student for enrollment into college or university or (2) a diploma or degree from a college or university in Institution's Organization;

"Organization" means the organization as defined by Institution in the section of this Enrollment titled "Defining Institution's Organization";

"Organization-wide Count" means the total quantity of Faculty and Staff in Institution's Organization as listed in the table in the section of this Enrollment titled "Choosing licensing options; license grant.";

"Platform Online Service" means any Online Service identified on the Product List as such and that Institution chooses to license under this Enrollment. Platform Online Services are treated as Online Services, except as noted;

"Previous Enrollment or Agreement" means a School Subscription Enrollment, a Campus Subscription Enrollment, an Enrollment for Education Solutions, or an Open Value Subscription Agreement for Education Solutions;



"Qualified Desktop" means a device that is owned, leased or controlled by Institution (other than a Student Qualified Desktop) that is used for the benefit of Institution's Organization (or by or for the benefit of Students enrolled in Institution's Organization, if applicable) and is: (1) a personal desktop computer, portable computer, workstation, or similar device capable of running Windows Professional locally (in a physical or virtual operating system environment), or (2) a device used to access a virtual desktop infrastructure ("VDI"). Qualified Desktops do not include any device that is: (1) designated as a server and not used as a personal computer or (2) an Industry Device or (3) not managed (as defined in the Product List at the start of the applicable initial or renewal term of the Enrollment) as part of Institution's Organization.

"Qualified User" means a User who (1) is a user of a Qualified Desktop or (2) accesses any server software or online services licensed within Institution's Organization. It does not include a person who accesses server software or online services solely under a license identified in the Qualified User Exemptions in the Product List;

"Qualifying Enrollment" means an Enrollment for Education Solutions, the minimum requirements of which were met (i.e., a Qualifying Enrollment was not used) and which was entered into by Institution or Institution's Affiliate, each active and valid upon signing of this Enrollment. Institution must have been included in the Organization under an Enrollment for Education Solutions that is used as the Qualifying Enrollment;

"Staff" means any non-Faculty employees, contractors and volunteers who perform work for Institution and use an Institution Qualified Desktop;

"Student" means any student enrolled in any educational institution that is part of Institution's Organization, whether on a full-time or part-time basis;

"Student Count" means the total quantity of Students in Institution's Organization as listed in the table in the section titled "Licensing options; license grant."; and

"Student Qualified Desktop" means a Qualified Desktop owned or leased by a Student or that is owned or leased by Institution's Organization and assigned for individual, dedicated use by a Student.

For the avoidance of doubt, the term "Customer" as used in certain supplemental forms (for example the program signature form) has the same meaning as "Institution."

### **3. Overview of the Enrollment for Education Solutions.**

This Enrollment allows Institution to license Products on a subscription basis across its Organization. Institution determines how it defines its Organization. Institution can select from two different licensing options, Faculty and Staff or Students, depending on the Users it wishes to cover.

The minimum requirements for this Enrollment are as follows:

Institution must order at least one Desktop Platform Product for Organization-wide Count of at least 1000  
OR

Institution must order at least one Platform Online Service for Staff / Faculty in a quantity of 1000 OR

Institution must order at least one Desktop Platform Product for Student Count of at least 1000 OR

Institution must order at least one Platform Online Service for Students in a quantity of 1000

The minimum requirements listed above are waived if Institution has a Qualifying Enrollment.

Microsoft may refuse to accept this Enrollment if it has a business reason for doing so. At the end of the applicable term, Institution has the option to extend the Enrollment, enter into a new Enrollment, let the Enrollment expire, or, if applicable, buy out perpetual Licenses.

### **4. Defining Institution's Organization.**

Define the Organization by choosing one of the options below. *Please select **only one** option.*



Institution must provide an Organization-wide Count and/or Student FTE count even if only ordering Platform Online Services to meet Enrollment minimum requirements.

Category Licensed	Institution's Selection	Organization-wide Count and/or Student Count, as applicable
1. Faculty and Staff	<input checked="" type="checkbox"/>	3289
2. Students	<input type="checkbox"/>	

**License grant.** So long as Institution places orders pursuant to the agreement and this Enrollment for any required Licenses and pays per the agreement with its reseller, Institution (and/or its Students, as applicable) will have the following rights during the term of this Enrollment:

If the Faculty and Staff option is chosen, each Qualified User in Institution's Organization (including Students and public users of Qualified Desktops in an open lab) may run the Desktop Platform Products, and the Additional Products licensed on an Organization-wide basis, on any Institution Qualified Desktops. Institution is not required to count members of the public who access PCs that remain in Institution's open access lab(s) or libraries. Institution may not permit remote access to software installed on PCs in open access labs or libraries.

In the case of CALs, Institution may assign (1) a device CAL to each Institution Qualified Desktop and (2) a user CAL to each Faculty and Staff member, in both cases to access Institution's associated server software.

If the Student option is chosen, each Student in the Organization may run one license of the Desktop Platform Products, and one license of the Additional Products licensed Organization-wide, on a Student Qualified Desktop. In the case of CALs, Institution may assign a user CAL to each Student to access Institution's associated server software.

Institution may run as many copies of other Additional Product(s) it wishes so long as it places an order pursuant to the agreement and this Enrollment for required Licenses and pays per the agreement with its reseller. Order quantities must be equal to the number of copies Institution runs.

If Institution is licensing Office 2010 and SharePoint Server 2010 CAL (Enterprise or Standard) for Faculty and Staff in its Organization under this Enrollment, then Institution's Students and their parents may use Office Web Applications at no charge for the purpose of Students' education at Institution. There is no buy-out option for Office Web Applications.

## 6. Price levels and prices.

**Price levels.** Institution's Organization-wide Count determines the price level of Desktop Platform Products ordered under the Faculty and Staff option. Institution's Student Count determines the price level of Desktop Platform Products ordered under the Student option. If Institution chooses to extend this Enrollment, the price level will be reset at the start of the extension term based on Institution's Organization-wide Count and/or Student Count at the time the extension order is placed. There are no price levels for Additional Products. Institution's price level does not change during the term of the Enrollment.

Select Price Level that Applies to Faculty and Staff Option	Organization Wide Count	Price level (Only Applicable For Desktop Platform products)
<input type="checkbox"/>	1,000	A
<input type="checkbox"/>	3,000	B
<input checked="" type="checkbox"/>	10,000	C
<input type="checkbox"/>	25,000	D

Select Price Level that Applies to Student Option	Student Count	Price level (Only Applicable For Desktop Platform products)
<input type="checkbox"/>	1,000	A
<input type="checkbox"/>	3,000	B
<input type="checkbox"/>	10,000	C
<input type="checkbox"/>	25,000	D

**Prices.** Institution's actual prices will be determined by agreement between Institution and its reseller. However, Microsoft will provide the reseller with pricing at the outset of this Enrollment and agrees that it will not increase the prices that it charges the reseller for the Products during the term of the Enrollment from when they order the product for the first time under the enrollment.

For any Online Service that Microsoft provides to resellers at no charge Microsoft may terminate user accounts that have been inactive for 18 or more consecutive calendar months.

## 7. **How to order Products.**

- a. **Price and payment terms.** Price and payment terms for all Licenses ordered will be determined by agreement between Institution and its reseller.
- b. **Placing the initial order.** Orders must be submitted within 30 days of the Enrollment Effective Date.
  - (i) The initial order under the Enrollment must contain at least one Desktop Platform Product for Organization-wide Count or Student Count OR at least one Platform Online Service for 1000 licenses for either Faculty / Staff or Students
  - (ii) Orders for Desktop Platform Products and all component products that are part of the Desktop Platform Products must be for Institution's then-current Organization-wide Count.
  - (iii) Orders for Platform Online Services must be for at least 1000 and must be ordered in the exact quantity needed.
  - (iv) Once the enrollment minimum requirements have been met, Other Online Services for Faculty/Staff must be ordered in the exact quantity (in any quantity).
  - (v) Additional Products must be ordered in exact quantities needed (in any quantity.) Certain Additional Products may instead be ordered for the Organization-wide Count, as described in the Product List.
  - (vi) Products offered under the Student Offering must be ordered for the full Student Count except Online Services. Once the enrollment minimum requirements have been met, Other Online Services under the Student Offering must be ordered in the exact quantity needed (in any quantity).
- c. **Adding new Products not previously ordered (non-anniversary).** Orders can be submitted for Products that were not part of the initial order. The order must be placed in the month in which copies of the Product(s) are first run.
  - (i) Orders for Desktop Platform Products and all component products that are part of the Desktop Platform Products must be for Institution's then-current Organization-wide Count.
  - (ii) Orders for Platform Online Services must be for at least 1000 and must be ordered in the exact quantity needed.
  - (iii) Once the enrollment minimum requirements have been met, Other Online Services for Faculty/Staff must be ordered in the exact quantity (in any quantity).

(iv) Additional Products must be ordered in exact quantities needed (in any quantity.) Certain Additional Products may instead be ordered for the Organization-wide Count, as described in the Product List.

(v) Products offered under the Student Offering must be ordered for the full Student Count except Online Services. Once the enrollment minimum requirements have been met, Other Online Services under the Student Offering must be ordered in the exact quantity needed (in any quantity).

The Licensed Period for additional orders will be the same as the Enrollment Licensed Period.

**d. Adding more copies of Products previously ordered (non-anniversary).**

(i) For Desktop Platform Products, and Additional Products licensed Organization-wide, Institution does not need to submit orders to increase the number of copies run. However, increases in Organization-wide Count and/or Student Count, as applicable, must be reported at each anniversary of the Enrollment Effective Date.

(ii) Except as provided in subsection d(i) above, Additional Products and Online Services are licensed based on the number of Licenses acquired. At any time during the Licensed Period (including any extension), Institution may run additional copies of any previously ordered Additional Products, provided it submits orders for such copies. The order must be placed in the month in which those copies are first run.

Microsoft will invoice the reseller for the Products ordered on a pro-rated basis corresponding to the number of full calendar months remaining in the Licensed Period to a minimum of 6 months. Online Services will be invoiced on a pro-rated basis corresponding to the full calendar months remaining in the Licensing Period to a minimum of 1 month. Microsoft will use the price list in effect on the date of the invoice to charge Institution's reseller for the additional Licenses. When adding more copies of products previously ordered, Microsoft will use the pricelist in effect when the product was initially ordered to charge Institution's reseller for the additional Licenses.

**e. Extension orders and subsequent annual orders.** Institution must submit orders based on the following:

(i) **One-year Licensed Period.** An extension order must be submitted to extend the Enrollment for another Licensed Period. The extension order must be received by Microsoft prior to the expiration of the Licensed Period. The Product selection and quantity ordered can be changed at each extension order.

(ii) **Three-year Licensed Period.** An anniversary order must be received by Microsoft prior to each anniversary of the Enrollment Effective Date of the three-year Licensed Period, and a subsequent extension order must be received by Microsoft prior to the expiration of the initial three-year Licensed Period. Each anniversary order must be for at least the same Product selection and total quantity as ordered during the one-year period in which the Product was first ordered, except for step-ups.

**f. Buy-out order.** If a buy-out option is available, a buy-out order quantity for Licenses for Desktop Platform Products, and Additional Products licensed Organization-wide, shall be at least equal to the Organization-wide Count but shall not exceed the total quantity of Qualified Desktops in Institution's Organization on the date of the buy-out order. The buy-out order quantity for other Additional Products shall be the lowest total quantity of copies ordered during any of the three 12 month periods immediately preceding expiration of the Enrollment.

**g. How to confirm orders.** Microsoft will publish information about orders placed by Institution, including an electronic confirmation of each order on a password-protected site on the World Wide Web at <https://www.microsoft.com/licensing/servicecenter> or a successor site. Upon Microsoft's acceptance of this Enrollment, the contact identified for this purpose will be provided access to this site.

- h. Step up to a higher Product edition.** If a previously ordered Product has multiple editions, Institution may migrate to the higher edition by stepping up (e.g. from Core CAL to Enterprise CAL or from SQL Server Standard Edition to SQL Server Enterprise Edition.) The order requirements set forth in subsection 7c above apply.

## **8. *Work at home rights.***

During the Licensed Period, Faculty and Staff members who are the primary users of an Institution Qualified Desktop running a Product licensed by Institution may run one copy of that Product on a home PC that they own or lease (or, for work at home rights for a Client Access License, to access the server Product(s) licensed by Institution from a home PC that they own or lease), for work-related purposes only; provided that in the case of work at home rights for Desktop Platform Products and Additional Products licensed Organization-wide the total number of Faculty and Staff members exercising work at home rights may not exceed Institution's Organization-wide Count and for other Additional Products the total number of Faculty and Staff members may not exceed the number of Licenses acquired for such Additional Products. If Institution upgrades the Product on the Qualified Desktop used by the Faculty or Staff member, the latter may upgrade the corresponding copy on the home PC. If the Faculty or Staff member leaves Institution, the work at home rights for such member end and the copy of the Product must be removed from the home PC. Though Microsoft may offer both work at home rights and home use program rights under Software Assurance for a Product, Institution must choose either work at home rights or home use program rights for such Product.

## **9. *Perpetual Licenses for Graduates.***

For any Students licensed to run any Products on a Student Qualified Desktop, Institution may at any time during the Enrollment term transfer to any Graduate the perpetual right to run each such Product. Institution must provide each such Graduate with a license agreement in the form provided by Microsoft. Institution must secure the Graduate's acceptance of the terms of the license agreement. Upon acceptance of the license agreement, the Graduate's right to run the Products identified in the license confirmation becomes perpetual. These rights do not apply to access licenses, including CALs, or to Online Services.

## **10. *Education Server Platform Licensing Option.***

If Institution licenses one or more of the CAL Products and the corresponding Server Platform Product(s) listed in the table below, Institution may run unlimited instances of any available edition of the corresponding server Products that constitute the Server Platform Products.

Institution must license each selected CAL Product and corresponding Server Platform Product for the aggregate of Institution's Organization-wide Count (at least 1000) and Student Count (at least 1000) as listed in the section entitled "Licensing options; license grant" above.

