

AMENDED AND RESTATED JOINT POWERS AGREEMENT

THIS AMENDED AND RESTATED JOINT POWERS AGREEMENT (the "Agreement") is made and entered into as of _____, 2022 (the "Effective Date") by and between the following Minnesota Independent School Districts: Independent School District No. 261 (Ashby), Independent School District No. 542 (Battle Lake), Independent School District No. 846 (Breckenridge), Independent School District No. 852 (Campbell-Tintah), Independent School District No. 544 (Fergus Falls), Independent School District No. 548 (Pelican Rapids), Independent School District No. 850 (Rothsay), and Independent School District No. 550 (Underwood). All of the Minnesota Independent School Districts listed herein are referred to as "Member Districts," and all of the Member Districts are considered governmental units under the terms and conditions of Minnesota Statutes § 471.59. The term "Member Districts" shall also include any Member Districts that are admitted to the Organization after the Effective Date.

RECITALS

- A. The Member Districts desire to provide special education services to students with disabilities;
- B. The Member Districts believe that providing special education services to students with disabilities can best be accomplished through cooperative efforts.
- C. Minnesota Statutes § 471.59 authorizes the Member Districts to jointly or cooperatively exercise any power common to the Member Districts.
- D. The Member Districts wish to amend and restate the joint powers agreement through this Agreement. This Agreement shall govern, supersede, and replace any and all joint powers agreements and any amendments and modifications thereto between the Member Districts relating to providing special education services to students with disabilities.

NOW, THEREFORE, the undersigned Member Districts, the joint and mutual exercise of their powers pursuant to Minnesota Statutes § 471.59, agree as follows:

- 1. **Name.** The Member Districts do hereby establish _____ (hereinafter referred to as the "Organization") as the name of the organization established pursuant to this Agreement.
- 2. **Purpose.** The purpose of the Organization is to provide, by cooperative effort, a comprehensive special education program for Member Districts. Through cooperative efforts, the Member Districts seek to optimize the educational services available to students with identified disabilities meeting Minnesota Department of Education criteria.
- 3. **Membership.**
 - a. **Member Districts.** The Member Districts of the Organization shall consist of the Minnesota Independent School Districts set forth below and those Minnesota Independent School Districts that are admitted as set forth herein.
 - i. Independent School District No. 261 (Ashby),
 - ii. Independent School District No. 542 (Battle Lake),
 - iii. Independent School District No. 846 (Breckenridge),
 - iv. Independent School District No. 852 (Campbell-Tintah),
 - v. Independent School District No. 544 (Fergus Falls),
 - vi. Independent School District No. 548 (Pelican Rapids),
 - vii. Independent School District No. 850 (Rothsay), and
 - viii. Independent School District No. 550 (Underwood)
 - b. **Eligibility for Membership.**

- i. Application for membership in the Organization shall be open to any public school district. Membership is granted by the Board upon application to the Board, unanimous consent of the current Member Districts, agreement to be bound by this Agreement, and receipt of payment from the applicant in conformity with this Agreement.
- ii. Before an applicant is admitted to the Organization, the total cost and fiscal responsibility shall be presented in writing to public school district applying for membership. The applying public school district shall agree to pay to the Organization the cost of which, or any portion thereof, that has been assessed against each of the Member Districts.
- iii. A new member shall provide a duly adopted resolution of its governing body agreeing to become a member and agreeing to be bound by the terms and conditions of this Agreement.

c. **Withdrawal.**

- i. All Member Districts shall be bound by the terms and conditions of this Agreement during the Fiscal Year (July 1 through June 30) in which it is a member. Any Member District may withdraw from this Agreement by giving written notice to the other Member Districts at least five months prior to the end of the then current Fiscal Year. If the written notice is not provided at least 5 months prior to the end of the then current Fiscal Year, the withdrawal shall be effective at the end of the next Fiscal Year. The withdrawal shall be effective at the end of the current Fiscal Year assuming the withdrawing member has provided at least 5 months prior written notice.
- ii. Upon termination of membership, the withdrawing member shall be refunded their proportionate share of the then current depreciated value of any real or personal property the withdrawing member helped purchase. The amount refunded shall not exceed the proportionate share originally paid by the withdrawing member for said property.

