

SAN DIEGO COUNTY SCHOOLS RISK MANAGEMENT JOINT POWERS AUTHORITY
A G R E E M E N T

TO ESTABLISH, OPERATE, AND MAINTAIN SELF-INSURANCE PLANS

FOR

WORKERS' COMPENSATION, LIABILITY, PROPERTY DAMAGE, FIRE DAMAGE,
MEDICAL, DENTAL, VISION CLAIMS, OR ANY OTHER RISK OR PLAN

THIS AGREEMENT is entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Sections 6500, et seq.) of the California Government Code, relating to the joint exercise of powers between the public educational agencies signatory hereto, and also those which may hereafter become signatory hereto, for the purpose of operating an agency to be known and designated as "SAN DIEGO COUNTY SCHOOLS RISK MANAGEMENT JOINT POWERS AUTHORITY" hereinafter designated as the "AUTHORITY".

WITNESSETH:

WHEREAS, it is to be the mutual benefit of the parties herein subscribed and in the best public interest of said parties to join together to establish this Joint Powers Agreement to accomplish the purpose hereinafter set forth, and

WHEREAS, the development, organization and implementation of such an AUTHORITY is of such magnitude that it is desirable for aforesaid parties to join together in this Joint Powers Agreement in order to accomplish the purposes hereinafter set forth; and

WHEREAS, the signatories hereto have determined that there is a need by public educational agencies for a self-insurance plan for workers' compensation, liability, property damage, fire damage, medical, dental, vision claims, or any other risk or plan; and

WHEREAS, it has been determined by such signatories that self-insurance for workers' compensation, liability, property damage, fire damage, medical, dental, vision claims, or any other risk or plan that is of value on an individual and mutual basis and can adequately serve the needs of all such signatories; and

WHEREAS, Title 1, Division 7, Chapter 5, Article 1 (Sections 6500 et seq.) of the California Government Code authorizes joint exercise by two (2) or more public agencies or any power common to them; and

WHEREAS, it is the desire of the signatories hereto to jointly

provide for self-insurance plans for workers' compensation, liability, property damage, fire damage, medical, dental and vision claims, or any other risk or plan for their mutual advantage or concern;

NOW, THEREFORE, FOR, AND IN CONSIDERATION OF, THE MUTUAL ADVANTAGES TO BE DERIVED THEREFROM, AND IN CONSIDERATION OF THE EXECUTION OF THIS AGREEMENT BY OTHER PUBLIC EDUCATIONAL AGENCIES, each of the parties hereto does agree as follows:

ARTICLE I

CREATION OF THE JOINT POWERS AUTHORITY

A joint powers authority, separate and apart from the public educational agencies signatory hereto, shall be and is hereby created and shall hereinafter be designated as the SAN DIEGO COUNTY SCHOOLS RISK MANAGEMENT JOINT POWERS AUTHORITY, hereinafter referred to as the "AUTHORITY".

A. PURPOSE OF THE AUTHORITY

The AUTHORITY is established for the purposes of administering this Agreement, pursuant to the joint powers provisions of the California Government Code, and of providing the services and other items necessary and appropriate for the establishment, operation and maintenance of a self-insurance plan for workers' compensation, liability, property damage, fire damage, medical, dental and vision claims, or any other risk or plan authorized by law for the Public Educational Agencies who are Members thereof, and to provide a forum for discussion, study, development and implementation of recommendations of mutual interest regarding insurance, self-insurance and other related plans.

B. POWERS OF THE AUTHORITY

The AUTHORITY shall have the power and authority to exercise any power common to the Public Educational Agencies which are parties to this Agreement, as herein set forth. Pursuant to the California Government Code, the exercise of the aforesaid powers of the AUTHORITY shall be subject to the same restrictions in exercising its powers as a public educational agency except as otherwise provided in this Agreement.

C. FUNCTIONS OF THE AUTHORITY

1. To provide a self-insurance plan and system for workers' compensation, liability, property damage, fire damage,

medical, dental and vision claims, and any other risk or plan on behalf of the Members of the AUTHORITY and as such, to perform, or contract for the performance of, the financial administration, policy formulation, claim service, legal representation, safety engineering, health education and other services as necessary for the payment and handling of all workers' compensation, liability, property damage, fire damage, medical, dental and vision claims, or any other risk or plan on behalf of Members as required by State law. Said payment and handling for any Member shall be for all workers' compensation, liability, property damage, fire damage, medical, dental, and vision claims filed and arising out of facts occurring during the period of membership in the AUTHORITY. The AUTHORITY shall not pay or handle for a Member any claims which arise out of facts occurring before membership or after termination of membership in this AUTHORITY except as otherwise provided in this Agreement.

2. Upon joining a plan, subplan or program and upon payment of the appropriate contribution by each Member, the AUTHORITY shall issue to each Member a Memorandum of Risk Coverage and Services indicating the risk coverage provided to the Member by the AUTHORITY for each plan, subplan or program and the exchange of services, if any, between the Member and the AUTHORITY. Each Memorandum begins for each Member on such date as is set forth in the Memorandum.
3. To pursue any Member's right of subrogation against a third party when same is appropriate following generally accepted claims administration policies and procedures. Any and all proceeds in excess of costs and liability resulting from the assertion of such subrogation rights shall accrue to the benefit of the Member District against which the claim is charged.
4. To enter into contracts.
5. To obtain excess coverage insurance over the self-funded portion in an amount to be determined by the AUTHORITY.
6. To require the Agency to act as employer of approved personnel positions, acquire, hold, and dispose of property, real and personal, employ personnel and operate and maintain a system to handle the plans, all for the purpose of providing the membership with the necessary education, study, development, operation, management, and implementation of a self-insurance program for workers' compensation, liability, property damage,

fire damage, medical, dental and vision claims, and any other risk or plan.

