

DELTA HIGH SCHOOL PROGRAM COOPERATIVE AGREEMENT

THIS AGREEMENT (the "Agreement") is entered into by and between the Richland School District No. 400 ("Richland"), a Washington municipal corporation, the Pasco School District No. 1 ("Pasco"), a Washington municipal corporation, and the Kennewick School District No. 17 ("Kennewick"), a Washington municipal corporation, together the "Parties."

WHEREAS the Parties wish to create a public high school program that provides students a Science, Technology, Engineering, and Mathematics ("STEM") focused curriculum; and

WHEREAS RCW 28A.225.250 allows the Parties to establish interdistrict cooperative programs and Ch. 392-135 WAC allows the Parties to enter into interdistrict cooperative contracts; and

WHEREAS the Parties wish to form an interdistrict cooperative for the purposes of establishing and operating a STEM High School Program called Delta High School for students in the respective districts; and

NOW, THEREFORE, in consideration of the premises and promises and agreements herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

SECTION I: PURPOSE OF THE AGREEMENT

- A. The Parties acknowledge and agree that the purpose of the Agreement is to establish the considerations and conditions necessary for the administration, operation, and inter-district financing of the Delta High School program (hereinafter "Program"); and
- B. For purposes of administration, operation, and inter-district financing of the Program, the Parties intend to create and establish a cooperative program as allowed by RCW 28A.225.250.

SECTION II: ADMINISTRATION

- A. Host District. Educational Service District 123 ("ESD 123") will serve as the host district for the Program so long as the Program is located within the boundaries of ESD 123. The Parties agree to enter into a separate agreement, if necessary, with ESD 123 for this purpose.
- B. Fiscal Agent. As the host district, ESD 123 will serve as the fiscal agent for all revenues and expenditures of the Program which are not borne directly by the participating school districts of the cooperative, unless otherwise stated in this agreement. The fiscal policies and procedures for the Program shall be developed by the Superintendents Council in conjunction with ESD 123.

- C. **Superintendents Council.** A Superintendents Council shall be established and comprised of the superintendents, or their designees, of Richland, Pasco, and Kennewick School Districts. The duties of the Superintendents Council will be to receive recommendations and make decisions regarding budgets, rules and regulations of operations, and program and curriculum offerings of the Program. Budgetary decisions will be made in consultation with each district's Board of Directors. The Superintendents Council will provide the superintendent of the host district with recommendations for management decisions over which the host district has authority under this agreement. The Superintendents Council members will make every effort to reach consensus when making decisions, however, decisions will be made by a majority of members if consensus cannot be reached.
- D. **Advisory Board.** The following partners shall have one seat each on the Advisory Board: Pasco School District, Kennewick School District, Richland School District, Battelle, Washington State University Tri-Cities, Washington State STEM Education Foundation, and Columbia Basin College. The purpose of the Advisory Board is to provide advice and guidance to the Superintendents Council on matters including the design, operation, academic program, professional development, and related matters. Additional organizations may be added or deleted if approved by the Advisory Board. The Advisory Board shall have no legal authority with respect to, or legal responsibility for, operation and management of the Program or this Agreement. The Advisory Board agrees to enter into a separate agreement, if necessary, with the partners.
- E. **STEM Foundation.** The Washington State STEM Education Foundation is a Washington State non-profit corporation whose purpose is to encourage, perpetuate and provide education and instruction in science, technology, engineering and mathematics (STEM), and such other courses that prepare and enable students to contribute to a highly technical world by creating an environment in which they are engaged with teachers and scientists in multi-disciplinary research investigations, technology development and cognitive problem solving. The Parties understand the Foundation will attempt to support the Program and provide the supplemental funds necessary to implement the curricular and enrichment opportunities required under this Agreement. The Parties agree to enter into a separate agreement with the Foundation to allow the Program to receive gifts, grants, real property, and other forms of financial and in-kind support from the Foundation.

