

***Oak Park and River Forest High School
District 200***

201 North Scoville Avenue • Oak Park, IL 60302-2296

TO: Committee of the Whole

FROM: Michael Carioscio, Chief Information Officer

DATE: December 13, 2016

RE: Tri-District Consortium Agreement

BACKGROUND:

The technology teams at Districts 90, 97, and 200 have crafted an agreement as a foundation to sharing services and resources. This agreement has been reviewed by counsel of all three districts and will be presented at each respective board meeting in December 2016.

The primary driver of this agreement is to allow the three districts to act as a single entity for the purpose of obtaining e-Rate funding. E-rate funding will provide us 40-50% discount on equipment and services. E-rate funding is available to all three districts individually. This agreement does not change that. However, for us to connect our networks or to purchase hardware or software together, we must have a consortium agreement.

SUMMARY OF FINDINGS:

We would use this agreement to allow us to connect the networks of the three districts. We would connect the three districts to allow us to share services, resources, etc. Although e-Rate funding cannot be used for backup and redundancy, the interconnect of our networks would allow us great flexibility in delivering our services. This interconnection would also provide us an opportunity to share resources than would not be possible without it. This also opens the possibility of sharing facilities between the districts.

NEXT STEP:

Recommend this agreement to the full Board for approval at the December 22, 2016 Board of Education Meeting.



Oak Park Elementary School District 97

Districts 90, 97, and 200



Oak Park and River Forest
High School



River Forest
Public Schools

e-Rate Consortium agreement
December 2016

Why do we need this agreement?

The primary driver of this agreement is to allow the three districts to act as a single entity for the purpose of obtaining e-Rate funding.

E-rate funding will provide us 40-50% discount on equipment and services.

E-rate funding is available to all three districts individually. This agreement does not change that. However, for us to connect our networks or to purchase hardware or software together, we must have a consortium agreement.

What would we use it for?

We would use this agreement to allow us to connect the networks of the three districts.

We would connect the three districts to allow us to share services, resources, etc. Although e-Rate funding cannot be used for backup and redundancy, the interconnect of our networks would allow us great flexibility in delivering our services. This interconnection would also provide us an opportunity to share resources than would not be possible without it.

This also opens the possibility of sharing facilities between the districts.

When would we use it?

Assuming Board approval in December 2016, we would file for e-Rate funding for the 2017-18 school year.

We could be up and running as soon as the fall of 2017.

We still need to explore the budget impact (which should be minimal) and the security and privacy implications of the interconnection, but we need the agreement to move forward.

Approval

We are asking the Boards of Education of Districts 90, 97, and 200 to approve the e-Rate consortium agreement.

Presentations will be made at respective Board meetings in December 2016.

CONSORTIUM AGREEMENT

This Consortium Agreement (the or this "Agreement") is effective as of the effective date set forth in Paragraph 32 below (the "Effective Date"), and is entered into by and between the Board of Education of Oak Park and River Forest High School District No. 200, Cook County, Illinois (the "Board", "District", and "School District 200")), and the Board of Education of Oak Park Elementary School District No. 97, Cook County, Illinois ("School District 97") and the Board of Education of River Forest School District No. 90, Cook County, Illinois ("School District 90") (School District 200, School District 97, and School District 90 are collectively referred to herein as the "Members") pursuant to Section 10 of Article VII of the Illinois Constitution and the Intergovernmental Cooperation Act, 5 ILCS 220/1. In consideration of the mutual covenants and conditions contained herein, the Members agree as follows:

1. **Purpose.** The Board and the Members wish to establish and participate in a consortium (the "Consortium") to:
 - a. Simplify participation in the federal E-rate program to obtain discounts on shared telecommunications and technology services;
 - b. Improve the District's and the Members' coordination and implementation of technology-based projects and delivery of services in a cost-effective manner;
 - c. Leverage the District's and the Members' limited resources for technology projects; and
 - d. Provide standard operating procedures for requesting and implementing E-Rate discounts for shared Eligible E-Rate Services and/or Products.

2. **Definitions.** The following terms have the following definitions when used in this Agreement:
 - a. **"Consortium Lead"** shall mean the Board, acting on behalf of the Members, and in a capacity separate from its role as the authorizing and administrative entity for the District, as the named entity for the purposes of the E-rate program.
 - b. **"Consortium"** shall mean the Consortium Lead and the Members acting collectively.
 - c. **"E-rate program"** shall mean the program currently administered by SLD/USAC (defined below) or any of its successors under which eligible schools, libraries, and consortia may receive discounts for eligible telecommunications services, Internet access, and internal connections through the Universal Service Fund.
 - d. **"E-rate discount"** means the discount that eligible schools and libraries may receive for the acquisition of eligible telecommunications services, Internet access, and internal connections.
 - e. **"USAC"** means the Universal Service Administrative Company, a private not-for-profit company that provides access to affordable telecommunications services in the United States and its territories through its administration of the Universal Service Fund. USAC

administers the Universal Service Fund under regulations promulgated by the Federal Communications Commission (“**FCC**”).