7. To incur debts, liabilities and obligations necessary to accomplish the purposes of the Agreement.
8. To receive gifts, contributions, and donations of property, funds, services or other forms of assistance from Members, persons, firms, corporations, associations and any governmental entity in accordance with existing law.
9. To invest surplus reserve monies in accordance with procedures as approved by the Board of Directors.
10. To provide a forum for discussion, study, development and implementation of recommendations of mutual interest regarding other plans of insurance and self-insurance.
11. To sue and be sued in the name of the AUTHORITY.
12. To maintain accurate case records for all insured risks and accurate records of all claims paid.
13. To join another joint powers authority to provide services or coverage to this AUTHORITY.
14. To perform such other functions as may be necessary or appropriate to carry out this Agreement, so long as such other functions so performed are not prohibited by any provision of law and not otherwise inconsistent with this Agreement.

ARTICLE II

DEFINITIONS

Unless the context requires otherwise, the terms used herein shall have the following meanings:

1. "Agency" shall be the San Diego County Office of Education/San Diego County Superintendent of Schools.
2. "AUTHORITY" shall mean the SAN DIEGO COUNTY SCHOOLS RISK MANAGEMENT JOINT POWERS AUTHORITY created by this Agreement.
3. "Average Daily Attendance" (ADA) means total prior fiscal year P-2 ADA as reported on the Second Principal Apportionment.

4. "Board of Directors" shall mean the governing board of the AUTHORITY established herein to direct and control the AUTHORITY.
5. "Broker" shall mean the broker(s) engaged by the AUTHORITY for the purpose of acquiring an insurance policy.
6. "Claim" means that portion of a settlement, judgment, payment, or award, against a Member of the AUTHORITY. "Claim" shall include benefit payments, expenses, legal fees and reserves.
7. "Claims Administrator" shall mean a service company engaged by the AUTHORITY for the purpose of determining liabilities and recommending payments.
8. "Consultant" shall mean an independent contractor performing duties in an independent capacity and not as an officer, agent or employee.
9. "Contribution" shall mean money, including, but not limited to, deposit premiums and special assessments, paid by a Member to the AUTHORITY in return for the handling of claims and services outlined in the Memorandum of Risk Coverage and Services.
10. "Deductible" shall mean that amount of any loss that is in excess of a specified amount that the insurer will pay.
11. "Depository" shall mean the County Treasurer of the County of San Diego.
12. "Employee" means an eligible employee of a party to this Agreement.
13. "Fringe Benefit Self-Insurance Fund" shall mean the fund established by the AUTHORITY for the purpose of paying employee fringe benefit coverages, insurance premiums, administrative, and other costs relating to the fringe benefit self-insurance plan.
14. "Executive Committee" shall mean the committee established by Article IX.
15. "Fiscal Year" means the period of time commencing on July 1 and ending June 30.
16. "Insurance Carrier" is a stock, mutual, or non-assessable reciprocal insurance company with a rating or financial status satisfactory to the AUTHORITY.

17. "Item" means the equity or deficit or assets or liabilities for each plan, subplan or program. Any equity or deficit or assets or liabilities calculated during a year shall be adjusted thereafter to conform to the annual audit of the AUTHORITY.
18. "Joint Powers Agreement" shall mean a formal agreement provided for by law wherein separate entities may exercise jointly any power they have individually. This device may be used to purchase insurance, provide for uninsured losses, or other purposes as defined by the AUTHORITY.
19. "Loss Reports" shall mean a report showing a Member's claims for each Program in detail including current status, except that "Loss Reports" for Employee Benefit Programs shall not disclose confidential information.
20. "Member" shall mean a public educational agency which belongs to the SAN DIEGO COUNTY SCHOOLS RISK MANAGEMENT JOINT POWERS AUTHORITY.
21. "Memorandum of Risk Coverage and Services" means a document specifying terms, conditions, coverages, and limits of liability issued by the AUTHORITY which may commence or end on a date other than a fiscal year.
22. "Obligations" as referred to herein, shall include, but not be limited to, all payments required by law, together with all reserves which have been established for the purpose of paying claims or expected claims and related claim costs together with any other legal obligations incurred by the AUTHORITY pursuant to this Agreement.
23. "Operating Fund" shall mean the fund established by the AUTHORITY for the purpose of paying administrative and other costs of management services for the AUTHORITY for each plan, subplan or program.
24. "Plan" shall mean major risk and/or services provided by the AUTHORITY (i.e., Workers' Compensation, Property and Liability, Health).
25. "Program" shall mean a specific carrier, service, or line of coverage within a subplan administered by the AUTHORITY (i.e., Great West Dental Program, Delta Dental Program).
26. "Property and Liability Self-Insurance Fund" shall mean the fund

established by the AUTHORITY for the purpose of paying property and liability insurance premiums, losses, administrative, and other costs relating to the property and liability self-insurance plan.