SECTION III: MANAGEMENT OF THE STEM HIGH SCHOOL PROGRAM

- A. **Personnel.** The Superintendents Council shall determine all Program educational program staffing requirements, consistent with Parties' annual budgets approved by their boards of directors. Certificated and classified employees working in the Program shall be subject to all state and federal qualification requirements, including the highly qualified requirements of the federal No Child Left Behind Act.
1. **Delta High School Principal ("Principal").** The Superintendents Council will develop a procedure by which one district will hire and supervise a Principal to be the certificated administrator of the Program (Delta High School). The Advisory Board

may be invited to participate in the recruitment and selection process for hiring the Principal, according to the procedures developed by the Superintendents Council. The Principal will make regular reports to the Superintendents Council and Advisory Board as needed.

- a. The Principal will have all the authority and responsibility of a school principal as required by the laws, rules, and regulations of the State of Washington. Such duties include, but are not limited to, supervision of students and staff, and evaluation of staff.
 - b. The Principal will be evaluated annually according to the policies and procedures applicable to administrator evaluations of the hiring district, with input from the Superintendents Council.
 - c. If the position of Delta High School Principal is vacated, the Superintendents Council will develop or make any changes to existing hiring procedures as deemed necessary before beginning the hiring process.
2. Certificated Teaching Staff. Richland, Kennewick, and Pasco School Districts will provide a number of teachers on special assignment (“TOSAs”) as determined annually by the Superintendents Council. The Parties intend that provision of TOSAs will be proportional based on student enrollment from each district, to the extent possible, with consideration to each district for the impact of filling math and science positions. No Party will provide more than fifty percent (50%) of the TOSAs for the program, unless their seat allotment is greater than 50%. TOSAs will be assigned based upon qualifications for the teaching assignment. Each TOSA will remain the employee of the assigning district, and will remain subject to the assigning district’s policies, procedures, and collective bargaining agreement, unless otherwise agreed to by the Parties. The Parties agree to enter into collective bargaining negotiations with their respective collective bargaining representatives, if necessary, to secure the concurrence of the collective bargaining representatives with any provision of this agreement which is a mandatory subject of bargaining.
- a. Contracts. Subject to the continuing contract law, TOSAs who are assigned to the Program will be asked to commit to the program for at least four (4) years.
 - b. Program Requirements. TOSAs who are assigned to the Program will be required to follow the specific policies, guidelines, expectations, and curriculum of the Program. If the policies, guidelines, or expectations of the employing district conflict with those of the Program, the Program shall govern unless otherwise determined by the Superintendents Council.
 - c. Evaluation. The Delta High School Principal will be the evaluator of all TOSAs assigned to the Program. The Principal will comply with state law and applicable collective bargaining agreements regarding teacher evaluation.

3. Classified Staff. The Superintendents Council will determine annually the number of full-time equivalent classified staff to be hired for the Program. ESD 123 will be the employer of all Program classified staff, and said staff shall be subject to ESD 123 policies and procedures.
 4. Hiring Procedures. The Parties will collaboratively develop hiring procedures for certificated staff. The procedures will allow, but not require, each Party to participate in the hiring decisions for Program staff. The Parties agree that openings for TOSAs will first be opened to the current employees of the Richland, Pasco, and Kennewick School Districts before being opened to out-of-district applicants.
 5. Substitute Teaching Staff. The Parties will develop procedures for assigning and compensating substitute teachers in case of absence of a TOSA assigned to the Program. SubFinder shall be used to locate and place, as needed, qualified substitute teachers who have been cleared to work in each respective school district. This will be accomplished through ESD 123.
 6. Volunteers. All volunteers in the Program shall be subject to the policies and procedures of ESD 123, including required criminal history background checks. ESD 123 agrees to, at a minimum, require each volunteer to undergo a name and birth date criminal history background check through the Washington State Patrol. The Parties may develop separate procedures for placement of students in practicum and internship opportunities as part of the educational program.
- B. Technology. The Parties acknowledge they are subject to the Child Internet Protection Act and as such, the Program will be subject to the policies and procedures of the district supplying internet access and technology support, so long as they are in compliance with the Act.
- C. Equipment. The Superintendents Council will determine the equipment needs of the Program. The participating districts will proportionally share in the cost of equipping the Program and facilities that are not provided by another organization. As it becomes necessary, equipment may be purchased to replace, supplement, or add to the facility. Such purchases will be through the funds available to the operation of the facility via apportionment and/or other sources other than the Districts. It is further agreed that a participating district may loan or lease equipment to the facility upon such terms and conditions as may be mutually agreeable. The lending district will retain ownership of this equipment.
- D. Other Program Conditions. Unless otherwise agreed to by the Parties, the Program will be subject to the policies and procedures of the district designated by the Superintendents Council.