- f.** The “**SLD/USAC**” means the School and Libraries Division, that branch of USAC, which administers the E-rate program that provides affordable access to telecommunications services for all eligible schools, libraries, and consortia in the United States and its territories.
 - g.** “**Discounted Portion of E-rate Eligible Services and/or Products**” shall mean that portion of the charge for E-rate eligible Services and/or Products for which the Consortium is able to seek reimbursement from USAC, as determined by the SLD/USAC in any Funding Commitment Decision Letter (“**FCDL**”).
 - h.** “**Non-Discounted Portion of E-rate Eligible Services and/or Products**” shall mean that portion of the charge for E-rate Eligible Services and/or Products for which the Consortium or any individual Member is responsible for payment as determined by the SLD/USAC in any FCDL. The Non-Discounted Portion shall not exceed the sum authorized by the Consortium.
 - i.** “**Eligible E-rate Services and/or Products**” shall mean services and/or products defined by the SLD/USAC as eligible for the E-rate discount as determined by FCC notices, rules, regulations and guidelines.
 - j.** “**Ineligible E-rate Services and/or Products**” shall mean services and/or products determined by the SLD/USAC to be ineligible for the E-rate discount as determined by FCC notices, rules, regulations, and guidelines, or otherwise. This term shall also cover any costs for Category 2 projects (as defined by SLD/USAC) which exceed the Category 2 budget available to any individual Member (including the Consortium Lead in its capacity as a Member District). The determination of the budget available shall be based on the formula put in place by SLD/USAC, as it applies to the circumstances of each individual Member. It shall be the responsibility of any individual Member to pay its share of the full undiscounted cost of any Ineligible E-rate Services and/or Products. Each Member shall be responsible for its share of costs as determined in each contract with a service provider.
- 3. Term of Agreement.** This Agreement shall commence on the Effective Date and end on June 30, 2020 (the “Initial Term”), unless terminated sooner as provided in this Agreement and provided further that the Agreement shall remain in effect for the duration of any agreement with a service provider for E-rate Services that is in effect after June 30, 2020. The Members shall have the option, following formal approval of their Boards of Education, to extend this Agreement for two (2) additional one (1) year periods (each an “Extension Term”) under the same terms and conditions of this Agreement; provided that if any Member, including the Consortium Lead does

not wish to extend the Agreement, that Member will not be part of the Agreement for the Extension Term. The Consortium Lead shall have the right to extend or abbreviate the Initial Term or any Extension Term if such extension or abbreviation is necessary to make the Term of the Agreement coincide with the “funding year” or “implementation period” as defined by the FCC and upon 30 days prior written notice to the Members. The Initial Term and the Extension Terms are referred to as the Term. If such extension of the Term of this Agreement is needed as described above and is authorized by the Consortium Lead, the Members agree to negotiate in good faith a written amendment extending the term of this Agreement.

4. **Eligibility Requirements.** The Consortium Lead and each Member represents that it meets the following eligibility requirements of the Consortium:
 - a. Member meets the statutory definition of an elementary and/or secondary school in 20 U.S.C. §§ 7801 (18) and (38) and does not operate as for-profit business and does not have endowments exceeding \$50 million; or
 - b. Member meets the eligibility requirements of the SLD/USAC and certifies to the representations made in the form Letter of Agency attached hereto as Exhibit A.

5. **Additional Members.** Additional public bodies that meet the eligibility requirements in Paragraph 4 may become members of the Consortium before the filing date of each E-rate year as determined by a majority of Members, one of which must be the Consortium Lead. Such additional members will be added to this Agreement by an amendment signed by the Members and the additional member.

6. **Letter of Agency.** Member agrees to participate in the E-rate Program through the Consortium. Upon executing a Letter of Agency in the form attached hereto as Exhibit A, Member authorizes the Consortium Lead to act as the named entity of the Consortium and to apply for E-rate discounts for the Eligible E-rate Services and/or Products and Ineligible E-rate Services and/or Products described in Exhibit B attached hereto (“Services and/or Products”) on behalf of the Member.

7. **Services and/or Products.** The Consortium may be eligible to purchase certain Eligible and/or Ineligible E-Rate Services and/or Products identified in Exhibit B from service providers pursuant to the terms and conditions of the Consortium Lead’s contracts with service providers. The Consortium Lead shall make commercially reasonable efforts to negotiate amendments to contracts with existing service providers to offer the Services and/or Products as identified in Exhibit B to the Members of the Consortium. Prior to procurement for Eligible and/or Ineligible E-Rate Services and/or Products, the Members shall confirm their individual participation regarding

the procurement in writing with the Consortium Lead. If a Member does not provide written authorization to the Consortium Lead, the other Members may still pursue the procurement and enter into an agreement with the service provider. The non-participating Member shall not receive services from the service provider or be obligated to make payments to the service provider. Participation in the procurement process does not obligate a Member to sign an agreement with a service provider. The amount a Member is required to pay to a service provide shall be provided for in the agreement with the service provider.

8. **Service-Related Decisions.** The Members agree that the Consortium Lead as the named entity of the Consortium shall have the authority to make service-related decisions concerning the Services and/or Products listed on Exhibit B. As such, the Consortium Lead will have the authority to apply for certain subsidized E-rate Eligible Services and/or Products on behalf of Members, in accordance with the guidelines and requirements of the E-rate program. The Consortium Lead reserves the right to terminate a Consortium contract in whole or in part with a service provider for convenience or for cause at the Consortium Lead's sole discretion, but upon 30 days written notice to the Members.
9. **Duplicate Services.** A Member may apply for E-rate products and services independently from the Consortium. Provided, however, that Members must provide the Consortium Lead with copies of any Form 470 or Form 471 filed by the Member. If the Consortium Lead determines that the services and/or products requested are duplicative of services and/or products received by the Consortium, the Member shall not contract for those services and/or products. Should the SLD/USAC make its own determination of duplicative services, Member agrees to withdraw or cancel the non-Consortium E-rate application or Funding Request Number line item, whichever is appropriate.
10. **Technology Related Equipment and Allocation of Responsibility.** For any purchase of equipment obtained through the Consortium, the Consortium Lead will ensure that all assets are tracked in order to meet E-rate guidelines; provided that Members are responsible for keeping their own asset inventory as set forth in Paragraph 12.b.vii. Member must notify the Consortium Lead of its intent and/or interest to upgrade existing technology equipment prior to the Consortium Lead's filing of the E-Rate application of the relevant funding year. The Consortium Lead will apply for Eligible E-Rate Services and /or Products described in Exhibit B on behalf of the Members. The Consortium Lead hereby acknowledges and agrees that ownership and title to all Eligible E-rate Services and/or Products purchased and installed at Member facilities pursuant to this Agreement shall vest with the individual Member upon acceptance and payment to the service provider of the required E-Rate costs by the Member.