27. "Pro Rata" for purposes of withdrawal of a Member and complete termination of a plan, subplan or program, shall mean to determine separately for each plan, subplan and program, a Member's individual share of an Item.
28. "Pro Rata" for purposes of calculating equity (rebates) and deficits (assessments), shall mean to determine separately for each year and for each plan, subplan and program, a Member's individual share of an Item.
29. "Public Educational Agency" shall mean a school district, community college district, county board of education or county superintendent of schools, regional occupational program, or insurance joint powers authority.
30. "Reserves" shall mean that part of the Member's contribution for each program held by the AUTHORITY to make future payments as respects to claims and expenses that have been incurred but are unpaid.
31. "Self-Insurance" shall mean funds and reserves to pay for losses not covered by insurance.
32. "Subplan" shall mean a line of coverage or risk within a plan administered by the AUTHORITY (i.e., dental subplan of Employee Fringe Benefit Plan).
33. "Workers' Compensation Self-Insurance Fund" shall mean the fund established by the AUTHORITY for the purpose of paying workers' compensation insurance premiums, losses, administrative, and other costs relating to the workers' compensation self-insurance plan.

ARTICLE III

ASSUMPTION OF RESPONSIBILITY

The AUTHORITY shall assume all obligations, assets, claims, responsibilities and authority of the Self-Insurance Program for Workers' Compensation Joint Powers Authority dated July 1, 1976, the Self-Insurance Program for Liability and Property Joint Powers Authority dated July 1, 1981 and the Self-Insurance Program for Fringe Benefits Joint Powers Authority dated October 1, 1982. Said assumption for each entity

shall occur on the date this Agreement becomes effective.

ARTICLE IV

TERM OF AGREEMENT

The Agreement shall become effective at 12:01 a.m. on the day following the day at which three-fourths (3/4) of each of the existing Members of:

- Self-Insurance Program for Workers' Compensation JPA;
- Self-Insurance Program for Property and Liability JPA;
- Self-Insurance Program for Fringe Benefits JPA;

have adopted a resolution approving the Agreement, but not earlier than 12:01 a.m., July 1, 1987.

This Agreement shall continue in effect until lawfully terminated as provided herein.

ARTICLE V

MEMBERSHIP

Each party to this Agreement must be eligible for membership in the AUTHORITY as defined herein and shall become a Member of the AUTHORITY on the effective date of this Agreement, except as provided hereinbelow. Each party which becomes a Member of the AUTHORITY shall be entitled to the rights and privileges of, and shall be subject to the obligations of, Membership as provided in this Agreement.

- A. All public educational agencies located within the State of California with statutory authority to self-insure their workers' compensation, liability, property damage, fire damage, medical, dental and vision claims or any other insurable risk or program authorized by law may apply for membership in the AUTHORITY. Membership is contingent upon being a party to this Joint Powers Agreement.
- B. Should any Member or Members reorganize in accordance with State statutes, the successor-in-interest or successors-in-interest to the obligations of any such reorganized public educational agency shall be substituted as a party or as parties to the Agreement.
- C. Public Educational Agencies (who do not transfer from the San Diego County Schools Self-Insurance Program for Workers' Compensation,

Property and Liability or Fringe Benefits JPA) applying for membership in the AUTHORITY to commence on or after July 1, 1987, shall be subject to the following conditions:

1. Submission of a formal letter by March 1, authorized by the applicant district's or agency's board of trustees, requesting membership;
 2. Review of applicant district's past appropriate insurance experience by the Executive Committee;
 3. Determination of eligibility by the Executive Committee, and the conditions and terms under which the new applicant district may be recommended to the Member districts for admission to Membership;
 4. Following the above determination, the Executive Committee will request an executed copy of the Joint Powers Agreement together with a resolution formally adopted by the applicant district's board of trustees or appropriate governing body;
 5. Formal recommendations to the AUTHORITY'S Member districts will be made by the Executive Committee.
 6. Any Public Educational Agency shall become a Member upon approval by a two-thirds (2/3) vote of the AUTHORITY'S Member districts, and the effective date of Membership shall be determined by the AUTHORITY'S Executive Committee.
- D. Upon admission to the Membership of the AUTHORITY, each Member agency shall become eligible to appoint a representative and an alternate to membership on the Board of Directors according to the procedures outlined in Article VII.
- E. Members of the San Diego County Schools Self-Insurance Program for Workers' Compensation, Property and Liability and Fringe Benefits JPA automatically become Members of the same plan, subplan or program in this AUTHORITY that they were a Member of in the San Diego County Schools Self-Insurance Program for Workers' Compensation, Property and Liability and Fringe Benefits JPA.
- F. Any Member may join or transfer from one subplan or program within a plan to another subplan or program within the same plan in accordance with rules, regulations, and bylaws of the Executive Committee approved by the Board of Directors.
- G. Members are responsible to have their designated representative:

1. Attend Board meetings and, when elected to, attend Executive Committee meetings.
2. Disseminate information within Member District.
3. Review agendas and minutes.
4. Provide copies of the annual financial report to the chief administrative officer of their Member District.

