



Fountain Valley School District

BOARD OF TRUSTEES
REGULAR MEETING

AGENDA

Board Room
10055 Slater Avenue
Fountain Valley, CA

February 6, 2014

- CALL TO ORDER: 6:00PM
- ROLL CALL
- APPROVAL OF AGENDA

M ___
 2nd ___
 V ___

- PUBLIC COMMENTS

Speakers may address the Board of Trustees on Closed Session Items. Please comply with procedures listed on the goldenrod form "For Persons Wishing to Address the Board of Trustees" and give the form to the Executive Assistant.

- CLOSED SESSION

The Board of Trustees will retire into Closed Session to address the following:

- Personnel Matters: *Government Code 54957 and 54957.1*
Appointment/Assignment/Promotion of employees; employee discipline/dismissal/release; evaluation of employee performance; complaints/charges against an employee; other personnel matters.
- Negotiations: *Government Code 54957.6*
Update and review of negotiations with the FVEA and CSEA Bargaining Units with the Board's designated representative, Cathie Abdel.
- Public Employee Performance Evaluation: *Government Code Section 54957 & 54957.1*
The board will meet in closed session to discuss the annual performance evaluation of the superintendent.

- PLEDGE OF ALLEGIANCE

Our mission is to promote a foundation for academic excellence, mastery of basic skills, responsible citizenship, and a desire by students to achieve their highest potential through a partnership with home and community.

SPECIAL PRESENTATIONS**1. RECOGNITION OF MIDDLE SCHOOL STUDENTS**

It is an interest of the Board of Trustees to recognize students who display high achievement, improvement or extraordinary effort. The Board will recognize six outstanding students from each of our middle schools: Fulton Middle School, Masuda Middle School and Talbert Middle School.

2. RECOGNITION OF MIDDLE SCHOOL PARENT VOLUNTEERS

It is an interest of the Board of Trustees to recognize outstanding parent volunteers who give generously of their time and talents to our schools. From Fulton Middle School, the Board shall recognize and thank Christine Allcorn and Julia Wong. From Masuda Middle School, the Board shall recognize and thank Diane Luna and Stephanie Vogen. And from Talbert Middle School the Board shall recognize and thank Paige Baumgartner and Caryn Burris.

3. APPRECIATION FOR SCHOOL COUNSELORS JANET DO AND NICOLE AGNES

The Board of Trustees would like to join our community in saluting our counselors, Janet Do and Nicole Agnes, during National School Counseling Week, February 3-7, 2014, and avows its appreciation for their ongoing commitment to the emotional health and wellbeing of our children.

STAFF REPORTS AND PRESENTATIONS**4. TRANSITION TO THE COMMON CORE STATE STANDARDS, MIDDLE SCHOOL MATHEMATICS (WRITTEN ONLY)**

Assistant Superintendent, Instruction, Anne Silavs will present a review for the Board of Trustees of the transition to the Common Core State Standards for middle school mathematics in the Fountain Valley School District.

5. LOCAL CONTROL ACCOUNTABILITY PLAN UPDATE (WRITTEN ONLY)

Assistant Superintendent, Instruction, Anne Silavs will present an update for the Board of Trustees on the development of the Local Control Accountability Plan for the Fountain Valley School District.

6. TECHNOLOGY UPDATE (WRITTEN AND ORAL)

Director, Assessment and Accountability, Dr. Julianne Hoefler will review the current District Technology Plan and technology needs within the Fountain Valley School District for the Board of Trustees.

7. CURRENT TRENDS FOR FUNDING TECHNOLOGY IN CALIFORNIA (WRITTEN AND ORAL)

Superintendent Dr. Marc Ecker will introduce Tim Carty, Piper Jaffray to review current trends for funding technology in California for the Board of Trustees.

BOARD REPORTS AND COMMUNICATIONS

Board Members will make the following reports and communicate information to fellow Board Members and staff.

PUBLIC COMMENTS

Members of the community and staff are welcome to address the Board of Trustees on any item listed on the Agenda of Business or any other item of specific concern. Speakers are requested to limit their presentation to four minutes unless the time is waived by a majority of the Board Members present. If a member of the audience requests a response to their comments, the Board of Trustees may ask the Superintendent/Staff to respond to them personally or in writing after the meeting, or direct that additional information be provided to the Board on a future agenda.

*** BOARD MEMBERS WHO WISH TO DISCUSS WITH STAFF ANY ITEMS LISTED UNDER LEGISLATIVE SESSION SHOULD INFORM THE BOARD PRESIDENT AT THIS TIME.

LEGISLATIVE SESSION

8. RESOLUTION 2014-07: WEEK OF THE SCHOOL ADMINISTRATOR

M ___
2nd ___
V ___

The Board of Trustees recognizes that Leadership Matters for California’s public education system and that our school administrators are passionate, lifelong learners who believe in the value of quality education, who continue to prove that great schools are led by great principals and great districts by great superintendents.

Superintendent's Recommendation: It is recommended that the Board of Trustees adopts Resolution 2014-07: Week of the School Administrator, commending our school leaders in honor of Week of the School Administrator, March 2-8, 2014.

9. PROPOSAL TO PURCHASE TEACHER TECHNOLOGY

M ___
2nd ___
V ___

Following the January 9, 2014 report by Director Fiscal Services, Scott Martin regarding the one-time staff expense savings of \$192,681 realized by the District in 2013-14, the Board of Trustees directed staff to prepare the attached proposal regarding use of these savings to support the technology needs of our teachers.

Superintendent's Recommendation: It is recommended that the Board of Trustees approves the proposal to replace current teacher devices at six schools with MacBook Air laptops; provide networkable printers at a ratio of approximately four teachers to one printer; and purchase one additional black ink cartridge with each printer as detailed in the attached.

10. CONSENT CALENDAR/ROUTINE ITEMS OF BUSINESS

M _____
2nd _____
V _____

All items listed under the Consent Calendar and Routine Items of Business are considered by the Board of Trustees to be routine and will be enacted by the Board in one action. There will be no discussion of these items prior to the time the Board votes on the motion unless members of the Board, staff, or public request specific items to be discussed and/or removed from the Consent Calendar.

Superintendent's Recommendation: The Board of Trustees approves all items listed under the Consent Calendar and Routine Items of Business in one action.

Routine Items of Business

- 8-A. Board Meeting Minutes from January 9th regular meeting
- 8-B. Personnel Items (Employment Functions, Workshops/Conferences, and Consultants)
- 8-C. Donations
- 8-D. Warrants
- 8-E. Purchase Order Listing
- 8-F. Budget Adjustments and Transfers

Consent Items

8-G. RESOLUTION 2014-20: AUTHORIZATION OF SIGNATURES ON REPLACEMENT WARRANTS

Superintendent's Comments: It is recommended that the Board of Trustees adopts Resolution 2014-20: Authorization of Signatures on Replacement Warrants.

8-H. RESOLUTION 2014-21: APPOINTMENT OF CUSTODIAN OF THE REVOLVING CASH FUND

Superintendent's Comments: It is recommended that the Board of Trustees adopts Resolution 2014-21 naming Christine Fullerton, Assistant Superintendent, Business Services, custodian of the Revolving Cash Fund.

8-I. RESOLUTION 2014-22: AUTHORIZATION OF APPROVAL OF VENDOR CLAIMS/ORDERS

Superintendent's Comments: It is recommended that the Board of Trustees adopts Resolution 2014-22: Authorization of Approval of Vendor Claims/Orders.

8-J. RESOLUTION 2014-23: AUTHORIZATION OF SIGNATURES

Superintendent's Comments: It is recommended that the Board of Trustees adopts Resolution 2014-23: Authorization of Signatures.

8-K. RESOLUTION 2014-24: AUTHORIZATION OF SIGNATURES ON ELECTRONICALLY PRINTED CHECKS

Superintendent's Comments: It is recommended that the Board of Trustees adopts Resolution 2014-24: Authorization of Signatures on Electronically Printed Checks, appointing Christine Fullerton as the authorized signer.

8-L. AUTHORIZATION OF SIGNATURES/FACSIMILE SIGNATURES (BANK OF AMERICA)

Superintendent's Comments: It is recommended that the Board of Trustees approves authorization of Marc Ecker, Christine Fullerton and Scott Martin's signatures.

8-M. RESOLUTION 2014-06: RESOLUTION OF APPRECIATION TO COUNSELORS NICOLE AGNES AND JANET DO

Superintendent's Comments: It is recommended that the Board of Trustees adopts Resolution 2014-06: Resolution of Appreciation to Counselors Nicole Agnes and Janet Do in Recognition of National School Counseling Week: Feb 3-7, 2014.

8-N. MEMORANDUM OF UNDERSTANDING BETWEEN FVSD AND FVEA REGARDING K-3 CLASS SIZE FOR 2013-2014 SCHOOL YEAR

Superintendent's Comments: It is recommended that the Board of Trustees approves the Memorandum of Understanding between the Fountain Valley School District and the Fountain Valley Education Association regarding K-3 Class Size for 2013-2014 school year only.

8-O. NOTICE OF LAYOFF (REDUCTION IN HOURS) FOR CLASSIFIED POSITION

Superintendent's Comments: It is recommended that the Board of Trustees reduces the services of the position so designated on the effective date as listed in the attached.

8-P. CONSOLIDATED APPLICATION FOR FUNDING CATEGORICAL AID PROGRAMS – WINTER 2013 DATA COLLECTIONS

Superintendent's Comments: It is recommended that the Board of Trustees approves transmittal of the Consolidated Application Winter 2013 Data Collection to the California State Department of Education.

8-Q. RESOLUTION 2014-25: STATE PRESCHOOL PROGRAM

Superintendent’s Comments: It is recommended that the Board of Trustees adopts Resolution 2014-25 for the State Preschool Program Contract Amendment 01 for the school year 2013-2014.

8-R. OCDE INCOME AGREEMENT – COMMON CORE STATE STANDARDS (CCSS)

Superintendent’s Comments: It is recommended that the Board of Trustees approves the Income Agreement with Orange County Department of Education (OCDE) beginning December 9, 2013 through April 30, 2014 and authorizes the Superintendent or designee to sign all documents.

8-S. PACIFIC COAST SPEECH SERVICES, INC.

Superintendent’s Comments: It is recommended that the Board of Trustees approves the Service Agreement for Pacific Coast Speech Services, Inc. beginning January 15, 2014 through June 17, 2014 and authorizes the Superintendent or designee to sign all documents.

8-T. APPROVAL OF WSCA CONTRACT B27164

Superintendent’s Comments: It is recommended that the Board of Trustees awards the contract for Chromebook purchases to Hewlett Packard under the terms set forth in the California Participating Addendum to WSCA contract number B27164 and authorizes the Superintendent or his designee to sign all documents.

8-U. RECREATION FACILITY USE AGREEMENT FOR JOINT USE OF SCHOOL FACILITIES WITH CITY OF HUNTINGTON BEACH

Superintendent’s Comments: It is recommended that the Board of Trustees approves the attached agreement with the City of Huntington Beach for joint use of school recreation facilities, revised to reflect removal of the section Composition of the Commission.

8-V. NON-PUBLIC AGENCY CONTRACTS (BOARD MEMBERS ONLY)

Superintendent’s Comments: Under current consortium budget agreements, any unfunded cost of non-public school or non-public agency placement is a cost to the general fund of the resident district. It is recommended that the following non-public school/agency contracts be approved and that the West Orange County Consortium for Special Education be authorized to receive invoices and process payment.

Non-Public School/Agency	100% Contract Cost	Effective Dates
Cornerstone Therapies	\$960.00	1/21/2014 to 6/30/2014

SUPERINTENDENT'S COMMENTS/NEW ITEMS OF BUSINESS

The Board President will receive any announcements concerning new items of business from board members or the superintendent.

- CLOSED SESSION
- APPROVAL TO ADJOURN

The next regular meeting of the Fountain Valley School District Board of Trustees is on Thursday, March 13, 2014 at 7:00pm.

A copy of the Board Meeting agenda is posted on the District's web site (www.fvsd.k12.ca.us). Materials related to this agenda submitted to the Board of Trustees less than 72 hours prior to the meeting are available for public inspection by contacting the Superintendent's Office at 10055 Slater Avenue, Fountain Valley, CA 92708 or call 714.843.3255 during normal business hours.

Board meeting proceedings are tape recorded.

Reasonable Accommodation for any Individual with a Disability: Any individual with a disability who requires reasonable accommodation to participate in a board meeting may request assistance by contacting the Superintendent's office: 10055 Slater Avenue, Fountain Valley, CA 92708 or call (714) 843-3255 or FAX (714) 841-0356.

FOUNTAIN VALLEY SCHOOL DISTRICT
Curriculum/Instruction

MEMORANDUM

TO: Marc Ecker, Ph.D., Superintendent

FROM: Anne Silavs., Assistant Superintendent, Instruction

SUBJECT: *STUDENT RECOGNITION PROGRAM*

DATE: **January 24, 2014**

BACKGROUND INFORMATION

One of the interests of the Board of Trustees is to broaden their recognition program to include students demonstrating improvement in a variety of areas and levels. Each elementary school will recognize one student per grade level and each middle school two students per grade level. Students will be selected by their principal and teachers based on the following criteria:

- extraordinary effort
- achievement
- improvement

At the Board Meeting on February 6, 2014, the following six students from **Fulton, Masuda and Talbert Middle Schools** will be recognized.

	<u>Fulton Middle School</u>	<u>Masuda Middle School</u>	<u>Talbert Middle School</u>
6 th grade	Taylor Tran	Safa Yosafi	Abby McCollam
6 th grade	Alexander Wittick	Darren Truong	Danijela Privett
7 th grade	Cory Taylor	Bethany Pham	Abbie Barnes
7 th grade	Taylor Thomas	Jerome Dovan	Damon Harvey
8 th grade	Kent Bewley	Vivian Bui	Michael Piepmeyer
8 th grade	Taylor Nguyen	Gavin Longworth	Kelsie Chase

kn

c: Jennifer Perkins
Jay Adams
Cara Robinson

SO 13-14/B14-31
Fountain Valley School District
Superintendent's Office

MEMORANDUM

TO: Board of Trustees
FROM: Marc Ecker, Superintendent
SUBJECT: **Special Presentation: Middle School Parent Volunteers**
DATE: January 30, 2014

Background:

It is an interest of the Board of Trustees to acknowledge parent volunteers from all our school sites. At this board meeting, two volunteers from each of our middle schools will be recognized.

Volunteers are selected by the principal and/or Parent Teacher organization at the school and are honored for their diligent and loyal commitment to students and staff. Any of the following criteria may be considered when a school selects its volunteers for recognition by the Board of Trustees:

- The person selected has shown a consistent commitment to the school.
- The person selected is dependable.
- The person selected has performed acts of service which genuinely aid school staff such as serving as room parent, performing bookkeeping or tallying for fund raising activities, serving as a volunteer for music, art or theater presentations, assisting in a classroom, the library or student store, or serving as a chaperone for school activities.
- The person selected can be counted on to see a project through to its conclusion.
- The person selected has regularly performed a service that provides special mentoring, support or motivation to one or more students.

I am proud to name our middle school outstanding and deserving volunteers:

Fulton Middle School: ♥ Christine Allcorn ♥ Julia Wong
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Masuda Middle School: ♥ Diane Luna ♥ Stephanie Vogen
--

Talbert Middle School: ♥ Paige Baumgartner ♥ Caryn Burris

SO 13-14/B14-32
Fountain Valley School District
Superintendent's Office

M E M O R A N D U M

TO: Board of Trustees
FROM: Marc Ecker, Superintendent
SUBJECT: **School Counselor Recognition: National School Counseling Week**
DATE: January 30, 2014

Background:

National School Counseling Week, February 3-7, 2014, provides us the opportunity to celebrate our school counselors and all that they do for the students of the Fountain Valley School District. Our school counselors, Nicole Agnes and Janet Do have earned the admiration of our teachers, administrators, students, parents and the Board of Trustees; and have proven themselves to be advocates for all children through their dedication to the students of our district.

The Board of Trustees would like to join our community in saluting our counselors for their compassion and skill and avows its appreciation for their ongoing commitment to the emotional health and wellbeing of our children.

Thank you, Nicole Agnes and Janet Do for your dedication to our district.



FOUNTAIN VALLEY SCHOOL DISTRICT
Curriculum/Instruction

MEMORANDUM

TO: Marc Ecker, Superintendent
FROM: Anne Silavs, Assistant Superintendent, Instruction
SUBJECT: *TRANSITION TO THE COMMON CORE STATE STANDARDS,
MIDDLE SCHOOL MATHEMATICS – WRITTEN REPORT*
DATE: January 29, 2014

BACKGROUND

In 2009, the Council of Chief State School Officers (CCSSO) and the National Governors Association, Center for Best Practices (NGA) committed to developing a set of standards that would help prepare students for success in career and college.

The Common Core State Standards are founded upon the best state standards; the experiences of teachers, content experts, and leading thinkers; and feedback from the general public. In addition, the standards are internationally benchmarked to the top performing nations to ensure that our students are globally competitive. Parents, educators, content experts, researchers, national organizations, and community groups from forty-eight states, two territories, and the District of Columbia all participated in the development of the standards. The Common Core State Standards are rigorous, research-based, and relevant to the real world. On August 2, 2010, the California State Board of Education (SBE) voted unanimously to adopt the Common Core State Standards for both English/language arts and mathematics.

California's adoption of the Common Core State Standards demonstrates its commitment to providing a world-class education to all of its students and renews its vision *that all students graduating from our public school system be life-long learners and have the skills and knowledge necessary to be ready to assume their position in the 21st century global economy.*

Although California's 1997 academic content standards and the Common Core State Standards share many similarities in content and design, there are a number of notable differences between the two sets of standards, one in particular relates to the options for mathematics at the middle school level.

CURRENT CONSIDERATIONS

It is important to keep in mind that the Common Core State Standards for Mathematics are considered to be more rigorous than California's previous math standards. The Common Core State Standards for mathematics represents a tight progression of skills and knowledge that is inherently rigorous and designed to provide a strong foundation for success in the new, more advanced Algebra 1 and Mathematics 1 courses that will typically be taken by most students in ninth grade. Rather than skipping or rushing

through content, students should be provided with the appropriate progression of foundational content to maximize their likelihood of success in high school and college-level mathematics courses. Under Common Core, most students will take grade eight math, which includes study in the domains of number sense, expressions and equations, functions, geometry, and statistics and probability.

Appendix A of the SBE-adopted *Mathematics Framework* (2013) acknowledges that the transition from existing course sequences to the new course sequences delineated in the Common Core State Standards will inevitably provide challenges at both the district and school site levels. Furthermore, the names of mathematics courses are likely to cause confusion, for both educators and parents alike. Prior to Common Core, “Algebra 1” was a course that had been taught in eighth grade to an increasing number of students. That same course name will become the default in ninth grade with Common Core. Most eighth grade students will now complete grade eight mathematics, a course which is considered to be more rigorous and more demanding than the earlier versions of “Algebra 1.” The grade eight math standards address the foundations of algebra by including content that was previously part of the Algebra 1 course, such as more in-depth study of linear relationships and equations, a more formal treatment of functions, and the exploration of irrational numbers. For example, by the end of the eighth grade, students will have applied graphical and algebraic methods to analyze and solve systems of linear equations in two variables. The grade eight math standards also include geometry standards that relate graphing to algebra in a way that was not previously explored. Additionally, the statistics presented in the grade eight math standards are more sophisticated than those previously included in middle school and connect linear relations with the representation of bivariate data. As a result of the increased rigor in grade eight mathematics, recalibration of course sequencing will be necessary to ensure students are able to master the additional content. Students are likely to find the new math standards significantly more difficult.

The framework advises that care should be taken to ensure students fully master and deeply understand all important topics in the mathematics curriculum and that the continuity of the mathematics learning progression is not disrupted. Furthermore, the Standards for Mathematical Practice, which rest upon important processes and proficiencies with longstanding importance in mathematics education, add a new, complex layer to math instruction with the adoption of Common Core.

When appropriate, the Common Core State Standards does provide an option for an accelerated pathway which enables advanced level math students to complete Algebra 1 in eighth grade. Appendix A recommends compacting grade seven, grade eight, and Algebra 1 math standards into a two-year program. The framework indicates that this decision point should come after the completion of sixth grade based upon research conducted by The Center for the Future of Teaching and Learning at WestEd. Students on an accelerated math pathway would receive instruction in all grade seven and half of the grade eight math standards during their seventh grade year. In eighth grade, students on the accelerated pathway would receive instruction in the remaining half of grade eight and all of the Algebra 1 standards. This sequence would ensure preservation of the

learning progression and ensure against gaps that would result from skipping curriculum. While Geometry would no longer be a middle school course option, students on the accelerated pathway would still have the opportunity to enroll in Advanced Placement math courses in twelfth grade. For students who are not on an accelerated pathway and who do not take Algebra 1 in eighth grade, the framework recommends doubling up on math courses in high school. This could also be an option for students on an accelerated pathway who desire additional opportunities to take Advanced Placement math courses in high school.

CURRENT CONSIDERATIONS

In Fountain Valley School District, we began preparing our community for this transition last fall. At Back to School Night, a letter was disseminated to the parents of seventh grade students enrolled in Algebra 1 that explained some of the challenges associated with transition to the new Common Core math standards. The letter also communicated our goal to provide a full course of Algebra 1 as well as instruction in any Common Core math standards that might have been otherwise missed in sixth, seventh, or eighth grade. We feel this two-year transition plan will effectively prepare students for Geometry in ninth grade as well as for the new Smarter Balanced assessments, which are aligned to the Common Core State Standards and will go into effect beginning in the 2014-2015 school year.

CONCLUSIONS

By working together, our middle school principals and teachers are prepared to address the challenges that come with transition to the Common Core State Standards. With support from the Board of Trustees and District staff, they are committed to educating parents and successfully preparing their students for college and career readiness.



FOUNTAIN VALLEY SCHOOL DISTRICT
Curriculum/Instruction

MEMORANDUM

TO: Marc Ecker, Superintendent
FROM: Anne Silavs, Assistant Superintendent, Instruction
SUBJECT: *LOCAL CONTROL ACCOUNTABILITY PLAN UPDATE – WRITTEN REPORT*
DATE: January 30, 2014

BACKGROUND

As part of the new Local Control Funding Formula (LCFF), districts are required to work with stakeholders to develop a Local Control Accountability Plan (LCAP). Along with the 2014-2015 budget, the LCAP must be approved by the Board of Trustees by June 30, 2014.

CURRENT CONSIDERATIONS

A process is underway for developing the LCAP for Fountain Valley School District. In November, the Board of Trustees was provided with a timeline of events that would ensure the completion of the LCAP by the statutory deadline. Below is a brief summary of the status of these efforts to date.

December 17, 2013 – Cabinet members met to plan for the organization of a LCAP Leadership Work Team that would be responsible for the development of the District plan.

January 13, 2014 – The LCAP Leadership Work Team was convened for its first meeting. The team, which is comprised of District and site administrators, certificated and classified bargaining unit representatives, and parents, was provided with an overview of the LCFF and requirements associated with the LCAP. Five additional dates were scheduled in February and March to develop and revise the LCAP based upon stakeholder input.

January 23, 2014 – In preparation for aligning the individual school plans with the new LCAP, middle school principals were provided with a presentation to share with their School Site Councils (SSC). A template and several sets of school and District data was also provided to help the SSCs determine school strengths and identify school needs relative to the eight state priority areas. These needs will inform development of District goals for the LCAP.

January 30, 2014 – The above information was also provided in a meeting with elementary principals.

February 3 and 4, 2014 – The LCAP Leadership Work Team will meet to identify District strengths and needs relative to the eight state priority areas and begin developing

goals to effectively address these needs. A third meeting is tentatively scheduled for February 13 if additional time is necessary to complete this work.

February through March 2014 – The District Advisory Committee (DAC), the District English Learner Advisory Committee (DLAC), the Community Advisory Committee, the Common Core Steering Committee, and a committee comprised of community leaders will be convened to provide input and feedback on the draft goals developed by the LCAP Leadership Work Team.

March through April 2014 – The LCAP Leadership Work Team will revise the District plan based upon feedback from the aforementioned stakeholder groups.

April through May 2014 – The LCAP will be presented for final review to identified stakeholder groups. The Superintendent will respond in writing to comments received by the DAC and DELAC as required by statute. The LCAP will also be posted on the District website for additional community feedback. A public hearing on the District's plan will be held during the May 15 meeting of the Board of Trustees.

June 2014 – The LCAP and the 2014-2015 budget will be presented to the Board of Trustees for approval. Within five days of its adoption, the District will file the LCAP with the Orange County Department of Education in accordance with California Education Code.

CONCLUSIONS:

With some slight adjustments to the schedule of January activities, the District's LCAP development efforts to date are aligned with the tentative timeline provided to the Board of Trustees in November. Fountain Valley School District is on schedule for the completion and adoption of the LCAP by the June 30, 2014 deadline.

Board Meeting of February 6, 2014

SO 2013-14/B14-33
Fountain Valley School District
Superintendent's Office

M E M O R A N D U M

TO: Board of Trustees
FROM: Marc Ecker, Superintendent
SUBJECT: Technology Update (Written and Oral)
DATE: January 30, 2014

Director, Assessment and Accountability, Dr. Julianne Hoefer will review the current District Technology Plan and technology needs within the Fountain Valley School District for the Board of Trustees.

Board Meeting of February 6, 2014

SO 2013-14/B14-34
Fountain Valley School District
Superintendent's Office

M E M O R A N D U M

TO: Board of Trustees
FROM: Marc Ecker, Superintendent
SUBJECT: **Current Trends for Funding Technology in California (Written and Oral)**
DATE: January 31, 2014

Superintendent Dr. Marc Ecker will introduce Tim Carty, Piper Jaffray to review current trends for funding technology in California for the Board of Trustees.



Fountain Valley School District
 Superintendent's Office

RESOLUTION 2014-07
Resolution in Honor of Week of the School Administrator

WHEREAS, Leadership Matters for California's public education system and the more than 6 million students it serves;

WHEREAS, School administrators are passionate, lifelong learners who believe in the value of quality public education, and

WHEREAS, The title *school administrator* is a broad term used to define many education leadership posts. Superintendents, assistant superintendents, principals, assistant principals, special education and adult education leaders, curriculum and assessment leaders, school business officials, classified educational leaders, and other school district employees are considered administrators; and

WHEREAS, Providing quality service for student success is paramount for the profession; and

WHEREAS, Most school administrators began their careers as teachers. The average administrator has served in public education for more than a decade. Most of California's superintendents have served in education for more than 20 years. Such experience is beneficial in their work to effectively and efficiently lead public education and improve student achievement; and

WHEREAS, Public schools operate with lean management systems. Across the nation, public schools employ fewer managers and supervisors than most public and private sector industries including transportation, food service, manufacturing, utilities, construction, publishing and public administration; and

WHEREAS, School leaders depend on a network of support from school communities – fellow administrators, teachers, parents, students, businesses, community members, board trustees, colleges and universities, community and faith-based organizations, elected officials and district and county staff and resources – to promote ongoing student achievement and school success; and

WHEREAS, Research shows great schools are led by great principals, and great districts are led by great superintendents. These site leaders are supported by extensive administrative networks throughout the state; and

WHEREAS, The State of California has declared the first full week of March as the “Week of the School Administrator” in Education Code 44015.1; and

WHEREAS, The future of California's public education system depends upon the quality of its leadership; now therefore

BE IT RESOLVED, By the Association of California School Administrators that all school leaders be commended for the contributions they make to successful student achievement.

PASSED AND ADOPTED By the Governing Board on February 6, 2014 by the following vote:

Ayes: _____
 Nays: _____
 Abstentions: _____

STATE OF CALIFORNIA)
) ss
COUNTY OF ORANGE)

I, Ian Collins, Clerk of the Governing Board, do hereby certify that the foregoing is a full, true and correct copy of a resolution passed and adopted by the Board at a regularly called and conducted meeting held on said date.

WITNESSED my hand this 6th day of February, 2014.

Clerk of the Governing Board



FOUNTAIN VALLEY SCHOOL DISTRICT

10055 Slater Avenue • Fountain Valley, CA 92708 • (714)843-3200 • www.fvsd.k12.ca.us

Board Meeting of
February 6, 2014

Memorandum

TO: Anne Silavs, Assistant Superintendent Instruction

FROM: Julianne Hoefler, Director, Assessment and Accountability

DATE: January 28, 2014

SUBJECT: **Proposal to Purchase Teacher Technology**

Background

At the Fountain Valley School District Board of Trustees meeting on January 9, 2014, Scott Martin, Director Fiscal Services, provided a written and oral report regarding the staff expense savings of \$192,681 realized by the District from two key administrative positions during the 2013/14 school year. At the conclusion of the presentation, staff was directed to create a proposal to utilize the savings to support the technology needs of teachers.

In order to solicit the input of teachers, a survey was administered between January 15 and January 28. There were 212 respondents representing every school site and grade level. The majority of participants preferred a Mac platform (84%) over PC (16%) and laptop (71%) over a desktop (29%).

Recommendation:

Based on the results from the survey and input from IT staff, the recommendation is to replace the current teacher devices at six schools with MacBook Air laptops. The existing devices the six schools would be removed and used to enhance the devices at the remaining four schools. Additionally, the Office Suite would be upgraded on the existing devices at the four schools.

Based upon survey comments and input from site administrators and IT staff, it is recommended that networkable printers also be provided at a ratio of approximately four teachers to one printer. These printers are shipped with starter print cartridges that only print about 50 pages. Therefore the recommendation includes the purchase of one additional black ink cartridge with each printer.

Device	Cost per Unit	Number of Units Needed	Total Cost
MacBook Air	\$1,233.12	133	\$164,004.96
Hewlett Packard Laser Jet P1606dn	\$148.79	64	\$9,522.56
Black Ink Cartridge CE278A	\$70.22	64	\$4,494.18
Total			\$178,021.60

The Assistant Superintendent endorses the proposal and recommends that it be approved by the Board of Trustees.

Fountain Valley School District
Superintendent's Office

REGULAR MEETING OF THE BOARD OF TRUSTEES

10055 Slater Avenue
Fountain Valley, CA 92708

January 9, 2014

MINUTES

President Edwards called the regular meeting of the Board of Trustees to order at 5:30pm.

CALL TO ORDER

The following board members were present:

ROLL CALL

Judith Edwards	President
Jimmy Templin	President Pro Tem
Ian Collins	Clerk
Jeanne Galindo	Member
Sandra Crandall	Member

Motion: Mr. Collins moved to approve the meeting agenda.

AGENDA APPROVAL

Second: Mr. Templin

Vote: 5-0

There were no requests to address the Board prior to closed session.

PUBLIC COMMENTS

Mrs. Edwards announced that the Board would retire into Closed Session. Action was not anticipated. The following would be addressed:

CLOSED SESSION

- Personnel Matters: *Government Code 54957 and 54957.1*
Appointment/Assignment/Promotion of employees; employee discipline/dismissal/release; evaluation of employee performance; complaints/charges against an employee; other personnel matters.
- Negotiations: *Government Code 54957.6*
Update and review of negotiations with the FVEA and CSEA Bargaining Units with the Board's designated representative, Cathie Abdel.

- Conference with Legal Counsel: Anticipated Litigation: *Government Code Section 54956.9* Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: 1 case. Attorney Margaret Chidester will join Assistant Superintendent, Personnel, Cathie Abdel in updating the Board of Trustees.

The public portion of the meeting resumed at 7:05pm.

PLEDGE OF ALLEGIANCE

Mrs. Crandall led the Pledge of Allegiance.

SPECIAL PRESENTATIONS

It is an interest of the Board of Trustees to recognize students who display high achievement, improvement or extraordinary effort. The Board recognized six outstanding students from Gisler School. Principal Erin Bains was joined by family and staff members in celebrating Hope Duzey (K), Mia Bivens (1st), Tatum Kap (2nd), Hunter Bartley (3rd), Sydney Zimolzak (4th), and Jacob Matsumoto (5th).

RECOGNITION OF STUDENTS FROM GISLER SCHOOL

It is an interest of the Board of Trustees to recognize students who display high achievement, improvement or extraordinary effort. The Board recognized six outstanding students from Plavan School. Principal Julie Ballesteros was joined by family and staff in honoring Athena Phan (K), Sophia Wells (1st), Kim Nguyen (2nd), Brian Trujillo (3rd), Elysse Lai (4th), and Connor Dang Vu (5th).

RECOGNITION OF STUDENTS FROM PLAVAN SCHOOL

It is an interest of the Board of Trustees to recognize outstanding parent volunteers who give generously of their time and talents to our schools. From Gisler School, the Board recognized and thanked Christie Collins and Toni Simurda. Ms. Bains was joined by staff and members of the PTO in thanking Ms. Collins and Ms. Simurda for all that they do for Gisler School.

RECOGNITION OF PARENT VOLUNTEERS FROM GISLER SCHOOL

It is an interest of the Board of Trustees to recognize outstanding parent volunteers who give generously of their time and talents to our schools. From Plavan School, the Board recognized and thanked Debby Falcon and Theresa Payne. Mrs. Ballesteros was joined by staff and members of the PTO in thanking Ms. Falcon and Ms. Payne for all that they do for Plavan School.

RECOGNITION OF PARENT VOLUNTEERS FROM PLAVAN SCHOOL

STAFF REPORTS AND PRESENTATIONS

Director, Fiscal Services, Scott Martin presented and reviewed with the Board of Trustees the salary savings realized by the District from two key administrator positions during the 2013-14 school year. He noted 2013-14 salary savings from the superintendent's position of \$132,887 and Assistant Superintendent, Business Services' position of \$59,764, totaling \$192,681. Ideas were discussed amongst the board for the use of this money including updating teacher computers and staff development. Mrs. Edwards explained that the plan for teacher computer replacement would be for full schools at a time, allowing us to replace almost half with these funds. Dr. Hoefer shared that MacBook Airs, the recommended replacement product, would cost approximately \$164,000 for six schools (133 units), noting that the schools have been prioritized based on current access to technology. She explained that 95% of our teacher computers are over at least 4 years old, most over 6 years old. Regarding the remaining funds, she noted that there is also a need for printers at our sites. Currently sites use PT funds and other means for printing needs but networkable printers in the cores would allow teachers to share more efficiently. She also noted appleTVs as another option more likely to improve the instructional capabilities of our current technology. There was agreement reached based on the recommendations and direction given to staff for an action item next month.

**STAFF REPORT AND
SALARY EXPENSE
SAVINGS (WRITTEN
AND ORAL)**

BOARD REPORTS AND COMMUNICATIONS

Mr. Collins wished everyone a happy New Year. He attended Mr. McMahon's retirement, welcomed Christine Fullerton to the meeting this evening, attended the holiday breakfast at the District Office and reminded the audience of the upcoming Taste of Fountain Valley on February 8th and the importance of joining the Foundation.

**BOARD REPORTS AND
COMMUNICATIONS**

Mrs. Galindo attended the FVEF meeting where the upcoming Taste was discussed and reminded the audience to purchase their tickets. She also listened to two of the general session webcasts from the CSBA Annual Conference.

Mr. Templin noted that in the last four weeks he has received more questions about our district, leading him to think that they are thinking about our district more, inspired by our Facebook page and the community presentations. He noted that this is a good thing and it is great to see us raising our profile.

Mrs. Crandall congratulated everyone for attending the Marilyn

Friend, Vicki Gibson, and Jennifer Burrell trainings, all occurring this week and all valuable trainings. She attended Gisler’s Special Persons’ Day, Talbert’s string holiday concert, retirement celebrations for Mr. McMahon and Mr. Pitoniak, the district holiday breakfast, the Fountain Valley Historical Society’s Christmas in the Gazebo, and listened to the three CSBA Annual Conference general session webinars. She also accepted an invitation to participate in a video interview regarding how the Assistance League supports our teachers, students and our community in general.

Mrs. Edwards enjoyed Grandparents Day at Masuda, Talbert’s holiday concert, Mr. McMahon’s retirement celebration, the district holiday breakfast, the cabinet meeting for tonight’s agenda, and the OCSBA planning meeting for remainder of 2014. She noted a reminder of the Fiscal Update on January 22nd at the County offices.

PUBLIC COMMENTS

There were two requests to address the Board. The Fountain Valley Educational Foundation president addressed the Board regarding the Foundation and Clifford Moss’ work with the organization. The FVEA president also addressed the Board regarding technology.

PUBLIC COMMENTS

LEGISLATIVE SESSION

Motion: Mr. Collins moved to approve the Consent Calendar.

Second: Mrs. Crandall

Vote: 5-0

**CONSENT
CALENDAR/
ROUTINE ITEMS OF
BUSINESS**

The Consent Calendar included:

- Board Meeting Minutes from the December 12th annual organizational meeting
- Personnel Items (Employment Functions, Workshops/Conferences, and Consultants)
- Donations
- Warrants
- Purchase Order Listing
- Budget Adjustments
- Adoption of Resolution 2014-19: Reduced Days of Operation or Attendance Due to Emergency Conditions

(State Preschool Program)

- Approval of Williams Quarterly Report for Second Quarter 2013-14
- Non-Public Agency Contracts

Non-Public School/Agency	100% Contract Cost	Effective Dates
Cornerstone Therapies	960.00	12/11/2013 to 6/30/2014
Cornerstone Therapies	3,200.00	11/22/2013 to 6/30/2014

SUPERINTENDENT’S COMMENTS/NEW ITEMS OF BUSINESS

Dr. Ecker Welcomed Christine Fullerton to the meeting this evening, noting that we are looking forward to her starting on Monday.

Dr. Ecker Noted the recent community presentations including last night’s meeting where most of the room was filled, including attendance by Fountain Valley Chief of Police Dan Llorens. He noted the importance of needing our community’s assistance including joining the Foundation, attending the Taste, volunteering and participating on committees. He noted as well today’s presentation to the Kiwanis Club which also went well.

Dr. Ecker Noted as well the recent *HB Independent* article celebrating our three Distinguished School nominees.

Dr. Ecker Noted his current 59 Twitter followers (a vast improvement from his original three) noting that his posts celebrating the wonderful events of our district are increasing.

Dr. Ecker Thanked FVEF President Nicola Weiss for her work in this transitional year for the Foundation.

Dr. Ecker Thanked our Maintenance and Grounds staff for their work just prior to the winter break at Oka regarding the water line break and their expert handling of the situation.

Mrs. Edwards announced that the Board would retire into a second Closed Session. Action was still not anticipated. The following would be addressed:

CLOSED SESSION

- Personnel Matters: *Government Code 54957 and 54957.1*
Appointment/Assignment/Promotion of employees; employee discipline/dismissal/release; evaluation of employee performance; complaints/charges against an employee; other personnel matters.
- Negotiations: *Government Code 54957.6*
Update and review of negotiations with the FVEA and CSEA Bargaining Units with the Board's designated representative, Cathie Abdel.
- Conference with Legal Counsel: Anticipated Litigation: *Government Code Section 54956.9*
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: 1 case. Attorney Margaret Chidester will join Assistant Superintendent, Personnel, Cathie Abdel in updating the Board of Trustees.

ADJOURNMENT

Motion: Mr. Collins moved to adjourn the meeting at 9:45pm.

Second: Mr. Templin

Vote: Unanimously approved

/rl

**FOUNTAIN VALLEY SCHOOL DISTRICT
PERSONNEL ITEMS FOR APPROVAL
February 6, 2014**

1.0 EMPLOYMENT FUNCTIONS:

- 1.1 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS APPROVAL OF KRISTY STADLMAN, EEK TEACHER AT OKA SCHOOL, ON TEMPORARY CONTRACT EFFECTIVE 01/29/2014.
- 1.2 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS APPROVAL OF YVONNE RAMOS, RSP TEACHER AT TALBERT MIDDLE SCHOOL, ON TEMPORARY CONTRACT EFFECTIVE 02/03/2014.
- 1.3 ASSISTANT SUPERINTENDENT, PERSONNEL HAS ACCEPTED THE RESIGNATION OF THE CERTIFICATED EMPLOYEE, CHRISTINA DENT, SCHOOL NURSE EFFECTIVE 02/24/2014.
- 1.4 ASSISTANT SUPERINTENDENT, PERSONNEL REQUEST APPROVAL OF MATT PLOSKI, TEACHER ON SPECIAL ASSIGNMENT/ASSISTANT PRINCIPAL AT FULTON MIDDLE SCHOOL.
- 1.5 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS APPROVAL OF THE FOLLOWING CERTIFICATED LEAVES OF ABSENCE:

	<u>EMPLOYEE</u>	<u>LOCATION</u>	<u>ASSIGNMENT</u>	<u>REASON</u>	<u>EFFECTIVE</u>
1.5.1	Burtle, Nicole	Newland	Speech & Language	Maternity	01/13/2014
1.5.2	Homampour, Adeena	Newland	Speech & Language	Maternity	01/08/2014
1.5.3	Hatcher, Amanda	Talbert	Middle School Teacher	Maternity	02/11/2014

2.0 EMPLOYMENT FUNCTIONS

- 2.1 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS THE APPROVAL OF THE FOLLOWING NEW CLASSIFIED EMPLOYEES:

	<u>EMPLOYEE</u>	<u>LOCATION</u>	<u>ASSIGNMENT</u>	<u>EFFECTIVE</u>
2.1.1	Kulick, Christine	District Office	Web/Social Media Tech.	01/13/2014
2.1.2	Guitierrez, Crystal	Courreges	ESP Aide	01/13/2014
2.1.3	Tran, Jimmy	Oka	ESP Aide	01/22/2014
2.1.4	Boardman, John	Technology	Computer Network Spec. II	01/08/2014
2.1.5	Carter, Neil	Tamura	IA SH/PH	01/22/2014

- 2.2 ASSISTANT SUPERINTENDENT, PERSONNEL HAS ACCEPTED THE RESIGNATION OF THE FOLLOWING CLASSIFIED EMPLOYEES:

	<u>EMPLOYEE</u>	<u>LOCATION</u>	<u>ASSIGNMENT</u>	<u>EFFECTIVE</u>
2.2.1	Caruso, Marina	Newland	IA	01/03/2014
2.2.2	Padden, Michael	Newland	Head Custodian	01/06/2014

- 2.3 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS APPROVAL OF THE RE-EMPLOYMENT OF CLASSIFIED EMPLOYEE JOHN BRANLEY AS BUS DRIVER EFFECTIVE 01/22/2014.
- 2.4 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS APPROVAL OF THE RE-EMPLOYMENT OF CLASSIFIED EMPLOYEE BRIAN JONES AS HEAD CUSTODIAN AT NEWLAND SCHOOL EFFECTIVE 01/27/2014.
- 2.5 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS APPROVAL OF THE PROMOTION OF CLASSIFIED EMPLOYEE HEATHER McCOMBS TO PURCHASING TECHNICIAN EFFECTIVE 01/27/2014.

**FOUNTAIN VALLEY SCHOOL DISTRICT
PERSONNEL ITEMS FOR APPROVAL**

February 6, 2014

INSTRUCTION

3.0 APPROVAL OF ADDITIONAL DUTY REQUEST(S)

	<u>NAME</u>	<u>ASSIGNMENT</u>	<u>SALARY</u>	<u>BUDGET</u>	<u>DATE</u>
3.1	DREW, Scot (Fulton)	Sports coach for one or more of the District basketball tournaments	\$250 stipend + benefits, per sport coached	01-023-2989-1115	2013-2014 school year
3.2	PHAN, Viet (Talbert)	Sports coach for one or more of the District basketball tournaments	\$250 stipend + benefits, per sport coached	01-023-2989-1115	2013-2014 school year

4.0 CONFERENCE/WORKSHOP ATTENDANCE

	<u>NAME</u>	<u>ATTENDING</u>	<u>LOCATION</u>	<u>COST</u>	<u>BUDGET</u>	<u>DATE</u>
4.1	CHAIRESZ, Amber HENDERSHOT, Erin HOANG, Anh (Childcare Program)	Preschool GLAD Training ~ OCDE	Anaheim School District	\$750/each	12-027-9275-5210	2/14/2014 through 2/18/2014
4.2	WRIGHT, Abby (Support Services)	2013-2014 Annual Statewide SELPA ADR Conference	Sacramento, CA	Actual and Necessary	01-001-9961-5210	3/4-3/5/2014
4.3	MCCANN, Jenny SPRENGER, Mona (Support Services)	2014 Special & General Education Conference	Seattle, WA	Actual and Necessary	01-001-9961-5210	3/4/2014 through 3/8/2014

FOUNTAIN VALLEY SCHOOL DISTRICT
DONATION ACCEPTANCE FORM

Federal ID# 95-6001370

All donations to the district must be officially accepted by the Fountain Valley School District Board of Trustees inasmuch as their acceptance may involve an expenditure of district funds for installation, use, and/or maintenance. Before any donation is supplied or purchased by your organization, or formally accepted for a school, the following information is requested on this form. Upon site/document approval, a copy of the form shall be presented to Business Services or Instruction for further consideration and approval in accordance with Board Policy 3290, Donations to School District.

SCHOOL RECEIVING DONATION: Fulton

NAME OF DONOR: DCH Gardena Honda

DESCRIPTION OF DONATION OR CASH DONATION: (Include name and address of manufacturer or vendor, age and condition of item if not new, approximate present value.) \$50.00

ESTIMATED INSTALLATION COST: (Note software needs, special wiring required, additional components needed, transportation, etc.)

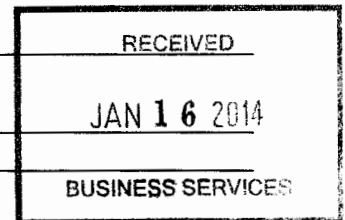
INVENTORY INFORMATION: (Include quantity, brand name, model #, serial #)

ESTIMATED COST OF ANNUAL UPKEEP: (Electricity, special supplies, accessories, etc.)

REVENUE ACCT: 012929000-8699

EXPENDITURE ACCT(S) FOR BUDGET INCREASE: 010142989-5899

INTENDED USE: (State how this will be used) Principal's discretion



REVIEWED: [Signature]
Principal/Department Head

APPROVED/DISAPPROVED: [Circled]

1/13/14
Date

REVIEWED: [Signature]
Assistant Superintendent
Business/Administration

APPROVED/DISAPPROVED: [Circled]

1/17/14
Date

REVIEWED: _____
Assistant Superintendent
Instruction

APPROVED/DISAPPROVED: _____

Date

BOARD APPROVAL DATE: 2/6/14

FOUNTAIN VALLEY SCHOOL DISTRICT
DONATION ACCEPTANCE FORM

Federal ID# 95-6001370

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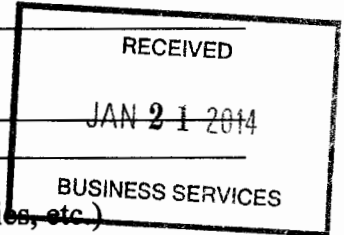
SCHOOL RECEIVING DONATION: Fulton

NAME OF DONOR: Fulton PTA

DESCRIPTION OF DONATION OR CASH DONATION: (Include name and address of manufacturer or vendor, age and condition of item if not new, approximate present value.) \$1,526.02

ESTIMATED INSTALLATION COST: (Note software needs, special wiring required, additional components needed, transportation, etc.)

INVENTORY INFORMATION: (Include quantity, brand name, model #, serial #)



ESTIMATED COST OF ANNUAL UPKEEP: (Electricity, special supplies, accessories, etc.)

REVENUE ACCT: 010290000-8699

EXPENDITURE ACCT(S) FOR BUDGET INCREASE: 010142989-5899

INTENDED USE: (State how this will be used) After school programs, stipends, release time, Teacher planning and benefits

REVIEWED: [Signature] APPROVED/DISAPPROVED: [Circled] 1/21/14
Principal/Department Head Date

REVIEWED: [Signature] APPROVED/DISAPPROVED: [Circled] 1/21/14
Assistant Superintendent Date
Business/Administration

REVIEWED: _____ APPROVED/DISAPPROVED: _____
Assistant Superintendent Date
Instruction

BOARD APPROVAL DATE: 2/6/14

FOUNTAIN VALLEY SCHOOL DISTRICT
DONATION ACCEPTANCE FORM

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SCHOOL RECEIVING DONATION: Fulton

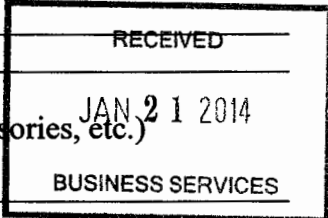
NAME OF DONOR: Fulton PTA

DESCRIPTION OF DONATION OR CASH DONATION: (Include name and address of manufacturer or vendor, age and condition of item if not new, approximate present value.) \$950.31

ESTIMATED INSTALLATION COST: (Note software needs, special wiring required, additional components needed, transportation, etc.)

INVENTORY INFORMATION: (Include quantity, brand name, model #, serial #)

ESTIMATED COST OF ANNUAL UPKEEP: (Electricity, special supplies, accessories, etc.)



REVENUE ACCT: 010290000-8699

EXPENDITURE ACCT(S) FOR BUDGET INCREASE: 010142989-5899

INTENDED USE: (State how this will be used) Cheer and soccer coach stipends and benefits

REVIEWED: [Signature] APPROVED/DISAPPROVED: APPROVED 1/21/14
Principal/Department Head Date

REVIEWED: [Signature] APPROVED/DISAPPROVED: APPROVED 1/21/14
Assistant Superintendent Date
Business/Administration

REVIEWED: _____ APPROVED/DISAPPROVED: _____
Assistant Superintendent Date
Instruction

BOARD APPROVAL DATE: 2/6/14

FOUNTAIN VALLEY SCHOOL DISTRICT
DONATION ACCEPTANCE FORM

Federal ID# 95-6001370

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SCHOOL RECEIVING DONATION: Fulton

NAME OF DONOR: United Way

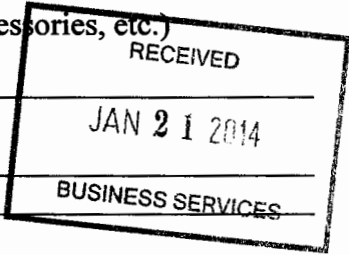
DESCRIPTION OF DONATION OR CASH DONATION: (Include name and address of manufacturer or vendor, age and condition of item if not new, approximate present value.) \$500.00

ESTIMATED INSTALLATION COST: (Note software needs, special wiring required, additional components needed, transportation, etc.)

INVENTORY INFORMATION: (Include quantity, brand name, model #, serial #)

ESTIMATED COST OF ANNUAL UPKEEP: (Electricity, special supplies, accessories, etc.)

REVENUE ACCT: 010290000-8699
EXPENDITURE ACCT(S) FOR BUDGET INCREASE: 010142989-5899



INTENDED USE: (State how this will be used) Principal's discretion

REVIEWED: [Signature] APPROVED/DISAPPROVED: APPROVED Date: 1/21/14
Principal/Department Head

REVIEWED: [Signature] APPROVED/DISAPPROVED: APPROVED Date: 1/21/14
Assistant Superintendent
Business/Administration

REVIEWED: _____ APPROVED/DISAPPROVED: _____ Date: _____
Assistant Superintendent
Instruction

BOARD APPROVAL DATE: 2/6/14

FOUNTAIN VALLEY SCHOOL DISTRICT
DONATION ACCEPTANCE FORM

Federal ID# 95-6001370

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SCHOOL RECEIVING DONATION: District ~ Curriculum and Instruction

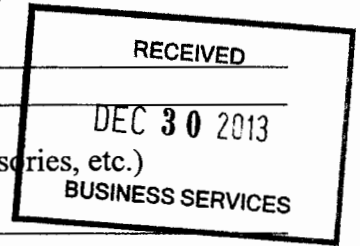
NAME OF DONOR: R. Stephen and Carla Hannahs

DESCRIPTION OF DONATION OR CASH DONATION: (Include name and address of manufacturer or vendor, age and condition of item if not new, approximate present value.)
\$5,000 check, dated December 19, 2013

ESTIMATED INSTALLATION COST: (Note software needs, special wiring required, additional components needed, transportation, etc.)
N/A

INVENTORY INFORMATION: (Include quantity, brand name, model #, serial #)
N/A

ESTIMATED COST OF ANNUAL UPKEEP: (Electricity, special supplies, accessories, etc.)
N/A



REVENUE ACCT: 01-1699900 -8699

EXPENDITURE ACCT(S) FOR BUDGET INCREASE: 011699275-5813

INTENDED USE: (State how this will be used) To be used to enhance art education for students within the Fountain Valley School District and specifically to be used as scholarships for deserving students to selected art programs.

REVIEWED: _____ APPROVED/DISAPPROVED: _____

Principal/Department Head

Date

REVIEWED: [Signature] APPROVED/DISAPPROVED: _____

1/6/14
Date

Assistant Superintendent
Business/Administration

REVIEWED: [Signature] APPROVED/DISAPPROVED: 1/6/14

Date

Assistant Superintendent
Instruction

BOARD APPROVAL DATE: Feb 6, 2014

FOUNTAIN VALLEY SCHOOL DISTRICT
DONATION ACCEPTANCE FORM

Federal ID# 95-6001370

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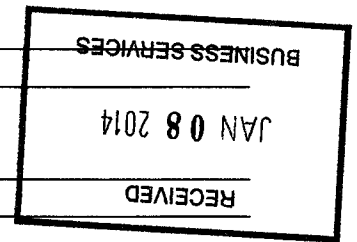
SCHOOL RECEIVING DONATION: Fulton

NAME OF DONOR: Fulton PTA

DESCRIPTION OF DONATION OR CASH DONATION: (Include name and address of manufacturer or vendor, age and condition of item if not new, approximate present value.) \$300.00

ESTIMATED INSTALLATION COST: (Note software needs, special wiring required, additional components needed, transportation, etc.)

INVENTORY INFORMATION: (Include quantity, brand name, model #, serial #)



ESTIMATED COST OF ANNUAL UPKEEP: (Electricity, special supplies, accessories, etc.)

REVENUE ACCT: 012929000-8699

EXPENDITURE ACCT(S) FOR BUDGET INCREASE: 010142989-5899

INTENDED USE: (State how this will be used) Principal's discretion
Teacher

REVIEWED: [Signature] APPROVED/DISAPPROVED: APPROVED Date: 1/7/14
Principal/Department Head

REVIEWED: [Signature] APPROVED/DISAPPROVED: APPROVED Date: 1/8/14
Assistant Superintendent
Business/Administration

REVIEWED: _____ APPROVED/DISAPPROVED: _____ Date: _____
Assistant Superintendent
Instruction

BOARD APPROVAL DATE: 2/6/14

FOUNTAIN VALLEY SCHOOL DISTRICT
DONATION ACCEPTANCE FORM

Federal ID# 95-6001370

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SCHOOL RECEIVING DONATION: Oka

NAME OF DONOR: Exxon Mobil

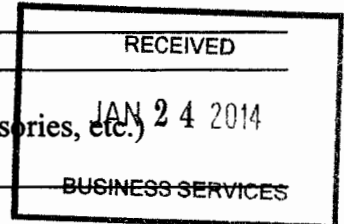
DESCRIPTION OF DONATION OR CASH DONATION: (Include name and address of manufacturer or vendor, age and condition of item if not new, approximate present value.)

Check #2000239398 in the amount of \$500

ESTIMATED INSTALLATION COST: (Note software needs, special wiring required, additional components needed, transportation, etc.)

INVENTORY INFORMATION: (Include quantity, brand name, model #, serial #)

ESTIMATED COST OF ANNUAL UPKEEP: (Electricity, special supplies, accessories, etc.)



REVENUE ACCT: 010013737 -8699

EXPENDITURE ACCT(S) FOR BUDGET INCREASE:

INTENDED USE: (State how this will be used) Instructional and/or office supplies

REVIEWED: Ene Mill
Principal/Department Head

APPROVED/DISAPPROVED: 1/23/2014

REVIEWED: [Signature]
Assistant Superintendent
Business/Administration

APPROVED/DISAPPROVED: 1/24/14
Date

REVIEWED: _____
Assistant Superintendent
Instruction

APPROVED/DISAPPROVED: _____
Date

BOARD APPROVAL DATE: 2/6/14

FOUNTAIN VALLEY SCHOOL DISTRICT
DONATION ACCEPTANCE FORM

Federal ID# 95-6001370

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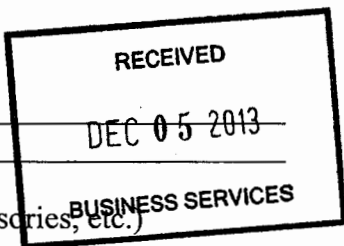
SCHOOL RECEIVING DONATION: Oka

NAME OF DONOR: Wells Fargo

DESCRIPTION OF DONATION OR CASH DONATION: (Include name and address of manufacturer or vendor, age and condition of item if not new, approximate present value.)
Check #1071887 in the amount of \$294.00

ESTIMATED INSTALLATION COST: (Note software needs, special wiring required, additional components needed, transportation, etc.)

INVENTORY INFORMATION: (Include quantity, brand name, model #, serial #)



ESTIMATED COST OF ANNUAL UPKEEP: (Electricity, special supplies, accessories, etc.)

REVENUE ACCT: -8699

EXPENDITURE ACCT(S) FOR BUDGET INCREASE: 0103700008699

INTENDED USE: (State how this will be used) Instructional and office supplies

REVIEWED: [Signature] APPROVED/DISAPPROVED: 12/03/2013
Principal/Department Head Date

REVIEWED: [Signature] APPROVED/DISAPPROVED: 12/6/13
Assistant Superintendent Date
Business/Administration

REVIEWED: _____ APPROVED/DISAPPROVED: _____
Assistant Superintendent Date
Instruction

BOARD APPROVAL DATE: 2/6/14

FOUNTAIN VALLEY SCHOOL DISTRICT
DONATION ACCEPTANCE FORM

Federal ID# 95-6001370

All donations to the district must be officially accepted by the Fountain Valley School District Board of Trustees inasmuch as their acceptance may involve an expenditure of district funds for installation, use, and/or maintenance. Before any donation is supplied or purchased by your organization, or formally accepted for a school, the following information is requested on this form. Upon site/document approval, a copy of the form shall be presented to Business Services or Instruction for further consideration and approval in accordance with Board Policy 3290, Donations to School District.

SCHOOL RECEIVING DONATION: Plavan PTO

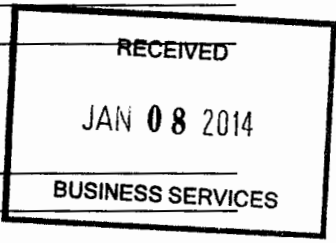
NAME OF DONOR: Nick D Pappas

DESCRIPTION OF DONATION OR CASH DONATION: (Include name and address of manufacturer or vendor, age and condition of item if not new, approximate present value.)

check # 0208 in the amount of \$25⁰⁰

ESTIMATED INSTALLATION COST: (Note software needs, special wiring required, additional components needed, transportation, etc.)

INVENTORY INFORMATION: (Include quantity, brand name, model #, serial #)



ESTIMATED COST OF ANNUAL UPKEEP: (Electricity, special supplies, accessories, etc.)

REVENUE ACCT: 010400000 -8699

EXPENDITURE ACCT(S) FOR BUDGET INCREASE: PTO Donations 010014089-4310

INTENDED USE: (State how this will be used) Plavan PTO

REVIEWED: _____ APPROVED/DISAPPROVED: _____
Principal/Department Head Date

REVIEWED: [Signature] APPROVED/DISAPPROVED: _____
Assistant Superintendent Date 1/8/14
Business/Administration

REVIEWED: _____ APPROVED/DISAPPROVED: _____
Assistant Superintendent Date
Instruction

BOARD APPROVAL DATE: 2/6/14

FOUNTAIN VALLEY SCHOOL DISTRICT
DONATION ACCEPTANCE FORM

Federal ID# 95-6001370

All donations to the district must be officially accepted by the Fountain Valley School District Board of Trustees inasmuch as their acceptance may involve an expenditure of district funds for installation, use, and/or maintenance. Before any donation is supplied or purchased by your organization, or formally accepted for a school, the following information is requested on this form. Upon site/document approval, a copy of the form shall be presented to Business Services or Instruction for further consideration and approval in accordance with Board Policy 3290, Donations to School District.

SCHOOL RECEIVING DONATION: Talbert Middle School

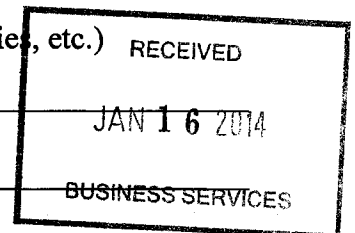
NAME OF DONOR: D & R International Ltd.

DESCRIPTION OF DONATION OR CASH DONATION: (Include name and address of manufacturer or vendor, age and condition of item if not new, approximate present value.)
Cash in the amount of \$250.00, check #17459

ESTIMATED INSTALLATION COST: (Note software needs, special wiring required, additional components needed, transportation, etc.)

INVENTORY INFORMATION: (Include quantity, brand name, model #, serial #)

ESTIMATED COST OF ANNUAL UPKEEP: (Electricity, special supplies, accessories, etc.)



REVENUE ACCT: 013838380-8699

EXPENDITURE ACCT(S) FOR BUDGET INCREASE: 010143887-5650

INTENDED USE: (State how this will be used) These funds will help pay for transportation of the STEM students to Solar Decathlon 2013 at the O.C. Great Park.

REVIEWED: [Signature] APPROVED/DISAPPROVED: (APPROVED) 1/13/14
Principal/Department Head Date

REVIEWED: [Signature] APPROVED/DISAPPROVED: (APPROVED) 1/13/14
Assistant Superintendent Date
Business/Administration

REVIEWED: _____ APPROVED/DISAPPROVED: _____
Assistant Superintendent Date
Instruction

BOARD APPROVAL DATE: 2/6/14

FOUNTAIN VALLEY SCHOOL DISTRICT
DONATION ACCEPTANCE FORM

Federal ID# 95-6001370

All donations to the district must be officially accepted by the Fountain Valley School District Board of Trustees inasmuch as their acceptance may involve an expenditure of district funds for installation, use, and/or maintenance. Before any donation is supplied or purchased by your organization, or formally accepted for a school, the following information is requested on this form. Upon site/document approval, a copy of the form shall be presented to Business Services or Instruction for further consideration and approval in accordance with Board Policy 3290, Donations to School District.

SCHOOL RECEIVING DONATION: Talbert Middle School

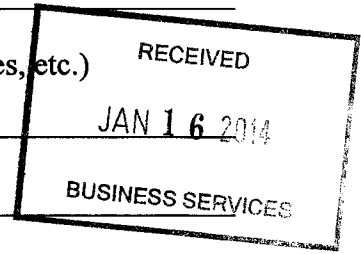
NAME OF DONOR: Society for Science & the Public

DESCRIPTION OF DONATION OR CASH DONATION: (Include name and address of manufacturer or vendor, age and condition of item if not new, approximate present value.)
Cash in the amount of \$1000.00, check #90897

ESTIMATED INSTALLATION COST: (Note software needs, special wiring required, additional components needed, transportation, etc.)

INVENTORY INFORMATION: (Include quantity, brand name, model #, serial #)

ESTIMATED COST OF ANNUAL UPKEEP: (Electricity, special supplies, accessories, etc.)



REVENUE ACCT: 013838380-8699
EXPENDITURE ACCT(S) FOR BUDGET INCREASE: 010143887-4310

INTENDED USE: (State how this will be used) These funds will help support the new STEM program at Talbert.

REVIEWED: [Signature] APPROVED/DISAPPROVED: 1/13/14
Principal/Department Head Date

REVIEWED: [Signature] APPROVED/DISAPPROVED: 1/17/14
Assistant Superintendent Business/Administration Date

REVIEWED: _____ APPROVED/DISAPPROVED: _____
Assistant Superintendent Instruction Date

BOARD APPROVAL DATE: 2/6/14

FOUNTAIN VALLEY SCHOOL DISTRICT
DONATION ACCEPTANCE FORM

Federal ID# 95-6001370

All donations to the district must be officially accepted by the Fountain Valley School District Board of Trustees inasmuch as their acceptance may involve an expenditure of district funds for installation, use, and/or maintenance. Before any donation is supplied or purchased by your organization, or formally accepted for a school, the following information is requested on this form. Upon site/document approval, a copy of the form shall be presented to Business Services or Instruction for further consideration and approval in accordance with Board Policy 3290, Donations to School District.