11. **Payment and Allocation of Costs for E-rate Services and/or Products.**

- a. **Procedures with the Service Provider.** It is anticipated that a portion of the maximum compensation authorized under contracts with service providers for Services and/or Products may be eligible for E-rate discounts under the FCC Universal Service Support Mechanism. The Consortium Lead's service providers have instituted a two-tiered billing system; they shall be required to recover up to the approved Consortium discount percent (Discounted Portion) of compensation for such Eligible E-rate Services and/or Products directly from the SLD/USAC in accordance with the rules and procedures established by the FCC and the SLD/USAC and they shall bill each Member for the Member's share of the remaining Non-Discounted Portion of the Eligible E-rate Services and/or Products and the full amount of any Ineligible E-rate Services and/or Products. The SLD/USAC will specify in the FCDL the approved discount level and the approved funding amount of any Eligible E-rate Services and/or Products. Once the FCDL has been issued and service has begun, the Consortium Lead will then submit FCC Form 486 to the SLD/USAC. The SLD/USAC will subsequently issue a Form 486 Receipt Notification Letter to both the Consortium Lead and the service provider. The Consortium Lead will separately notify the service provider when to begin to provide the Eligible E-rate Services and/or Products. Form 486 cannot be filed before receipt of the FCDL from the SLD/USAC.
- b. **E-rate Invoices.** On a monthly basis, the service provider shall submit invoices and supporting documentation to the Member receiving such Services and/or Products (or parts thereof) for written approval. Such invoices and supporting documentation must also be presented to the Consortium Lead by the Service Provider. Pursuant to the instructions of the Consortium Lead, such invoices shall include both the full cost of Ineligible E-rate and Eligible E-rate Services and/or Products and the discounted portion of such. The service provider is responsible for providing proof of delivery and/or installation for the full cost of approved Ineligible and Eligible E-rate Services and/or Products.
- c. **Funding Procedure.** Members will submit information as reasonably requested by the Consortium Lead that will allow the Consortium Lead to apply for discounts for the Eligible E-rate Services and/or Products on behalf of the Consortium. Members agree and acknowledge that there may be Ineligible E-rate Services and/or Products purchased through the Consortium that will be funded solely by the Member(s) obtaining such Services and/or Products. The Consortium Lead will provide the cost information of the Eligible E-rate Products and/or Services to the Members. The Consortium will utilize the pricing that has been established in the service provider contracts that satisfy E-rate rules

and regulations. In the event that a Member would like to revise its request prior to services and/or products being provided, the Consortium Lead will review the request for change in services and/or products to insure that any change in the original request falls under the Consortium's E-rate application. In the event that this change requires additional payment from the Member, procedures for payment will be followed as described below in Paragraph 11(d). In the event that the Member desires to cancel, increase or reduce Eligible E-rate Services and/or Products received pursuant to the Consortium application, Member shall provide written notice to the Consortium Lead. Member shall cooperate with the Consortium Lead and sign any necessary authorization forms in regards to the canceling, reduction, or increase in Services and/or Products. Member shall be responsible for associated costs or expenses incurred by the Consortium Lead as the named entity of the Consortium, including but not limited to any termination or cancellation fees owed to the service provider, as a result of Member canceling Services and/or Products in whole or in part. The Member shall receive a refund for Services and/or Products that have been cancelled and/or reduced. If the Member requests the increase of Services and/or Products received under the Consortium, Member shall follow the payment procedures described in Paragraph 11(d) to cover any costs associated with additional Services and/or Products requested by the Member.

- d. Payment.** Each Member shall pay directly to the service provider its share, as provided in the service provider agreement and/or approved in the funding commitment decision, of the Non-Discounted Portion of the E-rate Eligible Services and/or Products and the full cost of Ineligible E-rate Services and/or Products within the time frame set forth in the Illinois Local Government Prompt Payment Act.
- e. Denial of E-rate Funding.** Members may request the Consortium Lead as the named entity to appeal any adverse ruling by the SLD/USAC concerning E-rate funding on behalf of the Members; provided that the Consortium Lead provides the Members with notice of its intent to appeal prior to filing any appeal. If the SLD/USAC denies funding for all or any portion of the invoices, costs, charges and/or fees of Eligible E-rate Services and/or Products or rescinds a funding commitment for the discounted portion of E-rate Eligible Service and/or Products, each Member shall be responsible for full payment of its share, as determined in the service provider agreement and/or approved in the funding commitment decision, of the delivered Eligible and Ineligible E-rate Services and/or Products and its pro rata share, as determined by the percentage the Member pays of the total amount of the service under the service provider agreement and/or under the funding commitment decision, of any legal fees incurred by the Consortium Lead pursuant to such appeal. Members shall make such payment to the Consortium Lead

within thirty (30) days after the Consortium Lead sends written notice to the Member. Members also authorize the Consortium Lead as the named entity to take any legal action on behalf of the Members against a service provider whose acts or omissions resulted in the denial or rescission of a funding commitment by the SLD/USAC. Any proceeds from a settlement or a judgment against the service provider will be paid out based on the impact of the settlement to the individual Members as reasonably determined by the Consortium Lead taking into account the services provided, the amounts the Member previously paid to the service provider, and any other relevant information.