- 4. **Principal Office.** The principal office of the Organization shall be at 518 Friberg Avenue, Fergus Falls, Minnesota 56537.
- 5. **Term.** This Agreement shall continue from year to year but may be terminated at any regular meeting of the Board by a majority vote of the Board upon providing all Member Districts at least 15 days' written notice that a discussion and potential vote on termination of this Agreement will be on the agenda of a regular board meeting.
- 6. **Governance.**
 - a. **Board.** A joint powers board (the "Board") is hereby created for the governance of the Organization and to facilitate the performance of this Agreement. Such Board shall have the powers specifically given herein and shall have the powers specifically given herein and shall have the power to make recommendations to the Member Districts to improve cooperative and efficiency in carrying out the intent of this Agreement and to make recommendations and supplements to this Agreement.
 - b. **Board Membership.** The members of the Board shall be the Superintendent from each Member District and one school board member from each Member District. The Board shall consist of 16 members. No employee, full or part-time, of the Organization shall serve as a member of the Board. No Superintendent shall be entitled to serve as an officer of the Board.

- i. **Board Member Terms.** Each Board member shall serve a term of three (3) years with the term starting on the date of annual meeting or serve until a successor is qualified. Notwithstanding the foregoing, if there is a vacancy on the Board, the Member District with the vacancy shall fill the vacancy to fill the remaining term of the Board member that caused the vacancy.
- c. **Officers.** There shall be three (3) officers of the Board, consisting of a chair, vice chair, and treasurer.
 - i. **Chair.** The Board shall elect from the members of the Board a Chair at its annual meeting. The Chair shall act as the presiding officer at all Board meetings, executes undertakings ordered and directed by the Board and is the official representing of the Board in all matters related to the Organization.
 - ii. **Vice Chair.** The Board shall elect from the school board members of the Board a Vice Chair at its annual meeting. The Vice Chair shall act in the absence of the Chair and has all the powers of the Chair during the Chair's absence.
 - iii. **Treasurer.** The Board shall elect from the school board members of the Board a Treasurer at its annual meeting. The Treasurer shall receive and disburse funds of the Organization and keep records as required by law.
 - iv. **Executive Secretary.** The Special Education Director/Superintendent and/or its designee shall serve as Executive Secretary to the Board. The Executive Secretary shall have no vote on the Board. The duties and responsibilities of the Executive Secretary shall include, but are not limited to:
 - 1. Prepare, along with the Chair, an agenda for each Board meeting.
 - 2. Email the agenda for each Board meeting to all Board members at least one week prior to each Board meeting.
 - 3. Email the draft minutes to each Board member within five (5) days after each Board meeting.
 - v. **Officer Elections.** At each annual meeting, the Board shall elect the officers for the year and the officers shall immediately assume their duties upon election. Nominations for each officer position shall be made from the floor at the annual meeting. A candidate for an officer position receiving the majority of votes shall be declared elected and shall serve for one year or until a successor is qualified and elected.
 - vi. **Vacancy.** In the event of a vacancy of an officer position, the Executive Secretary shall send out an email to the Board calling for nominations. The nominations must be received within 7 days from the date of the email calling for nominations. At the next Board meeting, the Board shall vote on the nominees to fill the vacancy. No nominations for any vacancies shall be allowed except as set forth herein.
- d. **Resignation, Termination, and Removal of Board Member.** Any resignation from the Board or from any office position must be in writing and sent to the Executive Secretary. A Board member or an officer may be removed for cause upon a hearing by the Board. The reasons/basis for the removal shall be submitted to the Chair (unless the Chair is the subject, then the Vice Chair) and the Chair shall call a special meeting to hold a hearing on the charges. The Chair (or Vice Chair, as appropriate) shall email the reasons/basis for the removal to the Board as soon as possible after receiving the reasons/basis for the removal.