Unless Institution chooses to step up to a higher Product edition, Institution must include the Products selected from the table below with each anniversary order. If there is an increase in Product quantity used, Institution must submit an order for all CAL and Server Platform Products used but not ordered during the previous Enrollment year. Institution may aggregate CAL Product quantities acquired under a Qualifying Enrollment to meet quantity requirements of this Enrollment, provided that such Qualifying Enrollment or its successor is valid and in effect during the term of this Enrollment.

Server Platform Products licensed under this licensing option may only be used by Faculty, Staff and Student Users in Institution's Organization and by licensed external users using the Server Platform Products for the benefit of Institution's Organization.

Products Licenses acquired under this section may not be transferred to Graduates. Institution may buy out CAL Products but not Server Platform Products Licenses acquired under these terms. Institution is prohibited from transferring Licenses acquired under this section.

Institution agrees that Institution's use of the server Products that constitute the Server Platform Products is subject to the Product Use Rights.

Product Selection			
	CAL Product Selected	Server Platform Product Selected	Server Product included for Unlimited Deployment
<input type="checkbox"/>	SQL Server CALs	SQL Server Platform Academic	Unlimited Licenses for all editions of the corresponding server Products, plus all editions of BizTalk Server and associated external connectors.
<input type="checkbox"/>	Core CALs (acquired standalone or as part of a platform)	Core Server Platform Academic	Unlimited Licenses for all editions of the corresponding server Products, and associated external connectors.
<input type="checkbox"/>	Enterprise CALs (acquired standalone, as a step-up, or as part of a platform)	Enterprise Server Platform Academic	Unlimited Licenses for all editions of the corresponding server Products and external connectors, plus FAST search for Share Point, Forefront TMG Servers, and associated server management software.

## 11. Qualifying systems Licenses.

The desktop operating system Licenses granted under this program are upgrade Licenses only. Full desktop operating system Licenses are not available under this program. If Institution selects the Windows Desktop Operating System Upgrade, all Qualified Desktops on which Institution runs the Windows Desktop Operating System Upgrade must be licensed to run one of the qualifying operating systems identified in the Product List at <http://www.microsoft.com/licensing/contracts>. Note that the list of operating systems that qualify for the Windows Desktop Operating System Upgrade varies with the circumstances of the order. That list is more extensive at the time of the initial order than it is for some system refreshes during the term of this Enrollment. Exclusions are subject to change when new versions of Windows are released.

*For example: The following are not considered qualifying operating systems: (1) embedded operating systems; (2) Linux; and (3) OS/2. These are examples of exclusions only. Please see Product List for all current qualifying operating systems.*

## 12. Options upon completion of a Licensed Period.

Microsoft will provide prior written notice of expiration of the Enrollment. The notice will advise Institution of the option to: (1) extend the Enrollment, (2) submit a new Enrollment, (3) exercise the buy-out option, or (4) allow the Enrollment to expire. Microsoft will not unreasonably reject any extension order or new Enrollment. However, Microsoft may make a change to this program that will make it necessary for Institution to first enter into a new agreement. Each Licensed Period will start the day following the expiration of the prior Licensed Period:

- a. **One-year Licensed Period.** Institution may elect to extend an initial one-year Licensed Period for either (1) up to five consecutive terms of 12 full calendar months by submitting an extension order for each such extension term or (2) one term of 36 full calendar months.
- b. **Three-year Licensed Period.** Institution may elect to extend an initial three-year Licensed Period for either (1) up to three terms of 12 full calendar months or (2) one term of 36 full calendar months.

- c. **Buy-out option.** Institution may elect to obtain perpetual Licenses for Products licensed under this Enrollment provided it has licensed such Products under one or more Enrollments (including any extensions) under the Agreement (or a predecessor agreement) for at least 36 full calendar months immediately preceding expiration of this Enrollment. Institution must submit a buy-out order at least 30 days prior to expiration of this Enrollment. The buy-out option is not available for Products licensed under the Student option.

Except as specifically provided otherwise in the Product use rights, perpetual Licenses acquired through this buy-out option are device Licenses. The license grant in the section entitled "License options; license grant" above does not apply to such perpetual Licenses. For example, a License is required for each Qualified Desktop on which Institution desires to run Office.



# Campus and School Agreement

## Contents

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This agreement is entered into between the entities identified on the signature form.

**Effective Date.** The effective date of this agreement is the effective date of the first Enrollment or the date Microsoft accepts this agreement, whichever is earlier.

This agreement consists of (1) these terms and conditions and the signature form, (2) the Product List, (3) the Product Use Rights, (4) any Enrollment entered into under this agreement, (5) any order submitted under this agreement, and (6) the eligibility criteria for Campus and School Agreement at <http://www.microsoft.com/licensing/contracts> as of the effective date of this agreement.

**Please note:** Documents referenced in this agreement but not attached to the signature form may be found at <http://www.microsoft.com/licensing/contracts> and are incorporated by reference, including the Product List, Product Use Rights and the Qualified Educational User definition. These documents may contain additional terms and conditions for Products licensed under this agreement and may be changed from time to time. Institution should review such documents carefully, both at the time of signing and periodically, to ensure a full understanding of all terms and conditions applicable to Products licensed.

## Terms and Conditions

### 1. Definitions.

In this agreement, the following definitions apply:

"Affiliate" means

a. with regard to Institution,

(i) for a non-public entity, any qualified educational user identified at <http://www.microsoft.com/licensing/contracts> that Institution owns and/or controls, that owns and/or controls Institution, or that is under common ownership and/or control with Institution; "ownership" means, for purposes of this definition, more than 50% ownership, and

(ii) for a state or local government entity,

- 1) any qualified educational user identified at <http://www.microsoft.com/licensing/contracts> as of the effective date of this agreement that is an agency, department, office, bureau, division, or entity of the state or local government, and
- 2) any qualified educational user expressly authorized by the laws of the state to purchase under state education contracts;

provided that the state and its Affiliates shall not, for purposes of this definition, be considered to be Affiliates of the federal government and its Affiliates; and

- b. with regard to Microsoft, any legal entity that Microsoft owns, that owns Microsoft, or that is under common ownership with Microsoft;

"Customer Data" means all data, including all text, sound, or image files that are provided to Microsoft by, or on behalf of, Institution through Institution's use of the Online Services;

"Enrollment" means the form that Institution submits under this agreement to sign up for this program;

"Fix(es)" means Product fixes, modifications or enhancements, or their derivatives, that Microsoft either releases generally (such as service packs) or that Microsoft provides to Institution when performing service(s) (such as workarounds, patches, bug fixes, beta fixes and beta builds);

"Institution" means the entity that is a qualified educational user identified at <http://www.microsoft.com/licensing/contracts> as of the effective date of this agreement that has entered into this agreement with Microsoft or the Institution's Affiliate that has entered into an Enrollment under this agreement. If Institution is a school district, "Institution" includes all participating schools in the same district;

"License" means Institution's right to run the quantity of a Product ordered. Under this agreement, Licenses are available only on a subscription basis ("Subscription License"). Licenses for Online Services will be considered Subscription Licenses under this agreement;

"Licensed Period" means the period of time beginning on the effective date specified in Institution's Enrollment and continuing for the period of time specified in Institution's Enrollment (either 12 or 36 calendar months);

"Microsoft" means the Microsoft entity that has entered into this agreement or an Enrollment and its Affiliates;

"Online Services" means the Microsoft-hosted services identified in the Online Services section of the Product List;

"Products" means all software, Online Services and other web-based services, including pre-release or beta versions, identified on the Product List;

"Product List" means the statement published by Microsoft from time to time on the World Wide Web at <http://www.microsoft.com/licensing/contracts> or at a successor site that Microsoft identifies, which identifies the Products that are or may be made available to qualified educational users (which availability may vary by region) and any Product-specific conditions or limitations on the acquisition of Licenses for, or the use of, those Products;

"Product Use Rights" means the use rights or terms of service for each Product and version at <http://www.microsoft.com/licensing/contracts> or at a successor site;

"run" means to copy, install, use, access, display, run or otherwise interact with;

"Service Level Agreement" means the document specifying the standards Microsoft agrees to adhere to and by which it measures the level of service for an Online Service;

"Software Assurance" means an offering that provides new version rights and other benefits for Products as further described in the Product List;

"Trade Secret" means information that is not generally known or readily ascertainable to the public, has economic value as a result, and has been subject to reasonable steps under the circumstances to maintain its secrecy; and

"Users" means Institution, faculty, staff, and students designated on the Enrollment to run the Products, and members of the public who access devices located in Institution's open access labs or libraries.

## **2. *How the Campus and School program works.***

The Campus and School Agreement allows Institution to license one or more Products on a subscription basis. To license Products on a subscription basis means that the right to run the Product is non-perpetual and continues only during the Licensed Period.

Institution can participate in this program by submitting an Enrollment. This program allows a one-year Licensed Period or a three-year Licensed Period. The choice is indicated in the Enrollment.

**One-year Licensed Period.** An order must be submitted to indicate the Products Institution chooses to run. Thereafter, extension orders are submitted to continue the subscription each year. If an extension order is not received, the Enrollment will expire.

**Three-year Licensed Period.** An order must be submitted to indicate the Products Institution chooses to run. Thereafter, Institution must submit anniversary orders on the first and second anniversaries of the effective date of its Enrollment.

## **3. *Subscription price.***

This provision shall not apply to Products licensed to Institution at special promotion prices to distributor or reseller, as applicable.

**One-year Licensed Period.** Microsoft will not increase the License prices charged to the reseller for an annual extension order by more than ten percent (10%) (as determined with reference to U.S. funds, regardless of the currency in which amounts are invoiced or payment is made) over the License prices charged for the immediately preceding 12-month Licensed Period if (1) Institution submits an extension order prior to the expiration of the Enrollment and (2) such order is confirmed for the same Products in the same quantities as ordered in the expiring Licensed Period.

**Three-year Licensed Period.** If Institution chooses this option and complies with the ordering requirements in the agreement, for any Products ordered during the Licensed Period, the price Microsoft charges the Distributor or Reseller on each anniversary order will be the same as the price for the Products when they are first ordered except for step-ups.

## **4. *License grant — what Institution and its Users are licensed to run.***

On the date of Microsoft's letter to Institution confirming Microsoft's acceptance of the Enrollment, Institution is temporarily licensed to have Users run the Products as permitted in the Product use rights located at <http://www.microsoft.com/licensing/contracts>.

The Institution's right to have its Users run the Products and Fixes is expressly limited to the rights described in this agreement, including the following limitations:

- a. Neither Institution nor its Users may separate the components of Products made up of multiple components by running them on different computers by upgrading or downgrading them at different times or by transferring them separately except as otherwise provided in the Product use rights.
- b. Neither Institution nor its Users may rent, lease, commercially host or lend any copy of the Products or Fixes, except where agreed by separate agreement.

- c. Neither Institution nor its Users may reverse engineer, decompile or disassemble the Products or Fixes except to the extent expressly permitted by applicable law despite this limitation.
- d. Neither Institution nor its Users may make copies of the Products or Fixes and distribute them on media to student Users.
- e. The components of the Products may vary by platform. Institution may run only the components of the Products that are included on the platform Institution chooses to deploy.

Neither Institution nor its Users will be entitled to free telephone support for the Products, except as specified in writing in connection with Software Assurance membership or other Software Assurance offerings.

*Institution may only sublicense the right to run Products to Affiliates that are included in its defined organization.*

These rights apply to the Licenses obtained under an Enrollment and are not related to any order or fulfillment of media. The ability to run current or later versions of a Product licensed under this agreement could be affected by minimum system requirements or other factors (e.g. hardware or other Products).

The right to run any Product under this agreement is temporary unless Institution elects to obtain perpetual Licenses under the buy-out option. This agreement, the applicable Enrollment, and Institution's order confirmation, together with proof of payment, will be Institution's evidence of all Licenses obtained under its Enrollment as described in this agreement.

## **5. How to know what Product use rights apply.**

- a. **Product use rights.** The Product Use Rights in effect on the effective date of an Enrollment will apply to use of then-current versions of each Product (excluding Online Services). For future versions, the Product Use Rights in effect when those future versions are first released will apply. In both cases, subsequent changes made by Microsoft to the Product Use Rights for a particular version will not apply to use of that version, unless Institution chooses to have such changes apply.

The use rights for Online Services and the process for updating them as the Online Services evolve are detailed in the Product Use Rights.

- b. **Product Use Rights for earlier versions (downgrade).** If Institution runs an earlier version of a Product than the version that was current on the Enrollment effective date, the Product Use Rights for the version licensed, not the version being run, will apply. However, if the earlier version includes components that are not part of the licensed version, any Product Use Rights specific to those components will apply to Institution's use of those components.
- c. **Use rights for different language version.** Institution may run Products in any available language version. If Institution is using any different language version of any Product licensed under its agreement, Institution's use of the different language version will be governed by the Product Use Rights for the version licensed under this agreement.
- d. **Fixes.** Use of any Fixes is defined by the Product Use Rights for the affected Products or, if the Fix is not provided for specific Products, any other use terms Microsoft provides. All Fixes are licensed, not sold.

## **6. Making copies of Products and re-imaging rights.**

- a. **General.** Institution may make as many copies of the Products licensed as necessary to distribute the Products within its organization. All copies of any Product must be true and complete copies (including copyright and trademark notices) from master copies obtained from a Microsoft approved fulfillment source. Institution may also have a third party make or distribute copies but Institution is responsible for such third party's actions. Institution agrees

to make reasonable efforts to notify its employees, agents, and other individuals running a Product that the Product is licensed from Microsoft and subject to the terms of this agreement.