ARTICLE VI

AGENCY

The San Diego County Superintendent of Schools is hereby designated as the "Agency" to administer this Agreement, pursuant to the joint powers provisions of the Government Code of the State of California.

- A. The Agency shall provide day to day administration of the AUTHORITY consistent with this Agreement.
- B. The Agency, while acting in conformity with the directions of the Executive Committee and/or the Board of Directors, shall have authority, subject to budgetary and other limitations set forth herein, to carry out all functions authorized, including, but not limited to, making and entering into contracts, employing agents and employees, acquiring, holding, and disposing of personal property, and incurring debts, liabilities or obligations. The Agency may accept gifts on behalf of the AUTHORITY with the approval of the AUTHORITY. The Agency may receive, accept, and utilize the services of personnel offered by any Member and may accept and utilize property, real or personal, from any Member or its agents or representatives, and each Member is authorized to provide such services and property upon such terms as are agreed upon by the Member and the Agency.
- C. The Agency shall implement directions given by the Executive Committee and the Board of Directors where said directions are legal and within budgetary limitations.
- D. The Agency may decline to act as Administrator effective at the conclusion of any fiscal year, provided Agency has given at least one year prior notice. Such notice shall be in writing to the Board of Directors.
- E. The Agency shall be accountable for expenditures made from all funds and shall have authority within major objects of the funds to

make any intra-budget transfers. All other transfers shall be approved in advance by the Executive Committee and reported to the Board of Directors for ratification.

- F. The Agency shall process or cause to be processed claims in the manner provided in the bylaws, consistent with applicable laws, statutes and court judgments.
- G. The Agency shall supervise all personnel who are employed by it for purposes of this agreement in accordance with Agency practices and policies.
- H. The AUTHORITY shall defend and hold harmless the Agency from all liability and damages resulting from actions by the Board of Directors, the Executive Committee, or representatives of any participating Members acting on behalf of the AUTHORITY.
- I. The Agency shall be the Fiscal Agent for the AUTHORITY.
- J. The Agency shall defend and hold harmless the AUTHORITY for all liability and damages resulting from actions by the Agency.
- K. The Agency shall be fully reimbursed for all costs of operation of the AUTHORITY including, but not limited to, the employment of personnel, contracted services, operational expenses, audit expenses, supervision, data processing services, and other related expenses. All agency reimbursements shall be provided for in the adopted or revised budget.
- L. The Agency shall contract, with mutual agreement of the Executive Committee, with a Certified Public Accountant for an annual audit of the accounts, records, and financial affairs of the AUTHORITY and deliver such to the Executive Committee and Board of Directors. In each case, the minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the California Government Code and shall conform to generally accepted auditing standards and accounting principles. When such an audit of accounts and reports is made by a Certified Public Accountant, a report thereof shall be filed as a public record with each of the Members of the AUTHORITY and also with the Auditor-Controller of San Diego County. Any costs of the audit, including contracts with, or employment of, Certified Public Accountants in making the audit(s) provided for herein, shall be borne by the AUTHORITY.
- M. The Agency shall be the custodian of all property of the AUTHORITY.

ARTICLE VII

BOARD OF DIRECTORS

- A. A Board of Directors is hereby established to direct and control the AUTHORITY.
- B. Each Member of the AUTHORITY shall be entitled to appoint to the Board of Directors one representative and one alternate who shall be designated in writing. Said representative and said alternate must be an employee of the Member and shall serve at the pleasure of the appointing Member. Only the designated representative or designated alternate may represent a Member, and each shall be invited to attend all meetings of the Board of Directors. The designated representative and designated alternate may invite members of their agency's staffs or consultants to attend meetings of the Board of Directors in an advisory capacity only.
- C. Each Member shall have one vote, which may be cast only by the designated representative who is in physical attendance or by the designated alternate who is in physical attendance if the designated representative is absent. Except as otherwise provided in the Agreement, a vote of the majority of those Members constituting the Board of Directors present at a meeting shall be sufficient to constitute action, provided that a quorum is present.
- D. A quorum for the transaction of business by the Board of Directors shall consist of a majority of the active Members of the AUTHORITY then in current status.
- E. The Board of Directors may conduct regular, adjourned regular, special, and adjourned special meetings, provided, however, that it will hold at least two regular meetings each year, one in June and one in January. The date, time, and place for the meetings shall be fixed by resolution of the Executive Committee and filed with each Member of the AUTHORITY. The Board of Directors may hold additional meetings as called by the Executive Committee. All meetings of the Board of Directors shall be called, held, and conducted in accordance with the terms and provisions of the Ralph M. Brown Act (Section 54950, et seq.) of the California Government Code, as said Act may be modified by subsequent legislation and by applicable sections of the California Education Code, and as augmented by rules of the Board of Directors not inconsistent therewith. Except as otherwise provided or permitted by law, all meetings of the Board of Directors shall be open and public. The Board of Directors shall cause to be kept minutes of its meetings,

and shall promptly transmit to the Members of the AUTHORITY true and correct copies of the minutes of such meetings.

- F. The Board of Directors shall comply with the provisions of the Government Code requiring the filing of a statement with the Secretary of State and with the County Clerk.
- G. The Board of Directors may establish rules governing its own conduct and procedure, and have such expressed or implied authority as is not inconsistent with or contrary to the laws of the State of California, the bylaws, or this Agreement.
- H. No one serving on the Board of Directors shall receive any salary or compensation from the AUTHORITY.