SCHOOL RECEIVING DONATION: Tamura Elementary

NAME OF DONOR: Tamura PTO

DESCRIPTION OF DONATION OR CASH DONATION: (Include name and address of manufacturer or vendor, age and condition of item if not new, approximate present value.)
\$874.70 Check #3390

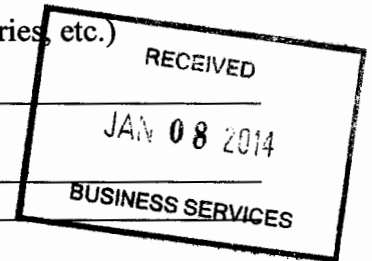
ESTIMATED INSTALLATION COST: (Note software needs, special wiring required, additional components needed, transportation, etc.)

INVENTORY INFORMATION: (Include quantity, brand name, model #, serial #)

ESTIMATED COST OF ANNUAL UPKEEP: (Electricity, special supplies, accessories, etc.)

REVENUE ACCT: 010100000 -8699

EXPENDITURE ACCT(S) FOR BUDGET INCREASE: 010011010 - 4310



INTENDED USE: (State how this will be used) Teacher Supplies

REVIEWED: [Signature] APPROVED/DISAPPROVED: 1/6/2014
Principal/Department Head Date

REVIEWED: [Signature] APPROVED/DISAPPROVED: 1/8/14
Assistant Superintendent Business/Administration Date

REVIEWED: _____ APPROVED/DISAPPROVED: _____
Assistant Superintendent Instruction Date

BOARD APPROVAL DATE: 2/6/14

FOUNTAIN VALLEY SCHOOL DISTRICT

TO: CHRISTINE FULLERTON
FROM: MARTHA LOCKWOOD
SUBJECT: WARRANT LISTING BOARD MEETING – FEBRUARY 6, 2014
DATES 12/20/13 – 01/27/14
WARRANT NUMBERS 64190 - 64475

01 GENERAL	\$	536,577.14
12 CHILD DEVELOPMENT	\$	8,576.05
13 CAFETERIA	\$	65,047.76
14 DEFERRED MAINTENANCE	\$	0
25 CAPITAL FACILITIES	\$	20,630.00
35 SCHOOL FACILITIES	\$	0
40 SPECIAL RESERVE	\$	0
68 WORKERS COMPENSATION	\$	127,175.72
69 INSURANCE	\$	380,314.50
TOTAL	\$	1,138,321.17

FOUNTAIN VALLEY SD

PURCHASE ORDER DETAIL REPORT BY FUND

BOARD OF TRUSTEES MEETING 02/06/2014

FROM 12/21/2013 TO 01/28/2014

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>ACCOUNT AMOUNT</u>	<u>ACCOUNT NUMBER</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
H20M4170	DEPARTMENT OF INDUSTRIAL RELAT	225.00	225.00	012869390 6222	Maintenance / Inspection Svcs Bldg Improve
H20M4171	MOBILE MINI STORAGE	900.00	900.00	012869390 5645	Maintenance / Outside Svcs-Repairs & Mainten
H20M4173	GRUETT TREE COMPANY INC	13,485.00	13,485.00	012899390 5645	Gardening / Outside Svcs-Repairs & Mainten
H20M4174	REGISTER	143.20	143.20	012869390 4325	Maintenance / Office Supplies
H20M4175	HOME DEPOT	1,732.80	1,732.80	012899390 4343	Gardening / Gardening Supplies
H20M4199	A GOOD SIGN	300.00	300.00	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
H20M4200	HILLYARD / LOS ANGELES	500.00	500.00	012889390 4347	Custodial / Repair & Upkeep Equip Supplies
H20M4201	INDUSTRIAL METAL SUPPLY	265.00	265.00	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
H20M4203	APPLE COMPUTER ORDER DEPARTMEN	52.92	52.92	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
H20M4204	ALLIED REFRIGERATION INC.	500.00	500.00	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
H20M4205	GRILLO FILTER SALES INC.	4,464.00	4,464.00	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
H20M4208	GRAINGER INC.	300.00	300.00	012879390 4347	Vandalism / Repair & Upkeep Equip Supplies
H20M4209	SR PRODUCTS	750.00	750.00	012879390 4347	Vandalism / Repair & Upkeep Equip Supplies
H20M4210	TROXELL COMMUNICATIONS INC.	300.00	300.00	014869390 5899	STAR Building DO-Routine Maint / Other Operating
H20M4212	SWRCB ACCOUNTING OFFICE	1,791.00	1,791.00	012869390 6223	Maintenance / Tests & Examinations Bldgs
H20M4213	ALLIED REFRIGERATION INC.	300.00	300.00	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
H20M4214	CONNELL CHEVROLET	201.00	201.00	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
H20M4226	TROXELL COMMUNICATIONS INC.	5,907.60	5,907.60	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
H20M4227	GOLDEN STATE PAVING INC.	800.00	800.00	012869390 5645	Maintenance / Outside Svcs-Repairs & Mainten
H20R0816	APPLE COMPUTER ORDER DEPARTMEN	1,515.84	1,515.84	012395298 4410	7395 Sch/Libr Impr Admin-DO / Fixed Assets \$500-\$5000
H20R0817	FOLLETT LIBRARY RESOURCE	320.00	320.00	011403155 4230	Library Services - Gisler / Lost Books Rebate
H20R0818	STAPLES	34.55	34.55	012658155 4325	Assessment and Accountability / Office Supplies
H20R0820	AGZOUR, JANA K	3,000.00	3,000.00	015999860 5894	Special Ed - Administration / Regionalized Services (X-Pot)
H20R0821	CDWG	9,827.20	9,827.20	011219078 4410	Common Core St Standards-Tech / Fixed Assets \$500-\$5000
H20R0822	APPLE COMPUTER ORDER DEPARTMEN	19,729.92	19,729.92	011219078 4410	Common Core St Standards-Tech / Fixed Assets \$500-\$5000
H20R0823	TROXELL COMMUNICATIONS INC.	976.50	976.50	011219078 5899	Common Core St Standards-Tech / Other Operating Expenses
H20R0824	PRENTKE ROMICH COMPANY	608.89	608.89	015999860 4347	Special Ed - Administration / Repair & Upkeep Equip
H20R0825	SPIEART INC.	150.00	150.00	012109078 4347	Tech/Media Office Operation / Repair & Upkeep Equip
H20R0826	PRO ED INC.	93.45	93.45	012289961 4310	MAA - Administration / Instructional Supplies
H20R0828	A1GM	200.00	200.00	010143838 4310	Sch Site Instr - Talbert / Instructional Supplies
H20R0829	RADIO NETWORK INC	1,168.25	1,168.25	010143889 4310	Donations - Talbert / Instructional Supplies
H20R0830	PCI-EDUCATIONAL PUB.	295.08	295.08	015103860 4310	Special Ed. - Talbert SDC / Instructional Supplies
H20R0831	STAPLES	300.00	300.00	015643860 4310	Special Ed. - Talbert S&L / Instructional Supplies

FOUNTAIN VALLEY SD

PURCHASE ORDER DETAIL REPORT BY FUND BOARD OF TRUSTEES MEETING 02/06/2014

FROM 12/21/2013 TO 01/28/2014

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>ACCOUNT AMOUNT</u>	<u>ACCOUNT NUMBER</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
H20R0832	CDWG	83,623.49	83,623.49	011219078 4399	Common Core St Standards-Tech / Equipment Under \$500
H20R0833	GOPHER SPORTS EQUIPMENT	590.16	590.16	011493888 4310	FVEF Teacher Grants - Talbert / Instructional Supplies
H20R0834	REID, WILLIAM	85.00	85.00	010099276 5645	Instrumental Music-Insurance / Outside Srvs-Repairs &
H20R0835	TREBRON COMPANY INC	2,916.67	2,916.67	012109078 5899	Tech/Media Office Operation / Other Operating Expenses
H20R0836	SCHOOL SPECIALTY	27.43	27.43	010143838 4310	Sch Site Instr - Talbert / Instructional Supplies
H20R0837	CDWG	1,362.24	1,362.24	016689380 5899	7394 TIIG Admin Tech-Operation / Other Operating
H20R0838	UCLA LAB SCHOOL	300.00	300.00	011534776 5210	Cotsen Alumni Grant -Courreges / Travel, Conference,
H20R0839	CDWG	477.93	477.93	012719470 4399	Personnel Department / Equipment Under \$500
H20R0841	CDWG	589.42	589.42	011219078 4320	Common Core St Standards-Tech / Computer Supplies
H20R0842	CDWG	9,052.56	9,052.56	011219078 4410	Common Core St Standards-Tech / Fixed Assets \$500-\$5000
H20R0843	APPLE COMPUTER ORDER DEPARTMEN	2,261.04	2,261.04	016689380 4410	7394 TIIG Admin Tech-Operation / Fixed Assets \$500-\$5000
H20R0844	CDWG	360.15	360.15	016689380 6410	7394 TIIG Admin Tech-Operation /
H20R0846	MICROSOFT CORPORATION	758.92	758.92	016689380 4410	7394 TIIG Admin Tech-Operation / Fixed Assets \$500-\$5000
H20R0847	STAPLES	43.16	43.16	010028255 4322	7091 EIA-Administrative / Testing Supplies
H20R0848	OFFICE DEPOT	97.19	97.19	012658155 4325	Assessment and Accountability / Office Supplies
H20R0849	CHIDESTER, MARGARET A.	700.00	700.00	012159470 5830	Personnel - Legal Services / Legal Fees
H20R0850	SYSTEM ID WAREHOUSE/INFORMATIC	2,124.00	2,124.00	016689380 5899	7394 TIIG Admin Tech-Operation / Other Operating
H20R0852	SOUTHWEST SCHOOL AND OFFICE SU	162.00	162.00	016158155 4322	7140 Gifted & Talented - Instr / Testing Supplies
H20R0853	TECHNOLOGY INTEGRATION	274.36	274.36	010028055 4325	7091 EIA-Instruction / Office Supplies
H20R0855	SOUTHWEST SCHOOL AND OFFICE SU	100.00	100.00	012734040 4327	Health Supplies - Plavan / Health Supplies
H20R0857	PENN STATE INDUSTRIES	677.18	677.18	010142929 4311	Sch Site Instr - Fulton / Elective Supplies
H20R0858	CRAFT SUPPLIES USA	783.32	783.32	010142929 4311	Sch Site Instr - Fulton / Elective Supplies
H20R0859	WOODCRAFT	1,080.00	1,080.00	010142929 4311	Sch Site Instr - Fulton / Elective Supplies
H20R0860	ARTS ORANGE COUNTY	225.00	225.00	016099275 5210	6761 Arts, Music & PE / Travel, Conference, Workshop
H20R0861	JETER SYSTEMS CORPORATION	146.97	146.97	012819771 4325	Personnel Commission / Office Supplies
H20R0862	STAPLES	77.70	77.70	012395098 4310	7395 Sch/Libr Imp Instr-DO / Instructional Supplies
H20R0864	ORANGE COUNTY DEPARTMENT OF ED	2,430.00	2,430.00	010269275 5210	School Readiness Init Admin / Travel, Conference, Workshop
H20R0865	CSPCA	300.00	300.00	012819771 5210	Personnel Commission / Travel, Conference, Workshop
H20R0866	STAPLES	200.00	200.00	015511060 4310	Special Ed. - Tamura RSP / Instructional Supplies
H20R0867	TEXTBOOK WAREHOUSE	156.82	156.82	012129078 4110	Lottery Instructional Material / Basic Textbooks
H20R0868	SCHOOLMASTERS	125.00	125.00	010011089 5899	Donations - Tamura / Other Operating Expenses
H20R0871	FOLLETT LIBRARY RESOURCE	695.00	695.00	012395131 4210	7395 Sch/Libr Librarian-Gisler / Library Books
H20R0872	PERMA-BOUND BOOKS	695.00	695.00	012395116 4210	7395 Sch/Libr Librarian-Newlan / Library Books
H20R0873	PERMA-BOUND BOOKS	695.00	695.00	012395140 4210	7395 Sch/Libr Librarian-Plavan / Library Books

FOUNTAIN VALLEY SD

PURCHASE ORDER DETAIL REPORT BY FUND

BOARD OF TRUSTEES MEETING 02/06/2014

FROM 12/21/2013 TO 01/28/2014

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>ACCOUNT AMOUNT</u>	<u>ACCOUNT NUMBER</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
H20R0874	PERMA-BOUND BOOKS	695.00	695.00	012395147 4210	7395 Sch/Libr Librarian-Courre / Library Books
H20R0876	PERMA-BOUND BOOKS	695.00	695.00	012395110 4210	7395 Sch/Libr Librarian-Tamura / Library Books
H20R0879	AWARDS & TROPHIES	43.20	43.20	012719380 4325	Business Department / Office Supplies
H20R0881	SOUTHWEST SCHOOL AND OFFICE SU	118.87	118.87	012289961 4325	MAA - Administration / Office Supplies
H20R0883	PERMA-BOUND BOOKS	695.00	695.00	012395132 4210	7395 Sch/Libr Librarian-Cox / Library Books
H20R0884	STAPLES	125.00	125.00	015513160 4310	Special Ed. - Gisler RSP / Instructional Supplies
H20R0885	LAKESHORE LEARNING MATERIALS	100.00	100.00	010013131 4310	Sch Site Instr - Gisler / Instructional Supplies
H20R0886	SARSON USA INC	234.63	234.63	012539961 4310	Tobacco-Use-OCDE Adminstrative / Instructional Supplies
H20R0889	SOUTHWEST SCHOOL AND OFFICE SU	500.00	500.00	012719470 4325	Personnel Department / Office Supplies
H20R0890	HB PRODUCTS LLC	213.84	213.84	012539961 4310	Tobacco-Use-OCDE Adminstrative / Instructional Supplies
H20R0891	EDGE OF TOWN PRODUCTIONS LLC	1,150.00	1,150.00	012539961 4310	Tobacco-Use-OCDE Adminstrative / Instructional Supplies
H20R0892	CDWG	297.58	297.58	012289961 4320	MAA - Administration / Computer Supplies
H20R0894	ROYER STUDIOS, INC.	9,950.00	9,950.00	012539961 4310	Tobacco-Use-OCDE Adminstrative / Instructional Supplies
H20R0895	TARGET STORES	54.00	54.00	012731616 4327	Health Supplies - Newland / Health Supplies
H20R0896	BARNES AND NOBLE	253.80	253.80	011491688 4310	FVEF Teacher Grants - Newland / Instructional Supplies
H20R0897	ORANGE COUNTY REGISTER	227.45	227.45	012849380 4325	Fiscal Services / Office Supplies
H20R0899	GENERAL BINDING CORPORATION	200.00	200.00	010143838 4347	Sch Site Instr - Talbert / Repair & Upkeep Equip Supplies
H20R0900	CERTIFIED TRANSPORTATION BUS C	3,120.00	3,120.00	010014089 5811	Donations - Plavan / Transportation Outside Agency
H20R0901	LAKESHORE LEARNING MATERIALS	237.60	237.60	010269275 4310	School Readiness Init Admin / Instructional Supplies
H20R0902	APPLE COMPUTER ORDER DEPARTMEN	426.60	426.60	012109078 4320	Tech/Media Office Operation / Computer Supplies
H20R0903	FOLLETT LIBRARY RESOURCE	695.00	695.00	012395137 4210	7395 Sch/Libr Librarian-Oka / Library Books
H20R0905	WESTERN PSYCHOLOGICAL	393.23	393.23	012289963 4322	MAA - Instructional / Testing Supplies
H20R0907	SOUTHWEST SCHOOL AND OFFICE SU	500.00	500.00	015514760 4310	Special Ed. - Courreges RSP / Instructional Supplies
H20R0909	SEYCO-SCROLL SAW SPECIALISTS I	432.70	432.70	010142929 4311	Sch Site Instr - Fulton / Elective Supplies
H20S8022	WAXIE	11,558.65	11,558.65	011000000 9320	Revenue Limit - State Revenues / STORES
	Fund 01 Total:	218,247.06	218,247.06		

FOUNTAIN VALLEY SD

**PURCHASE ORDER DETAIL REPORT BY FUND
BOARD OF TRUSTEES MEETING 02/06/2014**

FROM 12/21/2013 TO 01/28/2014

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>ACCOUNT AMOUNT</u>	<u>ACCOUNT NUMBER</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
H20R0854	LAKESHORE LEARNING MATERIALS	248.29	248.29	120016498 4310	Child Dev Oka Preschool-Instr / Instructional Supplies
H20R0856	TARGET STORES	108.00	108.00	120016098 4310	Extended School Instructional / Instructional Supplies
H20R0869	DISCOUNT SCHOOL SUPPLY	108.00	108.00	120016198 4310	State Preschool Instructional / Instructional Supplies
H20R0870	APPLE COMPUTER ORDER DEPARTMEN	1,556.28	1,556.28	120016098 4410	Extended School Instructional / Fixed Assets \$500-\$5000
H20R0877	TARGET STORES	108.00	108.00	120016098 4310	Extended School Instructional / Instructional Supplies
H20R0878	LAKESHORE LEARNING MATERIALS	108.00	108.00	120016098 4310	Extended School Instructional / Instructional Supplies
H20R0880	DISCOUNT SCHOOL SUPPLY	432.00	432.00	120016098 4310	Extended School Instructional / Instructional Supplies
H20R0887	TOYS R US	324.00	324.00	120016098 4310	Extended School Instructional / Instructional Supplies
H20R0888	CONSTRUCTIVE PLAYTHINGS	108.00	108.00	120016098 4310	Extended School Instructional / Instructional Supplies
H20R0898	DISCOUNT SCHOOL SUPPLY	324.00	324.00	120016198 4310	State Preschool Instructional / Instructional Supplies
H20R0910	DISCOUNT SCHOOL SUPPLY	324.00	324.00	120016798 4310	Child Dev Cox Preschool-Instr / Instructional Supplies
Fund 12 Total:		3,748.57	3,748.57		

FOUNTAIN VALLEY SD

PURCHASE ORDER DETAIL REPORT BY FUND

BOARD OF TRUSTEES MEETING 02/06/2014

FROM 12/21/2013

TO 01/28/2014

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>ACCOUNT AMOUNT</u>	<u>ACCOUNT NUMBER</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
H20M4206	ALLIED REFRIGERATION INC.	300.00	300.00	133207380 4347	Cafeteria Fund / Repair & Upkeep Equip Supplies
H20R0827	LEVEL 27 MEDIA	334.15	334.15	133207380 4330	Cafeteria Fund / Printing/Xerox Supplies
H20R0863	SCSNA	110.00	110.00	133207380 5210	Cafeteria Fund / Travel, Conference, Workshop
Fund 13 Total:		744.15	744.15		

FOUNTAIN VALLEY SD

PURCHASE ORDER DETAIL REPORT BY FUND

BOARD OF TRUSTEES MEETING 02/06/2014

FROM 12/21/2013 TO 01/28/2014

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>ACCOUNT AMOUNT</u>	<u>ACCOUNT NUMBER</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
H20M4172	BSK ASSOCIATES	6,731.00	6,731.00	252839380 5899	Energy Efficient Projects / Other Operating Expenses
H20M4207	ROBERT SKEELS & COMPANY	600.00	600.00	252839380 5899	Energy Efficient Projects / Other Operating Expenses
	Fund 25 Total:	7,331.00	7,331.00		

FOUNTAIN VALLEY SD

**PURCHASE ORDER DETAIL REPORT BY FUND
BOARD OF TRUSTEES MEETING 02/06/2014**

FROM 12/21/2013 TO 01/28/2014

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>ACCOUNT AMOUNT</u>	<u>ACCOUNT NUMBER</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
Total Account Amount:			230,070.78		

FOUNTAIN VALLEY SD

PURCHASE ORDER DETAIL REPORT - CHANGE ORDERS BY FUND

BOARD OF TRUSTEES

02/06/2014

FROM 12/21/2013 TO 01/28/2014

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>CHANGE AMOUNT</u>	<u>ACCOUNT NUMBER</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
H20R0178	SOUTHWEST SCHOOL AND OFFICE SU	702.00	+162.00	012719275 4325	Curriculum/Instruction Office / Office Supplies
H20R0721	STAPLES	400.00	+200.00	015511060 4310	Special Ed. - Tamura RSP / Instructional Supplies
H20R0723	SOUTHWEST SCHOOL AND OFFICE SU	200.00	+100.00	012731010 4327	Health Supplies - Tamura / Health Supplies
H20R0755	CONSILIANTECHNOLOGIES LLC	16,708.09	+1,148.09	012109078 4410	Tech/Media Office Operation / Fixed Assets \$500-\$5000
Fund 01 Total:			+1,610.09		

FOUNTAIN VALLEY SD

PURCHASE ORDER DETAIL REPORT - CHANGE ORDERS BY FUND

BOARD OF TRUSTEES

02/06/2014

FROM 12/21/2013 TO 01/28/2014

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>CHANGE AMOUNT</u>	<u>ACCOUNT NUMBER</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
H20M4196	ECOLOGY ROOF CORP.	4,279.83	+1,279.83	252839380 5899	Energy Efficient Projects / Other Operating Expenses
	Fund 25 Total:		+1,279.83		

FOUNTAIN VALLEY SD

PURCHASE ORDER DETAIL REPORT - CHANGE ORDERS BY FUND

BOARD OF TRUSTEES

02/06/2014

FROM 12/21/2013 TO 01/28/2014

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>CHANGE AMOUNT</u>	<u>ACCOUNT NUMBER</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
H20R0010	P & A ADMINISTRATIVE SERVICES	328,187.25	-25,494.68	695019470 3701	Insurance Health/Welfare-Retir / RETIREE
			-6,318.07	695019470 3702	Insurance Health/Welfare-Retir / RETIREE
	Fund 69 Total:		-31,812.75		

FOUNTAIN VALLEY SD

PURCHASE ORDER DETAIL REPORT - CHANGE ORDERS BY FUND

BOARD OF TRUSTEES 02/06/2014

FROM 12/21/2013 TO 01/28/2014

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>CHANGE AMOUNT</u>	<u>ACCOUNT NUMBER</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
Total Account Amount:			-28,922.83		

FOUNTAIN VALLEY SD

Reference #:

Adjustment of Funds

2014 30

It has been resolved to make the budget adjustments as listed below per Education Code 42600.

Fund: 0101 GENERAL FUND

Object	Description	FROM	TO
1100	TEACHERS' SALARIES		2,883.00
3101	STRS-CERTIFICATED POSITIONS		157.00
3313	MEDICARE-CERTIFICATED		36.00
3501	SUI-CERTIFICATED		1.00
3601	WORKERS'COMP-CERTIFICATED		53.00
4300	MATERIALS & SUPPLIES	4,435.00	2,080.00
5800	PROF/CONS SERV & OPER EXPENSE	247.00	
8200	FEDERAL INCOME		383.00
8500	STATE INCOME		2,500.00
9790	UNASSIGNED/UNAPPROPRIATED		2,355.00
Subfund Total:		4,682.00	10,448.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, February 6, 2014.

AYES: _____

NOES: _____

ABSENT: _____

Secretary, Board of Trustees

The above adjustment was approved on the ____ day of _____, 200__.

APPROVED: Superintendent of Schools, County of Orange: _____
Deputy

FOUNTAIN VALLEY SD

Reference #:

Transfer of Funds

2014 27

It has been resolved to make the budget transfers as listed below per Education Code 42600.

Fund: 0101 GENERAL FUND

Object	Description	FROM	TO
1100	TEACHERS' SALARIES	2,537.00	8,872.00
2100	INSTRUCTIONAL AIDES' SALARIES		500.00
2200	CLASSIFIED SUPPORT		140.00
2900	OTHER CLASSIFIED SALARIES		444.00
3101	STRS-CERTIFICATED POSITIONS		351.00
3102	STRS-CLASSIFIED		118.00
3201	PERS-CERTIFICATED		6.00
3202	PERS-CLASSIFIED		70.00
3313	MEDICARE-CERTIFICATED		71.00
3314	MEDICARE-CLASSIFIED		13.00
3353	ARP-CERTIFICATED		9.00
3355	OASDI-CERTIFICATED		3.00
3356	OASDI-CLASSIFIED		77.00
3402	HEALTH & WELFARE-CLASSIFIED	1,920.00	
3501	SUI-CERTIFICATED		2.00
3601	WORKERS'COMP-CERTIFICATED		105.00
3602	WORKERS'COMP-CLASSIFIED		16.00
4300	MATERIALS & SUPPLIES	16,907.00	19,227.00
4400	NONCAPITALIZATION EQUIPMENT		206,419.00
5200	TRAVEL & CONFERENCES	407.00	2,631.00
5600	RENTAL,LEASE,REPAIR & NON CAP	34.00	
5713	Direct Cost-Printing & Reprod	760.00	603.00
5752	Direct Cost - Postage	100.00	
5800	PROF/CONS SERV & OPER EXPENSE	20,599.00	89,353.00
5900	COMMUNICATIONS		50.00
6400	EQUIPMENT		100,000.00
9740	RESTRICTED BALANCE	386,676.00	
9790	UNASSIGNED/UNAPPROPRIATED	2,355.00	3,215.00

FOUNTAIN VALLEY SD

Reference #:

Transfer of Funds

2014 27

It has been resolved to make the budget transfers as listed below per Education Code 42600.

Fund: 0101 GENERAL FUND

Object	Description	FROM	TO
	Subfund Total:	432,295.00	432,295.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, February 6, 2014.

AYES: _____

NOES: _____

ABSENT: _____

Secretary, Board of Trustees

The above transfer was approved on the ____ day of _____, 200__.

APPROVED: Superintendent of Schools, County of Orange: _____
Deputy

FOUNTAIN VALLEY SD
Transfer of Funds

Reference #:
2014 28

It has been resolved to make the budget transfers as listed below per Education Code 42600.

Fund: 1212 CHILD DEVELOPMENT

Object	Description	FROM	TO
4400	NONCAPITALIZATION EQUIPMENT		1,832.00
4700	FOOD		100.00
5800	PROF/CONS SERV & OPER EXPENSE	100.00	81.00
9740	RESTRICTED BALANCE	1,913.00	
Subfund Total:		2,013.00	2,013.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, February 6, 2014.

AYES: _____
NOES: _____
ABSENT: _____

Secretary, Board of Trustees

The above transfer was approved on the ____ day of _____, 200__.

APPROVED: Superintendent of Schools, County of Orange: _____
Deputy

FOUNTAIN VALLEY SD
Transfer of Funds

Reference #:
2014 29

It has been resolved to make the budget transfers as listed below per Education Code 42600.

Fund: 1313 CAFETERIA FUND

Object	Description	FROM	TO
4300	MATERIALS & SUPPLIES	3,700.00	
4400	NONCAPITALIZATION EQUIPMENT	856.00	
5752	Direct Cost - Postage		100.00
5800	PROF/CONS SERV & OPER EXPENSE		4,556.00
9740	RESTRICTED BALANCE	100.00	
Subfund Total:		4,656.00	4,656.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, February 6, 2014.

AYES: _____

NOES: _____

ABSENT: _____

Secretary, Board of Trustees

The above transfer was approved on the _____ day of _____, 200____.

APPROVED: Superintendent of Schools, County of Orange: _____
Deputy

Fountain Valley School District

BUSINESS SERVICES DIVISION

ASB/S 13/14 - 01

MEMORANDUM

TO: Marc Ecker, Superintendent
FROM: Christine Fullerton, Assistant Superintendent, Business Services
SUBJECT: **RESOLUTION 2014-20: AUTHORIZATION OF SIGNATURES ON
REPLACEMENT WARRANTS**
DATE: January 13, 2014

BACKGROUND

Any warrant that is presented to the County Treasurer within six months after it was issued is void and said warrants are then voided and replaced by issuing another warrant. In order to eliminate the necessity of obtaining a second board approval for the same warrant, a Resolution authorizing district employees to sign is required.

In January, 2014, a change of Assistant Superintendent of Business Services occurred, resulting in new authorized signatures on file.

RECOMMENDATIONS

It is recommended that the Board of Trustees approve **RESOLUTION 2014-20: Authorization of Signatures on Replacement Warrants.**

cl

RESOLUTION 2014-20

AUTHORIZATION OF SIGNATURES ON REPLACEMENT WARRANTS

WHEREAS, Education Code Section 42660/85270 states that any school warrant not presented to the County Treasurer within six months after it was issued is void;

NOW, THEREFORE BE IT RESOLVED, that the following district employees are hereby authorized to sign replacement warrants within the provisions of Education Code Section 42660/85270; said warrants to replace warrants that are not presented to the County Treasurer within six months, or as otherwise provided after issuance, and thus become void:

Marc A. Ecker, Superintendent
Christine Fullerton, Assistant Superintendent, Business Services
Cathie Abdel, Assistant Superintendent, Personnel
Scott Martin, Director, Fiscal Services
Ross Hessler, Director, Human Resources

MOTION:

SECOND:

AYES:

ABSTAIN:

ABSENT:

STATE OF CALIFORNIA)

) SS.

COUNTY OF ORANGE)

I, _____, Clerk of the Board of Trustees of Fountain Valley School District of Orange County, California, hereby certify that the above and foregoing resolution was duly and regularly adopted by the said Board at a regular meeting thereof held on the 6th of February, 2014, and passed by a _____ vote of said Board.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 6th day of February, 2014.

Clerk _____

Fountain Valley School District

BUSINESS SERVICES DIVISION

ASB/S 13-14 - 02

M E M O R A N D U M

TO: Marc Ecker, Superintendent
FROM: Christine Fullerton, Assistant Superintendent, Business Services
SUBJECT: **RESOLUTION 2014-21: APPOINTMENT OF CUSTODIAN
THE REVOLVING CASH FUND**
DATE: January 13, 2014

BACKGROUND

Education Code Section 42800 provides that the Governing Board may establish a Revolving Cash Fund in an amount not more than two percent (2%) of the district's estimated expenditures during the fiscal year, and not in any event, to exceed \$35,000 for an elementary school district.

In January 2014, a change of Assistant Superintendent of Business Services occurred, resulting in new authorized signatures on file.

RECOMMENDATION

It is recommended that the Board of Trustees adopt **Resolution 2014-21** naming Christine Fullerton, Assistant Superintendent, Business Services, custodian of the Revolving Cash Fund.

cl

FOUNTAIN VALLEY SCHOOL DISTRICT

**RESOLUTION 2014-21
APPOINTMENT OF CUSTODIAN OF REVOLVING CASH FUND**

WHEREAS, Education Code section 42800 authorizes the Governing Board of any school district to establish a Revolving Cash Fund; and

WHEREAS, Education Code section 42800 requires that the Governing Board adopt a resolution setting forth the need for a Revolving Cash Fund and designate the officer authorized to sign checks from the Revolving Cash Fund; and

WHEREAS, the Revolving Cash Fund may be used for any lawful education purpose authorized under Education Code section 35160; and

WHEREAS, the maximum amount of the revolving cash shall not exceed the limits set forth in Education Code section 42800;

NOW, THEREFORE, BE IT RESOLVED, the Board of Trustees authorizes the Assistant Superintendent, Business Services, be appointed as custodian of said Fund and that the signature of the custodian be required on checks drawn on the Revolving Cash Fund.

Christine Fullerton
Assistant Superintendent
Business Services

SIGNATURE



AYES: MEMBERS

NOES: MEMBERS

ABSENT: MEMBERS

STATE OF CALIFORNIA)) SS.
COUNTY OF ORANGE)

I, _____, Clerk of the Board of Trustees of the Fountain Valley School District of Orange County, California, hereby certify that the above and foregoing Resolution was duly and regularly adopted by the said Board at a regular meeting thereof held on the 6th day of February 2014, and passed by _____ vote of said Board.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 6th day of February 2014.

Clerk of Board of Trustees

Fountain Valley School District
BUSINESS SERVICES DIVISION
ASB/S 13/14 - 03

MEMORANDUM

TO: Marc Ecker, Superintendent
FROM: Christine Fullerton, Assistant Superintendent, Business Services
SUBJECT: **RESOLUTION 2014-22: AUTHORIZATION OF APPROVAL OF
VENDOR CLAIMS/ORDERS**
DATE: January 13, 2014

BACKGROUND

Authorization of Approval of Vendor Claims/Orders is required to approve vendor orders for payment, warrant registers as indicated, (this will also include electronic warrants within the Accounting Systems) and that all previous authorizations of signatures are rescinded.

RECOMMENDATION

It is recommended that the Board of Trustees approve **RESOLUTION 2014-22**: Authorization of Approval of Vendor Claims/Orders.

cl

RESOLUTION 2014-22

AUTHORIZATION OF APPROVAL OF VENDOR CLAIMS/ORDERS

FOUNTAIN VALLEY SCHOOL DISTRICT

DATE January 13, 2014

I, _____, Clerk of the governing Board of the above named School District of Orange County, California, hereby certify that the said board at a regular meeting thereof, held on the 6th day of February 2014 adopted by a majority vote of said Board, a resolution that the following named persons be authorized to approve vendor payments electronically, effective 13th day of January 2014; and that all previous authorizations for approval are rescinded. This resolution further states that when the authorization is exercised, the claims and orders have been ordered paid by said Board, and have been processed pursuant to the provisions of Education Code Sections 42630-34/85230-34.

This authorization is subject to the following provisions:

NAME TYPED

SPECIMEN SIGNATURE

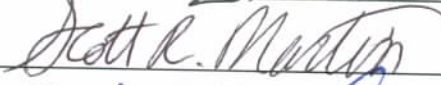
Marc Ecker



Christine Fullerton



Scott Martin



Charlotte Lima



IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of February 2014.

Clerk _____

Fountain Valley School District

BUSINESS SERVICES DIVISION

ASB/S 13/14 – 04

M E M O R A N D U M

TO: Marc Ecker, Superintendent
FROM: Christine Fullerton, Assistant Superintendent, Business Services
SUBJECT: **RESOLUTION 2014-23: AUTHORIZATION OF SIGNATURES**
DATE: January 13, 2014

BACKGROUND

Authorization of Signatures is required to sign payroll notices of employment/changes of status (NOE/CS), time sheets, vendor orders for payment, warrant registers as indicated, (this will also include electronic warrants within the Accounting Systems), and that all previous authorization of signatures are rescinded.

RECOMMENDATION

It is recommended that the Board of Trustees approve **RESOLUTION 2014-23: Authorization of Signatures.**

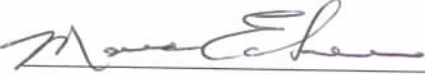







cl

RESOLUTION 2014-23: AUTHORIZATION OF SIGNATURES

FOUNTAIN VALLEY SCHOOL DISTRICT

DATE: January 13, 2014

I, _____, Clerk of the governing Board of the above named School District of Orange County, California, hereby certify that the said Board at a regular/special meeting thereof, held on the 6th day of February, 2014, adopted by a majority vote of said Board, a resolution that the following named persons be authorized to sign payroll notices of employment/changes of status (NOE/CS), Time Sheets, vendor orders for payment and warrant registers as indicated, and that all previous authorization of signatures are rescinded. This resolution further states that the authorization is subject to the following provisions:

<u>NAME TYPED</u>	<u>SPECIMEN SIGNATURE</u>	<u>AUTHORIZED TO SIGN:</u>			
		<u>PAYROLL</u>		<u>VENDOR PAYMENTS</u>	
		<u>NOE/CS</u>	<u>TIME SHEET</u>	<u>ORDERS</u>	<u>REGISTERS</u>
Marc Ecker		X	X	X	X
Christine Fullerton		X	X	X	X
Scott Martin		X	X	X	X
Charlotte Lima				X	X
<u>FACSIMILE SIGNATURES</u>					
Marc Ecker		X	X	X	X
Christine Fullerton		X	X	X	X
Scott Martin		X	X	X	X
Charlotte Lima				X	X

I further certify that the signatures following are those of the members of the governing Board not mentioned above.

<u>NAME TYPED</u>	<u>SIGNATURE</u>
Sandra Crandall	_____
Jimmy Templin	_____
Judith Edwards	_____
Ian Collins	_____
Jeanne Galindo	_____

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of February, 2014.

Fountain Valley School District

BUSINESS SERVICES DIVISION

ASB/S 13/14 – 05

MEMORANDUM

TO: Marc Ecker, Superintendent
FROM: Christine Fullerton, Assistant Superintendent, Business Services
SUBJECT: **RESOLUTION 2014-24: AUTHORIZATION OF SIGNATURES ON ELECTRONICALLY PRINTED CHECKS**
DATE: January 14, 2014

BACKGROUND

Due to a change in District administration, the signature on the District's electronically printed vendor checks produced by the Orange County Superintendent of Schools needs to be updated as of February 6, 2014.

RECOMMENDATION

It is recommended that the Board of Trustees approve **Resolution 2014-24**: Authorization of Signatures on Electronically Printed Checks, appointing Christine Fullerton as the authorized signature.

cl

RESOLUTION 2014-24

AUTHORIZATION OF SIGNATURES
ON ELECTRONICALLY PRINTED CHECKS

FOUNTAIN VALLEY SCHOOL DISTRICT

DATE: January 14, 2014

I, Ian Collins, Clerk of the governing Board of the above named School District of Orange County, California, hereby certify that the said Board at a regular meeting thereof, held on the 6th day of February, 2014, adopted by a majority vote of said Board, a resolution that the following named person(s) signature(s) be printed electronically on the vendor checks produced by the Orange County Superintendent of Schools.

TYPED NAME

SIGNATURE

Christine Fullerton



Signature of Clerk

Date

Fountain Valley School District

BUSINESS SERVICES DIVISION

ASB/S 13/14 - 06

M E M O R A N D U M

TO: Marc Ecker, Superintendent
FROM: Christine Fullerton, Assistant Superintendent, Business Services
SUBJECT: **AUTHORIZATION OF SIGNATURES – FACSIMILE SIGNATURES
(BANK OF AMERICA)**
DATE: January 14, 2014

BACKGROUND

Due to a change in District administration, the bank records for the District's Revolving Cash Account and the Clearing Account need to be updated as of February 1, 2014.

RECOMMENDATION

It is recommended that the Board of Trustees approve authorization of Marc Ecker, Christine Fullerton and Scott Martin's signatures.

cl



FOUNTAIN VALLEY SCHOOL DISTRICT
10055 Slater Avenue • Fountain Valley, CA 92708 • (714) 843-3200
www.fvsd.k12.ca.us

From the Office of the Superintendent

January 30, 2014

Bank of America
17430 Brookhurst Street
Fountain Valley, CA 92708

To Whom It May Concern,

The following people are authorized to sign on the Fountain Valley School District's Food Service Account, Revolving Cash Account and Clearing Account:

Marc Ecker
Christine Fullerton
Scott Martin

Sincerely,

A handwritten signature in red ink, appearing to read "Marc Ecker".

Marc Ecker, Ph.D.
Superintendent
Fountain Valley School District

/rl



**Fountain Valley School District
RESOLUTION 2014-06**

**RESOLUTION OF APPRECIATION TO COUNSELORS
NICOLE AGNES & JANET DO
IN RECOGNITION OF NATIONAL SCHOOL COUNSELING WEEK: FEB. 3-7, 2014**

**National School Counseling Week 2014:
*Celebrate School Counseling***

WHEREAS, during your time of serving as a counselor in the Fountain Valley School District, you have earned the admiration of teachers, administrators, students, parents and the Board; and

WHEREAS, you have proven herself to be an advocate for all children as you dedicate yourself to keeping our students healthy and safe; and

WHEREAS, the Fountain Valley School District and its community salutes you and avows its appreciation for your compassion and skills as you observe and listen.

NOW, IT IS RESOLVED that the Fountain Valley School District Board of Trustees salutes you for truly making a difference and celebrates your ongoing commitment to the emotional health and well being of Fountain Valley's children.

PASSED AND ADOPTED by the Governing Board on February 6, 2014 by the following vote:

Ayes: _____
Nays: _____
Abstentions: _____

STATE OF CALIFORNIA)
) ss
COUNTY OF ORANGE)

I, Ian Collins, Clerk of the Governing Board, do hereby certify that the foregoing is a full, true and correct copy of a resolution passed and adopted by the Board at a regularly called and conducted meeting held on said date.

WITNESSED my hand this 6th day of February, 2014.

Clerk of the Governing Board

**FOUNTAIN VALLEY SCHOOL DISTRICT
Personnel Division**

MEMORANDUM

To: Marc Ecker, Superintendent

From: Cathie Abdel, Assistant Superintendent, Personnel

Subject: MEMORANDUM OF UNDERSTANDING BETWEEN THE
FVSD AND FVEA REGARDING K-3 CLASS SIZE FOR 2013-2014
SCHOOL YEAR.

Date: January 17, 2014

BACKGROUND

On Wednesday, December 18, 2013, the Fountain Valley Education Association and Fountain Valley School District agreed to suspend the provisions of Article XI, Section A1 of the collective bargaining agreement with respect to class size at grades K-3.

RECOMMENDATION

The Board of Trustees approves the Memorandum of Understanding regarding K-3 Class Size for 2013-2014 school year only.

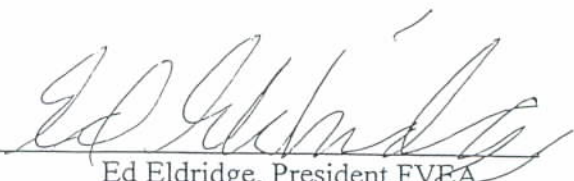
MEMORANDUM OF UNDERSTANDING BETWEEN
THE FOUNTAIN VALLEY SCHOOL DISTRICT AND THE
FOUNTAIN VALLEY EDUCATION ASSOCIATION
REGARDING K-3 CLASS SIZE FOR
SCHOOL YEAR 2013-2014

December 18, 2013

1. For the 2013-2014 school year only, the parties agree to suspend the provisions of Article XI, Section A1 of their collective bargaining agreement ("Agreement") with respect to class size at grades K-3. Provisions pertaining to grades 4 through 8 shall remain in effect.
2. For 2013-2014, average class sizes in grades TK-3 at each school site shall not exceed 30. Individual class sizes at TK-3 may exceed 30, so long as the annual average class size requirement is met.
3. The District shall implement Class Size Reduction ("CSR") for school year 2013-2014 in grades TK-3 as provided under the provisions of the adopted 2013-2014 state budget and the Local Control Funding Formula ("LCFF").
4. This MOU shall not set a precedent for future interpretation or modification of the Agreement.
5. In April of 2014, the parties shall commence negotiations on the provisions of Article XI Class Size with a view to modifying the language for the 2014-2015 school year. In doing so, the parties shall give consideration to new state regulations for implementation of CSR to be developed beginning in 2014, and the amounts budgeted by the state for 2014-2015 and 2015-2016 CSR funding.
6. This agreement shall expire of its own accord on June 30, 2014.



Cathie Abdel, Assistant Superintendent, Personnel



Ed Eldridge, President FVEA

**FOUNTAIN VALLEY SCHOOL DISTRICT
PERSONNEL**

M E M O R A N D U M

TO: Marc Ecker, Superintendent

FROM: Cathie Abdel, Assistant Superintendent, Personnel

SUBJECT: NOTICE OF LAYOFF (REDUCTION IN HOURS) FOR CLASSIFIED POSITION

DATE: January 17, 2014

BACKGROUND

The number of Korean students in the District has varied in recent years from a high of 42 students in 2002 to a low of five in 2013. As a result in 2013, the number of Korean bilingual tutor hours was reduced to six per week. However, at the start of the 2013-14 school year, a Korean eighth grader arrived at our district with virtually no English. In an attempt to provide support to increase the student's success in high school, the hours of aide time were increased to 15 per week.

Now we learned that December 20, 2013 was the student's last day with FVSD. To address this shift, a reduction from 15 hours per week, back to six hours per week is proposed.

Notice to the person serving in the position affected by this layoff shall be in accordance with Education Code 45117, Article XI, Section 2.A. of the collective bargaining agreement, and Personnel Commission Rule 603.

IMPACT

The following classified position in the Instructional Assistant, Bilingual (Korean) classification shall be reduced following the required 60 day notice (on April 10, 2014):

<u>Site</u>	<u>Current hours/week</u>	<u>Proposed hours/week</u>
Masuda Middle School	15	6

RECOMMENDATION

It is recommended that the Board of Trustees reduce the services of the position so designated on the effective date as listed above.



FOUNTAIN VALLEY SCHOOL DISTRICT
BUSINESS SERVICES
D/FS 13/14-50

MEMORANDUM

TO: Christine Fullerton – Assistant Superintendent, Business Administration
FROM: Scott Martin - Director, Fiscal Services
SUBJECT: **CONSOLIDATED APPLICATION FOR FUNDING CATEGORICAL AID PROGRAMS - Winter 2013 Data Collections**
DATE: January 23, 2014

BACKGROUND:

Notification has been received from the California State Department of Education with regard to funding under the 2013-14 Consolidated Application winter release. The winter release of the application is submitted in February of each year and contains the district entitlements for each funded program.

The LCFF legislation eliminated most state categorical funding streams. Categorical funding received in 2012–13 forms the basis for determining an LEA's funding in the phase-in period under the LCFF. Categorical program amounts included in the 2012–13 Economic Impact Aid funding level calculation will not be separately identifiable funding streams in 2013–14 or thereafter; they will be identified initially only as a means to develop an aggregate funding amount for use in calculations. Any Economic Impact Aid carryover funds must be used as originally purposed for English learners and educationally disadvantaged youth. The 2012-13 carryover amount of \$13,697 will be used to cover the cost of FVSD's English Learner Program.

Federal categorical program funds are still administered through the Consolidated Application.

2013-14 Federal categorical aid funds:

- Title I, Part A - \$293,961. These funds will be used to serve Title I students at Cox Elementary School and Masuda Middle School.
- Title II, Part A (Teacher Quality) - \$127,754. Funds have been allocated for Class Size Reduction and professional development expenditures.
- Title III, Part A Immigrant - \$8,399. These funds will be used to pay for enhanced instructional opportunities to immigrant students and their families.
- Title III, Part A LEP - \$59,725. Funds have been allocated to provide supplementary programs and services to limited English proficient students.

Total Consolidated Application funding for 2013-14 will be \$489,839. The 2013-14 expenditure budgets have been adjusted to reflect the new funding entitlements.

RECOMMENDATION:

It is recommended that the Board of Trustees approve transmittal of the Consolidated Application Winter 2013 Data Collection to the California State Department of Education.

2013-14 Economic Impact Aid LEA Reservations and School Allocation Calculation

The purpose of this data collection is to collect carryover, make allowable reservations at the LEA level and to determine the amount available for 2013-14 school-level allocations.

CDE Program Contact:

Gustavo Gonzalez, EIA / LEP, ggonzalez@cde.ca.gov, 916-319-0420
 Mark Klinesteker , EIA / SCE, mklinesteker@cde.ca.gov , 916-319-0256

Carryover Reporting

Carryover (As reported in 2012-13 Economic Impact Aid Carryover.)	\$13,697
Repayment of funds	
Repayment of funds comment Provide an explanation of why repayment dollars were added back to the EIA allocation.	
Total carryover	\$13,697

Reservations and School Allocation Calculation

Indirect cost reserves (Amount cannot exceed 3% of the total carryover amount.)	\$399
Administrative evaluation (Amount cannot exceed 10% of the total carryover amount.)	\$1,369
LEA activities reservation (Amount cannot exceed 2% of the total carryover amount.)	\$273
Alternative reservation (Reservation is only valid if SCE allocations will be made. Amount cannot exceed 25% of the total carryover amount.)	
2013-14 school allocation	\$11,656

2013-14 Federal Transferability

Federal transferability is governed by Title VI in ESEA Section 6123. An LEA may transfer a maximum of 50% of any program to other programs. This transferability is not the same as Title VI Subpart 1 REAP Flexibility governed by ESEA Section 6211.

CDE Program Contact:

Anne Daniels, Education Data Office, adaniels@cde.ca.gov, 916-319-0640

This data collection is not applicable, program funds cannot be transferred out as the LEA is in Program Improvement year 3.

2013-14 Title I, Part A LEA Allocation

The purpose of this data collection is to calculate the full Title I Part A allocation available to the LEA.

CDE Program Contact:

Jyoti Singh, Title I Policy & Program Guidance, jysingh@cde.ca.gov, 916-319-0372
 Joshua Strong, Title I Policy & Program Guidance, JStrong@cde.ca.gov, 916-319-0492

2013-14 Title I, Part A entitlement	\$293,961
Transferred-in amount	\$0
Title I, Part A entitlement after transfers	\$293,961
Note: In order for the 2012-13 Carryover amount to be pre-populated, the 2012-13 Title I, Part A Carryover data collection should be completed and saved before beginning data entry.	
2012-13 Carryover (Allowable values are the 12 or 15 month 2012-13 carryover. The default value displayed is the 15 month calculated carryover.)	\$36,240
Repayment of funds	
2013-14 Total allocation	\$330,201
Indirect cost reservation	\$13,795
Administrative reservation	\$29,826
2013-14 Title I, Part A adjusted allocation	\$286,580
Indirect Cost and Administration Calculation Tool To help determine allowable indirect cost and administration reserves, based on your Approved Indirect Cost Rate as defined on http://www.cde.ca.gov/fg/ac/ic/ , below are recommended values.	
2013-14 Approved indirect cost rate	4.36%
Maximum allowable indirect cost reservation	\$13,795
Recommended administration reservation	\$35,734

2013-14 Title I, Part A Reservations, Required

To report LEA required reservations before distributing funds to schools, and to calculate and report nonprofit private school set-aside values.

CDE Program Contact:

Joshua Strong, Title I Policy & Program Guidance, JStrong@cde.ca.gov, 916-319-0492
 Nancy Bodenhausen, Title I Policy & Program Guidance, NBodenhausen@cde.ca.gov, 916-445-4904

Nonprofit Private School Equitable Services Percentage Calculation

Total participating nonprofit school low income students	
Total participating attendance area low income students	361
Percent of nonprofit private school low income students for equitable service calculations	0.00%

Required Reservations

Title I Part A adjusted allocation	\$286,580
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Parental Involvement

Parental involvement (1% of the entitlement plus transfers-in if greater than \$500,000.)	\$0
Supplemental parental involvement (Optional: Additional discretionary set-aside.)	\$0
Nonprofit private school parental involvement set-aside	\$0
Amount remaining	\$0
Public school parental involvement	\$0
Balance available for LEA parental involvement activities	\$0

Direct and Indirect Services

Direct or indirect services to homeless children, regardless of their school of attendance	\$10,000
Homeless services provided	We will meet the basic needs (clothing, supplies, health) of homeless students and reach out to parents in homeless situations.
Local neglected institutions Does the LEA have local institutions for neglected children or children currently classified as neglected?	No
Direct or indirect services in local institutions for neglected children	
Local delinquent institutions Does the LEA have local institutions for delinquent children?	No

2013-14 Title I, Part A Reservations, Required

To report LEA required reservations before distributing funds to schools, and to calculate and report nonprofit private school set-aside values.

CDE Program Contact:

Joshua Strong, Title I Policy & Program Guidance, JStrong@cde.ca.gov, 916-319-0492
 Nancy Bodenhausen, Title I Policy & Program Guidance, NBodenhausen@cde.ca.gov, 916-445-4904

Other neglected or delinquent services	
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Program Improvement (PI)

The following reservations are required if the LEA is in Program Improvement, or has one or more schools in Program Improvement.

Program Improvement Professional Development

Professional development funds	Yes
Will the LEA use PI school-level professional development funds to help meet the LEA 10% minimum professional development requirement?	
PI professional development (Minimum 10% of the entitlement plus transfers in.)	\$29,396
2012-13 PI professional development carryover	\$0
Total PI professional development	\$29,396

2013-14 Title I, Part A Reservations, Allowed

To report LEA allowable reservations before distributing funds to schools, and to calculate and report nonprofit private school set-aside values.

CDE Program Contact:

Joshua Strong, Title I Policy & Program Guidance, JStrong@cde.ca.gov, 916-319-0492
 Karen Neilsen, Title I Policy & Program Guidance, KNeilsen@cde.ca.gov, 916-319-0946

Allowed Reservations

Professional Development for Highly Qualified Teachers and Paraprofessionals

Professional development for highly qualified teachers and paraprofessionals	
Nonprofit private school equitable services	\$0
Professional development reserved for public schools	\$0

District-wide Instructional Programs

District-wide instructional programs (Non-PI activities)	
Nonprofit private school equitable services	\$0
District-wide instructional programs for Title I public schools	\$0

Other School Programs

Other school programs Including summer school or intersession programs or before and after school programs.	
Nonprofit private school equitable services	\$0
Other school programs reserved for public schools	\$0

Other Allowable Reservations

Salary differentials	
Preschool programs	
Capital expenses for nonprofit private schools	

Program Improvement Activities

Teacher incentives and rewards (Maximum 5% of entitlement after transfers.)	
Professional development of highly qualified teachers	\$0
Technical assistance to schools	

2013-14 Title I, Part A Reservations, Allowed

To report LEA allowable reservations before distributing funds to schools, and to calculate and report nonprofit private school set-aside values.

CDE Program Contact:

Joshua Strong, Title I Policy & Program Guidance, JStrong@cde.ca.gov, 916-319-0492
 Karen Neilsen, Title I Policy & Program Guidance, KNeilsen@cde.ca.gov, 916-319-0946

Summer school, intersession programs or before and after school programs	
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Reservation Summary

Adjusted Allocation	\$286,580
Total required reservations	\$0
Total allowed reservations	\$0
Allocations after reservations	\$286,580
Total nonprofit private school set aside	\$0
Private nonprofit school Parental Involvement set-aside	\$0
Public school Parental Involvement set-aside	\$0
Amount available for Title I, Part A school allocations	\$247,184

2013-14 Title II, Part A LEA Allocations and Reservations

The purpose of this data collection is to calculate the total allocation amount available to the LEA for Title II Part A Teacher & Principal Training & Recruiting, and to report required reservations.

CDE Program Contact:

Jackie Rose, Title II Leadership, jrose@cde.ca.gov, 916-322-9503
 Juan J. Sanchez, Section 2141 Contact, jsanchez@cde.ca.gov, 916-323-5264

2013-14 Title II Part A entitlement	\$127,754
Total funds transferred out of Title II, Part A	\$0
Total entitlement after transfers	\$127,754
2012-13 Carryover (as of 06/30/13)	\$118
Repayment of funds	
Repayment comment	
Provide an explanation of why repayment dollars were added back to the allocation	
2013-14 Allocation	\$127,872
Administrative and indirect costs	\$760
Title II Part A adjusted allocation	\$127,112

2013-14 Title III, Part A Immigrant LEA Allocations

The purpose of this data collection is to calculate the total allocation amount available to the LEA for Title III Part A Immigrant, and to report required reservations.

CDE Program Contact:

Patty Stevens, Title III Language Policy & Leadership Office, pstevens@cde.ca.gov, 916-323-5838

2013-14 Title III, Part A Immigrant entitlement	\$8,399
2012-13 Carryover	\$6,028
Repayment of funds	
2013-14 Allocation	\$14,427
Administrative and indirect costs	\$351
2013-14 Adjusted allocation	\$14,076
General comment (Maximum 500 characters)	

2013-14 Title III Part A Immigrant YTD Obligations Report, 6 Months

A report of year-to-date obligations by activity.

CDE Program Contact:

Patty Stevens, Title III Language Policy & Leadership Office, pstevens@cde.ca.gov, 916-323-5838
 Sandra Covarrubias, Language Policy & Leadership Office, SCovarrubias@cde.ca.gov, 916-319-0267

Approved Immigrant Sub-grantee Activities

(e) ACTIVITIES BY AGENCIES EXPERIENCING SUBSTANTIAL INCREASES IN IMMIGRANT CHILDREN AND YOUTH-

(1) IN GENERAL-An eligible entity receiving funds under section 3114(d)(1) shall use the funds to pay for activities that provide enhanced instructional opportunities for immigrant children and youth, which may include-

- (A) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;
- (B) support for personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;
- (C) provision of tutorials, mentoring, and academic or career counseling for immigrant children and youth
- (D) identification and acquisition of curricular materials, educational software, and technologies to be used in the program carried out with funds;

(E) basic instruction services that are directly attributable to the presence in the school district involved of immigrant children and youth, including the payment of costs of providing additional classroom supplies, costs of transportation, or such other costs as are directly attributable to such additional basic instruction services;

(F) other instruction services that are designed to assist immigrant children and youth to achieve in elementary schools and secondary schools in the United States, such as programs of introduction to the educational system and civics education; and

(G) activities, coordinated with community-based organizations, institutions of higher education, private sector entities with expertise in working with immigrants, to assist parents of immigrant children and youth by offering comprehensive community services.

2013-14 Title III, Part A Immigrant entitlement	\$8,399
Object Code - Activity	
1000-1999 Certificated personnel salaries	\$0
2000-2999 Classified personnel salaries	\$0
3000-3999 Employee benefits	\$0
4000-4999 Books and supplies	\$0
5000-5999 Services and other operating expenditures	\$0
Administrative and indirect costs	\$0
Total year-to-date obligations	\$0
General comment (Maximum 500 characters)	Expenses through 12.31.13 were obligations for 12-13 carryover funds.

2013-14 Title III, Part A LEP LEA Allocations

The purpose of this data collection is to calculate the total allocation amount available to the LEA for Title III Part A LEP, and to report required reservations.

CDE Program Contact:

Patty Stevens, Title III Language Policy & Leadership Office, pstevens@cde.ca.gov, 916-323-5838

2013-14 Title III, Part A LEP entitlement	\$59,725
2012-13 Carryover	\$27,877
Repayment of funds	
2013-14 Allocation	\$87,602
Administrative and indirect costs	\$1,718
2013-14 Adjusted allocation	\$85,884

2013-14 Title III, Part A LEP YTD Obligations Report, 6 Months

A report of year-to-date obligations by activity.

CDE Program Contact:

Patty Stevens, Title III Language Policy & Leadership Office, pstevens@cde.ca.gov, 916-323-5838
 Geoffrey Ndirangu, Language Policy & Leadership Office, gndirang@cde.ca.gov, 916-323-5831

Required and Authorized LEP Sub-grantee Activities

Required

Section 3115 (c)(1) To increase the English Proficiency by providing high-quality language instruction educational programs that are based on scientifically based research demonstrating the effectiveness of the programs.

Section 3115 (c)(2) To provide high quality professional development to classroom teachers (including teachers in classroom settings that are not the settings of language instruction educational programs), principals, administrators, and other school or community-based organizational personnel.

Authorized

- (1) Upgrading program objectives and effective instruction strategies.
- (2) Improving the instruction program for limited English proficient children by identifying acquiring and upgrading curricula, instruction materials, educational software, and assessment procedures.
- (3) Providing tutorials and academic or vocational education for limited English proficient children and intensified instruction.
- (4) Developing and implementing elementary school or secondary school language instruction educational programs that are coordinated with other relevant programs and services.
- (5) Improving the English proficiency and academic achievement of limited English proficient children.
- (6) Providing community participation programs, family literacy services and parent outreach and training activities to limited English proficient children and their families.

2013-14 Title III, Part A LEP entitlement	\$59,725
Object Code - Activity	
1000-1999 Certificated personnel salaries	\$0
2000-2999 Classified personnel salaries	\$0
3000-3999 Employee benefits	\$0
4000-4999 Books and supplies	\$0
5000-5999 Services and other operating expenditures	\$0
Administrative and indirect costs	\$0
Total year-to-date obligations	\$0
General comment (Maximum 500 characters)	Expenses through 12.31.13 were for obligations of 2012-2013 funds.

2013-14 Consolidation of Administrative Funds

A request by the LEA to consolidate administrative funds for specific programs.

CDE Program Contact:

Julie Brucklacher, Financial Accountability & Info Srv, jbruckla@cde.ca.gov, 916-327-0858

Title I, Part A (Basic) SACS Code 3010	No
Title I, Part C (Migrant Education) SACS Code 3060	No
Title I, Part D (Delinquent) SACS Code 3025	No
Title II, Part A (Teacher Quality) SACS Code 4035	No
Title II, Part A (Administrator Training) SACS Code 4036	No
Title III (Immigrant Students) SACS Code 4201	No
Title III (LEP Students) - 2% maximum SACS Code 4203	No
Title IV, Part B (21st Century Community Learning Centers) SACS Code 4124	No

California Department of Education

Fountain Valley Elementary (30 66498 0000000)

Consolidated Application

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 Date: 1/15/2014 4:29 PM

2013-14 Economic Impact Aid School Allocations

This reports identifies the schools funded with LEP, and if applicable, SCE allocations.

CDE Program Contact:

Gustavo Gonzalez, EIA / LEP, ggonzalez@cde.ca.gov, 916-319-0420
 Mark Klinesteker , EIA / SCE, mklinesteker@cde.ca.gov, 916-319-0256

Funding method

SCE/LEP

Total EIA allocation

\$11,656

Allocation method

Manually entered dollar value

Standard per student LEP rate

\$12

Standard per student SCE rate

\$4

Total LEP allocation

\$9,408

Total SCE allocation

\$2,248

School Name	School Code	Grade Span Group	LEP Student Count	LEP Allocation	EDY Student Count	SCE Eligible	SCE Allocation	SCE Allocation Comment
Cox (James H.) Elementary	6066922	1	180	\$2,160	229	Y	\$950	
Plavan (Urban H.) Elementary	6085278	1	136	\$1,632	167	Y	\$693	
Oka (Isojiro) Elementary	6068605	1	49	\$588	146	Y	\$605	
Tamura (Hisamatsu) Elementary	6027924	1	134	\$1,608	134	N		
Courreges (Roch) Elementary	6094635	1	84	\$1,008	91	N		
Gisler (Robert) Elementary	6027973	1	56	\$672	93	N		
Newland (William T.) Elementary	6027999	1	16	\$192	44	N		
Masuda (Kazuo) Middle	6094627	2	80	\$960	240	N		
Fulton (Harry C.) Middle	6027916	2	29	\$348	159	N		
Talbert (Samuel E.) Middle	6071096	2	20	\$240	152	N		

California Department of Education

Fountain Valley Elementary (30 66498 00000000)

Consolidated ApplicationStatus: Draft
Saved by: Thuy Bui
Date: 1/15/2014 12:16 PM**2013-14 Title I, Part A Notification of Authorization of School Wide Program**

This report provides notification to CDE of a school's eligibility and local board approval to operate under and report as Schoolwide Program

CDE Program Contact:Franco Rozic, Title I Monitoring & Support, froziac@cde.ca.gov, 916-319-0269**Note:**

In order for CDE program staff to have visibility to all SWP authorized schools, it is important to have an Authorized Representative certify this Notification of Authorization data collection after a change is made.

School Name	School Code	Authorized	Local Board Approval Date (ex. 04/30/2013)	SIG Approval Date (ex. 04/30/2013)	Poverty Level %
Courreges (Roch) Elementary	6094635	N			
Cox (James H.) Elementary	6066922	N			
Fulton (Harry C.) Middle	6027916	N			
Gisler (Robert) Elementary	6027973	N			
Masuda (Kazuo) Middle	6094627	N			
Newland (William T.) Elementary	6027999	N			
Oka (Isojiro) Elementary	6068605	N			
Plavan (Urbain H.) Elementary	6085278	N			
Talbert (Samuel E.) Middle	6071096	N			
Tamura (Hisamatsu) Elementary	6027924	N			

California Department of Education

Fountain Valley Elementary (30 66498 0000000)

Consolidated Application

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 Date: 1/16/2014 11:12 AM

2013-14 Title I, Part A School Allocations

This identifies the amount of Title I, Part A funds to allocated to eligible public schools and equitable services to students in nonprofit private schools.