- b. **Copies for evaluation.** During the term of its Enrollment, Institution may run up to 10 complimentary copies of any Product for a 60 day evaluation period.
- c. **Re-imaging rights.** In certain cases, re-imaging is permitted using the Product media. If the Microsoft Product(s) is licensed (1) from an original equipment manufacturer (OEM), or (2) as a full packaged Product through a retail source, then media provided under this agreement may generally be used to create images for use in place of copies provided through that separate source. This right is conditional upon the following:
  - (i) Separate Licenses must be owned from the separate source for each Product that is re-imaged.
  - (ii) The Product, language, version, and components of the copies made must be identical to the Product, language, version, and components of the copies they replace and the number of copies or instances of the re-imaged Product permitted remains the same.
  - (iii) Except for copies of an operating system and copies of Products licensed under another Microsoft program, the Product type (e.g., upgrade or full License) must be identical to the Product type from the separate source.
  - (iv) Any Product-specific processes or requirements for re-imaging identified in the Product List.
  - (v) Re-images made under this subsection remain subject to the terms and use rights provided with the License from the separate source. This subsection does not create or extend any warranty or support obligation.

## **7. *Distributing media.***

- a. **To Faculty and Staff.** Institution may acquire the quantity of media as necessary to distribute the Products to Faculty and Staff for use in accordance with the agreement. All media for a particular Product must be acquired from a Microsoft-approved fulfillment source for that Product. Institution may also copy volume licensing media acquired from a Microsoft-approved fulfillment source for distribution to Faculty and Staff Users only. All copies must be true and complete copies (including copyright and trademark notices). Institution must maintain the security of any volume licensing keys provided with volume licensing media in accordance with applicable Product Use Rights and other restrictions and may disclose them only to employees authorized to engage in the installation and support of the Products. Institution may not disclose volume licensing keys to Faculty and Staff work-at-home Users or to Students or to any other unauthorized third party.
- b. **To Faculty and Staff work at home Users and to Student licensing option Users.** If Institution exercises Faculty and Staff work at home rights for selected Products or selects the Student licensing option in an Enrollment, access to media by Faculty and Staff for work at home purposes and by Students must be restricted and regulated by Institution. All media for Products distributed to Faculty and Staff for work at home purposes and to Students must be acquired from a Microsoft-approved fulfillment source, and such Products may be distributed to such Users only in the following ways:
  - (i) if individual student-media CD-ROM or disk sets (collectively, "Student Media") is purchased for a particular Product, Institution may distribute one copy of such Student media directly to each authorized work at home User or Student (Student Media may contain Product activation features that limit the number of installations); the reseller can identify media and Products that contain Product activation features. Details on ordering and distributing Student Media, including a list of the Products for which Student Media is currently available, is at <http://www.microsoft.com/education/StudentMedia.mspx>; or

- (ii) using volume licensing media acquired pursuant to this agreement, via (1) manual installation at a central location that Institution controls or (2) a system of controlled short-term checkout of applicable volume licensing media solely for purposes of individual user installation, provided that this option (2) is available only for Products for which a volume licensing key is not required.
  - (iii) Institution may also use a Microsoft-approved entity selected by Institution to electronically distribute copies via download from secure network server(s) or other storage device(s), provided Institution or the Microsoft-approved entity controls the download to ensure that the number of permitted copies is not exceeded and those making the download are licensed to do so. For more information on this download option, Institution is advised to contact its reseller who may manage this on Institution's behalf.
- c. To Students.** Institution may order media to distribute the Products to Students for use in accordance with this agreement. Institution's order for media must specify version number and country of usage. Institution may only use the media received under its Enrollment to transfer Products to eligible Student Users. Products may only be transferred in the same media format that Institution receives under its Enrollment. Orders must be placed with the reseller named on the Enrollment. Institution may use a third party to complete and process eligible Student Users' orders for media under its Enrollment and to distribute media to eligible Student Users. Institution is responsible for the third party's actions. Price and payment terms for media ordered are determined by agreement with Institution's designated reseller. Institution's designated reseller is authorized to purchase media Products from the Microsoft-authorized replicator identified by Microsoft from time to time solely for the purpose of fulfilling orders placed under the Enrollment. Institution's designated reseller may purchase from Microsoft-authorized replicators media and documentation only for those Products available under the Enrollment.

## **8. *Redistribution of software updates to Students.***

- a. License Grant.** From time to time, Microsoft may make available to the general public additional or replacement code of any portion of Microsoft's licensed Products without a fee ("software updates"). Microsoft grants Institution a limited, non-exclusive, royalty-free, non-assignable, non-transferable, revocable License to distribute the software updates to Institution's Students in accordance with the terms of this section. Institution's Students must use the software updates solely for their personal benefit in accordance with the end-user License Agreement with Microsoft ("EULA") included with each software update.
- b. Redistribution of software updates.** Institution may redistribute software updates to its Students (1) by electronic means provided that Institution's method of electronic distribution is adequately licensed and incorporates access control and security measures designed to prevent modification of the software updates and access by the general public or (2) through acquiring authorized copies on fixed media from a fulfillment source approved by Microsoft.
- c. Limitations.** Institution may not (1) produce or replicate software updates on to CDs or other distributable storage media, (2) combine the software updates with other non-Microsoft software, (3) distribute any software updates as a stand-alone component via email attachment, (4) charge for the software updates, other than to recover any reasonable costs incurred in providing the updates to its Students; (5) remove, modify, or interfere with the EULA or the EULA acceptance functionality included by Microsoft with any software update; or (6) alter the software updates in any way. Microsoft is not responsible for any cost related to the acquisition, distribution, or recall of the software updates.
- d. Tracking and recall, replacement software updates.** Institution must track the quantity and method of distribution of the software updates by means that will allow it to provide notice of a recall and offer replacements as provided in this subsection. Institution agrees to stop redistributing software updates within 10 days of receipt of a notice of recall from Microsoft and within 30 days of that notice Institution agrees to (1) return to Microsoft or destroy all copies of

software updates in Institution's possession and (2) notify Institution's Students of the recall by the same or similar means in which they were notified of the availability of the software updates.

If Microsoft makes available to Institution a replacement software update, Institution agrees to make the replacement available to its Students, within 30 days of receipt in the same quantity and method(s) of distribution, if available, as Institution made the original software update available. The distribution of replacement software updates is subject to the same conditions and restrictions as software updates under this section.

- e. **No warranties, exclusion of indirect, special, incidental, consequential, and certain other damages.** Notwithstanding anything to the contrary in this agreement, and to the extent permitted by law, software updates that Institution redistributes to its Students are provided "as is" without any warranties. Institution acknowledges that the provisions of this paragraph with regard to the software updates are reasonable having regard to, among other things, the fact that they are complex computer Products, and their performance will vary depending upon hardware, platform and Products interactions, and configurations.

**TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL MICROSOFT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, CONSEQUENTIAL, OR INDIRECT DAMAGES THAT ARISE OUT OF OR ARE IN ANY WAY RELATED TO INSTITUTION'S REDISTRIBUTION OF THE SOFTWARE UPDATES TO ITS STUDENTS. FURTHERMORE, IN NO EVENT SHALL MICROSOFT BE LIABLE FOR ANY SUCH DAMAGES BASED DIRECTLY OR INDIRECTLY UPON THE PROVISION OF SOFTWARE UPDATES OR UNAVAILABILITY OF SOFTWARE UPDATES —INCLUDING WITHOUT LIMITATION, DAMAGES DUE TO BUSINESS INTERRUPTION, LOSS OF PROFITS, REVENUE OR BUSINESS OPPORTUNITY, LOSS OF DATA AND THE LIKE, FAILURE TO MEET ANY DUTY, OR NEGLIGENCE.**

- f. **Limitation of liability.** With respect to Institution's redistribution of the software updates, the limitation of liability provisions in this agreement shall apply in those situations in which Institution or its Users have a right to claim damages or payment from Microsoft.
- g. **No support.** Software updates that Institution redistributes to its students are provided without any support obligation by Microsoft, including any benefits accruing from Software Assurance.
- h. **Applicability.** The provisions of this section shall not apply to distribution of Fixes to Students so long as (1) those Students are licensed under the Student licensing option, and (2) the Fix provided to those Students is for Products licensed to them under Student licensing option. All other redistribution to Students of additional or replacement code is subject to the provisions of this section.

## **9. *Transfer and reassigning Licenses.***

- a. **License Transfers.** License transfers are not permitted, except as explicitly set forth in the Perpetual License Transfer Form. The resale of Licenses is prohibited, including any transfer by Institution for the purpose of transferring those Licenses to an unaffiliated third party.
- b. **Internal Assignment of Licenses and Software Assurance.** Licenses and Software Assurance must be assigned to a single user or device with the organization. Licenses may be reassigned within the organization as described in the Product Use Rights.

## **10. *Confidentiality.***

- a. **What is included.** "Confidential Information" is non-public information, know-how and Trade Secrets in any form that:
  - (i) are designated as "confidential";
  - (ii) a reasonable person knows or reasonably should understand to be confidential; or

- (iii) include non-public information regarding either party's products or customers, marketing and promotions, or the negotiated terms of Microsoft agreements.
- b. What is not included.** The following types of information, however marked, are not Confidential Information. Information that:
- (i) is, or becomes, publicly available without a breach of this agreement;
  - (ii) was lawfully known to the receiver of the information without an obligation to keep it confidential;
  - (iii) is received from another source who can disclose it lawfully and without an obligation to keep it confidential;
  - (iv) is independently developed; or
  - (v) is a comment or suggestion one party volunteers about the other's business, products or services.
- c. Treatment of Confidential Information.**
- (i) **In general.** Subject to the other terms of this agreement, each party agrees:
    - 1) it will not disclose the other's Confidential Information to third parties; and
    - 2) it will use and disclose the other's Confidential Information only for purposes of the parties' business relationship with each other.
  - (ii) **Security precautions.** Subject to the other terms of this agreement, each party agrees:
    - 1) to take reasonable steps to protect the other's Confidential Information -- these steps must be at least as protective as those the party takes to protect its own Confidential Information;
    - 2) to notify the other promptly upon discovery of any unauthorized use or disclosure of Confidential Information; and
    - 3) to cooperate with the other to help regain control of the Confidential Information and prevent further unauthorized use or disclosure of it.
  - (iii) **Sharing Confidential Information with Affiliates and representatives.**
    - 1) A "Representative" is an employee, contractor, advisor, or consultant of one of the parties or of one of the parties' Affiliates.
    - 2) Each party may disclose the other's confidential information to its Representatives (who may then disclose that Confidential Information to other of that party's Representatives) only if those Representatives have a need to know about it for purposes of the parties' business relationship with each other. Before doing so, each party must:
      - A. ensure that Affiliates and Representatives are required to protect the Confidential Information on terms consistent with this agreement; and
      - B. accept responsibility for each Representative's use of Confidential Information.
    - 3) Neither party is required to restrict work assignments of Representatives who have had access to Confidential Information. Neither party can control the incoming information the other will disclose to it in the course of working together, or what that party's Representatives will remember, even without notes or other aids. Each party agrees that use of information in Representatives' unaided memories in the development or deployment of the parties' respective products or services does not create liability under this agreement or trade secret law, and each party agrees to limit what it discloses to the other accordingly.



(iv) **Disclosing Confidential Information if required to by law.** Each party may disclose the other's Confidential Information if required to comply with a court order or other government demand that has the force of law. Before doing so, each party must seek the highest level of protection available and, when possible, give the other enough prior notice to provide a reasonable chance to seek a protective order.

- d. **Length of Confidential Information obligations.** Except as permitted above, neither party will use or disclose the other's Confidential Information for five years after it is received. The five-year time period does not apply if applicable law requires a longer period or the Product Use Rights provide a more specific requirement.

## **11. Options upon completion of a Licensed Period.**

Microsoft will provide prior written notice of expiration of an Enrollment. The notice will advise Institution of the option to: (1) extend the Enrollment, (2) submit a new Enrollment, (3) exercise the buy-out option, or (4) allow the Enrollment to expire. Microsoft will not unreasonably reject any extension order or new Enrollment. However, Microsoft may make a change to this program that will make it necessary for Institution to first enter into new agreement. Each Licensed Period will start the day following the expiration of the prior Licensed Period:

- a. **One-year Licensed Period.** Institution may elect to extend an initial one-year Licensed Period for either (1) up to five consecutive terms of 12 full calendar months by submitting an extension order for each such extension term or (2) one term of 36 full calendar months.
- b. **Three-year Licensed Period.** Institution may elect to extend an initial three-year Licensed Period for either (1) up to three consecutive terms of 12 full calendar months or (2) one term of 36 full calendar months.
- c. **Buy-out option.** Institution may elect to obtain perpetual Licenses for Products licensed under the Enrollment provided it has licensed such Products under one or more Enrollments (including any extensions) under the Agreement (or a predecessor agreement) for at least 36 full calendar months immediately preceding expiration of the Enrollment. Institution must submit a buy-out order at least 30 days prior to expiration of the Enrollment. The buy-out option is not available for Products licensed under the Student licensing option. The Enrollment may provide further information regarding the buy-out order.
- d. **License confirmation.** The order confirmation for the buy-out and any documentation evidencing transfers of Licenses, together with proof of payment, will be evidence of a perpetual License to run the latest version then available (or any prior version) for the copies of Products covered by the buy-out order.
- e. **Allow the Enrollment to expire.** Institution may allow the Enrollment to expire. If the Enrollment expires, all Products must be deleted as provided in section titled "Term and termination."

Except as specifically provided otherwise in the Product Use Rights, perpetual Licenses acquired through the buy-out option are device Licenses. For example, a License is required for each PC on which Institution desires to run Office.

Because all Licenses acquired under this agreement are temporary, Institution will not be eligible to obtain Software Assurance for those Licenses under any other Microsoft volume licensing program without first acquiring a perpetual License or License and Software Assurance (L&SA).

## **12. Term and termination.**

- a. **Term.** This agreement will remain in effect until terminated by either party as allowed. These general terms and conditions apply to all Enrollments submitted. The terms of any Enrollment(s) will be for the Licensed Period as specified in such Enrollment(s).

- b. Termination of the agreement.** Either party may terminate this agreement for any reason upon 60 days written notice.