12. **Responsibilities of the Respective Members.**

a. **Responsibilities of the Consortium Lead.** The Consortium Lead, as the named entity of the Consortium, will provide the following to the Members:

- i. Overseeing and managing the E-rate application process including determining eligibility of E-Rate Eligible Services and/or Products;
- ii. Issuing any Requests for Proposals (RFP), running a fair and open competition, reviewing and evaluating bids, selecting the apparently successful vendor and negotiating and finalizing contracts with service providers;
- iii. Securing the delivery, support and implementation of E-rate Eligible Services and/or Products; and
- iv. Maintaining audits and documentation relating to the services provided by the service provider and any information provided by the Members to the Consortium Lead relative to the Services and/or Products provided under this Agreement pursuant to Paragraph 13.

b. **Responsibilities of Members Participants.**

- i. **Documentation.** Each Member agrees to submit any documents, information, or data reasonably requested by the Consortium Lead pursuant to this Agreement, to follow the terms, procedures and policies set forth in this Agreement, to submit any other documents, information, or data requested by the FCC/SLD/USAC or Illinois State Board of Education ("ISBE").
- ii. **Entity and FCC Registration Number.** Each Member agrees to obtain an entity number (from SLD/USAC) and FCC Registration Number in a timely manner.
- iii. **Children's' Internet Protection Act Compliance ("CIPA").** As a condition for filing the Consortium's FCC Form 486, Each Member will complete and submit an FCC Form 479 to the Consortium Lead to certify compliance with CIPA.
- iv. **Authorization.** Each Member shall provide written authorization and approval to the Consortium Lead for the purchase of E-rate Eligible Services and/or Products

and Ineligible E-rate Services and/or Products that will be applied for on behalf of the Members.

- v. **Payment.** Each Member shall be responsible for payment to the service provider of its share, as determined in the agreement with the service provider, of the Non-Discounted Portion for E-rate Eligible Services and/or Products and the full cost of any Ineligible E-rate Services and/or Products as set forth in this Agreement and the Letter of Agency.
 - vi. **Project Implementation.** Each Member shall communicate directly with the service provider to initiate project implementation. Members shall also provide the Consortium Lead with a project schedule. Members shall notify the Consortium Lead of any delays or problems with the implementation schedule.
 - vii. **Asset Inventory.** Each Member is responsible for keeping their own asset inventory.
 - viii. **Freedom of Information Act and Other Requests.** Each Member understands that information concerning this Agreement may be subject to public disclosure pursuant to the Illinois Freedom of Information Act (5 ILCS 140/1) and any other comparable state and federal laws, as well as discovery requests and other requests. Members agree to cooperate fully with each other to timely meet deadlines to respond to such requests and that the Consortium Lead shall have sole discretion to determine what if any records are released if the Consortium Lead receives the FOIA request.
13. **Audit & Document Retention.** Members shall furnish the Consortium Lead with such information as may be reasonably requested relative to the Eligible and Ineligible E-rate Services and/or Products provided by the service provider. Members shall maintain all records, correspondence, receipts, vouchers, memoranda, and other data relating to the services received by the service provider of Eligible and Ineligible E-rate Services and/or Products. All records referenced above and any required under the document retention requirement of the Federal Communications Commission shall be retained for at least ten (10) years after the last day of the delivery to the Members of Eligible E-rate Services and/or Products. All such information shall be subject to inspection and audit by the Consortium Lead and/or FCC and/or SLD/USAC and/or their contractors. Pursuant to 47 CFR 54.516, Members shall be subject to audits and other investigations to evaluate the Members' compliance with the statutory and regulatory requirements for the E-rate program, including those requirements pertaining to what Eligible E-rate Services and/or Products are purchased, what Eligible E-rate Services and/or Products are delivered, and how Eligible E-rate Services and/or Products are being used.

14. **Termination.**

- a. **Termination for Convenience.** The Consortium Lead may terminate this Agreement for any reason during the Term of the Agreement by providing written notice to all Members at least sixty (60) calendar days before the filing deadline of the next E-rate Year. A Member of the Consortium may terminate its membership in the Consortium upon sixty (60) days written notice to the Consortium Lead if a Member no longer desires to participate in the Consortium for subsequent E-rate Year(s) or a Member no longer desires to be a member of the Consortium. Such termination for convenience by a Member will not affect any E-rate funding year for which a Consortium application has already been submitted to SLD/USAC, regardless of whether a funding commitment decision has been made on such application or impact a current agreement with a service provider.
- b. **Termination for Non-Eligibility, Breach or Default.**
 - i. **Member Determination of Non-Eligibility.** In the event that a Member no longer fulfills the eligibility requirements as described in Paragraph 4, that Member shall promptly notify the Consortium Lead within five (5) business days after the Member no longer meets the eligibility requirements and that Member shall no longer be entitled to receive E-rate discounts on Eligible E-Rate Services and/or Products purchased through the Consortium's application.
 - ii. **Consortium Lead Determination.** If the Consortium Lead determines that a Member no longer meets the eligibility requirements of this Agreement, has breached the terms of this Agreement, or is in default as provided in Paragraph 15, and the Member is unable to cure its lack of eligibility, the breach, or default within 30 days after the Consortium Lead provides written notice to the Member, then the Consortium Lead may terminate Member's rights under the Agreement.
- c. **Turnover of Documents and Records.** Upon demand of the Consortium Lead after a Member's termination of participation under this Agreement for any reason or following the expiration of this Agreement by its terms, the Member shall turn over to the Consortium Lead or its designee within ten days of demand, all materials, supplies, equipment owned or purchased by the Consortium Lead, completed or partially completed work, analyses, data, computer disks, documents, and any other information relating in any way to this Agreement, except that Member may keep a copy of such information for its own records.
- d. **Effect of Termination.** Upon termination of the Agreement or a Member's membership for convenience or for cause, Member shall not receive any E-rate discounts on Services and/or Products purchased through the Consortium. Upon termination of the Agreement, or termination of a Member's membership.

