

Davis Joint Unified School District
PROVIDER AGREEMENT TO PROVIDE
INVESTMENT OPTIONS AND INFORMATION SHARING
403(b) TAX SHELTERED ANNUITY PLAN

WHEREAS, the Governing Board of the Davis Joint Unified School District ("Employer") has established a written retirement plan that qualifies under Section 403(b) of the Internal Revenue Code of 1986, as amended and the regulations promulgated thereunder (hereinafter "Code"), as a Section 403(b) Tax Sheltered Annuity Plan (the "Plan") for the benefit of its employees; and,

WHEREAS, the Employer certifies that it is an employer who is eligible to sponsor the Plan, and who further certifies that the Plan will be made available to all employees under the terms of Section 403(b)(12)(A)(ii) of the Code; and,

WHEREAS, it is intended that the Plan comply with the requirements of Section 403(b) of the Code, and California laws and regulations pertaining to 403(b) plans as may be amended from time to time (hereinafter "State Law"); and,

WHEREAS, the Employer's Plan will conform with applicable federal and state statutory requirements, and that employee salary reduction contributions, and employer contributions (if any) to the Plan be within eligible limits as set forth in the Code; and,

WHEREAS, the Employer or its designee is authorized to act on behalf of Employer and is directed to develop appropriate procedures to install necessary controls to insure that the Plan is operated in accordance with the Code and State Law; and

WHEREAS, the Employer is authorized and directed to invoke the services of the Provider, or other third party designated by the Employer, in establishing appropriate procedures, as outlined in this Agreement, to insure the proper administration and compliance of the Employer's Plan; and

WHEREAS, Metropolitan Life Insurance Company, consisting of annuities ("Investment Options"), designated in this Agreement (the "Provider") has offered to provide 403(b) Investment Options that are permitted under Section 403(b) of the Code and State Law for eligible employees of the Employer who elect to have salary reduction contributions directed to the Plan or who are entitled to receive Employer contributions ("Participants"); and,

WHEREAS, Provider and Employer agree that they are required under the Code to provide certain information to each other in order for Participants and beneficiaries to exchange one 403(b) contract for another (an "Exchange") and to allow the Employer to properly administer its Plan; and,

WHEREAS, Employer has authorized ENVOY PLAN SERVICES, INC. (Envoy) (hereinafter "Administrator") to act on its behalf with respect to the administration of the Plan and to facilitate the sharing and coordination of information provided by the Provider and the Employer. Provider agrees that it shall accept direction from the Administrator in connection with Administrator's responsibility for the Plan as if it were provided by the Employer; and,

WHEREAS, It is understood and acknowledged that Administrator uses a third-party contractor (TSA Consulting Group (TSACG)) to perform some of the administration services for the Plan; and references to Administrator in this Agreement shall be considered to represent Envoy and TSACG: and,

WHEREAS, Chapter 39 of the California Education Code limits the Employer's selection of providers to only those registered with California State Teachers Retirement System on the 403bCompare.com web site. The Provider designated in this Agreement hereby acknowledges and certifies that Provider and its 403(b) Investment Options currently registered with the California State Teachers Retirement System, on, the 403bCompare.com website, and agrees to notify Employer if Provider's registration is terminated; and,

WHEREAS, the Provider will limit the investment options offered to the Participants to only annuities (with no life insurance component) registered with CalSTRS State Registry, and that comply with the provisions of Section 403(b) of the Code, and relevant State Laws.

NOW, THEREFORE, in consideration of these premises and mutual covenants hereinafter set forth, Employer and Provider agree as follows:

1. Eligibility: Consistent with the terms of the Employer's Plan, the Employer shall make the Plan available to employees of the Employer so that those who wish to do so may voluntarily elect to participate in the Plan and to such other employees who are entitled to Employer contributions.