- e. **Compensation.** Board members shall receive a per diem for attending meetings of the Organization.
- f. **Meetings.**
 - i. The Board shall hold an annual meeting of the Organization in June of each year, the specific date, time and location which will be determined by the Board Chair. At the annual meeting, the Board shall elect officers, may receive reports on activities of the Organization, determine the direction of the Organization for the coming year, and determine any other business and matters.
 - ii. The Board shall hold regular meetings at least quarterly at and a date, time, and place to be determined at the annual meeting. In the event at a scheduled quarterly meeting conflicts with a holiday or other events, a majority of Board members may change the date, time, and/or place of such quarterly meetings.
 - iii. A majority of voting Board members present at any meeting shall constitute a quorum for the purpose of conducting business.
 - iv. Procedures and proceedings of the Board shall be governed by the most recent edition of Robert's Rules of Order.
 - v. Each Member District shall be entitled to one vote, which vote shall be cast by the school board member from that Member District. The Superintendent Board member from a Member District is not entitled to vote on any matter.
 - vi. Proxy voting by Board members is not permitted.
 - vii. The Chair shall be entitled call a special meeting of the Organization or any four (4) voting Board members may call a special meeting. The special meeting must comply with the requires of Minnesota law.
 - 1. Notice of the special meeting must be provided at least three (3) days prior to the special meeting, except for an emergency meeting or a special meeting for which a notice requirement is otherwise expressly provided by Minnesota Statutes.
 - viii. Meetings of the Board shall comply with the Minnesota Open Meeting law.
- g. **Executive Committee.** The Executive Committee shall consist only of Board members and shall be made up of four (4) Superintendents from the Member Districts and four (4) school board members. Each Member District shall be equally represented on the Executive Committee with either a Superintendent or a school board member on the Executive Committee.
 - i. The rotation of Executive Committee members shall be on a 3 years rotation with each Member District having a school board member as a member of the Executive Committee for 3 years and then the Superintendent as a member of the Executive Committee for 3 years. The Board shall determine the initial makeup and schedule of the rotation as set forth on Exhibit A.
 - 1. The Executive committee shall meet monthly at times set by the Executive Committee. Special meetings of the Executive Committee may be called by any two members of the Executive Committee. Notice of a special meeting of the Executive Committee must be provided at least three (3) days prior to the special meeting, except for an emergency meeting or a special meeting for which a notice requirement is otherwise expressly provided by Minnesota Statutes.
 - ii. The Executive Committee shall have the following powers:

1. Act as advisors to the Director of Special Education/Superintendent.
2. Make recommendations to the Board for policies, programs, and such other matters as would help the function and purpose of the Organization.
3. The Executive Committee shall be responsible for supervising and evaluating the Special Education Director/Superintendent.

4. All decisions of the Executive Committee shall be submitted for ratification by the Board at the next Board meeting.

h. **Powers and Duties of the Board.** The Board shall have, and is hereby given, all powers, duties, and functions as set forth in this Agreement and as allowed by law, and all such further powers necessary to carry out the intent and purpose of the Organization as set out in this Agreement, including, but not limited to, the following:

- i. The Organization shall employ a Special Education Director/Superintendent who shall be certified according to the Minnesota Department of Education and who shall be responsible for the Organization for the administration of the special education program.
- ii. The Executive Committee shall be responsible for supervising and evaluating the Special Education Director/Superintendent.
- iii. To hire, terminate, and discipline employees and administer all other personnel and human resources matters.
- iv. All contracts or work assignments on behalf of the Organization shall be signed by the Chair and the Treasurer.
- v. Enter into contracts to carry out the functions and operations of the Organization.
- vi. Establishment of a budget and appropriate system of record keeping.
- vii. Negotiate and approve contracts for personnel, including administration and services.
- viii. To control and direct the administration of the affairs of the Organization.
- ix. To contract with consultants, including, but not limited to, accountants, auditors, the fiscal agent, engineers, architects, legal counsel, and other service professionals as necessary.
- x. To manage, own, lease, and operate equipment, vehicles, facilities, and buildings.
- xi. Handle all the fiscal affairs of the Organization.
- xii. Apply for, receive, and administer educational funding, including state special education reimbursements and money received through Federal funds.
- xiii. Administer funds and exercise its authority in such a way as to accomplish the purpose of this Agreement.
- xiv. The care, management, and control of the Organization shall be vested in the Board.
- xv. Provide a system of reporting to and communicating with the School Board of each Member District.
- xvi. To adopt personnel policies and practices.
- xvii. Notwithstanding anything contained herein to the contrary, the Board shall not enter into any contracts or purchase property or services without the prior written approval of the majority of the Member Districts.