15. **Member Default.**

- a. Types of Default.** For purposes of this Paragraph, "Member Default" includes, but is not limited to, the following:
- i. Any misrepresentation by Member concerning this Agreement or the inducement of this Agreement or any false statements made by Member on the Letter of Agency.
 - ii. Breach of any agreement, representation, or warranty made by Member in this Agreement. Failure of Member to perform in accordance with or comply with the material terms and conditions of this Agreement including, but not limited to, the following:
 - 1. Action or failure to act which affects the safety and/or welfare of students or the Consortium Lead staff;
 - 2. Material failure to perform in accordance with the terms and conditions of this Agreement; and
 - 3. Any other acts specifically and expressly stated in this Agreement constituting Default.
 - iii. Any misapplication, mismanagement, or violation of the laws, rules, or regulations of the E-rate Program.
 - iv. Any misrepresentation by a Member of the Member's eligibility status to participate in the Consortium or the failure of the Member to promptly notify the Consortium Lead that the Member no longer fulfills the eligibility requirements as described in the Agreement.
 - v. An assignment by Member for the benefit of creditors or consent by Member to the appointment of a trustee or receiver or the filing by or against Member of any petition or proceeding under any bankruptcy, insolvency, or similar law.
- b. Available Remedies.** After giving notice in accordance with Paragraph 14.b.ii of this Agreement, the Consortium Lead may invoke any or all of the following remedies:
- i. Terminate a Member's membership in the Consortium in whole or in part, effective at a time specified by the Consortium Lead;
 - ii. Seek specific performance, an injunction or any other appropriate equitable remedy;
 - iii. Discontinue receipt of Services and/or Products under this Agreement;
 - iv. Receive from Member any and all damages incurred as a result or in consequence of Default;
 - v. Seek money damages;
 - vi. Withhold any and all payments of funds to that Member; and

- vii. Receive from Member any termination and/or cancellation fees owed the service provider as a result or in consequence of a Default.
 - c. **Remedies are not exclusive.** The remedies under the terms of this Agreement are not intended to be exclusive of any other remedies provided, but each and every such remedy shall be cumulative and shall be in addition to any other remedies, existing now or hereafter, at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon the occurrence of any Default shall be construed as a waiver of any Default or acquiescence thereto, and every such right and power may be exercised from time to time and as often as may be deemed appropriate.
 - d. **Waiver.** If the Consortium Lead considers it to be in its best interest, it may elect not to declare Member in default or to terminate this Agreement and Member may continue to receive the Services and/or Products despite one or more instances of Default. In such case, Member is not relieved of any responsibilities, duties, or obligations under this Agreement nor shall the Consortium Lead be deemed to have waived or relinquished any of the rights it has to declare Default in the future.
 - e. **Consortium Lead Default.** If the Consortium Lead commits a material breach of its obligations under this Agreement, any Member may notify the Consortium Lead in writing. If the Consortium Lead fails to cure the breach within 30 calendar days after receipt of notice, the Member declaring default may, at its option, require the Consortium Lead to take all necessary actions to transition the administrative duties of the Consortium to one of the other Members, who will then assume the responsibilities of the Consortium Lead.
16. **Representations and Warranties of Member.** Each Member represents and warrants that the following shall be true and correct as of the effective date of the Agreement and shall continue to be true and correct (as may be reasonably modified from time to time subject to the Consortium Lead's approval) during the term of this Agreement:
- a. **Financially Solvent.** Member is financially solvent and is able to pay all debts as they mature. Member also warrants that it does not owe any non-tax debt to the federal government including but not limited to the FCC.
 - b. **Compliance with Laws.** Member is and shall remain in compliance with all local, state and federal laws, ordinances, regulations and statutes relating to this Agreement, including, but not limited to, any rules and regulations of the FCC and/or SLD/USAC, Drug-Free Workplace and any others referenced in Paragraph 22 of this Agreement relating to nondiscrimination.
 - c. **Gratuities.** No payment, gratuity, or offer of employment was made to Member or its employees, or to the best of Member's knowledge in any way in relation to this

Agreement. Member is and shall remain in compliance with all applicable anti-kickback laws and regulations.

- d. **Authorization.** Member has taken all action necessary for the approval and execution of this Agreement, and execution of this Agreement by the person signing on behalf of Member is duly authorized by Member and has been made with complete and full authority to commit Member to all terms and conditions of this Agreement which shall constitute valid, binding obligations of the Member.
- e. **Good Standing with FCC.** Member has not been (a) debarred by the FCC or (b) disciplined by the FCC for any breach of FCC orders, rules, and/or regulations. If Member is under investigation by the FCC and/or the SLD/USAC for any alleged breach of its orders, rules and/or regulations, Member waives any rights to confidentiality as to the Consortium Lead to any records or materials subject to an investigation by the FCC and/or SLD/USAC. Upon written request of the Consortium Lead, Member will turn over to the Consortium Lead any documents or materials related to any investigation by the FCC and/or the SLD/USAC requested by the Consortium Lead.
- f. **No Legal Actions Preventing Performance.** As of the Effective Date, Member has no knowledge of any action, suit, proceeding, or material claim or investigation pending or to its knowledge threatened against it in any court, or by or before any federal, state, municipal, or other governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign, or before any arbitrator of any kind, that, if adversely determined, would materially affect Member's ability to perform its obligation under the Agreement.
- g. **Free Services from E-Rate Service Provider(s).** Member shall not use funding provided by the SLD/USAC to subsidize the procurement of Ineligible E-rate Services and/or Products or unrequested services and/or products. Member acknowledges that the SLD/USAC/FCC regulations and rules require that the value of the donated services and/or products be subtracted from the pre-discount cost included in the funding request. Member must notify the Consortium Lead if the service provider has donated services and/or products to the Member prior to the E-rate filing deadline of the relevant E-rate funding year and the start of services of the relevant E-rate funding year. Pursuant to the FCC/SLD/USAC rules, the Consortium Lead will then deduct any value of the donated products from the pre-discount amount on behalf of the Member receiving the services and/or products through the Consortium. Members also agree to follow the SLD/USAC's "Free Services Advisory" located at the following website: <http://www.universalservice.org/sl/applicants/step06/free-services-advisory.aspx>.