ARTICLE VIII

FUNCTIONS OF THE BOARD OF DIRECTORS

- A. The Board of Directors shall govern the AUTHORITY and shall have the authority to carry out those functions of the AUTHORITY specified in this Agreement.
- B. The Board of Directors shall have the power and authority to receive, accept, and utilize the services of personnel offered by any of the parties of this Agreement, or their representatives or agents; to receive, accept, and utilize property, real or personal, from any of the parties to this Agreement, or their agents or representatives (and each Member is authorized to provide such services and property upon such terms as are agreed upon by the Member and the Agency); and to receive, accept, and expend and disburse funds by contract or otherwise, for purposes consistent with the provisions of this Agreement, which funds may be provided by any of the parties to this Agreement, or their agents or representatives.
- C. The Board of Directors shall provide, or cause to be provided, each Member with an annual report of the financial condition of the AUTHORITY and each plan, subplan or program, and the Operating Fund, including the fund balance of each Member District by plan.
- D. The Board of Directors shall annually, on or before June 30, adopt a budget showing each of the purposes for which the AUTHORITY will need money and the estimated amount of money that will be needed for each such purpose for the ensuing fiscal year. A copy of the budget shall be transmitted to each of the participating Members.

The budget process shall include approval of new employee positions.

- E. The Board of Directors may appoint and dissolve working committees from its active Membership and direct Agency with respect to its responsibilities hereunder.
- F. The Board of Directors shall determine the formulas and methods by which contributions and premiums will be paid to the AUTHORITY. The Board of Directors shall also provide for additional assessments, rebates, and plan changes during the year.
- G. The Board of Directors shall elect an Executive Committee of eight (8) Members from the membership of the Board of Directors giving consideration to a balanced representation by type and size of district.
 - 1. Two (2) Members who are in the Fringe Benefit, Property and Liability, and Workers' Compensation, except if there are not two such Members, then from Members who are in at least two of the Plans.
 - 2. Two (2) Members from the Workers' Compensation Plan;
 - 3. Two (2) Members from the Property and Liability Plan;
 - 4. Two (2) Members from the Fringe Benefit Plan;
 - 5. The Assistant Superintendent, Business Services, County Office of Education shall serve as a ninth (9th) voting Member of the Executive Committee.
- H. The Executive Committee shall elect its President and Vice President from its Members, and said persons shall also serve as the President and Vice President of the Board of Directors.
- I. The Board of Directors shall provide general direction to the Agency and to the Executive Committee.
- J. The Board of Directors shall cause to be paid to a withdrawing or terminating Member its individual Pro Rata share of the total tangible assets by Plan, Subplan and Program less applicable obligations.

ARTICLE IX

EXECUTIVE COMMITTEE

- A. The Executive Committee shall be elected by a majority vote of the Board of Directors to serve terms of office as may be established by the Board of Directors in its rules or bylaws.
- B. A Member of the Executive Committee may be removed by the Board of Directors after missing three consecutive meetings. All vacancies, however arising, may be filled at any time by the affirmative vote of a majority of the Board of Directors. Interim appointments may be made by the Executive Committee until the next Board of Directors meeting.
- C. The Executive Committee shall be responsible for assisting the Agency in the ongoing operations of the AUTHORITY, and shall carry out such other responsibilities as are delegated to it by the Board of Directors. The Executive Committee shall study and recommend to the Board of Directors changes in procedures, plans, and programs as appropriate.
- D. The Executive Committee shall hold at least one regular meeting quarterly. The date, time, and place upon which such regular meetings shall be held, shall be fixed by resolution of the Executive Committee, which resolution shall be filed with each Member of the AUTHORITY.
- E. The presence of a majority of the Members of the Executive Committee shall constitute a quorum, except that less than a quorum may adjourn from time to time. An affirmative vote of five (5) Members of the Executive Committee shall be necessary to constitute action and to transact business.

ARTICLE X

DUTIES OF THE EXECUTIVE COMMITTEE

The Executive Committee shall exercise its powers in the manner set forth in Article IX, Section C. In addition, the Executive Committee is specifically empowered to:

- A. Recommend to the Board of Directors for approval the formulas and methods for determining premium or contribution rates, additional assessments during the year, changes to plans, the method by which new Members shall be allowed into Programs, and the method for computing financial arrangements for withdrawing Members.

- B. Insure that the Agency maintains a complete and accurate system of accounting of all funds at all times as set forth in Article XIV;
- C. Elect at its first regular meeting and thereafter as necessary a President and Vice President to serve as officers of the Executive Committee and the Board of Directors for terms of one (1) year;
- D. Give direction to the Agency as to entering into contracts consistent with the terms of this Agreement;
- E. Make appropriate periodic reports to the membership on the status of the AUTHORITY and its plans;
- F. Develop or cause to be developed and recommend to the Board of Directors for approval an annual budget for the AUTHORITY;
- G. The Executive Committee shall recommend policies to the Board of Directors for processing claims for workers' compensation, liability, property damage, fire damage, medical, dental, and vision and/or any other risk or plan and related costs. Such claim processing shall conform to all applicable provisions of law. All Members shall, upon request, provide all required claims information on a timely basis to the Agency.