Such termination will merely terminate either party's ability to enter into new Enrollments under this agreement. Such termination will not affect any Enrollments not otherwise terminated, and any terms of this agreement applicable to any Enrollments not otherwise terminated will continue in effect with respect to that Enrollment.

- c. Termination of an Enrollment.** Either party may terminate any Enrollment(s) if the other party is in material breach of any obligation, which breach is not cured within 30 days written notice of such breach. Microsoft may terminate this agreement and any Enrollment(s) immediately if Institution fails to continue to qualify as a qualified educational user as identified at <http://www.microsoft.com/licensing/contracts>. If no orders are received under an Enrollment, the Enrollment will be terminated 30 calendar days after the effective date of the Enrollment.
- d. Effect of termination and Licensed Period expiration.** Users may only run the Products and Fixes according to the terms of this agreement. Users are only licensed to run the Products and Fixes during the Licensed Period. If this agreement is terminated, or if no extension or anniversary order is submitted prior to the expiration of the Licensed Period or the purchase of perpetual Licenses for the Products, then all Products and Fixes that run as a result of this agreement must be deleted when the Licensed Period expires or is otherwise earlier terminated.

Similarly, if Institution stops ordering any Products or Product quantities decrease upon an extension of a Licensed Period, it must delete those Products prior to the beginning of the extended Licensed Period. Institution must make reasonable efforts to ensure that Faculty and Staff work-at-home Users (1) delete and remove Products and Fixes copies from the temporary ram (RAM) and permanent memory (e.g., hard disk) of their home PCs; and (2) disconnect access to any server Products at the end of the Licensed Period.

- e. Modification or termination of an Online Service for regulatory reasons.** Microsoft may modify or terminate an Online Service in any country where there is any current or future government requirement or obligation that (1) subjects Microsoft to any regulation or requirement not generally applicable to businesses operating there, (2) presents a hardship for Microsoft to continue operating the Online Service without modification, and/or (3) causes Microsoft to believe these terms or the Online Service may be in conflict with any such requirement or obligation. For example, Microsoft may modify or terminate an Online Service in connection with a government requirement that would cause Microsoft to be regulated as a telecommunications provider.
- f. Program updates.** Microsoft may make a change to this program that will make it necessary for Institution to enter into a new agreement and Enrollment(s) at the time of an Enrollment renewal.

### **13. Warranties.**

- a. Limited warranty.** Microsoft warrants that:

- (i) Online Services will perform in accordance with the applicable Service Level Agreement; and
- (ii) Products other than Online Services will perform substantially as described in the applicable Microsoft user documentation.

- b. Limited warranty term.** The limited warranty for:

- (i) Online Services is for the duration of Institution's use of the Online Service, subject to the notice requirements in the applicable Service Level Agreement; and
- (ii) Products other than Online Services is one year from the date Institution first uses the Product.

- c. Limited warranty exclusions.** This limited warranty is subject to the following limitations:
- (i) any implied warranties, guarantees or conditions not able to be disclaimed as a matter of law last for one year from the start of the limited warranty;
  - (ii) the limited warranty does not cover problems caused by accident, abuse or use in a manner inconsistent with this agreement or the Product Use Rights, or resulting from events beyond Microsoft's reasonable control;
  - (iii) the limited warranty does not apply to components of Products that Institution is permitted to redistribute;
  - (iv) the limited warranty does not apply to free, trial, pre-release, or beta products; and
  - (v) the limited warranty does not apply to problems caused by the failure to meet minimum system requirements.
- d. Remedies for breach of limited warranty.** If Microsoft fails to meet any of the above limited warranties and Institution notifies Microsoft within the warranty period, then Microsoft will:
- (i) for Online Services, provide the remedies identified in the Service Level Agreement for the affected Online Service; and
  - (ii) for Products other than Online Services, at its option either (1) return the price paid or (2) repair or replace the Product.
- These are Institution's only remedies for breach of the limited warranty, unless other remedies are required to be provided under applicable law.
- e. DISCLAIMER OF OTHER WARRANTIES. OTHER THAN THIS LIMITED WARRANTY, MICROSOFT PROVIDES NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS. MICROSOFT DISCLAIMS ANY IMPLIED REPRESENTATIONS, WARRANTIES, OR CONDITIONS, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, TITLE, OR NON-INFRINGEMENT. THESE DISCLAIMERS WILL APPLY UNLESS APPLICABLE LAW DOES NOT PERMIT THEM.**

#### **14. *Defense of infringement, misappropriation, and third party claims.***

- a. Microsoft's agreement to protect.** Microsoft will defend Institution against any claims made by an unaffiliated third party that any Product or Fix that is made available by Microsoft for a fee infringes that party's patent, copyright, or trademark or makes intentional unlawful use of its Trade Secret. Microsoft will also pay the amount of any resulting adverse final judgment (or settlement to which Microsoft consents). This section provides Institution's exclusive remedy for these claims.
- b. Limitations on defense obligation.** Microsoft's obligations will not apply to the extent that the claim or award is based on:
- (i) Customer Data, code, or materials provided by Institution as part of the use of an Online Service;
  - (ii) Institution's use of the Product or Fix after Microsoft notifies it to discontinue that use due to a third party claim;
  - (iii) Institution's combination of the Product or Fix with a non-Microsoft product, data or business process;
  - (iv) damages attributable to the value of the use of a non-Microsoft product, data or business process;
  - (v) modifications that Customer makes to the Product or Fix;

(vi) Institution's redistribution of the Product or Fix to, or its use for the benefit of, any unaffiliated third party, except as expressly permitted by an Enrollment or the Product Use Rights;

(vii) Institution's use of Microsoft's trademark(s) without express written consent to do so; or

(viii) any Trade Secret claim, where Institution acquires the Trade Secret (1) through improper means; (2) under circumstances giving rise to a duty to maintain its secrecy or limit its use; or (3) from a person (other than Microsoft or its Affiliates) who owed to the party asserting the claim a duty to maintain the secrecy or limit the use of the Trade Secret.

Institution will reimburse Microsoft for any costs or damages that result from any of these actions.

**c. Specific rights and remedies in case of infringement.**

(i) **Microsoft's rights in addressing possible infringement.** If Microsoft receives information concerning an infringement claim related to a Product or Fix, Microsoft may, at its expense and without obligation to do so, either:

- 1) procure for Institution the right to continue to use the allegedly infringing Product or Fix; or
- 2) modify the Product or Fix, or replace it with a functional equivalent, to make it non-infringing, in which case Institution will immediately cease use of the allegedly infringing Product or Fix after receiving notice from Microsoft.

(ii) **Institution's specific remedy in case of injunction.** If, as a result of an infringement claim, Institution's use of a Product or Fix that is made available by Microsoft for a fee is enjoined by a court of competent jurisdiction, Microsoft will, at its option:

- 1) procure the right to continue its use;
- 2) replace it with a functional equivalent;
- 3) modify it to make it non-infringing; or
- 4) refund the amount paid (or, for Online Services, refund any amounts paid in advance for unused Online Services) and terminate the license or right to access the infringing Product or Fix.

**d. Institution's agreement to protect.** Institution will defend Microsoft against any claims made by an unaffiliated third party that:

(i) any Customer Data or non-Microsoft software Microsoft hosts on Institution's behalf infringes the third party's patent, copyright, or trademark or makes intentional unlawful use of its Trade Secret; or

(ii) arise from Institution's or its end user's violation of the terms of this agreement.

Institution must pay the amount of any resulting adverse final judgment (or settlement to which Institution consents). This section provides Microsoft's exclusive remedy for these claims.

**e. Obligations of protected party.** Institution must notify Microsoft promptly in writing of a claim subject to the subsection titled "Microsoft's agreement to protect" and Microsoft must notify Institution promptly in writing of a claim subject to the subsection titled "Institution's agreement to protect." The party invoking its right to protection must (1) give the other party sole control over the defense or settlement; and (2) provide reasonable assistance in defending the claim. The party providing the protection will reimburse the other party for reasonable out of pocket expenses that it incurs in providing assistance.

## **15. Limitation of liability.**

- a. **Limitation on liability.** To the extent permitted by applicable law, the liability of each party and its Affiliates arising under this agreement is limited to direct damages up to (1) for Products other than Online Services, the amount Institution was required to pay for the Product giving rise to that liability and (2) for Online Services, the amount Institution was required to pay for the Online Service giving rise to that liability during the prior 12 months. In the case of Products provided free of charge, or code that Institution is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to U.S. \$5,000. These limitations apply regardless of whether the liability is based on breach of contract, tort (including negligence), strict liability, breach of warranties, or any other legal theory. However, these monetary limitations will not apply to:
- (i) Microsoft's and Institution's obligations under the section titled "Defense of infringement, misappropriation, and third party claims";
  - (ii) liability for damages caused by either party's gross negligence or willful misconduct, or that of its employees or its agents, and awarded by a court of final adjudication (provided that, in jurisdictions that do not recognize a legal distinction between "gross negligence" and "negligence," "gross negligence" as used in this subsection shall mean "recklessness");
  - (iii) liabilities arising out of any breach by either party of its obligations under the section entitled "Confidentiality", except that Microsoft's liability arising out of or in relation to Customer Data shall in all cases be limited to the amount Institution paid for the Online Service giving rise to that liability during the prior 12 months;
  - (iv) liability for personal injury or death caused by either party's negligence, or that of its employees or agents, or for fraudulent misrepresentation; and
  - (v) violation by either party of the other party's intellectual property rights.
- b. **EXCLUSION OF CERTAIN DAMAGES. TO THE EXTENT PERMITTED BY APPLICABLE LAW, WHATEVER THE LEGAL BASIS FOR THE CLAIM, NEITHER PARTY, NOR ANY OF ITS AFFILIATES, WILL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, OR INCIDENTAL DAMAGES, OR DAMAGES FOR LOST PROFITS, REVENUES, BUSINESS INTERRUPTION, OR LOSS OF BUSINESS INFORMATION ARISING IN CONNECTION WITH THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH POSSIBILITY WAS REASONABLY FORESEEABLE. HOWEVER, THIS EXCLUSION DOES NOT APPLY TO EITHER PARTY'S LIABILITY TO THE OTHER FOR VIOLATION OF ITS CONFIDENTIALITY OBLIGATIONS (EXCEPT TO THE EXTENT THAT SUCH VIOLATION RELATES TO CUSTOMER DATA), THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, OR THE PARTIES' RESPECTIVE OBLIGATIONS IN THE SECTION TITLED "DEFENSE OF INFRINGEMENT, MISAPPROPRIATION, AND THIRD PARTY CLAIMS."**
- c. **Affiliates.** Neither Microsoft nor Institution shall bring any action against the other's Affiliates in respect of any matter disclaimed on their behalf in this agreement. Each party will indemnify the other in the event of any breach of this provision.

## **16. Verifying compliance.**

- a. **Right to verify compliance.** Institution must keep records relating to the Products it and its Affiliates use or distribute. Microsoft has the right to verify compliance with the agreement, at Microsoft's expense during the term of the applicable Enrollment and for a period of one year thereafter.
- b. **Verification process and limitations.** To verify compliance, Microsoft will engage an independent accountant from an internationally recognized public accounting firm, which will be subject to a confidentiality obligation. Verification will take place upon not fewer than 30

days notice, during normal business hours, and in a manner that does not interfere unreasonably with Institution's operations. As an alternative, Microsoft will have the option to require Institution to complete Microsoft's self-audit questionnaire relating to the Products Institution and any of its Affiliates use under this agreement.

If Microsoft undertakes verification and does not find material unlicensed use (License shortage of 5 percent or more per Product), Microsoft will not undertake another verification of the same entity for at least one year. Microsoft and Microsoft's auditors will use the information obtained in compliance verification only to enforce Microsoft's rights and to determine whether Institution is in compliance with the terms of this agreement. By invoking the rights and procedures described above, Microsoft does not waive its rights to enforce this agreement or to protect its intellectual property by any other means permitted by law.

- c. **Remedies for noncompliance.** If verification or self-audit reveals any unlicensed use, Institution must promptly order sufficient Licenses to cover its use. If material unlicensed use is found, Institution must reimburse Microsoft for the costs Microsoft has incurred in verification and acquire the necessary additional Licenses as single retail Licenses within 30 days.
- d. Additionally, Institution must use reasonable efforts to make Users aware of the terms and conditions upon which they are allowed to run the Products. Accordingly, Institution must:
  - (i) Notify all Users in advance of running the Products that:
    - 1) their use of the Products is subject to the terms of this agreement, including but not limited to limitations on liability, disclaimer of warranties and exclusion of remedies;
    - 2) they are allowed to run the Products only during the Licensed Period;
    - 3) if this agreement is terminated, or Institution does not submit an Enrollment or extension order prior to the expiration of the Licensed Period or purchase perpetual Licenses for the Products, then all Products run under this agreement must be deleted when the Licensed Period expires or is otherwise earlier terminated, whichever is first;
  - (ii) Periodically publish in an Institution wide publication and applicable web sites a reference to the location (either physical or on a computer network) where they can view the Product List and Product use rights. Microsoft publishes a copy of the Product List and Product use rights at <http://www.microsoft.com/licensing/>;
  - (iii) Notify Microsoft immediately if Institution becomes aware of any actual or potential violation of this agreement; and
  - (iv) Provide all reasonable assistance and cooperation as requested by Microsoft to investigate and remedy any unauthorized use of the Products by Users.

If Institution complies with this section, Institution will not be responsible for Student Users' failure to comply with the terms of this agreement.

## **17. Miscellaneous.**

- a. **Notices to Microsoft.** Notices, authorizations, and requests in connection with this agreement must be sent by regular or overnight mail, express courier, fax, or email to the addresses and numbers listed on the signature form and in this agreement. Notices will be treated as delivered on the date shown on the return receipt or on the courier, fax, or email confirmation of delivery.