CDE Program Contact:

Joshua Strong, Title I Policy & Program Guidance, JStrong@cde.ca.gov, 916-319-0492
 Jyoti Singh, Title I Policy & Program Guidance, jysingh@cde.ca.gov, 916-319-0372

If an exception to funding is needed, enter an Exception Reason. Use lower case only.

Allowable Exception Reasons

- a - Meets 35% Low Income Requirement
- c - Funded by Other Allowable Sources
- d - Desegregation Waiver on File
- e - Grandfather Provision
- f - Feeder Pattern
- g - Local Funded Charter Opted Out
- h - Local Funded Chart Opt In
- i - CORE Waiver Eligible High School

Low income measure

FRPM

Group Schools by Grade Span

Yes

District-wide low income %

17.74%

Available Title I, Part A school allocation

\$247,184

Available public school parent involvement reservation

\$0

Available nonprofit private school set-asides

\$0

Available nonprofit private school parent involvement reservation

\$0

School Name	School Code	Grade Span Group	Low Income Students	Low Income Student %	Eligible	\$ Per Low Income Student (0.00)	Carryover	Public School Parental Involvement	Nonprofit Private Parental Involvement	Nonprofit Private Set Aside	Total School Allocation	Exception Reason	EIA Funded	Other Program Funds	Exception Comment
Plavan (Urban H.) Elementary	6085278	1	130	25.44	Y	0.00					0.00		N	N	
Oka (Isojoro) Elementary	6068605	1	114	25.39	Y	0.00					0.00		N	N	
Cox (James H.) Elementary	6066922	1	183	25.03	Y	684.72					125303.76	e	N	N	Additional year of funding for Cox funded in 2012-2013.

2013-14 Title I, Part A School Allocations

This identifies the amount of Title I, Part A funds to allocated to eligible public schools and equitable services to students in nonprofit private schools.

School Name	School Code	Grade Span Group	Low Income Students	Low Income Student %	Eligible	\$ Per Low Income Student (0.00)	Carryover	Public School Parental Involvement	Nonprofit Private Parental Involvement	Nonprofit Private Set Aside	Total School Allocation	Exception Reason	EIA Funded	Other Program Funds	Exception Comment
Tamura (Hisamatsu) Elementary	6027924	1	110	17.68	N	0.00					0.00		N	N	
Gisler (Robert) Elementary	6027973	1	70	13.11	N	0.00					0.00		N	N	
Courreges (Roch) Elementary	6094635	1	77	10.74	N	0.00					0.00		N	N	
Newland (William T.) Elementary	6027999	1	37	8.41	N	0.00					0.00		N	N	
Masuda (Kazuo) Middle	6094627	2	178	22.36	Y	684.72					121880.16		N	N	
Talbert (Samuel E.) Middle	6071096	2	112	15.73	N	0.00					0.00		N	N	
Fulton (Harry C.) Middle	6027916	2	117	13.81	N	0.00					0.00		N	N	

2012-13 Economic Impact Aid Carryover

Funds allocated as Economic Impact Aid must be used as originally purposed for English learners and educationally disadvantaged youth. The categorical intent continues to be in effect for funds previously allocated. The purpose of this data collection is to identify carryover funds for fiscal year 2013-14 use.

CDE Program Contact:

Mark Klinesteker , EIA / SCE, mklinesteker@cde.ca.gov , 916-319-0256
Gustavo Gonzalez, EIA / LEP, ggonzalez@cde.ca.gov, 916-319-0420

Note: Carryover reported below will be used to determine 2013-14 Economic Impact Aid school allocations.	
Economic Impact Aid carryover (Amount should include all prior fiscal year unspent funds.)	\$13,697

2012-13 Title I Part A Carryover

Report fiscal year expenditures to determine 2012-13 Title I, Part A carryover for fiscal year 2013-14

CDE Program Contact:

Jyoti Singh, Title I Policy & Program Guidance, jysingh@cde.ca.gov, 916-319-0372
 Joshua Strong, Title I Policy & Program Guidance, JStrong@cde.ca.gov, 916-319-0492

2012-13 Carryover Calculation

2012-13 Title I Part A Entitlement	\$342,356
Transferred in	\$0
Title I Part A available allocation	\$342,356
Expenditures and encumbrances from July 1, 2012 through June 30, 2013 (12 Months)	\$306,116
Carryover as of June 30, 2013	\$36,240
Carryover percent as of June 30, 2013	10.59%
Expenditures and encumbrances from July 1, 2012 through September 30, 2013 (15 Months)	\$342,356
Carryover as of September 30, 2013	\$0
Carryover percent as of September 30, 2013	0.00%
Allowable carryover amount	\$51,353
Amount of carryover funds above the allowable 15%	\$0

Waiver Request

The LEA's carryover percentage as of September 30, 2013 exceeds 15% and the LEA meets the eligibility requirements to apply for a Carryover Waiver Request. The Total amount for major activities must equal the amount of carryover funds above the allowable 15% calculated above.

If the LEA does not complete the application for a waiver below, CDE will invoice the LEA to return the 2012-13 excess (the amount exceeding the 15%) carryover amount as of September 30, 2013.

NOTE: Per the Notification of Flexibility for Title I, Part A Carryover Funds, an LEA who was previously approved for a waiver in one of the previous two years, and whose 2012-13 carry over exceeds 15%, may apply for another waiver to spend fiscal year 2012-13 funds more thoughtfully on activities that are most likely to improve the academic achievement of students, particularly in light of the uncertainty caused by sequestration.

Major Activity Description 1	
Budgeted Amount 1	
Major Activity Description 2	
Budgeted Amount 2	
Major Activity Description 3	
Budgeted Amount 3	

2012-13 Title I Part A Carryover

Report fiscal year expenditures to determine 2012-13 Title I, Part A carryover for fiscal year 2013-14

CDE Program Contact:

Jyoti Singh, Title I Policy & Program Guidance, jysingh@cde.ca.gov, 916-319-0372

Joshua Strong, Title I Policy & Program Guidance, JStrong@cde.ca.gov, 916-319-0492

Major Activity Description 4	
Budgeted Amount 4	
Major Activity Description 5	
Budgeted Amount 5	
Major Activity Description 6	
Budgeted Amount 6	
Total budgeted	\$0

2012-13 Title III Part A Immigrant YTD Obligations Report, 18 Months

A report of year-to-date obligations by activity.

CDE Program Contact:

Patty Stevens, Title III Language Policy & Leadership Office, pstevens@cde.ca.gov, 916-323-5838
 Sandra Covarrubias, Language Policy & Leadership Office, SCovarrubias@cde.ca.gov, 916-319-0267

Approved Immigrant Sub-grantee Activities

(e) ACTIVITIES BY AGENCIES EXPERIENCING SUBSTANTIAL INCREASES IN IMMIGRANT CHILDREN AND YOUTH-

(1) IN GENERAL-An eligible entity receiving funds under section 3114(d)(1) shall use the funds to pay for activities that provide enhanced instructional opportunities for immigrant children and youth, which may include-

- (A) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;
- (B) support for personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;
- (C) provision of tutorials, mentoring, and academic or career counseling for immigrant children and youth
- (D) identification and acquisition of curricular materials, educational software, and technologies to be used in the program carried out with funds;

(E) basic instruction services that are directly attributable to the presence in the school district involved of immigrant children and youth, including the payment of costs of providing additional classroom supplies, costs of transportation, or such other costs as are directly attributable to such additional basic instruction services;

(F) other instruction services that are designed to assist immigrant children and youth to achieve in elementary schools and secondary schools in the United States, such as programs of introduction to the educational system and civics education; and

(G) activities, coordinated with community-based organizations, institutions of higher education, private sector entities with expertise in working with immigrants, to assist parents of immigrant children and youth by offering comprehensive community services.

2012-13 Title III, Part A Immigrant entitlement	\$9,400
Object Code - Activity	
1000-1999 Certificated personnel salaries	\$0
2000-2999 Classified personnel salaries	\$1,783
3000-3999 Employee benefits	\$105
4000-4999 Books and supplies	\$1,246
5000-5999 Services and other operating expenditures	\$21
Administrative and indirect costs	\$238
Total year-to-date obligations	\$3,393
General comment (Maximum 500 characters)	

2012-13 Title III, Part A LEP YTD Obligations Report, 18 Months

A report of year-to-date obligations by activity.

CDE Program Contact:

Patty Stevens, Title III Language Policy & Leadership Office, pstevens@cde.ca.gov, 916-323-5838
 Geoffrey Ndirangu, Language Policy & Leadership Office, gndirang@cde.ca.gov, 916-323-5831

Required and Authorized LEP Sub-grantee Activities

Required

Section 3115 (c)(1) To increase the English Proficiency by providing high-quality language instruction educational programs that are based on scientifically based research demonstrating the effectiveness of the programs.

Section 3115 (c)(2) To provide high quality professional development to classroom teachers (including teachers in classroom settings that are not the settings of language instruction educational programs), principals, administrators, and other school or community-based organizational personnel.

Authorized

- (1) Upgrading program objectives and effective instruction strategies.
- (2) Improving the instruction program for limited English proficient children by identifying acquiring and upgrading curricula, instruction materials, educational software, and assessment procedures.
- (3) Providing tutorials and academic or vocational education for limited English proficient children and intensified instruction.
- (4) Developing and implementing elementary school or secondary school language instruction educational programs that are coordinated with other relevant programs and services.
- (5) Improving the English proficiency and academic achievement of limited English proficient children.
- (6) Providing community participation programs, family literacy services and parent outreach and training activities to limited English proficient children and their families.

2012-13 Title III, Part A LEP entitlement	\$70,178
Object Code - Activity	
1000-1999 Certificated personnel salaries	\$8,075
2000-2999 Classified personnel salaries	\$19,997
3000-3999 Employee benefits	\$5,927
4000-4999 Books and supplies	\$147
5000-5999 Services and other operating expenditures	\$12,872
Administrative and indirect costs	\$1,087
Total year-to-date obligations	\$48,105
General comment (Maximum 500 characters)	

2011-12 Title I, Part A Closeout Report

Report fiscal year expenditures to determine 2011-12 Title I, Part A unspent funds.

CDE Program Contact:

Jyoti Singh, Title I Policy & Program Guidance, jysingh@cde.ca.gov, 916-319-0372

Joshua Strong, Title I Policy & Program Guidance, JStrong@cde.ca.gov, 916-319-0492

There are no reported carryover funds. The LEA has already expended all Title I, Part A funds.

California Department of Education

Fountain Valley Elementary (30 66498 0000000)

Consolidated Application

Status: Draft

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Date: 1/14/2014 3:07 PM

2011-12 Title II, Part A FY Expenditure and Close-Out Report, 27 Months

A report of year-to-date expenditures and encumbrances by activity covering the period of 07/01/2011 through 09/30/2013.

CDE Program Contact:

Jackie Rose, Title II Leadership, jrose@cde.ca.gov, 916-322-9503

2011-12 Title II, Part A entitlement	\$137,367
Professional development	\$6,786
Exam and test preparation	
Recruiting training and retaining	
Class size reduction	\$130,222
Administrative and indirect costs	\$359
Other allowable expenditures or encumbrances	
Total expenditures and encumbrances	\$137,367
2011-12 Unspent funds	\$0
Note: CDE will invoice the LEA for the amount of 2011-12 unspent funds.	
General comment (Maximum 500 characters)	

2011-12 Title III Part A Immigrant YTD Obligations Report, 27 Months

A report of year-to-date obligations by activity.

CDE Program Contact:

Patty Stevens, Title III Language Policy & Leadership Office, pstevens@cde.ca.gov, 916-323-5838
 Sandra Covarrubias, Language Policy & Leadership Office, SCovarrubias@cde.ca.gov, 916-319-0267

Approved Immigrant Sub-grantee Activities

(e) ACTIVITIES BY AGENCIES EXPERIENCING SUBSTANTIAL INCREASES IN IMMIGRANT CHILDREN AND YOUTH-

- (1) IN GENERAL-An eligible entity receiving funds under section 3114(d)(1) shall use the funds to pay for activities that provide enhanced instructional opportunities for immigrant children and youth, which may include-
- (A) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;
 - (B) support for personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;
 - (C) provision of tutorials, mentoring, and academic or career counseling for immigrant children and youth
 - (D) identification and acquisition of curricular materials, educational software, and technologies to be used in the program carried out with funds;

(E) basic instruction services that are directly attributable to the presence in the school district involved of immigrant children and youth, including the payment of costs of providing additional classroom supplies, costs of transportation, or such other costs as are directly attributable to such additional basic instruction services;

(F) other instruction services that are designed to assist immigrant children and youth to achieve in elementary schools and secondary schools in the United States, such as programs of introduction to the educational system and civics education; and

(G) activities, coordinated with community-based organizations, institutions of higher education, private sector entities with expertise in working with immigrants, to assist parents of immigrant children and youth by offering comprehensive community services.

2011-12 Title III Part A Immigrant entitlement	\$9,100
Object Code - Activity	
1000-1999 Certificated personnel salaries	\$0
2000-2999 Classified personnel salaries	\$1,903
3000-3999 Employee benefits	\$175
4000-4999 Books and supplies	\$6,525
5000-5999 Services and other operating expenditures	\$147
Administrative and indirect costs	\$350
Total year-to-date obligations	\$9,100
2011-12 Unspent funds	\$0
Note: CDE will invoice the LEA for the amount of 2011-12 unspent funds.	
General comment (Maximum 500 characters)	

2011-12 Title III, Part A LEP YTD Obligations Report, 27 Months

A report of year-to-date obligations by activity.

CDE Program Contact:

Patty Stevens, Title III Language Policy & Leadership Office, pstevens@cde.ca.gov, 916-323-5838
 Geoffrey Ndirangu, Language Policy & Leadership Office, gndirang@cde.ca.gov, 916-323-5831

Required and Authorized LEP Sub-grantee Activities

Required

Section 3115 (c)(1) To increase the English Proficiency by providing high-quality language instruction educational programs that are based on scientifically based research demonstrating the effectiveness of the programs.

Section 3115 (c)(2) To provide high quality professional development to classroom teachers (including teachers in classroom settings that are not the settings of language instruction educational programs), principals, administrators, and other school or community-based organizational personnel.

Authorized

- (1) Upgrading program objectives and effective instruction strategies.
- (2) Improving the instruction program for limited English proficient children by identifying acquiring and upgrading curricula, instruction materials, educational software, and assessment procedures.
- (3) Providing tutorials and academic or vocational education for limited English proficient children and intensified instruction.
- (4) Developing and implementing elementary school or secondary school language instruction educational programs that are coordinated with other relevant programs and services.
- (5) Improving the English proficiency and academic achievement of limited English proficient children.
- (6) Providing community participation programs, family literacy services and parent outreach and training activities to limited English proficient children and their families.

2011-12 Title III, Part A LEP entitlement	\$70,025
Object Code - Activity	
1000-1999 Certificated personnel salaries	\$18,743
2000-2999 Classified personnel salaries	\$22,734
3000-3999 Employee benefits	\$10,681
4000-4999 Books and supplies	\$12,526
5000-5999 Services and other operating expenditures	\$3,941
Administrative and indirect costs	\$1,400
Total year-to-date obligations	\$70,025
2011-12 Unspent funds	\$0
Note: CDE will invoice the LEA for the amount of 2011-12 unspent funds.	

2011-12 Title III, Part A LEP YTD Obligations Report, 27 Months

A report of year-to-date obligations by activity.

CDE Program Contact:

Patty Stevens, Title III Language Policy & Leadership Office, pstevens@cde.ca.gov, 916-323-5838
Geoffrey Ndirangu, Language Policy & Leadership Office, gndirang@cde.ca.gov, 916-323-5831

General comment (Maximum 500 characters)	
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FOUNTAIN VALLEY SCHOOL DISTRICT
Curriculum/Instruction

MEMORANDUM

TO: Marc Ecker, Superintendent/Anne Silavs, Asst. Superintendent, Instruction
FROM: Mona Green, Director, Child Development and Recreation Programs
SUBJECT: *Resolution 2014-25: State Preschool Program*
DATE: January 17, 2014

BACKGROUND

The California Department of Education requires a resolution to approve Contract Amendment 01 for the State Preschool Program. Amendment 01 updates the contract award from \$145,358 to \$181,726. Director Mona Green applied for and was awarded restoration funding to service more state preschool children. Attached is the resolution to be signed as well as a copy of the contract amendment.

RECOMMENDATION

It is recommended that the Board of Trustees adopts Resolution 2014-25 for the State Preschool Program Contract Amendment 01 for the school year 2013-2014.



CALIFORNIA DEPARTMENT OF EDUCATION

1430 N Street

Sacramento, CA 95814-5901

F.Y. 13 - 14

Amendment 01

DATE: July 01, 2013

CONTRACT NUMBER: CSPP-3318

PROGRAM TYPE: CALIFORNIA STATE
PRESCHOOL PROGRAM

PROJECT NUMBER: 30-6649-00-3

LOCAL AGREEMENT FOR CHILD DEVELOPMENT SERVICES
Increase (AB 110)/Restoration

CONTRACTOR'S NAME: FOUNTAIN VALLEY ELEMENTARY SCHOOL DISTRICT

This agreement with the State of California dated July 01, 2013 designated as number CSPP-3318, shall be amended in the following particulars but no others:

The Maximum Reimbursable Amount (MRA) payable pursuant to the provisions of this agreement shall be amended by deleting reference to \$145,358.00 and inserting \$181,726.00 in place thereof.

The Maximim Rate per child day of enrollment payable pursuant to the provisions of the agreement shall be \$34.38. (No change)

SERVICE REQUIREMENTS

The minimum Child Days of Enrollment (CDE) Requirement shall be amended by deleting reference to 4,228.0 and inserting 5,286.0 in place thereof.

Minimum Days of Operation (MDO) Requirement shall be 180. (No change)

EXCEPT AS AMENDED HEREIN all terms and conditions of the original agreement shall remain unchanged and in full force and effect.

STATE OF CALIFORNIA		CONTRACTOR				
BY (AUTHORIZED SIGNATURE)		BY (AUTHORIZED SIGNATURE)				
PRINTED NAME OF PERSON SIGNING Margie Burke, Manager		PRINTED NAME AND TITLE OF PERSON SIGNING				
TITLE Contracts, Purchasing & Conference Services		ADDRESS				
AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 36,368	PROGRAM/CATEGORY (CODE AND TITLE) Child Development Programs	FUND TITLE		Department of General Services use only		
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT \$ 145,358	(OPTIONAL USE) See Attached					
TOTAL AMOUNT ENCUMBERED TO DATE \$ 181,726	ITEM See Attached	CHAPTER	STATUTE			FISCAL YEAR
	OBJECT OF EXPENDITURE (CODE AND TITLE) 702					
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.		T.B.A. NO.	B.R. NO.			
SIGNATURE OF ACCOUNTING OFFICER See Attached		DATE				

CONTRACTOR'S NAME: FOUNTAIN VALLEY ELEMENTARY SCHOOL DISTRICT

CONTRACT NUMBER: CSPP-3318

Amendment 01

AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 1,355	PROGRAM/CATEGORY (CODE AND TITLE) Child Development Programs	FUND TITLE General		
PRIOR AMOUNT ENCUMBERED \$ 145,358	(OPTIONAL USE)0656 23038-6649			
TOTAL AMOUNT ENCUMBERED TO DATE \$ 146,713	ITEM 30.10.010. 6110-196-0001	CHAPTER 20	STATUTE 2013	FISCAL YEAR 2013-2014
	OBJECT OF EXPENDITURE (CODE AND TITLE) 702 SACS: Res-6105 Rev-8590			

AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 35,013	PROGRAM/CATEGORY (CODE AND TITLE) Child Development Programs	FUND TITLE General		
PRIOR AMOUNT ENCUMBERED \$ 0	(OPTIONAL USE)0656 25231-6649			
TOTAL AMOUNT ENCUMBERED TO DATE \$ 35,013	ITEM 30.10.010. 6100-196-0001	CHAPTER 20	STATUTE 2013	FISCAL YEAR 2013-2014
	OBJECT OF EXPENDITURE (CODE AND TITLE) 702 SACS: Res-6105 Rev-8590			

I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.	T.B.A. NO.	B.R. NO.
SIGNATURE OF ACCOUNTING OFFICER	DATE	

Fountain Valley School District
Childcare and Development Services
CA State Preschool Program

This resolution must be adopted in order to certify the approval of the Governing Board to enter into this transaction with the California Department of Education for the purpose of providing child care and development services **and to authorize the designated personnel to sign contract documents for Fiscal Year 2013-14.**

RESOLUTION 2014-25

BE IT RESOLVED THAT the Governing Board of the Fountain Valley School District authorizes entering into the local agreement number contract CSPP-3318 and that the person/s who is/are listed below, is/are authorized to sign the transaction for the Governing Board.

<u>Name</u>	<u>Title</u>	<u>Signature</u>
Mastaneh (Mona) Green	Director, Child Care Program	

PASSED AND ADOPTED THIS 6th day of February 2014, by the governing Board of the Fountain Valley School District of Orange County, California.

I, Ian Collins, Clerk of the Governing Board of the Fountain Valley School District of Orange County, California, certify that the foregoing is a full, true and correct copy of a resolution adopted by said Board at a regular meeting therefore held at a regular public place of meeting and the resolution is on file in the office of said Board.

Ian Collins, Board Clerk

Date



FOUNTAIN VALLEY SCHOOL DISTRICT

10055 Slater Ave. • Fountain Valley, CA 92708 • 714.843.3200 • www.fvsd.k12.ca.us

FOUNTAIN VALLEY SCHOOL DISTRICT SUPPORT SERVICES

MEMORANDUM

TO: Anne Silavs, Assistant Superintendent, Instruction

FROM: Abby Wright, Director, Support Services

SUBJECT: **OCDE Income Agreement – Common Core State Standards (CCSS)**

DATE: January 28, 2014 – for February 6, 2014 Board Meeting

BACKGROUND

Orange County Department of Education (OCDE) to provide two trainers to conduct training and coaching on instructional best practices in Common Core State Standards (CCSS) in English Language Arts and Mathematics. Term of contract is December 9, 2013 thru April 30, 2014. Total not to exceed \$7,800.

RECOMMENDATION

It is recommended that the Board of Trustees approve the Income Agreement for Orange County Department of Education (OCDE). Beginning December 9, 2013 through April 30, 2014 and authorize the Superintendent or designee to sign all documents.

srb

FOUNTAIN VALLEY SCHOOL DISTRICT
INCOME AGREEMENT

This AGREEMENT is hereby entered into this 9th day of December, 2013, by and between the Orange County Superintendent of Schools, 200 Kalmus Drive, Costa Mesa, California 92626, hereinafter referred to as SUPERINTENDENT, and the Fountain Valley School District, 10055 Slater Avenue, Fountain Valley, California 92708, hereinafter referred to as DISTRICT. SUPERINTENDENT and DISTRICT shall be collectively referred to as the Parties.

WHEREAS, DISTRICT is authorized by Section 53060 of the California Government Code to contract with and employ any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal or administrative matters, if such persons are specially trained and experienced and competent to perform the special services required; and

WHEREAS, DISTRICT is in need of such special services and advice; and

WHEREAS, SUPERINTENDENT is specially trained and experienced and competent to perform the special services required by the DISTRICT, and such services are needed on a limited basis;

NOW, THEREFORE, the parties hereby agree as follows:

1.0 SCOPE OF WORK. DISTRICT hereby engages SUPERINTENDENT as an independent contractor to perform the described work and SUPERINTENDENT hereby agrees to perform said work upon the terms and conditions hereinafter set forth. Specifically, SUPERINTENDENT

1 shall perform the following services for Instructional Services
2 Programs:

3 1.1 Provide two (2) trainers to conduct training and
4 coaching on instructional best practices in Common Core State
5 Standards (CCSS) in English Language Arts in grades K-2 and
6 Mathematics in grades 6 - 8 and Common Core State Standards (CCSS)
7 in English Language Arts in grades K-2 and mathematics in grades 6-8
8 and CCSS implications for teachers working with students with the
9 most significant disabilities.

10 2.0 TERM. This AGREEMENT shall commence on December 9, 2013 and
11 end on April 30, 2014.

12 3.0 COMPENSATION. DISTRICT agrees to pay the SUPERINTENDENT for
13 services satisfactorily performed pursuant to Section 1.0 of this
14 AGREEMENT a total sum not to exceed Seven thousand eight hundred
15 dollars (\$7,800.00). Reimbursement shall be made at the rate of One
16 thousand two hundred dollars (\$1,200.00) per full day training
17 session. Payment shall be mailed to: Orange County Superintendent
18 of Schools, Attn: Accounting Manager, 200 Kalmus Drive, P. O. Box
19 9050, Costa Mesa, California 92628-9050, or at such other place as
20 SUPERINTENDENT may designate in writing.

21 4.0 INDEPENDENT CONTRACTOR. SUPERINTENDENT, in the performance
22 of this AGREEMENT, shall be and act as an independent contractor.
23 SUPERINTENDENT understands and agrees that he/she and all of his/her
24 employees shall not be considered officers, employees or agents of
25 the DISTRICT, and are not entitled to benefits of any kind or nature
normally provided employees of the DISTRICT and/or to which

1 DISTRICT'S employees are normally entitled, including, but not
2 limited to, State Unemployment Compensation or Workers'
3 Compensation. SUPERINTENDENT assumes the full responsibility for
4 the acts and/or omissions of his/her employees or agents as they
5 relate to the services to be provided under this AGREEMENT.
6 SUPERINTENDENT shall assume full responsibility for payment of all
7 federal, state and local taxes or contributions, including
8 unemployment insurance, social security and income taxes with
9 respect to SUPERINTENDENT'S employees.

10 5.0 HOLD HARMLESS/INDEMNIFICATION.

11 A. SUPERINTENDENT hereby agrees to indemnify, defend, and hold
12 harmless DISTRICT, its Governing Board, officers, agents, and
13 employees from liability and claims of liability for bodily injury,
14 personal injury, sickness, disease, or death of any person or
15 persons, or damage to any property, real personal, tangible or
16 intangible, arising out of the negligent acts or omissions of
17 employees, agents or officers of SUPERINTENDENT or the Orange County
18 Board of Education during the period of this AGREEMENT.

19 B. DISTRICT hereby agrees to indemnify, defend, and hold harmless
20 SUPERINTENDENT, the Orange County Board of Education, and its
21 officers, agents, and employees from liability and claims of liability
22 for bodily injury, personal injury, sickness, disease, or death of any
23 persons or persons, or damage to any property, real, personal,
24 tangible or intangible, arising out of the negligent acts or omissions
25 of employees, agents or officers of DISTRICT during the period of this
AGREEMENT.

1 6.0 ASSIGNMENT. The obligations of the DISTRICT pursuant to
2 this AGREEMENT shall not be assigned by the DISTRICT without prior
3 written approval of SUPERINTENDENT.

4 7.0 TOBACCO USE POLICY. In the interest of public health, the
5 SUPERINTENDENT provides a tobacco-free environment. Smoking or the
6 use of any tobacco products are prohibited in buildings and
7 vehicles, and on any property owned, leased or contracted for by the
8 SUPERINTENDENT pursuant to SUPERINTENDENT Policy 400.15. Failure to
9 abide with conditions of this policy could result in the termination
10 of this AGREEMENT.

11 8.0 NON-DISCRIMINATION. SUPERINTENDENT and DISTRICT agree that
12 they will not engage in unlawful discrimination in employment of
13 persons because of race, color, religious creed, national origin,
14 ancestry, physical handicap, medical condition, marital status, or
15 sex of such persons.

16 9.0 NOTICE. All notices or demands to be given under this
17 AGREEMENT by either party to the other, shall be in writing and
18 given either by: (a) personal service or (b) by U.S. Mail, mailed
19 either by registered or certified mail, return receipt requested,
20 with postage prepaid. Service shall be considered given when
21 received if personally served or if mailed on the third day after
22 deposit in any U.S. Post Office. The address to which notices or
23 demands may be given by either party may be changed by written
24 notice given in accordance with the notice provisions of this
25 section. At the date of this AGREEMENT, the addresses of the
parties are as follows:

1 DISTRICT: Fountain Valley School District
2 10055 Slater Avenue
3 Fountain Valley, California 92708
 Attn: _____

4 SUPERINTENDENT: Orange County Superintendent of Schools
5 200 Kalmus Drive
6 P.O. Box 9050
7 Costa Mesa, California 92628-9050
8 Attn: Patricia McCaughey

9 10.0 NON WAIVER. The failure of SUPERINTENDENT or DISTRICT to
10 seek redress for violation of, or to insist upon, the strict
11 performance of any term or condition of this AGREEMENT shall not be
12 deemed a waiver by that party of such term or condition, or prevent
13 a subsequent similar act from again constituting a violation of such
14 term or condition.

15 11.0 SEVERABILITY. If any term, condition or provision of this
16 AGREEMENT is held by a court of competent jurisdiction to be
17 invalid, void, or unenforceable, the remaining provisions will
18 nevertheless continue in full force and effect, and shall not be
19 affected, impaired or invalidated in any way.

20 12.0 GOVERNING LAW. The terms and conditions of this AGREEMENT
21 shall be governed by the laws of the State of California with venue
22 in Orange County, California.

23 13.0 ENTIRE AGREEMENT/AMENDMENT. This AGREEMENT and any exhibits
24 attached hereto constitute the entire agreement among the Parties to
25 it and supersedes any prior or contemporaneous understanding or
agreement with respect to the services contemplated, and may be
amended only by a written amendment executed by both Parties to the
AGREEMENT.


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IN WITNESS WHEREOF, the Parties hereto set their hands.

DISTRICT: FOUNTAIN VALLEY SCHOOL DISTRICT

ORANGE COUNTY SUPERINTENDENT OF SCHOOLS

BY: _____
Authorized Signature

BY: 
Authorized Signature

PRINTED NAME: _____

PRINTED NAME: Renee Hendrick

TITLE: _____

TITLE: Assistant Superintendent

DATE: _____

DATE: December 19, 2013

FVSD-Income(40218)14
ZIP4



FOUNTAIN VALLEY SCHOOL DISTRICT

10055 Slater Ave. • Fountain Valley, CA 92708 • 714.843.3200 • www.fvsd.k12.ca.us

FOUNTAIN VALLEY SCHOOL DISTRICT SUPPORT SERVICES

MEMORANDUM

TO: Anne Silavs, Assistant Superintendent, Instruction

FROM: Abby Wright, Director, Support Services

SUBJECT: **Pacific Coast Speech Services, Inc.**

DATE: January 28, 2014 – for February 6, 2014 Board Meeting

BACKGROUND

Pacific Coast Speech Services, Inc. to provide licensed Speech Language Pathologist (SLP) to sub for current SLP at Courreges School who will be out on maternity leave. The District shall agree to pay \$89 per hour for Speech Language Pathologist's services rendered. Term of contract is January 15, 2014 thru June 17, 2014. Total not to exceed \$66,928.00.

RECOMMENDATION

It is recommended that the Board of Trustees approve the Service Agreement for Pacific Coast Speech Services, Inc. Beginning January 15, 2014 through June 17, 2014 and authorize the Superintendent or designee to sign all documents.

srb



Fountain Valley School District
Abby Wright
Director of Support Services
10055 Slater Ave
Fountain Valley, CA 92708

Speech Services, Inc.

January 14, 2014

Re: CONFIRMATION OF CONTRACT OBLIGATION: SPEECH SERVICES

Dear Ms. Wright:

Thank you for the opportunity to provide speech and language services within the Fountain Valley School District. As you know, Pacific Coast Speech Services, Inc. (PCSS, Inc.) has agreed to pursue a contracted therapist for the following position:

1. **POSITION DESCRIPTION:** Pacific Coast Speech Services, Inc. will provide speech services at Roch Courreges Elementary School from January 15, 2014 to June 30, 2014. Contracted time will include one week (5 days) of overlap training in January, anytime after January 15th. After this week is completed, further services will be suspended until district administrators request our clinicians return. This position is to cover a maternity leave, so the initial date of services to students is uncertain but predicted to be 3/3/2014 (after the initial training days). Services will continue until 6/17/2014 unless an extension is requested by administration of FVSD. School holidays and non-student days will be excluded unless the district requests that our clinician attend a specific meeting or in-service. Additional services can be provided if deemed necessary by district administration and/or PCSS, Inc.
2. **PAYMENT TERMS:** This district will reimburse PCSS, Inc. at the rate of \$89.00/hour for the total hours billed. Payment is due within 30 days of invoice. Contract can be cancelled or substantially reduced with 30 days notice.
3. District hereby acknowledges that PCSS, Inc. employees and/or independent contractors are screened, hired, and trained at considerable time and expense by PCSS, Inc. District further acknowledges that PCSS, Inc. employees and/or independent contractors have entered into a contractual relationship with PCSS, Inc. to provide the above services for District. District agrees that it, or any third party associated, directly or indirectly, with the District, will not hire, solicit, contract, or otherwise seek to employ PCSS, Inc. employees and/or independent contractors, directly or indirectly, in such a way as to interfere with the contractual relationship between PCSS, Inc. employees and/or independent contractors and PCSS, Inc., and for a period of one (1) year after the completion of an employees and/or independent contractors contract with PCSS, Inc. District agrees that, acknowledging the contractual services provided by PCSS, Inc. and PCSS, Inc. subcontractors, should District desire to employ or otherwise

services of a particular PCSS, Inc. employees and/or independent contractor within one (1) year after conclusion of an employees and/or independent contractors contract, District will not directly hire said employees and/or independent contractor, but will contact PCSS, Inc. for a continuation of said employees and/or independent contractors services. District further agrees to indemnify PCSS, Inc. for any and all legal costs, including and without limitation, attorney fees and court costs, necessary for PCSS, Inc. to enforce this provision or any and all attorney fees and costs resulting from proceedings arising out of violation of this provision.

4. During the term of this contract, or after the contract has been completed, Pacific Coast Speech Services, Inc.'s directors or contractors may be requested or may be subpoenaed to testify or consult relating to an arbitration, mediation, deposition, trial or other type of legal proceeding. Pacific Coast Speech Services, Inc.'s directors or contractors may also be requested or subpoenaed to a conference with an attorney to render an opinion, to review documentation, or take part in any other type of pre-trial, pre-mediation, or pre-arbitration discovery or research. Should this request or subpoena take place, the district will be billed for and agrees to pay the standard hourly rate to Pacific Coast Speech Services, Inc. for the time spent by the directors or contractors for these services. The standard hourly rate is set forth in this Agreement at paragraph #2.

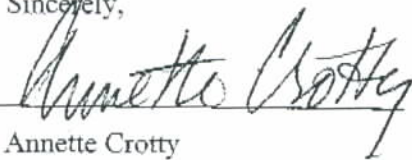
Based on the above, we approximate that the total cost of PCSS, Inc.'s services will not exceed \$66,928.00. This is not a lump sum guarantee, but a budgetary number only.

This agreement is subject to the availability of a credentialed speech therapist, and assumes a caseload equivalent to no more than 60 students for one traditional year FTE. If an audit of the caseload by the credentialed therapist reveals an excess of this 60-student equivalent, you will be notified immediately. Adjustment in reimbursement or caseload will be made within 15 calendar days.

Please fax me a return copy of this confirmation of our contract letter at your earliest convenience to indicate that my understanding of our terms is accurate.

If you have any questions, please call or fax me at (714) 389-9227 or email me at acrotty@epcss.net.

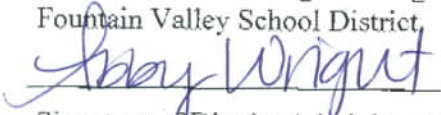
Sincerely,

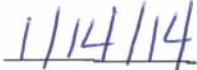


Annette Crotty
Vice President- Finance

1/14/2014
Date

I confirm that the above rate of \$89.00/hour and the conditions stated above are an accurate understanding of the agreement between Pacific Coast Speech Services, Inc. and Fountain Valley School District.


Signature of District Administrator


Date

CONTRACT FILE NAME: F Valley winter 13-14

FOUNTAIN VALLEY SCHOOL DISTRICT

BUSINESS SERVICES DIVISION

DFS/13-14 - 51

MEMORANDUM

To: Christine Fullerton, Assistant Superintendent, Business Services
From: Scott R. Martin, Director, Fiscal Services
Date: January 27, 2014
Subject: **APPROVAL of WSCA Contract B27164**

BACKGROUND

At the November 14th, 2013 meeting of the Board of Trustees, the Board approved a spending plan for Common Core funds received from the State in the current year. This plan includes \$600,000 in expenditures for computer devices. Typically, all purchases over the State established bid limit of \$84,100 must go through the competitive bid process. However, under public contract code section 20118 a school district may “piggyback” off of an existing contract provided that the original contract went through the competitive bid process.

The Western States Contract Alliance (WSCA) is a purchasing cooperative. WSCA contracts are available for use to local government entities in a number of states. As a public school district, Fountain Valley is authorized to use WSCA purchasing contracts pursuant to public contract codes 10298 and 10299.

WSCA contract number B27164 with Hewlett Packard would allow the District to purchase Chromebooks and associated services at favorable terms from an authorized reseller. The original request for proposal was done with the state of Minnesota in 2009. The District is eligible to “piggyback” on this contract under public contract code section 20118 and the terms set forth in the Participating California Addendum.

RECOMMENDATION

It is recommended that the Board of Trustees award the contract for Chromebook purchases to Hewlett Packard under the terms set forth in the California Participating Addendum to WSCA contract number B27164 and authorize the Superintendent or his designee to sign all documents.

WESTERN STATES CONTRACTING ALLIANCE
MASTER PRICE AGREEMENT
for
COMPUTER EQUIPMENT, PERIPHERALS, AND RELATED SERVICES

Number B27164

This Agreement is made and entered into by Hewlett Packard Company, Hewlett-Packard Company, 11445 Compaq Center Drive W, Houston, TX 77070 ("Contractor" or "HP") and the State of Minnesota, Department of Administration ("State") on behalf of the State of Minnesota, participating members of the National Association of State Procurement officials (NASPO), members of the Western States Contracting Alliance (WSCA) and other authorized Purchasing Entities.

RECITALS

WHEREAS, the State has the need to purchase and the Contractor desire to sell; and, **WHEREAS**, the State has the authority to offer contracts to CPV members of the State of Minnesota and to other states.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

INTENT AND PURPOSE

The intent and purpose of this Agreement is to establish a contractual relationship with equipment manufacturers to provide, warrant, and offer maintenance services on **ALL** Products proposed in their response to the RFP issued by the State of Minnesota. Delivery, support, warranty, and maintenance may be provided by the Contractor using subcontractors. The Contractor agrees to take legal responsibility for the warranty and maintenance of all Products furnished under this Agreement. The Contractor is responsible for the timeliness and quality of all Services provided by individual subcontractors. Subcontractor participation will be governed by individual Participating Entities, who have the sole discretion to determine if they will accept Services from a subcontractor.

Individual Purchasing Entities may enter in to lease agreements for the Products covered in this Master Price Agreement, if they have the legal authority to enter into these types of agreements without going through a competitive process, and if the Contractor submitted copies of its lease agreements with its response to the RFP. The lease agreements were not reviewed or evaluated as part of the RFP evaluation process. The agreements are located in Exhibit C, Value-Added Services.

The Agreement is **NOT** for the purchase of major, large hardware or hardware and software offerings. In general, individual units/configurations for servers and storage (SANs, etc.) should not exceed \$300,000 each. Desktop per unit/configuration costs should not exceed \$100,000. Printers of all types and monitors per unit/configuration costs should not exceed \$50,000 each. It is the expressed intent of some of the Participating States to set this level at not to exceed \$25,000 each, or \$50,000. Contractors must be willing to comply with these restrictions by agreeing to supply Products in those price ranges only. This **IS NOT** a restriction on how many units/configurations can be purchased, but on the value of each individual unit/configuration. Individual Participating States and Participating Entities may set specific limits in a participating addendum above these limits, with the prior approval of the WSCA Directors; or may set specific limits in a participating addendum below these limits.

Contractors may offer, but participating states and entities do not have to accept, limited professional services related **ONLY** to the equipment and configuration of the equipment purchased through the Agreement.

1. Definitions

“Announced Promotional Price” are prices offered nationally to specific categories of customers (Consumer, Business or government) for defined time periods under predefined terms and conditions.

“Consumables” those items that are required for the operation of the Equipment offered or supplied which are consumed over time with the purchaser’s use of the equipment are included – printer cartridges, batteries, projector bulbs, etc. Consumables such as magnetic media, paper and generally available office supplies are excluded.

“Configuration” in most instances in this document means a total system configuration. This may include more than one model or part number (or SKU), or a combination of hardware, software, and configuring of the system to make the system work.

“Contract” means a binding agreement for the procurement of items of tangible personal property or Services. Contract and Master Price Agreement are used interchangeably in this document.

“Contractor” means the successful Responder who enters into a binding Master Price Agreement. The Contractor is responsible for all sales, support, warranty, and maintenance services for the Products included in this Agreement. The Contractor must manufacture or take direct, non-assignable, legal responsibility for the manufacture of the equipment and warranty thereof. For the purposes of this Contract, the term Contractor and Contract Vendor are synonymous.

“CPV Member” is any governmental unit having independent policy making and appropriating authority, that is a member of Minnesota’s Cooperative Purchasing Venture (CPV) program.

“CPV Program.” The Cooperative Purchasing Venture (CPV) program, as established by Minn. Stat. § 16C.03, subd. 10, authorizes the commissioner of

Administration to "enter into a cooperative purchasing agreement for the provision of goods, services, and utilities with [governmental entities] ..., as described in section 471.59, subdivision 1." Based on this authority, the commissioner of Administration, through the Materials Management Division (MMD), enters into a joint powers agreement that designates MMD as the authorized purchasing agent for the governmental entity. It is not legal for governmental entities that are not members of the CPV program to purchase from a State contract. Vendors are free to respond to other solicitations with the same prices they offer under a contract, but that is not considered use of the "State contract price."

"Cumulative Volume Discount" refers to the increased discounts by Product group or Band under the HP Product and Service Schedule (PSS) which may be offered by HP based on HP's evaluation of its pricing policies and structures on a periodic six month basis. If Cumulative Volume Discounts are recommended by HP, HP's written request for the increased discount is submitted to the WSCA/NASPO Contract Administrator for approval. The increased Cumulative Volume Discount is effective for orders after the later date of receipt of approval from the WSCA/NASPO Contract Administrator or the effective date specified in the HP written request for approval.

"Documentation" refers to manuals, handbooks, and other publications listed in the PSS, or supplied with Products listed in the PSS, or supplied in connection with Services. Documentation may be provided on magnetic media or may be downloaded from the Contractor's web site.

"E-Rate" is a program sponsored by the Federal Communications Commission whereby educational and other qualifying institutions may purchase authorized technology at reduced prices.

"Educational Discount Price" means the price offered in a nationally announced promotion, which is limited to educational customers only.

"Equipment" means workstations, desktop, laptop (includes Tablet PC's), handheld (PDA) devices, projectors, servers, printers, monitors, computing hardware, including upgrade components such as memory, storage drives, and spare parts. AUDIO VISUAL PRODUCTS (digital cameras, televisions, whiteboards, etc.) are NOT included in this RFP or subsequent contracts. The exception to this definition is whiteboards, which can be sold as part of the Instructional Bundles, but not as a stand-alone item.

"FCC" means the Federal Communications Commission or successor federal agency. In the event of deregulation, this term applies to one or more state regulatory agencies or other governing bodies charged to perform the same, or similar, role.

"General Price Reduction Price" means the manufacturer's suggested retail price (MSRP) offered to consumer, business or governmental purchasers at prices lower than PSS pricing. General price reduction prices will be reflected in the PSS as soon as practical.

"Lead State" means the State conducting this cooperative solicitation and centrally administering any resulting Master Price Agreement(s). For this Master

Price Agreement, the Lead State is Minnesota.

“Mandatory” The terms “must” and “shall” identify a mandatory item or factor.

“Manufacturer” means a company that, as its primary business function, designs, assembles, owns the trademark/patent and markets computer equipment including workstations, desktop computers, laptop (includes Tablet PC's) computers, handheld (PDA) devices, servers, printers, and storage solutions/auxiliary storage devices. The manufacturer must provide direct un-infringed unlimited OEM warranties on the Products. The manufacturer's name(s) shall appear on the computer equipment. The Contractor(s) shall provide the warranty service and maintenance for Equipment on a Master Price Agreement as well as a Takeback Program.

“Master Price Agreement” means the contract that MMD will approve that contains the foundation terms and conditions for the acquisition of the Contractor's Products and/or Services by Purchasing Entities. The “Master Price Agreement” is a permissive price agreement. In order for a Purchase Entity to participate in a Master Price Agreement, the appropriate state procurement official or other designated procurement official must be a Participating State or Participating Entity.

“Materials Management Division” or “MMD” means the procurement official for the State of Minnesota or a designated representative.

“NASPO” means the National Association of State Procurement Officials

“Participating Addendum” or “Participating Addenda” means a bilateral agreement executed by the Contractor and a Participating State or political subdivision of a State that clarifies the operation of the price agreement for the State or political subdivision concerned, e.g. ordering procedures specific to a State or political subdivision and other specific language or other requirements. Terms and conditions contained in a Participating Addendum shall take precedence over the corresponding terms in the master price agreement. Additional terms and conditions, including but not limited to payment terms, may be added via the Participating Addendum. However, a Participating Addendum may not alter the scope of this Agreement or any other Participating Addendum. ***Unless otherwise specified, the Participating Addendum shall renew consecutively with the Master Price Agreement.*** One digitally formatted, executed copy of the Participating Addendum must be submitted to the WSCANASPO Contract Administrator PRIOR to any orders being processed.

“Participating State” or “Participating Entity” means a member of NASPO (Participating State) or a political subdivision of a NASPO member (Participating Entity) who has indicated its intent to participate by signing an Intent to Participate, where required, or another state or political subdivision of another state authorized by the WSCA Directors to be a party to the resulting Master Price Agreement.

“PDA” means a Personal Digital Assistant and refers to a wide variety of handheld and palm-size PCs, and electronic organizers. PDA's usually can store phone numbers, appointments, and to-do lists. PDA's can have a small keyboard, and/or have only a special pen that is used for input and output. The

PDA can also have a wireless fax modem. Files can be created on a PDA which is later entered into a larger computer. NOTE: For this procurement, all Tablet PC's are NOT considered PDA's. The Contractor(s) shall provide the warranty service and maintenance for Equipment on a Master Price Agreement as well as a Takeback Program.

“Peripherals” means any Product that can be attached to, added within, or networked with personal computers or servers, including but not limited to storage, printers (including multifunction network printers), scanners, monitors, keyboards, projectors, uninterruptible power supplies and accessories. Software, as defined in the RFP, is not considered a peripheral. Adaptive/Assistive technology devices are included as well as configurations for education. Peripherals may be manufactured by a third party, however, Contractor shall not offer any peripherals manufactured by another contractor holding a Master Price Agreement without the prior approval of the WSCA/NASPO Contract Administrator. AUDIO VISUAL PRODUCTS (digital cameras, televisions, whiteboards, etc.) are NOT included in the contract. The exception to this definition is whiteboards, which can be sold as part of the Instructional Bundles, but not as a stand-alone item. The Contractor(s) shall provide the warranty service and maintenance for Equipment on a Master Price Agreement as well as a Takeback Program.

“Permissive Price Agreement” means that placement of orders through the Price Agreement is discretionary with Purchasing Entities. They may satisfy their requirements through the Price Agreement without using statutory or regulatory procedures (e.g., invitations for bids) to solicit competitive bids or proposals. Purchasing Entities may, however, satisfy requirements without using the Price Agreement as long as applicable procurement statutes and rules are followed.

“Per Transaction Multiple Unit Discount” means Purchasing Entity-specific, transaction(s)-specific, large volume negotiated price based on firm quantity and configuration buys during a set timeframe (also referred to as “Big Deal” pricing).

“Political Subdivision” means local public governmental subdivisions of a state, as defined by that state's statutes, including instrumentalities and institutions thereof. Political subdivisions include cities, counties, courts, public schools and institutions of higher education.

“Price Agreement/Master Price Agreement” means an indefinite quantity contract that requires the Contractor to furnish Products or Services to a Purchasing Entity that issues a valid Purchase Order.

“Procurement Manager” means the person or designee authorized by MMD to manage the relationships with WSCA, NASPO, and Participating States/Participating Entities.

“Product(s)” means personal computer equipment, peripherals, LAN hardware, pre-loaded Software, and Network Storage devices, but not unrelated services. The Contractor(s) shall provide the warranty service and maintenance for equipment on a Master Price Agreement as well as a Takeback Program.

“Products and Services Schedule Prices” or **“PSS”** refers to a complete list, grouped by major Product and/or Service categories, of the Products and

Services provided by the contractor that consists of an item number, item description and the Purchasing Entity's price for each Product or Service. All such Products and Services shall be approved by the WSCA/NASPO Contract Administrator prior to being listed on a Contractor-supplied web site accessed via a URL. The Contractor(s) shall provide the warranty service and maintenance for all Equipment listed on the PSS on a Master Price Agreement as well as a Takeback Program.

“Purchase Order” means an electronic or paper document issued by the Purchasing Entity that directs the Contractor to deliver Products or Services pursuant to a Price Agreement.

“Purchasing Entity” means a Participating State or another legal entity, such as a political subdivision, properly authorized by a Participating State to enter into a contract for the purchase of goods described in this solicitation. Unless otherwise limited by statute, in this solicitation or in a Participating Addendum, political subdivisions of Participating States are Purchasing Entities and authorized to purchase the goods and/or Services described in this solicitation.

“Refurbished Products” are Products that may have been powered on or used by another customer that have been fully retested, defective parts replaced, and repackaged to meet original factory specifications.

“Services” are broadly classed as installation/de-installation, maintenance, support, training, migration, and optimization of Products offered or supplied under the Master Price Agreement. These types of Services may include, but are not limited to: warranty services, maintenance, installation, de-installation, factory integration (software or equipment components), asset management, recycling/disposal, training and certification, pre-implementation design, disaster recovery planning and support, service desk/helpdesk, and any other directly related technical support service required for the effective operation of a Product offered or supplied. General consulting and all forms of application development and programming services are excluded.

“Servicing Subcontractor/Subcontractor/Reseller Agent” means a Contractor authorized and state-approved subcontractor who may provide local marketing support or other authorized services on behalf of the Contractor in accordance with the terms and conditions of the Contractor’s Master Price Agreement. A wholly owned subsidiary or other company providing warranty or other technical support services qualifies as a Servicing Subcontractor. Local business partners may qualify as Servicing Subcontractors. Servicing Subcontractors may not directly accept Purchase Orders or payments for Products or Services from Purchasing Entities, unless otherwise provided for in a Participating Addendum. Servicing Subcontractors shall be named individually or by class in the Participating Addendum. The Contractor(s) actually holding the Master Price Agreement shall be responsible for Servicing Subcontractor’s providing Products and Services, as well as warranty service and maintenance for equipment the subcontractor has provided on a Master Price Agreement as well as the Takeback Program.

“Standard Configurations” or **“Premium Savings Configurations”** means discounted standard configurations that are available to Purchasing Entities

using the Master Price Agreement only. Any entity, at any time, that commits to purchasing these Configurations adopted by their State or other Purchasing Entities shall receive the same price from the contract awardees. This specification includes a commitment to maintain and upgrade (keep pace with the advance of technology) the standard configurations for a stated period of time or intervals.

“State Procurement Official” means the director of the central purchasing authority of a state.

“Storage Solution/Auxiliary Storage” means the technology and Equipment used for storage of large amounts of data or information. This includes technologies such as: Network Attached Storage (NAS) and Storage Area Networks (SAN). **The Contractor(s) shall provide the warranty service and maintenance for equipment on a Master Price Agreement as well as a Takeback Program.**

“Takeback Program” means the Contractor’s process for accepting the return of the Equipment or other Products at the end of life—as determined by the State utilizing the Master Price Agreement, subject to section 17 of this Agreement. Software licenses, excluding software media; stand-alone scanners; and stand-alone fax machines are not subject to the Takeback Program.

“Trade In” refers to the exchange of used Equipment for new Equipment at a price reduced by the value of the used Equipment.

“Travel” means expenses incurred by authorized personnel directly related to the performance of a Service. All such expenses shall be documented in a firm quotation for the Purchasing Entity prior to the issuance and acceptance of a Purchase Order. Travel expenses will be reimbursed in accordance with the purchasing entities allowances, if any, as outlined in the PA.

“Universal Resource Locator” or “URL” means a standardized addressing scheme for accessing hypertext documents and other services using the WWW browser.

“WSCA” means the Western States Contracting Alliance, a cooperative group contracting consortium for state procurement officials, representing departments, institutions, agencies, and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming.

“WSCA/NASPO Contract Administrator” means the person or designee authorized by MMD to manage all actions related to the Master Price Agreements on behalf of the State of Minnesota, the participating NASPO and WSCA members, and other authorized purchasers.

2. Scope of Work

The Contractor, or its approved subcontractor, shall deliver computing system Products and Services to Purchasing Entities in accordance with the terms of this agreement. This Agreement is a “Master Price Agreement”. Accordingly, the Contractor shall provide Products or Services only upon the issuance and acceptance by Contractor of

valid "Purchase Orders". Purchase Orders may be issued to purchase the license for software or to purchase Products listed on the Contractor's PSS. A Purchasing Entity may purchase any quantity of Product or Service listed in the Contractor's PSS at the prices in accordance the Paragraph 13, Price Guarantees. Subcontractor participation is governed by the individual Participating State procurement official.

The Contractor is required to provide and/or agree to take legal responsibility for the warranty and maintenance of all proposed equipment, including peripherals. Taking legal responsibility means the Contractor must provide warranty and maintenance call numbers, accept, process and respond to those calls, and be legally liable for and pay for those warranty and maintenance (under warranty) activities The Contractor shall offer a Takeback Program for all Products covered by this Agreement, unless otherwise noted herein.

3. Title Passage

The Contractor must pass unencumbered title to any and all Products purchased under this Contract upon receipt of Product by the Purchasing Entity. This obligation on the part of the Contractor to transfer all ownership rights does not apply to proprietary materials owned or licensed by the Contractor or its subsidiaries, subcontractors or licensor, or to unmodified commercial software that is available to the State on the open market. Ownership rights to such materials shall not be affected in any manner by this Agreement

4. Permissive Price Agreement and Quantity Guarantee

This Agreement is not an exclusive agreement. Purchasing Entities may obtain computing system Products and Services from other sources during the agreement term. The State of Minnesota, NASPO and WSCA make no express or implied warranties whatsoever that any particular number of Purchase Orders will be issued or that any particular quantity or dollar amount of Products or Services will be procured.

5. Order of Precedence

Each Purchase Order that is accepted by the Contractor shall become a part of the Agreement as to the Products and Services listed on the Purchase Order only; no additional terms or conditions will be added to this Agreement as the result of acceptance of a Purchase Order. The Contractor agrees to accept all valid Purchase Orders. In the event of any conflict among these documents, the following order of precedence shall apply:

- A. Executed Participating Addendum(s);
- B. Terms and conditions of this Agreement, including Amendments;
- C. Exhibits to this Agreement;
- D. The list of Products and Services contained in the purchase order;
- E. The request for proposals document; and
- F. Contractor's proposal including best and final offer.

6. Payment Provisions

All payments under this Agreement are subject to the following provisions:

A. Acceptance

A Purchasing Entity shall determine whether all Products and Services delivered meet the Contractor's published specifications (a.k.a. "Specifications"). No payment shall be made for any Products or Services until the Purchasing Entity has accepted the Products or Services. The Purchasing Entity will make every effort to notify the Contractor within thirty (30) calendar days following delivery non-acceptance of a Product or Service. In the event that the Contractor has not been notified within 30 calendar days from delivery of Product or completion of Service, the Product and Services will be deemed accepted on the 31st day after delivery of Product or completion of Services, except for Software which is not pre-loaded on equipment which is accepted upon delivery.

B. Payment of Invoice

1. Payments shall be submitted to the Contractor at the address shown on the invoice, as long as the Contractor has exercised due diligence in notifying the State of Minnesota and/or the Purchasing Entity of any changes to that address. Payments shall be made in accordance with the applicable laws of the Purchasing Entity.
2. For Minnesota, per Minnesota Stat. § 16A.124 requires payment within 30 days following receipt of an undisputed invoice, merchandise or service, whichever is later. The ordering entity is not required to pay the Contractor for any goods and/or services provided without a written purchase order or other approved ordering document from the appropriate purchasing entity. After the thirtieth day, interest may be paid on the unpaid balance due to the Contractor at the rate of one and one-half percent per month. The Purchasing Entity shall make a good faith effort to pay within thirty (30) days on all undisputed invoices.
3. Payments may be made via a Purchasing Entity's "Purchasing Card".

In the event an order is shipped incomplete (partial), the Purchasing Entity shall pay for each shipment as invoiced by the Contractor unless the Purchasing Entity has clearly specified "No Partial Shipments" on each Purchase Order.

C. Payment of Taxes

Payment of taxes for any money received under this agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's federal and state tax identification numbers. If a Purchasing Entity is not exempt from sales, gross receipts, or local option taxes for the transaction, the Contractor shall be reimbursed by the Purchasing Entity to the extent of any tax liability assessed.

The State of Minnesota State agencies are subject to paying Minnesota sales and use taxes. Taxes for State agencies will be paid directly to the Department of Revenue using Direct Pay Permit #1114.

D. Invoices

Invoices shall be submitted to the Purchasing Entity at the address shown on the Purchase Order. Invoices shall match the line items on the Purchase Order.

7. Agreement Term

Pursuant to Minnesota law, the term of this Agreement shall be effective upon the date of final execution by the State of Minnesota, through August 31, 2012. The Agreement may be mutually renewed for two (2) additional one-year terms, or one additional two-year term, unless terminated pursuant to the terms of this Agreement.

8. Termination

The following provisions are applicable in the event that the agreement is terminated.

A. Termination for Convenience

At any time, the State may terminate this agreement, in whole or in part, by giving the Contractor (30) days written notice; provided, however, neither the State nor a Purchasing Entity has the right to terminate a specific purchase order for convenience after it has been issued if the Product is ultimately accepted. At any time, the Contractor may terminate this Agreement, in whole or in part, by giving the WSCANASPO Contract Administrator sixty (60) days written notice. Such termination shall not relieve the Contractor of warranty or other Service obligations incurred under the terms of this Agreement. In the event of a cancellation, the Contractor shall be entitled to payment, determined on a pro rata basis, for work or Services satisfactorily performed and accepted.

B. Termination for Cause

Either party may terminate this Agreement for cause based upon material breach of this Agreement by the other party, provided that the non-breaching party shall give the breaching party written notice specifying the breach and shall afford the breaching party a reasonable opportunity to correct the breach. If within thirty (30) days after receipt of a written notice the breaching party has not corrected the breach or, in the case of a breach that cannot be corrected in thirty (30) days, begun and proceeded in good faith to correct the breach, the non-breaching party may declare the breaching party in default and terminate the Agreement effective immediately. The non-breaching party shall retain any and all other remedies available to it under the law.

C. A Purchasing Entity's Rights

In the event this Agreement expires or is terminated for any reason, a Purchasing Entity shall retain its rights in all Products and Services accepted prior to the effective termination date.

D. The Contractor's Rights

In the event this Agreement expires or is terminated for any reason, a Purchasing Entity shall pay the Contractor all amounts due for Products and Services ordered and accepted prior to the effective termination date or ordered before the effective termination date and ultimately accepted.

9. Non-Appropriation

The terms of this Agreement and any purchase order issued for multiple years under this Agreement is contingent upon sufficient appropriations being made by the Legislature or other appropriate governing entity. Notwithstanding any language to the contrary in this Agreement or in any purchase order or other document, a Purchasing Entity may terminate its obligations under this Agreement, if sufficient appropriations are not made by the governing entity at a level sufficient to allow for payment of the goods or Services due for multiple year agreements, or if operations of the paying entity are being discontinued. The Purchasing Entity's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final and binding.

A Purchasing Entity shall provide prior written notice, sixty (60) days if possible, of its intent to terminate for reason cited above. Such termination shall relieve the Purchasing Entity, its officers and employees from any responsibility or liability for the payment of any further amounts under the relevant Purchase Order for undelivered Products and Services.

10. Shipment and Risk of Loss

A. All deliveries shall be F.O.B. destination, prepaid and allowed, with all transportation and handling charges included in the price of the Product and paid by the Contractor. Responsibility and liability for loss or damage shall remain with the Contractor until delivery to the identified ship to address when responsibility and liability for loss shall pass to the Purchasing Entity except as to latent defects, fraud and Contractor's warranty obligations.

B. Whenever a Purchasing Entity does not accept Products and returns them to the Contractor, all related documentation furnished by the Contractor shall be returned also. Unless otherwise agreed upon by the Purchasing Entity, the Contractor is responsible for the pick-up of returned Products. The Contractor shall bear all risk of loss or damage with respect to returned Products except for loss or damage directly attributable to the negligence or wrongful intentional act or omission of the Purchasing Entity.

C. Unless otherwise arranged between the Purchasing Entity and Contractor, all Products shall be shipped within 3 to 5 days after receipt of a valid purchase order, by a reliable and insured shipping company.

11. Warranties

A. The Contractor agrees to warrant and assume responsibility for each Product that it licenses, or sells, to the Purchasing Entity under this Agreement in accordance with the Contractor's standard warranties. The Contractor agrees to take legal responsibility for the warranty and maintenance (under warranty) of all Products furnished through this Agreement. Taking legal responsibility means the Contractor, either directly or indirectly, must provide warranty and maintenance call numbers, accept, process, and respond to those calls, and be legally liable for and pay for those warranty and maintenance (under warranty) activities as it applies to the standard warranty that comes with the Product. The Contractor acknowledges that the Uniform Commercial Code applies to this Agreement covering warranty. In general, the Contractor warrants that:

1. The Product conforms to the specific technical information about the Contractor's Products which is published in the Contractor's Product manuals or data sheets.
2. The Product will meet mandatory specifications provided in writing to the Contractor prior to reliance by the Participating Entity on the Contractor's skill or judgment when it advised the Purchasing Entity about the Product's ability to meet those mandatory specifications unless otherwise noted in Contractor's proposed quote to the Participating Entity.
3. The Product will be suitable for the ordinary purposes for which such Product is used,
4. The Product has been properly designed and manufactured for its intended use, and
5. The Product is free of significant defects in material and workmanship.
6. The Product is in the legal possession of the Purchasing Entity, as defined in Article 10 Shipment and Risk of Loss, before any warranty period begins.
7. Exhibit A contains warranties in effect as of the date of this Agreement. The warranties will be limited in duration to the time period(s) provided in Exhibit A. The warranties will not apply to use of a Product other than as anticipated and intended by the Contractor, to a problem arising after changes or modifications to the Products or operating system by any party other than the Contractor (unless expressly authorized in writing by the Contractor), or the use of a Product in conjunction or combination with other Products or software not authorized by the Contractor. The following is a list of the warranties attached as **Exhibit A**:
 - a) Product warranty
 - b) Software warranty
 - c) Procurve warranty

B. Contractor may modify the warranties described in Exhibit A from time to time with the prior approval of the WSCA/NASPO Contract Administrator.

C. Warranty documents for Products manufactured by a third party shall be delivered to the Purchasing Entity with the Products, as provided by the Manufacturer.

D. The Contractor will provide the basic warranty coverage as listed in its PSS. The HP-branded Products available in Bands 1 through 7 have a manufacturer standard warranty period that ranges from one year to three years. The Contractor offers the Purchasing Entities an ability to upgrade warranties, for an additional fee, at the time of purchase of Products in the aforementioned Bands. Contractor's Website lists the environmental certifications; and any self-registration claims of EPEAT (bronze minimum) and Energy Star compliance, applicable to the respective Product.