ARTICLE XI

SUB-COMMITTEES

- A. As needed, the Executive Committee of the AUTHORITY will establish sub-committees that will serve under the direction of the Executive Committee. The sub-committees will investigate, study and make recommendations to the Executive Committee or Board of Directors, as appropriate.

ARTICLE XII

OFFICERS

- A. The officers of the AUTHORITY shall be elected by and from the Executive Committee. The principal officers shall be a President and Vice President, and shall each serve a term of office of one (1) year. Any person elected or appointed as an officer may be removed at any time by the Board of Directors, with or without cause, and all vacancies, however arising, may be filled by the affirmative vote of a majority of the Executive Committee.
- B. The AUTHORITY shall furnish a Blanket Faithful Performance Bond covering all officers and employees, the amount to be determined by the Executive Committee.
- C. The President shall see that all orders and resolutions of the Board of Directors are carried into effect, and may, at the President's option, be a Member of all committees appointed by the Executive Committee. The President shall have such other powers and perform such other duties as may be prescribed from time to time by the Board of Directors.
- D. The Vice President shall have such powers and perform such duties as may be prescribed from time to time by the Board of Directors or the President. In the absence or disability of the President, the Vice President shall be vested with all the powers and authorized to perform all the duties of the President.
- E. The Agency's Director of Risk Management shall act as the Secretary of the Board of Directors and the Executive Committee and insure the recording of all votes and minutes of all proceedings; shall give, or cause to be given, notice of all meetings of the Board of Directors and of the Executive Committee, when notice is required; and shall have such other powers and perform such other duties as may be prescribed from time to time by the Board of Directors or

the Executive Committee.

- F. The Agency's Director of Risk Management, serving as Secretary, shall serve as a non-voting Member of the Executive Committee.

ARTICLE XIII

FINANCE

- A. The AUTHORITY shall operate on a fiscal year from July 1 through June 30.
- B. During the times established by the Board of Directors in each fiscal year, each Member shall pay to the AUTHORITY the annual contributions and any special assessment calculated by the Board of Directors. Each Member of the AUTHORITY hereby agrees to authorize the Agency to transfer from its general fund any required contribution or assessment. Members shall only pay contributions or assessments for the plan(s), subplan(s) or programs which they have joined and for which they have been issued a Memorandum of Risk Coverage and Services.
- C. A separate fund shall be kept for each plan administered by the AUTHORITY and for the Operating Fund. A separate system of records shall be maintained for each plan, subplan and program of the AUTHORITY and for its Operating Fund.
- D. All Members' contributions shall be credited to the proper Member plan, subplan or program of the AUTHORITY and all Member claims shall be paid from the appropriate Member plan, subplan or program.
- E. No claim shall be paid from one plan, subplan or program to meet the obligation of another plan, subplan or program.
- F. All expenditures and disbursements of monies from each Program shall be authorized in accordance with rules and procedures, established by the Board of Directors.
- G. Members within a plan, subplan or program shall share any rebates or deficits, if any, within a plan, subplan or program, on an individual Pro Rata basis.
- H. Equity and deficit for each plan, subplan and program shall be calculated and maintained for each separate operational year in accordance with rules and procedures established by the Executive Committee with approval of the Board of Directors.

- I. A Member may transfer funds between plans in accordance with provision of the bylaws, provided any such transfer is approved by two-thirds (2/3) of the Members of the Board of Directors.

ARTICLE XIV

ACCOUNTS AND RECORDS

- A. The Treasurer for the County of San Diego shall act as Treasurer to the AUTHORITY, and the Auditor shall be an independent Certified Public Accountant appointed by the Agency to act as the auditor for the AUTHORITY. Said designation shall be pursuant to Government Code Section 6505.5.
- B. The Executive Committee with approval of the Board of Directors shall have the same authority to invest funds as exists for California Public School Districts.
- C. The AUTHORITY is strictly accountable to its Members for all monies received and disbursed by it and, to that end, the AUTHORITY shall cause to be established and maintained such funds and accounts as may be required by good accounting practice or by any provision of law or any resolution of the Board of Directors.
- D. Books and records of the AUTHORITY shall be open to inspection at all reasonable times by representatives of the Members.
- E. As soon as practical after the close of each fiscal year, a complete written report of all financial activities for such fiscal year for each plan shall be given to each Member of the Board of Directors.
- F. The Treasurer of the San Diego County shall draw warrants to pay demands against the AUTHORITY when such demands have been duly approved in accordance with rules and procedures, established by the AUTHORITY.

ARTICLE XV

SETTLEMENT OF CLAIMS

The Executive Committee shall establish claims settlement procedures in accordance with any provisions of law, the bylaws, or good settlement practices.

ARTICLE XVI

LIMITATION ON COVERAGE

Except as expressly agreed to by an individual Member and the Board, the AUTHORITY'S payment and handling of claims against Members shall only be for claims or insurable risks and programs arising out of facts occurring during the period of membership in the AUTHORITY, and only for those plans, subplans and programs joined by the Member. Further, except as otherwise agreed to, the AUTHORITY shall not pay for or handle any claim arising out of facts occurring before membership or after termination of membership in the AUTHORITY.