**Copies should be sent to:**

Microsoft Corporation  
Legal and Corporate Affairs  
Volume Licensing Group  
One Microsoft Way  
Redmond, WA 98052  
USA  
Via Facsimile:(425) 936-7329

- b. **No transfer of ownership.** Microsoft does not transfer any ownership rights in any licensed Product. Microsoft reserves all rights not specifically granted. The Products are protected by copyright and other intellectual property rights laws and international treaties.
- c. **Severability.** If a court holds any provision of this agreement to be illegal, invalid or unenforceable, the rest of the document will remain in full force and effect and this agreement will be amended to give effect to the portion of the agreement that was eliminated to the maximum extent possible. However, this agreement will be voidable by Microsoft at its option if provisions of this agreement regarding warranty disclaimers, damages disclaimers, limitations of liability, compliance verification, or obligations on termination are found to be invalid or unenforceable.
- d. **Waiver.** A waiver of any breach of this agreement is not a waiver of any other breach. Any waiver must be in writing and signed by an authorized representative of the waiving party.
- e. **Resellers and other third parties cannot bind Microsoft.** Resellers and other third parties do not have authority to bind or impose any obligation or liability on Microsoft.
- f. **This agreement is not exclusive.** Institution is free to enter into agreements to license, use or promote non-Microsoft Products or services.
- g. **Entire agreement.** The documents identified on the cover page of this agreement constitute the entire agreement concerning the subject matter, and supersede any prior or contemporaneous communications. In the case of a conflict between any documents identified in the first page that is not resolved expressly in the documents, their terms will control in the following order: (1) these terms and conditions and the signature form; (2) the Product List; (3) the Product Use Rights; and (4) all other Enrollments under this agreement. The terms of any purchase order or any general terms and conditions Institution or its Users maintain do not apply. This agreement (except the Product use rights, the Product List and the terms of any credit extending under any Enrollment) can be changed only by an amendment signed by both parties.
- h. **Assignment.** Assignment or transfer of this agreement or the rights or obligations, must have Microsoft's prior written approval. Microsoft may transfer this agreement or its rights and obligations to one of Microsoft's Affiliates.
- i. **Survival.** Provisions regarding ownership and license rights, fees, Product Use Rights, restrictions on use, evidence of perpetual Licenses, transfer of Licenses, warranties, defense of infringement, misappropriation and third party claims, Microsoft's and Institution's obligations to protect each other, limitations of liability, confidentiality, compliance verification, obligations on termination or expiration and the other provisions in this section entitled "Miscellaneous" will survive termination or expiration of this agreement or any Enrollment.
- j. **Advisor fee.** Microsoft, or its Affiliates, sometimes pays fees to software advisors or other third parties authorized by Microsoft or one of its Affiliates. The fees are in exchange for their advisory services. The payment of fees depends upon several factors, including the type of

agreement under which Institution orders Licenses, which Licenses are ordered, and whether Institution chooses to use an advisor. The fee amounts increase with the size of the orders placed under this agreement.

- k. **Applicable law, venue, and jurisdiction.** This agreement is governed by the laws of the state where Institution is organized or formed. Both parties agree that the federal courts have exclusive jurisdiction over disputes under this agreement and the resolution. Any legal actions relating to this agreement must be brought in a court of competent jurisdiction within federal courts located in the jurisdiction of the state where Institution is organized, and the parties agree that jurisdiction and venue in such courts is appropriate.
- l. **U.S. export jurisdiction.** Products and Fixes are subject to U.S. export jurisdiction. Institution will comply with all U.S. Export Administration Regulations and International Traffic in Arms Regulation requirements as well as all end-user, end-use, and destination restrictions issued by the U.S. and other governments applicable to this agreement. For additional information, see <http://www.microsoft.com/exporting/>.
- m. **Privacy.** Microsoft and Institution will comply with all applicable privacy and data protection laws and regulations. Institution may choose to provide personal information to Microsoft on behalf of third parties (including, Institution's contacts, resellers, distributors, and administrators) as part of this agreement. Institution represents and warrants that it has complied and will comply with any applicable laws to provide notices to or obtain permissions from any such individuals to allow sharing of their personal information with Microsoft for the purpose of allowing Microsoft or its agents to facilitate Institution's agreements and related services.

Institution consents to Microsoft's use of the contact information provided by Institution for purposes of administering its agreements, the business relationship and related services and with Microsoft's sharing of Institution's information with Institution's designated representatives, resellers, distributors, and administrators for such purposes, including allowing such individuals to update Institution's contact information on Institution's behalf. The personal information Institution provides in connection with this agreement will be used and protected according to the privacy statement available at <https://www.microsoft.com/licensing/servicecenter> to the maximum extent permitted by applicable law. Product-specific privacy commitments are described in the Product Use Rights.

- n. **Natural disaster.** In the event of a natural disaster, Microsoft may provide additional assistance or rights by posting them on <http://www.microsoft.com> at such time.





Pricing Proposal  
Quotation #: 6796904  
Created On: 6/26/2013  
Valid Until: 6/28/2013

## Elk Grove Unified School District

### Denise Fong

9510 Elk Grove-Florin Road  
Elk Grove, CA 95624  
UNITED STATES  
Phone: (916) 686-5085  
Fax:  
Email: DFong@egusd.net

## Inside Account Manager

### Christina Ho

290 Davidson Avenue  
Somerset, NJ 08873  
Phone: 1-800-535-5210  
Fax: 1-800-814-7567  
Email: christina\_ho@shi.com

All Prices are in US Dollar (USD)

Product	Qty	Your Price	Total
1 Acad Mvl All Lang 1Yr Lic/Sa Pk Dt Education C Faculty-A Microsoft - Part#: 2UJ-00001	3289	\$41.60	\$136,822.40
2 Microsoft Learning Solutions: IT Academy - Services Subscription License ( 12 months ) - 1 user - EDU - Campus, School, Select, Select Plus - Win - All Languages Microsoft - Part#: 54R-00098	1	\$1,332.50	\$1,332.50
3 Microsoft System Center Configuration Manager Enterprise Server ML - License & software assurance - 1 operating system environment (OSE) - EDU - Enterprise, Select, Select Plus - Win - All Languages Microsoft - Part#: J7A-00146	1	\$35.70	\$35.70
4 Microsoft Office SharePoint Server - License & software assurance - 1 server - EDU - Enterprise, Select, Select Plus - Win - All Languages Microsoft - Part#: H04-00232	3	\$449.10	\$1,347.30
5 Microsoft SQL Server Enterprise Core Edition - License & software assurance - 2 cores - Enterprise, Select, SPLA, Select Plus - Win - All Languages Microsoft - Part#: 7JQ-00341	28	\$1,139.80	\$31,914.40
6 Microsoft System Center Service Manager Server Management License - License & software assurance - 1 server - EDU - Select, Select Plus - Win - All Languages Microsoft - Part#: MVF-00440	1	\$20.70	\$20.70
7 Microsoft Windows Server Datacenter Edition - License & software assurance - 2 processors - Select, Select Plus - All Languages Microsoft - Part#: P71-07280	20	\$239.30	\$4,786.00
8 Microsoft Windows Server Standard Edition - License & software assurance - 2 processors - Select, Select Plus - All Languages Microsoft - Part#: P73-05897	11	\$39.70	\$436.70
9 Microsoft Exchange Server Enterprise Edition - License & software assurance - 1 server - EDU - Enterprise, Select, Select Plus - All Languages Microsoft - Part#: 395-02412	4	\$338.40	\$1,353.60
10 Microsoft Forefront Identity Manager - License & software assurance - 1 server - EDU - Campus, School, Enterprise, Select - Win - All Languages Microsoft - Part#: 7VC-00117	1	\$1,231.00	\$1,231.00
11 Microsoft Forefront Identity Manager - License & software assurance - 1 device	3289	\$1.48	\$4,867.72

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### Additional Comments

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Desktop with Enterprise CAL includes:

1. Office Pro Plus/Office Mac
2. Windows Enterprise - Includes DirectAccess, BranchCache, Featured Search, BitLocker, AppLocker, VDA, Virtualization Rights
3. Enterprise CAL
  - a. Windows CAL\*\* - File and print, Active Directory
  - b. Exchange Standard CAL\*\* - Web access to mail, Messaging with conversation view, calendar sharing
  - c. Exchange Enterprise CAL\*\* - Unified Messaging, Advanced protection and compliance
  - d. SharePoint Standard CAL\*\* - Web portals and communities, Content and People Search, Content Management
  - e. SharePoint Enterprise CAL\*\* - Electronic Forms, Excel Services, Business Intelligence Tools
  - f. System Center Client Management Suite
  - g. System Center Configuration Manager Client Management License (SCCM) - Assess, deploy and update clients across physical, virtual, and mobile environments
  - h. System Center Operations Manager Client Management License (SCOM) - Monitoring, troubleshooting, audit collection, and reporting for any client application, base operating system, system hardware, and other management agents on the system.
  - i. System Center Data Protection Manager Client Management License (DPM) - Unified data protection for desktops and laptops, disaster recovery, system state backup and remote protection
  - j. System Center Service Manager Client Management License - Reduces the risk of unauthorized or inadvertent changes to user devices. Creates incident tickets with status viewing capabilities. Requests software for installation on user devices or self-provision software with minimal IT involvement.
  - k. System Center Endpoint Protection - Security for Clients: PC's, Macs, Laptops
  - l. System Center Virtual Machine Manager Client Management License - enables you to configure and manager your virtual host, networking, and storage resources in order to create and deploy virtual machines on the client
  - m. Lync Server Standard CAL\*\* - Instant Messaging, Presence
  - n. Lync Server Enterprise CAL\*

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*The Products offered under this proposal are subject to the SHI Return Policy posted at [www.shi.com/returnpolicy](http://www.shi.com/returnpolicy), unless there is an existing agreement between SHI and the Customer.*

# **Attachment to Agenda Item**

*July 1, 2013*  
**Board Meeting**

**Agenda Item  
# 12**

PROJECT NAME: Sacramento START Program – Elk Grove Unified School District  
DEPARTMENT: Parks and Recreation

## CITY OF SACRAMENTO

### **AGREEMENT**

**THIS AGREEMENT** is made and entered into as of this 26 day of June, 2013, by and between the CITY OF SACRAMENTO, a municipal corporation, hereinafter referred to as "CITY," and Elk Grove Unified School District, a school district duly organized and existing under the laws of the State of California, hereinafter referred to as "DISTRICT." The CITY and DISTRICT may be referred to collectively as "Parties" or in the singular as "Party," as the context requires.

### **RECITALS**

WHEREAS, Sacramento START (Students Today Achieving Results for Tomorrow) is a public-private collaboration in operation since 1996 working to build the capacity of children to succeed academically and socially while reconnecting families and neighborhoods with schools; and

WHEREAS, Sacramento START believes that children should be given every opportunity to be successful, and START fosters enthusiasm for learning by engaging children in fun, literacy-focused activities in a safe environment, and START expands the school day and supports the DISTRICT's educational goals; and

WHEREAS, Sacramento START as a public-private collaboration includes the City of Sacramento, State of California, school districts, community-based organizations, private foundations and corporations, individual donors, and volunteers that are committed to providing a safe, supervised after-school environment for elementary students; and

WHEREAS, the DISTRICT is committed to the goals of the Sacramento START program and believes a successful program can strengthen the existing school program and extend the learning opportunities; and

WHEREAS, the DISTRICT is committed to providing an after-school program (START) in partnership with the CITY; and

WHEREAS, the DISTRICT has obtained a grant from the California Department of Education which will be made available to provide a successful program; and

WHEREAS, the DISTRICT desires in partnership with the CITY to collaborate in the development and implementation of an effective after-school program at one or more of

its elementary schools;

NOW THEREFORE, in consideration of the mutual promises hereinafter set forth, CITY and DISTRICT agree as follows:

## **TERMS AND CONDITIONS**

### **1. Representatives; Notice.**

The Representatives specified in Exhibit A, or the Representative's designee, shall administer this Agreement for CITY and DISTRICT.

Any communication required during the term of this Agreement, including, without limitation, notice of termination, shall be deemed given when placed in the United States Mail, postage prepaid, and addressed as shown above. Any party who desires to change its Representative, address, or contact information may do so by providing notice as described above.

### **2. Services.**

Subject to the terms and conditions set forth in this Agreement, the CITY and DISTRICT shall provide the services described in Exhibit B. Neither the CITY nor the DISTRICT shall have any obligation to provide any services until this Agreement or any Supplemental Agreement has been fully executed by both parties. The CITY shall have no obligations whatsoever under this Agreement and/or any Supplemental Agreement unless and until this Agreement or any Supplemental Agreement is approved by the City Manager or the City Manager's authorized designee, or by the City Council, as required by the Sacramento City Code.

This Agreement shall cover an after-school program during the 2013-2014, regular school year, for on-track and/or regular school day students only, at the schools identified in Exhibit B, as well as a summer and/or intersession and/or off-track program only at those schools identified separately in Exhibit B. The parameters of the program, which include the maximum number of days of operation, the maximum number of hours of operation on each day, the maximum number of students in attendance on any day, and specific programmatic, staffing and fiscal elements, are found in Attachment 1 to Exhibit B (Program Parameters) and incorporated herein. There is no authorization for CITY to operate the program at any school or for any number of days, number of hours, and/or number of students in attendance, or to provide specific programmatic, staffing and/or fiscal elements in excess of that shown in Attachment 1 to Exhibit B. Any operation beyond the parameters of the program, and/or any change to those schools to be served, shall first be negotiated by separate agreement or an amendment to this agreement, and the DISTRICT shall bear sole fiscal responsibility for any additional costs.

**3. Payment.**

The DISTRICT shall pay the CITY for services rendered pursuant to this Agreement in the amount, at the times and in the manner set forth in Exhibit C. Should there be any costs incurred by the CITY over and above the agreed amounts in Attachment 1 to Exhibit B, the DISTRICT agrees to pay within 30 days of the invoice date the amount billed by the CITY for these additional costs with advance District approval of the additional cost.

**4. Term of Agreement.**

This Agreement shall cover the period of August 1, 2013, to June 30, 2014.

**5. Prior Agreements.**

The CITY and DISTRICT acknowledge there are no existing agreements between the parties that affect this agreement.