2. Investment Options: The Provider shall provide for purchase by Employer for the Participants only Investment Options as annuities as described in Section 403(b)(1) of the Code (with no life insurance component) that comply with the provisions of the Code and applicable State Law. Without limiting the foregoing, the Provider shall be responsible for:

- a. Providing a copy of the prospectus to the Participant, if applicable; and
- b. Providing notification to Participant that required minimum distributions must be taken, and if the participant elects to receive such required minimum distribution from his or her account(s) with the Provider, providing distribution information to the Administrator after performing such required minimum distributions; and
- c. Processing of hardship distributions after receiving written approval from Administrator; and
- d. Complying with and processing of qualified domestic relation orders (QDRO) and domestic relation orders (as defined in IRC Sections 414(p)(1)(A) & (B)) that relate to Investment Options hereunder after approval by Administrator: and
- e. Preparing proper tax reporting documents for all applicable distributions, and satisfying all withholding and remittance requirements of Federal and State law and providing a copy of such reported information to the Administrator upon request within a reasonable period of time; and
- f. Processing of any loan requests (for custodial agreements which include loan provisions) pursuant to Participant's direction after written notification from the

Administrator that Participant is eligible for the requested loan and the loan amount the Participant is eligible for, as determined by Administrator; and

- g. Administering loans under Code Section 72(p), and such regulations currently existing or issued in the future by the Internal Revenue Service; including the determination of loan defaults and deemed distributions, the preparation of the appropriate tax reporting documents in the event of a default under the terms of the loan and providing a copy of all reported default information to Administrator within 90 days following the date of the reported default; and
- h. Processing exchanges pursuant to Participant's directions after receiving written notification from Administrator that Participant is eligible for the requested exchange; and
- i. Processing transfers for the purpose of purchasing permissive service credit (or a repayment to a defined benefit governmental plan) pursuant to Participant's directions after receiving written notification from Administrator that Participant is eligible for the requested transfer, and
- j. Performing transfers of investments to and/or from the Employer's plan to another eligible plan pursuant to Participant's directions after receiving written notification from Administrator that Participant is eligible for the requested transfer; and
- k. Providing appropriate account information to the receiving investment provider or plan upon transfer or exchange of assets that shall include but not be limited to the identification of asset source (employee deferral, employer, Roth, etc.), employee deferral amounts, outstanding defaulted loans (for custodial agreements which include loan provisions) and commencement date of the five year holding period (for products that offer Roth provisions); and
- l. Processing of rollovers pursuant to Participant's directions after receiving written notification from Administrator that Participant is eligible for the requested rollover; and
- m. Processing of any other distribution requests pursuant to Participant's direction after receiving written notification from Administrator that Participant is eligible for the requested distribution; and
- n. Responding to inquiries from Administrator or the Employer regarding Participant account balance, loan balance, loan status, or account transactions within a reasonable time period; and
- o. Providing any information to Administrator necessary for compliance with the requirements of Section 403(b) related Code sections and other applicable laws and regulations including, but not limited to, information on, contributions and transactions made to or from other 403(b) annuity contracts and/or custodial accounts, information on other exchanges, loans and hardship withdrawals and any additional information that is necessary or required by the IRS for proper administration of the Employer's plan in a format mutually agreed upon by the Provider and the Administrator within a reasonable time period; and

- p. Assuring that the Investment Options shall also comply with any other pertinent present or future federal or state law. Such Investment Options shall be available for purchase by the Employer for any legally eligible Participant electing to participate in the Employer's 403(b) Plan.

Employer agrees to provide the Provider any necessary information that the Provider needs in the course of carrying out its duties under this Agreement, as such information is reasonably available and in a mutually agreed format.

3. Salary Reduction Agreement: Provider agrees to accept Salary Reduction deferrals made pursuant to the Employer's Salary Reduction Agreement, and further agrees to invest such deferrals to the Plan pursuant to the Plan and other agreements adopted incident to the Plan.

4. Contribution Remittance: Employer or Administrator shall remit employee deferrals and Employer retirement plan contributions to Provider, in accordance with relevant Federal and State Laws. Provider agrees to allocate the deferrals and contributions to available Investment Options in accordance with Participant's instructions. Provider agrees to accept remittance of deferrals and retirement plan contributions via ACH or U.S. Mail; the information to which payments and notices shall be sent in payment of the aforementioned deferrals and contributions are set forth in an attachment to this Agreement.