12. Patent, Copyright, Trademark and Trade Secret Indemnification

- A. The Contractor shall defend, at its own expense, the State of Minnesota, Participating and Purchasing Entities and their agencies against any claim that any HP-Branded Product or Service provided under this Agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against a Purchasing Entity based upon the Contractor's trade secret infringement relating to any Product or Service provided under this Agreement, the Contractor agrees to reimburse the Lead State or Purchasing Entity for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the Lead State or Participating or Purchasing Entity shall:
1. Give the Contractor prompt written notice of any claim;
 2. Allow the Contractor to control the defense or settlement of the claim; and
 3. Cooperate with the Contractor in a reasonable way to facilitate the defense or settlement of the claim.
- B. If any Products or Service becomes, or in the Contractor's opinion is likely to become the subject of a claim of infringement, the Contractor shall at its option and expense:
1. Provide a Purchasing Entity the right to continue using the Products or Services;
 2. Replace or modify the Products or Services so that it becomes non-infringing; or
 3. Accept the return of the Products or Service and refund an amount equal to the depreciated value of the returned Products or Service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be void as to any Products or Services modified by the Purchasing Entity to the extent such modification is the cause of the claim.
- C. The Contractor has no obligation for any claim of infringement arising from:
1. The Contractor's compliance with the Purchasing Entity's or by a third party on the Purchasing Entity's behalf designs, specifications, or instructions;
 2. The Contractor's use of technical information or technology provided by the Purchasing Entity;
 3. Product modifications by the Purchasing Entity or a third party;
 4. Product use prohibited by Specifications or related application notes; or
 5. Product use with Products that are not the Contractor branded.

13. Price Guarantees

The Purchasing Entities shall pay the lower of the prices contained in the PSS or an Announced Promotion Price, Educational Discount Price, General Price Reduction price, Trade-In price, or if applicable to Purchasing Entity its available Standard Configuration price or Per Transaction Multiple Unit Discount. Only General Price Reduction price decreases will apply to all subsequent Purchase Orders accepted by Contractor after the date of the issuance of the General Price Reduction prices.

The initial base-line and Cumulative Volume Discounts will be submitted to the Lead State by the Contractor in a format agreeable to both parties. The increased price discount represented in the Cumulative Volume Discount will apply to all future orders, until the next level of cumulative volume is in effect.

14. Product and Service Schedule

The Contractor agrees to maintain the PSS in accordance with the following provisions:

- A. The PSS prices for Products and Services will conform to the guaranteed prices discount levels on file with WSCA/NASPO Contract Administrator for the following Products:
 - Band 1 – Servers**
 - Band 2 – Workstations**
 - Band 3 – Printers**
 - Band 4 – Storage Solutions**
 - Band 5 – PDAs**
 - Band 6 – Instructional Packages (Bundles)**
 - Band 7 – Monitors**
 - Operating Systems**
 - Local Area Networks**
 - Digital Projectors**
- B. The Contractor may change the price of any Product or Service at any time, based upon documented baseline price changes, but the guaranteed price discount levels shall remain unchanged during the agreed period unless or until prior approval is obtained from the WSCA/NASPO Contract Administrator. The Contractor agrees that the PSS on the State's administration website shall contain a single, uniform WSCA price for configurations and items. Failure to comply with this requirement will be grounds for further action to be taken against the Contractor.
- C. The Contractor may make model changes; add new Products, and Product upgrades or Services to the PSS in accordance with Item 15. Product Substitutions, below. The pricing for these changes shall incorporate, to the extent possible, comparable price discount levels approved by the WSCA/NASPO Contract Administrator for similar Products or Services.
- D. The Contractor agrees to delete obsolete and discontinued Products from the PSS on a timely basis.
- E. The Contractor shall maintain the PSS on a Contractor supplied Internet web site.

15. Product Substitutions

A. Substitution of units/configurations

MMD and the WSCA Directors acknowledge that individual units and configurations may stop being produced during the life of the resulting contracts. Substitution of different units and configurations will be permitted with the prior written approval of the WSCA/NASPO Contract Administrator. This substitution is at the sole discretion of the WSCA/NASPO Contract Administrator, subject only to review and approval of the WSCA/NASPO Contract Administrator.

B. Addition of units/configurations

MMD and the WSCA Directors acknowledge that with the evolution of technology, new, emerging units and configurations will develop. Addition of these new, emerging units may be permitted, with the prior approval of the WSCA/NASPO Contract Administrator and the WSCA Directors. The addition of new, emerging units and configurations is at the sole discretion of the WSCA/NASPO Contract Administrator, subject only to review and approval of the WSCA Directors.

16. Technical Support

The Contractor agrees to maintain a toll-free technical support telephone line. The line shall be accessible to Purchasing Entity personnel who wish to obtain competent technical assistance regarding the hardware and software installation or operation of Products supplied by the Contractor during the Product warranty period or during a support agreement.

17. Takeback and Other Environmental Programs

The Contractor agrees to maintain for the term of this Agreement, and all renewals/extensions thereof, programs as described in their response to the RFP, including but not limited to the following paragraphs.

A. Takeback/Recycling of CPUs, servers, monitors, flat panel displays, notebook computers, and printers. Costs are list on the web site.

B. Environment: Compliance with the following standards: Blue Angel, EcoLogo, Energy Star, EPEAT (by level), Green Guard, Nordic Swan, and TCO.

C. Product labeling of compliance with Items B above, as well as a identification of such information on the web site.

18. Product Delivery

Contractor agrees to make a reasonable effort to deliver Products to Purchasing Entities within twenty (20) business days or less after receipt of a valid Purchase Order, or in accordance with the schedule in the Purchasing Entity's Purchase Order, where the timeframe for required delivery is greater than twenty (20) business days or as otherwise mutually agreed by the Purchasing Entity and Contractor.

19. Force Majeure

Neither party hereto shall be considered in default in the performance of its

obligations hereunder to the extent that performance of any such obligations is prevented or delayed by acts of God, war, riot or other causes beyond the reasonable control of the party unless the act or occurrence could have been reasonably foreseen and reasonable action could have been taken to prevent the delay or failure to perform. A party defaulting under this provision must provide the other party prompt written notice of the default and take all necessary steps to bring about performance as soon as practicable.

20. Records and Audit

Per Minn. Stat. § 16C.05, Subd. 5, the books, records, documents, and accounting procedures and practices of the Contractor and its employees, agents, or subcontractors relevant to the Minnesota transactions must be made available and subject to examination by the contracting agency or its agents, the Legislative Audit and/or the State Auditor for a minimum of six years after the end of the Contract or transaction.

Unless otherwise required by other than Minnesota Purchasing Entity governing law, such records relevant to other Purchasing Entity transactions shall be subject to examination by appropriate government authorities for a period of three years from the date of acceptance of the Purchase Order.

21. Independent Contractor

The Contractor and its agents and employees are independent contractors and are not employees of the State of Minnesota or of any Participating Entity. The Contractor has no authorization, express or implied to bind the Lead State, NASPO, WSCA or participating entity to any agreements, settlements, liability or understanding with other third parties whatsoever, and agrees not to perform any acts as agent for the Lead State, NASPO, WSCA, or Participating Entity, except as expressly set forth herein. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the Lead State or Participating Entity as a result of this Agreement.

22. Use of Servicing Subcontractors

The Contractor may subcontract Services and purchase order fulfillment and/or support in accordance with the following paragraphs. However, the Contractor shall remain solely responsible for the performance of this Agreement.

- A. Reseller Agent, Service Provider or Servicing Subcontractors shall be identified individually or by class in the applicable Participating Addendum, or as noted in the Participating Addendum on the Purchasing Entities extranet site. The ordering and payment process for Products or Services shall be defined in the Participating Addendum.

23. Payments to Subcontractors

In the event the Contractor hires subcontractors to perform all or some of the duties of this Contract, for state agency Purchase Entities in the Lead State, the Contractor understands that in accordance with Minn. Stat. § 16A.1245 the Contractor shall, within ten (10) days of the Contractor's receipt of payment from the Lead State Purchasing Entity, pay all subcontractors having an interest in the

applicable Purchase Order their share of the payment for undisputed Services provided by the subcontractors. The Contractor is required to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid, undisputed balance of \$100 or more will be \$10. For an unpaid balance of less than \$100, the amount will be the actual penalty due. A subcontract that takes civil action against the Contractor to collect interest penalties and prevails will be entitled to its costs and disbursements, including attorney's fees that were incurred in bringing the action. The Contractor agrees to take all steps necessary to comply with said statute. A consultant is a subcontractor under this Contract. Notwithstanding, for the purposes of this Section 23, this section shall not apply to Contractor's obligations to its business development partners, including its authorized resellers and service providers, where Contractor's obligations to its partners are bound by the terms of a separate business development partner agreement between the partner and the Contractor. In the event the Contractor fails to make timely payments to a subcontractor, the State may, at its sole option and discretion, pay a subcontractor or supplier any amounts due from the Contractor and deduct said payment from any remaining amounts due the Contractor. Before any such payment is made to a subcontractor or supplier, the State shall provide the Contractor written notice that payment will be made directly to a subcontractor. If there are not remaining outstanding payments to the Contractor, the State shall have no obligation to pay or to see to the payment of money to a subcontractor except as may otherwise be required by law.

The Contractor shall ensure that the subcontractor transfers all intellectual or industrial property rights, including but not limited to any copyright it may have in the work performed under this Contract, consistent with the intellectual property rights and ownership sections of this Contract. In the event the Contractor does not obtain the intellectual property rights of the subcontractor consistent with the transfer of rights under this Contract, the State may acquire such rights directly from the subcontractor. Any and all costs associated with such a direct transfer may be deducted from any amount due the Contractor.

24. Indemnification, Hold Harmless and Limitation of Liability

The Contractor shall indemnify, protect, save and hold harmless the Lead State, Participating Entities, and its agencies and employees, from any and all claims or causes of action, including attorney's fees for personal injury or damage to real or tangible personal property arising from the negligent or willful acts or omissions of performance of the Contract by the Contractor or its agents, employees, or subcontractors. This clause shall not be construed to bar any legal remedies the Contractor may have with the State's or Participating Entities' failure to fulfill its obligations pursuant to the Contract.

Contractor, its principals, members and employees shall not be liable to the State or any Purchasing Entity, unless otherwise stated in the applicable Participating Addendum, for any actions, damages, claims, liabilities, costs, expenses, or losses in any way arising out of or relating to this Contract or the goods provided or Services performed hereunder for any amount in excess of the greater of two-million dollars (\$2,000,000) or the value of the Purchase Entity's purchase order

used to acquire the Products and Services that are the subject of the Purchasing Entity's claim. Contractor's liability for damage to real or tangible property incurred on a per order basis shall not exceed two-million dollars. This limitation of liability does not apply to damages for bodily injury or death caused by the Contractor's negligence, or to Contractor's obligation to indemnify, defend and hold the State harmless against intellectual property infringement or copyright claims under paragraph 12 of this Agreement. This indemnification does not include liabilities caused by the State's or Purchasing Entity's negligence, or intentional wrong doing. In no event shall the Contractor be liable for any indirect, special, punitive, or consequential damages arising out of this Contract or the use of the Products or Services purchased by the Purchasing Entity hereunder.

25. Amendments

Contract amendments shall be negotiated by the State with the Contractor whenever necessary to address changes in the terms and conditions, costs, timetable, or increased or decreased scope of work. This Agreement shall be amended only by written instrument executed by the parties. An approved Contract amendment means one approved by the authorized signatories of the Contractor and the State as required by law.

26. Scope of Agreement

This Agreement incorporates all of the agreements of the parties concerning the subject matter of this Agreement. No prior agreements, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

27. Severability

If any provision of this Contract, including items incorporated by reference, is found to be illegal, unenforceable, or void, by a court of competent jurisdiction then both the State and the Contractor shall be relieved of all obligations arising under such provision. If the remainder of this Contract is capable of performance, it shall not be affected by such declaration or finding and shall be fully performed.

28. Enforcement of Agreement/Waivers

A. No covenant, condition, duty, obligation, or undertaking contained in or made a part of this Contract shall be waived except by the written consent of the parties. Forbearance or indulgence in any form or manner by either party in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed, or discharged by the other party. Until complete performance or satisfaction of all such covenants, conditions, duties, obligations, and undertakings, the forbearing/indulging party shall have the right to invoke any remedy available under law or equity, notwithstanding any such forbearance or indulgence.

B. Waiver of any breach of any provision of this Contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition

of this Contract shall be held to be waived, modified, or deleted except by an instrument, in writing, signed by the parties hereto.

C. Neither party's failure to exercise any of its rights under this Contract will constitute or be deemed a waiver or forfeiture of those rights.

29. Web Site Maintenance

- A. The Contractor agrees to maintain and support an Internet website linked to the State's administration website for access to the PSS, service selection assistance, problem resolution assistance, billing concerns, configuration assistance, Product descriptions, Product specifications and other aids described in the RFP, and/or in accordance with instructions provided by the WSCANASPO Contract Administrator. The Contractor agrees that the approved PSS on the State's administration website shall contain a single, uniform WSCA price for configurations and items. Failure to comply with this requirement will be grounds for further action to be taken against the Contractor.
- B. The Contractor agrees to maintain and support Participating State and Entity Internet websites for access to the specific Participating Entity PSS, as well as all other items listed in Item 29A. above. The website shall have the ability to hold quotes for 45 days, as well as the ability to change the quote.
- C. The Contractor may provide electronic commerce assistance for the electronic submission of Purchase Orders, purchase order tracking and reports.
- D. The Contractor may not make changes to the website format as defined in Contractor's RFP Section 4, Electronic Commerce response without notifying the WSCANASPO Contract Administrator and receiving written approval of the changes.

30. Equal Opportunity Compliance

The Contractor agrees to abide by all applicable federal laws, and the laws, regulations, and executive orders pertaining to equal employment opportunity, of the state in which its primary place of business is located. In accordance with such laws, regulations, and executive orders, the Contractor agrees that no person in the United States shall, on the grounds of race, color, religion, national origin, sex, age, veteran status or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed by the contractor under this Agreement. If the Contractor is found to be not in compliance with these requirements during the life of this Agreement, the Contractor agrees to take appropriate steps to correct these deficiencies.

The Contractor certifies that it will remain in compliance with Minn. Stat. § 363A.36 during the life of the Contract.

31. Governing Law

This Agreement shall be governed and construed in accordance with the laws of

the Lead State. The construction and effect of any Participating Addendum or order against this Agreement shall be governed by and construed in accordance with the laws of the Purchasing Entity's state. Venue for any claim, dispute or action concerning the construction and effect of the Agreement shall be in the Lead State. Venue for any claim, dispute or action concerning an order placed against this Agreement or the effect of a Participating Addendum shall be in the Purchasing Entity's state.

32. Change in Contractor Representatives

Contractor shall appoint a primary representative, Contractor WSCA Program Manager, to work with the WSCA/NASPO Contract Administrator to maintain, support and market this Agreement. The Contractor shall notify the WSCA/NASPO Contract Administrator of changes in the Contractor primary representative, Contractor WSCA Program Manager, in writing, and in advance if possible. The State reserves the right to require a change in Contractor's then-current primary representative if the assigned representative is not, in the opinion of the State, adequately serving the needs of the Lead State and the Participating Entities.

33. Release

The Contractor, upon final payment of the amount due under this Agreement, releases the Lead State and Participating Entities, its officers and employees, from all contractual liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to purport to bind the Lead State or any Participating Entity to any obligation, unless the Contractor has express written authority to do so, and then only within the strict limits of the authority.

34. Data Practices

- A. The Contractor and the Lead State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13 (and where applicable, if the state contracting party is part of the judicial branch, with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time) as it applies to all data provided by the Lead State to the Contractor and all data provided to the Lead State by the Contractor. In addition, the Minnesota Government Data Practices Act applies to all data created, collected, received, stored, used, maintained or disseminated by the Contractor in accordance with this Contract that is private, nonpublic, protected nonpublic, or confidential as defined by the Minnesota Government Data Practices Act, Ch. 13 (and where applicable, that is not accessible to the public under the Rules of Public Access to Records of the Judicial Branch).
- B. In the event the Contractor receives a request to release the data referred to in this article, the Contractor must immediately notify the State. The State will give the Contractor instructions concerning the release of the data to the requesting party before the data is released.
- C. Sections 34.A through B above apply to transactions between Contractor

and applicable Lead State Purchasing Entities. Contractor agrees to be bound by the statutorily required data practices requirements as outlined in the Participating Addendum of a Participating State or Participating Entity.

- E. Notwithstanding the above, the parties agree that any confidential information required to be exchanged will be done so under the terms of a mutually agreed upon, signed confidentiality agreement.

35. Organizational Conflicts of Interest

- A. The Contractor warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are not relevant facts or circumstances which could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons:
- a Contractor is unable or potentially unable to render impartial assistance or advice to the State;
 - the Contractor's objectivity in performing the work is or might be otherwise impaired; or
 - the Contractor has an unfair competitive advantage.
- B. The Contractor agrees that if an organizational conflict of interest is discovered after award, an immediate and full disclosure in writing shall be made to the Assistant Director of the Department of Administration's Materials Management Division that shall include a description of the action the Contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the State may, at its discretion, cancel the Contract. In the event the Contractor was aware of an organizational conflict of interest prior to the award of the Contract and did not disclose the conflict to the WSCA/NASPO Contract Administrator, the State may terminate the Contract for default. The provisions of this clause shall be included in all subcontracts for work to be performed, and the terms "Contract," "Contractor," and "WSCA/NASPO Contract Administrator" modified appropriately to preserve the State's rights.

36. Replacement Parts

Unless otherwise restricted in a Participating Addendum or maintenance service agreement, replacement parts may be manufacturer-certified refurbished parts carrying OEM warranties.

37. FCC Certification

The Contractor agrees that Equipment supplied by the Contractor meets all applicable FCC Certifications. Improper, falsely claimed or expired FCC certifications are grounds for termination of this Agreement for cause.

38. Site Preparation

A Purchasing Entity shall prepare and maintain its site in accordance with written instructions furnished by the Contractor prior to the scheduled delivery date of

any Products and shall bear the costs associated with the site preparation.

39. Assignment

The Contractor shall not sell, transfer, assign, or otherwise dispose of this Contract or any portion hereof or of any right, title, or interest herein without the prior written consent of the State's authorized agent. Such consent shall not be unreasonably withheld. The Contractor shall give written notice to the State's authorized agent of such a possibility at least 30 days prior to the sale, transfer, assignment, or other disposition of this Contract. Failure to do so may result in the Contractor being held in default. This consent requirement includes reassignment of this Contract due to a change in ownership, merger, or acquisition of the Contractor or its subsidiary or affiliated corporations. This section shall not be construed as prohibiting the Contractor's right to assign this Contract to corporations to provide some of the Services hereunder. Notwithstanding the foregoing acknowledgment, the Contractor shall remain solely liable for all performance required and provided under the terms and conditions of this Contract. The Contractor may assign payments in accordance with specific provisions stated in a Participating Addendum.

40. WSCA/NASPO Contract Administrator

The State shall appoint an WSCA/NASPO Contract Administrator whose duties shall include but not be limited to the following:

- A. The WSCA/NASPO Contract Administrator may provide instructions concerning the contents of the Contractor's website.
- B. The WSCA/NASPO Contract Administrator will facilitate dispute resolution between the Contractor and Purchasing Entities. Unresolved disputes shall be presented to the State for facilitation of resolution.
- C. The WSCA/NASPO Contract Administrator shall promote and support the use of this Agreement by NASPO members and other Participating Entities.
- D. The WSCA/NASPO Contract Administrator shall advise the State regarding the Contractor's performance under the terms and conditions of this Agreement.
- E. The WSCA/NASPO Contract Administrator shall receive and approve quarterly price agreement utilization reports and the administration fee payments.
- F. The WSCA/NASPO Contract Administrator shall periodically verify the Product and Service prices in the PSS conform to the Contractor's volume price and other guarantees. The WSCA/NASPO Contract Administrator may require the Contractor to perform web site audits to accomplish this task.
- G. The WSCA/NASPO Contract Administrator shall conduct annual Contractor performance reviews.
- H. The WSCA/NASPO Contract Administrator shall maintain an Agreement administration website containing timely and accurate information.

41. Survival

The following rights and duties of the State and Contractor will survive the expiration or cancellation of the resulting Contract. These rights and duties include, but are not limited to Paragraph 12. Patent, Copyright, Trademark and Trade Secret Indemnification; Paragraph 20. Records and Audit; Paragraph 24. Indemnification, Hold Harmless, and Limitation of Liability; Paragraph 31, Governing Law; Paragraph 34. Data Practices; and Paragraph 52. Right to Publish. Software licenses, warranty, and service agreements that were entered in to under the terms and conditions of the Agreement shall survive this Agreement.

42. Succession

This Agreement shall be entered into and be binding upon the successors and assigns of the parties.

43. Notification

- A. If one party is required to give notice to the other under the Contract, such notice shall be in writing and shall be effective upon receipt. Delivery may be by certified United States mail or by hand, in which case a signed receipt shall be obtained. A facsimile transmission shall constitute sufficient notice, provided the receipt of the transmission is confirmed by the receiving party. Either party must notify the other of a change in address for notification purposes. All notices shall be addressed as follows:

To MMD:

Department of Administration
Materials Management Division
Bernadette Kopischke, CPPB
Acquisitions Supervisor
50 Sherburne Avenue
112 State Administration Building
St. Paul, MN 55155
Fax: 651.297.3996
Email: bernie.kopischke@state.mn.us

To Contractor:

Debra Lee
HP Contract Program Manager
442 Swan Blvd.
Deerfield, IL 60015
Fax: 281-927-5213
Email: debra.lee@hp.com

44. Reporting and Fees

- A. Administration Reporting and Fees

- 1. The Contractor agrees to provide monthly utilization reports to the

WSCA/NASPO PC Contracts Reporting person and the WSCA/NASPO Contract Administrator by the 15th of the month following the end of the previous month. (Ex. Purchases during January are reported by the 15th of February; purchases made during February are reported by the 15th of March; etc.). Reports submitted within five (5) days of the report due date shall not be deemed as a default by Contractor. The report shall be in the format developed by the Lead State and supplied to the Contractor for its review and mutual written consent to implement. Contractor shall be released from reporting on the Lead State requested Fields of LIST PRICE/MSRP/CATALOG PRICE and ORDER TYPE (debits/credits) until such time as Contractor automated reporting tools have the capability to include the Field in its reports. Contractor will have the automated reporting capabilities to include the aforementioned Fields within nine (9) to twelve (12) months of the commencement of this Contract. Notwithstanding the foregoing, Contractor will commence reporting on the requested Fields once Contractor's automated reporting tools are capable.

2. The Contractor agrees to provide quarterly Administrative Fee check payable to WSCA/NASPO for an amount equal to one-twentieth of one percent (0.0005) of the net sales for the period. The form to be submitted with the check, as well as the mailing address, has been supplied to the Contractor. Payment shall be made in accordance with the following schedule:

<u>Period End</u>	<u>Admin Fee Due</u>
June 30	July 31
September 30	October 31
December 31	January 31
March 31	April 30

3. The Contractor agrees to include all Reseller Agent sales in the monthly utilization reports described above. In addition, the Contractor agrees to provide a supplemental Reseller Agent utilization report of the net sales for the period subtitled by Purchasing Entity name, within Purchasing Entity state name by Reseller Agent Name.
4. Subject to Contractor's automated reporting tools capabilities, the Contractor will use reasonable commercial efforts to provide the EPEAT and Energy Star environmental information shown in a mutually agreed upon report format; as well as a supplemental report of the number and type of units taken back in a format to be mutually agreed to. Reporting on this information will occur no more than once quarterly, and will commence once Contractor has the capability to generate automated reports to include this information for its US based customers.
5. The utilization reports shall be submitted to the WSCA/NASPO PC Contracts Reporting person and the WSCA/NASPO Contract

Administrator via electronic mail in a Microsoft Excel spreadsheet format, or other methods such as direct access to Internet or other databases.

6. If requested by the WSCA/NASPO Contract Administrator, the Contractor agrees to provide supporting Purchase Order detail records on mutually agreed magnetic media in a mutually agreed format. Such request shall not exceed twelve per year.
7. The failure to file the utilization reports and fees on a timely basis shall constitute grounds for the removal of the Contractor's primary representative, suspension of this Agreement or termination of this Agreement for cause.
8. The WSCA/NASPO Contract Administrator shall be allowed access to all reports from all Purchasing Entities.

B. Participating Entity Reports and Fees

1. Participating Entities may require an additional fee be paid directly to the State on purchases made by Purchasing Entities within that State. For all such requests, the fee level, payment method and schedule for such reports and payments shall be incorporated in to the Participating Addendum that is made a part of this Agreement. The Contractor may adjust PSS pricing accordingly for purchases made by Purchasing Entities within the jurisdiction of that State. All such agreements shall have no affect whatsoever on the WSCA fee or the prices paid by the Purchasing Entities outside the jurisdiction of the State requesting the additional fee.
2. Purchasing Entities will be encouraged to use the reporting format developed by the lead State for their reporting needs. However, the Contractor agrees to provide additional reports to Purchasing Entities upon agreement by both parties as to the content and delivery methods of the report. Methods of delivery may include direct access to Internet or other databases.
3. Each State Purchasing Entity shall be allowed access to reports from all entities within that State.

45. Default and Remedies

- A. Any of the following shall constitute cause to declare this Agreement or any order under this Agreement in default:
 1. Consistent Nonperformance of contractual requirements; or
 2. A material breach of any term or condition of this Agreement.
- B. A written notice of default, and an opportunity to cure, within 30-days notification of the written notice, shall be issued by the party claiming default, whether the Lead State (in the case of breach of the entire Agreement), a Participating Entity (in the case of a breach of the participating addendum), the Purchasing Entity (with respect to any order), or the Contractor. Time allowed for cure shall not diminish or eliminate any liability for liquidated or other damages.

- C. If the default remains after the opportunity for cure, the non-defaulting party may:
1. Exercise any remedy provided by law or equity;
 2. Terminate the Agreement, a Participating Addendum, or any portion thereof, including any Purchase Orders issued against the Agreement;
 3. Impose liquidated damages, as mutually agreed to by the parties, as specified in an amendment to the Participating Addendum;
 4. In the case of default by the Contractor, and to the extent permitted by the law of the Participating State or Purchasing Entity, suspend Contractor from receiving future solicitations from within the Participating Entities jurisdiction.
 5. Charge the defaulting Contractor the full increase in cost and administrative handling to purchase the product or service from another Contractor. The Purchasing Entity shall take reasonable actions to mitigate the cost to re-procure.
- D. The MMD reserves the right, upon approval of the WSCA Directors, to develop and implement a step-by-step process to deal with Contractor failure to perform issues.

46. Audits

A. Website Pricing Audit

The Contractor agrees to assist the WSCA/NASPO Contract Administrator or designee with web site Product and pricing audits based on the requirements described in Exhibit E – Website Price audit requirements. Pricing is audited on a quarterly basis.

1. The product audit will closely monitor the Products and Services listed on the website to insure they comply with the approved Products and Services. The addition of Products or Services not approved by the WSCA/NASPO Contract Administrator will not be tolerated and may be considered a material breach of this Agreement.

B. Sales Audit

The Contractor further agrees to provide sales audit reports based on the formulas described in Exhibit E – Sales audit report format.

- C. Upon request, the Contractor agrees to assist Participating Entities with invoice audits to ensure that the Contractor is complying with this Agreement in accordance with mutually agreed procedures set forth in the Participating Addendum.

47. Extensions

If specifically authorized by provision in a Participating Addendum, Contractor may, at the sole discretion of Contractor and in compliance with the laws of the Participating State, offer Products and Services to non-profit organizations,

private schools, Native American governmental entities, government employees and students within the governmental jurisdiction of the entity completing the Participating Addendum with the understanding that the State has no liability whatsoever concerning payment for Products or Services.

48. Sovereign Immunity

The State does not waive its sovereign immunity by entering into this Contract and fully retains all immunities and defenses provided by law with regard to any action based on this Contract.

49. Ownership

A. Nothing in this Contract shall be construed as transferring any right, title, or interest in either Party's, any Purchasing Entity's, or their third party's confidential information, pre-existing intellectual property, trademarks, copyrights, intellectual property or other proprietary interest.

50. Prohibition Against Gratuities

- A. The State may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this Contract if it is found by the State that gratuities in the form of entertainment, gifts, or otherwise were offered or given by the Contractor or any employee, agent, or representative of the Contractor to any officer or employee of the State with a view toward securing this Contract, or securing favorable treatment with respect to the award or amendment of this Contract, or the making of any determinations with respect to the performance of this Contract.
- B. The Contractor certifies that no elected or appointed official or employee of the State has benefited or will benefit financially or materially from this Contract. This Contract may be terminated by the State if it is determined that gratuities of any kind were either offered to or received by any of the aforementioned individuals from the Contractor, its agent, or its employees.

51. Antitrust

The Contractor hereby assigns to the State any and all claims for overcharges as to goods and/or Services provided in connection with this Contract resulting from antitrust violations which arise under antitrust laws of the United States and the antitrust laws of the State.

52. Right to Publish

- A. Any publicity given to the program, publications or Services provided resulting from the Contract, including but not limited to notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Contractor, or its employees individually or jointly with others, or any subcontractors or resellers shall identify the State as the sponsoring agency and shall not be released, unless such release is a specific part of an approved work plan included in the Contract prior to its approval by the WSCA/NASPO Contract Administrator.
- B. The Contractor shall not make any representations of the State's opinion

or position as to the quality or effectiveness of the Products and/or Services that are the subject of this Contract without the prior written consent of the WSCA/NASPO Contract Administrator. Representations include any publicity, including but not limited to advertisements, notices, press releases, reports, signs, and similar public notices.

53. Performance While Dispute is Pending

Notwithstanding the existence of a dispute, the parties shall continue without delay to carry out all of their responsibilities under this Contract that are not affected by the dispute. If a party fails to continue without delay to perform its responsibilities under this Contract, in the accomplishment of all undisputed work, any additional cost incurred by the other parties as a result of such failure to proceed shall be borne by the responsible party.

54. Hazardous Substances

To the extent that the goods to be supplied to the Purchasing Entity by the Contractor contain or may create hazardous substances, harmful physical agents as set forth in applicable State and federal laws and regulations, the Contractor must provide the Purchasing Entity, upon request, with Material Safety Data Sheets regarding those substances (including mercury).

55. Customer Satisfaction/Complaint Resolution

- A. The Contractor's process for resolving complaints concerning Products, support, and billing problems is attached as **Exhibit B**.
- B. The Contractor will survey its customers in each Participating State approximately two (2) months prior to the annual meeting with the Contract Administrator using, at a minimum, the survey questions provided by the State.

56. Value Added Services

The Contractor is expected to provide such Services as installation, training, and software imaging upon request of the Purchasing Entity. Additional Value Added Services offered by the Contractor are attached as **Exhibit C**.

57. E-Rate Program

The Contractor's E-Rate identification number and list of E-Rate qualifying Products is as follows:

HP E-Rate Spin Number: 143007617

HP FCC Registration Number: 0012062535

Qualifying Products:

HP ProLiant Servers

HP ProCurve Network Electronics

HP Services for eligible Products (Installation, Maintenance, Training, Infrastructure design)

The Contractor shall make every effort to continue its involvement in this program and to add Products as applicable.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date of execution by the State of Minnesota Commissioner of Administration, below.

1. HEWLETT-PACKARD COMPANY

The Contractor certifies that the appropriate person(s) have executed this Agreement on behalf of the Contractor as required by applicable articles, bylaws, resolutions,

By: *Thomas J. Sametti*

Title: *SR. Vice President*

Date: *6/29/09*

2. MATERIALS MANAGEMENT DIVISION

In accordance with Minn. Stat. § 16C.03, Subd. 3.

By: *Bernadette Kopschke*

Title: Acquisitions Supervisor

Date: *7/2/09*

3. COMMISSIONER OF ADMINISTRATION

Or delegated representative.

By: *Brenda Willard*

Date:

Original signed

JUL 02 2009

By *Brenda Willard*

EXHIBIT A – ADDITIONAL WARRANTIES and SUPPORT SERVICES

A. Warranty Information

1. Warranty information is available at the following URLs:

- Product warranty URL link:
<http://h20000.www2.hp.com/bizsupport/TechSupport/Document.jsp?objectID=c00383139&lang=en&cc=us&taskId=&prodSeriesId=316617&prodTypeId=12454>.
- Software warranty URL link:
http://docs.hp.com/en/5991-6026/ch01s06.html?jumpid=reg_R1002_USEN
- Procurve warranty URL link:
<http://www.procurve.com/warranty>

2. GENERAL WARRANTY PROVISIONS:

- a. Warranty Statements. HP limited warranty statements for Hardware, Software, Support, and Professional Services, as applicable, are available with Products, on quotations, or upon request. The limited warranties are subject to the terms, limitations, and exclusions contained in the limited warranty statement provided for the Product in the country where that Product is located when the warranty claim is made. A different limited warranty statement may apply and be quoted if the Product is purchased as part of a system.
- b. Transfer. Warranties are transferable to another party for the remainder of the warranty period subject to HP license transfer policies and any assignment restrictions.
- c. Delivery Date. Warranties begin on the date of delivery, or for Hardware on the date of installation if installed by HP. If Customer schedules or delays such installation by HP more than thirty (30) days after delivery, Customer's warranty period will begin on the 31st day after delivery.
- d. HP warrants that it will perform Professional Services using generally recognized commercial practices and standards. HP will re-perform any Professional Services not performed in accordance with the foregoing warranty provided that HP receives written notice from Customer within thirty (30) days after such Professional Services were performed. This will be Customer's sole and exclusive remedy for a breach of the foregoing warranty.
- e. Warranty Exclusions. HP is not obligated to provide warranty services or Support for any claims resulting from:
 1. improper site preparation, or site or environmental conditions that do not conform to HP's site specifications;
 2. Customer's non-compliance with Specifications or Transaction Documents;
 3. improper or inadequate maintenance or calibration;
 4. Customer or third-party media, software, interfacing, supplies, or other products;
 5. modifications not performed or authorized by HP;
 6. virus, infection, worm or similar malicious code not introduced by HP; or
 7. abuse, negligence, accident, loss or damage in transit, fire or water damage, electrical disturbances, transportation by Customer, or other causes beyond HP's control.
- f. Non-HP Branded Products and Services. HP provides third-party Products, software, and Services that are not HP Branded "AS IS" without warranties of any kind, although the original manufacturers or third party suppliers of such Products, software and Services may provide their own warranties.

Disclaimer. THE WARRANTIES AND ANY ASSOCIATED REMEDIES EXPRESSED OR REFERENCED IN THIS AGREEMENT ARE EXCLUSIVE. NO OTHER WARRANTY, WRITTEN OR ORAL, IS EXPRESSED OR IMPLIED BY HP OR MAY BE INFERRED FROM A COURSE OF DEALING OR USAGE OF TRADE. TO THE EXTENT ALLOWED BY LOCAL LAW HP DISCLAIMS ALL IMPLIED WARRANTIES OR CONDITIONS INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

B. Support Services

1. SUPPORT SERVICES

- a. Description of Support. HP will deliver Support according to the description of the offering, eligibility requirements, service limitations, and Customer responsibilities described in the relevant Transaction Documents.
- b. Ordering Support. Customer may order Support:
 1. at the time of Product purchase, or prior to installation of Products for which Support is being purchased, for a fixed term (may be referred to as "HP Care Pack");
 2. after the time of Product purchase, for either a fixed term or an initial term that may be renewed (may be referred to as "HP Contractual Services");
 3. on a per-event basis; or
 4. at any time, when agreed non-standard Support has been offered by HP for the Customer according to a Statement of Work (also known as "Custom Support") or as otherwise offered by HP.
- c. Cancellation. Customer may cancel Support orders or delete Products from Support upon thirty (30) days written notice, unless otherwise stated in a Transaction Document. HP may discontinue Support for Products and specific Support services no longer included in HP's Support offering upon sixty (60) days written notice, unless otherwise agreed. If Customer cancels prepaid Support, HP will refund Customer a pro-rata amount for the unused prepaid Support, less any early termination fees or subject to any restrictions set forth in a Transaction Document.
- d. Return to Support. If Customer allows Support to lapse, HP may charge Customer additional fees to resume Support or require Customer to perform certain hardware or software upgrades. HP will review and assess whether such fees are required, and explain these to Customer at the time of the request to return to Support.
- e. Local Availability. Customer may order Support from HP's current Support offerings. Some offerings, features, and coverage (and related Products) may not be available in all countries or areas.
- f. Support Warranty. HP warrants that it will perform Support using generally recognized commercial practices and standards.
- g. Exclusive Remedies. HP will re-perform Support not performed in accordance with the warranty herein. This sub-section 1.g states HP's entire liability for Support warranty claims.

2. PRICING, SERVICES, AVAILABILITY, AND INVOICING

- a. Pricing. Except for prepaid Support or as otherwise stated in a Transaction Document, HP may change Support prices upon sixty (60) days written notice.
- b. Additional Services. Additional services performed by HP at Customer's request that are not included in Customer's purchased Support will be chargeable at the applicable published service rates for the country where the service is performed. Such additional services include but are not limited to:
 1. Customer requests for Support after HP's local standard business hours (unless Customer has specifically purchased after-hours coverage for the requested Support);
 2. Customer requests for repair for damage or failure attributable to the causes specified in Exhibit A, subsection 2.e ("Warranty Exclusions"); and
 3. Customer requests for Support where Customer does not, in HP's reasonable determination, meet the applicable prerequisites and eligibility requirements for Support.
- c. Local Availability. Support outside of the applicable HP coverage areas may be subject to travel charges, longer response times, reduced restoration or repair commitments, and reduced coverage hours.
- d. Invoicing. Invoices for Support will be issued in advance of the Support period. HP Support invoices and related documentation will be produced in accordance with HP system standards. Additional levels of detail requested by Customer may be chargeable.

3. SITE AND PRODUCT ACCESS

Customer shall provide HP access to the Products covered under Support; adequate working space and facilities within a reasonable distance of the Products; access to and use of information, customer resources, and facilities as reasonably determined necessary by HP to service the Products; and other access requirements described in the relevant Transaction Document. If Customer fails to provide such access, resulting in HP's inability to provide Support, HP shall be entitled to charge Customer for the Support call at HP's published service rates. Customer is responsible for removing any Products ineligible for Support to allow HP to perform Support. If delivery of Support is made more difficult because of ineligible Products, HP will charge Customer for the extra work at HP's published service rates.

4. STANDARD SUPPORT PRODUCT ELIGIBILITY

- a. **Minimum Configuration for Support.** Customer must purchase the same level of Support and for the same coverage period for: all Products within a minimum supportable system unit (i.e. all components within a server, storage, or network device) to allow for proper execution of standalone and operating system diagnostics for the configuration.
- b. **Eligibility.** For initial and on-going Support eligibility Customer must maintain all Products and associated hardware and software at the latest HP-specified configuration and revision levels and in HP's reasonable opinion, in good operating condition.
- c. **Modifications.** Customer will allow HP, at HP's request and at no additional charge, to modify Products to improve operation, supportability, and reliability, or to meet legal requirements.
- d. **Loaner Units.** HP maintains title and Customer shall have risk of loss or damage for loaner units if provided at HP's discretion as part of Support or warranty services and such units will be returned to HP without lien or encumbrance at the end of the loaner period.
- e. **Relocation.** Customer is responsible for moving Products. If Customer moves the Products to a new location, HP may charge additional Support fees and modify the response times, and Customer may be required to execute amended or new Transaction Documents. If Customer moves Products to another country, Support shall be subject to availability in the destination country. Reasonable advanced notice to HP may be required to begin Support for some Products after relocation.
- f. **Maximum Use Limitations.** Certain Products have a maximum usage limit, which is set forth in the manufacturer's operating manual or the technical data sheet. Customer must operate such Products within the maximum usage limit.
- g. **Multi-Vendor Support.** HP provides Support for certain non-HP Branded Products. The relevant Transaction Document will specify availability and coverage levels, and govern delivery of multi-vendor Support, whether or not the non-HP Branded Products are under warranty. HP may discontinue Support of non-HP Branded Products if the manufacturer or licensor ceases to provide support for such Products.

5. PROPRIETARY SERVICE TOOLS

HP will require Customer's use of certain hardware and/or software system and network diagnostic and maintenance programs ("Proprietary Service Tools"), as well as certain diagnostic tools that may be included as part of the Customer's system, for delivery of Support under certain coverage levels. Proprietary Service Tools are and remain the sole and exclusive property of HP, are provided "as is," and include, but are not limited to: remote fault management software, network Support tools, Insight Manager, Instant Support, and Instant Support Enterprise Edition (known as "ISEE"). Proprietary Service Tools may reside on the Customer's systems or sites. Customer may only use the Proprietary Service Tools during the applicable Support coverage period and only as allowed by HP. Customer may not sell, transfer, assign, pledge, or in any way encumber or convey the Proprietary Service Tools. Upon termination of Support, Customer will return the Proprietary Service Tools or allow HP to remove these Proprietary Service Tools. Customer will also be required to:

- a. allow HP to keep the Proprietary Service Tools resident on Customer's systems or sites, and assist HP in running them;
- b. install Proprietary Service Tools, including installation of any required updates and patches;
- c. use the electronic data transfer capability to inform HP of events identified by the software;
- d. if required, purchase HP-specified remote connection hardware for systems with remote diagnosis

service; and

- e. provide remote connectivity through an HP approved communications line.

6. CUSTOMER RESPONSIBILITIES

- a. **Data Backup.** To reconstruct lost or altered Customer files, data, or programs, Customer must maintain a separate backup system or procedure that is not dependent on the Products under Support.
- b. **Temporary Workarounds.** Customer will implement temporary procedures or workarounds provided by HP while HP works on permanent solutions.
- c. **Hazardous Environment.** Customer will notify HP if Customer uses Products in an environment that poses a potential health or safety hazard to HP employees or subcontractors. HP may require Customer to maintain such Products under HP supervision and may postpone service until Customer remedies such hazards.
- d. **Authorized Representative.** Customer will have a representative present when HP provides Support at Customer's site.
- e. **Product List.** Customer will create and maintain a list of all Products under Support including: the location of the Products, serial numbers, the HP-designated system identifiers, and coverage levels. Customer shall keep the list updated during the applicable Support period.
- f. **Documentation.** If Customer purchases a Support offering that includes documentation updates, Customer may copy such updates only for systems under such coverage. Copies must include appropriate HP trademark and copyright notices.

7. SUPPORTED SOFTWARE

Customer may purchase available Support for HP Branded Software only if Customer can provide evidence it has rightfully acquired an appropriate HP license for such Software. HP will be under no obligation to provide Support due to any alterations or modifications to the Software not authorized by HP or for Software for which Customer cannot provide a sufficient proof of a valid license. Unless otherwise agreed by HP, HP only provides Support for the current Version and the immediately preceding Version of HP Branded Software, and then only when HP Branded Software is used with Hardware or Software included in HP-specified configurations at the specified Version level.

8. ACCESSORIES AND PARTS AND MISCELLANEOUS

- a. **Compatible Cables and Connectors.** Customer will connect Products covered under Support with cables or connectors (including fiber optics if applicable) that are compatible with the system, according to the manufacturer's operating manual.
- b. **Support for Accessories.** HP may provide Support for cables, connectors, interfaces, and other accessories if Customer purchases Support for such accessories at the same Hardware service level purchased for the Products with which they are used.
- c. **Consumables.** Support does not include the delivery, return, replacement, or installation of supplies or other consumable items (including, but not limited to, operating supplies, magnetic media, print heads, ribbons, toner, and batteries) unless otherwise stated in a Transaction Document.
- d. **Replacement Parts.** Parts provided under Support may be whole unit replacements or be new or functionally equivalent to new in performance and reliability and warranted as new. Replaced parts become the property of HP, unless HP agrees otherwise and Customer pays any applicable charges.
- e. **Service Providers.** HP reserves the right and Customer agrees to HP's use of HP-authorized service providers to assist in the provision of Support.

9. ACCESS TO HP SOLUTION CENTER AND IT RESOURCE CENTER

- a. **Designated Callers.** Customer will identify a reasonable number of callers, as determined by HP and Customer ("Designated Callers"), who may access HP's customer Support call centers ("Solution Centers").
- b. **Qualifications.** Designated Callers must be generally knowledgeable and demonstrate technical aptitude in system administration, system management, and, if applicable, network administration and management and diagnostic testing. HP may review and discuss with Customer any Designated Caller's experience to determine initial eligibility. If issues arise during a call to the Solution Center that, in HP's reasonable opinion, may be a result of a Designated Caller's lack of

general experience and training, the Customer may be required to replace that Designated Caller. All Designated Callers must have the proper system identifier as provided in the Transaction Documents or by HP when Support is initiated. HP Solution Centers may provide support in English or local language(s), or both.

- c. **HP IT Resource Center.** HP IT Resource Center is available via the worldwide web for certain types of Support. Customer may access specified areas of the HP IT Resource Center. File Transfer Protocol access is required for some electronic services. Customer employees who submit HP Solution Center service requests via the HP IT Resource Center must meet the qualifications set forth in sub-section 9.b above.
- d. **Telecommunication Charges.** Customer will pay for all telecommunication charges associated with using HP IT Resource Center, installing and maintaining ISDN links and Internet connections (or HP-approved alternatives) to the HP Solution Center, or using the Proprietary Service.

Extended warranties

HP's standard new Product warranty, and upgraded warranty support Services, can be extended in one-year increments for a total of five years of coverage for most Products.

Post maintenance Services

HP has a wide range of onsite high-quality support Services for covered hardware, helping improve Product uptime and availability. Entities have the flexibility to choose between different service-level options featuring different response times and coverage windows, as well as between several coverage periods to address specific service needs. The Services are available throughout the United States and in most international locations. Please see *Attachment 5, HP Onsite Hardware Support Services*, for details.

See HP Website, referenced in A.1 above, for additional information on these warranties, support, service tools, etc.

EXHIBIT B – COMPLAINT RESOLUTION

HP will work with WSCA/NASPO and Participating States to customize the procedures to the states' specific escalation requirements. HP's formal order management, service escalation and customer feedback escalation procedures are described below and in detail in the RFP response, Corporate Overview, sub-section d.1.e. – Complaint Resolution.

Most problems are readily resolved before escalation is necessary. This section details activities for those instances in which problems cannot be so quickly resolved. In keeping with HP's understanding of the importance of system availability to the WSCA states, HP is receptive to discussions on how it may modify any escalation procedures to better meet specific customer needs. Each and every State Procurement office, as well as procuring entities, also has an assigned State Government HP Contract Program Manager point of contact to assist in the escalation process, eliminating the need to contact multiple people.

Customer Feedback Escalation

HP has developed a strong customer feedback system, including a clear escalation process for handling dissatisfaction. The feedback system provides a variety of mechanisms for customers to communicate their suggestions, recommendations, comments, and complaints to HP. Cataloging and analyzing the feedback provides HP entities with valuable insight into trends, information, and issues that can be applied to improve products and process performance.

Order Management Escalation Process

A Customer Service Representative (CSR) assigned to the WSCA account will oversee the order fulfillment activities from the point of order entry and acceptance, to invoicing and delivery. This includes customer satisfaction and any issues that WSCA may have during the deployment. The CSR is responsible with ensuring that any issues or potential issues are escalated to prevent deployment delays and will see problems through to resolution. Customer Services is required to adhere to the following standard service levels (in business hours):

Action	Standard Service Level (in business hours)
PO Receipt to CSR order entry	4.0 hrs
PO Receipt to clean (executable) order	8.0 hrs
Confirmation sent to customer/sales/mgmt that orders has been placed and provide order # and ETA if available.	4.0 hrs
Estimated Ship Date upon order entry (Provided to customer as requested or as part of regularly scheduled open order report)	Estimate based on best information available. With follow-up as new information becomes available.
Updates to estimated ship date (Provided to customer as requested or as part of regularly scheduled open order report)	As new information becomes available.
Call Back/Email Response to customer from CSR (from point customer leaves voicemail/email to point CSR calls customer back or responds to email request)	4 hrs
RMA Request (From time CSR receives to RMA being generated)	12 hrs
Warehouse Receipt of RMA'd goods to completion of Credit	3 days

All billing disputes should be brought to the attention of your HP Direct Customer Services Team. Customer Services will then work with HP's internal Finance Department that can resolve the disputes. The Finance Department will research the dispute, including gathering purchase order information from your CSR.

While customers may request that bills be submitted in a batch, all records are individually maintained by order number. Complete order information follows the order throughout the fulfillment process, and can be traced to each separate process to determine the source of any errors and the necessary action for resolution.

The resolution will be communicated to the customer by the Finance Department. Any credit due will be processed by your CSR. In the event that HP has maintained an incorrect price, additional research will be performed to determine the extent of error. Billing adjustments will be made as necessary.

Escalation Process

The services global escalation process is a worldwide process that is initiated when it is determined that HP's standard service delivery processes have not delivered or will not deliver an acceptable solution to WSCA/NASPO and WSCA Participating State and/or procuring entities in an agreed-upon time frame.

The Escalation Process includes the following steps:

1. Formation of Escalation Team
2. Development of Technical Action Plan
3. Communication of Action Plan
4. Execution of Action Plan
5. Post-solution Review
6. Continual Improvement
- 7.

The Escalation Team

When it has been determined that a problem has arisen and needs to be resolved, an Escalation Team is formed to manage issue resolution. The Escalation Team is comprised of technical and management members from HP. This team is responsible for developing an action plan to be used in resolving the issue. Members of the Escalation Team often include:

- Escalation Management Owner—represents the customer to HP, leads the escalation effort and is the focal point for communication of the plan to the customer.
- Escalation Specialist—assists with the development and coordination of the technical aspects of the action plan.
- Complex Problem Manager—as required, the Complex Problem Manager coordinates engineering and partner resources for complex problems involving multiple product sets.
- Additional Resources—may be added to the Escalation Team to add specific Product expertise as required in any given escalation. These resources may include: Engineering, Delivery Partners, HP Management and Executives.

Escalation Categories

There are three categories of escalation:

- Local escalation
- Regional escalation
- Global escalation

Escalation categories are driven by a customer's view of the situation. If the impact on the customer is local (that is, within one area/country) the escalation category is local. If the impact is across a number of areas/countries within one region, the category is regional. If the impact is across a number of areas/countries in more than one region, the category is global. Once the escalation category has been determined, an Action Plan can be developed.

Issue Resolution

In the event of a customer satisfaction issue, the customer's first point of contact is the Primary Account Representative/Contract Program Manager or the Account Manager. This individual engages the necessary resources in the local service delivery unit, obtains the support of management in the local customer business district, and keeps the concerned sales organization updated on progress. Most issues are resolved readily at the local level. If needed, the situation is escalated to executive management at the territory or U.S. level.

EXHIBIT C – VALUE-ADDED SERVICES

Contact HP, or visit the HP website, for further details on these Services:

Installation

Training

Self-Maintainer Program

Asset Management

Imaging

Factory Services for Servers and Storage

HP Lease Financing Information

Individual Purchasing Entities may enter in to lease agreements for the Products covered in this Master Price Agreement, if they have the legal authority to enter into these types of agreements without going through a competitive process. The lease agreements were not reviewed or evaluated as part of the RFP evaluation process. HP sample lease documents can be found under the "Information Center" link available on HP's WSCA-approved website at www.hp.com/buy/wscalii.

EXHIBIT D- HP SOFTWARE LICENSE TERMS

1. LICENSE GRANT

HP grants Customer a non-exclusive, non-transferable license to "Use", in object code form, the Version or Release of the HP Branded Software delivered from an HP accepted order. For purposes of this Agreement, unless otherwise specified in the SLI, "Use" means to install, store, load, execute, and display one copy of the Software on one device at a time for Customer's internal business purposes. Customer's Use of such Software is subject to these license terms, the applicable Use restrictions and authorizations, and applicable licensed locations for the Software specified in SLI (the "Software License"). The usage terms specified in the SLI for HP Branded Software will not be materially more restrictive than the Use defined in this sub-section. For non-HP Branded Software, the third party supplier's license terms and use restrictions found in the SLI will solely govern its use.

2. OWNERSHIP

This Software License confers no title or ownership and is not a sale of any rights in the Software. Third-party suppliers are intended beneficiaries under this Agreement and independently may protect their rights in the Software in the event of any infringement. All rights not expressly granted to Customer are reserved solely to HP or its suppliers.

3. ACCEPTANCE

Customer accepts Software upon delivery.

4. UPGRADES

Software Versions or maintenance updates, if available, may be ordered separately or may be available through Software Support. HP reserves the right to require additional licenses and fees for Software Versions or separately purchased maintenance updates or for Use of the Software in conjunction with upgraded Hardware or Software. When Customer obtains a license for a new Software Version through Software Support or purchases an upgrade license to a new Version, Customer's Software License for the earlier Version shall terminate. Software Versions are subject to the license terms in effect on the date that HP delivers or makes the Version available to Customer.

5. LICENSE RESTRICTIONS

- a. Use Restrictions. Customer may not exceed the number of licenses, agents, tiers, nodes, seats, or other Use restrictions or authorizations agreed to and paid for by Customer. Some Software may require license keys or contain other technical protection measures. Customer acknowledges that HP may monitor Customer's compliance with Use restrictions and authorizations remotely, or otherwise. If HP makes a license management program available which records and reports license usage information, Customer agrees to appropriately install, configure and execute such license management program beginning no later than one hundred and eighty (180) days from the date it is made available to Customer and continuing for the period that the software is used.
- b. Copy and Adaptation. Unless otherwise permitted by HP, Customer may only make copies or adaptations of the Software for archival purposes or when copying or adaptation is an essential step in the authorized Use of the Software. If Customer makes a copy for backup purposes and installs such copy on a backup device, unless otherwise provided in the SLI, Customer may not operate such backup installation of the Software without paying an additional license fee, except in cases where the original device becomes inoperable. If a copy is activated on a backup device in response to failure of the original device, the Use on the backup device must be discontinued when the original or replacement device becomes operable. Customer may not copy the Software onto or otherwise Use or make it available on, to, or through any public or external distributed network. Licenses that allow Use over Customer's intranet require restricted access by authorized users only.
- c. Copyright Notice. Customer must reproduce all copyright notices that appear in or on the Software (including documentation) on all permitted copies or adaptations. Copies of documentation are limited to internal use.
- d. Designated System. Notwithstanding anything to the contrary herein, the Software License for certain Software, as identified in SLI, is non-transferable and for Use only on a computer system owned, controlled, or operated by or solely on behalf of Customer and may be further identified by HP by the combination of a unique number and a specific system type ("Designated System") and such license will terminate in the event of a change in either the system number or system type, an unauthorized relocation, or if the Designated System ceases to be within the possession or control

of Customer.

- e. OS Software. Operating system Software may only be used when operating the associated Hardware in configurations as approved, sold, or subsequently upgraded by HP or an HP Business Partner.
- f. Changes. Customer will not modify, reverse engineer, disassemble, decrypt, decompile, or make derivative works of the Software. Where Customer has other rights mandated under statute, Customer will provide HP with reasonably detailed information regarding any intended modifications, reverse engineering, disassembly, decryption, or decompilation and the purposes therefore.
- g. Use for Service Provision. Extending the Use of Software to any person or entity other than Customer as a function of providing services, (i.e.; making the Software available through a commercial timesharing or service bureau) must be authorized in writing by HP prior to such use and may require additional licenses and fees.
- h. Consultant Use and Access. Subject to the terms and conditions of this Agreement, Customer may permit a consultant or subcontractor to Use Software at the licensed location for the sole purpose of providing services to Customer. Customer will be responsible and directly liable to HP for consultants' compliance with this Agreement.

6. LICENSE TERM AND TERMINATION

Unless a different time period for the license is specified in the applicable SLI or quotation, the Software License granted to Customer will be perpetual, provided however that HP may terminate the Software License upon notice for failure to comply with this Agreement. Immediately upon termination of the Software License or upon expiration of any individual limited term license, Customer will destroy the Software and all copies of the Software subject to the termination or expiration or return them to HP. Customer shall remove and destroy or return to HP any copies of the Software that are merged into adaptations, except for individual pieces of data in Customer's database. Customer may retain one copy of the Software subsequent to termination solely for archival purposes only. At HP's request, Customer will certify in writing to HP that Customer has complied with these requirements.

7. LICENSE TRANSFER

Customer may not sublicense, assign, transfer, rent, or lease the Software or the Software License to any other party except as permitted in this section. Except as provided in sub-section 5.d above, HP Branded Software licenses are transferable subject to HP's prior written authorization and payment to HP of any applicable fees or compliance with applicable third party terms. Upon transfer of the Software License Customer's rights under the License will terminate and Customer will immediately deliver the Software and all copies to the transferee. The transferee must agree in writing to the terms of the Software License, and, upon such agreement, the transferee will be considered the "Customer" for purposes of the license terms. Customer may transfer firmware only upon transfer of the associated Hardware.

8. U.S. FEDERAL GOVERNMENT USE

If the Software is licensed for use in the performance of a U.S. Government prime contract or subcontract, Customer agrees that, consistent with FAR 12.211 and 12.212, commercial computer Software, computer Software documentation and technical data for commercial items are licensed under HP's standard commercial license.

9. COMPLIANCE

Customer agrees that HP may audit Customer's compliance with the Software License terms. Any such audit would be at HP's expense, require reasonable notice, and would be performed during normal business hours. If an audit reveals underpayments then Customer will immediately pay HP such underpayments together with the costs reasonably incurred by HP in connection with the audit and seeking compliance with this sub-section.

10. WARRANTY

HP Branded Software will materially conform to its Specifications. If a warranty period is not specified for HP Branded Software, the warranty period will be ninety (90) days from the delivery date.

11. VIRUS WARRANTY

HP warrants that any physical media containing HP Branded Software will be shipped free of viruses.

12. WARRANTY LIMITATION

HP does not warrant that the operation of Software will be uninterrupted or error free, or that Software will operate in Hardware and Software combinations other than as expressly required by HP in the Product Specifications or that Software will meet requirements specified by Customer.

13. EXCLUSIVE REMEDIES

If notified of a valid warranty claim during the warranty period, HP will, at its option, correct the warranty defect for HP Branded Software, or replace such Software. If HP is unable, within a reasonable time, to complete the correction, or replace such Software, Customer will be entitled to a refund of the purchase price paid upon prompt return of such Software to HP. Customer will pay expenses for return of such Software to HP. HP will pay expenses for shipment of repaired or replacement Software to Customer. This sub-section 13 states HP's entire liability for warranty claims.

14. IMPLIED LICENSE

There are no implied licenses.

EXHIBIT E – AUDITS MPA B27164

SALES AUDIT PLAN

The "HP" 2009-2014 WSCA/NASPO Personal Computer and Related Devices Contract, Sales Audit Plan" specifies the sales audit plan and sale audit report format, as it applies to Section 46.A of the Master Price Agreement B27164.

Audit Purpose: To confirm and ensure contract compliance. The audit will confirm if the agency paid the PSS discount price or a lower price in accordance with Section 13, Price Guarantee.

Audit Responsibility: HP WSCA Primary Account Representative/Contract Program Manager (HP Program Management)

Audit Conducted: Weekly

Audit Results Timeframe: Provided to WSCA/NASPO Administrator Quarterly as required by WSCA/NASPO.

Audit Process

Step 1 On a weekly basis the HP WSCA/NASPO Contract Program Manager will obtain two reports; 1) summary activity (total number of orders) and 2) weekly orders. These reports will be used to pull one tenth of one percent (.001) of orders weekly.

Step 2 The HP WSCA/NASPO Primary Account Representative/Contract Program Manager will pull at random one tenth of one percent of orders covering all Bands within the PSS, if procured

Step 3 The HP WSCA/NASPO Contract Program Manager will pull the online copies of Purchase Order and Invoices based on the random one tenth of one percent of orders selected

Step 4 The information on the Purchase Order and invoice will be documented in an excel file.

Step 5 The HP WSCA/NASPO Contract Program Manager will compare the pricing on the line item detail report in comparison with the Purchase Order/Invoice and HP WSCA/NASPO Contract PSS Discounts in an excel file and compile audit results.

Step 6 The HP WSCA/NASPO Contract Program Manager will provide the WSCA/NASPO Administrator in email, as noted in the Mandatory Meeting on 3/31, the following information covering a Quarter of the above audit detail/results:

1. Total Number of Purchase Orders during the timeframe
2. Total Number of Purchase Orders/Invoices audited based on the one tenth of a percent or no more then 100 purchase orders/invoices if there are more then 100,000 orders.
3. Results in a brief summary

Step 7 HP will request approval by the WSCA/NASPO administrator on the format of the first submission of the sales audit to ensure this meets with the guidelines of the WSCA/NASPO administrator.

Step 8 The HP WSCA/NASPO Contract Program Manager will provide the final documents and results to the HP Contract Operations team for our records.

WEBSITE PRICING AUDITS

Website Pricing Audits as it applies to Section 46.A, of the Master Price Agreement B27164, is specified below.

HP has different team members that audit the pricing and websites. First, the WNPSP and other State standards pricing is monitored and updated by a set of team members daily and weekly and these are also monitored by the HP Contract Program Management team and inside sales teams on an ongoing basis, monthly and quarterly, see below schedule.

Next, the PSS catalog file that HP will create for the new WSCA contract is tied to the then current HP List price and category percentages for each Band as noted in the HP PSS discount structure, which automatically generates the pricing fed to the website to calculate the pricing. As you may know with emerging technology, the list price can change weekly so this automated feature ensures the pre-calculated pricing is flowing accurately to the website.

In addition to the sales audit plan attached to this response, the HP Program Management team is instituting an additional website audit that will be conducted bi-monthly on the PSS and monthly covering both the WNPSP and State Specific Standards website pricing as noted on the below schedule.

As a normal course of business, HP contract operations and compliance teams conduct spot checks and internal audits to ensure compliance through a variety of internal audits, which will also continue. HP takes contract compliance seriously and even has an entire team dedicated to Government contract management, operations and compliance.

WNPSP/State Specific Standards					
WSCA/NASPO main site	Daily	Weekly	Monthly	Bi-Monthly	Quarterly
	Initial setup			X	X
WSCA Participating State Sites	Initial Setup		X	X	X
PSS Website Audits					
WSCA/NASPO main site		Weekly	Monthly	Bi-Monthly	Quarterly
				X	
WSCA Participating State Sites				X	
Standard HP Internal Audits					
WSCA/NASPO main site		Weekly	Monthly	Bi-Monthly	Quarterly
					X
WSCA Participating State Sites					X

Addendum to Master Price Agreement

Between

Hewlett Packard Company

And

State of Minnesota, Materials Management Division

Representing the Western States Contracting Alliance (WSCA) and

the National Association of State Procurement Officials (NASPO)

Lead State Contract #: B27164

Executed on: July 2, 2009

July 23, 2009

Page 1 of 2

This Master Price Agreement Addendum governs Hewlett Packard Company's (hereinafter "CONTRACTOR") use of the NASPO/WSCA name and logo during the term of this Master Price Agreement and amendments to this Master Price Agreement. CONTRACTOR may use the name and logo only as set forth below. Any use not expressly permitted herein is prohibited, and such use constitutes a material breach of the Master Price Agreement with the Lead State and all Participating States.