**6. Standard Site Operating Agreement.**

The Standard Site Operating Agreement attached as Exhibit D shall apply at each school site described in Exhibit B. In providing the services described in Section 2 of this Agreement, the Parties are subject to the terms and conditions of the Standard Site Operating Agreement.

**7. No Joint Venture.**

This Agreement shall not create between the Parties a joint venture, partnership, or any other relationship of association.

**8. No Grant of Agency.**

Except as the Parties may specify in writing, neither Party shall have authority, express or implied, to act on behalf of the other Party in any capacity whatsoever as an agent. Neither Party shall have any authority, express or implied, pursuant to this Agreement, to bind the other Party to any obligation whatsoever.

**9. Termination.**

- a) CITY's termination rights:
  - (i) CITY may terminate this Agreement if the DISTRICT breaches any material term of this Agreement. CITY shall provide DISTRICT with written notice of the breach and provide a thirty (30) day opportunity for DISTRICT to cure such breach. If DISTRICT fails to cure the breach within the thirty (30) day period, City may terminate this Agreement upon written notice to DISTRICT.

b) DISTRICT's termination rights:

- (i) DISTRICT may terminate this Agreement if the CITY breaches any material term of this Agreement. DISTRICT shall provide CITY with written notice of the breach and provide a thirty (30) day opportunity for CITY to cure such breach. If CITY fails to cure the breach within the thirty (30) day period, DISTRICT may terminate this Agreement upon written notice to CITY.

c) CITY and DISTRICT's termination rights:

Either Party may terminate this Agreement immediately upon giving written notice to the other Party if advised that funds are not available from external sources for this Agreement or for any portion hereof, or if funds are not appropriated or are reduced by the City Council of the CITY or the governing Board of the DISTRICT for this Agreement or any portion hereof.

If this Agreement is terminated under any of the conditions above, the Parties shall only be reimbursed for services provided up to the effective date of termination.

**10. Authority.**

The persons signing this Agreement for each Party hereby represent and warrant that they are fully authorized to sign this Agreement on behalf of their Party and to bind their Party to the performance of its obligations hereunder.

**11. Non-Waiver.**

Waiver of any breach of, or default under, this Agreement by either Party shall not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this Agreement.

**12. Entire Agreement; Modification.**

This Agreement contains all of the terms and conditions as agreed upon by the Parties, and supersedes any and all oral or written communications by and between the Parties.

No waiver, alteration, modification, or termination of this Agreement shall be valid unless made in writing and signed by the Parties. In the event of a conflict between this Agreement and any other agreement or understanding executed by the Parties subsequent to the commencement of this Agreement, the terms of this Agreement shall prevail and be controlling unless such other agreement expressly provides to the contrary.

**13. Assignment Prohibited.**

Neither Party may assign any right or obligation pursuant to this Agreement. Any attempt or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.

**14. Severability.**

If any term, covenant, or condition of this Agreement is held to by a court of competent jurisdiction to be invalid, the remainder of this Agreement shall remain in full force and effect.

**15. Governing Law.**

The interpretation and enforcement of this Agreement shall be governed by the laws of the State of California, the state in which the Agreement is signed.

**16. Counterparts.**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

**17. Captions.**

The headings or captions contained in this Agreement are for identification purposes only and shall have no effect upon the construction or interpretation of this Agreement.

**18. Ambiguities.**

The Parties have each carefully reviewed this Agreement and have agreed to each term of this Agreement. No ambiguity shall be presumed to be construed against either Party.

**19. Exhibits.**

All exhibits and attachments referred to herein are attached hereto and are by this reference incorporated as if set forth fully herein.

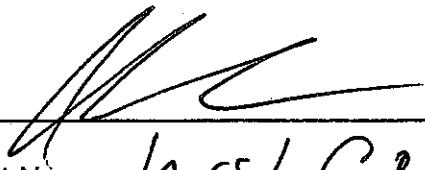
(continues on next page)



**CITY OF SACRAMENTO**  
A Municipal Corporation

**ELK GROVE UNIFIED  
SCHOOL DISTRICT**

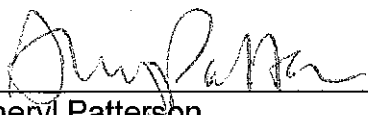
**BY:**


  
\_\_\_\_\_  
Print Name: James L. Gomb  
Print Title: DIRECTOR  
Date: 6/26/13

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Print Title: \_\_\_\_\_  
Date: \_\_\_\_\_

For: John F. Shirey, City Manager

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Sheryl Patterson  
Senior Deputy City Attorney

  
\_\_\_\_\_  
Rich Fagan  
Associate Superintendent of Finance  
and School Support

**ATTEST:**

\_\_\_\_\_  
City Clerk

**Attachments**

- Exhibit A – Authorized Representatives
- Exhibit B – Scope of Services
- Attachment 1 to Exhibit B – Program Parameters
- Exhibit C – Fiscal Responsibilities
- Attachment 1 to Exhibit C – ASES Budget
- Attachment 2 to Exhibit C – 21<sup>st</sup> Century Budget
- Attachment 3 to Exhibit C – Supplement Program Budget
- Exhibit D – Standard Site Operating Agreement
- Attachment 1 to Exhibit D – School-START Check List
- Exhibit E – Schools Insurance Authority Memorandum of Understanding

## **EXHIBIT A**

### **AUTHORIZED REPRESENTATIVES**

#### **CITY OF SACRAMENTO:**

Brian Fitzgerald  
Recreation Superintendent  
Sacramento START  
City of Sacramento  
5735 47th Avenue  
Sacramento CA 95824  
(916) 808-6196  
(916) 808-1214 (fax)  
bfitzgerald@cityofsacramento.org

#### **ELK GROVE UNIFIED SCHOOL DISTRICT:**

Sonjhia Lowery  
Director of Learning Support Services  
9510 Elk Grove-Florin Road  
Elk Grove CA 95624  
(916) 686-7712  
(916) 686-5095 (fax)  
slowery@egusd.net

## **EXHIBIT B**

### **SCOPE OF SERVICES**

#### **A. CITY's Responsibilities**

##### **1. Provide the following:**

- An after-school literacy and enrichment program at John Reith Elementary School in compliance with the California Department of Education After School Education and Safety (ASES) Program requirements.
- An after-school literacy and enrichment program at John Reith Elementary School in compliance with the California Department of Education 21<sup>st</sup> Century Program requirements.
- A winter and or spring session in compliance with the California Department of Education After School Education and Safety (ASES) Program requirements.

Services will include but are not limited to the following:

- a. An educational and literacy component whereby tutoring or homework assistance is provided in one or more of the following areas: language arts, mathematics, history and social science, computer training, or science.
  - b. An educational enrichment component, which may include, but is not limited to, fine arts, recreation, physical fitness, and prevention activities. Such activities might involve the arts, music, physical activity, health promotion, and general recreation, community service-learning, and other youth development activities based on student needs and interests.
  - c. Operate a minimum of three (3) hours a day on every day and until at least 6:00 PM for regular school days, and operate a minimum of three (3) hours per day for summer and/or intersession and/or off-track days.
2. Operate at the schools listed in Attachment 1 to Exhibit B. The program will operate only during the regular school year for students attending the regular school day and/or who are on track, unless program parameters are indicated in Attachment 1 for a summer and/or intersession and/or off-track program.
  3. Furnish a paid full-time Program Supervisor who shall provide leadership in program development and implementation for all entities participating in the program, and provide overall direction to the program. The CITY shall provide resources and support staff for the Program Supervisor as the CITY deems appropriate.

4. Employ a Site Director for each participating school site, who shall supervise paid staff and volunteers at that site. Approval of the school principal is required before hiring or assigning a Site Director to a particular school, but approval is not required before promoting, removing, transferring, demoting, terminating or not rehiring a Site Director.
5. Hire or contract with other employees and/or consultants to sufficiently and effectively operate the program.
6. Ensure that all staff members who directly supervise students shall meet the minimum qualifications for a Paraeducator in the DISTRICT.
7. Except as otherwise provided herein or subsequently agreed to in writing by both the DISTRICT and CITY, all personnel employed in the Sacramento START program shall be CITY employees, and all volunteers participating shall provide their volunteer services to the CITY. No volunteers may participate in the START program without first complying with all CITY requirements. Employees and volunteers shall be subject to all CITY personnel policies and hiring requirements (including background check and tuberculosis test).
8. Maintain a student-to-staff ratio of no more than 20 to 1.
9. Be solely responsible for all matters of employment and personnel administration, including but not limited to hiring, scheduling, wages and salaries, benefits, worker's compensation costs, unemployment costs, employee discipline, fingerprinting, TB testing and termination.
10. Develop a set of Program Parameters in partnership with the DISTRICT (Attachment 1 to Exhibit B) which includes the number of days of operation, the number of hours of operation on each day, the number of students in attendance on any day, and specific programmatic, staffing and fiscal elements.
11. Invoice the DISTRICT as described in Exhibit C.
12. Provide an afternoon snack to program participants that meet the nutrition standards identified in Section 49430 of the Education Code.
13. Participate in the annual evaluation of the program by submitting to the District the names and identification numbers of all students attending the program and the students' program attendance records as required by the California Department of Education.
14. Make a good faith effort to keep student enrollment and attendance as close to and within the agreed upon parameters as outlined in Attachment 1 to Exhibit B. Student days of attendance will be monitored and adjustments

made in order to ensure that the program maximizes all funding reimbursements yet does not exceed available funding.

**B. DISTRICT Responsibilities**

1. Provide facilities at the school site at no charge to the CITY. Facility space requirements include at least one classroom for every cluster of 20 students; multi-purpose room for large gatherings of students and the distribution and eating of snacks; outside play space; parking space for program employees and volunteers; restrooms for students, employees and volunteers; office space for the site director; and storage space for program supplies/materials.
2. Provide custodial services at no charge to the CITY and coordinate those services with the CITY for the mutual benefit of the school and the START program.
3. Comply with the Standard Site Operating Agreement (Exhibit D). The Standard Site Operating Agreement describes the responsibility for each school principal and Sacramento START for coordinating the regular school program with the START after-school program and for providing the necessary resources and communications to provide an effective program. The DISTRICT shall ensure that each principal sign the Site Operating Agreement, and the DISTRICT shall ensure compliance with the agreement by its principals. The Standard Site Operating Agreement is an integral component of this Agreement.
4. Pay the CITY as described in Exhibit C.
5. Support the development of educational curricula, materials and training that can benefit the educational outcomes component of the school sites.
6. If requested by CITY, District shall assist in recruiting an Academic Alignment Coach from the ranks of the school's certificated teachers to work for CITY and ensure that the Academic Alignment Coach fulfills his/her obligations in support of the START program.
7. Perform the evaluation as required by the California Department of Education. The DISTRICT agrees to take the lead in obtaining the permission of the students' parents or guardians to release any necessary information to the CITY. The CITY, the DISTRICT's evaluator, and the DISTRICT agree to protect the privacy of student information in a manner that would not identify individuals. The DISTRICT will share preliminary and final results of the evaluation with the CITY.
8. Provide program registration forms which meet both DISTRICT and CITY requirements/needs.

9. Submit all required reports to the California Department of Education, advise and train CITY staff on the After School Education and Safety Program grant requirements, and serve as a liaison between the CITY and the California Department of Education to answer questions related to compliance with the grant's requirements.
10. If attendance is not as high as the DISTRICT desires, the DISTRICT shall work with the CITY to jointly market the program to students and their families.
11. Help recruit students into the program and provide the program access to participant parents. Work with the CITY to develop an effective After School Program marketing and recruitment component to attract students into the program.
12. Allow CITY staff working in the Sacramento START program to participate in any DISTRICT-sponsored or DISTRICT-authorized training that would be relevant to the successful operation of the program.
13. Designate a school staff person to work directly with the site director for program planning, staff hiring assistance and to address any implementation issues.
14. Help recruit program staff among school site staff and parents.
15. Help train program staff and volunteers on school procedures and educational/curriculum materials being used at the school that should be integrated into the Program.
16. Help provide parents/student forums for the program so that program staff can announce the program, recruit students into the program, obtain feedback from the parents on their opinion of the program, and for other purposes, as requested by the CITY.

C. Other Provisions

1. The CITY cannot be a Supplemental Educational Services (SES) provider at this school site.
2. Students attending a START after-school or intersession program must be enrolled at and attending the school during the regular school day where the program is operating. For START's summer school, the student must be enrolled in, and intend to return in the fall to, the school for which the program is funded.
3. A student may attend a START program at a school in which the student is not enrolled and attending after having obtained the approval by the

DISTRICT and the CITY.

4. The DISTRICT and CITY agree that the provisions of City Agreement 2001-050, the Memorandum of Understanding between the City of Sacramento and the Schools Insurance Authority regarding Hold Harmless and Indemnity Provisions, and any subsequent revisions to that Memorandum of Understanding, shall govern this Agreement and are incorporated into this Agreement by reference. The document is attached as Exhibit E.
5. Site Substitution, Site Additions, Additional Sites.
  - a. Any request by the DISTRICT to make a change in school sites from those listed in this Agreement, or its amendments, must first be approved by the CITY. All school site changes initiated by the DISTRICT require a separate negotiated agreement that will be an amendment to this Agreement. A separate Program Parameters and Site Operating Agreement shall be negotiated under such circumstances.
  - b. The DISTRICT shall notify CITY by March 1 each year of those sites approved for a summer program but which will temporarily not be able to operate a summer program due to construction at the site or for any other reason. The DISTRICT must work with CITY to either find an alternate site or to assist in the notification of students and their families that an expected summer program will not take place.