7. **Fiscal Affairs.**

- a. **Fiscal Agent.** The Board shall have the power to contract with a Member District to act as the Fiscal Agent on behalf of the Organization. The Fiscal Agent must meet all the legal requirements of the Member Districts. If the Board contracts with a Fiscal Agent, the Fiscal Agent shall handle all fiscal affairs of the Organization within the construct of the approved budget and shall make reports as requested by the Board.
- b. **Financing.** The Board, or the Fiscal Agent, with the Board's approval, shall be empowered to finance the special education program implemented pursuant to this Agreement as follows:
 - i. By applying for, receiving, and administering Federal and State aid and reimbursements for programs carried out by the Organization.
 - ii. By quarterly payments by Member Districts based on each individual Member District's student population and/or on the amount of time needed by individual Member Districts.
 - iii. By receiving grants and gifts.
- c. **Benefits.** Nothing contained herein shall prevent any Member District from applying separately for any benefit to which it may be entitled to itself.
- d. **Records.** The Organization shall maintain records, disburse funds, and accept receipts in accordance with the budget.
- e. **Reimbursable Expenses.** Reasonable expenses of the Organization shall be reimbursed at actual cost, and must be itemized with receipts, as appropriate. Mileage expense is reimbursable at the prevailing IRS rate for business mileage.
- f. **Budget.** The Director of Special Education shall prepare (or direct the Fiscal Agent to prepare) a proposed annual operating budget for consideration by the Board at its April Board meeting. Copies of the proposed annual operating budget shall be provided to all Member Districts at least one week prior to the April Board meeting.
- g. **Insurance.** The Organization shall maintain public liability insurance with a minimum \$1,000,000.00 combined single-limit coverage for the operations of the activities of the Board and its programs and activities. The Board shall determine any other insurance coverage, and the amounts, as necessary for the Organization.
- h. **Claims Arising out of Activities of the Organization.** Any limit(s) of liability applicable to the Member Districts or the Organization shall not be added together or stacked for any purpose. The total aggregate liability of one or more of the Member Districts and the Organization or their respective officers or employees arising out of the activities of the Organization shall not exceed the limits for a single Member District as set forth in Minnesota Statutes § 466.04, as amended, regardless of whether the Organization is a separate entity or organization. The provisions of this section shall not be construed to create, as between Member District or between any Member District(s) and the Organization, any right of indemnification.
 - i. To the fullest extent permitted by law, this Agreement and the activities carried out hereunder are intended to be and shall be construed as a "cooperative activity" and it is the intent of the Member Districts that they, together, with the Organization, shall be deemed a "single governmental unit" for purpose of liability. Each Member District expressly declines responsibility for the acts or omissions of the other Member Districts. In addition to what is stated in this Agreement, nothing herein shall be construed to waive or limit any exemption or immunity from, or limitation on, liability available to the Member Districts as set

forth by Minnesota law, including, but not limited to, as set forth in Minnesota Statutes Chapter 466, as amended.

ii. The Member Districts are not liable for the acts or omissions of the other Member Districts except to the extent to which they have agreed in writing to be responsible for the acts or omissions of the other Member Districts.

iii. Under no circumstances shall a Member District be required to pay on behalf of itself, another Member District, or any other individual, entity, or party any amount in excess of the limits of liability established in Minnesota Statutes Chapter 466, as amended, applicable to any third party claim or action.

i. **Encumbrances.** The Board shall not encumber the Organization by contract or other agreement or obligation, nor incur any debt which would be binding on the Member Districts without the prior approval of the Member Districts. The foregoing does not preclude the Board from approving, and paying for, normal operating expenses.