17. **Separate Legal Entity.** It is understood and agreed that neither Member nor any of Member's staff, agents, employees, or subcontractors shall be entitled to receive Consortium Lead employee benefits. It is further understood and agreed that the Consortium Lead shall not be responsible for, nor incur any liability for, any State or Federal withholding or other taxes or for FICA or State unemployment insurance for Member, its agents, employees or subcontractors, and the payment of any such taxes incurred or due by Member shall be the sole responsibility of Member. Member agrees that neither Member nor its staff or subcontractors shall represent themselves as employees or agents of the Consortium Lead or the Consortium.

18. **Indemnification.** Each Member shall defend, indemnify, and hold harmless the other Members and their respective Board, Board members, agents, and employees from any and all claims, demands, suits, actions, proceedings, loss, cost, and damages of every kind and description, including but not limited to attorneys' fees and/or litigation expenses which may be brought or made against or incurred arising out of or resulting from any action of the indemnifying Member, its officers, directors, agents and employees, constituting abuse or intentional or negligent misuse of E-Rate funded equipment installed at the Member facility.

19. **Legal Action by the Service Provider.** In the event that a service provider takes legal action against the Consortium Lead as the named entity for the Consortium or against the Consortium, the costs for defense of such action shall be borne by each Member based on its pro rata share, as determined by the percentage the Member pays of the total amount of the service under the service provider agreement and/or under the funding commitment decision. The Consortium Lead retains final approval of any and all settlements or legal strategies.

20. **Non-Liability of Consortium Lead Officials.** The Members agree that no Board member, employee, agent, officer or official of any Member shall be personally charged by a Member, with any liability or expense under this Agreement or be held personally liable under this Agreement.

21. **Insurance. [HAVE INSURANCE CONSULTANT REVIEW]** During the term of this Agreement and for ten (10) years thereafter, each Member shall, at their own cost and expense, carry and maintain comprehensive general liability insurance, insuring against all liability related to this Agreement, with a minimum combined single limit of One Million Dollars (\$1,000,000.00) per occurrence and Five Million Dollars (\$5,000,000) general aggregate. All insurers shall be licensed by the State of Illinois and rated A+-VII or better by A.M. Best or comparable rating service. The comprehensive general liability insurance policy shall name the other Members, their boards, board members, employees, agents, and successors as an additional insured on a primary noncontributory basis with a waiver of subrogation in favor of the other Members. The Members

shall provide each Member with notice of certificates of insurance and/or copies of policies reasonably acceptable to the other Members evidencing the existence of the coverage described above, including form and deductibles, during the time periods for which insurance is required by this Paragraph. The failure to provide acceptable insurance shall be deemed a breach of this Agreement entitling the non-compliant Member to be disqualified as a Member from the Consortium immediately. All policies of insurance shall provide by endorsement that no coverage may be canceled, terminated, or reduced by the insuring company without the insuring company having first given at least 30 days prior written notice to the other Members by certified mail, return receipt requested.

22. **Non-Discrimination.** Each Member acknowledges that it shall be an unlawful employment practice for Member or any of its subcontractors to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to compensation, or the terms, conditions, or privileges of employment, because of such individual's race, color, ancestry, religion, sex, sexual orientation, age, handicap, marital status, parental status, military discharge status, or national origin; or to limit, segregate, or classify employees or applicants for employment from equal employment opportunities or otherwise adversely affect an individual's status as an employee because of any of the forgoing. Member shall comply with the Civil Rights Act of 1964 as amended, 42 U.S.C.A. Section 2000, *et seq.*, the Age Discrimination in Employment Act, 29 U.S.C.A. §621, *et seq.*, Section 504 of the Rehabilitation Act, 20 U.S.C.A. §701, *et seq.*, as amended, the Americans With Disabilities Act, 42 U.S.C.A. §12101, *et seq.*, and the Illinois Human Rights Act, 775 ILCS 5/1-10, as amended.

23. **Site Visits.**

- a. Member shall grant reasonable access to, and cooperate with, the Consortium Lead, its officers, employees, SLD/USAC and other agents, including allowing site visits by the Consortium Lead, its officers, employees, SLD/USAC and other agents, for the purpose of allowing the Consortium Lead to fully evaluate compliance under this Agreement. Unless otherwise agreed by the Member affected, the Consortium Lead shall provide the Member with at least 24 hours prior notice of such site visits. The Consortium Lead and any of its officers, employees or other agents, shall be permitted to enter the appropriate Member's site to perform any necessary audit on the use of products or equipment funded by the E-rate Program upon reasonable notice.
- b. Members shall permit selected E-Rate service providers access to Member facilities for the purpose of delivering or installing E-Rate funded equipment, or providing scheduled or emergency maintenance or other E-Rate approved services under this Agreement, provided however, Members shall not be required to provide access to campus facilities

at any time or in any manner that would disrupt classroom instruction or school operations.