## Attachment 1 to Exhibit B

**Attachment 1 - page 1**  
**Elk Grove Unified School District**  
**Fiscal Year 2014**

<b>Regular (ASES) or On Track Program</b>		
<b>City of Sacramento To Provide</b>	<b>John Reith</b>	
Student spaces per grant (up to maximum per day)	112	
Program days (up to maximum per year)	180	
Program hours (up to maximum per 5-day week)	19	
Program Leaders (up to maximum at 1 for 20 students)	6	
Site Directors	1	
<b>Regualr (21<sup>st</sup> Century) Program</b>		
<b>City of Sacramento To Provide</b>	<b>John Reith</b>	
Student spaces (up to maximum per day)	30	
Program days (up to maximum per year)	180	
Program hours (up to maximum per 5-day week)	19	
Program Leaders (up to maximum at 1 for 20 students)	2	
Site Directors	0	
<b>Interession (Winter and or Spring Session) Program</b>		
<b>City of Sacramento To Provide</b>	<b>John Reith</b>	
Student spaces (up to maximum per day)	100	
Program days (up to maximum per year)	10	
Program hours (up to maximum per 5-day week)	19	
Program Leaders (up to maximum at 1 for 20 students)	5	
Site Directors	1	



## **EXHIBIT C**

### **FISCAL RESPONSIBILITIES**

1. The DISTRICT shall administer the funds received from various Federal and State agencies; solicit funding and donations from the broader community including businesses; provide funding from its General Fund, including in-kind resources; and provide overall fiscal management of the program.
2. The DISTRICT shall be solely responsible to the California Department of Education (CDE) for communication with CDE and for compliance with CDE requirements relative to the DISTRICT's grants from CDE.
3. The CITY shall not be responsible for providing any monetary contributions from CITY-generated resources as a financial contribution to the START program. The only in-kind contribution that the CITY will contribute is the value of the snack program and the value of any labor expended by CITY's volunteers. If the DISTRICT desires that the CITY provide a value of this in-kind contribution to the program, the DISTRICT shall give the CITY at least thirty (30) days notice before the retention and collection of information can begin.
4. In the event of unforeseen financial difficulties resulting from reductions in funding from any of the sources used by the CITY to operate the Sacramento START program, or due to a lack of or a reduction in appropriation by the Sacramento City Council, the CITY may, at its option, reduce the scope of the program by reducing the number of schools, number of students in attendance, days of operation, hours of operation, any program element, or any combination thereof, including complete termination of this Agreement as provided in paragraph 9(c) of the Terms and Conditions section of this Agreement.
5. CITY Invoicing:
  - a. The CITY shall submit invoices to the DISTRICT by October 25 for services provided in July, August and September; by January 25 for services provided in October, November and December; by April 25 for services provided in January, February and March; and by July 25 for services provided in April, May and June. Invoices will align with the approved budgets in Attachment 1 to Exhibit C.

The CITY is authorized to invoice for the following:

- An amount not to exceed \$145,065.11 for the ASES program operation.
- An amount not to exceed \$38,070.00 for the 21<sup>st</sup> Century program operation.
- An amount not to exceed \$7,500.00 for the Winter and or Spring Session

- b. The above invoices shall be paid by DISTRICT within thirty (30) days of when the DISTRICT receives the invoice.
- c. CITY will not invoice nor collect funds from any third party on behalf of DISTRICT.

## Attachment 1 to Exhibit C (ASES Program)

Reith	MOU = 112														
				13	19	22	11	0	22	18	16	17	22	20	180
Salaries	wage	Worked	July	August	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	March	April	May	June	Total
Site Director	19.17	8.00		1993.68	2913.84	3373.92	1686.96	0	3373.92	2760.48	2453.76	2607.12	3373.92	3067.20	27604.80
Program Leader	15.10	4.68		918.68	1342.69	1554.70	777.35	0	1554.70	1272.02	1130.69	1201.36	1554.70	1413.36	12720.24
Program Leader	15.10	4.68		918.68	1342.69	1554.70	777.35	0	1554.70	1272.02	1130.69	1201.36	1554.70	1413.36	12720.24
Program Leader	15.10	4.68		918.68	1342.69	1554.70	777.35	0	1554.70	1272.02	1130.69	1201.36	1554.70	1413.36	12720.24
Program Leader	15.10	4.68		918.68	1342.69	1554.70	777.35	0	1554.70	1272.02	1130.69	1201.36	1554.70	1413.36	12720.24
Program Leader	15.10	4.68		918.68	1342.69	1554.70	777.35	0	1554.70	1272.02	1130.69	1201.36	1554.70	1413.36	12720.24
Program Leader	15.10	4.68		918.68	1342.69	1554.70	777.35	0	1554.70	1272.02	1130.69	1201.36	1554.70	1413.36	12720.24
Program Leader	15.10	4.68		918.68	1342.69	1554.70	777.35	0	1554.70	1272.02	1130.69	1201.36	1554.70	1413.36	12720.24
Benefits	0.18			1351.04	1974.60	2286.38	1143.19	0	2286.38	1870.67	1662.82	1766.75	2286.38	2078.52	18706.73
Total Salaries & Benefits			0.00	8856.80	12944.59	14988.47	7494.24	0	14988.47	12263.30	10900.71	11582.00	14988.47	13625.88	122632.97
Expenses															
Site Incentives	\$4/student														448.00
1 Family Night Event	\$2/student														224.00
Year End Event	\$5/student														560.00
Field Trip															2000.00
Printing & Duplicating				72.22	105.56	122.22	61.11	0	122.22	100.00	88.89	94.44	122.22	111.11	1000.00
Materials & Supplies				327.70	478.95	554.57	277.29	0	554.57	453.74	403.32	428.53	554.57	504.16	4537.40
Enrichment Providers															3000.00
Program Admin @ 7%															10662.75
Total Expenses															22432.15
Salaries & Expenses															145,065.11

## Attachment 2 to Exhibit C (21<sup>st</sup> Century Program)

Reith	MOU = 30														
				13	19	22	11	0	22	18	16	17	22	20	180
Salaries	wage	Worked	July	August	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	March	April	May	June	Total
Program Leader	15.10	4.68		918.68	1342.69	1554.70	777.35	0	1554.70	1272.02	1130.69	1201.36	1554.70	1413.36	12720.24
Program Leader	15.10	4.68		918.68	1342.69	1554.70	777.35	0	1554.70	1272.02	1130.69	1201.36	1554.70	1413.36	12720.24
Benefits	.18			330.73	483.37	559.69	278.85	0	559.69	457.93	407.05	432.49	559.69	508.81	4579.29
Total Salaries & Benefits			0.00												30019.77
Expenses															
Site Incentives	\$4/student														120.00
3 Family Night Events	\$2/student														180.00
Year End Event	\$5/student														150.00
Printing & Duplicating															500.00
Materials & Supplies															2575.23
Program Admin @ 5%				146.25	213.75	247.50	124.00	0	247.50	202.50	180.0	191.25	247.50	225.00	2025.00
Family Literacy															2500.00
Total Expenses															8850.23
Salaries & Expenses															38870.00

### Attachment 3 to Exhibit C (Supplemental - ASES)

Reith	MOU = 100				
			5	5	10
Salaries	wage	Worked	Dec.	April	Total
Site Director	18.68	6.5	607.10	607.10	1214.20
Program Leader	15.10	6.5	490.75	490.75	981.50
Program Leader	15.10	6.5	490.75	490.75	981.50
Program Leader	15.10	6.5	490.75	490.75	981.50
Program Leader	15.10	6.5	490.75	490.75	981.50
Benefits	.18		462.62	462.62	925.24
<b>Total Salaries &amp; Benefits</b>					<b>6065.44</b>
Expenses					
Enrichment Specialist					550.00
Supplies and Materials					509.56
Program Admin @ 5%					375.00
<b>Total Expenses</b>					<b>1434.56</b>
<b>Salaries &amp; Expenses</b>					<b>7500.00</b>

## **EXHIBIT D**

### **STANDARD SITE OPERATING AGREEMENT**

#### **1. Introduction.**

This Standard Site Operating Agreement ("Agreement") applies to all school sites that are subject to the START Agreement between the City and the District. The Principal of each school site ("School") shall have the option of appointing a liaison to act on his/her behalf ("Representative") between the School and the City's START Site Director. If this occurs, the Site Director shall be notified who the Representative is and shall communicate directly with the Representative. All references to Principal in this Agreement shall refer either to the School Principal or to his/her Representative. The City shall also appoint a Program Supervisor to supervise the Site Director, to act a liaison with the Sacramento START program, and to coordinate relations between the School and the Site Director.

The Principal, Program Supervisor, Site Director of each School and the DISTRICT After School Coordinator shall review and initial the checklist attached as Attachment 1 to Exhibit D.

#### **2. Safety.**

Principal shall provide copies of emergency procedures and evacuation plans to the START Site Director. START Site Director will ensure that all site staff read and understand these emergency procedures and evacuation plans prior to the beginning of the program.

Principal shall, if possible, include START staff in any safety training programs and instruct them in operation of the school's emergency notification system and how to announce an emergency.

START staff shall be required to participate in regularly scheduled drills and to remain fully educated about the emergency operations.

Principal shall supply critical incident information about any security or safety issues that may impact the site program or START staff as soon as possible to the Site Director.

In the event an emergency occurs after the School office is closed, or during a period when START is hosting a special event, the Principal or his/her representative will provide information to the Site Director regarding emergency notification procedures and telephone numbers.

Principal shall supply to the Site Director by the end of the school day a list of those students absent or released early from school. START's preference would be to receive this list one hour prior to the start of the program for entry into the attendance reporting module.

#### **3. School Alignment.**

Principal shall work with the Site Director to identify students who are in the most need of an after school literacy program and together they shall work to ensure those children are given priority enrollment. One suggested methodology is that students with the lowest test scores shall be invited first to participate in START then work up through the test scores from lowest to highest until all available spaces in the START program are filled. Another method may be that classroom teachers are asked to recommend students they think would benefit from START. Any other agreed upon methodology will be acceptable provided the START program serves those students who are in most need of an after school program. The available space in the START program is based on the Program Leader to student ratio which is 20:1.

Principal shall inform other teachers and staff of the START program and activities and obtain information that will connect the START program to the regular school program and curricula.

Principal shall allow and assist the START staff in conducting at least three family nights throughout the school year. The family nights will take place in the evening, and the Principal shall inform other teachers and staff of the family nights.

Principal, START Site Director, and Academic Alignment Coach shall coordinate the needs of specific children based on an agreed upon criteria such that the child receives the program that will best enhance his/her learning capacity and skills. Periodic updates shall occur such that START provides a program that best meets the needs of the student.

Within District guidelines, the Principal shall provide the START staff or evaluators significant information necessary for measuring outcome goals or to support student success in programs. The request has been approved by the District and is part of an overall plan for regular tracking and sharing of student test results, monthly academic achievement benchmarks, grade level promotion and retention reports, suspensions and expulsions, and other behavior reports for START students. This information shall be used by START to design programs for the benefit of the student and to compile program evaluation data required by California Department of Education.

START shall provide feedback to the Principal and School staff regarding the evaluation outcomes and results found by the START program.

The School shall provide the following information for all START students quarterly that includes the student identification number, track, classroom teacher name, classroom number, gender, ethnicity, and languages spoken at home in order to satisfy the grant funding requirements, and program, operational and evaluation requirements.

Principal shall provide regular notification of the names of START students who withdraw from school, and when available, forwarding address information for purposes of conducting an exit interview survey.

#### 4. Operation.

Principal has been informed of the number of students and days of operation for the START program and agrees with these budgeted numbers.

Principal and Site Director shall cooperate in recruiting and sustaining students in order to achieve the budgeted numbers. The Site Director will notify the Principal when actual attendance consistently drops below the estimated numbers.

Principal and Site Director shall coordinate efforts to ensure that subsequent vacancies are filled as soon as they occur.

Only students attending the regular day program shall be allowed to participate in that site's after school program. If a student has any unusual circumstance whereby he/she wants or needs to attend an after school program at another site, the Principal and START shall assist a student's parents or guardians in preparing and submitting a waiver request to CDE indicating these unusual circumstances and how the District and START will facilitate communication between the student's regular day teachers and the START staff at the alternate site and how the student will safely travel from the regular day school to the after school location.

#### 5. Staff.

Principal will be involved in START's selection process of the Site Director.

Principal shall recruit an Academic Alignment Coach from the ranks of the School's certificated teachers.

Principal can assist START in the recruitment of START staff by encouraging and recommending school paraeducator staff to become a START employee.

Principal and Site Director shall share information regarding work schedules for those persons employed by both the School and START.

Any behavioral issues arising with a START staff person must be communicated to the Program Supervisor staff member who shall immediately be involved in investigating the issue and take remedial action.

#### 6. Communications.

The Site Director shall immediately address any concerns on the part of parents, teachers, employees, students, or neighbors regarding the operations of the START program and District's After School Staff. This may involve direct communication with the Principal or his/her designee, the Program Supervisor or other appropriate person. Both the Principal and Site Director shall immediately communicate to the other any issue as it arises so that it may be adequately addressed and resolved.

The Site Director shall have a designated mailbox or area for distribution of mail, faxes, deliveries, or other similar items. The Site Director shall check this area frequently for items to prevent any overflow and to maintain a tidy workspace.

The Site Director shall have access to school communications such as bulletin boards, newsletters, mail, handouts, etc. with which to promote the START program and activities. The START Program Supervisor shall review for appropriateness all items for distribution prior to posting. The Site Director shall also get permission from the Principal prior to distribution.

The Site Director shall have a meeting with the Principal at least once a month to discuss current events, site functions, and to touch basis on any other item.

The School shall allow a START sign on the exterior of the building and a banner announcing open enrollment.

#### 7. School Facilities.

The School shall provide daily access to classrooms for each cluster of up to 20 START students and daily access to the multipurpose room. By the end of the first week of START operation, the Principal and Site Director shall identify and agree upon which classrooms and facilities on the school campus the START program will regularly occupy, without the need to obtain any School or District permission to use the space.

The School shall provide workspace for the Site Director for completion of certain administrative duties including a secure, lockable location for a computer, provided by START, with no internet access. The School shall also provide a secure storage place for supplies and other program related materials that can be accessible before, during, and after the START program.