SECTION IV: EDUCATIONAL PROGRAM

- A. Curriculum. The curriculum for the Program will be developed or selected by Delta High School teaching staff and additional personnel appointed by each school district. The

Advisory Board may serve in the role of the Instructional Materials Committee during this process. In addition, any instructional materials approved by any of the cooperating districts will be deemed approved by all three districts for the Delta High School program. The curriculum will be approved by the Superintendents Council.

- B. Transportation. Each district shall be responsible for providing transportation for all students participating from their respective districts. No district shall be responsible for the transportation of students from another district.
- C. Schedule. The Program shall follow the school calendar of the District in which it is located. This calendar will be distributed as early as possible to all Parties and employees.
- D. Nutrition Services. The District in which the Program is located will provide nutrition services for the Program. Meal prices and menu will be determined by the District in which the Program is located.
- E. Student Enrollment.

1. Seat Allotment. The Superintendents Council, in consultation with their respective school boards, will meet annually or more often if necessary, to determine, using the procedure below, how many student seats from each district will be committed to the Program for the following year. Each district's total student allotment (number of student seats) will be determined by its proportional share of the total of all three districts' 6-12 full time equivalent students enrolled as reported on the most recent October enrollment data provided to OSPI. The Superintendents Council will determine the allowable enrollment levels of each incoming class to account for attrition for filling vacancies, but districts will not be required to fund more than their proportionate share of the total enrollment goal of 400 seats unless they choose to send more students than they have proportionately allotted seats.

2. Vacancies. When a participating district is unable to fill its allotted seats, it may notify other participating districts so that they may fill the seats. The district taking advantage of the open seat(s) will assume the cost for that seat.

If there are still open seats, the district may notify non-participating districts of the open seat(s). Students from non-participating districts who wish to enroll in the Program will be required to transfer and enroll in one of the participating districts where seats are available.

3. Eligibility. Any student eligible to attend high school in any of the participating districts is eligible to participate in the Program, subject to the following:
- a. General admission requirements approved by the Superintendents Council.
 - b. Requirements set by the participating district of residence recommending each student.
 - c. Availability of space to the quota allotted to the district of residence recommending each student.

- d. For purposes of RCW 28A.225.270, the Program is not a stand-alone school. A staff member who is assigned to the Program will not be allowed to enroll his or her child(ren) in the program solely because the staff member works in the program.