24. **SPIN Change.** The Consortium Lead reserves the right to request a Service Provider Identification Number (SPIN) change in the event that the Consortium Lead terminates the Agreement with the service provider for cause or for convenience, in whole or in part, or modifies the scope of services or other instances as the Consortium Lead deems appropriate. The Consortium Lead also reserves the right to request a SPIN change as otherwise permitted by the rules and regulations of the FCC and/or SLD/USAC. Member agrees to cooperate with the Consortium Lead in regards to any transition of services to another service provider as a result of any SPIN change.
25. **Notices.** All notices required under this Agreement shall be in writing and sent to the addresses and persons set forth below, or to such other addresses as designated by Members in the notice form attached hereto as Exhibit C. Each Member shall submit to the Consortium Lead the notice form within thirty (30) days after signing this Agreement. If Member fails to submit a notice form to the Consortium Lead, the Consortium Lead shall provide any notices under this Agreement to the Superintendent of the Member at Member's principal place of business. All notices shall be deemed received when (i) delivered personally; (ii) sent by confirmed telex or facsimile (followed by the actual document); or (iii) one (1) day after deposit with a commercial express courier specifying next day delivery, with written verification of receipt. Notices to the Consortium Lead should be sent to the addresses and persons set forth below:

Oak Park River Forest High School District No. 200 201 N. Scoville Ave. Oak Park, IL 60302 Phone: 708-383-0700 Email: licensing@oprfs.org Copy to: Chief School Business Officer, Superintendent	Oak Park School District No. 97 260 Madison St. Oak Park, IL 60302 Phone: 708-524-3015 Email: marendorff@op97.org Copy to: Assistant Superintendent of Finances and Operations, Superintendent
River Forest School District No. 90 7776 Lake St. River Forest, IL 60305 Phone: 708-366-9230 X 8670 Email: MartinK@district90.org Copy to: Director of Finance and Facilities	

- 26. **Entire Agreement.** This Agreement, including all exhibits and referenced documents constitutes the entire agreement of the Members with respect to the matters contained herein. All attached exhibits are incorporated into and made a part of this Agreement. No modification or amendment to this Agreement shall be effective unless such modification or amendment is in writing and signed by all Members. Any prior agreements or representations, either written or oral, relating to the subject matter of this Agreement have no force or effect.
- 27. **Amendment.** No amendment or modification to this Agreement shall be effective unless and until the amendment or modification is in writing and signed by the Consortium Lead.
- 28. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without regard to any conflict of law or choice of law principles. Jurisdiction and venue for all disputes hereunder shall be the Circuit Court located in Cook County, Illinois, or the federal district court for the Northern District of Illinois.
- 29. **No waiver.** No delay or omission by any Member to exercise any right hereunder shall be construed as a waiver of any such right and each Member reserves the right to exercise any such right from time to time as often and as may be deemed expedient.
- 30. **Board Approval.** This Agreement is subject to approval by the governing bodies of the Members.
- 31. **Survival.** The provisions of this Agreement that by their nature should survive the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement.
- 32. **Effective Date.** This Agreement shall be deemed dated and become effective on the date the last of the Members signs as set forth below the signature of their duly authorized representatives.

IN WITNESS WHEREOF, the Members hereto have executed this Agreement as of the Effective Date set forth at the beginning of this document.

Board of Education of Oak Park River Forest High School District No. 200	Board of Education of Oak Park River School District No. 97
By: _____	By: _____
_____	_____

<p style="text-align: center;">Its: President</p> <p>Attest:</p> <hr/> <p style="text-align: center;">Secretary</p> <p>Dated: _____</p> <p>Board of Education of River Forest High School District No. 90</p> <p>By: _____</p> <hr/> <p style="text-align: center;">Its: President</p> <p>Attest:</p> <hr/> <p style="text-align: center;">Secretary</p> <p>Dated: _____</p>	<p style="text-align: center;">Its: President</p> <p>Attest:</p> <hr/> <p style="text-align: center;">Secretary</p> <p>Dated: _____</p>
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Attachments

- EXHIBIT A - Letter of Agency**
- EXHIBIT B – Services and/or Products**
- EXHIBIT C – Notice Form**
- EXHIBIT D – Sample Information Request Form**

EXHIBIT A

Letter of Agency

To: Board of Education, Oak Park and River Forest High School District 200

Re: Letter of Agency for Funding Year _____

This is to confirm the participation of _____ (the "District") in the E-Rate Consortium managed by Oak Park and River Forest High School District 200 ("OPRF" or "Consortium Lead") for the procurement of telecommunication and Internet Services, as well as other services reasonably necessary in the overall administration of these programs solely for the purpose of procurement, provision, maintenance and operation thereof of E-Rate services and products on behalf of the District. I hereby authorize the Consortium Lead, as the named entity of the Consortium, to submit FCC Form 470, FCC Form 471, and other E-rate forms and inquiries to the Schools and Libraries Division of the Universal Service Administrative Company on behalf of the District.

The relevant time period for this letter of agency is _____, 2016 through November 30th, 2017.