The START program shall receive preference in reserving school facilities for meetings, performances, special events, and similar activities once school needs have been identified. Any changes in either schedule should be immediately communicated to the other party so that adequate coordination of school facilities is maintained.

Principal understands that occasionally START will request access to facilities such as the multi-purpose room for evening activities such as registration, parent meetings, etc.

General school amenities shall be provided to the START program such as restrooms, water fountains, onsite parking, etc. during program operations.

START shall ensure that the assigned classrooms, workspaces, storage areas, and other areas which the START program occupies shall be left clean, tidy and free of any debris or remaining supplies.



Custodial services will be coordinated for the mutual benefit of the school and the START program.

Principal will assist the Site Director in ensuring replenishment of supplies for the restroom facilities in the hour prior to the beginning of the START program.

8. Program Coordination.

Principal shall coordinate with the Site Director on the development of the START program calendar. The school calendar should mirror the START calendar including the first and last days, school holidays, summer and intersession schedules (if applicable), and any other factors affecting the program. Special activities such as minimum day schedules, open house, parent-teacher conferences, special events, construction or repair work, etc. should be noted.

In the event the school calendar should change for any reason which could result in the need to change the START operation, the Principal shall provide a two-week written notification to the Site Director in order that START parents can be notified of the change in schedule.

The Site Director shall provide to the Principal the final calendar for START operation.

The Site Director shall give the Principal notification of any change in the START program schedule at least one week in advance. Notification should also be made of special events and field trips sponsored by START.

Principal and Site Director shall coordinate a system for the smooth transition of students from the regular school program to the after school program to ensure that all students are accounted for and identified.

9. Snack Program.

The Principal and Site Director shall agree on a regular and appropriate location for serving and eating snacks.

The Principal and Site Director shall agree on a secure and accessible location for storing snack items.

If START provides its own snacks, the Principal agrees to allow the snack to be delivered to the site during non-START hours and stored for later use. If START staff is not on campus at the time of the snack delivery, the Principal agrees to put the delivery invoice in the Site Director's START box.

10. Acknowledgment of Receipt.

By initialing below, the Principal, Program Supervisor, Site Director, and DISTRICT After School Coordinator each acknowledge that he or she has received, read, and understood this Standard Site Operating Agreement.

Initials

P. \_\_\_\_\_

P.S. \_\_\_\_\_

S.D. \_\_\_\_\_

EGUSD

## ATTACHMENT 1 TO EXHIBIT D

### School – START Check List

- \_\_\_ Copies of School emergency procedures to START Site Director
- \_\_\_ School emergency procedures read by all START staff
- \_\_\_ Daily attendance is supplied from the School prior to the end of the school day
- \_\_\_ Students with the greatest need are targeted for START participation
- \_\_\_ Needs of specific students are coordinated with the regular school program
- \_\_\_ Evaluation data is provided to START and/or START evaluator
- \_\_\_ Communication lines between START and School and District remain open and flowing
- \_\_\_ Demographic data for START students is provided quarterly
- \_\_\_ Notification of students withdrawn from School are passed to START
- \_\_\_ Program attendance is maximized by replacing students dropped when necessary
- \_\_\_ Principal has approved the Site Director selection
- \_\_\_ Principal has chosen and supports an Academic Alignment Coach
- \_\_\_ Site Director has a designated workspace and mailbox
- \_\_\_ Phone line designated for START use has been installed
- \_\_\_ Classrooms have been identified for the START program
- \_\_\_ START calendar development has been approved by Principal and START
- \_\_\_ START has received the School calendar
- \_\_\_ Designated space for the storage and serving of daily snack has been identified
- \_\_\_ Operating agreement has been read and signed by Principal, Program Supervisor and Site Director and DISTRICT After School Coordinator.

Initials                                                  
                  P.            P.S.            S.D.    EGUSD

**Memorandum of Understanding**  
**City of Sacramento**  
**Schools Insurance Authority**  
**Hold Harmless and Indemnification Provisions**

**Introduction**

The City of Sacramento (hereinafter the City) is a public entity which enters into contractual agreements and Memorandums of Understanding (MOU) with California public school districts (hereinafter districts). Such agreements include but are not limited to agreements for processing parking tickets, providing programs such as arts programs and other educational or youth oriented programs including the 4R program, purchase of meals, joint use of facilities, City use of district facilities, district use of City facilities, and City provision of police services.

The Schools Insurance Authority (hereinafter SIA) is a joint powers authority which provides programs to cover its member school districts' general liability (including automobile liability), property and workers compensation exposures. SIA member districts (hereinafter SIA districts) in Sacramento County include Arcohe Union School District, Center Unified School District, Del Paso Heights School District, Elk Grove Unified School District, Elverta Joint School District, Folsom Cordova Unified School District, Galt Joint Union Elementary School District, Galt Joint Union High School District, Natomas Unified School District, North Sacramento School District, Rio Linda Union School District, River Delta Unified School District, Robla District, Sacramento City Unified School District, the Sacramento County Office of Education, and the San Juan Unified School District. Many SIA districts enter into contractual agreements and MOUs with the City. Such agreements include but are not limited to agreements for processing parking tickets, the City providing programs such as arts programs and other educational or youth oriented programs, the sale of meals to the City, joint use of facilities, City use of district facilities, district use of City facilities, and City provision of police services.

**Purpose**

There is a need to reduce litigation costs between the City and SIA districts when both are named as defendants, in tort lawsuits arising out of their contractual agreements, Memorandums of Understanding and other joint activities. When two or more public entities are named defendants, each determines their respective litigation position, which can result in claims and counter claims between them. These actions increase claim and legal costs, consume large amounts of staff time and may result in the plaintiff playing the parties against each other.

The parties to this agreement are resolved to utilize equitable hold harmless indemnification language in the contractual agreements and MOU between the city and SIA districts and to minimize disagreements arising out of said hold harmless and indemnification provisions.

In addition, the parties to this MOU are resolved to reduce litigation expenses through a coordinated program for handling tort claims and the subsequent lawsuits filed against the City and SIA districts which arise out of their contractual agreements, Memorandums of Understanding and other joint activities.

### **Agreement**

The City and SIA agree to use the hold harmless language outlined in the **Hold Harmless Agreement** section of this MOU in contractual agreements and MOUs between the City and SIA districts with the exception of the districts' use of Memorial Auditorium and the Sacramento Convention Center. For use of the Sacramento Convention Center, other hold harmless language may be used and the districts will be given the option of purchasing through the City, special events coverage covering the district's use of the Memorial Auditorium and Sacramento Convention Center. The cost of the special events coverage shall be added to the district's cost for using the Memorial Auditorium or Sacramento Convention Center. SIA shall recommend that SIA districts purchase the special events coverage.

When a third party claim is made against the City or an SIA district or an incident is disclosed that may lead to a claim, the initially involved entity determines if other entities may also be included in subsequent litigation. The knowledgeable entity then apprises the other entities and investigations are shared.

Using the results of the investigations, the City and SIA will discuss the potential liability of the parties pursuant to the applicable hold harmless and indemnification clauses before cross-actions are filed. All reasonable efforts will be made to reach consensus on each parties' respective responsibilities under the hold harmless and indemnification language of the agreement. Such efforts shall be made prior to the filing of any cross actions. If consensus is reached on the liability issues, a joint defense strategy and cost sharing arrangement may be agreed to.

Best efforts will be used in assessing liability apportionment between the parties, but it is understood that this MOU does not bind the parties without the consent of all the involved parties.

### **Hold Harmless Agreement**

#### **INDEMNIFICATION**

DISTRICT shall assume the defense of and indemnify and hold harmless CITY from and against all actions or claims against CITY, its officers, agents or employees from any and all loss, including attorneys' fees, sustained by CITY by virtue of any damages to any person(s), firm or corporation who may be injured by or to any property that may be damaged arising out of the performance of this agreement, except for actions or claims alleged to have occurred in full, or in part, as a result of active negligence by the CITY, its officers, agents or employees and except for actions or claims alleging dangerous

conditions of CITY property which arise out of the acts or failure to act by the CITY, its officers, agents or employees which are not created by a DISTRICT employee or District invitee.

CITY shall assume the defense of and indemnify and hold harmless DISTRICT from and against all actions or claims against DISTRICT, its officers, agents or employees from any and all loss, including attorneys' fees, sustained by DISTRICT by virtue of any damages to any person(s), firm or corporation who may be injured by or to any property that may be damaged arising out of the performance of this agreement, except for actions or claims alleged to have occurred in full, or in part, as a result of active negligence by the DISTRICT, its officers, agents or employees and except for actions or claims alleging dangerous condition of DISTRICT property which arise out of the acts or failure to act by the DISTRICT, its officers, agents or employees which are not created by a CITY employee or CITY invitee.

The indemnification provisions contained in this Agreement includes but is not limited to any violation of applicable law, ordinance, regulation or rule, including where the claim, loss, damage, charge or expense was caused by deliberate, willful, or criminal acts of either party to this Agreement, or any of their agents, officers or employees or their performance under the terms of this Agreement.

It is the intent of the Parties that where negligence or responsibility for injury or damages is determined to have been shared, principles of comparative negligence will be followed and each party shall bear the proportionate cost of any loss, damage, expense and liability attributable to that party's negligence.

Each party shall establish procedures to notify the other party, where appropriate, of any claims, administrative actions or legal actions with respect to any of the matters described in this indemnification section. The Parties shall cooperate in the defense of such actions brought by others with respect to the matters covered in this agreement. Nothing set forth in this Agreement shall establish a standard of care for or create any legal rights for any person not a party to this Agreement.

The indemnity provisions of this Agreement shall survive the expiration or earlier termination of this Agreement.

#### INSURANCE

City Insurance. CITY, at its sole cost and expense and for the full term of this Agreement shall obtain and maintain at least all of the following minimum insurance requirements. All or a portion of the required insurance may be satisfied through the use of a self-insurance program or pooled insurance, if any. The CITY must provide an affidavit of self-insurance, if any.

A. Comprehensive General Liability

A policy with a minimum limit of not less than \$2,000,000 combined single limit for bodily injury and property damage, providing at least all of the following minimum coverages:

- 1) Premises Operations
- 2) Blanket Contractual
- 3) Personal Injury

B. Workers' Compensation and Employers' Liability

A policy written in accordance with the laws of the State of California and providing coverage for any and all employees of the CITY.

- 1) This policy shall provide coverage for Workers' compensation (Coverage A) with statutory limits.
- 2) This policy shall also provide coverage of \$100,000 Employers' Liability (Coverage B).

C. Comprehensive Business Auto *(Only used when applicable to agreement)*

A policy with a minimum of not less than \$2,000,000 combined single limit for bodily injury and property damage. Coverage shall be applicable (without deductibles) to any and all leased, owned, hired, or non-owned vehicles used in pursuit of any of the activities associated with this agreement.

D. Special Provisions

The forgoing requirements as to the types and limits of insurance coverage to be maintained by CITY, and any approval of said insurance by the DISTRICT, or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by CITY pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

District Insurance. DISTRICT, at its sole cost and expense and for the full term of this Agreement shall obtain and maintain at least all of the following minimum insurance requirements. All or a portion of the required insurance may be satisfied through the use of a self-insurance program. The DISTRICT must provide an affidavit of self-insurance, or pooled insurance, if any.

A. Comprehensive General Liability

A policy with a minimum limit of not less than \$2,000,000 combined single limit for bodily injury and property damage, providing at least all of the following minimum coverages:

- 4) Premises Operations
- 5) Blanket Contractual
- 6) Personal Injury

B. Workers' Compensation and Employers' Liability

A policy written in accordance with the laws of the State of California and providing coverage for any and all employees of the CITY.

- 3) This policy shall provide coverage for Workers' compensation (Coverage A) with statutory limits.
- 4) This policy shall also provide coverage of \$100,000 Employers' Liability (Coverage B).

C. Comprehensive Business Auto *(Only used when applicable to agreement)*

A policy with a minimum of not less than \$2,000,000 combined single limit for bodily injury and property damage. Coverage shall be applicable (without deductibles) to any and all leased, owned, hired, or non-owned vehicles used in pursuit of any of the activities associated with this agreement.

D. Special Provisions

The forgoing requirements as to the types and limits of insurance coverage to be maintained by DISTRICT, and any approval of said insurance by the CITY, or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by DISTRICT pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

All insurance requirements shall be met by all parties prior to the commencement of any of the activities required of the parties under this Agreement.

Severability

Should any portion, term, condition, or provision of this MOU be determined by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or to be otherwise rendered unenforceable or ineffectual, the remaining portion, terms, conditions, and provisions shall not be affected thereby.

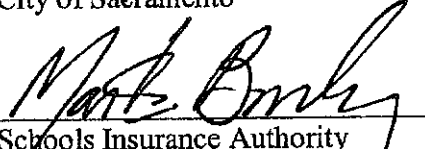
**Term**

The terms of this MOU shall commence upon signature by all parties authorized to enter into this MOU by approval of their respective governing body and shall automatically be renewed thereafter from fiscal year (July to June 30) to fiscal year unless any participating party gives written notice of termination. Any participating party may terminate this MOU in thirty (30) days upon written notification to terminate the agreement with or without cause.

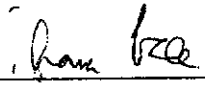
No waiver, alteration, modification, or termination of this MOU shall be valid unless made in writing and signed by the authorized Parties hereof. In the event of a conflict between this MOU and any other agreement or understanding executed by the Parties relating to the same subject matter, whether executed prior or subsequent to this MOU, the terms of this MOU shall prevail and be controlling unless such other agreement expressly provides that it supersedes this MOU.

**Amendments**

Amendments to this MOU may be made with the mutual written agreement from the participating parties. The MOU shall be periodically reviewed for consideration of appropriate amendments.

  
\_\_\_\_\_  
City of Sacramento3/22/07  
\_\_\_\_\_  
Date  
\_\_\_\_\_  
Schools Insurance Authority5/31/01  
\_\_\_\_\_  
Date

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City of Sacramento**ATTEST:**  
\_\_\_\_\_  
CITY CLERK