- 1. CONTRACTOR may display the NASPO/WSCA name and logo on the face of the Master Price Agreement, including all electronic and hard copy versions.**
- 2. CONTRACTOR and its subcontractors, resellers, and agents may display the NASPO/WSCA names and logos on a web site as a "click on" link to the Master Price Agreement. No other use of the logos or names is permitted on any web site, except as permitted in paragraphs 1 and 3.**
- 3. With, and only with, prior written approval of the Lead State Contract Administrator, CONTRACTOR may advertise the Master Price Agreement in publications and promotional materials aimed at state and local government entities eligible to use the Master Price Agreement. The sole focus and intent of such advertisements must be to increase participation in the Master Price Agreement. The NASPO/WSCA names may be used and the logos displayed in the advertisement ONLY as it relates to the Master Price Agreement. The Lead State Contract Administrator's approval must encompass the content and appearance of the advertisement and the media in which the advertisement will appear.**
- 4. CONTRACTOR may not make explicit or implicit representations concerning the opinion of NASPO/WSCA, the Lead State, or any Participating State regarding CONTRACTOR or its products or services. This restriction includes general use of the NASPO/WSCA names and logos NOT directly linked to or related to this Master Price Agreement.**
- 5. CONTRACTOR must ensure that its sub-contractors, resellers, and agents adhere to the terms of this Addendum, and CONTRACTOR is responsible for any breach by these entities.**
- 6. CONTRACTOR must immediately cease all use of the NASPO/WSCA names and logos if directed to do so in writing by the Lead State Contract Administrator, and CONTRACTOR must ensure that its sub-contractors, resellers, and agents immediately cease all use.**
- 7. CONTRACTOR shall not make, or permit its subcontractors, resellers, or agents to make, any alterations to NASPO's or WSCA's names or logos (including characters, style and colors) and CONTRACTOR shall not use or permit the use of NASPO's or WSCA's names or logos in a manner or context that could adversely affect NASPO's/WSCA's integrity, goodwill, or reputation.**
- 8. Upon termination or expiration of the Master Price Agreement, CONTRACTOR and its sub-contractors, resellers, and agents must cease all use of the NASPO/WSCA names and logos; except that, CONTRACTOR may use the NASPO/WSCA names for reference purposes in a description of its prior experience.**

SIGNATURE PAGE - NEXT PAGE

Addendum to Master Price Agreement

Between

Hewlett Packard Company

And

State of Minnesota, Materials Management Division

Representing the Western States Contracting Alliance (WSCA) and

the National Association of State Procurement Officials (NASPO)

Lead State Contract #: B27164

Executed on: July 2, 2009

July 23, 2009

Page 2 of 2

Acknowledged:

CONTRACTOR: HP

The Contractor certifies that the appropriate person(s) have executed this agreement on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.

Chris Baul

Signature

Contract Negotiator

Title

July 23, 2009

Date

LEAD STATE:

In accordance with state statutes or rules.

Bernadette Kopischke

Signature

Acq. Supvr.

Title

7/29/09

Date



WSCA/NASPO Contract Administration
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Fax: 651.297.3996
TTY: MN Relay Service 1.800.627.3529
<http://www.mmd.admin.state.mn.us>

**AMENDMENT NUMBER: ONE (1)
TO CONTRACT NUMBER: B27164**

THIS AMENDMENT is by and between the State of Minnesota, acting through its commissioner of Administration, and on behalf of the WSCA/NASPO ("Lead State") and Hewlett Packard Company, Hewlett-Packard Company, 11445 Compaq Center Drive W, Houston, TX 77070 (Contractor).

WHEREAS, the Lead State has a Contract with the Contractor identified as No. B27164, effective September 1, 2009, through August 31, 2012, to provide direct-from-manufacturer personal computer equipment, peripherals and related services; and

WHEREAS, Minn. Stat. § 16C.03, subd. 5, affords the commissioner of Administration, or delegate pursuant to Minn. Stat. § 16C.03, subd. 16, the authority to amend contracts; and

WHEREAS, the terms of the Contract specifically state that the Contractor shall provide the basic warranty coverage as listed in its PSS. The HP-branded Products available in Bands 1 through 7 have a manufacturer standard warranty period that ranges from one year to three years. (Bands 1. Servers; 2. Workstations; 3. Printers; 4. Storage Solutions; 5. PDA's; 6. Instructional and Public Safety Bundles; and 7. Monitors)

NOW, THEREFORE, it is agreed by the parties to amend the Contract as follows:

1. The Contractor may offer one-year and/or two-year warranties for each Band of equipment provided in addition to the three-year warranty currently being offered. The Contractor shall show these as options when configuring a system/obtaining a quote, as a reduction in the cost of the equipment.

This Amendment is effective beginning on the date that the final required signatures are obtained, and shall remain in effect until August 31, 2012, or until the Contract is canceled, whichever occurs first.

Except as herein amended, the provisions of the original Contract between the parties hereto are expressly reaffirmed and remain in full force and effect.

Intentionally Left Blank



WSCA/NASPO Contract Administration
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Fax: 651.297.3996
TTY: MN Relay Service 1.800.627.3529
http://www.mmd.admin.state.mn.us

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed intending to be bound thereby.

1. HEWLETT PACKARD COMPANY

The Contractor certifies that the appropriate person(s) have executed this document on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.

By: [Signature]
Title: CONTRACT NEGOTIATOR
Date: 09/17/2010

2. LEAD STATE MATERIALS MANAGEMENT DIVISION
In accordance with Minn. Stat. § 16C.03, Subd. 3.

By: [Signature]
Title: Acquisitions Supervisor
Date: 9/21/10

By: [Signature]
Title:
Date:

3. LEAD STATE COMMISSIONER OF ADMINISTRATION
Or delegated representative.

By: [Signature]
Date: 9/21/10



WSCA/NASPO Contract Administration

112 Administration Building

50 Sherburne Avenue

St. Paul, MN 55155

Fax: 651.297.3996

TTY: MN Relay Service 1.800.627.3529

<http://www.mmd.admin.state.mn.us>

**WSCA/NASPO PC Contracts 2009-2014
COMPUTER EQUIPMENT, PERIPHERALS, AND RELATED SERVICES
MASTER PRICE AGREEMENT NUMBER B27164
AMENDMENT NUMBER 2**

THIS AMENDMENT is by and between the State of Minnesota, acting through its commissioner of Administration, for the WSCA/NASPO ("Lead State") and Hewlett Packard Company (Contractor).

WHEREAS, the Lead State has a Contract with the Contractor identified as No. B27164, effective September 1, 2009, through August 31, 2012, to provide direct-from-manufacturer personal computer equipment and related devices, software and services; and

WHEREAS, Minn. Stat. § 16C.03, subd. 5, affords the commissioner of Administration, or delegate pursuant to Minn. Stat. § 16C.03, subd. 16, the authority to amend contracts; and

WHEREAS, the terms of the Contract specifically state that the contract may be amended per agreement by both parties.

NOW, THEREFORE, it is agreed by the parties to amend the Contract as follows:

1. Contract is extended through August 31, 2014.
2. The configuration limit of servers and storage may be increased up to \$500,000 if this limit is approved by the State in their Participating Addendum.
3. The Premium Saving Package "Intent to Participate" document may be eliminated IF participation in the Premium Savings Package is approved by the State in their Participating Addendum.
4. Section 57, is hereby modified to state, "Contractor's involvement with E-Rate will be through Contractor's authorized Reseller Agent SPIN numbers only, utilized for K-12 procuring entities that receive E-Rate funding.

This Amendment is effective beginning on September 1, 2012, or upon the date that the final required signatures are obtained, whichever occurs later, and shall remain in effect until August 31, 2014 or until the Contract is canceled, whichever occurs first.

Except as herein amended, the provisions of the original Contract between the parties hereto are expressly reaffirmed and remain in full force and effect.



WSCA/NASPO Contract Administration

112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Fax: 651.297.3996

TTY: MN Relay Service 1.800.627.3529
<http://www.mmd.admin.state.mn.us>

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed intending to be bound thereby.

1. CONTRACTOR

The Contractor certifies that the appropriate person(s) have executed this document on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.

By: Nancy Lenkowski

Title: Contract Administrator

Date: 6/25/2012

By: _____

Title: _____

Date: _____

2. LEAD STATE

MATERIALS MANAGEMENT DIVISION

In accordance with Minn. Stat. § 16C.03, Subd. 3.

By: Tue Konec

Title: Acquisition Management Specialist

Date: 7/9/12

3. LEAD STATE

COMMISSIONER OF ADMINISTRATION

Or delegated representative.

By: Lucas J. Jarnutt

Date: 7/9/2012

**CALIFORNIA PARTICIPATING ADDENDUM
WESTERN STATES CONTRACTING ALLIANCE (WSCA)
COMPUTER EQUIPMENT, SOFTWARE, PERIPHERALS AND RELATED
SERVICES (2009-2014)
HEWLETT-PACKARD COMPANY
MASTER PRICE AGREEMENT
CONTRACT B27164**

1. Scope:

This Participating Addendum covers the purchase of all Computer Equipment, Software, Peripherals and Related Services for all California political subdivisions/local governments. A subdivision/local government is defined as any city, county, city and county, district, or other local governmental body or corporation, including the California State Universities (CSU) and University of California (UC) systems, K-12 schools and community colleges empowered to expend public funds. Each political subdivision/local government should make its own determination whether the WSCA program is consistent with its procurement policies and regulations.

STATE AGENCIES ARE RESTRICTED FROM USING THIS CONTRACT IN ACCORDANCE WITH MANAGEMENT MEMO 05-11, EXCEPT FOR THOSE CATEGORIES NOT OFFERED UNDER CALIFORNIA STRATEGIC SOURCING INITIATIVE (CSSI) CONTRACTS FOR IT HARDWARE: PC GOODS AND ENTERPRISE, SERVERS AND STORAGE PRODUCTS.

THE SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING ARRA FUNDS APPLY TO THE ORDERING AGENCY. IF OR WHEN HP, AS A VENDOR, IS NOTIFIED BY ORDERING AGENCY THAT A SPECIFIC PURCHASE OR PURCHASES ARE BEING MADE WITH ARRA FUNDS, HP AGREES TO COMPLY WITH THE DATA ELEMENT AND REPORTING REQUIREMENTS THAT ARE LEGALLY REQUIRED OF PROVIDERS OF GOODS AND RELATED SERVICES. HP, AS IT RELATES TO PURCHASES UNDER THIS CONTRACT IS NOT A SUBCONTRACTOR OR SUBGRANTEE, BUT SIMPLY A PROVIDER OF GOODS AND RELATED SERVICES

2. Leasing

Funding to purchase or lease products available under this contract may be available to State agencies via the GS \$Mart (purchases) or Lease \$Mart program. For small dollar transactions where GS \$Mart or Lease \$Mart isn't available, local agencies are able to take advantage of leasing options in the original (Minnesota) contract.

3. Changes:

Changes to the terms and conditions of the signed Master Price Agreement and Participating Addendum are as follows:

- a. Orders and payment may be handled by one of HP's authorized Resellers as approved by HP. All other agency orders and payments are to be handled by HP directly unless otherwise mutually agreed by HP and the Participating Entity as allowed in this section of the Participating Addendum.
- b. The California General Provisions (CAGP) **Revision 8/10/2009 (GSPD-401IT based on April 12, 2007 standard)** for Western States Contracting Alliance (WSCA) Computer Equipment, Software, Peripherals and Related Services as attached become a part of this Participating Addendum.
- c. The California General Provisions (CAGP) shall prevail if there is a conflict between the terms and conditions of the contractor's WSCA State of Minnesota, Master Price Agreement, packaging, invoices, catalogs, brochures and technical data sheets.
- d. The State of California will retain the same contract number as the State of Minnesota, Master Price Agreement number, B27164.

**CALIFORNIA PARTICIPATING ADDENDUM
 WESTERN STATES CONTRACTING ALLIANCE (WSCA)
 COMPUTER EQUIPMENT, SOFTWARE, PERIPHERALS AND RELATED
 SERVICES (2009-2014)
 HEWLETT-PACKARD COMPANY
 MASTER PRICE AGREEMENT
 CONTRACT B27164**

e. State of Minnesota, Master Price Agreement cover page, is hereby modified as follows:
 "Original Award Date" changed to "Effective Date 9/1/2009".

f. Delivery:

As negotiated between agency and contractor and included in the purchase order, or as otherwise stipulated in the contract.

g. DGS Termination of Contract:

The State may terminate this contract at any time upon 30 day prior written notice. Upon termination or other expiration of this contract, each party will assist the other party in orderly termination of the contract and the transfer of all assets, tangible and intangible, as may facilitate the orderly, nondisrupted business continuation of each party. This provision shall not relieve the contractor of the obligation to perform under any purchase order or other similar ordering document executed prior to the termination becoming effective.

h. Reports & Administrative Fee:

Contractor shall submit quarterly reports to the California Contract Administrator for all California purchases providing the following information for products:

Agency Name	Agency Contact Name
WSCA Contract Number	Agency Address
Purchase Order Number	Total Invoice Amount
Purchase Order Date	Total Dollars for the quarter
WSCA Administrative Fee Dollar Amount	

The Contractor shall submit a check, in addition to the report, payable to the State of California, Contract Administrator for the calculated administrative fee for an amount equal to one percent (0.01) of the sales for the quarterly period. This fee shall be included as an adjustment to contractors WSCA pricing and not invoiced or charged to the purchasing entity.

Payment of the administrative fee by Contractor due irrespective of status of payments on orders from users to Contractor.

A report is due even when there is no activity. Any report that does not follow the required format or that excludes information will be deemed incomplete. Failure to submit reports and fees on a timely basis shall constitute grounds for suspension of this agreement. Reports and fee delivery will be in accordance with the following schedule.

Calendar Quarter 1	(JUL 1 to SEP 30)	Due OCT 31
Calendar Quarter 2	(OCT 1 to DEC 31)	Due JAN 31
Calendar Quarter 3	(JAN 1 to MAR 31)	Due APR 30
Calendar Quarter 4	(APR 1 to JUN 30)	Due JUL 31

The administrative fee check and report should be submitted to the following address:

Cynthia Okoroike
 Department of General Services
 Procurement Division
 Multiple Award Program - WSCA

**CALIFORNIA PARTICIPATING ADDENDUM
WESTERN STATES CONTRACTING ALLIANCE (WSCA)
COMPUTER EQUIPMENT, SOFTWARE, PERIPHERALS AND RELATED
SERVICES (2009-2014)
HEWLETT-PACKARD COMPANY
MASTER PRICE AGREEMENT
CONTRACT B27164**

707 Third Street, 2nd Floor, MS # 202, West Sacramento, CA 95605-2811

- i. The primary state government contact for this Participating Addendum is as follows:

Department of General Services, Procurement Division
Multiple Award Program - WSCA
707 Third Street, 2nd Floor, MS # 202
West Sacramento, CA 95605

Contact: Cynthia Okoroike
E-mail: cynthia.okoroike@dgs.ca.gov
Phone: (916) 375-4389
Fax: (916) 375-4663

- j. The primary Hewlett Packard CUSTOMER contact for this Participating Addendum is as follows:

Hewlett Packard

Address: 442 Swan Blvd.
Deerfield, IL 60015

Contact: Debra Lee

E-Mail: Debra.lee@hp.com

Phone: 847/537-0344

Fax: 847/572-1336

- k. Price Agreement Number:

The Master Price Agreement number for the Participating State is B27164. The Master Price Agreement Number MUST be shown on all Purchase Orders issued against this Master Price Agreement.

This Addendum and the Price Agreement together with its exhibits and/or amendments, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Addendum and the Price Agreement, together with its exhibits and/or amendments, shall not be added to or incorporated into this Addendum or the Price Agreement and its exhibits and/or amendments, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Addendum and the Price Agreement and its exhibits and/or amendments shall prevail and govern in the case of any such inconsistent or additional terms.

CALIFORNIA PARTICIPATING ADDENDUM
WESTERN STATES CONTRACTING ALLIANCE (WSPA)
COMPUTER EQUIPMENT, SOFTWARE, PERIPHERALS AND RELATED
SERVICES (2009-2014)
HEWLETT-PACKARD COMPANY
MASTER PRICE AGREEMENT
CONTRACT B27164

m. Effective Dates:

This Participating Addendum shall be effective upon approval by the Department of General Services and will continue until the End Date of the Master Price Agreement. Lead State amendments to extend the term date are automatically incorporated into this Participating Addendum unless terminated early in accordance with the terms and conditions of the Master Price Agreement or this Participating Addendum.

By Signing below Hewlett Packard agrees to offer the same products/and or services as on the State of Minnesota B27164 at prices equal to or lower than the prices on this contract.

IN WITNESS WHEREOF, the parties have executed this Participating Addendum as of the date of execution by both parties below.

(Handwritten initials) 9/2/09 **GENERAL SERVICES**
LEGAL SERVICES

State of California:

Hewlett Packard

By: *Jim Butler*

By: *Chris Backs*

Name: Jim Butler

Name: Chris Backs

Title: Deputy Director

Title: CONTRACT NEGOTIATOR

Date: 8/31/09

Date: August 25, 2009

WESTERN STATES CONTRACTING ALLIANCE (WSCA)
COMPUTER EQUIPMENT, SOFTWARE, PERIPHERALS AND RELATED SERVICES (2009-2014)
GENERAL PROVISIONS

1. DEFINITIONS: Unless otherwise specified in the Statement of Work the following terms shall be given the meaning shown, unless context requires otherwise.

"Acceptance Tests" means those tests performed during the Performance Period which are intended to determine compliance of Equipment and Software with the specifications and all other Attachments incorporated herein by reference and to determine the reliability of the Equipment.

"Application Program" means a computer program which is intended to be executed for the purpose of performing useful work for the user of the information being processed. Application programs are developed or otherwise acquired by the user of the Hardware/Software system, but they may be supplied by the Contractor.

"Attachment" means a mechanical, electrical, or electronic interconnection to the Contractor-supplied Machine or System of Equipment, manufactured by other than the original Equipment manufacturer, that is not connected by the Contractor.

"Business entity" means any individual, business, partnership, joint venture, corporation, S-corporation, limited liability corporation, limited liability partnership, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute.

"Buyer" means the State's authorized contracting official.

"Commercial Software" means Software developed or regularly used that: (i) has been sold, leased, or licensed to the general public; (ii) has been offered for sale, lease, or license to the general public; (iii) has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this Contract; or (iv) satisfies a criterion expressed in (i), (ii), or (iii) above and would require only minor modifications to meet the requirements of this Contract.

"Contract" means this Contract or agreement (including any purchase order), by whatever name known or in whatever format used.

"Custom Software" means Software that does not meet the definition of Commercial Software.

"Contractor" means the Business Entity with whom the State enters into this Contract. Contractor shall be synonymous with "supplier", "vendor" or other similar term.

"Data Processing Subsystem" means a complement of Contractor-furnished individual Machines, including the necessary controlling elements (or the functional equivalent) and Operating Software, if any, which are acquired to operate as an integrated group, and which are interconnected entirely by Contractor-supplied power and/or signal cables; e.g., direct access controller and drives, a cluster of terminals with their controller, etc.

"Data Processing System (System)" means the total complement of Contractor-furnished Machines, including one or more central processors (or instruction processors) and Operating Software, which are acquired to operate as an integrated group.

"Deliverables" means Goods, Software, Information Technology, telecommunications technology, and other items (e.g. reports) to be delivered pursuant to this Contract, including any such items furnished incident to the provision of services.

"Designated CPU(s)" means for each product, if applicable, the central processing unit of the computers or the server unit, including any associated peripheral units. If no specific "Designated CPU(s)" are specified on the Contract, the term shall mean any and all CPUs located at the site specified therein.

"Documentation" means nonproprietary manuals and other

printed materials necessary or useful to the State in its use or maintenance of the Equipment or Software provided hereunder. Manuals and other printed materials customized for the State hereunder constitute Documentation only to the extent that such materials are described in or required by the Statement of Work.

"Equipment" is an all-inclusive term which refers either to individual Machines or to a complete Data Processing System or subsystem, including its Hardware and Operating Software (if any).

"Equipment Failure" is a malfunction in the Equipment, excluding all external factors, which prevents the accomplishment of the Equipment's intended function(s). If microcode or Operating Software residing in the Equipment is necessary for the proper operation of the Equipment, a failure of such microcode or Operating Software which prevents the accomplishment of the Equipment's intended functions shall be deemed to be an Equipment Failure.

"Facility Readiness Date" means the date specified in the Statement of Work by which the State must have the site prepared and available for Equipment delivery and installation.

"Goods" means all types of tangible personal property, including but not limited to materials, supplies, and Equipment (including computer and telecommunications Equipment).

"Hardware" usually refers to computer Equipment and is contrasted with Software. See also Equipment.

"Installation Date" means the date specified in the Statement of Work by which the Contractor must have the ordered Equipment ready (certified) for use by the State.

"Information Technology" includes, but is not limited to, all electronic technology systems and services, automated information handling, System design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications which include voice, video, and data communications, requisite System controls, simulation, electronic commerce, and all related interactions between people and Machines.

"Machine" means an individual unit of a Data Processing System or subsystem, separately identified by a type and/or model number, comprised of but not limited to mechanical, electro-mechanical, and electronic parts, microcode, and special features installed thereon and including any necessary Software, e.g., central processing unit, memory module, tape unit, card reader, etc.

"Machine Alteration" means any change to a Contractor-supplied Machine which is not made by the Contractor, and which results in the Machine deviating from its physical, mechanical, electrical, or electronic (including microcode) design, whether or not additional devices or parts are employed in making such change.

"Maintenance Diagnostic Routines" means the diagnostic programs customarily used by the Contractor to test Equipment for proper functioning and reliability.

"Manufacturing Materials" means parts, tools, dies, jigs, fixtures, plans, drawings, and information produced or acquired, or rights acquired, specifically to fulfill obligations set forth herein.

"Mean Time Between Failure (MTBF)" means the average expected or observed time between consecutive failures in a System or component.

"Mean Time to Repair (MTTR)" means the average expected or observed time required to repair a System or component and return it to normal operation.

"Operating Software" means those routines, whether or not identified as Program Products, that reside in the Equipment and are required for the Equipment to perform its intended function(s), and which interface the operator,

WESTERN STATES CONTRACTING ALLIANCE (WSCA)
COMPUTER EQUIPMENT, SOFTWARE, PERIPHERALS AND RELATED SERVICES (2009-2014)
GENERAL PROVISIONS

other Contractor-supplied programs, and user programs to the Equipment.

"Operational Use Time" means for performance measurement purposes, that time during which Equipment is in actual operation by the State. For maintenance Operational Use Time purposes, that time during which Equipment is in actual operation and is not synonymous with power on time.

"Performance Testing Period" means a period of time during which the State, by appropriate tests and production runs, evaluates the performance of newly installed Equipment and Software prior to its acceptance by the State.

"Period of Maintenance Coverage" means the period of time, as selected by the State, during which maintenance services are provided by the Contractor for a fixed monthly charge, as opposed to an hourly charge for services rendered. The Period of Maintenance Coverage consists of the Principal Period of Maintenance and any additional hours of coverage per day, and/or increased coverage for weekends and holidays.

"Preventive Maintenance" means that maintenance, performed on a scheduled basis by the Contractor, which is designed to keep the Equipment in proper operating condition.

"Principal Period of Maintenance" means any nine consecutive hours per day (usually between the hours of 7:00 a.m. and 6:00 p.m.) as selected by the State, including an official meal period not to exceed one hour, Monday through Friday, excluding holidays observed at the installation.

"Programming Aids" means Contractor-supplied programs and routines executable on the Contractor's Equipment which assists a programmer in the development of applications including language processors, sorts, communications modules, data base management systems, and utility routines, (tape-to-disk routines, disk-to-print routines, etc.).

"Program Product" means programs, routines, subroutines, and related items which are proprietary to the Contractor and which are licensed to the State for its use, usually on the basis of separately stated charges and appropriate contractual provisions.

"Remedial Maintenance" means that maintenance performed by the Contractor which results from Equipment (including Operating Software) failure, and which is performed as required, i.e., on an unscheduled basis.

"Site License" means for each product, the term "Site License" shall mean the license established upon acquisition of the applicable number of copies of such product and payment of the applicable license fees as set forth in the Statement of Work.

"Software" means an all-inclusive term which refers to any computer programs, routines, or subroutines supplied by the Contractor, including Operating Software, Programming Aids, Application Programs, and Program Products.

"Software Failure" means a malfunction in the Contractor-supplied Software, other than Operating Software, which prevents the accomplishment of work, even though the Equipment (including its Operating Software) may still be capable of operating properly. For Operating Software failure, see definition of Equipment Failure.

"State" means the government of the State of California, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the State of California.

"System" means the complete collection of Hardware, Software and services as described in this Contract, integrated and functioning together, and performing in

accordance with this Contract.

"U.S. Intellectual Property Rights" means intellectual property rights enforceable in the United States of America, including without limitation rights in trade secrets, copyrights, and U.S. patents.

2. CONTRACT FORMATION:

- a) If this Contract results from a sealed bid offered in response to a solicitation conducted pursuant to Chapters 2 (commencing with Section 10290), 3 (commencing with Section 12100), and 3.6 (commencing with Section 12125) of Part 2 of Division 2 of the Public Contract Code (PCC), then Contractor's bid is a firm offer to the State which is accepted by the issuance of this Contract and no further action is required by either party.
- b) If this Contract results from a solicitation other than described in paragraph a), above, Contractor's quotation or proposal is deemed a firm offer and this Contract document is the State's acceptance of that offer.
- c) If this Contract resulted from a joint bid, it shall be deemed one indivisible Contract. Each such joint Contractor will be jointly and severally liable for the performance of the entire Contract. The State assumes no responsibility or obligation for the division of orders or purchases among joint Contractors.

3. COMPLETE INTEGRATION: This Contract, including any documents incorporated herein by express reference, is intended to be a complete integration and there are no prior or contemporaneous different or additional agreements pertaining to the subject matter of the Contract.

4. SEVERABILITY: The Contractor and the State agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of the presumed non-applicability of such provision.

5. INDEPENDENT CONTRACTOR: Contractor and the agents and employees of Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the State.

6. APPLICABLE LAW: This Contract shall be governed by and shall be interpreted in accordance with the laws of the State of California; venue of any action brought with regard to this Contract shall be in Sacramento County, Sacramento, California. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Contract.

7. COMPLIANCE WITH STATUTES AND REGULATIONS:

- a) Contractor warrants and certifies that in the performance of this Contract, it will comply with all applicable statutes, rules, regulations and orders of the United States and the State of California and agrees to indemnify the State against any loss, cost, damage or liability by reason of the Contractor's violation of this provision.
- b) The State will notify Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
- c) Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and

WESTERN STATES CONTRACTING ALLIANCE (WSCA)
COMPUTER EQUIPMENT, SOFTWARE, PERIPHERALS AND RELATED SERVICES (2009-2014)
GENERAL PROVISIONS

costs (but not liability); (ii) the State will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

d) If this Contract is in excess of \$500,000, it is subject to the requirements of the World Trade Organization (WTO) Government Procurement Agreement (GPA).

e) To the extent that this contract falls within the scope of Government Code Section 11135, Contractor hereby agrees to respond to and resolve any complaint brought to its attention, regarding accessibility of its products or services.

- 8. CONTRACTOR'S POWER AND AUTHORITY:** The Contractor warrants that it has full power and authority to grant the rights herein granted and will hold the State harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, Contractor avers that it will not enter into any arrangement with any third party which might abridge any rights of the State under this Contract.

The State will notify Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and

Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) the State will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

- 9. ASSIGNMENT:** This Contract shall not be assignable by the Contractor in whole or in part without the written consent of the State. For the purpose of this paragraph, State will not unreasonably prohibit Contractor from freely assigning its right to payment, provided that Contractor remains responsible for its obligations hereunder.

- 10. WAIVER OF RIGHTS:** Any action or inaction by the State or the failure of the State on any occasion, to enforce any right or provision of the Contract, shall not be construed to be a waiver by the State of its rights hereunder and shall not prevent the State from enforcing such provision or right on any future occasion. The rights and remedies of the State herein are cumulative and are in addition to any other rights or remedies that the State may have at law or in equity.

- 11. ORDER OF PRECEDENCE:** In the event of any inconsistency between the articles, attachments, specifications or provisions which constitute this Contract, the following order of precedence shall apply:

- a) these General Provisions – Information Technology (In the instances provided herein where the paragraph begins: "Unless otherwise specified in the Statement of Work" provisions specified in the Statement of Work replacing these paragraphs shall take precedence over the paragraph referenced in these General Provisions);
- b) contract form, i.e., Purchase Order STD 65, Standard Agreement STD 213, etc., and any amendments thereto;
- c) information technology special provisions;
- d) statement of work, including any specifications incorporated by

reference herein; and

e) all other attachments incorporated in the contract by reference.

12. PACKING AND SHIPMENT:

a) All Goods are to be packed in suitable containers for protection in shipment and storage, and in accordance with applicable specifications. Each container of a multiple container shipment shall be identified to:

- i) show the number of the container and the total number of containers in the shipment; and
- ii) the number of the container in which the packing sheet has been enclosed.

b) All shipments by Contractor or its subcontractors must include packing sheets identifying: the State's Contract number; item number; quantity and unit of measure; part number and description of the Goods shipped; and appropriate evidence of inspection, if required. Goods for different Contracts shall be listed on separate packing sheets.

c) Shipments must be made as specified in this Contract, as it may be amended, or otherwise directed in writing by the State's Transportation Management Unit within the Department of General Services, Procurement Division.

13. TRANSPORTATION COSTS AND OTHER FEES OR EXPENSES:

No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by the State unless expressly included and itemized in the Contract.

a) Contractor must strictly follow Contract requirements regarding Free on Board (F.O.B.), freight terms and routing instructions. The State may permit use of an alternate carrier at no additional cost to the State with advance written authorization of the Buyer.

b) If "prepay and add" is selected, supporting freight bills are required when over \$50, unless an exact freight charge is approved by the Transportation Management Unit within the Department of General Services Procurement Division and a waiver is granted.

c) On "F.O.B. Shipping Point" transactions, should any shipments under the Contract be received by the State in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the Equipment and/or material, Contractor, on request of the State, shall at Contractor's own expense assist the State in establishing carrier liability by supplying evidence that the Equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.

- 14. DELIVERY:** Contractor shall strictly adhere to the delivery and completion schedules specified in this Contract. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If Contractor delivers in excess of the quantities specified herein, the State shall not be required to make any payment for the excess Deliverables, and may return them to Contractor at Contractor's expense or utilize any other rights available to the State at law or in equity.

- 15. SUBSTITUTIONS:** Substitution of Deliverables may not be tendered without advance written consent of the Buyer. Contractor shall not use any specification in lieu of those contained in the Contract without written consent of the Buyer.

16. INSPECTION, ACCEPTANCE AND REJECTION: Unless otherwise specified in the Statement of Work:

- a) Contractor and its subcontractors will provide and maintain a quality assurance system acceptable to the State covering Deliverables and services under this Contract and

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will tender to the State only those Deliverables that have been inspected and found to conform to this Contract's requirements. Contractor will keep records evidencing inspections and their result, and will make these records available to the State during Contract performance and for three years after final payment. Contractor shall permit the State to review procedures, practices, processes, and related documents to determine the acceptability of Contractor's quality assurance System or other similar business practices related to performance of the Contract.

b) All Deliverables may be subject to inspection and test by the State or its authorized representatives.

c) Contractor and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to the State. Contractor shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.

d) All Deliverables may be subject to final inspection, test and acceptance by the State at destination, notwithstanding any payment or inspection at source.

e) The State shall give written notice of rejection of Deliverables delivered or services performed hereunder within a reasonable time after receipt of such Deliverables or performance of such services. Such notice of rejection will state the respects in which the Deliverables do not substantially conform to their specifications. If the State does not provide such notice of rejection within thirty (30) days of delivery, such Deliverables and services will be deemed to have been accepted. Acceptance by the State will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that the State might have at law or by express reservation in this Contract with respect to any nonconformity.

17. SAMPLES:

a) Samples of items may be required by the State for inspection and specification testing and must be furnished free of expense to the State. The samples furnished must be identical in all respects to the products bid and/or specified in the Contract.

b) Samples, if not destroyed by tests, may, upon request made at the time the sample is furnished, be returned at Contractor's expense.

18. WARRANTY:

a) Unless otherwise specified in the Statement of Work, the warranties in this subsection a) begin upon delivery of the goods or services in question and end one (1) year thereafter. Contractor warrants that (i) Deliverables and services furnished hereunder will substantially conform to the requirements of this Contract (including without limitation all descriptions, specifications, and drawings identified in the Statement of Work), and (ii) the Deliverables will be—free from material defects in materials and workmanship. Where the parties have agreed to design specifications (such as a Detailed Design Document) and incorporated the same or equivalent in the Statement of Work directly or by reference, Contractor will warrant that its Deliverables provide all material functionality required thereby. In addition to the other warranties set forth herein, where the Contract calls for delivery of Commercial Software, Contractor warrants that such Software will perform in accordance with its license and accompanying Documentation. The State's approval of designs or specifications furnished by Contractor shall not relieve the Contractor of its obligations under this warranty.

Contractor warrants that Deliverables furnished hereunder (i) will be free, at the time of delivery, of harmful code (i.e. computer viruses, worms, trap doors, time bombs, disabling

code, or any similar malicious mechanism designed to interfere with the intended operation of, or cause damage to, computers, data, or Software); and (ii) will not infringe or violate any U.S. Intellectual Property Right. Without limiting the generality of the foregoing, if the State believes that harmful code may be present in any Commercial Software delivered hereunder, Contractor will, upon the State's request, provide a master copy of the Software for comparison and correction.

Unless otherwise specified in the Statement of Work:

(i) Contractor does not warrant that any Software provided hereunder is error-free or that it will run without immaterial interruption.

(ii) Contractor does not warrant and will have no responsibility for a claim to the extent that it arises directly from (A) a modification made by the State, unless such modification is approved or directed by Contractor, (B) use of Software in combination with or on products other than as specified by Contractor, or (C) misuse by the State.

(iii) Where Contractor resells Hardware or Software it purchased from a third party, and such third party offers additional or more advantageous warranties than those set forth herein, Contractor will pass through any such warranties to the State and will reasonably cooperate in enforcing them. Such warranty pass-through will be supplemental to, and not relieve Contractor from, Contractor's warranty obligations set forth above.

All warranties, including special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, customer agencies, and governmental users of the Deliverables or services.

e) Except as may be specifically provided in the Statement of Work or elsewhere in this Contract, for any breach of the warranties provided in this Section, the State's exclusive remedy and Contractor's sole obligation will be limited to:

(i) re-performance, repair, or replacement of the nonconforming Deliverable (including without limitation an infringing Deliverable) or service; or

(ii) should the State in its sole discretion consent, refund of all amounts paid by the State for the nonconforming Deliverable or service and payment to the State of any additional amounts necessary to equal the State's Cost to Cover. "Cost to Cover" means the cost, properly mitigated, of procuring Deliverables or services of equivalent capability, function, and performance. The payment obligation in subsection (e)(ii) above will not exceed the limits on Contractor's liability set forth in the Section entitled "Limitation of Liability."

f) EXCEPT FOR THE EXPRESS WARRANTIES SPECIFIED IN THIS SECTION, CONTRACTOR MAKES NO WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

19. SAFETY AND ACCIDENT PREVENTION: In performing work under this Contract on State premises, Contractor shall conform to any specific safety requirements contained in the Contract or as required by law or regulation. Contractor shall take any additional precautions as the State may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Contract in accordance with the default provisions hereof.

20. INSURANCE: When performing work on property in the care, custody

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or control of the State, Contractor shall maintain all commercial general liability insurance, workers' compensation insurance and any other insurance the State deems appropriate under the Contract. Contractor shall furnish an insurance certificate evidencing required insurance coverage acceptable to the State. Upon request by the Buyer, the Contractor may be required to have the State shown as an "additional insured" on selected policies.

21. TERMINATION FOR NON-APPROPRIATION OF FUNDS:

- a) If the term of this Contract extends into fiscal years subsequent to that in which it is approved, such continuation of the Contract is contingent on the appropriation of funds for such purpose by the Legislature. If funds to effect such continued payment are not appropriated, Contractor agrees to take back any affected Deliverables furnished under this Contract, terminate any services supplied to the State under this Contract, and relieve the State of any further obligation therefore.
- b) STATE AGREES THAT IF PARAGRAPH a) ABOVE IS INVOKED, DELIVERABLES SHALL BE RETURNED TO THE CONTRACTOR IN SUBSTANTIALLY THE SAME CONDITION IN WHICH DELIVERED TO THE STATE, SUBJECT TO NORMAL WEAR AND TEAR. STATE FURTHER AGREES TO PAY FOR PACKING, CRATING, TRANSPORTATION TO CONTRACTOR'S NEAREST FACILITY AND FOR REIMBURSEMENT TO THE CONTRACTOR FOR EXPENSES INCURRED FOR THEIR ASSISTANCE IN SUCH PACKING AND CRATING.

22. TERMINATION FOR THE CONVENIENCE OF THE STATE:

- a) The State may terminate performance of work under this Contract for its convenience in whole or, from time to time, in part, if the Department of General Services, Deputy Director Procurement Division, or designee, determines that a termination is in the State's interest. The Department of General Services, Deputy Director, Procurement Division, or designee, shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date thereof.
- b) After receipt of a Notice of Termination, and except as directed by the State, the Contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any amounts due under this clause. The Contractor shall:
 - (i) Stop work as specified in the Notice of Termination.
 - (ii) Place no further subcontracts for materials, services, or facilities, except as necessary to complete the continuing portion of the Contract.
 - (iii) Terminate all subcontracts to the extent they relate to the work terminated.
 - (iv) Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts;—

Unless otherwise set forth in the Statement of Work, if the Contractor and the State fail to agree on the amount to be paid because of the termination for convenience, the State will pay the Contractor the following amounts; provided that in no event will total payments exceed the amount payable to the Contractor if the Contract had been fully performed:

The Contract price for Deliverables or services accepted by the State and not previously paid for, adjusted for any savings on freight and other charges; and

The total of:

- A) The reasonable costs incurred in the performance of the work terminated, including initial costs and preparatory expenses allocable thereto, but excluding any cost attributable to Deliverables or services paid or to be paid;
- B) The reasonable cost of settling and paying

termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the Contract; and

C) Reasonable storage, transportation, demobilization, unamortized overhead and capital costs, and other costs reasonably incurred by the Contractor in winding down and terminating its work.

The Contractor will use generally accepted accounting principles, or accounting principles otherwise agreed to in writing by the parties, and sound business practices in determining all costs claimed, agreed to, or determined under this clause.

23. TERMINATION FOR DEFAULT:

a) The State may, subject to the clause titled "Force Majeure" and to sub-section d) below, by written notice of default to the Contractor, terminate this Contract in whole or in part if the Contractor fails to:

- i) Deliver the Deliverables or perform the services within the time specified in the Contract or any amendment thereto;
- ii) Make progress, so that the lack of progress endangers performance of this Contract; or
- iii) Perform any of the other provisions of this Contract.

b) The State's right to terminate this Contract under sub-section a) above, may be exercised if the failure constitutes a material breach of this Contract and if the Contractor does not cure such failure within the time frame stated in the State's cure notice, which in no event will be less than fifteen (15) days, unless the Statement of Work calls for a shorter period.

c) If the State terminates this Contract in whole or in part pursuant to this Section, it may acquire, under terms and in the manner the Buyer considers appropriate, Deliverables or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those Deliverables and services, including without limitation costs third party vendors charge for Manufacturing Materials (but subject to the clause entitled "Limitation of Liability"). However, the Contractor shall continue the work not terminated.

d) If the Contract is terminated for default, the State may require the Contractor to transfer title, or in the case of licensed Software, license, and deliver to the State, as directed by the Buyer, any:

- (i) completed Deliverables;—
- (ii) partially completed Deliverables, and,
- (iii) subject to—provisions of sub-section e) below, Manufacturing Materials related to the terminated portion of this Contract. Nothing in this sub-section d) will be construed to grant the State rights to Deliverables that it would not have received had this Contract been fully performed. Upon direction of the Buyer, the Contractor shall also protect and preserve property in its possession in which the State has an interest.

e) The State shall pay Contract price for completed Deliverables delivered and accepted. Unless the Statement of Work calls for different procedures or requires no-charge delivery of materials, the Contractor and Buyer shall attempt to agree on the amount of payment for Manufacturing Materials and other materials delivered and accepted by the State for the protection and preservation of the property; provided that where the Contractor has billed the State for any such materials, no additional charge will apply. Failure to agree will constitute a dispute under the Disputes clause. The State may withhold from these

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amounts any sum it determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

f) If, after termination, it is determined by a final ruling in accordance with the Disputes Clause that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the State.

g) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this Contract, and are subject to the clause titled "Limitation of Liability."

24. FORCE MAJEURE

Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include, but are not limited to:

- a) Acts of God or of the public enemy, and
- b) Acts of the federal or State government in either its sovereign or contractual capacity.

If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform.

25. RIGHTS AND REMEDIES OF STATE FOR DEFAULT:

- a) In the event any Deliverables furnished or services provided by the Contractor in the performance of the Contract should fail to conform to the requirements herein, or to the sample submitted by the Contractor, the State may reject the same, and it shall become the duty of the Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to the State, and immediately replace all such rejected items with others conforming to the Contract.
- b) In addition to any other rights and remedies the State may have, the State may require Contractor, at Contractor's expense, to ship Deliverables via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of the Contractor.
- c) In the event of the termination of the Contract, either in whole or in part, by reason of default or breach by the Contractor, any loss or damage sustained by the State in procuring any items which the Contractor agreed to supply shall be borne and paid for by the Contractor (but subject to the clause entitled "Limitation of Liability").
- d) The State reserves the right to offset the reasonable cost of all damages caused to the State against any outstanding invoices or amounts owed to Contractor or to make a claim against the Contractor therefore.

26. LIMITATION OF LIABILITY:

a) Contractor's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to two times the Purchase Price. For purposes of this sub-section a), "Purchase Price" will mean the aggregate Contract price; except that, with respect to a Contract under which multiple purchase orders will be issued (e.g., a Master Agreement or Multiple Award Schedule contract), "Purchase Price" will mean the total price of the purchase order for the Deliverable(s) or service(s) that gave rise to the loss, such that Contractor will have a separate limitation of liability for

each purchase order.

b) The foregoing limitation of liability shall not apply (i) to liability under the General Provisions, entitled "Patent, Copyright, and Trade Secret Protection" or to any other liability (including without limitation indemnification obligations) for infringement of third party intellectual property rights; (ii) to claims covered by any specific provision herein calling for liquidated damages; (iii) to claims arising under provisions herein calling for indemnification for third party claims against the State for bodily injury to persons or damage to real or tangible personal property caused by Contractor's negligence or willful misconduct; or (iv) to—costs or attorney's fees that the State becomes entitled to recover as a prevailing party in—any action.

c) The State's liability for damages for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the Purchase Price, as that term is defined in subsection a) above. Nothing herein shall be construed to waive or limit the State's sovereign immunity or any other immunity from suit provided by law.

d) In no event will either the Contractor or the State be liable for consequential, incidental, indirect, special, or punitive damages, even if notification has been given as to the possibility of such damages, except (i) to the extent that Contractor's liability for such damages is specifically set forth in the Statement of Work or (ii) to the extent that Contractor's liability for such damages arises out of subsection b)(i), b)(ii), or b)(iv) above.

27. CONTRACTOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY:

- a) The Contractor shall be liable for damages arising out of injury to the person and/or damage to the property of the State, employees of the State, persons designated by the State for training, or any other person(s) other than agents or employees of the Contractor, designated by the State for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the Deliverables either at the Contractor's site or at the State's place of business, provided that the injury or damage was caused by the fault or negligence of the Contractor.
- b) Contractor shall not be liable for damages arising out of or caused by an alteration or an Attachment not made or installed by the Contractor, or for damage to alterations or Attachments that may result from the normal operation and maintenance of the Deliverables provided by the Contractor during the Contract.

28. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses due to the injury or death of any individual, or the loss or damage to any real or tangible personal property, resulting from the willful misconduct or negligent acts or omissions of Contractor or any of its agents, subcontractors, employees, suppliers, laborers, or any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Contract. Such defense and payment will be conditional upon the following:

- a) The State will notify Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
- b) Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability,

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or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) the State will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

29. INVOICES: Unless otherwise specified, invoices shall be sent to the address set forth herein. Invoices shall be submitted in triplicate and shall include the Contract number; release order number (if applicable); item number; unit price, extended item price and invoice total amount. State sales tax and/or use tax shall be itemized separately and added to each invoice as applicable.

30. REQUIRED PAYMENT DATE: Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927 et. seq. Unless expressly exempted by statute, the Act requires State agencies to pay properly submitted, undisputed invoices not more than 45 days after (i) the date of acceptance of Deliverables or performance of services; or (ii) receipt of an undisputed invoice, whichever is later.

31. TAXES: Unless otherwise required by law, the State of California is exempt from Federal excise taxes. The State will only pay for any State or local sales or use taxes on the services rendered or Goods supplied to the State pursuant to this Contract.

32. NEWLY MANUFACTURED GOODS: All Goods furnished under this Contract shall be newly manufactured Goods; used or reconditioned Goods are prohibited, unless otherwise specified.

33. CONTRACT MODIFICATION: No amendment or variation of the terms of this Contract shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Contract is binding on any of the parties.

34. CONFIDENTIALITY OF DATA: All financial, statistical, personal, technical and other data and information relating to the State's operation which are designated confidential by the State and made available to the Contractor in order to carry out this Contract, or which become available to the Contractor in carrying out this Contract, shall be protected by the Contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to the Contractor. If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this paragraph. The Contractor shall not be required under the provisions of this paragraph to keep confidential any data or information which is or becomes publicly available, is already rightfully in the Contractor's possession, is independently developed by the Contractor outside the scope of this Contract, or is rightfully obtained from third parties.

35. NEWS RELEASES: Unless otherwise exempted, news releases pertaining to this Contract shall not be made without prior written approval of the Department of General Services.

36. DOCUMENTATION

Revision 8/10/2009 (GSPD-401IT based on April 12, 2007)

a) The Contractor agrees to provide to the State, at no charge, a number of all *nonproprietary manuals and other printed materials*, as described within the Statement of Work, and updated versions thereof, which are necessary or useful to the State in its use of the Equipment or Software provided hereunder. The Contractor agrees to provide additional Documentation at prices not in excess of charges made by the Contractor to its other customers for similar Documentation.

b) If the Contractor is unable to perform maintenance or the State desires to perform its own maintenance on Equipment purchased under this Contract then upon written notice by the State the Contractor will provide at Contractor's then current rates and fees adequate and reasonable assistance including relevant Documentation to allow the State to maintain the Equipment based on Contractor's methodology. The Contractor agrees that the State may reproduce such Documentation for its own use in maintaining the Equipment. If the Contractor is unable to perform maintenance, the Contractor agrees to license any other Contractor that the State may have hired to maintain the Equipment to use the above noted Documentation. The State agrees to include the Contractor's copyright notice on any such Documentation reproduced, in accordance with copyright instructions to be provided by the Contractor.

37. RIGHTS IN WORK PRODUCT:

a) All inventions, discoveries, intellectual property, technical communications and records originated or prepared by the Contractor pursuant to this Contract including papers, reports, charts, computer programs, and other Documentation or improvements thereto, and including Contractor's administrative communications and records relating to this Contract (collectively, the "Work Product"), shall be Contractor's exclusive property. The provisions of this sub-section a) may be revised in a Statement of Work.

b) Software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of this Contract or applicable purchase order ("Pre-Existing Materials") do not constitute Work Product. If Contractor creates derivative works of Pre-Existing Materials, the elements of such derivative works created pursuant to this Contract constitute Work Product, but other elements do not. Nothing in this Section 37 will be construed to interfere with Contractor's or its affiliates' ownership of Pre-Existing Materials.

The State will have Government Purpose Rights to the Work Product as Deliverable or delivered to the State hereunder. "Government Purpose Rights" are the unlimited, irrevocable, worldwide, perpetual, royalty-free, non-exclusive rights and licenses to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product. "Government Purpose Rights" also include the right to release or disclose the Work Product outside the State for any State government purpose and to authorize recipients to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product for any State government purpose. Such recipients of the Work Product may include, without limitation, State Contractors, California local governments, the U.S. federal government, and the State and local governments of other states. "Government Purpose Rights" do not include any rights to use, modify, reproduce, perform, release, display, create derivative works from, or disclose the Work Product for any commercial purpose.

The ideas, concepts, know-how, or techniques relating to data processing, developed during the course of this

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Contract by the Contractor or jointly by the Contractor and the State may be used by either party without obligation of notice or accounting.

This Contract shall not preclude the Contractor from developing materials outside this Contract that are competitive, irrespective of their similarity to materials which might be delivered to the State pursuant to this Contract.

38. PROTECTION OF PROPRIETARY SOFTWARE AND OTHER PROPRIETARY DATA

a) State agrees that all material appropriately marked or identified in writing as proprietary, and furnished hereunder are provided for State's exclusive use for the purposes of this Contract only. All such proprietary data shall remain the property of the Contractor. State agrees to take all reasonable steps to insure that such proprietary data are not disclosed to others, without prior written consent of the Contractor, subject to the California Public Records Act.

b) The State will insure, prior to disposing of any media, that any licensed materials contained thereon have been erased or otherwise destroyed.

c) The State agrees that it will take appropriate action by instruction, agreement or otherwise with its employees or other persons permitted access to licensed software and other proprietary data to satisfy its obligations under this Contract with respect to use, copying, modification, protection and security of proprietary software and other proprietary data..

39. PATENT, COPYRIGHT AND TRADE SECRET INDEMNITY:

a) Contractor will indemnify, defend, and save harmless the State, its officers, agents, and employees, from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement or violation of any U.S. Intellectual Property Right by any product or service provided hereunder. With respect to claims arising from computer Hardware or Software manufactured by a third party and sold by Contractor as a reseller, Contractor will pass through to the State such indemnity rights as it receives from such third party ("Third Party Obligation") and will cooperate in enforcing them; provided that if the third party manufacturer fails to honor the Third Party Obligation, Contractor will provide the State with indemnity protection equal to that called for by the Third Party Obligation, but in no event greater than that called for in the first sentence of this Section 39a). The provisions of the preceding sentence apply only to third party computer Hardware or Software sold as a distinct unit and accepted by the State.

Unless a Third Party Obligation provides otherwise, the defense and payment obligations set forth in this Section 39a) will be conditional upon the following:

The State will notify Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and

Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) the State will have the right to approve or disapprove any settlement or compromise, which approval will not

unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

b) Contractor may be required to furnish a bond to the State against any and all loss, damage, costs, expenses, claims and liability for patent, copyright and trade secret infringement.

c) Should the Deliverables or Software, or the operation thereof, become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement or violation of a U.S. Intellectual Property Right, the State shall permit the Contractor at its option and expense either to procure for the State the right to continue using the Deliverables or Software, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such Deliverables or Software by the State shall be prevented by injunction, the Contractor agrees to take back such Deliverables or Software and make every reasonable effort to assist the State in procuring substitute Deliverables or Software. If, in the sole opinion of the State, the return of such infringing Deliverables or Software makes the retention of other Deliverables or Software acquired from the Contractor under this Contract impractical, the State shall then have the option of terminating such Contracts, or applicable portions thereof, without penalty or termination charge. The Contractor agrees to take back such Deliverables or Software and refund any sums the State has paid Contractor less any reasonable amount for use or damage.

d) The Contractor shall have no liability to the State under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement which is based upon:

(i) The combination or utilization of Deliverables furnished hereunder with Equipment or devices not made or furnished by the Contractor; or,

(ii) The operation of Equipment furnished by the Contractor under the control of any Operating Software other than, or in addition to, the current version of Contractor-supplied Operating Software; or

(iii) The modification by the State of the Equipment furnished hereunder or of the Software; or

(iv) The combination or utilization of Software furnished hereunder with non-contractor supplied Software.

e) Contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Contract for the acquisition, operation or maintenance of computer Software in violation of copyright laws.

40. EXAMINATION AND AUDIT: Contractor agrees that the State, or its designated representative shall have the right to review and copy any records and supporting Documentation pertaining to performance of this Contract. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Contract.

41. DISPUTES:-

a) The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, Contractor shall submit to the Department Director or designee a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to or involving this Contract, unless the State, on its own initiative, has already rendered such a final decision. Contractor's written demand shall be fully supported by factual information, and if such demand involves a cost adjustment to the Contract, Contractor

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shall include with the demand a written statement signed by an authorized person indicating that the demand is made in good faith, that the supporting data are accurate and complete and that the amount requested accurately reflects the Contract adjustment for which Contractor believes the State is liable. If the Contractor is not satisfied with the decision of the Department Director or designee, the Contractor may appeal the decision to the Department of General Services, Deputy Director, Procurement Division. In the event that this Contract is for Information Technology Goods and/or services, the decision may be appealed to an Executive Committee of State and Contractor personnel.

- b) Pending the final resolution of any dispute arising under, related to or involving this Contract, Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of Goods or providing of services in accordance with the State's instructions. Contractor's failure to diligently proceed in accordance with the State's instructions shall be considered a material breach of this Contract.
- c) Any final decision of the State shall be expressly identified as such, shall be in writing, and shall be signed by the Department Director or designee or Deputy Director, Procurement Division if an appeal was made. If the State fails to render a final decision within 90 days after receipt of Contractor's demand, it shall be deemed a final decision adverse to Contractor's contentions. The State's final decision shall be conclusive and binding regarding the dispute unless Contractor commences an action in a court of competent jurisdiction to contest such decision within 90 days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.

42. STOP WORK:

- a) The State may, at any time, by written Stop Work Order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this Contract for a period up to 90 days after the Stop Work Order is delivered to the Contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the Stop Work Order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Within a period of 90 days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the State shall either:
- (i) Cancel the Stop Work Order; or
 - (ii) Terminate the work covered by the Stop Work Order as provided for in the termination for default or the termination for convenience clause of this Contract.
- b) If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, the Contractor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if:
- (i) The Stop Work Order results in an increase in the time required for, or in the Contractor's cost properly allocable to the performance of any part of this Contract; and
 - (ii) The Contractor asserts its right to an equitable adjustment within 30 days after the end of the period of work stoppage; provided, that if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Contract.

- c) If a Stop Work Order is not canceled and the work covered by the Stop Work Order is terminated in accordance with the provision entitled Termination for the Convenience of the State, the State

Revision 8/10/2009 (GSPD-4011T based on April 12, 2007)

shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.

- d) The State shall not be liable to the Contractor for loss of profits because of a Stop Work Order issued under this clause.

43. FOLLOW-ON CONTRACTS:

If the Contractor or its affiliates provides Technical Consulting and Direction (as defined below), the Contractor and its affiliates:

- (i) will not be awarded a subsequent Contract to supply the service or system, or any significant component thereof, that is used for or in connection with any subject of such Technical Consulting and Direction; and
- (ii) will not act as consultant to any person or entity that does receive a Contract described in sub-section (i). This prohibition will continue for one (1) year after termination of this Contract or completion of the Technical Consulting and Direction, whichever comes later.

"Technical Consulting and Direction" means services for which the Contractor received compensation from the State and includes:

- (i) development of or assistance in the development of work statements, specifications, solicitations, or feasibility studies;
- (ii) development or design of test requirements;
- (iii) evaluation of test data;
- (iv) direction of or evaluation of another Contractor;
- (v) provision of formal recommendations regarding the acquisition of Information Technology products or services; or
- (vi) provisions of formal recommendations regarding any of the above. For purposes of this Section, "affiliates" are employees, directors, partners, joint venture participants, parent corporations, subsidiaries, or any other entity controlled by, controlling, or under common control with the Contractor. Control exists when an entity owns or directs more than fifty percent (50%) of the outstanding shares or securities representing the right to vote for the election of directors or other managing authority.

To the extent permissible by law, the Director of the Department of General Services, or designee, may waive the restrictions set forth in this Section by written notice to the Contractor if the Director determines their application would not be in the State's best interest. Except as prohibited by law, the restrictions of this Section will not apply:

- to follow-on advice given by vendors of commercial off-the-shelf products, including Software and Hardware, on the operation, integration, repair, or maintenance of such products after sale; or
- where the State has entered into a master agreement for Software or services and the scope of work at the time of Contract execution expressly calls for future recommendations among the Contractor's own products.

The restrictions set forth in this Section are in addition to conflict of interest restrictions imposed on public Contractors by California law ("Conflict Laws"). In the event of any inconsistency, such Conflict Laws override the provisions of this Section, even if enacted after execution of this Contract.

- 44. PRIORITY HIRING CONSIDERATIONS:** If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section

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11200 in accordance with PCC Section 10353.

- 45. COVENANT AGAINST GRATUITIES:** The Contractor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the State with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the State shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the State in procuring on the open market any items which Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the State provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.
- 46. NONDISCRIMINATION CLAUSE:**
- a) During the performance of this Contract, Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- b) The Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract.
- 47. NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, PCC Section 10296.
- 48. ASSIGNMENT OF ANTITRUST ACTIONS:** Pursuant to Government Code Sections 4552, 4553, and 4554, the following provisions are incorporated herein:
- a) In submitting a bid to the State, the supplier offers and agrees that if the bid is accepted, it will assign to the State all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of Goods, material or other items, or services by the supplier for sale to the State pursuant to the solicitation. Such assignment shall be made and become effective at the time the State tenders final payment to the supplier.
- b) If the State receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the State any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the State as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.
- c) Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and
- (i) the assignee has not been injured thereby, or
- (ii) the assignee declines to file a court action for the cause of action.
- 49. DRUG-FREE WORKPLACE CERTIFICATION:** The Contractor certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:
- a) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
- b) Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
- (i) the dangers of drug abuse in the workplace;
- (ii) the person's or organization's policy of maintaining a drug-free workplace;
- (iii) any available counseling, rehabilitation and employee assistance programs; and,
- (iv) penalties that may be imposed upon employees for drug abuse violations.
- c) Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed or resulting Contract:
- (i) will receive a copy of the company's drug-free policy statement; and,
- (ii) will agree to abide by the terms of the company's statement as a condition of employment on the Contract.
- 50. FOUR-DIGIT DATE COMPLIANCE:** Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date Compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.
- 51. SWEATFREE CODE OF CONDUCT:**
- a) Contractor declares under penalty of perjury that no equipment, materials, or supplies furnished to the State pursuant to the contract have been produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

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- b) Contractor agrees to cooperate fully in providing reasonable access to its records, documents, agents or employees, or premises if reasonably required by authorized officials of the State, the Department of Industrial Relations, or the Department of Justice to determine Contractor's compliance with the requirements under paragraph (a).
- 52. RECYCLING:** The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (PCC 12205).
- 53. CHILD SUPPORT COMPLIANCE ACT:** For any Contract in excess of \$100,000, the Contractor acknowledges in accordance with PCC Section 7110, that:
- a) The Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable State and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
- b) The Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- 54. AMERICANS WITH DISABILITIES ACT:** Contractor assures the State that Contractor complies with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq).
- 55. ELECTRONIC WASTE RECYCLING ACT OF 2003:** The Contractor certifies that it complies with the requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code, relating to hazardous and solid waste. Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.
- 56. USE TAX COLLECTION:** In accordance with PCC Section 10295.1, Contractor certifies that it complies with the requirements of Section 7101 of the Revenue and Taxation Code. Contractor further certifies that it will immediately advise State of any change in its retailer's seller's permit or certification of registration or applicable affiliate's seller's permit or certificate of registration as described in subdivision (a) of PCC Section 10295.1.
- 57. EXPATRIATE CORPORATIONS:** Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC Sections 10286 and 10286.1, and is eligible to contract with the State.
- 58. DOMESTIC PARTNERS:** For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that the contractor is in compliance with Public Contract Code section 10295.3.

APPROVED SERVICING SUBCONTRACTORS (Authorized Resellers)

Participating Addendum No.: B27164
 Title: WSCA/NASPO Computer Equipment, Software, Peripherals and Related Services
 Contractor Name: Hewlett-Packard Company
 Revision Date: 10/2/2013

APPROVED SERVICING SUBCONTRACTORS - AUTHORIZED RESELLERS

Authorized Resellers are servicing subcontractors who may provide quotes, accept purchase orders, fulfill purchase orders, perform maintenance/warranty services and accept payment from State of California ordering agencies in accordance with the Participating Addendum. The following list identifies all State-approved Authorized Resellers (Servicing Subcontractors) for the Participating Addendum referenced above.

Order Placement: All Purchase Orders to Authorized Resellers must contain the Participating Addendum Number and be addressed as follows:

*Hewlett-Packard Company c/o <Servicing Subcontractor Name>
<Servicing Subcontractor Address>*

Payment^{1/}: Payments to Authorized Resellers should be issued to the address shown on the Authorized Reseller's invoice. Invoices must contain the Participating Addendum Number.

Any performance issues should be immediately directed to the Contractor's Contract Manager and the State Contract Administrator. Refer to the User Instructions for additional information.