8. **Employment Matters.**

a. **Hiring.** The Board shall hire employees in a manner prescribed by statute for independent school districts. Hiring of the Organization's staff or personnel shall follow the following procedure:

i. A staff opening will be determined by the Board.

ii. The Director of Special Education will recruit and interview prospective candidates.

iii. Interviews with Superintendent members of the Board and/or other interested personnel may be arranged at the discretion of the Board.

iv. An offer of employment may be extended consistent with the terms and conditions of employment as set forth in Section 8(b) in this Agreement.

b. **Terms and Conditions of Employment.**

i. All employees of the Organization shall be employed by action of the Board.

ii. All certified employees of the Organization shall be employed under the terms and conditions of the Organization.

iii. All non-certified employees of the Organization shall be employed under the terms and conditions of the Organization.

c. **Assistance of Supervisors and Directors.**

i. The assistance of the supervisors and directors employed by the Organization shall be available to all Member Districts for administration and supervision, including the preparation and filing of reports, in such areas as such supervisors and directors may qualify and that the Board shall direct.

9. **Termination.** This Agreement shall terminate and the Organization thereby dissolved upon the occurrence of any one of the following events, whichever occurs first:

a. When the Member Districts, by written agreement approved by the governing bodies of each Member District, constituting a majority of the Member Districts, agree to dissolve the Organization and terminate this Agreement.

b. When necessitated by operation of law or as a result of a decision by a court of competent jurisdiction.

c. When necessitated based upon the failure to obtain necessary funding from the Member Districts or funding from the State of Minnesota and/or the United States Federal Government.

10. **Effect of Termination/Dissolution of Organization.** Upon termination of this Agreement, the Organization shall be dissolved and the Board shall provide for the distribution of all of the Organizations funds and assets and payment of any liabilities in the following manner:
- a. Sufficient reserves shall be retained and maintained consistent with the Board's obligations and known foreseeable risks under this Agreement and applicable laws.
 - b. Upon termination and/or dissolution, payment of all obligations arising under this Agreement shall be paid.
 - c. In the event that there is surplus property and/or assets after payment of all obligations arising under this Agreement are paid, the surplus property and assets will be distributed in proportion to the total contributions by the then current Member Districts, or as the Member Districts may otherwise agree and in accordance with law.
11. **Amendments.** This Agreement may only be amended by a majority vote of the Board. No change of this Agreement shall be in order at any meeting unless notice that such matter is to be considered is placed on the agenda for a specified meeting and is mailed to each Member District at least one week prior to such meeting.

3-Yer Rotation											
School Year	Ashby	Battle Lake	Breckenridge	Campbell-Tintah	Fergus Falls	Pelican Rapids	Rothsay	Underwood			
2022/23	Board	Superintendent	Superintendent	Board	Board	Superintendent	Superintendent	Board			
2023/24	Superintendent	Board	Superintendent	Board	Board	Superintendent	Board	Superintendent			
2024/25	Superintendent	Board	Board	Superintendent	Board	Superintendent	Board	Superintendent			
2025/26	Superintendent	Board	Board	Superintendent	Superintendent	Board	Board	Superintendent			
2026/27	Board	Superintendent	Board	Superintendent	Superintendent	Board	Superintendent	Board			
2027/28	Board	Superintendent	Superintendent	Board	Superintendent	Board	Superintendent	Board			
2028/29	Board	Superintendent	Superintendent	Board	Board	Superintendent	Superintendent	Board			
2029/30	Superintendent	Board	Superintendent	Board	Board	Superintendent	Board	Superintendent			
2030/31	Superintendent	Board	Board	Superintendent	Board	Superintendent	Board	Superintendent			