SECTION V: FUNDING

- A. District Per Student FTE Contribution. Each Party will contribute the total state per student FTE apportionment from form 1191 “BEA rate for special education unenhanced allocation” for its designated number of seats plus any additional students they send, as set forth in Section IV.E.1. Students enrolled in the Program will be claimed by their home district up to the maximum FTE allowed by the state. Each district will be responsible for providing funding or services for students who qualify for categorical program and/or compensatory services or funding as determined by the district. Districts are not responsible for any funding beyond the BEA and categorical funding for seats in Section IV.E.1. The Parties are willing to evaluate transitioning from a seat based enrollment to a student FTE based enrollment structure, provided the fiscal integrity of the Program is protected.
- B. Budget Process. The annual Program budget shall be developed jointly by the Superintendents Council.
- C. Audit. The Parties agree that the Program shall be subject to the laws of the State of Washington for purposes of auditing public secondary high school programs. Portions of any audit relating to the Program shall be provided to each Party within thirty (30) days of receipt from the State.
- D. Liability Insurance. Execution of this agreement and implementation of the Program is not intended to relieve any Party from liability for the normal and ordinary operations of its high school programs. Each Party shall be responsible for the conduct of its own agents, employees and staff. Each Party shall be responsible for the conduct of its own consultants and contractors unless such liability is limited by separate agreement with the consultant or contractor. Each Party shall maintain insurances in amounts reasonably acceptable to each district.

SECTION VI: DISPUTE RESOLUTION

It is hereby agreed that whenever an issue arises between the Parties concerning the Program, it shall be resolved in accord with the following procedure:

- A. If any dispute, controversy or claim arises in connection with the performance or breach of this agreement, any Party may, upon written notice to the other Parties, request facilitated negotiations. Such negotiations shall be assisted by a neutral facilitator acceptable to all Parties and shall require the best efforts of the Parties to discuss with each other in good faith their respective positions and, respecting their different interests, to finally resolve such dispute.
- B. Each Party may disclose any facts to the other Parties or to the facilitator which it, in

good faith, considers necessary to resolve the dispute. However, all such disclosures will be deemed in furtherance of settlement efforts and will not be admissible in any subsequent litigation against the disclosing Party. Except as agreed by all Parties, the facilitator shall keep confidential all information disclosed during negotiations. The facilitator shall not act as a witness for any Party in any subsequent arbitration between the Parties.

- C. Such facilitated negotiations shall conclude within fourteen (14) calendar days from receipt of the written notice unless extended by mutual consent. The Parties may also agree at any time to terminate or waive facilitated negotiations. The costs incurred by each Party in such negotiations will be borne by it; the fees and expenses of the facilitator, if any, shall be borne equally by the Parties.
- D. If any dispute, controversy or claim arises in connection with the performance or breach of this agreement and cannot be resolved by facilitated negotiations (or the Parties agree to waive that process) then such dispute, controversy or claim shall be settled by arbitration in accordance with the laws of Washington State and the then current Arbitration Rules of the American Arbitration Association (the "AAA"), except that no prehearing discovery shall be permitted unless specifically authorized by the arbitration panel, and shall take place in the Tri-Cities, Washington.
- E. Such arbitration shall be conducted before a single arbitrator to be chosen by the Parties. If there is a dispute in selecting the arbitrator, any Party may petition the Superior Court in Benton to select the arbitrator. The arbitrator shall have no authority to award non-monetary or equitable relief, and any monetary award shall not include punitive damages. The confidentiality provisions applicable to facilitated negotiation shall also apply to arbitration.
- F. The award issued by the arbitrator may be confirmed in a judgment by any state court of competent jurisdiction. All reasonable costs of the Parties, as determined by the arbitrator, including but not limited to: (1) the costs, including reasonable attorney's fees, of the arbitration; (2) the fees and expenses of the facilitator and the arbitrator; and (3) the costs, including reasonable attorney's fees, necessary to confirm the award in court shall be borne entirely by the non-prevailing Party or Parties (to be designated by the arbitration panel in the award) and may not be allocated between the Parties by the arbitrator.

SECTION VII: WITHDRAWAL AND TERMINATION

- A. Subject to the provision of section C below, no participating district may withdraw from the cooperative or the Program before December 12, 2022, and thereafter only with no less than eighteen (18) months written notice prior to July 1st of the year in which the district intends to terminate its participation. The withdrawal shall become effective on July 1st.