Servicing Subcontractor (Authorized Reseller) Name	Ordering Address	Ordering Fax	Ordering Email	Sales and Customer Service Phone	Sales Contact (if applicable)	California Seller's Permit No.	California Certifications ^{2/} (SB/DVBE)	DGS/PD Approval Date
Aixtek dba Eaton & Associates	1245 Fairfax Ave, Ste 201 San Francisco, CA. 94124	415-282-1108	Dprine@eatonassoc.com	415-282-1188	James Finley	99797286	None	10/02/13
Allied Network Solutions, Inc.	5718 Lonetree Boulevard Rocklin, CA 95765	916-774-2654	Sales@ans-it.com	916-774-2670		97902196	DVBE #24852	09/06/13
Broadway Typewriter Inc. dba Arey Jones Educational Solutions	1055 6th Ave Ste 101 San Diego, CA 92101	800-403-8828	marketing@areyjones.com	800-998-9199	Erica Eichmann	25649571	None	06/11/13
California Surveying and Drafting Supply, Inc.	4733 Auburn Blvd. Sacramento, CA 95841	916-344-2998	dans@csdsinc.com bruce@csdsinc.com	916-344-0232	Dan Soldavini Bruce Gandelman	28805258	None	09/06/13
CCT Technologies, Inc.	482 West San Carlos Street San Jose, CA 95110	408-519-3260	info@ccland.com	408-519-3200	Cathy Souza	26820352	None	09/06/13
CDW Government LLC	230 N. Milwaukee Avenue Vernon Hills, IL 60611	847-371-7104	cdwgsales@cdwg.com	847-371-7104	Tara Barbieri	101346422	None	06/11/13
Dasher Technologies Inc.	655 Campbell Technology Pkwy Ste 150 Campbell, CA 95008	866-898-9503	sales@dasher.com	866-898-9506	Al Chien	100883313	None	06/11/13
DecoTech Systems, Inc.	1180 Mt Diablo Blvd. Suite 200 Walnut Creek, CA 94596	925-954-1521	sales@decotech.com	925-954-1520	David Dickstein	97727049	None	06/11/13
DI Technology Group, Inc. dba Data Impressions	17418 Studebaker Rd. Cerritos, CA 90703	562-207-9053	sales@dataimpressions.com	562-207-9050	Jack Mele	100476574	SB #39121	10/02/13

Servicing Subcontractor (Authorized Reseller) Name	Ordering Address	Ordering Fax	Ordering Email	Sales and Customer Service Phone	Sales Contact (if applicable)	California Seller's Permit No.	California Certifications ^{2/} (SB/DVBE)	DGS/PD Approval Date
En Pointe Technologies Sales, Inc.	18701 S Figueroa St. Gardena, CA 90248	310-338-4888	lyunis@enpointe.com	310-337-5200	Wasi Ahmed	97216834	None	06/11/13
Entisys Solutions Inc.	1855 Gateway Blvd, Suite 730 Concord, CA 94520	925-688-8995	ChrisM@entisys.com	916-316-1764	Bets Strohl	97475239	None	06/11/13
ePlus Technology Inc.	16800 Aston Street, #175 Irvine, CA 92606	484-791-6127	ALeaver@EPLUS.com	719-208-3428	Steve Mancarini	97955982	None	06/11/13
Golden Star Technology, Inc.	13043 166th Street Cerritos, CA 90703	562-345-8714	dpwang@gstes.com	562-345-8711	Dennis Wang	24835786	None	06/11/13
GovConnection, Inc. dba CaliforniaGovConnection, Inc.	732 Milford Road Merrimack, NH 03054	603-683-1060	cpetersen@govconnection.com	800-800-0019 x75554	Michelle Lawrence	100032667	None	06/11/13
Govplace	15707 Rockfield Blvd Ste 305 Irvine, CA 92618	949-297-4004	jsmith@govplace.com	888-308-8802 x1114	Lindsey Brewster	99911577	None	06/11/13
Granite Business Solutions dba Evolve Technology Group	233 Technology Way, Suite 4 Rocklin, CA 95765	916-577-1076	hporders@go-evolve.com	916-577-2197	Paul Jacobson	97966718	None	09/06/13
HPM Inc. dba HPM Networks	3231 Osgood Common Fremont, CA 94539	510-779-5202	jwiley@hpmnetworks.com	925-965-0700	Charles Miano	99793425	None	06/11/13
Insight Public Sector, Inc.	6820 S Hart Ave. Tempe, AZ 85283	480-760-7366	dennis.westerfield@insight.com	800-467-4448 x1715	Erica Falchetti	100854520	None	06/11/13
Intelligent VAR Technology dba Intellitech	1652 Yeager Avenue La Verne, CA 91750	909-394-5190	orders@intelli-tech.com	909-394-5188	Rosy Salgado	99577531	None	09/06/13
IRG Plotters and Printers Inc.	2800 28th St. Santa Monica, CA 90405	310-338-0757	orders@irg.com	310-883-2504	Frank Mancini	100478242	SB/DVBE #39622	09/06/13
KST Data Inc.	3699 Wilshire Blvd Ste 100 Los Angeles, CA 90010	213-382-8493	ejacobo@kstdata.com	213-684-9555 x123	Eugene Jacobowitz	14760999	None	06/11/13
Logicalis Inc.	34505 W. 12 Mile Road, Suite 210 Farmington Hills, MI 48331	513-645-9032	Yvonne.lubino@us.logicalis.com	949-748-6210	Brandon Harris	100081366	None	06/11/13
Mainline Information Systems, Inc. dba MIS Large System Sales/Area 10	1700 Summit Lake Drive Tallahassee, FL 32317	888-792-7403	jim.sauls@mainline.com	850 219 5000	Jeff Dobbelaere	97151022	None	06/11/13
Nth Generation Computing, Inc.	17055 Camino San Bernardo San Diego, CA 92127	858-673-8431	Orders@nth.com	800-548-1883	Rich Baldwin	25914742	None	06/11/13
NWN Corporation dba NWN Solutions Corporation	11931 Foundation Pl Ste 250 Gold River, CA 95670	916-596-4800	SCA_Sales_Team@nwnit.com	916-637-2200	Steven Grosso	100937005	None	06/11/13
OnX USA LLC	5910 Landerbrook Drive Mayfield Heights, OH 44124	440-646-9609	PUBLICSECTOR@onx.com	440-569-2315	Marianne Chinchar	101542472	None	10/02/13
Portola Systems, Inc.	7064 Caroline Court , Suite B5 Sebastopol, CA 95473	707-824-8866	info@portolasystems.net	707-824-8800	Ryan Miller	97222939	None	09/06/13
Sehi Computer Products, Inc.	1275 Puerta Del Sol San Clemente, CA 92673	949-498-1770	sehica@sehi.com	949-498-0920	Mark Sehi	30673833	None	06/11/13
SoftNet Solutions, Inc	940 Hamlin Court Sunnyvale CA 94089	408-542-0848	orders@softnets.com	408-542-0888	Kush Hathi	101123956	None	10/02/13
Solid Networks, Inc.	5686 Pirrone Rd Salida, CA 95368	209-338-1401	orders@SolidNetworks.com	209-338-1420	Don Jenkins	97600646	None	09/06/13
Systems Technology Associates, Inc.	3002 Dow Ave., Suite 126 Tustin, CA 92780	714-734-1343	orders@staweb.com	714-665-4101	Simon Palmer	99908790	None	09/06/13
Team One Networking, Inc.	7621 Galilee Road Roseville, CA 95678	916-782-70003	sharon@teamonenetworking.com	916-782-8326	Bob Inpyn	97332626	SB #21685	09/06/13

Servicing Subcontractor (Authorized Reseller) Name	Ordering Address	Ordering Fax	Ordering Email	Sales and Customer Service Phone	Sales Contact (if applicable)	California Seller's Permit No.	California Certifications ^{2/} (SB/DVBE)	DGS/PD Approval Date
Vector Resources Inc.	3530 Voyager St. Torrance, CA 90503	310-436-1177	bfernandes@vectorusa.com	310-436-1000	Mark Allen	18728811	None	06/11/13
Zones dba Multiple Zones	1102 15th Street SW, Ste 102 Auburn, WA 98001	253-205-2596	govedcontracts@zones.com	800-381-9663 x53596	Kevin McGowan	102302546	None	10/02/13

^{1/} Each State accounting office must have a copy of the Payee Data Record (Std. 204) in order to process payments. State departments should forward a copy of the Std. 204 to their accounting office(s). Without the Std. 204, payment may be unnecessarily delayed. State departments should contact the Contractor or Authorized Reseller for copies of the Payee Data Record.

^{2/} State Departments are required to verify that the certifications listed are currently valid at <http://www.bidsync.com/DPXBisCASB>.

The Minnesota Department of Administration
Materials Management Division



On behalf of the
STATE OF MINNESOTA
and in Association with



REQUEST FOR PROPOSALS
FROM

MANUFACTURERS OF
PERSONAL COMPUTER EQUIPMENT
AND
RELATED DEVICES

ISSUE DATE: SEPTEMBER 29, 2008

RESPONSE DUE DATE: JANUARY 23, 2009

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ELECTRONIC FILE TO DOWNLOAD, COMPLETE, AND RETURN. Responders must download the Excel and /Word documents from the following links:

<http://www.mmd.admin.state.mn.us/process/admin/documents/11741WSCA-NASPO2009-2014RFPforEquipmentManufacturersofPCsandRelatedDevices.doc>

<http://www.mmd.admin.state.mn.us/process/admin/spreadsheets/11741AppendixBPricingConfigurationsForms-BaseLine-SingleUnitPricing.xls>

<http://www.mmd.admin.state.mn.us/process/admin/spreadsheets/11741AppendixCPricingConfigurationForms-PremiumSavingsConfigurations.xls>

This document contains solicitation items and quantities for entering price information. In order for you to download the document, you must type or copy and paste the link=s file path and name into your browser address line. When the document file opens, use the "Save As..." feature to save the document to your computer hard drive or a disk.

The Save As feature does not work from the printed link - you need to put the complete file name and path in your browser's address line and open the document to be able to save the document to a disk. If you need assistance please contact our helpline at 651.296.2600.

I. INTRODUCTION

A. INTENT AND PURPOSE OF THIS REQUEST FOR PROPOSALS (RFP)

The Materials Management Division (MMD) of the Minnesota Department of Administration (Admin) is requesting proposals on behalf of the State of Minnesota, the Western States Contracting Alliance (WSCA), and the National Association of State Procurement Officials (NASPO) from equipment manufacturers of:

- personal computers (desktop workstations, laptops and mobile);
- small, mid-range servers;
- storage solutions hardware for small LANS;
- individual or small shared printers;
- multifunctional (print, copy, scan, fax) printers;
- Instructional Bundles; and
- limited peripherals to support desktop computing, including digital projectors.

Contractors must provide warranty and maintenance services on ALL equipment that is offered and purchased through the resulting contracts. Responder may also propose extended warranty and maintenance services as Value-Added services (See Section IV, Paragraph B2d.) for equipment purchased from previous WSCA contracts, as well as for equipment purchased from previous contracts Purchasing Entities may have had in place. Delivery, support, warranty, and maintenance may be provided by the contract awardees using subcontractors. The contract awardee is still responsible for the timeliness and quality of all services provided by individual sub-contractors. Subcontractor participation will be governed by individual Participating State procurement officials, who have the sole discretion to determine if they will accept services from a sub-contractor. Contractors may offer, but participating states and entities do not have to accept, limited professional services related **ONLY** to the equipment and configuration of the equipment purchased through the resulting contracts.

This RFP is divided into several bands (groups of units and configurations considered related to each other). The definition of bands is not subject to negotiations with potential Responders. Responders may respond to any or all bands. The State of Minnesota and WSCA intend this procurement to result in LIMITED multiple source awards for each band.

“Educational” offerings, including hardware configurations and special purpose educational software included as part of the original purchase, are included in this RFP. The specific rules and restrictions of these “educational” offerings must be detailed in the response. These offerings are in addition to the Instructional Bundles, detailed elsewhere in this RFP. These offerings will be reviewed and approved by the WSCA/NASPO Contract Administrator before being included as a part of the Master Price Agreement.

This request for proposals **IS NOT** for a one-stop, meet-any-and-all requirements contract. Rather, whole products, i.e. computers (laptop, desktop, mobile, etc.), servers, printers, including software **pre-loaded** on the equipment are to be purchased. The purchase of software is allowed only at the time of the purchase of the hardware. Software offerings are restricted to operating systems and packaged (off-the shelf) software that does not require signing any type of license agreement. Maintenance parts, replacement hard drives, or cards, for example are acceptable products, unless restricted in a Participating Addendum. At the option of the WSCA Directors and the Participating State procurement official, factory warranted upgrades for equipment previously purchased from the contracts resulting from this RFP (or the previous WSCA PC contracts, as well as for equipment purchased from previous contracts Purchasing Entities may have had in place, may be included as part of the resulting contracts. Additionally, any resulting contract **IS NOT** a reseller contract; rather, it is the intent of this request for proposals to contract with equipment manufacturers. Each state represented by WSCA or NASPO that chooses to participate in this contract independently has the option of contracting for a one-stop shop contract, contracts with resellers or any other kind of PC or computer goods or services.

Potential Responders should be aware of several limitations and boundaries intended by the WSCA Directors in supporting the issuing of this RFP.

- The resulting contracts are **NOT** for the offer and purchase of major, large hardware or hardware and software offerings. In general, individual units/configurations for servers and storage (SANs, etc.) should not exceed \$300,000 each. Desktop per unit/configuration costs should not exceed \$100,000. Printers of all types and monitors per unit/configuration costs should not exceed \$50,000 each. It is the expressed intent of some of the Participating States to set this level at not to exceed \$25,000 each. This **IS NOT** a restriction on how many units/configurations can be purchased, but on the value of each individual unit/configuration. Individual Participating States and Participating Entities may set specific limits in a participating addendum above these limits, with the prior approval of the WSCA Directors; or may set specific limits in a participating addendum below these limits.
- Contract awardees should assume that the pricing accepted reflects individual or small quantity purchases taking in to consideration the total value of this cooperative agreement. The purpose of such a cooperative agreement is that no one entity should be afforded better pricing because of its larger volume of purchases over an entity with a smaller volume of purchases.
- In addition, if a Participating State, or a group of Participating States or entities within a state(s), chooses to focus purchases on a “standard (Premium Savings) configuration,” this configuration will be defined and then competed within the pool of contract awardees for specific pricing. Any entity, at any time, that commits to purchasing the standard or Premium Savings configuration shall receive the same price from the contract awardee. These

strategic competitions that exceed \$500,000 in total value must be reported to the MMD Contract Manager by each of the Contractors participating in the competition.

- MMD and the WSCA Directors acknowledge that individual units and configurations offered in 2009 will evolve during the potential life of the resulting contracts. It is our intent to adhere to the following processes in dealing with this change, evolution.

Substitution of units/configurations: MMD and the WSCA Directors acknowledge that individual units and configurations may stop being produced during the life of the resulting contracts. Substitution of different units and configurations will be permitted with the prior written approval of the WSCA/NASPO Contract Administrator.

Addition of units/configurations: MMD and the WSCA Directors acknowledge that with the evolution of technology, new, emerging units and configurations will develop. Addition of these new, emerging units may be permitted, with the prior approval of the WSCA/NASPO Contract Administrator and the WSCA Directors. The addition of new, emerging units and configurations is at the sole discretion of the WSCA/NASPO Contract Administrator, subject only to review and approval of the WSCA Directors.

B. GENERAL GUIDANCE AND EXPECTATIONS FOR THIS REQUEST FOR PROPOSALS (RFP)

To qualify for this solicitation, Responders must, at a minimum, manufacture the products in any one or more of the **BAND(S)** as specified in Section IV, Paragraph B2b; and agree to take legal responsibility for the warranty and maintenance of all proposed equipment, including peripherals. Taking legal responsibility means the Contractor must provide warranty and maintenance call numbers, accept, process and respond to those calls, and be legally liable for and pay for those warranty and maintenance (under warranty) activities. Proof of this relationship could be provided by a binding agreement between the Responder and some other entity, outlining this relationship and assigning required responsibilities. This Proof should be submitted with the Responders proposal. This relationship is NOT, call "them", it is call "US" (the Responder) and we will fix it.

In addition, each Responder must propose a Takeback/Recycling Program as specified in Section IV, Paragraph B14d.

PLEASE NOTE: The Master Price Agreement shall **NOT** be available to be used by Purchasing Entities until the Contractor's approved Takeback Program is ready for operation and is validated by the Contract Administrator, with the assistance of staff from other WSCA states. as requested by the Contract Administrator.

The primary objective is to establish permissive Master Price Agreement(s) with Contractors who are able to provide specific personal computer and related product(s) so that Purchasing Entities may order product(s) appropriate for their needs. This solicitation is focused on the desktop and office/work group as opposed to the enterprise.

The second objective is to obtain greater volume-based price discounts resulting from the administrative savings that the Contractor(s) will accrue from the maintenance of a single, comprehensive Master Price Agreement for multiple governmental jurisdictions.

All NASPO members in good standing may use the resulting Master Price Agreements. In addition, the WSCA Directors may authorize state and local governmental entities throughout the nation the use of the Master Price Agreements, subject to approval of the individual State Procurement Director and local statutory provisions.

This procurement will result in a **LIMITED** multiple source award(s).

C. SUMMARY SCOPE OF WORK

The awarded Contractor(s), or its approved subcontractors, shall accept purchase orders from and deliver products and services to authorized Purchasing Entities. Subcontractor participation is governed by the individual Participating State procurement official. Contractors are required to provide warranty and maintenance services on equipment that is purchased whether directly or through a subcontractor. Contractors shall offer a Takeback Program that includes Peripherals and LAN hardware.

D. SCOPE OF PROCUREMENT

The Master Price Agreements shall become effective on September 1, 2009, for a term of three (3) calendar years, through August 31, 2012. The MMD reserves the option of extending the agreements on an annual basis for two (2) additional one-year terms or portions thereof, or for one two-year term.

The current Master Price Agreements end August 31, 2009. It is anticipated that during the transition from the current Master Price Agreements to the Master Price Agreements that will be awarded as a result of this RFP, new Contractor(s) (that do NOT have a current Master Price Agreement) will have an opportunity to make websites available to communicate with Participating Entities about upcoming opportunities. NO ORDERS may be issued or accepted for delivery under the new Master Price Agreements until the new contracts become effective on September 1, 2009, and the websites have been reviewed and approved by the WSCA/NASPO Contract Administrator.

The scope of procurement includes a wide range of manufacturer supplied personal computing equipment, including LAN hardware and software, peripherals, and services. Contractors shall not provide any form of application development services or general

consulting professional services under the terms and conditions of the Master Price Agreement. Educational offerings including hardware configurations and special purpose educational software are included. Software offerings, other than educational software, are restricted to operating systems and packaged (off-the shelf) software that does not require signing any type of license agreement. All other forms of application specific software programs or suites of programs are **excluded**.

Individual Participating States and Participating Entities may enter in to lease agreements for the products covered in the contracts resulting from the RFP, if they have the legal authority to enter into these types of agreements without going through a competitive process. Responders who wish to participate in lease agreements with these individual states/entities must submit copies of all of their lease agreements with their response to this RFP. The lease agreements will not be reviewed or evaluated as part of the RFP evaluation process defined later in this RFP. The agreements will simply be made available to any state or entity who wishes to negotiate a lease agreement with a Contractor.

E. WSCA/NASPO CONTRACT ADMINISTRATOR AND PROCUREMENT MANAGER

The Materials Management Division, of the Minnesota Department of Administration, has designated a WSCA/NASPO Contract Administrator and a Procurement Manager who are responsible for the conduct of this procurement and management of the contracts.

WSCA/NASPO Contract Administrator (responsible for managing the contracts, relationships with Purchasing Entities and all actions related to the current Master Price Agreements and those that will result from this RFP)

Name: Bernadette (Bernie) Kopischke
Title: WSCA/NASPO Contract Administrator/Acquisitions Supervisor
Agency Name: Minnesota Department of Administration
Materials Management Division

Address: 112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

Telephone: 651.201.2450
Fax Number: 651.297.3996
TTY: MN Relay Service 1.800.627.3529
E-mail: Bernie.Kopischke@State.Mn.US

Procurement Manager (Minnesota's representative to WSCA Board of Directors and responsible for managing relationships with WSCA, NASPO, and Participating States/Participating Entities)

Name: Brenda Willard
Title: Assistant Director/Acquisitions Manager

Agency Name: Minnesota Department of Administration
Materials Management Division

Address: 112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

Telephone: 651.201.2402
Fax Number: 651.297.3996
TTY: MN Relay Service 1.800.627.3529
E-mail: Brenda.Willard@State.Mn.Us

F. DEFINITION OF TERMINOLOGY

This section contains definitions that are used throughout this procurement document, including appropriate abbreviations.

“Blue Angel” is a Type I environmental leadership standard setting and third-party certification program as defined by ISO 14024. It promotes the concerns of environmental protection and consumer protection. It is awarded to products and services that are beneficial for the environment and which also fulfill high standards of occupational health and safety and fitness for use.

“Climate Savers Computing Initiative” is a nonprofit group of eco-conscious consumers, businesses and conservation organizations started by Google and Intel in 2007. The Initiative was started in the spirit of WWF’s Climate Savers program which has mobilized over a dozen companies since 1999 to cut carbon dioxide emissions, demonstrating that reducing emissions is good business. Their goal is to promote development, deployment, and adoption of smart technologies that can both improve the efficiency of a computer’s power delivery and reduce the energy consumed when the computer is in an inactive state.

“Configuration” in most instances in this document means a total system configuration. This may include more than one model or part number (or SKU), or a combination of hardware, software, and configuring of the system to make the system work.

“Consumables” those items that are required for the operation of the Equipment offered or supplied which are consumed over time with the purchaser’s use of the equipment are included -- printer cartridges, batteries, projector bulbs, etc. Consumables such as magnetic media, paper and generally available office supplies are excluded.

“Contract” means a binding agreement for the procurement of items of tangible personal property or services. Contract and Master Price Agreement are used interchangeably in this document.

“Contractor” means the successful Responder who enters into a binding Master Price Agreement. The Contractor is responsible for all sales, support, warranty, and maintenance services for the products included in this Agreement. The Contractor must manufacture or take direct, non-assignable, legal responsibility for the manufacture of the equipment and warranty thereof. For the purposes of this RFP and subsequent Contract, the term Contractor and Contract Vendor are synonymous.

“Cumulative Volume Discount” means a contractual, cumulative, permanent volume discount based on dollars resulting from the cumulative purchases by all governmental purchasers for the duration of the Master Price Agreement.

“Determination” means the written documentation of a decision by the WSCA/NASPO Contract Administrator or the Procurement Manager including findings of fact to support a decision. A determination becomes part of the procurement file to which it pertains.

“Desirable” The terms “may” and “should” identify a desirable or discretionary item or factor.

“E-Rate” is a program sponsored by the Federal Communications Commission whereby educational and other qualifying institutions may purchase authorized technology at reduced prices.

“EcoLogo” is a North American Type I environmental leadership standard setting and third-party certification program as defined by ISO 14024. It has standards for a number of office electronic products and certifies products meeting those standards. EcoLogo will also certify products meeting other legitimate environmental leadership standards including the IEEE 1680 EPEAT standard.

“Energy Star®” is a voluntary energy efficiency program sponsored by the U.S. Environmental Protection Agency. The Energy Star program makes identification of energy efficient computers easy by labeling products that deliver the same or better performance as comparable models while using less energy and saving money. Energy Star qualified computers and monitors automatically power down to 15 watts or less when not in use and may actually last longer than conventional products because they spend a large portion of time in a low-power sleep mode. For additional information on the Energy Star program, including product specifications and a list of qualifying products, visit the Energy Star website at <http://www.energystar.gov>.

“EPEAT” is a system for identifying more environmentally preferable computer desktops, laptops, and monitors. It includes an ANSI standard - the IEEE 1680 EPEAT standard - and a website - www.epeat.net - to identify products manufacturers have declared as meeting the standard. EPEAT provides a clear and consistent set of performance criteria for the design

of products. It is not a third-party certification program. Instead, Manufacturers self-certify that their products are in conformance with the environmental performance standard for electronic products.

“Equipment” means workstations, desktop, laptop (includes Tablet PC’s), handheld (PDA) devices, printers, monitors, projectors, servers, computing hardware, including upgrade components such as memory, storage drives, and spare parts. AUDIO VISUAL PRODUCTS (digital cameras, televisions, whiteboards, etc.) are NOT included in this RFP or subsequent contracts. The exception to this definition is whiteboards, which can be sold as part of the Instructional Bundles, but not as a stand-alone item. **The Contractor(s) shall provide the warranty service and maintenance for equipment on a Master Price Agreement as well as a Takeback Program.**

“Evaluation Committee” means a body approved by the WSCA Directors and designated by the MMD to perform the evaluation of Responders’ proposals.

“Evaluation Committee Report” means a report prepared by the Evaluation Committee and submitted to the Procurement Manager for presentation to the WSCA Directors for Master Price Agreement awards that contain all written determinations resulting from the conduct of a procurement requiring the evaluation of competitive sealed proposals.

“Finalist” is defined as an Responder who meets all the mandatory specifications of the Request for Proposal and whose score on evaluation factors is sufficiently high enough to qualify that Responder for a positive recommendation by the Evaluation Committee.

“Green Guard Environmental Institute (GEI)” is an ANSI Accredited Standards Developer and third-party certification program which establishes acceptable indoor air standards for indoor products, environments, and buildings. It has established some standards for office equipment.

“Intent to Participate” means the form executed by a State Procurement Official that describes the cooperative procurement and signifies the State’s willingness to enter into the cooperative procurement. For this solicitation, Participating States shall complete a Participating Addendum with the Contractor.

“ISO 14001” is the conformance standard within the family of ISO 14000 documents developed by the International Organization for Standardization (ISO) in Geneva, Switzerland. Similar in structure to the ISO 9000 quality management system standard, ISO 14001 outlines key requirements companies should comply with in order to operate in an environmentally responsible manner. Utilizing ISO 14001, companies can merge environmental programs into one coherent system to efficiently manage all environmental activities. In short, ISO 14001 provides organizations with a way to demonstrate to their customers that their environmental processes and impact are effectively managed, continually improving, and part of the corporate management system. For more information, please refer to www.iso.org.

“**Lead State**” means the State conducting this cooperative solicitation and centrally administering any resulting Master Price Agreement(s). For this solicitation, the Lead State is Minnesota.

“**Local-Area-Network**” (“**LAN**”) refers to a high-speed, low-error data network covering a relatively small geographic area. LANs connect workstations, peripherals, terminals, and other devices in a single building or other geographically limited area. Wireless transmission components and security devices are included. Cable and components required for the installation and operation of a LAN are included if installation services are purchased. A third party may manufacture LAN hardware and software. Public data, voice or video transport services are excluded as well as hardware and software required in supporting a WAN.

“**Mandatory**” The terms “must” and “shall” identify a mandatory item or factor. **Failure to meet a mandatory item or factor may result in the rejection of the Responder’s proposal.**

“**Manufacturer**” means a company that, as its primary business function, designs, assembles, owns the trademark/patent and markets computer equipment including workstations, desktop computers, laptop (includes Tablet PC’s) computers, handheld (PDA) devices, servers, printers, and storage solutions/auxiliary storage devices. The manufacturer must provide direct un-infringed unlimited USA OEM warranties on the products. The manufacturer’s name(s) shall appear on the computer equipment. **The Contractor(s) shall provide the warranty service and maintenance for equipment on a Master Price Agreement as well as a Takeback Program.**

“**Master Price Agreement**” means the contract that MMD will approve that contains the foundation terms and conditions for the acquisition of the Contractor’s products and/or services by Purchasing Entities. The “Master Price Agreement” is a permissive price agreement. In order for a Purchasing Entity to participate in a Master Price Agreement, the appropriate state procurement official or other designated procurement official must be a Participating State or Participating Entity.

“**Materials Management Division**” or “**MMD**” means the procurement official for the State of Minnesota or a designated representative.

“**NASPO**” means the National Association of State Procurement Officials

“**Nordic Swan**” is a Type I environmental leadership standard setting and third-party certification program as defined by ISO 14024. It has standards for a number of office electronic products and certifies products meeting those standards. The Nordic Swan symbol from the Nordic Council of Ministers demonstrates that a product is a good environmental choice.

“Participating Addendum” or “Participating Addenda” means a bilateral agreement executed by the Contractor and a Participating State or political subdivision of a State that clarifies the operation of the Price Agreement for the State or political subdivision concerned; e.g., ordering procedures specific to a State or political subdivision, and other specific language or other requirements. Terms and conditions contained in a Participating Addendum shall take precedence over the corresponding terms in the Master Price Agreement. Additional terms and conditions may be added via the Participating Addendum. However, a Participating Addendum may not alter the scope of this Agreement or any other Participating Addendum. ***Unless otherwise specified, the Participating Addendum shall renew consecutively with the Master Price Agreement.*** One digitally formatted, executed copy of the Participating Addendum must be submitted to the WSCA/NASPO Contract Administrator PRIOR to any orders being processed.

“Participating State” or “Participating Entity” means a member of NASPO (Participating State) or a political subdivision of a NASPO member (Participating Entity) who has indicated its intent to participate by signing an Intent to Participate, where required, or another state or political subdivision of another state authorized by the WSCA Directors to be a party to the resulting Master Price Agreement.

“PDA” means a Personal Digital Assistant and refers to a wide variety of handheld and palm-size PCs, and electronic organizers. PDA’s usually can store phone numbers, appointments, and to-do lists. PDA’s can have a small keyboard, and/or have only a special pen that is used for input and output. The PDA can also have an internal wireless card. Files can be created on a PDA which is later entered into a larger computer. **NOTE: For this procurement, all Tablet PCs are NOT considered PDA’s. The Contractor(s) shall provide the warranty service and maintenance for equipment on a Master Price Agreement as well as a Takeback Program.**

“Peripherals” means any hardware product that can be attached to, added within, or networked with personal computers or servers, including but not limited to storage, printers (including multifunction network printers), scanners, monitors, keyboards, projectors, uninterruptible power supplies (UPS) and accessories. Software, as defined in the RFP, is not considered a peripheral. Adaptive/Assistive technology devices are included as well as configurations for education. Peripherals may be manufactured by a third party, however, Contractor shall not offer any peripherals manufactured by another contractor holding a Master Price Agreement without the prior approval of the WSCA/NASPO Contract Administrator. AUDIO VISUAL PRODUCTS (digital cameras, televisions, whiteboards, etc.) are NOT included in this RFP or subsequent contracts. The exception to this definition is whiteboards, which can be sold as part of the Instructional Bundles, but not as a stand-alone item. **The Contractor(s) shall provide the warranty service and maintenance for all peripherals on the Master Price Agreement as well as a Takeback Program.**

“Permissive Price Agreement” means that placement of orders through the Price Agreement is discretionary with Purchasing Entities. They may satisfy their requirements through the Price Agreement without using statutory or regulatory procedures (e.g.,

invitations for bids) to solicit competitive bids or proposals. Purchasing Entities may, however, satisfy requirements without using the Price Agreement as long as applicable procurement statutes and rules are followed.

“Per Transaction Multiple Unit Discount” means a contractual volume discount based on dollars in a single purchase order or combination of purchase orders submitted at one time by a Purchasing Entity or multiple entities conducting a cooperative purchase.

“Price Agreement/Master Price Agreement” means an indefinite quantity contract that requires the Contractor to furnish products or services to a Purchasing Entity that issues a valid Purchase Order.

“Procurement Manager” means the person or designee authorized by MMD to manage the relationships with WSCA, NASPO, and Participating States/Participating Entities.

“Product(s)” means personal computer equipment, peripherals, LAN hardware, pre-loaded Software, and Network Storage devices, but not unrelated services. **The Contractor(s) shall provide the warranty service and maintenance for equipment on a Master Price Agreement as well as a Takeback Program.**

“Products and Services Schedule” or **“PSS”** refers to a complete list, grouped by major product and/or service categories, of the Products and services provided by the contractor that consists of an item number, item description and the Purchasing Entity's price for each Product or Service. All such Products and services shall be approved by the WSCA/NASPO Contract Administrator prior to being listed on a Contractor-supplied web site accessed via a URL. **The Contractor(s) shall provide the warranty service and maintenance for all equipment listed on the PSS on a Master Price Agreement as well as a Takeback Program.**

“Proposal” or **“Bid”** or **“Offer”** generally refers to the documents submitted in response to a solicitation, whether denominated as an invitation to bid, invitation for bid, request for proposal, or otherwise. “Responder”, “Proposer”, or “Bidder” similarly refers to the person, company, or other entity submitting the proposal or bid that constitutes an offer capable of acceptance, regardless of the solicitation method used. This Request for Proposal will use the terms **“Proposer”** and **“Responder”**.

“Purchase Order” means an electronic or paper document issued by the Purchasing Entity that directs the Contractor to deliver Products or Services pursuant to a Price Agreement.

“Purchasing Entity” means a Participating State or another legal entity, such as a political subdivision, properly authorized by a Participating State to enter into a contract for the purchase of goods described in this solicitation. Unless otherwise limited by statute, in this solicitation or in a Participating Addendum, political subdivisions of Participating States are Purchasing Entities and authorized to purchase the goods and/or services described in this solicitation.

“Qualified Responder” means a Responder who submits a responsive proposal and who has furnished, when required, information and data to prove that its financial resources, production or service facilities, personnel, service reputation, and experience are adequate to make satisfactory delivery of the services or items of tangible personal property described in the proposal. Website demonstrations will be limited to “Qualified Responders”.

“Refurbished Products” are products that may have been powered on or used by another customer that have been fully retested, defective parts replaced, and repackaged to meet original factory specifications.

“Request for Proposals” or **“RFP”** means all documents, including those attached or incorporated by reference, used for soliciting proposals.

“Responder” is a computer hardware Manufacturer who chooses to submit a proposal.

“Responsive Proposal” means a proposal that conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to price, quality, quantity or delivery requirements.

“RoHS” stands for a UK RoHS Directive for the restriction of the use of certain hazardous substances in electrical and electronic equipment.

“Services” are broadly classed as installation/de-installation, maintenance, support, training, migration, and optimization of products offered or supplied under the Master Price Agreement. These types of services may include, but are not limited to: warranty services, maintenance, installation, de-installation, factory integration (software or equipment components), asset management, recycling/disposal, training and certification, pre-implementation design, disaster recovery planning and support, service desk/helpdesk, and any other directly related technical support service required for the effective operation of a product offered or supplied. General consulting and all forms of application development and programming services are excluded.

“Servicing Subcontractor/Subcontractor/Reseller Agent” means a Contractor authorized and state-approved subcontractor who may provide local marketing support or other authorized services on behalf of the Contractor in accordance with the terms and conditions of the Contractor’s Master Price Agreement. A wholly owned subsidiary or other company providing warranty or other technical support services qualifies as a Servicing Subcontractor. Local business partners may qualify as Servicing Subcontractors. Servicing Subcontractors may not directly accept Purchase Orders or payments for Products or Services from Purchasing Entities, unless otherwise provided for in a Participating Addendum. Servicing Subcontractors shall be named individually or by class in the Participating Addendum. **The Contractor(s) actually holding the Master Price Agreement shall be responsible for Servicing Subcontractor’s providing products and services, as well as warranty**

service and maintenance for equipment the subcontractor has provided on a Master Price Agreement as well as the Takeback Program.

“Software” means machine-readable object code instructions that are preloaded on equipment or LAN hardware. The term “Software” applies to all parts of software and documentation, including new releases, updates, and modifications of software. For Software, the term “purchase” means “license”. Contractor shall deliver applicable licenses with the Software. Software offerings are restricted to operating systems and packaged (off-the shelf) software that does not require signing any type of license agreement. **The Contractor(s) shall provide the warranty service and maintenance for software installed on the equipment.**

“Standard Configurations” or **“Premium Savings Configurations”** means deeply discounted standard configurations that are available to Purchasing Entities using the Master Price Agreement only. Any entity, at any time, that commits to purchasing the standard configuration adopted by other Purchasing Entities shall receive the same price from the contract awardees. This specification includes a commitment to maintain and upgrade (keep pace with the advance of technology) the standard configurations for a stated period of time or intervals.

“State Procurement Official” means the director of the central purchasing authority of a state.

“Storage Solution/Auxiliary Storage” means the technology and equipment used for storage of large amounts of data or information. This includes technologies such as: Network Attached Storage (NAS) and Storage Area Networks (SAN). **The Contractor(s) shall provide the warranty service and maintenance for equipment on a Master Price Agreement as well as a Takeback Program.**

“Takeback Program” means the Contractor’s process for accepting the return of the equipment or other products at the end of life - as determined by the State utilizing the Master Price Agreement.

“TCO” is a certification developed by the Swedish Confederation of Professional Employees, TCO, which provides manufacturers with a means of demonstrating superior product quality and attention to ergonomics.

“Third-Party Certification” means an independent auditor has reviewed any claim, such as an environmental or product performance claim, to independently verify and ensure the accuracy of the claim. Products that have been independently third-party certified can provide proof of the accuracy of their claims. Because of the increasing complexity of environmental claims, third-party certification is generally preferred over claims that have been certified by the manufacturer.

"Universal Resource Locator" or "URL" means a standardized addressing scheme for accessing hypertext documents and other services using the WWW or another browser.

"WEEE" – Waste Electrical and Electronic Equipment is a European Union Directive restricting the use of certain hazardous substances in electrical and electronic equipment. The Directive requires the substitution of various heavy metals (lead, mercury, cadmium, and hexavalent chromium) and brominated flame retardants [polybrominated biphenyls (PBB) or polybrominated diphenyl ethers (PBDE)] in new electrical and electronic equipment put on the market from July 1, 2006.

"Wide Area Network" or "WAN" means a data network that serves users across a broad geographic area and often uses transmission devices provided by common carriers. Public data, voice or video transport services are excluded as well as hardware and software required in supporting a WAN.

"WSCA" means the Western States Contracting Alliance, a cooperative group contracting consortium for state procurement officials, representing departments, institutions, agencies, and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming.

"WSCA/NASPO Contract Administrator" means the person or designee authorized by MMD to manage all actions related to the Master Price Agreements on behalf of the State of Minnesota, the participating NASPO and WSCA members, and other authorized purchasers.

G. BACKGROUND INFORMATION

The National Association of State Procurement Officials (NASPO) was formally established on January 29, 1947, in Chicago, Illinois.

NASPO is a non-profit association dedicated to strengthening the procurement community through education, research, and communication. It is made up of the directors of the central purchasing offices in each of the 50 states, the District of Columbia and the territories of the United States. NASPO is an organization through which the member purchasing officials provide leadership in professional public purchasing, improve the quality of purchasing and procurement, exchange information, and cooperate to attain greater efficiency and economy.

WSCA was formed in October, 1993. The purposes of WSCA are to establish the means by which participating states may join together in cooperative multi-state contracting, to ensure the commitment of each participating state, and to provide regular and ongoing assistance to participating states in researching, developing, and administering procurement and contractual specifications and requirements. WSCA maintains a cooperative relationship with the National Association of State Purchasing Officials (NASPO). The mission of WSCA is to implement multi-state contracts to achieve cost-effective and efficient acquisition of quality

products and services.

WSCA membership consists of the principal procurement official that heads the state central procurement organization, or designee for that state, from the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming.

The following named states have signed Intent to Participate Forms or have requested to be named in this RFP as a potential user of the resulting Master Price Agreements: Alaska, Arizona, Arkansas, Colorado, Delaware, Hawaii, Idaho, Iowa, Kansas, Louisiana, Maine, Massachusetts, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wyoming.

The following named states have committed resources and will participate in the evaluation of Responder proposals: Alaska, Arizona, Arkansas, Delaware, Iowa, Louisiana, Montana, Nebraska, Nevada, New Jersey, North Dakota, Oregon, South Carolina, and Tennessee.

The initial multi-state computer solicitation for manufacturer-supplied computer equipment sponsored by WSCA was issued on May 26, 1999. The solicitation resulted in Master Price Agreements awarded on September 3, 1999 to five Contractors – Compaq (HP-Compaq), Gateway, Dell, IBM, and CompUSA. The master price agreement with CompUSA was not renewed leaving four incumbent Contractors. These Master Price Agreements expired on September 2, 2004. A new solicitation was issued in February, 2004. The solicitation resulted in Master Price Agreements being awarded in May, 2004 to 11 Contractors. Subsequent reissues of the solicitation to add/expand product offerings resulted in additional Contractors. Total sales for all Contractors for the 1999-2004 and 2004-2009 Master Price Agreements from inception to date are shown in Appendix E, Master Price Agreement Sales Totals by Calendar Year.

II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the tentative schedule for the procurement and describes the major procurement events as well as the conditions governing the procurement.

A. SEQUENCE OF EVENTS

The WSCA/NASPO Contract Administrator will make every effort to adhere to the following schedule:

	Action	Responsibility	Date
1	Issue of RFP	MMD - WSCA/NASPO Contract Administrator	29 September 2008
2	Deadline for Submission of Written Questions	Potential Responders	4:00 p.m., CST, 23 October 2008
3	Responses to Written Questions/RFP Addenda (if required)	MMD - WSCA/NASPO Contract Administrator	3:00 p.m., CST, 6 November 2008
4	RFP Protest Deadline	Potential Responders	3:00 p.m., CST, 3 January 2009
5	Submission of Proposals to Materials Management Division	Potential Responders	3:00 p.m., CST, 23 January 2009
6	Submission of Proposals to Evaluation Committee	Potential Responders	26 January 2009
7	Proposal Evaluation	Evaluation Committee - In Minneapolis, MN	23 February 2009 thru 26 February 2009
8	Website Demonstrations	Qualified Responders - In Minneapolis, MN	30 March 2009 thru 2 April 2009
9	Selection of Finalists	Evaluation Committee	3 April 2009
10	Presentation of Award Recommendations to WSCA Directors	MMD - Procurement Manager	6 April 2009
11	Final Contract Award Notifications	MMD - WSCA/NASPO Contract Administrator	10 April 2009
12	Award Protest Deadline	Responders	20 April 2009
12	Contract Negotiations with Finalists	MMD and Finalists	13 April 2009 thru 29 May 2009
13	Sign Contracts	MMD and Finalists	1 June 2009
14	Approval of Websites	MMD and Contractors	2 June 2009 thru 30 June 2009
15	New Contract Transition Period	Contractors	2 June 2009 thru 31 August 2009
16	New Contracts Effective	MMD and Contractors	1 September 2009

B. EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the sequence of events shown in Section II, Paragraph A.

1. Issue of RFP

The Materials Management Division of the Minnesota Department of Administration is issuing this RFP.

2. RFP On-line Registration

The MMD will advertise a pre-announcement of this RFP, as well as the actual RFP, on its website. The pre-announcement instructed interested parties on how to register to be placed on an e-mail distribution list for the actual RFP. The advertisement instructs interested parties on how to obtain a copy of the RFP. By registering and downloading a copy of the RFP the potential Responder will automatically be added to an e-mail distribution list.

3. Deadline to Submit Written Questions

Potential Responders may submit written questions as to the intent or clarity of this RFP until 4:00 P.M. (CST) on the date indicated in Section II, Paragraph A. All written questions must be submitted to the WSCA/NASPO Contract Administrator (See Section I, Paragraph E) by e-mail, with the questions contained in an attached Microsoft Word document, refer to **Appendix F**. The WSCA/NASPO Contract Administrator will not respond to questions submitted in any other manner, format, or received after the submittal date.

4. Response to Written Questions/RFP Addenda

Written responses to written questions and any RFP addenda will be posted on the MMD website at the following URL:

<http://www.mmd.admin.state.mn.us/process/admin/postings.asp>

5. Submission of Proposals

Responders shall submit an original copy of their proposals, **signed in ink**, by an officer or other authorized representative of the company, who shall state his/her title.

Proof of authority of the person signing the Response shall be furnished upon request. If the Responder is a corporation, a secretarial certificate of any excerpt of the corporate minutes showing that the signing officer has authority to contractually obligate the corporation shall be furnished. Where the corporation has designated an attorney-in-fact, the ordinary power of attorney should be furnished. If the Responder is a partnership, a letter of authorization shall be furnished, signed by one of the general partners. If the Responder is a proprietor, and the person signing the Response is other than the owner, a letter of authorization signed by the owner shall be furnished.

Signatures can be in either blue or black ink, but our experience suggests that blue ink is a better choice.

Responders should also submit as part of the proposal provided to MMD, a flash drive or CD containing the complete proposal as a Word document(s), as well as the Excel Pricing Configuration Forms. All other supporting documentation must be included in the flash drive or CD. This copy will be used to more efficiently create and share documents in the future. By submitting the flash drive or CD, the Responder is certifying that the document is an exact, complete, full copy of the proposal actually physically submitted in response to this Request for Proposals.

**THE ORIGINAL, THREE (3) DOUBLE-SIDED PAPER COPIES AND THE ELECTRONIC COPY OF RESPONDER'S PROPOSALS MUST BE RECEIVED BY THE MATERIALS MANAGEMENT DIVISION NO LATER THAN
3:00 P.M. CENTRAL STANDARD TIME ON 23 JANUARY 2009**

PROPOSALS RECEIVED AFTER THIS DEADLINE WILL NOT BE CONSIDERED.

The date and time will be recorded on each proposal and an official log of the names of the Responders will be kept and made available upon request.

Proposals must be delivered to the Materials Management Division at the following address:

Materials Management Division
WSCA PC CONTRACT REQUEST FOR PROPOSAL
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

Proposals must be sealed and labeled as follows:

An Original, three double-sided paper copies, and an electronic copy of Responder's proposal in a sealed envelope or container clearly marked on the outside: **WSCA PC CONTRACT REQUEST FOR PROPOSAL.**

An Original, three double-sided paper copies, and an electronic copy of Responder's pricing configuration forms sealed in a SEPARATE envelope or container WITHIN the proposal sealed envelope or container clearly marked on the outside: **WSCA PC CONTRACT REQUEST FOR PROPOSAL PRICING CONFIGURATION FORMS.**

Proposals Submitted By Facsimile or E-Mail Will Not Be Accepted

Additionally, one identical double-sided paper copy and one electronic copy of each RESPONDER'S SEALED PROPOSAL *excluding the Pricing Configuration Forms* - must be delivered to each of the individual's listed below before the end of the business day (in the appropriate time zone) on JANUARY 26, 2009, to facilitate evaluation of responses:

Mr. Jason Soza
Contracting Officer
State of Alaska
333 Willoughby, 7th Flr,
Juneau, Alaska 99811

Ms. Ruth Gray
State of Nebraska
State Purchasing Bureau
301 Centennial Mall South, Mall Level
Lincoln, NE 68508

Mr. Doug Milford
Strategic Procurement Manager
State of Arizona
Department of Administration
State Procurement Office
100 N 15th Ave., Ste 104
Phoenix, AZ 85007

Ms. Marti Marsh
Purchasing Officer
State of Nevada
Purchasing Division
515 E. Musser Street, Ste. 300
Carson City, NV 89701

Ms. Jenny DeSalvo
Team Leader
State of Arkansas
1509 West 7th Street
Little Rock, AR 72201

Ms. Marianne Bixler
Sub-Team Leader
State of New Jersey
ITPD of Purchase & Property
Dept. of the Treasury
33 W. State Street, 8th Fl.
Trenton, NJ 08625

Mr. William Pickrum
Deputy Director
State of Delaware
Government Support Services
Office of Management and Budget
100 Enterprise Place, Ste. 4
Dover, DE 19904-8202

Mr. Patrick Forster
State of North Dakota
ND Information Technology Dept.
600 E. Boulevard Ave., Dept. 112
Bismarck, ND 58505-0100

Ms. Ashley Super
PA III
State of Iowa
DAS GSE – Purchasing
1305 East Walnut Street
Hoover State Office Bldg., Level A
Des Moines, Iowa 50319-0105

Ms. Lena Ferris
Purchasing Analyst
State of Oregon
DAS-SPO
1225 Ferry Street, SE U140
Salem, OR 97301-4285

Ms. Felicia Sonnier
State of Louisiana
Office of State Purchasing
1201 North 3rd Street, Ste. 2-160
P.O. Box 94095

Ms. Tammy Cash
State of South Carolina
Information Technology Management Office
4430 Broad River Road
Columbia, SC 29210

Baton Rouge, LA 70804-9095

Mr. Robert Oliver
State of Montana
State Procurement Bureau
General Services Division
Department of Administration
Room 165, Mitchell Bldg.
125 North Roberts Street
PO Box 200135
Helena, MT 59620-0135

Ms. Sharon Pope
Purchasing Consultant
State of Tennessee
Dept. of General Services
Purchasing Division
3rd Floor Tn Tower
312 Rose L Parks Ave.
Nashville, TN 37243-1102

6. Proposal Evaluation

An Evaluation Committee approved by the WSCA Directors and appointed by MMD will perform the evaluation of proposals. This process will take place between the dates indicated in Section II, Paragraph A. During this time, the WSCA/NASPO Contract Administrator may, at her option, initiate discussions with Responders who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals, but proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Responders.

7. Qualified Responder Website Demonstrations

Responders whose responses are responsive to the mandatory requirements and who have been ranked as "qualified" by the evaluation committee will be invited to make a short, focused demonstration of the website they are proposing to use for support of the potential contracts to the Evaluation Committee on the date indicated in Section II, Paragraph A. These demonstrations will take place in the Minneapolis, Minnesota area and the rooms for the presentation will be provided by MMD. Arrangements for testing connections, etc. in the rooms will be coordinated with Qualified Responders by the Procurement Manager prior to the date of the demonstrations. Qualified Responders should plan for a short, focused demonstration that would NOT exceed 60 minutes in length, but might be as short as 30 minutes.

8. Selection of Finalists

The Evaluation Committee will recommend, from the qualified Responders, a list of finalists to the Procurement Manager. The Procurement Manager will take these recommendations to the WSCA Directors for approval. The WSCA/NASPO Contract Administrator will notify Finalists on the date indicated in Section II, Paragraph A. Only finalists will be invited to participate in the subsequent steps of the procurement.

9. Contract Negotiations with Finalists

The WSCA/NASPO Contract Administrator, with assistance from Procurement Manager,

MMD staff and staff from other WSCA states, will enter into contract negotiations with Finalists approved by the WSCA Directors. Finalists may be asked and/or required to submit revisions to their proposals for the purpose of obtaining best and final offers by the date indicated in the Finalist Notification Letter.

10. **Award of Master Price Agreements**

After contract negotiations are completed, on the schedule indicated in Section II, Paragraph A, the Procurement Manager will take a list of final award recommendations to the WSCA Directors for approval on the schedule indicated in Section II, Paragraph A.

The finalists' proposals that are deemed most advantageous, taking into consideration the evaluation factors set forth in the RFP, will be selected for award. Although the stated goal of the procurement is to make limited multiple source award(s), **no minimum or maximum number of awards has been predetermined.**

11. **Sign Master Price Agreements**

The Master Price Agreements will be signed with the awarded Contractors on the schedule indicated in Section II, Paragraph A. In the event that mutually agreeable terms cannot be reached within the time specified, the MMD reserves the right to cancel the award with the selected Contractor (s).

C. PROTEST PROCEDURES

1. **Written Protests Only**

All protests relating to this procurement must be in writing, including pre-award and post-award phases of this procurement process. Protests shall be submitted to the Protest Official. Any protest not set forth in writing, within the time limits specified in these procedures shall not be considered. The Protest Official is:

Brenda Willard, Acquisition Manager/Assistant Director
Department of Administration
Materials Management Division
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

2. **Protest Contents**

All protests shall include the name and address of the protestor and a detailed statement of the nature of the protest and the grounds on which a protest is made in sufficient detail to establish the merits of the protest.

The State of Minnesota will not be obligated to postpone the proposal due date or contract award as a result of any protest received. All costs of a protest shall be the responsibility of the protestor.

3. **Protest Prior to Proposal Due Date**

All protests based on any omission or error, or on the content of the RFP, or alleged improprieties in the RFP, shall be filed with the Protest Official as soon as the basis for the protest is known; but, in any event, must be received no later than **twenty (20) calendar days** prior to the proposal due date.

Failure of a Responder to raise a protest regarding the RFP within the applicable time period shall constitute an unconditional waiver of the right to protest the requirements of the RFP and shall preclude consideration of any such issue at a later date unless the basis of the protest could not have been known to the Responder in time to make a timely submission of its protest.

The Protest Official, or designee, will promptly make a determination in writing regarding the validity of the protest, what remedial action, if any, is required, and whether or not the proposal due date and/or other procurement events should be delayed beyond the scheduled dates; and

If the Protest Official, or designee, determines that the scheduled proposal due date and/or other procurement events should be delayed, all Responders shall be notified by written addendum of the delay and any new dates established.

4. **Protest Regarding Award of Contract**

a) If an award of contract is being protested, a protestor shall protest in writing to the Protest Official **as soon as practical, but not later than ten (10) calendar days after the protestor knew or should have known** of the facts and circumstances upon which the protest is based. Failure of a Responder to raise a protest regarding the contract award within the applicable time period shall constitute an unconditional waiver of the right to protest the award and shall preclude consideration of the issue at a later date unless the basis of the protest could not have been known to the

Responder in time to make a timely submission of his/her protest.

If the protest has been timely filed, the Protest Official, or designee, will promptly make a determination in writing, regarding the validity of the protest and whether or not the procurement should be delayed, the award considered for revision, or other remedy as appropriate.

b) If the procurement is delayed, all Responders will be notified of the delay.

Protests Received After The Deadline Will Not Be Considered.

D. GENERAL REQUIREMENTS

This procurement will be conducted in accordance with Minnesota Statute Chapter 16C.

The use of the word "State" in this section at times means the State of Minnesota, and at times means the WSCA/NASPO state that may be participating in these Contracts. Responders are cautioned to read carefully to understand the full meanings of the requirements.

1. Acceptance of Conditions Governing the Procurement

Responders must indicate their acceptance of Section II, Conditions Governing the Procurement, in the letter of transmittal. Submission of a proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.

2. Incurring Cost

Any cost incurred by the Responder in preparation, transmittal, presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Responder.

3. Contractor Responsibility

The selected Contractor(s) shall be solely responsible for fulfillment of the responsibilities under the terms and conditions of the Master Price Agreement. Unless otherwise provided in a Participating Addendum, Purchasing Entities will issue purchase orders and make payments to only the named contractor(s).

4. Servicing Subcontractors (See Section I, Paragraph F. Definition of Terminology)

Responders may propose the use of Servicing Subcontractors. However the Contractor shall remain solely responsible for the performance under the terms and conditions of the Master Price Agreement if Servicing Subcontractors are utilized.

5. Amended Proposals

A Responder may submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. The

Evaluation Committee will not merge, collate, or assemble proposal materials.

6. **Responders' Rights to Withdraw Proposal**

A Responder will be allowed to withdraw its proposal at any time prior to the deadline for receipt of proposals. The Responder must submit a written withdrawal request signed by the Responder's duly authorized representative addressed to the WSCA/NASPO Contract Administrator.

The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.

7. **Proposal Offer Firm**

Responses to this RFP, including proposal prices, will be considered firm for ninety (90) days after the due date for receipt of proposals or sixty (60) days after receipt of a best and final offer if one is submitted.

8. **Disclosure of Proposal Contents**

All materials submitted in response to this RFP will become property of the State and will become public record after the evaluation process is completed and an award decision made. If the Responder submits information in response to this RFP that it believes to be trade secret materials, as defined by the Minnesota Government Data Practices Act, Minn. Stat. § 13.37, the Responder must:

- a. clearly mark all trade secret materials in its response at the time of the response is submitted,
- b. include a statement with its response justifying the trade secret designation for each item, and
- c. defend any action seeking release of the materials it believes to be trade secret, and indemnify and hold harmless the State, its agents and employees, from any judgments awarded against the State in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the State's award of a contract. In submitting a response to the RFP, the Responder agrees that this indemnification survives as long as the trade secret materials are in possession of the State. The State is required to keep all the basic documents related to its contracts, including responses to RFPs, for a minimum of seven years.

The MMD will not consider the prices submitted by the Responder to be trade secret materials.

IF AN ENTIRE PROPOSAL IS DESIGNATED AS PROPRIETARY OR CONFIDENTIAL, IT MAY BE DISQUALIFIED FROM CONSIDERATION.

The State agrees to protect all properly identified Contract trade secret material, as the term "trade secret" is defined in Minn. Stat. § 13.37. In the event a request is made for information which the Contractor has identified as "trade secret", the State agrees to notify the Contractor of said request and provide its determination as to whether disclosure is legally required, in addition to anticipated disclosure dates, if any, and to allow the Contractor an opportunity,

in its discretion and at its sole expense, to seek a protective order or otherwise protect the confidentiality of the information.

9. **No Obligation**

This procurement in no manner obligates the State of Minnesota, any NASPO member or any Purchasing Entity to purchase any products or services offered until a Master Price Agreement is signed, a Participating Addendum has been executed by the Contractor, and the Contractor receives and accepts a valid purchase order from an authorized Purchasing Entity.

10. **Termination**

This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when such action is determined to be in the best interest of the State of Minnesota and/or NASPO and WSCA.

11. **Administration Fees**

The Contractor shall report price agreement utilization and pay the WSCA administration fee in accordance with the terms and conditions of the Master Price Agreement. The WSCA directors approved the level of the WSCA administration fee. The WSCA administration fee is not negotiable. Some states may require an additional fee be paid directly to the State on purchases made by Purchasing Entities within that State. For all such requests, the fee level, payment method and schedule for such reports and payments shall be incorporated in a Participating Addendum that is made a part of the Master Price Agreement. The Contractor may adjust PSS pricing accordingly for purchases made by Purchasing Entities within the jurisdiction of that State. All such agreements shall have no affect whatsoever on the WSCA fee or the prices paid by the Purchasing Entities outside the jurisdiction of the state requesting the additional fee.

12. **Acceptance of Proposal Contents**

The contents of this RFP and the response of the successful vendor will become contractual obligations, along with the final Contract, if acquisition action ensues. The State is solely responsible for rendering the decision in matters of interpretation of all terms and conditions.

If a Responder discovers any significant ambiguity, error, conflict, discrepancy, omission, or other deficiency in the RFP, the Responder shall immediately notify the WSCA/NASPO Contract Administrator in writing of such error and request modification or clarification of the document.

13. **Governing Law**

The RFP and the Contract shall be construed in accordance with, and its performance governed by, the laws of the State of Minnesota. Except to the extent that the provisions of the Contract are clearly inconsistent therewith, the Contract shall be governed by the Uniform Commercial Code (UCC) as adopted by the State. To the

extent the Contract entails delivery or performance of services, such services shall be deemed "goods" within the meaning of the UCC, except when to so deem such services as "goods" is unreasonable.

Venue for all legal proceedings arising out of the Contract, or breach thereof, shall be in the State or federal court with competent jurisdiction in Ramsey County, Minnesota.

14. Basis for Proposal

Only information supplied by the State in writing through the WSCA/NASPO Contract Administrator or in this RFP should be used as the basis for the preparation of Responder proposals.

15. Agreement Terms and Conditions

The agreement between the State and the Contractor will follow the format specified by the State and contain the terms and conditions set forth in Appendix A, "Master Price Agreement". However, the State reserves the right to negotiate with a successful Responder provisions in addition to those contained in this RFP. The RFP, as revised and/or supplemented, and the successful Responder's proposal will be incorporated into and become part of the agreement.

A Responder shall be presumed to be in agreement with these terms and conditions unless it takes specific exception to one or more of the conditions. Submission by the Responder of its proposed language shall not be viewed as an exception unless the Responder specifically states in the response that its proposed changes are intended to supersede the State's terms and conditions.

RESPONDERS ARE CAUTIONED THAT BY TAKING ANY EXCEPTION THEY MAY BE MATERIALLY DEVIATING FROM THE REQUEST FOR PROPOSAL. IF A RESPONDER MATERIALLY DEVIATES FROM THE GENERAL TERMS, CONDITIONS AND INSTRUCTIONS OR THE SPECIAL TERMS AND CONDITIONS AND/OR SPECIFICATIONS, ITS RESPONSE MAY BE REJECTED.

A material deviation is an exception to the Request for Proposal general or special terms and conditions and/or specifications that:

- a. Gives the Responder taking the exception a competitive advantage over other Responders, or
- b. Gives the State something significantly different from that which the State requested.

16. Agreement Deviations

Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between the State and the selected Responder(s) and shall not be deemed an opportunity to amend the Responder's proposal.

17. Responder Qualifications

If the State, on the basis of available evidence, concludes that a particular Responder appears to be insufficiently responsible to ensure adequate performance, the response

may be rejected.

Responses that do not comply with the provisions in the RFP may be considered nonresponsive and may be rejected.

18. Rights Reserved

Notwithstanding anything to the contrary, the State reserves the right to:

- a. Reject any and all responses (or portions thereof) received;
- b. Select, for contracts or for negotiations, a response other than that with the lowest cost;
- c. Waive or modify any informalities, irregularities, or inconsistencies in the responses received;
- d. Negotiate any aspect of the proposal with any Responder and negotiate with more than one Responder;
- e. Request a BEST and FINAL OFFER, if the Evaluation Team deems it necessary and desirable; and
- f. Terminate negotiations and select the next response providing the best value for the State, prepare and release a new RFP, or take such other action as the State deems appropriate if negotiations fail to result in a successful Contract.
- g. The Evaluation Committee also reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals failed to meet the mandatory requirements and the failure to do so does not materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

19. Changes in Contractor Representatives

The Contractor must notify the WSCA/NASPO Contract Administrator of changes in the Contractor's key administrative personnel, in advance and in writing. Any employee of the Contractor, who, in the opinion of the State, is unacceptable, shall be removed from the project upon written notice to the Contractor. In the event that an employee is removed pursuant to a written request from the WSCA/NASPO Contract Administrator, the Contractor shall have 10 working days in which to fill the vacancy with an acceptable employee.

20. Laws and Regulations

Any and all services, articles or equipment offered and furnished shall comply fully with all State and federal laws and regulations, including Minn. Stat. § 181.59 and Minn. Stat. Ch. 363 prohibiting discrimination.

21. Completion of Responses

A response may be rejected if it is conditional or incomplete. Responses that contain conflicting, false, or misleading statements or that provide references that contradict or do not support an attribute or condition stated by the Responder, may be rejected.

22. Right to Publish

Any publicity given to the program, publications or services provided resulting from the

Contract, including but not limited to notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Contractor, or its employees individually or jointly with others, or any subcontractors or resellers shall identify the State as the sponsoring agency and shall not be released, unless such release is a specific part of an approved work plan included in the Contract prior to its approval by the WSCA/NASPO Contract Administrator.

The Contractor shall make no representations of the State's opinion or position as to the quality or effectiveness of the products and/or services that are the subject of this Contract without the prior written consent of the WSCA/NASPO Contract Administrator. Representations include any publicity, including but not limited to advertisements, notices, press releases, reports, signs, and similar public notices.

23. Ownership of Proposals

One (1) complete copy of the each Responder's proposal including the Best and Final Offer, if one was submitted, shall be kept for the procurement file. Those documents will become the property of the State of Minnesota. Evaluating states may choose to retain the copy sent to them for their procurement files, or destroy it in a manner of their choosing.

24. Product and Services Schedules

The Contractor shall offer only those Products and services that are included on the Contractor's Product and Services Schedule (PSS) and approved by the WSCA/NASPO Contract Administrator. Contractors shall keep the schedule current and correct on an Internet web site maintained by the Contractor in accordance with the terms and conditions of the Master Price Agreement.

25. Additional Responder Qualifications

The Evaluation Committee reserves the right to require timely submission of additional and/or supporting materials concerning Responder qualifications including financial, manufacturing, personnel and marketing resources.

26. Product Qualifications

The Evaluation Committee reserves the right to require timely submission of additional and/or supporting materials concerning type and quality of the Products offered including product specifications, benchmark results or other meaningful measurement the Evaluation Committee believes would be helpful in assessing Product quality.

27. Electronic Mail Address Required

A large part of the communication regarding this solicitation will be conducted by electronic mail (e-mail). Responder must have a valid e-mail address to receive this correspondence.

28. Use of Electronic Versions of this RFP

This RFP is being made available by electronic means. If accepted by such means, the Responder acknowledges and accepts full responsibility to insure that no changes are made to the RFP. In the event of conflict between a version of the RFP in the

Responder's possession and the version maintained by the State, the version maintained by the State shall govern. Alteration of the RFP document may be grounds for immediate rejection of the Responder's proposal, and, at the sole discretion of the State, suspension from future bidding opportunities.

29. **Addenda to the RFP**

Any addendum issued will become a part of the RFP. The State may modify or clarify the RFP by issuing one or more addenda to all parties who have received a copy of the RFP. Each Responder must follow the directions on the Addendum. Addenda will be numbered consecutively in the order they are issued.

30. **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**

a. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions.

Instructions for certification:

1. By signing and submitting this proposal, the prospective lower tier participant [Responder] is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal [response] is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms *covered transaction, debarred, suspended, ineligible lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded*, as used in this clause, have the meaning set out in the Definitions and Coverages section of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this response that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction [subcontract equal to or exceeding \$25,000] with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with

which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled, "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
 7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
 8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
 9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- b. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions.
1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
 2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

31. **Nonvisual Access Standards.** Nonvisual access standards require:

That the effective interactive control and use of the technology, including the operating system, applications programs, prompts, and format of the data presented, are readily achievable by nonvisual means;

That the nonvisual access technology must be compatible with information technology used by other individuals with whom the blind or visually impaired individual must interact;

That nonvisual access technology must be integrated into networks used to share communications among employees, program participants, and the public; and

That the nonvisual access technology must have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

32. **Copyrighted Material Waiver**

The State reserves the right to use, reproduce and publish proposals in any manner necessary for State agencies and other government entities including local units of government to access the responses, including but not limited to photocopying, State Intranet/Internet postings, broadcast faxing, and direct mailing. In the event that the response contains copyrighted or trademarked materials, it is the Responder's responsibility to obtain permission for the State to reproduce and publish the information, regardless of whether the Responder is the manufacturer or reseller of the products listed in the materials. By signing its response, the Responder certifies that it has obtained all necessary approvals for the reproduction and/or distribution of the contents of its response and agrees to indemnify, protect, save and hold the State, its representatives and employees harmless from any and all claims arising from the violation of this section and agrees to pay all legal fees incurred by the State in the defense of any such action.

33. **TG/ED Preference**

In accordance with Minn. Stat. § 16C.16, subds. 6 and 7, eligible certified targeted group (TG) businesses and certified economically disadvantaged (ED) businesses will receive a 6 percent preference on the basis of award for this RFP. The preference is applied only to the first \$500,000 of the response to the RFP. Eligible TG businesses must be currently certified by the Materials Management Division prior to the bid opening date and time.

To verify TG/ED certification, refer to the Materials Management Division's web site at www.mmd.admin.state.mn.us under "Vendor Information, Directory of Certified TG/ED Vendors."

To verify TG eligibility for preference, refer to the Materials Management Division's web site under "Vendor Information, Targeted Groups Eligible for Preference in State Purchasing" or call the Division's Help Line at 651.296.2600.

34. **Affirmative Action.** The State requires affirmative action compliance by its Contractors.

- a. Covered Contracts and Contractor. If the Contract exceeds \$100,000 and the Contractor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principle place of business, then the Contractor must comply with the

requirements of Minn. Stat. § 363A.63, Subd. 1 and Minnesota Rules 5000.3400-5000.3600. A Contractor covered by Minn. Stat. § 363A.36, Subd. 1 because it employed more than 40 full-time employees in another state and which does not have a certificate of compliance must certify that it is in compliance with federal affirmative action requirements.