ARTICLE XVII

RISK MANAGEMENT

The Agency shall develop guidelines of risk management practices for each plan, subplan and program. Each of the Members hereby agrees to implement the guidelines of risk management practices developed by the Agency, approved by the Executive Committee, and ratified by the Board of Directors.

ARTICLE XVIII

WITHDRAWAL FROM, TRANSFER OR TERMINATION OF MEMBERSHIP FROM PLAN(S)

- A. Any Member having completed three (3) complete consecutive years as a Member of the AUTHORITY (including the period July 1, 1976 through June 30, 1987, as a Member of any Joint Powers Agreement included in Article III, ASSUMPTION OF RESPONSIBILITY, of this Agreement) may withdraw from its status as a Member party to this Agreement or, after having completed three consecutive years in any Plan, may withdraw from each Plan at the end of any contract year by notifying the Board of Directors of the AUTHORITY in writing

within a reasonable time, as specified in the Bylaws.

- B. Upon the withdrawal of any Member, the Executive Committee shall establish a reserve account from the withdrawing Member's individual Pro Rata share of property interests, surplus monies or other assets of AUTHORITY for all claims, together with related costs, pending against the withdrawing Member for each plan, subplan or program being terminated in an amount to be determined by the Board of Directors. The Executive Committee shall establish an additional reserve account from the withdrawing Member's individual Pro Rata Share of property interests, surplus monies or other assets of AUTHORITY for possible claims against the withdrawing Member for each plan, subplan or program arising out of facts occurring while the withdrawing Member was a Member of the AUTHORITY but submitted after said Member has withdrawn from same. The amount of said additional reserve account shall be set by the Executive Committee. Any and all amounts remaining in any reserve account established for a withdrawing Member shall be returned to the withdrawing Member at the expiration of two years for those withdrawing Members in any employee benefit program and after five years for those withdrawing Members in the Workers' Compensation and Property/Liability Plan unless the Executive Committee deems that pending liabilities and related costs still exist. The withdrawing Member shall receive its individual Pro Rata Share of surplus monies or other assets of AUTHORITY, less any reserve accounts established for said withdrawing Member. Said assets of AUTHORITY shall be valued in the manner provided in Article XX, Section B.
- C. The withdrawing Member shall continue to be responsible for the amount of any costs, liabilities, assessments, or contingencies required because of claims against the withdrawing Member which exceed the amount set aside in the reserve accounts established pursuant to subparagraph B of this Article.
- D. A Member may be involuntarily terminated from the AUTHORITY or from any plan, subplan or program at any time upon recommendation of the Executive Committee and vote of two-thirds (2/3) of the Members of the Board of Directors. Involuntary termination from the AUTHORITY shall have the effect of eliminating the Member as a signatory of this Agreement and as a Member of the AUTHORITY, effective at the end of the contract or fiscal year in which the action is taken or upon such other date as the Board of Directors may specify. Should a Member be involuntarily terminated from the AUTHORITY or from any plan, subplan or program, reserve accounts shall be established pursuant to subparagraph C of this Article as though the Member were voluntarily withdrawing and the Member shall continue to be

liable and responsible for the amount of any costs, liabilities, assessments, or contingencies which exceed the amount set aside in the reserve accounts established pursuant to subparagraph B of this Article. Grounds for involuntarily termination include, but are not limited to, the following:

1. Failure or refusal of a Member to abide by this Joint Powers Agreement or any amendment hereto or any Memorandum of Risk Coverage and Services.
2. Failure or refusal to pay contributions or assessments to the AUTHORITY as provided in subparagraph B of Article XIII.
3. Persistent failure or refusal to follow positive risk management practices.

ARTICLE XIX

DISPOSITION OF PROPERTY AND FUNDS

- A. In the event of the dissolution of the AUTHORITY, the complete rescission, or other final termination of this Agreement by all Members, any property interests, surplus monies or other assets remaining in the AUTHORITY following a discharge of all obligations shall be disposed of by returning to each Member at the date of termination an individual Pro Rata share of said assets which shall be determined in the same manner as for withdrawing Member as provided in Article XIX.
- B. The current fair value of properties shall be determined by the AUTHORITY. If the withdrawing or terminating Member disagrees with the current fair value of the AUTHORITY properties as determined by the AUTHORITY, the current fair value of said properties shall be determined by independent consultant selected by the AUTHORITY and paid for by the withdrawing or terminating Member.

ARTICLE XX

INVESTMENT OF SURPLUS FUNDS

- A. The Executive Committee shall have the power to invest or cause to be invested, in compliance with the California Government Code, the Education Code, and other appropriate codes and regulations, funds and such reserve surplus monies as are not necessary for the immediate operations of the AUTHORITY and its Programs.

- B. The level of cash to be retained for the actual operation of the AUTHORITY and its Programs shall be determined by the Executive Committee.

ARTICLE XXI

AMENDMENTS

This Agreement may be amended at any time by written agreement signed by two-thirds (2/3) of the parties to this Agreement. Such amendments shall be binding upon all Members of the AUTHORITY. The effective date of any amendment will be on July 1 following adoption, unless otherwise stated.