- B. **Reimbursement Provisions.** If a participating district withdraws from the cooperative no reimbursements will be due to the withdrawing district. Upon termination of the Program, all land improvements, facility, and equipment will remain the property of the Program and will be disbursed equitably according to procedures developed by the Superintendents Council.
- C. This agreement may be terminated and a new agreement entered into at any time if changes to state laws or regulations governing STEM programs have a material impact on the provisions of this agreement and entering a new agreement governing the Program would be mutually beneficial to the Parties.

SECTION VIII: DISSOLUTION PROVISIONS-Delta High School Program

This agreement shall be subject to any applicable state laws and regulations concerning the dissolution of the operation of school plant facilities.

SECTION IX: TERM

The original agreement took effect on April 1, 2009. The agreement was extended by mutual agreement of the parties on December 12, 2012 for ten (10) years through December 12, 2022, with automatic renewal for two (2) additional ten (10) year terms, unless written notice of termination is served upon each of the Parties according to the provisions of Section VII.A. . Written notice of termination shall be deemed to have been given three (3) calendar days after depositing the notice, postage prepaid, in the United States mail, or upon receipt, if by personal delivery. The terms and conditions of this agreement, including any amendments or addenda, apply to each renewal term.

SECTION X: MISCELLANEOUS

- A. Indemnification and Hold Harmless. Each Party shall defend, indemnify, and hold the others harmless from and against any and all claims, suits, damages, causes of action, economic loss, or judgments that arise or are a direct result of the negligent or intentional acts or omissions of the Party, its agents, employees, or officers related to this Agreement.
- B. Claims Procedure. A Party who intends to claim indemnification under this Agreement shall notify the Party from whom it seeks indemnification in writing of any claim, lawsuit, or other action in respect to which such indemnification is claimed within ten (10) days or receipt.
- C. Assignment. No assignment of this Agreement shall be made in whole or in part by any Party without the express written consent of the other Parties, which may be withheld at their sole discretion.
- D. Notice. Notices under this Agreement shall be sent to the following:

Richland School District
Attn: Superintendent
615 Snow Ave.
Richland, WA 99352

Pasco School District
Attn: Superintendent
1215 W. Lewis St.
Pasco, WA 99301

Kennewick School District
Attn: Superintendent
1000 W. 4th Ave.
Kennewick, WA 99336

- E. Governing Law. This Agreement is made and entered into in the State of Washington and shall be governed by and construed and enforced in accordance with the substantive laws of the State of Washington. Should any dispute arise concerning the enforcement, breach or interpretation of this Agreement, venue shall be in Benton County, Washington. The Parties shall first submit their dispute to dispute resolution according to Section VI.
- F. Severability. In the event a term, condition, or provision of the Agreement is determined as void, unenforceable, or unlawful by a court of competent jurisdiction, the Parties agree that such term, condition, or provision is severable, and that the remainder of the Agreement shall remain in full force and effect.
- G. Entire Agreement. This Agreement is the entire agreement of the Parties and may be changed, modified, or amended only upon written agreement bearing the signatures of the representatives from the Richland, Pasco, and Kennewick School Districts, authorized to sign by their requisite school boards.
- H. Amendments. Any Party to this Agreement can propose amendments. No amendment, supplement, or modification of this Agreement shall be binding unless executed in writing by all Parties hereto.

IN WITNESS WHEREOF, the Parties have executed this Agreement by having their authorized representatives affix their signatures in the spaces below.

Dave Bond 4/24/14
Superintendent Date
Kennewick School District No. 17

Don Adams 4/25/14
Board President Date
Kennewick School District No. 17

Richard J. Schultz 4/29/14
Superintendent Date
Richland School District No. 400

Phyllis Struckler 4/29/14
Board President Date
Richland School District No. 400

Sandra L. Hill 4-23-14
Superintendent Date
Pasco School District No. 1

Sherry Duncan 4-23-14
Board President Date
Pasco School District No. 1