- b. Minnesota Statutes Section 363A.36, Subd. 1 requires the Contractor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the commissioner of Human Rights (commissioner) as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and Contract consequences in that event. A Contract awarded without a certificate of compliance may be voided.
- c. Minnesota Rules 5000.3400-5000.3600 implement Minn. Stat. § 363A.36, Subd. 1. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a Contractor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for noncompliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn Rules 5000.3400-5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and 5000.3552-5000.3559.
- d. Disabled Workers. The Contractor must comply with the following affirmative action requirements for disabled workers.

“AFFIRMATIVE ACTION FOR DISABLED WORKERS”

- (a) The contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- (b) The contractor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
- (c) In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minnesota Statutes Section 363A.36, Subd. 1, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to

the Minnesota Human Rights Act.

- (d) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices must state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants, and the rights of employees and applicants.
 - (e) The contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Minn. Stat. § 363A.36, Subd. 1, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.”
- e. Consequences. The consequences of a Contractor’s failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the commissioner, refusal by the commissioner to approve subsequent plans, and termination of all or part of this Contract by the commissioner or the State.
 - f. Certification. The Contractor hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36, Subd. 1 and Minnesota Rules 5000.3400 to 5000.3600 and is aware of the consequences for noncompliance.

35. Hazardous Substances

To the extent that the goods to be supplied to the State by the Responder contain or may create hazardous substances, harmful physical agents or infectious agents as set forth in applicable State and federal laws and regulations, the Responder must provide the State with Material Safety Data Sheets regarding those substances (including mercury). A copy must be included with each delivery.

36. State Requirements

The Contractor is responsible to present information to State agency and Cooperative Purchasing Venture (CPV) customers regarding product compliance with State requirements. The Contractor’s catalog and other marketing materials utilized to offer products under this Contract shall affirmatively state when a product is in compliance with the Americans with Disabilities Act (ADA), the Nonvisual Access Standards (Minn. Stat. Ch. 16C.145), and the Energy Star Standards. The Contractor must also indicate in the catalog or other marketing materials if the product will not operate, is not intended to operate, or will not operate under full manufacturer’s warranty, using paper with a post-consumer recycled content of 30 percent or greater. If any descriptive marketing materials are silent as to any or all of these requirements (e.g., ADA compliance, functions utilizing 30 percent recycled content paper), the Contractor agrees that the customer can assume the product meets or exceeds the State

requirements.

37. Organizational Conflicts of Interest

The Responder warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances which could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons:

- a Contractor is unable or potentially unable to render impartial assistance or advice to the State;
- the Contractor's objectivity in performing the work is or might be otherwise impaired; or
- the Contractor has an unfair competitive advantage.

The Contractor agrees that if an organizational conflict of interest is discovered after award, an immediate and full disclosure in writing shall be made to the Assistant Director of the Department of Administration's Materials Management Division that shall include a description of the action the Contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the State may, at its discretion, cancel the Contract. In the event the Contractor was aware of an organizational conflict of interest prior to the award of the Contract and did not disclose the conflict to the WSCA/NASPO Contract Administrator, the State may terminate the Contract for default. The provisions of this clause shall be included in all subcontracts for work to be performed, and the terms "Contract," "Contractor," and "Contract Administrator" modified appropriately to preserve the State's rights.

38. Notice to Responders

Pursuant to Minn. Stat. § 270.65, Subd. 3, Contractors are required to provide their Federal Employer Identification Number or Social Security Number. This information may be used in the enforcement of federal and State tax laws. Supplying these numbers could result in action to require a Contractor to file tax returns and pay delinquent tax liabilities. These numbers will be available to federal and State tax authorities and State personnel involved in the payment of State obligations.

39. Electronic Funds Transfer (EFT) Payment Method and Structure

In accordance with Minn. Stat. § 16A.40 the Responder receiving the award of this Solicitation will be required to provide their bank routing information to the Department of Finance to enable payments to be made through EFT.

40. Alterations

Any alteration, particularly in the price used to determine the successful response, may be rejected unless the alteration is initialed by the person authorized to contractually obligate the Responder. Proof of authorization shall be provided upon request. The use of correction fluid or typewriter correction tape is considered an alteration.

41. **Public Information**

Once the information contained in the responses is deemed public information, interested parties may request to obtain the public information. You can call 651.201.2413 between the hours of 8:00 a.m. to 4:30 p.m. to arrange this.

42. **Products Containing Certain Type of Polybrominated Diphenyl Ether Banned**

By signing and submitting a response to this solicitation, Contractor/Responder certifies that they have read and will comply with Laws of Minnesota, 2007, Chapter 57, codified as Minn. Stat. §§ 325E.385-325E.388.

43. **Employee Status**

The following will apply to all States that do not have specific laws, rules, policies, etc. against the use of the *E-Verify* system.

By order of the Governor's Executive Order 08-01, Responders MUST certify their compliance with the Immigration Reform and Control Act of 1986 (8U.S.C. 1101 et. Seq.) and certify their use of the *E-Verify* system established by the Department of Homeland Security.

If your response to this solicitation is or could be in excess of \$50,000, you must certify that you are in compliance with items 1 and 2 below. In addition, prior to the delivery of the products or initiation of services, vendors MUST obtain this certification from all subcontractors who will participate in the performance of the Contract. All subcontractor certifications must be kept on file with the Contractor and made available to the state upon request.

1. Responders are in compliance with the Immigration Reform and Control Act of 1986 in relation to all employees performing work in the United States and that the Responder and all its subcontractors do not knowingly employ persons in violation of the United State immigration laws. The Contractor will obtain the State of Minnesota – Immigration Status Certification from all subcontractors who will participate in the performance of this contract and maintain subcontractor certifications for inspection by the state if such inspection is requested; and
2. The Contractor and all its subcontractors will, by the date of the delivery of the product and/or performance of the services under this Contract, have implemented or are in the process of implementing the *E-Verify* program for all newly hired employees in the United State who will perform work on this Contract.

If the Contractor and/or the subcontractors are not in compliance with the Immigration Reform and Control Act, or knowingly employ persons in violation of the US Immigration laws, or haven't begun to implement the *E-Verify* program for all newly hired employees in support of this Contract, the state reserves the right to determine what action it may take, including but not limited to canceling the Contract, and/or suspending or debarring the Contractor from state purchasing.

III. Response Format and Organization

A. NUMBER OF RESPONSES

Responders shall submit only one proposal.

B. NUMBER OF COPIES

Responders shall deliver one original double-sided and three (3) identical double-sided copies on paper containing at least 30% post-consumer content, and one electronic copy of their proposal to the WSCA/NASPO Contract Administrator to the location specified in Section II, Paragraph B5 on or before the closing date and time for receipt of proposals. One (1) additional double-sided paper copy and one electronic copy shall be delivered to each state representative as specified in Section II, Paragraph B5.

C. PROPOSAL FORMAT

All proposals must be typewritten on standard 8 ½ x 11 containing at least 30% post-consumer content paper (larger paper is permissible for charts, spreadsheets, etc.) printed back-to-back, and placed within a binder with tabs delineating each section.

1. Proposal Organization

The proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated. If all items to be placed in binder 1 do not fit in one binder, they shall be placed in two binders and labeled binder 1a and binder 1b.

- a. Letter of Transmittal (binder 1)
- b. Table of Contents (binder 1)
- c. Proposal Summary (optional) (binder 1)
- d. Response to Specifications 1 through 9 (binder 1)
- e. Response to Specification 10, Product and Services Schedule on Flash Drives, CD or URL address (Binder 1)
- f. Response to Specification 11, Revised Price Agreement/Proposals on Flash Drives or CD (binder 2)
- g. Response to Specifications 12 through 13 (binder 1)
- h. Response to Specification 14, Completed Cost Response Form(s) Sealed in a separate envelope and included with original and copies sent to Minnesota only.
- i. Responder's Additional Terms and Conditions (binder 2)
- j. Sample Reports and Other Supporting Material (binder 3)
- k. State of Minnesota forms, Appendices F through J (binder 3)
- l. Proposed Lease Agreements (will not be evaluated)

Within each section of their proposal, Responders should address the items in the

order in which they appear in this RFP. All forms provided in the RFP must be thoroughly completed and included in the appropriate section of the proposal. Any proposal that does not adhere to these requirements will be deemed non-responsive and rejected on that basis.

The proposal summary may be included by Responders to provide the Evaluation Committee with an overview of the technical and business features of the proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Responder's proposal.

Responders may attach other material they feel may improve the quality of their responses. However, these materials should be included and indexed in binder 3. Marketing materials, other than those required in response to a specific section of the RFP, need not be included. If included they should be limited to two pages.

2. Letter of Transmittal

A letter of transmittal **MUST** accompany each proposal. The letter of transmittal **MUST CONTAIN THE FOLLOWING:**

- a. Identify the submitting organization;
- b. Identify the name, title, telephone and fax numbers, and e-mail address of the person authorized by the organization to contractually obligate the organization;
- c. Identify the name, title, telephone and fax numbers, and e-mail address of the person authorized to negotiate the contract on behalf of the organization;
- d. Identify the names, titles, telephone and fax numbers, and e-mail addresses of persons to be contacted for clarification;
- e. Explicitly indicate acceptance of the Conditions Governing the Procurement stated in Section II;
- f. Be signed by the person authorized to contractually obligate the organization;
- g. Acknowledge receipt of any and all amendments to this RFP.
- h. A statement in which the Responder certifies that, in connection with this Contract, the prices proposed have been arrived at without consultation, communication, or agreement, for the purpose of restricting competition.
- i. A statement guaranteeing that each person signing this response and addenda, if required, is the person in the Responder's organization responsible for, or authorized to, make decisions as to the prices quoted in the cost response and that she/he has not participated and will not participate in any action contrary to those stated above. **NOTE:** A copy of corporate resolutions must accompany the transmittal letter, authorizing the person(s) signing and/or initialing the response to sign binding contracts.
- j. A statement that the Contractor shall not assign any part of its interest in the

Contract without prior written consent of the State. This consent shall not be unreasonably withheld.

- k. A statement describing technology-related products the Responder can offer as part of its response that comply with the nonvisual access standards as set forth in Minn. Stat. Ch. 16C.145 and how those products are identified in the product listing. Provide information on the differences in quality, prices, and delivery.

IV. SPECIFICATIONS

This section contains specifications and relevant information Responders should use for the preparation of their proposals.

Responders must respond to each specification as described in Section B. Technical Specifications below. The responses along with the required supporting material will be evaluated and awarded points accordingly.

A. INFORMATION

1. **State of Minnesota Support**

The State of Minnesota will assign a competent, qualified Contract Administrator to administer the Master Price Agreement in accordance with terms and conditions of the Master Price Agreement, Appendix A.

2. **Facilities**

The State of Minnesota will host and maintain an Internet web site providing administrative information concerning use of the master price agreements.

B. TECHNICAL SPECIFICATIONS

1. **Corporate Overview**

Responders must provide a brief history and description of their company, including but not limited to the following:

- a. **Facilities**

Responders must indicate number and location of manufacturing plants, distribution outlets, and support centers, as appropriate. Please indicate which facilities have been ISO 14001 certified.

- b. **Personnel**

Responders must include a map or other documentation that indicates by state the number and type of sales, support

personnel, or other resources that are employed to service purchase orders and/or equipment for non-federal governmental customers.

c. State Contracts

Responders must include the list of states where the Responder has been awarded a statewide price agreement for computing equipment products and services by the central purchasing authority or State Purchasing Official. The information required in response to this specification should include the name and telephone number of the Contract Administrator, the dollar value of the contract, plus the effective dates of the agreement(s).

d. Organization

Responders must include an organization chart and a thorough narrative describing how the Master Price Agreement will be supported from senior management down to field technicians including the use of any wholly owned subsidiaries or subcontractors.

e. Complaint Resolution

Responders must thoroughly describe their procedures for addressing and resolving customer problems and complaints—service, equipment, or billing—including timelines and escalation process through the organization structure identified in 1.d. above.

f. Preference Programs

Responders must describe their experience and capacity to meet Minority and Women Business Enterprise (MWBE) and other local purchasing preferences that vary among potential Participating Entities, including but not limited to the use of these businesses in their subcontractor relationships.

g. Subcontractor Usage

If Subcontractor(s) are proposed, Responders must describe how the subcontractors will be used; for example, if they will only be used for assistance in locating products/services; or if they will be used to accept orders and payments (with the agreement of the Participating Entity). If they are accepting orders and payments specify what products or services they will provide, how they are certified, how they are contractually bound to the Master Price Agreement terms and conditions (plus any modifications thereto contained in Participating Addenda) and how their sales will be accurately tracked and reported.

h. Financial Strength

Responders must include a statement concerning their financial strength supported by an annual report or other relevant information including the latest Dun & Bradstreet rating.

2. Products and Services Overview

Responders must describe their ability to provide and support Products and services to the WSCA/NASPO member states and the various governmental entities therein. The narrative in response to this specification should include, at a minimum, an overview of how Products are delivered and supported nationwide plus specific information as follows:

a. Breadth of Offering - Instructions

Responders must thoroughly describe the breadth of their Product and Service offerings. Responders must provide a summarized list of the models or variations available in each of the following categories listed under b. Computing Equipment – Primary categories. A narrative should be submitted in support of the list providing the Evaluation Committee with a clear indication of the breadth of the product line.

All machines proposed for Band 3, multifunctional printers, MUST basically function as an individual or small shared printer, with the ability to perform a combination of additional functions, including faxing, scanning and copying. These machines must be listed in the Printer Multifunctionals category in Better Buys for Business.

b. Computing Equipment – Primary categories

BAND 1 - Servers

Server One –Rack Mount Server

Server Two – Tower Server

BAND 2 - Workstations

Desktop

Laptop

Tablet PC

BAND 3 - Printers

High-speed

Medium speed

Desktop

Portable (Laptop)

Multifunctional High speed

Multifunctional Medium speed

Multifunctional Desktop

BAND 4 - Storage Solution

Storage Area Networks (SAN)

Network Attached Storage (NAS)

BAND 5 - PDA's

BAND 6 - Instructional Packages (Bundles)

Workstation & Projector Package

Laptop, Projector, and Whiteboard Package

Responders must provide a summarized list of the instructional packages being proposed for inclusion in this Band. The packages should include, but are not limited to the product packages included in the pricing configurations in Appendix B. Whiteboards will not be allowed to be sold as separate items. They must be included in a package to be available on the Contract.

BAND 7 – Monitors

Monitors may vary from small desk top units (15”) to larger, wall mounted units (50”) that might serve in a classroom or conference room setting; but in any case must be connected to a computer. Audio Visual products, such as Televisions are not included in this band, or in the resulting contracts.

The following categories are not specific bands, but are products that will be allowed to be sold under the Master Price Agreements.

OPERATING SYSTEMS

Responders must provide, at a minimum, a licensed operating system with each type of processor. Responders must provide a summarized list of the operating systems that are proposed for each of the following categories of processors.

LOCAL AREA NETWORK

Responders may propose and provide local area network devices including but not limited to switches, cables, and related software. Responders should provide a summarized list of proposed LAN equipment and related software.

DIGITAL PROJECTORS

Responders may propose LCD Projectors by providing a summarized list of the products.

c. Customer Satisfaction

Responders should submit customer satisfaction statistics or survey results concerning the quality of the Products and services offered.

d. Value Added Services

Responders should thoroughly describe their ability to provide value added Services including but not limited to installation, training, self-maintainer programs, asset management, imaging, and/or related optional Services, such as extended warranties and after-warranty maintenance services, contained in the definition of Services and the geographic area where the Services may be provided. Do not include general consulting or any form of application development services.

e. E- Rate Program

Responders should describe their commitment to participation in the Federal Communications Commission's E-Rate discount program established under authority of the Federal Telecommunications Commission Act of 1996 by supplying their E-Rate contractor identification number and the list of E-Rate qualifying Products.

f. Section 508 Compliance

Responders should describe their commitment to the manufacture of accessible products by describing their support of the applicable provisions of the Workforce Investment Act of 1998, Section 508.

3. Reporting

a. WSCA Reporting

Responders must agree to provide monthly utilization reports to the WSCA/NASPO Contract Administrator based upon the schedule and minimum content as described in Paragraph 44 of the Price Agreement, Appendix A. Responders must describe their ability and commitment to meet this requirement.

b. Customer Reporting

Upon request of the Purchasing Entity, the Contractor will be required to provide reports to Purchasing Entities using the same format as the WSCA Report. Responders should describe enhanced reporting capabilities such as electronic delivery of reports or direct access to Internet or other database that may be used to administer the Master Price Agreement. Asset management or other reports for Purchasing Entities should be addressed.

4. Electronic Commerce

Responders must describe their ability to provide and commitment to maintain an Internet web site that contains, at a minimum, the items listed below in 4a. Web Site. In addition, Responders must respond to the following:

a. Web Site

Responders must provide, *in their proposal*, the URL to a web site that provides:

- the complete PSS that easily identifies the Brand, specification, and price for every product included in the Contract that is within the unit/configuration limits allowed by the WSCA Directors. (Refer to Section I, Paragraph A)
- product specifications, pricing, and configuration aids for the major product categories proposed that can be used to obtain an on-line quote,
- online ordering capability with the ability to remember multiple ship to locations,
- capability of reprinting invoices for orders placed online,
- service options, service agreement(s).
- contact information for order placement, service concerns (warranty and maintenance), problem reporting, and billing concerns.
- sales representatives for participating entities,
- purchase order tracking,

- links to all environmental certification programs, including but not limited to Blue Angel, EcoLogo, Green Guard, Nordic Swan, TCO, etc.
- links to additional environmental programs, including but not limited to take-back/recycling programs, EPEAT, Energy Star, etc.

The website does not need to be fully functional prior to the award. The Responders should submit a URL that best demonstrates the website capabilities in relation to those requested in the RFP. Once an award is made, the Contractor will be given 30 days to bring their website up to compliance before the award information is released and entities are actually allowed to begin signing Participating Addenda with the Contractor.

The website should not require a password or any type of registration for use to simply browse the product/pricing information. The website should not "time out" once opened, even if not continually used.

Once the website is approved, the Contractor may not make changes to the website without notifying the WSCA/NASPO Contract Administrator and receiving written approval of the changes.

b. Electronic Processing

Responders must thoroughly describe their ability or commitment to accept and process purchase orders electronically, as well as online payment via a purchase card. The ability to provide electronic funds transfer and/or a seamless electronic interface to governmental accounting systems should be thoroughly described.

c. Auditing

Responders must describe how and how often the web pricing and invoicing is audited to insure contractual compliance. Responders shall propose a schedule for such audits.

5. Primary Account Representative

Responders must identify by name and location the proposed primary account representative who will be responsible for the performance of the Master Price Agreement. A resume must be included in the Responder's proposal for the named individual.

6. References

Responders **must** submit five (5) written letters of reference as part of the response from current or previous states or other larger

governmental (not federal) entities ***and/or large educational institutions*** that have or are currently receiving similar products and services to those proposed by the Responder for this solicitation. In addition to the letter of reference, each reference must include the name of the contact person, street address, telephone number, e-mail address, and description of products and services provided, contract period (start and end dates), and contract value. References must be for contracts that have been in place during the past three years. Responders should advise their references to expect to be contacted by the Evaluation Committee during the evaluation period. Do not include references where the only contact person is from one of the states listed in Section II. Paragraph B5 as being a part of the Evaluation Team.

7. Rollout and Marketing Plan

a. Plan and Methodology

Responders must submit a thorough rollout plan as part of the proposal. At a minimum, the response should include a description of the methodology (mailings, meetings, seminars, press releases, personal contacts) proposed, dates and location of activities, and a Gantt chart including tasks to be performed and the timeframe for the completion of each task.

b. Contracting Personnel

Responder must identify the contracting personnel who will be assisting states with the completing and processing of the Participating Addenda. A resume must be included in the Responders proposal for the first five named individuals. Experience has shown that an adequate number of trained contracting personnel are key to the success of a national Master Price Agreement.

c. Marketing Materials

Responders should include sample rollout and follow-up marketing materials with their proposals. Responders are reminded that once a statewide participating addendum is in place, nearly every governmental entity, public school and university within the state may use the contractor's Master Price Agreement.

8. Website Presentation and Demonstration

Only Qualified Responders will meet with the Evaluation Committee. The proposed primary account manager or representative is expected to conduct a demonstration of the proposed Internet website that includes all capabilities listed in the RFP; and answer other questions as deemed necessary by the Evaluation Team. (See Section II, Paragraph B7. Qualified Responder Website Demonstrations)

A statement of acknowledgement and concurrence with this requirement is required.

9. Pricing Level and Volume Discount Guarantees

Responders must submit with their proposal a narrative that describes the baseline (published) pricing and the initial pricing level discount that is proposed, by type or category of Products and services as reflected in the PSS. The response to this specification must be in the form of a percentage discount from a published or base line price listing.

Responders must describe the base line pricing and provide information where the baseline pricing may be accessed and verified. The initial pricing level discount is the discount that is to be applied to the products listed in Appendix B. Pricing Configuration Forms to arrive at the Total Configuration Price. These discounts must remain firm, or be increased, during the life of the Contract.

The baseline pricing is to include the warranties as stated for each Band listed in Appendix B. Pricing Configuration Forms.

Responders should provide additional volume based pricing for consideration. The Evaluation Committee will be evaluating programs offered for per transaction and cumulative volume discounts that may be achieved as well as programs that allow for deeper discounts for standardized configurations.

a. Per Transaction Multiple Unit Discount

Responders must propose a contractual volume discount program or plan based on dollars in a single purchase order or combination of purchase orders submitted at one time by a Purchasing Entity or multiple entities conducting a cooperative purchase. If possible, the narrative in response to this specification should include a table indicating the additional discount percentage to be earned by volume purchased at one time.

b. Cumulative

Responders should propose a contractual, cumulative, permanent volume discount based on dollars resulting from the cumulative purchases by all governmental purchasers for the duration of their Master Price Agreement. The narrative in response to this specification should include a table indicating the additional discount percentage to be earned by cumulative volume purchased. For example, Responders may propose an increase in price discounts from the baseline pricing for annual cumulative volumes greater than "X" million of dollars. The table will be used during the annual Contractor performance review to verify that the additional discounts are being applied correctly.

c. Standard (Premium Savings) Configurations

Responders must propose and describe their commitment to offer and maintain deeply discounted standard configurations that are available to Purchasing Entities using the Master Price Agreement. The response to this specification should include a commitment to maintain and upgrade (keep pace with the advance of technology) the standard configurations for a stated period of time or intervals, as determined by the Purchasing Entities. Appendix C contains specific configurations that may be used by several Purchasing Entities. Responders are to apply the best possible discount for these configurations, taking in to consideration the cooperative purchasing purpose of this Agreement.

10. Products and Services Schedule

Responders must submit with their proposals a complete Product and Services Schedule including all the Services and Equipment offered for education, state, and local government procuring agencies at the initial pricing level stated in response to the previous specification. The PSS may be submitted in Microsoft Word or Excel format on a flash drive or a CD or web page (provide URL). Submission of a product and/or service on the PSS does not guarantee that it will automatically be approved as being included in the resulting contract. The WSCA/NASPO Contract Administrator will review and approve the PSS in conjunction with the review and approval of the website.

11. Revised Price Agreement/Proposal

Responders must submit with their proposal a flash drive or a CD that contains the Responder's entire proposal; as well as the proposed revised Master Price Agreement terms and conditions. Both documents shall be in Microsoft Word format. The revised Master Price Agreement shall have the changes highlighted; and an explanation of the reason for the requested change.

12. Alternatives

Responders may propose suggestions on improvements and/or alternatives for doing business with your company that will make this arrangement more cost effective for your company and participating public agencies.

13. Takeback and other Environmental Programs

a. Packaging Reduction & Recycling

Responders must describe any capabilities and options for reduced packaging, using recyclable materials, and takeback and recycle of packaging.

b. Environmental Certifications

For each product category proposed by the Responder in response to this RFP, the Responder must list any and all certifications received from the following third-party certification bodies: Blue Angel, EcoLogo, Green Guard, Nordic Swan, and TCO. In addition, Responders must identify any self-registration claims made based on standards from: Energy Star, EPEAT (with Bronze, Silver, or Gold registration level identified), or RoHS. Responders should use the chart on page 54 for this purpose.

All desktops, laptops, and computer monitors provided under the contracts resulting from this RFP are required to have achieved a minimum EPEAT Bronze registration. Strong preference and additional points will be given for products that have achieved EPEAT Silver or EPEAT Gold registration and for products that have had their EPEAT claims certified by an independent third-party.

Responders claiming products have been independently certified as meeting reputable environmental standards must provide proof of such certification.

Responders must describe how all certifications/registrations a unit carries are identified on their web site; keeping in mind that the long term goal of the WSCA/NASPO Directors is to have all product certifications listed by product on the website, as well as having labels on each piece of equipment or on each packing list.

The MMD, or any Purchasing Entity, reserves the right to require an independent audit be conducted to verify compliance of any certifications or self-registration environmental claims that are made by the Contractor. The Contractor will pay all costs if the product fails to meet the certification or self-registration requirements.

As additional standards/certifications are developed, Contractors will be required to meet those new standards/certifications. For instance, some States have already become members of the Climate Savers Computing initiative by purchasing high-efficiency systems. During the term of the contract it is envisioned that other States will also become members, thereby requiring the Contractors to manufacturer products that adhere to these efficiency levels.

c. Takeback/Recycling

Responders must provide and describe their Equipment takeback/recycling program by addressing each of the following:

- i. Identify the type of Equipment, LAN hardware and/or Peripherals for which takeback is available.
- ii. Describe takeback/recycling process (start to finish) from the perspective of the end user, including where the products are disposed of and what type of certification the end user can expect to receive guaranteeing the products were disposed of properly.
- iii. Describe your processes for data sanitization in accordance with DOD 5220.22-M Chapter 8, Clearing and Sanitization Procedures, including provision of certificates of lawful disposal.
- iv. List takeback charges or credits entities will receive, if any, by type of Equipment.
- v. Address compliance with the European Union's WEEE Directive requiring the recycle or reuse of old Equipment and compliance with federal or other regulatory authorities regarding disposal of electronic equipment.

d. Environmental Improvement Program

Responders must describe their Product environmental improvement program for products that have not yet received the applicable standards or certifications listed in 14b Environmental Certifications shown above. In addition Responders must describe their environmental efforts in each of the following areas: reduction/minimization/avoidance of the use of toxic and hazardous constituents (cadmium, chromium, mercury, and/or lead); compliance with international directives such as the European Union's WEEE Directive on reduction of chlorinated plastics (PVC) and brominated flame retardants.

f. Green Reporting

Responders must be willing to provide quarterly reports quantifying the number of EcoLogo, Energy Star, EPEAT, and TCO registered products purchased under an awarded contract at least by state. The information must be reported in a matrix providing the data shown in the example chart below, for the current quarter, the fiscal year, and the duration of the contract. Indicate your willingness to provide such reports to the multiple states.

Responders should identify by product category the third-party certification or self-registration program those products comply with. (Refer to Section IV, Paragraph 13b)

	Blue Angel	EcoLogo Certified	Energy Star Registered	EPEAT Specify Level	Green Guard	Nordic Swan	RoHs	TCO Certified
Desktops								
Laptops/notebook								
Monitors (LCD)								
Monitors (CRT)								
Printers								
MFPs								
PDAs								

14. Cost

Responders must complete the Price Configuration Forms found in Appendix B and C and submit them with their proposal. For the purpose of preparing the proposal, Responders are to assume that proposed Equipment configurations are delivered to and serviced in St. Paul, Minnesota.

If you are unable to match the specifications exactly, please provide your closest equivalent.

The total configuration price for the products listed in Appendix B must be based on the same initial base line discount structure listed in Section IV, Paragraph 9.

The total configuration price for the products listed in Appendix C must be based on the assumption that the Premium Savings Configurations will be used by a multiple number of Participating Entities. (Refer to Section IV, Paragraph 9c).

V. EVALUATION

A. EVALUATION POINT SUMMARY

The following is a summary of evaluation factors and the point value assigned to each. These weighted factors will be used in the evaluation of the individual Responder proposals. Only finalist Responders will receive points for their oral presentation and demonstration.

IV. Specifications	Points
1. Corporate Overview – (Paragraph B1)	150
2. Commitment to Specifications outlined in Paragraphs B2 – B5	390
3. References (Paragraph B6)	50
4. Rollout and Marketing Plan (Paragraph B7)	50
5. Website Demonstration (Paragraph B8)	100
6. Pricing Level and Guarantee (Para. B9)	120
7. Revised Price Agreement/Acceptance of Terms and Conditions (Para. B11 & Section II, Paragraph D1)	50
8. Takeback/Environmental Prog. (Para. B13)	150
9. Cost	940
Total	2000

As indicated above, points will be awarded based on the level of acceptance of the terms and conditions as specified in this RFP, including the Master Price Agreement shown in Appendix A. Acceptance of all terms and conditions will result in the award of the maximum points available. Responders should note that the MMD reserves the right to pursue negotiation on any exception taken. In the event that negotiated terms cannot be reached, the MMD reserves the right to reject the proposal. Responders should also note that the awarding of points does not automatically mean that the MMD has accepted the Responders proposed language.

B. EVALUATION PROCESS

During the evaluation process, all information concerning the responses submitted will remain private and will not be disclosed to anyone whose official duties do not require such knowledge.

Responses are private or nonpublic data until the completion of the evaluation process as defined by Minn. Stat. § 13.591. The completion of the evaluation process means that the State has completed negotiating the contract with the selected vendor. If no award is made the responses are not made public. The State will notify the unsuccessful Responders in writing that their responses have not been accepted.

1. All Responder proposals will be reviewed for compliance with the mandatory requirements stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The WSCA/NASPO Contract Administrator may contact the Responder for clarification of the response as specified in Section II, Paragraph B6.
3. The Evaluation Committee may use other sources of information to perform the evaluation as specified in Section II, Paragraph D17.
4. The Evaluation Committee may require the Responders to submit additional and/or supporting materials in accordance with Section II, Paragraph D25 and Paragraph D26
5. Responsive proposals will be evaluated on the factors in Section V that have been assigned a point value. The responsible Responders with the highest scores will be selected as finalist Responders based upon the proposals submitted. Finalist Responders who are asked or choose to submit revised proposals for the purpose of obtaining best and final offers will have their points recalculated accordingly. Points awarded from the oral presentations and demonstration will be added to the previously assigned points to attain final scores. The responsible Responder(s) whose proposal is most advantageous to NASPO and WSCA members, taking into consideration the evaluation factors in Section V, will be recommended for award to the MMD Procurement Manager, as specified in Section II, Paragraph B8. Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

APPENDIX A
WESTERN STATES CONTRACTING ALLIANCE
MASTER PRICE AGREEMENT
for
COMPUTER EQUIPMENT, PERIPHERALS, AND RELATED SERVICES

Number _____

This Agreement is made and entered into by _____
("Contractor") and the State of Minnesota, Department of Administration ("State") on behalf of the State of Minnesota, participating members of the National Association of State Procurement officials (NASPO), members of the Western States Contracting Alliance (WSCA) and other authorized Purchasing Entities.

RECITALS

WHEREAS, the State has the need to purchase and the Contractor desire to sell; and,

WHEREAS, the State has the authority to offer contracts to CPV members of the State of Minnesota and to other states.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

INTENT AND PURPOSE

The intent and purpose of this Agreement is to establish a contractual relationship with equipment manufacturers to provide, warrant, and offer maintenance services on **ALL** products proposed in their response to the RFP issued by the State of Minnesota. Delivery, support, warranty, and maintenance may be provided by the Contractor using subcontractors. The Contractor agrees to take legal responsibility for the warranty and maintenance of all products furnished under this Agreement. The Contractor is responsible for the timeliness and quality of all services provided by individual subcontractors. Subcontractor participation will be governed by individual Participating Entities, who have the sole discretion to determine if they will accept services from a subcontractor.

Individual Purchasing Entities may enter in to lease agreements for the products covered in this Master Price Agreement, if they have the legal authority to enter into these types of agreements without going through a competitive process, and if the Contractor submitted

copies of its lease agreements with its response to the RFP. The lease agreements were not be reviewed or evaluated as part of the RFP evaluation process. The agreements will be made available to any Purchasing Entity who wishes to negotiate a lease agreement with a Contractor by contacting the WSCA/NASPO Contract Administrator.

The Agreement is **NOT** for the purchase of major, large hardware or hardware and software offerings. In general, individual units/configurations for servers and storage (SANs, etc.) should not exceed \$300,000 each. Desktop per unit/configuration costs should not exceed \$100,000. Printers of all types and monitors per unit/configuration costs should not exceed \$50,000 each. It is the expressed intent of some of the Participating States to set this level at not to exceed \$25,000 each, or \$50,000. Contractors must be willing to comply with these restrictions by agreeing to supply products in those price ranges only. This **IS NOT** a restriction on how many units/configurations can be purchased, but on the value of each individual unit/configuration. Individual Participating States and Participating Entities may set specific limits in a participating addendum above these limits, with the prior approval of the WSCA Directors; or may set specific limits in a participating addendum below these limits.

Contractors may offer, but participating states and entities do not have to accept, limited professional services related **ONLY** to the equipment and configuration of the equipment purchased through the Agreement.

1. Definitions

“Announced Promotional Price” are prices offered nationally to specific categories of customers (Consumer, Business or government) for defined time periods under predefined terms and conditions.

“Consumables” those items that are required for the operation of the Equipment offered or supplied which are consumed over time with the purchaser’s use of the equipment are included – printer cartridges, batteries, projector bulbs, etc.

Consumables such as magnetic media, paper and generally available office supplies are excluded.

“Configuration” in most instances in this document means a total system configuration. This may include more than one model or part number (or SKU), or a combination of hardware, software, and configuring of the system to make the system work.

“Contract” means a binding agreement for the procurement of items of tangible personal property or services. Contract and Master Price Agreement are used interchangeably in this document.

“Contractor” means the successful Responder who enters into a binding Master Price Agreement. The Contractor is responsible for all sales, support, warranty, and maintenance services for the products included in this Agreement. The Contractor must manufacture or take direct, non-assignable, legal responsibility for the

manufacture of the equipment and warranty thereof. For the purposes of this Contract, the term Contractor and Contract Vendor are synonymous.

“CPV Member” is any governmental unit having independent policy making and appropriating authority, that is a member of Minnesota’s Cooperative Purchasing Venture (CPV) program.

“CPV Program.” The Cooperative Purchasing Venture (CPV) program, as established by Minn. Stat. § 16C.03, subd. 10, authorizes the commissioner of Administration to “enter into a cooperative purchasing agreement for the provision of goods, services, and utilities with [governmental entities] ..., as described in section 471.59, subdivision 1.” Based on this authority, the commissioner of Administration, through the Materials Management Division (MMD), enters into a joint powers agreement that designates MMD as the authorized purchasing agent for the governmental entity. It is not legal for governmental entities that are not members of the CPV program to purchase from a State contract. Vendors are free to respond to other solicitations with the same prices they offer under a contract, but that is not considered use of the “State contract price.”

“Cumulative Volume Discount” means a contractual, cumulative, permanent volume discount based on dollars resulting from the cumulative purchases by all governmental purchasers for the duration of the Master Price Agreement.

“Documentation” refers to manuals, handbooks, and other publications listed in the PSS, or supplied with products listed in the PSS, or supplied in connection with services. Documentation may be provided on magnetic media or may be downloaded from the Contractor’s web site.

“E-Rate” is a program sponsored by the Federal Communications Commission whereby educational and other qualifying institutions may purchase authorized technology at reduced prices.

“Educational Discount Price” means the price offered in a nationally announced promotion, which is limited to educational customers only.

“Equipment” means workstations, desktop, laptop (includes Tablet PC’s), handheld (PDA) devices, projectors, servers, printers, monitors, computing hardware, including upgrade components such as memory, storage drives, and spare parts. AUDIO VISUAL PRODUCTS (digital cameras, televisions, whiteboards, etc.) are NOT included in this RFP or subsequent contracts. The exception to this definition is whiteboards, which can be sold as part of the Instructional Bundles, but not as a stand-alone item.

“FCC” means the Federal Communications Commission or successor federal agency. In the event of deregulation, this term applies to one or more state regulatory agencies or other governing bodies charged to perform the same, or similar, role.

“General Price Reduction Price” means the price offered to consumer, business or governmental purchasers at prices lower than PSS pricing. General price reduction prices will be reflected in the PSS as soon as practical.

“Lead State” means the State conducting this cooperative solicitation and centrally administering any resulting Master Price Agreement(s). For this Master Price Agreement, the Lead State is Minnesota.

“Mandatory” The terms “must” and “shall” identify a mandatory item or factor.

“Manufacturer” means a company that, as its primary business function, designs, assembles, owns the trademark/patent and markets computer equipment including workstations, desktop computers, laptop (includes Tablet PC’s) computers, handheld (PDA) devices, servers, printers, and storage solutions/auxiliary storage devices. The manufacturer must provide direct un-infringed unlimited USA OEM warranties on the products. The manufacturer’s name(s) shall appear on the computer equipment. The Contractor(s) shall provide the warranty service and maintenance for equipment on a Master Price Agreement as well as a Takeback Program.

“Master Price Agreement” means the contract that MMD will approve that contains the foundation terms and conditions for the acquisition of the Contractor’s products and/or services by Purchasing Entities. The “Master Price Agreement” is a permissive price agreement. In order for a Purchase Entity to participate in a Master Price Agreement, the appropriate state procurement official or other designated procurement official must be a Participating State or Participating Entity.

“Materials Management Division” or “MMD” means the procurement official for the State of Minnesota or a designated representative.

“NASPO” means the National Association of State Procurement Officials

“Participating Addendum” or “Participating Addenda” means a bilateral agreement executed by the Contractor and a Participating State or political subdivision of a State that clarifies the operation of the price agreement for the State or political subdivision concerned, e.g. ordering procedures specific to a State or political subdivision and other specific language or other requirements. Terms and conditions contained in a Participating Addendum shall take precedence over the corresponding terms in the master price agreement. Additional terms and conditions, including but not limited to payment terms, may be added via the Participating Addendum. However, a Participating Addendum may not alter the scope of this Agreement or any other Participating Addendum. ***Unless otherwise specified, the Participating Addendum shall renew consecutively with the Master Price Agreement.*** One digitally formatted, executed copy of the Participating Addendum must be submitted to the WSCA/NASPO Contract Administrator PRIOR to any orders being processed.

“Participating State” or “Participating Entity” means a member of NASPO (Participating State) or a political subdivision of a NASPO member (Participating Entity) who has indicated its intent to participate by signing an Intent to Participate,

where required, or another state or political subdivision of another state authorized by the WSCA Directors to be a party to the resulting Master Price Agreement.

“PDA” means a Personal Digital Assistant and refers to a wide variety of handheld and palm-size PCs, and electronic organizers. PDA's usually can store phone numbers, appointments, and to-do lists. PDA's can have a small keyboard, and/or have only a special pen that is used for input and output. The PDA can also have a wireless fax modem. Files can be created on a PDA which is later entered into a larger computer. NOTE: For this procurement, all Tablet PC's are NOT considered PDA's. The Contractor(s) shall provide the warranty service and maintenance for equipment on a Master Price Agreement as well as a Takeback Program.

“Peripherals” means any product that can be attached to, added within, or networked with personal computers or servers, including but not limited to storage, printers (including multifunction network printers), scanners, monitors, keyboards, projectors, uninterruptible power supplies and accessories. Software, as defined in the RFP, is not considered a peripheral. Adaptive/Assistive technology devices are included as well as configurations for education. Peripherals may be manufactured by a third party, however, Contractor shall not offer any peripherals manufactured by another contractor holding a Master Price Agreement without the prior approval of the WSCA/NASPO Contract Administrator. AUDIO VISUAL PRODUCTS (digital cameras, televisions, whiteboards, etc.) are NOT included in the contract. The exception to this definition is whiteboards, which can be sold as part of the Instructional Bundles, but not as a stand-alone item. The Contractor(s) shall provide the warranty service and maintenance for equipment on a Master Price Agreement as well as a Takeback Program.

“Permissive Price Agreement” means that placement of orders through the Price Agreement is discretionary with Purchasing Entities. They may satisfy their requirements through the Price Agreement without using statutory or regulatory procedures (e.g., invitations for bids) to solicit competitive bids or proposals. Purchasing Entities may, however, satisfy requirements without using the Price Agreement as long as applicable procurement statutes and rules are followed.

“Per Transaction Multiple Unit Discount” means a contractual volume discount based on dollars in a single purchase order or combination of purchase orders submitted at one time by a Purchasing Entity or multiple entities conducting a cooperative purchase.

“Political Subdivision” means local public governmental subdivisions of a state, as defined by that state's statutes, including instrumentalities and institutions thereof. Political subdivisions include cities, counties, courts, public schools and institutions of higher education.

“Price Agreement/Master Price Agreement” means an indefinite quantity contract that requires the Contractor to furnish products or services to a Purchasing Entity that issues a valid Purchase Order.

“Procurement Manager” means the person or designee authorized by MMD to manage the relationships with WSCA, NASPO, and Participating States/Participating Entities.

“Product(s)” means personal computer equipment, peripherals, LAN hardware, pre-loaded Software, and Network Storage devices, but not unrelated services. The Contractor(s) shall provide the warranty service and maintenance for equipment on a Master Price Agreement as well as a Takeback Program.

“Products and Services Schedule Prices” or **“PSS”** refers to a complete list, grouped by major product and/or service categories, of the Products and services provided by the contractor that consists of an item number, item description and the Purchasing Entity's price for each Product or Service. All such Products and services shall be approved by the WSCA/NASPO Contract Administrator prior to being listed on a Contractor-supplied web site accessed via a URL. The Contractor(s) shall provide the warranty service and maintenance for all equipment listed on the PSS on a Master Price Agreement as well as a Takeback Program.

“Purchase Order” means an electronic or paper document issued by the Purchasing Entity that directs the Contractor to deliver Products or Services pursuant to a Price Agreement.

“Purchasing Entity” means a Participating State or another legal entity, such as a political subdivision, properly authorized by a Participating State to enter into a contract for the purchase of goods described in this solicitation. Unless otherwise limited by statute, in this solicitation or in a Participating Addendum, political subdivisions of Participating States are Purchasing Entities and authorized to purchase the goods and/or services described in this solicitation.

“Refurbished Products” are products that may have been powered on or used by another customer that have been fully retested, defective parts replaced, and repackaged to meet original factory specifications.

“Services” are broadly classed as installation/de-installation, maintenance, support, training, migration, and optimization of products offered or supplied under the Master Price Agreement. These types of services may include, but are not limited to: warranty services, maintenance, installation, de-installation, factory integration (software or equipment components), asset management, recycling/disposal, training and certification, pre-implementation design, disaster recovery planning and support, service desk/helpdesk, and any other directly related technical support service required for the effective operation of a product offered or supplied. General consulting and all forms of application development and programming services are excluded.

“Servicing Subcontractor/Subcontractor/Reseller Agent” means a Contractor authorized and state-approved subcontractor who may provide local marketing support or other authorized services on behalf of the Contractor in accordance with the terms

and conditions of the Contractor's Master Price Agreement. A wholly owned subsidiary or other company providing warranty or other technical support services qualifies as a Servicing Subcontractor. Local business partners may qualify as Servicing Subcontractors. Servicing Subcontractors may not directly accept Purchase Orders or payments for Products or Services from Purchasing Entities, unless otherwise provided for in a Participating Addendum. Servicing Subcontractors shall be named individually or by class in the Participating Addendum. **The Contractor(s) actually holding the Master Price Agreement shall be responsible for Servicing Subcontractor's providing products and services, as well as warranty service and maintenance for equipment the subcontractor has provided on a Master Price Agreement as well as the Takeback Program.**

"Standard Configurations" or **"Premium Savings Configurations"** means deeply discounted standard configurations that are available to Purchasing Entities using the Master Price Agreement only. Any entity, at any time, that commits to purchasing the standard configuration adopted by other Purchasing Entities shall receive the same price from the contract awardees. This specification includes a commitment to maintain and upgrade (keep pace with the advance of technology) the standard configurations for a stated period of time or intervals.

"State Procurement Official" means the director of the central purchasing authority of a state.

"Storage Solution/Auxiliary Storage" means the technology and equipment used for storage of large amounts of data or information. This includes technologies such as: Network Attached Storage (NAS) and Storage Area Networks (SAN). **The Contractor(s) shall provide the warranty service and maintenance for equipment on a Master Price Agreement as well as a Takeback Program.**

"Takeback Program" means the Contractor's process for accepting the return of the equipment or other products at the end of life—as determined by the State utilizing the Master Price Agreement.

"Trade In" refers to the exchange of used Equipment for new Equipment at a price reduced by the value of the used Equipment.

"Travel" means expenses incurred by authorized personnel directly related to the performance of a Service. All such expenses shall be documented in a firm quotation for the Purchasing Entity prior to the issuance and acceptance of a Purchase Order. Travel expenses will be reimbursed in accordance with the purchasing entities allowances, if any, as outlined in the PA.

"Universal Resource Locator" or "URL" means a standardized addressing scheme for accessing hypertext documents and other services using the WWW browser.

"WSCA" means the Western States Contracting Alliance, a cooperative group contracting consortium for state procurement officials, representing departments, institutions, agencies, and political subdivisions (i.e., colleges, school districts,

counties, cities, etc.) for the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming.

“WSCA/NASPO Contract Administrator” means the person or designee authorized by MMD to manage all actions related to the Master Price Agreements on behalf of the State of Minnesota, the participating NASPO and WSCA members, and other authorized purchasers.

2. Scope of Work

The Contractor, or its approved subcontractor, shall deliver computing system Products and services to Purchasing Entities in accordance with the terms of this agreement. This Agreement is a “Master Price Agreement”. Accordingly, the Contractor shall provide Products or Services only upon the issuance and acceptance by Contractor of valid “Purchase Orders”. Purchase Orders may be issued to purchase the license for software or to purchase products listed on the Contractor’s PSS. A Purchasing Entity may purchase any quantity of Product or Service listed in the Contractor’s PSS at the prices in accordance the Paragraph 13, Price Guarantees. Subcontractor participation is governed by the individual Participating State procurement official.

The Contractor is required to provide and/or agree to take legal responsibility for the warranty and maintenance of all proposed equipment, including peripherals. Taking legal responsibility means the Contractor must provide warranty and maintenance call numbers, accept, process and respond to those calls, and be legally liable for and pay for those warranty and maintenance (under warranty) activities The Contractor shall offer a Takeback Program for all products covered by this Agreement.

3. Title Passage

The Contractor must pass unencumbered title to any and all products purchased under this Contract upon receipt of payment by the State. This obligation on the part of the Contractor to transfer all ownership rights does not apply to proprietary materials owned or licensed by the Contractor or its subsidiaries, subcontractors or licensor, or to unmodified commercial software that is available to the State on the open market. Ownership rights to such materials shall not be affected in any manner by this Agreement

4. Permissive Price Agreement and Quantity Guarantee

This Agreement is not an exclusive agreement. Purchasing Entities may obtain computing system Products and services from other sources during the agreement term. The NMSPA, NASPO and WSCA make no express or implied warranties whatsoever that any particular number of Purchase Orders will be issued or that any particular quantity or dollar amount of Products or Services will be procured.

5. Order of Precedence

Each Purchase Order that is accepted by the Contractor shall become a part of the Agreement as to the Products and services listed on the Purchase Order only; no additional terms or conditions will be added to this Agreement as the result of acceptance of a Purchase

Order. The Contractor agrees to accept all valid Purchase Orders. In the event of any conflict among these documents, the following order of precedence shall apply:

- A. Executed Participating Addendum(s);
- B. Terms and conditions of this Agreement;
- C. Exhibits and amendments to this Agreement;
- D. The list of products and services contained in the purchase order;
- E. The request for proposals document 40-00064; and
- F. Contractor's proposal including best and final offer.

6. Payment Provisions

All payments under this Agreement are subject to the following provisions:

A. Acceptance

A Purchasing Entity shall determine whether all Products and services delivered meet the Contractor's published specifications. No payment shall be made for any Products or Services until the Purchasing Entity has accepted the Products or Services. The Purchasing Entity will make every effort to notify the Contractor in a timely manner of non-acceptance of a product or service.

B. Payment of Invoice

Payments shall be submitted to the Contractor at the address shown on the invoice, as long as the Contractor has exercised due diligence in notifying the State of Minnesota and/or the Purchasing Entity of any changes to that address. Minn. Stat. § 16A.124 requires payment within 30 days following receipt of an undisputed invoice, merchandise or service, whichever is later. The ordering entity is not required to pay the Contractor for any goods and/or services provided without a written purchase order or other approved ordering document from the appropriate purchasing entity. In addition, all goods and/or services provided must meet all terms, conditions, and specifications of the Contract and other ordering document and be accepted as satisfactory by the ordering entity before payment will be issued. Payments may be made via a Purchasing Entity's "Purchasing Card".

In the event an order is shipped incomplete (partial), the Purchasing Entity shall pay for each shipment as invoiced by the Contractor unless the Purchasing Entity has clearly specified "No Partial Shipments" on each Purchase Order.

C. Payment of Taxes

Payment of taxes for any money received under this agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's federal and state tax identification numbers. If a Purchasing Entity is not exempt from sales, gross receipts, or local option taxes for the transaction, the

Contractor shall be reimbursed by the Purchasing Entity to the extent of any tax liability assessed.

The State of Minnesota State agencies are subject to paying Minnesota sales and use taxes. Taxes for State agencies will be paid directly to the Department of Revenue using Direct Pay Permit #1114.

D. Invoices

Invoices shall be submitted to the Purchasing Entity at the address shown on the Purchase Order. Invoices shall match the line items on the Purchase Order.

7. Agreement Term

Pursuant to Minnesota law, the term of this Agreement shall be effective upon the date of final execution by the State of Minnesota, through August 31, 2012. The Agreement may be mutually renewed for two (2) additional one-year terms unless terminated pursuant to the terms of this Agreement.

8. Termination

The following provisions are applicable in the event that the agreement is terminated.

A. Termination for Convenience

At any time, the State may terminate this agreement, in whole or in part, by giving the Contractor (30) days written notice; provided, however, neither the State nor a Purchasing Entity has the right to terminate a specific purchase order for convenience after it has been issued if the product is ultimately accepted. At any time, the Contractor may terminate this Agreement, in whole or in part, by giving the WSCA/NASPO Contract Administrator sixty (60) days written notice. Such termination shall not relieve the Contractor of warranty or other Service obligations incurred under the terms of this Agreement. In the event of a cancellation, the Contractor shall be entitled to payment, determined on a pro rata basis, for work or services satisfactorily performed and accepted.

B. Termination for Cause

Either party may terminate this Agreement for cause based upon material breach of this Agreement by the other party, provided that the non-breaching party shall give the breaching party written notice specifying the breach and shall afford the breaching party a reasonable opportunity to correct the breach. If within thirty (30) days after receipt of a written notice the breaching party has not corrected the breach or, in the case of a breach that cannot be corrected in thirty (30) days, begun and proceeded in good faith to correct the breach, the non-breaching party may declare the breaching party in default and terminate the Agreement effective immediately. The non-breaching party shall retain any and all other remedies available to it under the law.

C. A Purchasing Entity's Rights

In the event this Agreement expires or is terminated for any reason, a Purchasing Entity shall retain its rights in all Products and services accepted prior to the effective termination date.

D. The Contractor's Rights

In the event this Agreement expires or is terminated for any reason, a Purchasing Entity shall pay the Contractor all amounts due for Products and services ordered and accepted prior to the effective termination date or ordered before the effective termination date and ultimately accepted.

9. Non-Appropriation

The terms of this Agreement and any purchase order issued for multiple years under this Agreement is contingent upon sufficient appropriations being made by the Legislature or other appropriate governing entity. Notwithstanding any language to the contrary in this Agreement or in any purchase order or other document, a Purchasing Entity may terminate its obligations under this Agreement, if sufficient appropriations are not made by the governing entity at a level sufficient to allow for payment of the goods or services due for multiple year agreements, or if operations of the paying entity are being discontinued. The Purchasing Entity's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final and binding.

A Purchasing Entity shall provide sixty (60) days notice, if possible, of its intent to terminate for reason cited above. Such termination shall relieve the Purchasing Entity, its officers and employees from any responsibility or liability for the payment of any further amounts under the relevant Purchase Order.

10. Shipment and Risk of Loss

A. All deliveries shall be F.O.B. destination, prepaid and allowed, with all transportation and handling charges included in the price of the product and paid by the Contractor. Responsibility and liability for loss or damage shall remain the Contractor until final inspection and acceptance when responsibility shall pass to the Purchasing Entity except as to latent defects, fraud and Contractor's warranty obligations.

B. Whenever a Purchasing Entity does not accept Products and returns them to the Contractor, all related documentation furnished by the Contractor shall be returned also. Unless otherwise agreed upon by the Purchasing Entity, the Contractor is responsible for the pick-up of returned Products. The Contractor shall bear all risk of loss or damage with respect to returned Products except for loss or damage directly attributable to the negligence of the Purchasing Entity.

C. Unless otherwise arranged between the Purchasing Entity and Contractor, all Products shall be shipped within ____ to ____ days after receipt of a purchase order, by a reliable and insured shipping company.

11. Warranties

A. The Contractor agrees to warrant and assume responsibility for each Product that it licenses, or sells, to the Purchasing Entity under this Agreement. The Contractor agrees to take legal responsibility for the warranty and maintenance of all products furnished through this Agreement. Taking legal responsibility means the Contractor must provide warranty and maintenance call numbers, accept, process, and respond to those calls, and be legally liable for and pay for those warranty and maintenance (under warranty) activities. The Contractor acknowledges that the Uniform Commercial Code applies to this Agreement. In general, the Contractor warrants that:

1. The Product conform to the specific technical information about the Contractor's products which is published in the Contractor's product manuals or data sheets.
2. The product will meet mandatory specifications provided in writing to the Contractor prior to reliance by the Participating Entity on the Contractor's skill or judgment when it advised the Purchasing Entity about the Product's ability to meet those mandatory specifications.
3. The Product will be suitable for the ordinary purposes for which such Product is used,
4. The Product has been properly designed and manufactured for its intended use, and
6. The Product is free of significant defects in material and workmanship, or unusual problems about which the Purchasing Entity has not been warned.
7. Exhibit A contains additional warranties in effect as of the date of this Agreement. The warranties will be limited in duration to the time period(s) provided in Exhibit A. The warranties will not apply to use of a Product other than as anticipated and intended by the Contractor, to a problem arising after changes or modifications to the Products or operating system by any party other than the Contractor (unless expressly authorized in writing by the Contractor), or the use of a Product in conjunction or combination with other products or software not authorized by the Contractor. The following is a list of the warranties attached as **Exhibit A**:
 - a) **(Insert title)**
 - b) **(Insert title)**
 - c) **(Insert title)**

B. Contractor may modify the warranties described in Exhibit A from time to time with the prior approval of the WSCA/NASPO Contract Administrator.

C. Warranty documents for Products manufactured by a third party shall be delivered to the Purchasing Entity with the Products.

12. Patent, Copyright, Trademark and Trade Secret Indemnification

- A. The Contractor shall defend, at its own expense, the State of Minnesota, Participating and Purchasing Entities and their agencies against any claim that any Product or Service provided under this Agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against a Purchasing Entity based upon the Contractor's trade secret infringement relating to any Product or Service provided under this Agreement, the Contractor agrees to reimburse the Lead State for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the Lead State or Participating or Purchasing Entity shall:
1. Give the Contractor prompt written notice of any claim;
 2. Allow the Contractor to control the defense or settlement of the claim; and
 3. Cooperate with the Contractor in a reasonable way to facilitate the defense or settlement of the claim.
- B. If any Products or Service becomes, or in the Contractor's opinion is likely to become the subject of a claim of infringement, the Contractor shall at its option and expense:
1. Provide a Purchasing Entity the right to continue using the Products or Services;
 2. Replace or modify the Products or Services so that it becomes non-infringing; or
 3. Accept the return of the Products or Service and refund an amount equal to the depreciated value of the returned Products or Service, less the unpaid portion of the purchase price and any other amounts, which are due to the contractor. The Contractor's obligation will be void as to any Products or Services modified by the Purchasing Entity to the extent such modification is the cause of the claim.
- C. The Contractor has no obligation for any claim of infringement arising from:
1. The Contractor's compliance with the Purchasing Entity's or by a third party on the Purchasing Entity's behalf designs, specifications, or instructions;
 2. The Contractor's use of technical information or technology provided by the Purchasing Entity;
 3. Product modifications by the Purchasing Entity or a third party;
 4. Product use prohibited by Specifications or related application notes; or

5. Product use with products that are not the Contractor branded.

13. Price Guarantees

The Purchasing Entities shall pay the lower of the prices contained in the PSS or an Announced Promotion Price, Educational Discount Price, General Price Reduction price, Trade-In price, Standard Configuration price or Per Transaction Multiple Unit Discount. Only General Price Reduction price decreases will apply to all subsequent Purchase Orders accepted by Contractor after the date of the issuance of the General Price Reduction prices.

The initial base-line, Cumulative, and Per Transaction Multiple Unit Discounts shall be submitted by the Contractor in a format agreeable to both parties prior to signing the Agreement. Once a cumulative volume has been reached, the increased price discount will apply to all future orders, until the next level of cumulative volume is reached.

14. Product and Service Schedule

The Contractor agrees to maintain the PSS in accordance with the following provisions:

- A. The PSS prices for Products and services will conform to the guaranteed prices discount levels on file with WSCA/NASPO Contract Administrator for the following Products:

Insert appropriate Bands awarded.
- B. The Contractor may change the price of any Product or Service at any time, based upon documented baseline price changes, but the guaranteed price discount levels shall remain unchanged during the agreed period unless or until prior approval is obtained from the WSCA/NASPO Contract Administrator. The Contract agrees that the PSS on the State's administration website shall contain a single, uniform WSCA price for configurations and items. Failure to comply with this requirement will be grounds for further action to be taken against the Contractor.
- C. The Contractor may make model changes; add new Products, and Product upgrades or Services to the PSS in accordance with Item 15. Product Substitutions, below. The pricing for these changes shall incorporate, to the extent possible, comparable price discount levels approved by the WSCA/NASPO Contract Administrator for similar Products or Services.
- D. The Contractor agrees to delete obsolete and discontinued Products from the PSS on a timely basis.
- E. The Contractor shall maintain the PSS on a Contractor supplied Internet web site.

15. Product Substitutions

A. Substitution of units/configurations

MMD and the WSCA Directors acknowledge that individual units and configurations may stop being produced during the life of the resulting contracts. Substitution of different units and configurations will be permitted with the prior written approval of the WSCA/NASPO Contract Administrator. This substitution is at the sole discretion of the WSCA/NASPO Contract Administrator, subject only to review and approval of the WSCA/NASPO Contract Administrator.

B. Addition of units/configurations

MMD and the WSCA Directors acknowledge that with the evolution of technology, new, emerging units and configurations will develop. Addition of these new, emerging units may be permitted, with the prior approval of the WSCA/NASPO Contract Administrator and the WSCA Directors. The addition of new, emerging units and configurations is at the sole discretion of the WSCA/NASPO Contract Administrator, subject only to review and approval of the WSCA Directors.

16. Technical Support

The Contractor agrees to maintain a toll-free technical support telephone line. The line shall be accessible to Purchasing Entity personnel who wish to obtain competent technical assistance regarding the installation or operation of Products supplied by the Contractor during a product warranty period or during a support agreement.

17. Takeback and Other Environmental Programs

The Contractor agrees to maintain for the term of this Agreement, and all renewals/extensions thereof, programs as described in the following paragraphs.

A. Takeback/Recycling of CPUs, servers, monitors, flat panel displays, notebook computers, and printers. Costs are list on the web site.

B. Environment: Compliance with the following standards: Blue Angel, EcoLogo, Energy Star, EPEAT (by level), Green Guard, Nordic Swan, and TCO.

C. Product labeling of compliance with Items B & C above, as well as a identification of such information on the web site.

18. Product Delivery

Contractor agrees to deliver Products to Purchasing Entities within (insert number of days) (X) days after receipt of a valid Purchase Order, or in accordance with the schedule in the Purchasing Entity's Purchase Order.

19. Force Majeure

Neither party hereto shall be considered in default in the performance of its obligations hereunder to the extent that performance of any such obligations is prevented or delayed by acts of God, war, riot or other catastrophes beyond the reasonable control of the party unless the act or occurrence could have been reasonably foreseen and reasonable action could have been taken to prevent the delay or failure to perform. A party defaulting under this provision must provide the other party prompt written notice of the default and take all necessary steps to bring about performance as soon as practicable.

20. Records and Audit

Per Minn. Stat. § 16C.05, Subd. 5, the books, records, documents, and accounting procedures and practices of the Contractor and its employees, agents, or subcontractors relevant to the Contract or transaction must be made available and subject to examination by the contracting agency or its agents, the Legislative Audit and/or the State Auditor for a minimum of six years after the end of the Contract or transaction.

Unless otherwise required by other than Minnesota Purchasing Entity governing law, such records relevant to other Purchasing Entity transactions shall be subject to examination by appropriate government authorities for a period of three years from the date of acceptance of the Purchase Order.

21. Independent Contractor

The Contractor and its agents and employees are independent contractors and are not employees of the State of Minnesota or of any participating entity. The Contractor has no authorization, express or implied to bind the Lead State, NASPO, WSCA or any participating entity to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for the Lead State, NASPO, WSCA, or participating entity, except as expressly set forth herein. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the Lead State or Participating Entity as a result of this Agreement.

22. Use of Servicing Subcontractors

The Contractor may subcontract services and purchase order fulfillment and/or support in accordance with the following paragraphs. However, the Contractor shall remain solely responsible for the performance of this Agreement.

- A. Reseller Agent, Service Provider or Servicing Subcontractors shall be identified individually or by class in the applicable Participating Addendum, or as noted in the Participating Addendum on the Purchasing Entities extranet site. The ordering and payment process for Products or Services shall be defined in the Participating Addendum.

23. Payments to Subcontractors

In the event the Contractor hires subcontractors to perform all or some of the duties of this Contract, the Contractor understands that in accordance with Minn. Stat. § 16A.1245 the Contract shall, within ten (10) days of the Contractor's receipt of payment from the State, pay all subcontractors and suppliers having an interest in the Contract their share of the payment for undisputed services provided by the subcontractors or suppliers. The Contractor is required to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid, undisputed balance of \$100 or more will be \$10. For an unpaid balance of less than \$100, the amount will be the actual penalty due. A subcontract that takes civil action against the Contractor to collect interest penalties and prevails will be entitled to its costs and disbursements, including attorney's fees that were incurred in bringing the action. The Contractor agrees to take all steps necessary to comply with said statute. A consultant is a subcontractor under this Contract. In the event the Contractor fails to make timely payments to a subcontractor, the State may, at its sole option and discretion, pay a subcontractor or supplier any amounts due from the Contractor and deduct said payment from any remaining amounts due the Contractor. Before any such payment is made to a subcontractor or supplier, the State shall provide the Contractor written notice that payment will be made directly to a subcontractor or supplier. If there are not remaining outstanding payments to the Contractor, the State shall have no obligation to pay or to see to the payment of money to a subcontractor except as may otherwise be required by law.

The Contractor shall ensure that the subcontractor transfers all intellectual or industrial property rights, including but not limited to any copyright it may have in the work performed under this Contract, consistent with the intellectual property rights and ownership sections of this Contract. In the event the Contractor does not obtain the intellectual property rights of the subcontractor consistent with the transfer of rights under this Contract, the State may acquire such rights directly from the subcontractor. Any and all costs associated with such a direct transfer may be deducted from any amount due the Contractor.