I understand that, in submitting these forms on the Consortium's behalf, OPRF is making certifications on behalf of the Consortium Members. By signing this Letter of Agency, I make the following certifications:

- (a) I certify that all the schools in the District meets the statutory definition of elementary and secondary schools found in **No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801 (18) and (38)**), and that the District does not operate as a for-profit business nor have endowments exceeding \$50 million
- (b) I certify that the District has secured access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively. I certify and recognize that some of the aforementioned resources are not eligible for support. I certify that District has secured access to all of the resources to pay the discounted charges for eligible services from funds to which access has been secured in the current funding year. I certify that the District will pay the non-discount portion of the cost of the goods and services to the Service Provider(s).
- (c) I certify to the best of my knowledge that the District will comply with all federal, state and local procurement rules and work with the Consortium Lead to carefully consider the most cost effective service offering, with price being the primary factor considered, and the most cost-effective means of meeting educational needs and technology goals.
- (d) I certify that the services that will be used by the District are purchased at discounts provided by 47 U.S.C. § 254 will be used primarily for educational purposes, see 47 C.F.R. § 54.500, and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. § 54.513. Additionally, I certify that the District has not received anything of value or a promise of anything of value, other than services and equipment sought by means of this form, from the service provider, or any representative or agent thereof or any consultant in connection with this request for services.
- (e) I certify that the District has complied with all program rules and I acknowledge that failure to comply with all program rules, including the Children's Internet Protection Act ("CIPA") and recordkeeping requirements may result in denial of discount funding and/or cancellation of

funding commitments. I certify that the District has acknowledged that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.

- (f) I acknowledge that the District is aware, that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, received an appropriate share of benefits from those services.
- (g) I certify that the District will retain required documents for a period of at least ten (10) years (or whatever retention period is required by the rules in effect at the time of this certification), after the last day of service delivered. I certify that the District will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited or requested by OPRF, the District will make such records available to the Administrator or to OPRF. I acknowledge that the District may be audited pursuant to participation in the Schools and Libraries Programs.
- (h) I certify that I am authorized to order telecommunications and other supported services for the District. I certify that I am authorized to submit requests, and sign this Letter of Agency on behalf of the District, that I have examined this Letter of Agency, that all of the information on this Letter of Agency and which I will provide pursuant to this Letter of Agency is true and correct to the best of my knowledge, that the District that is receiving discounts pursuant to District's applications have complied with the terms, conditions and purposes of the program, that no kickbacks were paid or will be paid to anyone and that false statements on any forms or through this Letter of Agency can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. § 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.
- (i) I certify that the District has reviewed and complied with all applicable FCC, state, and local procurement/competitive bidding requirements and that the District to best of its knowledge has complied with them.
- (j) I acknowledge on behalf of the District that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I certify that the District will institute reasonable measures to be informed, and will notify USAC should the District become aware, or any person associated in any way with the District is convicted of a criminal violation or held civilly liable for acts arising from their participation in the School and Libraries support mechanism.
- (k) I certify that if any Funding Requests are for discounts for products or services that contain both eligible and ineligible components for the District, that I/or Consortium Lead will allocate the eligible and ineligible components as required by the Commission's rules at 47 C.F.R. § 54.504.
- (l) I certify that the District acknowledges that the non-discount portion of the costs for eligible services will not be paid by the service provider. The pre-discount costs of eligible services provided by the District are and will be net of any rebates or discounts offered by the service provider. I and the District acknowledge that, for the purpose of this rule, the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.
- (m) I certify that I will cooperate on behalf of my District, in responding to any inquiry from the SLD/USAC about this certification or any other representation made in this Letter of Agency

- (n) I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. The District will institute reasonable measures to be informed, and will notify OPRF and USAC should it be informed or become aware that the District or any of the other Members of the Consortium, or any person associated in any way with the District, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the school and libraries support mechanism.

- (o) I certify that I am authorized to sign this Letter of Agency on behalf of the District and, to the best of my knowledge, information, and belief, all information provided to OPRF for E-rate submission is true.

Name of Billed Entity: _____

Date: _____

Signature: _____

Name: _____

Title: _____

FCC Registration # _____ (To be filled in by Consortium Member)

Entity # _____

EXHIBIT B

Products and/or Services

[Should include if known/available]

EXHIBIT C
Notice Form

If to the Member School:

Member School

School Name			
Main Address			
City, State, ZIP			
Main Tel. No.		Main Fax No.	
Contact Name			
Contact Title			

With a copy to (if relevant):

Organization			
Address			
City, State, ZIP			
Main Tel. No.		Main Fax No.	
Contact Name			
Contact Title			

School Name			
Main Address			
City, State, ZIP			
Main Tel. No.		Main Fax No.	
Contact Name			
Contact Title			

EXHIBIT D

Sample Information Request Form

Form Options: Check "x" in box that applies

New

Information: _____

Change

Request: _____

Member School

School Name			
Main Address			
City, State, ZIP			
Main Tel. No.		Main Fax No.	
Entity No.		FCC Reg. No.	
NCES Code		State ID No.	

Management Organization (if applicable)

Organization			
Address			
City, State, ZIP			
Main Tel. No.		Main Fax No.	
Notice Contact Name			
Contact Title			

Other School Sites (e.g., separate administrative building, if applicable)

Site Name			
Main Address			
City, State, ZIP			
Entity No.		Main Tel. No.	

Site Name			
Main Address			
City, State, ZIP			
Entity No.		Main Tel. #.	

Key School Contacts (as appropriate)

Principal			
Main Address (if different)			
City, State, ZIP			
Tel. No./Ext.		Fax No.	
E-mail			

Tech Coordinator			
Main Address (if different)			
City, State, ZIP			
Tel. No./Ext.		Fax No.	
E-mail			

E-Rate Contact	
Main Address (if different)	
City, State, ZIP	
E-mail	

Accounts Payable	
Main Address (if different)	
City, State, ZIP	
E-mail	

Comments or Clarifications

Technology Plan

Status

Creation Date		Approval Date	
Expiration Date		Please attach plan approval letter	
Status/Comments			
If not written or approved			

Technology Budget 2007-2008

Non-discounted E-rate share		
Computer hardware/software		
Staff development		
Technology support/maintenance		
Other technology expenses		
Total		

Other Comments or Clarifications