ARTICLE XXII

SEVERABILITY

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

ARTICLE XXIII

LIABILITY AND INDEMNIFICATION

- A. Except as provided in Article VI. Sections H and J, pursuant to the provisions of the California Government Code, each Member hereto agrees to defend, indemnify and hold harmless each other Member from any liability, claim or judgment for injury or damages caused by a negligent or wrongful act or omission of an agent, officer, and/or employee of the indemnifying Member which occurs or arises out of performance of this Agreement.
- B. The Members of the Board of Directors and their alternates are indemnified, by this Agreement, and the AUTHORITY does hereby agree to defend, indemnify and hold them, and each of them, free from all claims expenses, demands, penalties, fines, forfeitures, judgment, settlements, attorney fees, and any other amounts whatsoever actually and reasonably incurred or threatened by reason of or as a result of their official participation and action in pursuance of

the execution and administration of this Agreement and the operation of the AUTHORITY created hereunder, including but not limited to amounts arising out of or by reason of any judicial or quasi-judicial action or proceeding, whether civil, criminal, administrative or investigative, provided that it appear to the satisfaction of the Board of Directors that the indemnitee acted in good faith and in a manner reasonably believed by him or her to be in the best interest of the AUTHORITY and that there is no reasonable cause to believe that the conduct was civilly or criminally unlawful. The termination of any proceeding by judgment, order, settlement, conviction, or plea of nolo contendere or its equivalent shall not for purposes of this Agreement in and of itself create any presumption that the indemnitee did not act in good faith and in a manner which he or she reasonably believed to be in the best interest of the AUTHORITY or that such person had reasonable cause to believe that his or her conduct under the circumstances was unlawful. This provision of indemnity shall not be construed to obligate the fund to pay any liability, including but not limited to, punitive damages, which by law would be contrary to public policy or itself unlawful. The Board of Directors in its discretion may provide for errors and omissions insurance policy coverage for the directors and officers of the AUTHORITY at the administrative expense of the AUTHORITY.

- C. The debts, liabilities and obligations of the Authority do not constitute the debts, liabilities and/or obligations of any Member.

ARTICLE XXIV

NOTICE AND SERVICE THEREOF

Any notice given to the parties to this Agreement shall be in writing and shall be dated and signed.

ARTICLE XXV

BYLAWS

- A. Bylaws shall be established by recommendation of the Executive Committee and approved by two-thirds (2/3) of the Members of the Board of Directors.
- B. The AUTHORITY shall be governed pursuant to certain bylaws, and by such amendments to the bylaws as may from time to time be adopted.

Each party to this Agreement agrees to comply with and be bound by the provisions of said bylaws and further agrees that the AUTHORITY shall be operated pursuant to this Agreement and said bylaws.

- C. Procedures for amending the bylaws shall be as provided in the bylaws so long as not inconsistent with this Agreement. All amendments to the bylaws must be approved by two-thirds (2/3) of the Members of the Board of Directors before the amendment shall become effective. Such amendments shall be binding upon all Members of the AUTHORITY. The effective date of any amendment will be on July 1 following adoption, unless otherwise stated.

ARTICLE XXVI

MISCELLANEOUS

The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the section referred to.

ARTICLE XXVII

TERMINATION OF AGREEMENT

Should all parties to this Agreement terminate their membership or be removed from membership in the AUTHORITY, the AUTHORITY and this Agreement shall continue to exist for the purpose of disposing of all claims, distribution of assets, and all other functions necessary to conclude the affairs of the AUTHORITY.

ARTICLE XXVIII

ENFORCEMENT

The AUTHORITY is hereby given authority to enforce this Agreement. In the event suit is brought upon this Agreement by the AUTHORITY and judgment is recovered against a Member, the Member shall pay all costs incurred by the AUTHORITY, including reasonable attorney's fees as fixed by the court.

ARTICLE XXIX

INVALIDITY

In the event any portion, term, condition, or provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable or in conflict with any law of the State of California, the remaining portion, terms, conditions, and provisions shall not be affected thereby.

ARTICLE XXX

REPLACEMENT OF AGREEMENT

Upon the effective date of this Agreement for all parties, the current Agreements for:

- Self-Insurance Program Workers' Compensation JPA;
- Self-Insurance Program for Property and Liability JPA; and
- Self-Insurance Program for Fringe Benefits JPA.

Shall be terminated and replaced in their entirety with this Agreement.

ARTICLE XXXI

REMOVAL OF AUTHORITY FOR FRINGE BENEFITS

The responsibility of the San Diego County Schools Risk Management Joint Powers Authority for fringe benefit plans or programs including medical, dental, vision, life, Internal Revenue Code Section 125, retiree health, retiree dental or any other fringe benefit plans or programs that are of value on an individual and mutual basis is removed from the San Diego County Schools Risk Management Joint Powers Authority Agreement with the understanding that this provision will take effect on the date when the San Diego County Schools Fringe Benefits Consortium Agreement to establish, operate, and maintain fringe benefit programs takes effect.

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed by its duly authorized representative on the respective dates indicated below:

Dated:
 Name of Public Educational Agency
 By: _____
 Title: _____
 Date of Governing Body Resolution:

SAN DIEGO COUNTY SCHOOLS RISK MANAGEMENT AUTHORITY

J O I N T P O W E R S A G R E E M E N T

APRIL 15, 1996

SAN DIEGO COUNTY SCHOOLS RISK MANAGEMENT
JOINT POWERS AUTHORITY AGREEMENT

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