24. Indemnification, Hold Harmless and Limitation of Liability

The Contractor shall indemnify, protect, save and hold harmless the Lead State, Participating Entities, and its representatives and employees, from any and all claims or causes of action, including all legal fees incurred by the State arising from the performance of the Contract by the Contractor or its agents, employees, or subcontractors. This clause shall not be construed to bar any legal remedies the Contractor may have with the State's or Participating Entities' failure to fulfill its obligations pursuant to the Contract.

The State agrees that the Contractor, its principals, members and employees shall not be liable to the State for any actions, damages, claims, liabilities, costs, expenses, or losses in any way arising out of or relating to the goods provided or services

performed hereunder for an aggregate amount in excess of \$10,000,000 or the Contract amount, whichever is greater. This limitation of liability does not apply to damages for personal injury or death, or to Contractor's obligation to indemnify, defend and hold the State harmless against intellectual property infringement or copyright claims under paragraph 12 of this Agreement. This indemnification does not include liabilities caused by the State's gross negligence, or intentional wrong doing of the State.

25. Amendments

Contract amendments shall be negotiated by the State with the Contractor whenever necessary to address changes in the terms and conditions, costs, timetable, or increased or decreased scope of work. This Agreement shall be amended only by written instrument executed by the parties. An approved Contract amendment means one approved by the authorized signatories of the Contractor and the State as required by law.

26. Scope of Agreement

This Agreement incorporates all of the agreements of the parties concerning the subject matter of this Agreement. No prior agreements, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

27. Severability

If any provision of this Contract, including items incorporated by reference, is found to be illegal, unenforceable, or void, by a court of competent jurisdiction then both the State and the Contractor shall be relieved of all obligations arising under such provision. If the remainder of this Contract is capable of performance, it shall not be affected by such declaration or finding and shall be fully performed.

28. Enforcement of Agreement/Waivers

- A. No covenant, condition, duty, obligation, or undertaking contained in or made a part of this Contract shall be waived except by the written consent of the parties. Forbearance or indulgence in any form or manner by either party in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed, or discharged by the other party. Until complete performance or satisfaction of all such covenants, conditions, duties, obligations, and undertakings, the other party shall have the right to invoke any remedy available under law or equity, notwithstanding any such forbearance or indulgence.
- B. Waiver of any breach of any provision of this Contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Contract shall be held to be waived, modified, or deleted except by an instrument, in writing, signed by the parties hereto.
- C. Neither party's failure to exercise any of its rights under this Contract will

constitute or be deemed a waiver or forfeiture of those rights.

29. Web Site Maintenance

- A. The Contractor agrees to maintain and support an Internet website linked to the State's administration website for access to the PSS, service selection assistance, problem resolution assistance, billing concerns, configuration assistance, Product descriptions, Product specifications and other aids described in the RFP, and/or in accordance with instructions provided by the WSCA/NASPO Contract Administrator. The Contractor agrees that the approved PSS on the State's administration website shall contain a single, uniform WSCA price for configurations and items. Failure to comply with this requirement will be grounds for further action to be taken against the Contractor.
- B. The Contractor agrees to maintain and support Participating State and Entity Internet websites for access to the specific Participating Entity PSS, as well as all other items listed in Item 29A. above. The website shall have the ability to hold quotes for 45 days, as well as the ability to change the quote.
- C. The Contractor may provide electronic commerce assistance for the electronic submission of Purchase Orders, purchase order tracking and reports.
- D. Once the website is approved, the Contractor may not make changes to the website without notifying the WSCA/NASPO Contract Administrator and receiving written approval of the changes.

30. Equal Opportunity Compliance

The Contractor agrees to abide by all applicable laws, regulations, and executive orders pertaining to equal employment opportunity, including federal laws and the laws of the state in which its primary place of business is located. In accordance with such laws, regulations, and executive orders, the Contractor agrees that no person in the United States shall, on the grounds of race, color, religion, national origin, sex, age, veteran status or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed by the contractor under this Agreement. If the Contractor is found to be not in compliance with these requirements during the life of this Agreement, the Contractor agrees to take appropriate steps to correct these deficiencies.

The Contractor certifies that it will remain in compliance with Minn. Stat. § 363.073 during the life of the Contract.

31. Governing Law

This Agreement shall be governed and construed in accordance with the laws of the Lead State. The construction and effect of any Participating Addendum or order against this Agreement shall be governed by and construed in accordance with the laws of the Purchasing Entity's state. Venue for any claim, dispute or action

concerning the construction and effect of the Agreement shall be in the Lead State. Venue for any claim, dispute or action concerning an order placed against this Agreement or the effect of a Participating Addendum or shall be in the Purchasing Entity's state.

32. Change in Contractor Representatives

Contractor shall appoint a primary representative to work with the WSCA/NASPO Contract Administrator to maintain, support and market this Agreement. The Contractor shall notify the WSCA/NASPO Contract Administrator of changes in any Contractor key personnel, in writing, and in advance if possible. The State reserves the right to require a change in Contractor's then-current primary representative if the assigned representative is not, in the opinion of the State, adequately serving the needs of the Lead State and the Participating Entities.

33. Release

The Contractor, upon final payment of the amount due under this Agreement, releases the Lead State and Participating Entities, its officers and employees, from all contractual liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to purport to bind the Lead State or any Participating Entity to any obligation, unless the Contractor has express written authority to do so, and then only within the strict limits of the authority.

34. Data Practices

- A. The Contractor and the State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13 (and where applicable, if the state contracting party is part of the judicial branch, with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time) as it applies to all data provided by the State to the Contractor and all data provided to the State by the Contractor. In addition, the Minnesota Government Data Practices Act applies to all data created, collected, received, stored, used, maintained or disseminated by the Contractor in accordance with this Contract that is private, nonpublic, protected nonpublic, or confidential as defined by the Minnesota Government Data Practices Act, Ch. 13 (and where applicable, that is not accessible to the public under the Rules of Public Access to Records of the Judicial Branch).
- B. In the event the Contractor receives a request to release the data referred to in this article, the Contractor must immediately notify the State. The State will give the Contractor instructions concerning the release of the data to the requesting party before the data is released. The civil remedies of Minn. Stat. § 13.08, apply to the release of the data by either the Contractor or the State.
- C. The Contractor agrees to indemnify, save, and hold the State of Minnesota, its agents and employees, harmless from all claims arising out of, resulting from,

or in any manner attributable to any violation of any provision of the Minnesota Government Data Practices Act (and where applicable, the Rules of Public Access to Records of the Judicial Branch), including legal fees and disbursements paid or incurred to enforce this provision of the Contract. In the event that the Contractor subcontracts any or all of the work to be performed under the Contract, the Contractor shall retain responsibility under the terms of this paragraph for such work.

35. Organizational Conflicts of Interest

- A. The Contractor warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are not relevant facts or circumstances which could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons:
- a Contractor is unable or potentially unable to render impartial assistance or advice to the State;
 - the Contractor's objectivity in performing the work is or might be otherwise impaired; or
 - the Contractor has an unfair competitive advantage.
- B. The Contractor agrees that if an organizational conflict of interest is discovered after award, an immediate and full disclosure in writing shall be made to the Assistant Director of the Department of Administration's Materials Management Division that shall include a description of the action the Contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the State may, at its discretion, cancel the Contract. In the event the Contractor was aware of an organizational conflict of interest prior to the award of the Contract and did not disclose the conflict to the WSCA/NASPO Contract Administrator, the State may terminate the Contract for default. The provisions of this clause shall be included in all subcontracts for work to be performed, and the terms "Contract," "Contractor," and "WSCA/NASPO Contract Administrator" modified appropriately to preserve the State's rights.

36. Replacement Parts

Unless otherwise restricted in a Participating Addendum or maintenance service agreement, replacement parts may be manufacturer-certified refurbished parts carrying USA OEM warranties.

37. FCC Certification

The Contractor agrees that Equipment supplied by the Contractor meets all applicable FCC Certifications. Improper, falsely claimed or expired FCC certifications are grounds for termination of this Agreement for cause.

38. Site Preparation

A Purchasing Entity shall prepare and maintain its site in accordance with written instructions furnished by the Contractor prior to the scheduled delivery date of any Products and shall bear the costs associated with the site preparation.

39. Assignment

The Contractor shall not sell, transfer, assign, or otherwise dispose of this Contract or any portion hereof or of any right, title, or interest herein without the prior written consent of the State's authorized agent. Such consent shall not be unreasonably withheld. The Contractor shall give written notice to the State's authorized agent of such a possibility at least 30 days prior to the sale, transfer, assignment, or other disposition of this Contract. Failure to do so may result in the Contractor being held in default. This consent requirement includes reassignment of this Contract due to a change in ownership, merger, or acquisition of the Contractor or its subsidiary or affiliated corporations. This section shall not be construed as prohibiting the Contractor's right to assign this Contract to corporations to provide some of the services hereunder. Notwithstanding the foregoing acknowledgment, the Contractor shall remain solely liable for all performance required and provided under the terms and conditions of this Contract.

40. WSCA/NASPO Contract Administrator

The State shall appoint an WSCA/NASPO Contract Administrator whose duties shall include but not be limited to the following:

- A. The WSCA/NASPO Contract Administrator may provide instructions concerning the contents of the Contractor's website.
- B. The WSCA/NASPO Contract Administrator will facilitate dispute resolution between the Contractor and Purchasing Entities. Unresolved disputes shall be presented to the State for resolution.
- C. The WSCA/NASPO Contract Administrator shall promote and support the use of this Agreement by NASPO members and other Participating Entities.
- D. The WSCA/NASPO Contract Administrator shall advise the State regarding the Contractor's performance under the terms and conditions of this Agreement.
- E. The WSCA/NASPO Contract Administrator shall receive and approve quarterly price agreement utilization reports and the administration fee payments.
- F. The WSCA/NASPO Contract Administrator shall periodically verify the Product and Service prices in the PSS conform to the Contractor's volume price and other guarantees. The WSCA/NASPO Contract Administrator may require the Contractor to perform web site audits to accomplish this task.
- G. The WSCA/NASPO Contract Administrator shall conduct annual Contractor performance reviews.

H. The WSCA/NASPO Contract Administrator shall maintain an Agreement administration website containing timely and accurate information.

41. Survival

The following rights and duties of the State and Contractor will survive the expiration or cancellation of the resulting Contract. These rights and duties include, but are not limited to Paragraph 12. Patent, Copyright, Trademark and Trade Secret Indemnification; Paragraph 20. Records and Audit; Paragraph 24. Indemnification, Hold Harmless, and Limitation of Liability; Paragraph 32, Governing Law; Paragraph 35. Data Practices; and Paragraph 52. Right to Publish.

42. Succession

This Agreement shall be entered into and be binding upon the successors and assigns of the parties.

43. Notification

A. If one party is required to give notice to the other under the Contract, such notice shall be in writing and shall be effective upon receipt. Delivery may be by certified United States mail or by hand, in which case a signed receipt shall be obtained. A facsimile transmission shall constitute sufficient notice, provided the receipt of the transmission is confirmed by the receiving party. Either party must notify the other of a change in address for notification purposes. All notices shall be addressed as follows:

To MMD:

Department of Administration
Materials Management Division
Bernadette Kopischke, CPPB
Acquisitions Supervisor
50 Sherburne Avenue
112 State Administration Building
St. Paul, MN 55155
Fax: 651.297.3996
Email: bernie.kopischke@state.mn.us

44. Reporting and Fees

A. Administration Reporting and Fees

1. The Contractor agrees to provide monthly utilization reports to the WSCA/NASPO Contract Administrator by the 15th of the month following the end of the previous month. (Ex. Purchases during January are reported by the 15th of February; purchases made during February are reported by the 15th of March; etc.). The report shall be in the format developed by the Lead State and supplied to the Contractor prior to or upon execution of the Contract.

2. The Contractor agrees to provide quarterly Administrative Fee check payable to WSCA/NASPO for an amount equal to one-twentieth of one percent (0.0005) of the net sales for the period. The form to be submitted with the check, as well as the mailing address, will be supplied to the Contractor after the execution of the Contract. Payment shall be made in accordance with the following schedule:

<u>Period End</u>	<u>Report Due</u>
June 30	July 31
September 30	October 31
December 31	January 31
March 31	April 30

3. The Contractor agrees to include all Reseller Agent sales in the monthly utilization reports described above. In addition, the Contractor agrees to provide a supplemental Reseller Agent utilization report of the net sales for the period subtotaled by Purchasing Entity name, within Purchasing Entity state name by Reseller Agent Name.
4. The Contractor agrees to provide with the utilization report a supplemental report of the number and type of units taken back in a format to be mutually agreed to.
5. The utilization reports shall be submitted to the WSCA/NASPO Contract Administrator via electronic mail in a Microsoft Excel spreadsheet format, or other methods such as direct access to Internet or other databases.
6. If requested by the WSCA/NASPO Contract Administrator, the Contractor agrees to provide supporting Purchase Order detail records on mutually agreed magnetic media in a mutually agreed format. Such request shall not exceed twelve per year.
7. The failure to file the utilization reports and fees on a timely basis shall constitute grounds for the removal of the Contractor's primary representative, suspension of this Agreement or termination of this Agreement for cause.
8. The WSCA/NASPO Contract Administrator shall be allowed access to all reports from all Purchasing Entities.

B. Participating Entity Reports and Fees

1. Participating Entities may require an additional fee be paid directly to the State on purchases made by Purchasing Entities within that State. For all such requests, the fee level, payment method and schedule for such reports and payments shall be incorporated in to the Participating Addendum that is made a part of this Agreement. The Contractor may adjust PSS pricing accordingly for purchases made by Purchasing

Entities within the jurisdiction of that State. All such agreements shall have no affect whatsoever on the WSCA fee or the prices paid by the Purchasing Entities outside the jurisdiction of the State requesting the additional fee.

2. Purchasing Entities will be encouraged to use the reporting format developed by the lead State for their reporting needs. However, the Contractor agrees to provide additional reports to Purchasing Entities upon agreement by both parties as to the content and delivery methods of the report. Methods of delivery may include direct access to Internet or other databases.
3. Each State Purchasing Entity shall be allowed access to reports from all entities within that State.

45. Default and Remedies

- A. Any of the following shall constitute cause to declare this Agreement or any order under this Agreement in default:
 1. Nonperformance of contractual requirements; or
 2. A material breach of any term or condition of this Agreement.
- B. A written notice of default, and an opportunity to cure, shall be issued by the party claiming default, whether the Lead State (in the case of breach of the entire Agreement), a Participating Entity (in the case of a breach of the participating addendum), the Purchasing Entity (with respect to any order), or the Contractor. Time allowed for cure shall not diminish or eliminate any liability for liquidated or other damages.
- C. If the default remains after the opportunity for cure, the non-defaulting party may:
 1. Exercise any remedy provided by law or equity;
 2. Terminate the Agreement, a Participating Addendum, or any portion thereof, including any Purchase Orders issued against the Agreement;
 3. Impose liquidated damages, as specified in a Participating Addendum;
 4. In the case of default by the Contractor, and to the extent permitted by the law of the Participating State or Purchasing Entity, suspend Contractor from receiving future solicitations.
 5. Charge the defaulting Contractor the full increase in cost and administrative handling to purchase the product or service from another Contractor.
- D. The MMD reserves the right, upon approval of the WSCA Directors, to develop and implement a step-by-step process to deal with Contractor failure to perform issues.

46. Audits

- A. The Contractor agrees to assist the WSCA/NASPO Contract Administrator or designee with web site Product and pricing audits based on mutually acceptable procedures.
 - 1. The product audit will closely monitor the products and services listed on the website to insure they comply with the approved products and services. The addition of products or services not approved by the WSCA/NASPO Contract Administrator will not be tolerated and may be considered a material breach of this Agreement.
- B. Upon request, the Contractor agrees to assist Participating Entities with invoice audits to ensure that the Contractor is complying with this Agreement in accordance with mutually agreed procedures set forth in the Participating Addendum.

47. Extensions

If specifically authorized by provision in a Participating Addendum, Contractor may, at the sole discretion of Contractor and in compliance with the laws of the Participating State, offer Products and services to non-profit organizations, private schools, Native American governmental entities, government employees and students within the governmental jurisdiction of the entity completing the Participating Addendum with the understanding that the governmental entity has no liability whatsoever concerning payment for products or services.

48. Sovereign Immunity

The State does not waive its sovereign immunity by entering into this Contract and fully retains all immunities and defenses provided by law with regard to any action based on this Contract.

49. Ownership

- A. **Ownership of Documents/Copyright.** Any reports, studies, photographs, negatives, databases, computer programs, or other documents, whether in tangible or electronic forms, prepared by the Contractor in the performance of its obligations under the Contract and paid for by the State shall be the exclusive property of the State and all such material shall be remitted to the State by the Contractor upon completion, termination or cancellation of the Contract. The Contractor shall not use, willingly allow or cause to allow such material to be used for any purpose other than performance of the Contract's obligations under the Contract without the prior written consent of the State.
- B. **Rights, Title and Interest.** All rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trade marks, and service marks in the said documents that the Contractor conceives or originates, either individually or jointly with others, which arise out of the

performance of the Contract, will be the property of the State and are, by the Contract, assigned to the State along with ownership of any and all copyrights in the copyrightable material. The Contractor also agrees, upon the request of the State, to execute all papers and perform all other acts necessary to assist the State to obtain and register copyrights on such materials. Where applicable, works of authorship created by the Contractor for the State in performance of the Contract shall be considered "works for hire" as defined in the U.S. Copyright Act.

50. Prohibition Against Gratuities

- A. The State may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this Contract if it is found by the State that gratuities in the form of entertainment, gifts, or otherwise were offered or given by the Contractor or any employee, agent, or representative of the Contractor to any officer or employee of the State with a view toward securing this Contract, or securing favorable treatment with respect to the award or amendment of this Contract, or the making of any determinations with respect to the performance of this Contract.
- B. The Contractor certifies that no elected or appointed official or employee of the State has benefited or will benefit financially or materially from this Contract. This Contract may be terminated by the State if it is determined that gratuities of any kind were either offered to or received by any of the aforementioned individuals from the Contractor, its agent, or its employees.

51. Antitrust

The Contractor hereby assigns to the State any and all claims for overcharges as to goods and/or services provided in connection with this Contract resulting from antitrust violations which arise under antitrust laws of the United States and the antitrust laws of the State.

52. Right to Publish

- A. Any publicity given to the program, publications or services provided resulting from the Contract, including but not limited to notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Contractor, or its employees individually or jointly with others, or any subcontractors or resellers shall identify the State as the sponsoring agency and shall not be released, unless such release is a specific part of an approved work plan included in the Contract prior to its approval by the WSCA/NASPO Contract Administrator.
- B. The Contractor shall not make any representations of the State's opinion or position as to the quality or effectiveness of the products and/or services that are the subject of this Contract without the prior written consent of the WSCA/NASPO Contract Administrator. Representations include any publicity,

including but not limited to advertisements, notices, press releases, reports, signs, and similar public notices.

53. Performance While Dispute is Pending

Notwithstanding the existence of a dispute, the parties shall continue without delay to carry out all of their responsibilities under this Contract that are not affected by the dispute. If a party fails to continue without delay to perform its responsibilities under this Contract, in the accomplishment of all undisputed work, any additional cost incurred by the other parties as a result of such failure to proceed shall be borne by the responsible party.

54. Hazardous Substances

To the extent that the goods to be supplied to the Purchasing Entity by the Contractor contain or may create hazardous substances, harmful physical agents as set forth in applicable State and federal laws and regulations, the Contractor must provide the Purchasing Entity, upon request, with Material Safety Data Sheets regarding those substances (including mercury).

55. Customer Satisfaction/Complaint Resolution

- A. The Contractor's process for resolving complaints concerning products, support, and billing problems is attached as **Exhibit B**.
- B. The Contractor will survey its customers in each Participating State approximately two (2) months prior to the annual meeting with the Contract Administrator using, at a minimum, the survey questions provided by the State.

56. Value Added Services

The Contractor is expected to provide such services as installation, training, and software imaging upon request of the Purchasing Entity. Additional Value Added Services offered by the Contractor are attached as **Exhibit C**.

57. E-Rate Program

The Contractor's E-Rate identification number and list of E-Rate qualifying products is as follows:

The Contractor shall make every effort to continue its involvement in this program and to add products as applicable.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date of execution by the State of Minnesota Commissioner of Administration, below.

Signature Block Purposely NOT Provided. Signature of Contractor, the Materials Management Division and the Commissioner are required before a contract is valid.

PARTICIPATING ADDENDUM

for
COMPUTER EQUIPMENT, PERIPHERALS, AND RELATED SERVICES
MASTER PRICE AGREEMENT NUMBER

With
(Contractor's Name)
and
(Participating Entity Name)

(Contract Number)

1. **Scope**

(Briefly describe the jurisdiction of the governmental entity. If the jurisdiction includes all the governmental entities within an entire state, a statement to that effect will suffice)

2. **Changes:**

(Insert specific changes or a statement that no changes are required)

3. **Primary Contact:**

The primary participating entity contact for this participating addendum is as follows:

Name

Participating Entity Name

Address

Telephone:

Fax:

E-mail:

4. **Servicing Subcontractors:**

The following servicing contractors are authorized:

(Insert servicing subcontractors' name or include a statement such as all contractor authorized business partners in the State of

_____)

This Addendum and the Price Agreement together with its exhibits, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect

to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Addendum and the Price Agreement, together with its exhibits, shall not be added to or incorporated into this Addendum or the Price Agreement and its exhibits, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Addendum and the Price Agreement and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by Contractor below.

Signatures as required by State Statutes, Rules or Policies

APPENDIX B

PRICING CONFIGURATION FORMS

BASE LINE – SINGLE UNIT PRICING

SEE ATTACHED EXCEL SPREADSHEETS LABELED
APPENDIX B – PRICING CONFIGURATION FORMS – BASE LINE PRICING

APPENDIX C

PRICING CONFIGURATION FORMS

PREMIUM SAVINGS CONFIGURATION PRICING

SEE ATTACHED EXCEL SPREADSHEETS LABELED
APPENDIX C, PRICING FORMS, PREMIUM SAVINGS CONFIGURATIONS.

APPENDIX D

Mandatory Requirements Checklist

- Yes / No** Responders shall deliver one original and three (3) identical copies of their proposal to the WSCA/NASPO Contract Administrator to the location specified Section II, Paragraph B6 on or before the closing date and time for receipt of proposals. One (1) additional, identical copy shall be delivered to each state representative as specified in Section II, Paragraph B5. Electronic copies must be submitted to the WSCA/NASPO Contract Administrator and each state representative.
- Yes / No** The proposal must be organized and indexed as specified in Section III, Paragraph C1.
- Yes / No** Each proposal must be accompanied by a letter of transmittal. This letter of transmittal MUST:
- a) identify the submitting organization;
 - b) identify the name and title of the person authorized by the organization to contractually obligate the organization;
 - c) identify the name and title of the person authorized to negotiate the contract on behalf of the organization;
 - d) identify the names, titles, and telephone numbers of persons to be contacted for clarification;
 - e) explicitly indicate acceptance of the Conditions Governing the Procurement stated in Section II;
 - f) be signed by the person authorized to contractually obligate the organization; and
 - g) acknowledge receipt of any and all amendments to this RFP.
- Refer to Section IV, Paragraph B2 for additional information to be included in the Transmittal Letter.

SPECIFICATIONS

(Mandatory)

Section IV, Paragraph B

- Yes / No** Corporate Overview
Responders provide a brief history and description of their company including but not limited to Facilities, Personnel, State Contracts, Organization, Complaint Resolution, Preference Programs, Agent Reseller Usage, and Financial Strength.

- Yes / No** Customer Satisfaction, Value Added Services, E-Rate Program
Responders must submit responses to the information requested in Section IV, Paragraphs B2c, d, and e.
- Yes / No** Reporting
Responders must agree to provide quarterly utilization reports to the agreement Administrator based upon the schedule and minimum content as described in Paragraph 45 of the Price Agreement, Appendix A. Responders must describe their ability and commitment to meet this requirement
- Yes / No** Electronic Commerce
Responders must describe their ability to provide and maintain, at a minimum, an Internet web site that contains the items listed in Section IV, Paragraph B4, plus a description of electronic processing and auditing.
- Yes / No** Primary Account Representative
Responders must identify by name and location both the proposed primary account representative who will be responsible for the performance of the Master Price Agreement. A resume must be included for the named individual.
- Yes / No** References
Responders must submit five (5) written letters of reference from current or previous states or other larger governmental (not federal) entities that have or are currently receiving similar products and services to those proposed by the Responder for this solicitation. In addition to the letter of reference, each reference must include the name of the contact person, street address, telephone number, e-mail address and description of products and services provided.
- Yes / No** Rollout and Marketing Plan
Responders must submit a thorough rollout plan as part of the proposal. At a minimum, the response should include a description of the methodology (mailings, meetings, seminars, press releases, personal contacts) proposed, dates and location of activities, and a Gantt chart including tasks to be performed and the timeframe for the completion of each task.
Responder must identify the contracting personnel who will be assisting states with the completing and processing of Participating Addenda. A resume must be included in the Responders proposal for the first five named individuals.

Yes / No Website Demonstration

If selected as a Qualified Responder, the Responder agree to demonstrate the proposed website (the one actually proposed to be used for Purchasing Entities). The proposed primary account manager or representative is expected to conduct the presentation to demonstrate their Internet web site functions to the Evaluation Committee. A statement of acknowledgement and concurrence with this requirement is required.

Yes / No Pricing Level and Guarantee

Responders must submit with their proposal a narrative that describes the baseline (published) pricing and the initial pricing level discount that is proposed, by type or category of Products and services as reflected in the PSS. The response to this specification must be in the form of a percentage discount from a published or base line price listing. Responders must describe the base line pricing and provide information where the baseline pricing may be accessed and verified.

Yes / No Products and Services Schedule

Responders must submit with their proposals a complete Product and Services Schedule including all the Services and Equipment offered for education, state and local government procuring agencies at the initial pricing level stated in response to the previous specification. The PSS may be submitted in Microsoft Word or Excel format on a flash drive or a CD or web page (provide URL).

Yes / No Revised Price Agreement/Proposal

Responders must submit with their proposal a flash drive or CD that contains the proposed revised Master Price Agreement terms and conditions and the entire proposal. Both documents shall be in Microsoft Word format. The revised Master Price Agreement shall have the changes highlighted.

Yes / No Takeback and other Environmental Programs

Responders must clearly respond to the information requested in Section IV, Paragraph B14a, B14b, B14c, B14d, B14e, and B14f; and fill in the chart shown immediately following B14f.

Yes / No Cost (SEALED)

Responders must complete the Pricing Configuration Form(s) found in Appendices B and C and submit them with their proposal.

APPENDIX E

MASTER PRICE AGREEMENT SALES TOTALS BY CALENDAR YEAR

WSCA/NASPO PC Contracts 1999-2009 Detailed Sales Analysis
As reported from 1 July 1999 through 30 June 2008

		CY '99		
		CY Total	\$16,856,370.07	
		Q3	Q4	
		\$ 2,749,091.00	\$14,107,279.07	
		CY '00		
		CY Total	\$366,825,446.72	
	Q1	Q2	Q3	Q4
	\$55,320,471.99	\$75,458,808.31	\$138,365,351.90	\$97,680,814.52
		CY '01		
		CY Total	\$884,624,416.00	
	Q1	Q2	Q3	Q4
	\$111,056,222.80	\$190,450,949.80	\$301,256,649.70	\$281,860,593.70
		CY '02		
		CY Total	\$1,672,227,895.20	
	Q1	Q2	Q3	Q4
	\$288,013,081.70	\$490,091,470.10	\$508,834,923.90	\$385,288,419.50
		CY '03		
		CY Total	\$1,651,262,991.70	
	Q1	Q2	Q3	Q4
	\$355,090,205.70	\$573,899,306.60	\$412,950,567.10	\$309,322,912.30

		CY '04		
		CY Total	\$2,193,057,830.00	
	Q1	Q2	Q3	Q4
	\$401,053,730.00	\$693,818,237.00	\$613,088,845.00	\$485,097,018.00
		CY '05		
		CY Total	\$2,294,910,232.02	
	Q1	Q2	Q3	Q4
	\$677,289,482.00	\$650,786,462.30	\$557,447,074.63	\$409,387,213.09
		CY '06		
		CY Total	\$2,006,984,092.39	
	Q1	Q2	Q3	Q4
	\$401,769,535.10	\$665,803,488.10	\$556,205,586.29	\$383,205,482.90
		CY '07		
		CY Total	\$2,302,877,952.25	
	Q1	Q2	Q3	Q4
	\$435,230,781.98	\$762,766,553.34	\$664,437,882.57	\$440,442,734.36
		CY '08		
		CY Total	\$1,526,315,108.48	
	Q1	Q2	Q3	Q4
	\$640,759,224.00	\$885,555,884.48		
		Grand Total		
		=	\$18,682,636,494.99	

APPENDIX F
MINNESOTA, WSCA/NASPO REQUEST FOR PROPOSALS FROM MANUFACTURERS
OF PERSONAL COMPUTER EQUIPMENT AND RELATED DEVICES

RFP QUESTION FORM

Please use this form to ask questions about the RFP. Submit ONE form for each question. Answers to questions will be posted on the MMD website and will be sent to all Vendors who have downloaded a copy of the RFP from the MMD website. Questions will NOT BE attributed, if the form and the instructions are followed. Dates for submission of questions and when answers will be provided are in Section II, Paragraph A of the RFP.

Firm:

Representatives Name:

Date Submitted:

Question Number _____ : (number questions consecutively for your firm)

RFP Section/Paragraph/Appendix Reference _____ :

(provide the exact reference to the RFP section/paragraph/appendix being questioned - DO NOT reference "page number" since those change with each printer used to print the document)

Question: (be as specific and detailed, but brief, as possible, Minnesota will not provide opinion or interpretation of contract law or statute or law; Minnesota may choose not to respond to a question at its option and will simply say ("**Minnesota chooses not to respond.**")

Submit questions by the deadline indicated in Section II, Paragraph A. as an email attachment as a Word document to:

MMDITTeam@state.mn.us, and to Bernie.kopischke@state.mn.us

APPENDIX G

State Of Minnesota – Affirmative Action Data Page (For responses in excess of \$100,000 only)

If your response to this solicitation is or could be in excess of \$100,000, complete the information requested below to determine whether you are subject to the Minnesota Human Rights Act (Minnesota Statutes 363A.36) certification requirement, and to provide documentation of compliance if necessary. **It is your sole responsibility to provide this information and—if required—to apply for Human Rights certification prior to the due date and time of the bid or proposal and to obtain Human Rights certification prior to the execution of the contract. The State of Minnesota is under no obligation to delay proceeding with a contract until a company receives Human Rights certification.**

BOX A - For companies which have employed more than 40 full-time employees within Minnesota on any single working day during the previous 12 months. All other companies proceed to Box B.

Your response will be rejected unless your business:

1. has a current Certificate of Compliance issued by the Minnesota Department of Human Rights (MDHR)

-or-

has submitted an affirmative action plan to the MDHR, which the department received prior to the date and time the responses are due.

Check one of the following statements if you have employed more than 40 full-time employees in Minnesota on any single working day during the previous 12 months:

- We have a current Certificate of Compliance issued by the MDHR. **Proceed to BOX C. Include a copy of your certificate with your response.**
- We do not have a current Certificate of Compliance. However, we submitted an Affirmative Action Plan to the MDHR for approval, which the Department received on _____(date). [If the date is the same as the response due date, indicate the time your plan was received: _____(time). **Proceed to BOX C.**
- We do not have a Certificate of Compliance, nor has the MDHR received an Affirmative Action Plan from our company. **We acknowledge that our response will be rejected. Proceed to BOX C. Contact the Minnesota Department of Human Rights for assistance.** (See below for contact information.)

Please note: Certificates of Compliance must be issued by the Minnesota Department of Human Rights. Affirmative Action Plans approved by the Federal government, a county, or a municipality must still be reviewed and approved by the Minnesota Department of Human Rights before a certificate can be issued.

BOX B - For those companies not described in BOX A

Check below

- We have not employed more than 40 full-time employees on any single working day in Minnesota within the previous 12 months. **Proceed to BOX C.**

BOX C - For all companies

By signing this statement, you certify that the information provided is accurate and that you are authorized to sign on behalf of the Responder. You also certify that you are in compliance with federal affirmative action requirements that may apply to your company. (These requirements are generally triggered only by participating as a prime or subcontractor on federal projects or contracts. Contractors are alerted to these requirements by the federal government.)

Name of Company: _____
Authorized Signature: _____
Printed Name: _____
Title: _____
Date: _____
Telephone Number: _____

For assistance with this form, contact:

Minnesota Department of Human Rights, Compliance Services Section

Mail: 190 East 5th Street, Suite 700
St. Paul, MN 55101

TC Metro: (651) 296-5663
Fax: (651) 296-9042

Toll Free: 800-657-3704
TTY: (651) 296-1283

Website: www.humanrights.state.mn.us

Email: employerinfo@therightsplace.net

APPENDIX H

Trade Secret Information Form

Under Minnesota's Data Practices Act, data submitted in bids or proposals becomes public upon completion of the evaluation process for proposals and negotiations are complete, or upon completion of the selection process for bids. However, "trade secret information" as defined in Minn. Stat. §13.37, subd. 1(b), cannot be disclosed to the public. While the majority of data submitted in bids and proposals is not trade secret information, the following form is needed to assist the state in making appropriate determinations about the release of data provided in a bid or proposal.

All Responders must select one of the following boxes:

- My bid/proposal **does not** contain "trade secret information." I understand that my entire bid/proposal will become public record in accordance with Minnesota Stat. §13.591.
- My bid/proposal **does** contain trade secret information because it contains data that:
 1. is a formula, pattern, compilation, program, device, method, technique or process; **AND**
 2. is the subject of efforts by myself or my organization that are reasonable under the circumstances to maintain its secrecy; **AND**
 3. derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

Complete only if trade secret status is asserted:

I am claiming that aspects of my bid/proposal contain trade secret information. I have completed the following:

- I have clearly marked and placed any data I claim to be "trade secret information" in a separate envelope **AND** I am attaching an explanation justifying the trade secret designation.

Please note that failure to attach an explanation may result in a determination that the data does not meet the statutory trade secret definition. All data for which trade secret status is not justified will become public in accordance with Minn. Stat. § 13.591.

By submitting this bid/proposal, Responder agrees to indemnify and hold the State, its agents and employees, harmless from any claims or causes of action relating to the state's withholding of data based upon reliance on the above representations, including the payment of all costs and attorney fees incurred by the state in defending such an action.

APPENDIX I

STATE OF MINNESOTA DEPARTMENT OF ADMINISTRATION MATERIALS MANAGEMENT DIVISION

AFFIDAVIT OF NONCOLLUSION

I hereby swear (or affirm) under the penalty of perjury:

1. That I am the Responder (if the Responder is an individual), a partner in the company (if the Responder is a partnership), or an officer or employee of the responding corporation having authority to sign on its behalf (if the Responder is a corporation);
2. That the attached response for Personal Computer Equipment and Related Devices has been developed by the Responder independently and has been submitted without collusion with and without any agreement, understanding or planned common course of action with, any other Responder of materials, supplies, equipment or services described in the RFP, designed to limit fair or open competition;
3. That the contents of the response have not been communicated by the Responder or its employees or agents to any person not an employee or agent of the Responder and will not be communicated to any such persons prior to the official opening of the responses; and
4. That I have fully informed myself regarding the accuracy of the statements made in this affidavit.

Authorized Signature:

Date:

Firm Name:

Subscribed and sworn to me this _____ day of

Notary Public

My commission expires

APPENDIX J
STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION
MATERIALS MANAGEMENT DIVISION
ENVIRONMENTAL REPORTS

ENVIRONMENTAL PRODUCTS AND SERVICES

Environmental Characteristics for Reporting Purposes. The State desires to purchase environmentally responsible goods and services where practicable. To identify these products and report the purchasing results, the State must know the environmentally responsible characteristics of the goods and services offered. Using the list of environmental codes below, specify which line items have environmentally responsible characteristics and enter the appropriate environmental code. The environmental codes* are:

EE = Energy Efficient	EM = Remanufactured
LT = Less Toxic	RE = Repair
PB = Plant-based	US = Used
RB = Rebuilt	WC = Water Conserving
RC = Recycled Content (post-consumer: _____ %)	MU = Multiple Codes Specify: _____
RK = Reduced Packaging	TO = Other Specify: _____
	NO = None

Enter the appropriate environmental code for each item offered, either after the description of the item, or after the price.

If all goods and services offered are the same environmental code, enter it here: _____

If none of the items being offered have environmental characteristics, please check and initial here:

_____.

*See the next page for definitions of the environmental codes to assist in coding products by the line item.

Mercury: As per Minnesota Statutes, the State cannot buy mercury in thermometers and certain other products. Please certify below if your product does or does not contain mercury. The actual product specification will stipulate if mercury is prohibited.

Does your product contain mercury? Yes No

If yes, list the components that contain mercury:

Environmental Codes Definitions

EE (Energy Efficient) - A product that uses less energy (either electricity or fossil fuel) to accomplish its task relative to a comparable product or to an earlier version of the same product by the same manufacturer.

LT (Less Toxic) - A product containing a smaller amount of toxic substances relative to a comparable product or a product reformulated to be less toxic.

PB (Plant-Based) - A product derived from renewable resources, including fiber crops (such as kenaf); chemical extracts from oilseeds, nuts, fruits and vegetables (such as corn and soybeans); agricultural residues (such as wheat straw and corn stover); and wood wastes generated from processing and manufacturing operations. These products stand in contrast to those made from fossil fuels (such as petroleum) and other less renewable resources (such as virgin timber).

RB (Rebuilt) - A product refurbished to a level less than a total remanufacture. The warranty is by the rebuilder, and may be different from the same product when new or remanufactured. Also called reconditioned or refurbished.

RC (Recycled Content) - A product containing materials that have been recovered or diverted from the solid waste stream after consumer use (post-consumer).

RK (Reduced Packaging) - A product presented for use with less packaging or alternative methods of packaging or shipping.

EM (Remanufactured) - A product restored to its original condition by extensive rebuilding, usually given an equal or better warranty than a new product.

RE (Repair) - A product that has had a defect corrected and can again serve its original function. Repairing is a less comprehensive process than either remanufacturing or rebuilding.

US (Used) - A product used or owned before without further manufacture.

WC (Water Conserving) - A product that requires less water to operate or to manufacture than a comparable product, or a different version of the same product from the same manufacturer.

MU (Multiple Codes) - A product that has several significant environmentally responsible characteristics, and could be classified under more than one code, but not one code is predominant.

TO (Other) - A product having environmentally responsible characteristics that does not fit into any of the categories listed above.

APPENDIX K

STATE OF MINNESOTA DEPARTMENT OF ADMINISTRATION MATERIALS MANAGEMENT DIVISION

TAXPAYER IDENTIFICATION

The Contract Vendor consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number to federal and State tax agencies and State personnel involved in the payment of State obligations. These identification numbers may be used in the enforcement of federal and State tax laws which could result in action requiring the Contract Vendor to file tax returns and pay delinquent tax liabilities, if any (Minn. Stat. § 270.66).

Firm Name: _____

Address: _____

Federal Employer ID Number or Social Security: _____

Minnesota State Tax ID Number: _____

Minnesota Vendor Registration Number: _____

If you are not registered as a vendor to the State, you may register online at www.mmd.admin.state.mn.us/mn02000.htm.
(Note: If approved, you will receive your vendor number three business days after you register.)

Are you a sole proprietorship? Yes No

Are you an independent contractor? Yes No

APPENDIX L

STATE OF MINNESOTA DEPARTMENT OF ADMINISTRATION MATERIALS MANAGEMENT DIVISION State of Minnesota — Immigration Status Certification

By order of the Governor's Executive Order 08-01, vendors and subcontractors MUST certify compliance with the Immigration Reform and Control Act of 1986 (8 U.S.C. 1101 et seq.) and certify use of the *E-Verify* system established by the Department of Homeland Security.

E-Verify program information can be found at <http://www.dhs.gov/ximgtn/programs>.

If any response to a solicitation is or could be in excess of \$50,000, vendors and subcontractors must certify compliance with items 1 and 2 below. In addition, prior to the delivery of the product or initiation of services, vendors MUST obtain this certification from all subcontractors who will participate in the performance of the contract. All subcontractor certifications must be kept on file with the contract vendor and made available to the state upon request.

1. The company shown below is in compliance with the Immigration Reform and Control Act of 1986 in relation to all employees performing work in the United States and does not knowingly employ persons in violation of the United States immigration laws. The company shown below will obtain this certification from all subcontractors who will participate in the performance of this contract and maintain subcontractor certifications for inspection by the state if such inspection is requested; and

2. By the date of the delivery of the product and/or performance of services, the company shown below will have implemented or will be in the process of implementing the *E-Verify* program for all newly hired employees in the United States who will perform work on behalf of the State of Minnesota.

I certify that the company shown below is in compliance with items 1 and 2 above and that I am authorized to sign on its behalf.

Name of Company: _____

Date: _____

Authorized Signature: _____

Telephone Number: _____

Printed Name: _____

Title: _____

If the contract vendor and/or the subcontractors are not in compliance with the Immigration Reform and Control Act, or knowingly employ persons in violation of the United States immigration laws, or have not begun or implemented the *E-Verify* program for all newly hired employees in support of the contract, the state reserves the right to determine what action it may take. This action could include, but would not be limited to cancellation of the contract, and/or suspending or debaring the contract vendor from state purchasing.

For assistance with the *E-Verify* Program

Contact the National Customer Service Center (NCSC) at **1-800-375-5283** (TTY 1-800-767-1833).

For assistance with this form, contact:

Mail: 112 Administration Bldg, 50 Sherburne Ave. St. Paul, MN 55155

E-mail: MMDHelp.Line@state.mn.us

Telephone: 651.296.2600

Persons with a hearing or speech disability may contact us by dialing 711 or 1.800.627.3529

APPENDIX M

Potential Participating State-Specific Terms and Conditions

The following language is being presented for informational purposes only, and will not be part of the evaluation of the responses to the RFP. Potential Contractors are being made aware of this language as it will be required in any Participating Addendum negotiated with these States.

OHIO TERMS AND CONDITIONS TO BE ADDED TO THE WSCA RFP

Use of MBE and EDGE Vendors. The State of Ohio encourages Contractor to provide goods and services through State of Ohio Minority Business Enterprises (MBE) and Encouraging Diversity, Growth and Equity (EDGE) vendors.

Contractor's Revenue Share. The Contractor must pay the State a share of the sales transacted under this Contract. The Contractor must remit the revenue share in US dollars within 30 days after the end of the quarterly reporting period. The revenue share that the Contractor must pay equals .0075 of the total quarterly sales reported. The revenue share is included in the prices reflected on Exhibit I and reflected in the total amount charged to ordering activities, and the Contractor may not add a surcharge to orders under this Contract to cover the cost of the revenue share.

The Contractor must remit any amount due as the result of a quarterly or closeout report at the time the quarterly or closeout report is submitted to the Office of Information Technology. The Contractor also must pay the revenue share by check. To ensure the payment is credited properly, the Contractor must identify the check as a "Revenue Share" and include the applicable State Term Contract Number, total report amount, and reporting period covered.

The Contractor must make each check payable to "Treasurer, State of Ohio", and forward it to the following address:

Department of Administrative Services
Office of Finance
30 East Broad Street, Suite 4060
Columbus, Ohio 43215 – 3414

If the full amount of the revenue share is not paid within 30 days after the end of the applicable reporting period, the non-payment will constitute a contract debt to the State. The State may setoff any unpaid revenue share from any amount owed to the Contractor under this Contract and employ all other remedies available to it under Ohio law for the non-payment of the revenue share. Additionally, if the Contractor fails to pay the revenue share in a timely manner, the failure will be a breach of this Contract, and the State may terminate this Contract for cause and seek damages for the breach.

OBM Certification. None of the rights, duties, or obligations in this Contract will be binding on the State, and the Contractor will not begin its performance, until all of the following conditions have been met:

1. All statutory provisions under the Ohio Revised Code, including Section §126.07, have been met.
2. All necessary funds are made available by the appropriate state agencies.
3. If required, approval of this Contract is given by the Controlling Board of Ohio; and
4. If the State is relying on Federal or third-party funds for this Contract the State gives the Contractor written notice that such funds have been made available.

Ethics, Executive Order, Political Contributions. The Independent Contractor certifies that it is currently in compliance and will continue to adhere to the requirements of the Ohio ethics laws.

In accordance with Executive Order 2007-01S, Independent Contractor, by signature on this document, certifies: (1) it has reviewed and understands Executive Order 2007-01S, (2) has reviewed and understands the Ohio ethics and conflict of interest laws, and (3) will take no action inconsistent with those laws and this order. The Independent Contractor understands that failure to comply with Executive Order 2007-01S is, in itself, grounds for termination of this contract or grant and may result in the loss of other contracts or grants with the State of Ohio.

The Independent Contractor hereby certifies that all applicable parties listed in Division (I)(3) or (J)(3) of Ohio Revised Code Section 3517.13 are in full compliance with Divisions (I)(1) and (J)(1) of Ohio Revised Code Section 3517.13.

Equal Employment Opportunity. The Contractor will comply with all state and federal laws regarding equal employment opportunity, including Ohio Revised Code Section 125.111 and all related Executive Orders.

Before a contract can be awarded or renewed, an Affirmative Action Program Verification Form must be submitted to the DAS Equal Opportunity Division to comply with the affirmative action requirements. Affirmative Action Verification Forms and approved Affirmative Action Plans can be found by going to the Equal Opportunity Departments web site: <http://www.das.ohio.gov/Eod/AAEEO.htm>

Declaration of Material Assistance/Non-Assistance to a Terrorist Organization. In accordance with R.C. 2909.33(C), Contractor certifies that it meets one of the following conditions:

- (a) Contractor has **not** received, nor will receive as a result of this contract, an aggregate amount greater than one hundred thousand dollars (\$100,000) in business or funding, excluding personal benefits, from the state, instrumentalities, or political subdivisions during the current fiscal year; or
- (b) (1) Contractor has received, or will receive as a result of this contract, an aggregate amount greater than one hundred thousand dollars (\$100,000) in business or funding, excluding personal benefits, from the state, instrumentalities, or political subdivisions during the current fiscal year; and

(2) Contractor has either precertified with the Office of Budget and Management, or has completed the attached Declaration of Material Assistance form certifying that Contractor has not provided material assistance to any organization on the Terrorist Exclusion List, as that term is defined in R.C. 2909.21.

Contractor's Warranty Against an Unresolved Finding for Recovery. Contractor warrants that it is not subject to an unresolved finding for recovery under ORC §9.24. If the warranty was false on the date the parties signed this Contract, the Contract is void *ab initio*.

Contractor Disclosure; Location of Services, Data. As part of this Agreement, Contractor shall disclose the following:

1. The location (s) where all services will be performed; and
2. The location(s) where any state data applicable to the contract will be maintained or made available; and
3. The principal location of business for the contractor and all subcontractors.

Contractor shall not, during the performance of this Contract, change the location(s) of the country where the services are performed or change the location(s) of the country where the data is maintained or made available without prior written approval of the State.

Drug Free Workplace. The Contractor agrees to comply with all applicable state and federal laws regarding drug-free workplace and shall make a good faith effort to ensure that all its employees, while working on state property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

Invoice Requirements. The Contractor must submit an original invoice with three (3) copies to the office designated in the purchase order as the "bill to" address. To be a proper invoice, the invoice must include the following information:

1. The purchase order number authorizing the delivery of products or services.
2. A description of what the Contractor delivered, including, as applicable, the time period, serial number, unit price, quantity, and total price of the products and services. If the invoice is for a lease, the Contractor must also include the payment number (e.g., 1 of 36).

If an authorized dealer has fulfilled the purchase order, then the dealer's information should be supplied in lieu of the Contractor's information.

Payment Due Date. Payments under this Contract will be due on the 30th calendar day after the later of:

1. The date of actual receipt of a proper invoice in the office designated to receive the invoice, or the date the service is delivered and accepted in accordance with the terms of this Contract.
2. The date of the warrant issued in payment will be considered the date payment is made. Interest on late payments will be paid in accordance with Ohio Revised Code Section §126.30.

COLORADO TERMS AND CONDITIONS TO BE ADDED TO THE WSCA RFP

1. **CONTROLLER'S APPROVAL. CRS §24-30-202 (1).** This contract shall not be deemed valid until it has been approved by the Colorado State Controller or designee.
2. **VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4. [Not Applicable to Intergovernmental Agreements]** The State Controller may withhold payment of certain debts owed to State agencies under the State's vendor offset intercept system for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et. seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts certified by the State Controller as owing to the State as a result of final agency determination or judicial action.
3. **SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.** No State or other public funds payable under this contract shall be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies that, for the term of this contract and any extensions, Contractor has in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this paragraph, the State may exercise any remedy available at law or equity or under this contract, including, without limitation, immediate termination of this contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

4. INSURANCE.

The Contractor shall obtain, and maintain at all times during the term of this agreement, insurance in the following kinds and amounts:

- a. Worker's Compensation Insurance as required by state statute, and Employer's Liability Insurance covering all of the contractor's employees acting within the course and scope of their employment.
- b. Commercial General Liability Insurance written on ISO occurrence form CG 00 01 10/93 or equivalent, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:
 - i. \$1,000,000 each occurrence;
 - ii. \$1,000,000 general aggregate;
 - iii. \$1,000,000 products and completed operations aggregate; and
 - iv. \$50,000 any one fire.

If any aggregate limit is reduced below \$1,000,000 because of claims made or paid, the contractor shall immediately obtain additional insurance to restore the full aggregate limit and furnish to the State a certificate or other document satisfactory to the State showing compliance with this provision.

- c. Automobile Liability Insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit as follows: \$1,000,000 each accident combined single limit.

23.2 The State of Colorado shall be named as additional insured on the Commercial General Liability and Automobile Liability Insurance policies (leases and construction contracts will require the additional insured coverage for completed operations on endorsements CG 2010 11/85, CG 2037, or equivalent). Coverage required of the contract will be primary over any insurance or self-insurance program carried by the State of Colorado.

23.3 The Insurance shall include provisions preventing cancellation or non-renewal without at least 45 days prior notice to the State by certified mail.

- 23.4 The contractor will require all insurance policies in any way related to the contract and secured and maintained by the contractor to include clauses stating that each carrier will waive all rights of recovery, under subrogation or otherwise, against the State of Colorado, its agencies, institutions, organizations, officers, agents, employees and volunteers.
- 23.5 All policies evidencing the insurance coverages required hereunder shall be issued by insurance companies satisfactory to the State.
- 23.6 The contractor shall provide certificates showing insurance coverage required by this contract to the State within 7 business days of the effective date of the contract, but in no event later than the commencement of the services or delivery of the goods under the contract. No later than 15 days prior to the expiration date of any such coverage, the contractor shall deliver the State certificates of insurance evidencing renewals thereof. At any time during the term of this contract, the State may request in writing, and the contractor shall thereupon within 10 days supply to the State, evidence satisfactory to the State of compliance with the provisions of this section.
- 23.7 Notwithstanding subsection a of this section, if the Contractor is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS 24-10-101, et seq., as amended ("Act"), the contractor shall at all times during the term of this contract maintain only such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Act. Upon request by the State, the contractor shall show proof of such insurance satisfactory to the State.

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Price

\$379.00
Promo pricing
valid until 8/31/2014

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Promo pricing
valid until 8/31/2014

\$329.00
Promo pricing
valid until 8/31/2014

Business Lease

N/A

N/A

N/A

Operating system

Chrome OS™

Chrome OS™

Chrome OS™

Processor

Intel® Celeron®
2955U (1.4GHz,
2MB Cache)
Processor and
Intel HD Graphics

Intel® Celeron®
2955U (1.4GHz,
2MB Cache)
Processor and
Intel HD Graphics

Intel® Celeron®
2955U (1.4GHz,
2MB Cache)
Processor and
Intel HD Graphics

Integrated camera

720p HD
Webcam

720p HD
Webcam

720p HD
Webcam

Display

14.0-inch
diagonal LED HD
SVA Anti-Glare
(1366x768)

14.0-inch
diagonal LED HD
SVA Anti-Glare
(1366x768)

14.0-inch
diagonal LED HD
SVA Anti-Glare
(1366x768)

Memory

4 GB 1600 MHz
DDR3 SDRAM
(2D)

4 GB 1600 MHz
DDR3 SDRAM
(2D)

4 GB 1600 MHz
DDR3 SDRAM
(2D)

Internal Storage

16GB M.2 SSD

32GB M.2 SSD

16GB M.2 SSD

SO 13-14/B14-35
Fountain Valley School District
Superintendent's Office

M E M O R A N D U M

TO: Board of Trustees
FROM: Marc Ecker, Superintendent
SUBJECT: **Recreation Facility Use Agreement for Joint Use of School Facilities
with City of Huntington Beach**
DATE: January 30, 2014

Background:

On July 1, 2013 the Huntington Beach City Council directed staff to change the Huntington Beach Municipal Code to increase the number of at-large Community Services Commission members from five to seven and require that each at-large member be directly appointed by a member of City Council. The change brings the Community Services Commission in line with the selection process utilized for Planning Commission and Public Works Commission appointment. City Council's direction to modify the Municipal Code would create an inconsistency with the current Use Agreement for Joint Use of School Facilities between the City of Huntington Beach and the Fountain Valley School District. In an effort to address this issue and modernize the agreement, Huntington Beach City Council instructed staff to terminate the Use Agreement pursuant to Section 8. Composition of the Commission has been removed from the agreement. However, modification to the Municipal Code continues to include representation from each of the school districts within the City of Huntington Beach.

Recommendation:

It is recommended that the Board of Trustees approves the attached agreement with the City of Huntington Beach for joint use of school recreation facilities, revised to reflect removal of the section Composition of the Commission.

RECREATION FACILITY USE AGREEMENT AMONG
CITY OF HUNTINGTON BEACH AND FOUNTAIN VALLEY SCHOOL DISTRICT
FOR JOINT USE OF SCHOOL RECREATION FACILITIES

THIS AGREEMENT is made and entered into this ____ day of _____ 2013, by and among the CITY OF HUNTINGTON BEACH, a municipal corporation of the State of California, hereinafter referred to as "CITY," and FOUNTAIN VALLEY SCHOOL DISTRICT, a political subdivision of the State of California, hereinafter collectively referred to as "DISTRICT."

WHEREAS, the parties hereto desire to promote and preserve the health and general welfare of the people of the CITY and DISTRICT, and to cultivate and develop good citizenship by providing for an adequate program of community recreation and to conduct such a program of community recreation as will contribute to the attainment of general education and recreational objectives for the children and adults of said CITY and DISTRICT: and

The parties hereto desire to cooperate with each other to carry out the provisions of Chapter 10, Part 7 of Division I of Title I of the Education Code of the State of California, and to that end enter into an agreement with each other to promote and preserve the health and general welfare of the people of said CITY and DISTRICT,

NOW, THEREFORE, for and in consideration of the mutual covenants and promises of the parties hereto, the parties hereby covenant and agree as follows:

1. SCOPE OF WORK

a. DISTRICT shall make available to CITY certain of their school facilities for community recreational activities. The facilities so utilized shall be selected by CITY out of those facilities made available to CITY by DISTRICT.

b. CITY use of school facilities shall be in accordance with pertinent DISTRICT policies in granting permits for nonschool use of facilities.

c. Schedules for use of said facilities for community recreational activities shall be established by mutual agreement of the Director of Community Services of CITY and DISTRICT's superintendent or designated representative.

2. FEES AND SCHEDULING OF FACILITIES IN GENERAL

a. All fees and charges assessed for programs scheduled under this agreement shall be used for furthering the recreational activities of the students and in performance of this Agreement.

b. DISTRICT programs, events and required maintenance shall have first scheduling priority for the use of its own facilities. DISTRICT reserves the right to schedule the use of facilities in fair proportion for other public agencies. Schedules may be altered by mutual consent of all the parties herein. The parties agree to use their best efforts so as to avoid scheduling disputes and conflicts.

c. CITY shall select and provide certain qualified personnel to conduct recreational activities and events which take place after school hours, on weekends, and during holiday and vacation periods on the various selected DISTRICT facilities.

d. DISTRICT shall be consulted and advised as to recreational activities conducted by CITY on facilities under DISTRICT own jurisdiction.

3. PERSONNEL

All personnel employed to conduct community recreational activities shall be under the supervision of CITY and shall be employed by CITY. Expenses, including but not limited to, salaries, cost of supplies, and general maintenance shall be met by CITY out of its own resources.

4. MATERIALS AND MAINTENANCE OF FACILITIES

a. CITY shall provide certain expendable material and supplies necessary for conducting community recreational programs for all ages. Equipment provided by each DISTRICT as part of the school program and suitable for community recreational use, and equipment and supplies provided by CITY and suitable for school use, shall be mutually interchangeable for the common use of CITY and DISTRICT.

b. Custodial and maintenance services for all school facilities utilized for community recreational programs may be provided by DISTRICT, if requested to provide such services by CITY in writing. DISTRICT may charge CITY for cost of providing custodial and maintenance service requested by CITY, subject to written understanding only.

5. CONTRACT ADMINISTRATOR

The CITY Contract Administrator for this Agreement shall be the Director of Community Services of CITY.

6. TERMS AND OPTION TO TERMINATE

The term of this Agreement shall commence on _____, and shall continue in effect until terminated by CITY, upon sixty (60) days written notice to each party at the address shown herein. Any DISTRICT may terminate the agreement, as to itself, upon sixty (60) days written notice at the address shown herein.

7. INDEMNIFICATION, DEFENSE, HOLD HARMLESS

a. Neither DISTRICT nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by CITY under or in connection with any activities described in this agreement. Pursuant to Government Code Section 895.4, CITY shall fully defend, indemnify and hold DISTRICT harmless from any liability imposed for injury (as defined by Government Code Section 810.6), occurring by reason of anything done or omitted to be done by CITY under or in connection with any activities described in this Agreement.

b. Neither CITY nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by any DISTRICT under or in connection with any activities described in this agreement. It is also understood and agreed that, pursuant to Government Code Section 895.4 any DISTRICT shall fully defend, indemnify and hold CITY harmless from any liability imposed for injury (as defined by Government Code Section 819.8), occurring by reason of anything done or omitted to be done by any DISTRICT under or in connection with any activities described in this agreement.

8. AMENDMENTS

This agreement may be amended from time to time by mutual agreement in writing of the parties hereto.

9. NOTICES

Any notices pursuant to this Agreement shall be deemed delivered, if in writing, deposited in the United States Postal Service with postage prepaid and addressed to each party as follows:

CITY:

DISTRICT:

CITY OF HUNTINGTON BEACH
Attn: Director, Community Services
2000 Main Street
Huntington Beach, CA 92648

Fountain Valley School District
10055 Slater Avenue
Fountain Valley, CA 92708

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their authorized officers on the day, month and year first above written.

CITY OF HUNTINGTON BEACH

By _____
Mayor

ATTEST:

By _____
City Clerk

APPROVED AS TO CONTENT:

APPROVED AS TO FORM:

By _____
City Manager

By _____
City Attorney *MM 11-26-13*

FOUNTAIN VALLEY SCHOOL DISTRICT

INITIATED AND APPROVED:

By _____

By _____
Director, Community Services

By _____

2013/2014

WEST ORANGE COUNTY CONSORTIUM FOR SPECIAL EDUCATION

CONFIDENTIAL MEMO

To: FVSD Board Members
From: Patrick J Middleton, Fiscal/MIS Manager
West Orange County Consortium for Special Education
Date: January 21, 2014
Subject: **Non-Public Agency Contract Addendums**

Board Meeting Date: February 06, 2014

Under current consortium budget agreements, any unfunded cost of NPS/NPA placement is a cost to the general fund of the resident district. It is recommended that the following non-public school/agency contract/addendum be approved and that the West Orange County Consortium for Special Education be authorized to receive invoices and process payment.

Student's Name	Non-Public School/Agency	100% Contract/ Addendum	Effective Dates
367538-2409	Cornerstone Therapies	960.00	January 21, 2014 to June 30, 2014

Approved by the FVSD Board of Trustees
February 06, 2014

Marc Ecker, Ph.D.
Superintendent

ADDENDUM TO AGREEMENT FOR NONPUBLIC NONSECTARIAN SCHOOL/AGENCY SERVICES
INDIVIDUAL SERVICE CONTRACT

This ADDENDUM to the SERVICE CONTRACT is made and entered into this 06th of February, 2014 between the Fountain Valley School District, County of Orange and Cornerstone Therapies for (Local Education Agency) (Nonpublic School or Agency)

367538-2409 born on _____, who is a resident of Fountain Valley School District of (Name of Student) (Date of Birth) (Local Education Agency) of Orange County.

ORIGINAL CONTRACT - 2013-07-01 to 2014-06-30

SERVICES AS PROVIDED IN ORIGINAL CONTRACT	Provider Type	Per Session Total	Cost Per Session	Maximum No. Sessions	Total Original Cost
1. Physical Therapy - Clinic (2x60min/wk)	NPA	60 Minutes	85.00	80.00	6,800.00
2. Physical Therapy - Consultation (1x30min/yr)	NPA	60 Minutes	100.00	0.50	50.00
3. Physical Therapy - Collaboration (3x60min/yr)	NPA	60 Minutes	100.00	3.00	300.00
TOTAL ORIGINAL CONTRACT COST					7,150.00

ADDENDUM CONTRACT - January 21, 2014 to June 30, 2014

SERVICES ADDED BY THIS ADDENDUM	Provider Type	Per Session Total	Cost Per Session	Maximum No. Sessions	Total Addendum Cost
4. Assessments/Testing/Evaluations (RATE 1) (PT Eval)	NPA	60 Minutes	225.00	2.00	450.00
5. Assessments/Testing/Evaluations (RATE 2) (PT Eval)	NPA	60 Minutes	85.00	6.00	510.00
TOTAL ADDENDUM CONTRACT COST					960.00

AMENDED CONTRACT

SERVICES AS PROVIDED IN AMENDED CONTRACT	Provider Type	Per Session Total	Cost Per Session	Maximum No. Sessions	Total Amended Cost
1. Physical Therapy - Clinic (2x60min/wk)	NPA	60 Minutes	85.00	80.00	6,800.00
2. Physical Therapy - Consultation (1x30min/yr)	NPA	60 Minutes	100.00	0.50	50.00
3. Physical Therapy - Collaboration (3x60min/yr)	NPA	60 Minutes	100.00	3.00	300.00
4. Assessments/Testing/Evaluations (RATE 1) (PT Eval)	NPA	60 Minutes	225.00	2.00	450.00
5. Assessments/Testing/Evaluations (RATE 2) (PT Eval)	NPA	60 Minutes	85.00	6.00	510.00
TOTAL AMENDED CONTRACT COST					8,110.00

2013/2014

HBUHSD Contract No. 2409

Please refer to this number on correspondence, invoices, etc.

ADDENDUM TO AGREEMENT FOR NONPUBLIC NONSECTARIAN SCHOOL/AGENCY SERVICES
INDIVIDUAL SERVICE CONTRACT

This ADDENDUM to the SERVICE CONTRACT is made and entered into this 06th of February, 2014 between the Fountain Valley School District, County of Orange and Cornerstone Therapies for
(Local Education Agency) (Nonpublic School or Agency)
367538-2409 born on _____, who is a resident of Fountain Valley School District of
(Name of Student) (Date of Birth) (Local Education Agency)
Orange County.

This AMENDED Service shall begin on January 21, 2014 and shall terminate at 5:00 p.m. on June 30, 2014 unless sooner terminated as provided herein.

-CONTRACTOR-

-DISTRICT-

Cornerstone Therapies
(Name of Nonpublic School/Agency)

Fountain Valley School District
(Name of School District)

(Contracting Officer's Signature) Date

(Signature)

(Type Name and Title)

Marc Ecker, Ph.D.
(Type Name of Superintendent) Date