5. Contract Exchanges: In connection with a Participant who wishes to exchange a 403(b) investment to Provider or transfer from Provider to another entity which provides 403(b) investments, the Employer makes the following representations;

- a. The distribution restrictions imposed under the receiving contract will be not less stringent than those imposed under the transferor contract.
- b. The accumulated benefit under the receiving contract immediately after the exchange will be at least equal to the accumulated benefit under the transferor contract immediately prior to the exchange as such accumulated value is defined for purposes of the Code.

6. Withholding: The Provider shall comply with federal withholding rules and State Law withholding rules relating to distributions applicable to the Investment Options. In determining such compliance, the Provider may require Participants to provide relevant information and attest to its accuracy.

7. 403(b) Roth: If the Plan includes the ability to make Roth elective contributions, the Provider certifies that for products offered which include the Roth features, the Provider agrees to:

- a. Segregate and separately track after-tax contributions to the Roth 403(b), if applicable; and
- b. Track the commencement of the five year holding period.

8. Solicitation: Provider, its agents and/or employees shall comply with all pertinent written directives from Employer or Administrator, regarding the solicitation of employees of the Employer for the purchase of investment options which will be provided separately. Provider acknowledges that repeated violation of the solicitation rules may result in suspension or termination of Provider's status as a Provider in the Plan approved to enroll Employer's employees in its investment options,

and to accept retirement plan contribution remittances under the Employer's Plans. Such suspension or termination shall in no manner affect any liability incurred prior to such suspension or termination. A copy of the Solicitation Rules are attached as a part of this agreement.

9. Cooperation from Provider: Upon reasonable notice, Provider shall, in the event of an audit by the Internal Revenue Service, an internal audit by the Employer or the Administrator on behalf of the Employer, or in any other instance in which the Employer requires it, promptly provide the necessary information as requested by Administrator or the Employer or parties designated by Administrator or the Employer for the 403(b) accounts held by Provider for Participants of the Employer.

10. Indemnity and Defense: Each party agrees, to the extent permitted by applicable law to, hold harmless, and indemnify the other party and its members of the Governing Board, officers, employees and agents each acting in their official capacity (the Indemnified Parties), with respect to every claim, obligation, demand and suit at law or equity, which may arise out of, or be made due to the negligence of the indemnifying party or failure of indemnifying party to satisfy the material requirements of this Agreement, after ten (10) days' written notice to indemnifying party and reasonable opportunity for indemnifying party to cure ("Indemnification"), and either party may, at its option, and own expense and risk assume the defense of and/or settle any judgment rendered or settlement against any of the Indemnified Parties to the extent covered by this Indemnification, except the liability resulting from the negligence, willful misconduct, fraud or criminal conduct of any Indemnified Party. Notwithstanding the preceding sentence, this Indemnification shall not cover any claim, demand or suit based on erroneous information provided by the Employer, Employees, officers, agents, or members of the Governing Board of the Employer (including but not limited to the Administrator), or their willful misconduct or negligence. Each party's liability hereunder shall be limited to actual damages.

11. Agents: Provider is not and shall not be regarded as the agent or employee of the Employer (including the Administrator), any individual member of its Governing Board, the County Superintendent of Schools, any officer, agent or employee of any of the foregoing, any legal successor of any of the foregoing, or of any combination thereof. The Employer (including the Administrator), nor any individual member of the Governing Board of the Employer, the County Superintendent of Schools, any officer, agent or employee thereof, the legal successors of, nor any combination thereof: shall be regarded as agents or employees of the Provider.

12. Effect of Agreement: Provider acknowledges that the execution of this Agreement by the Employer is solely for the convenience of the Employer and its employees and does not constitute any endorsement, approval, or recommendation by the Employer or its Governing Board of Provider or its Investment Options. Provider shall make no representations to anyone to the contrary and shall use its best efforts to prevent such representations by its agents, brokers and employees. In addition, the Provider acknowledges that the Employer and/or County Superintendent of Schools and the Administrator:

- a. Processes remittances with respect to the purchase of Investment Options solely on the basis of payroll processing, and shall not issue remittances in response to billings from Provider or others: and,
- b. Is not responsible for distribution of materials supplied by Provider, except that Employer, at its sole discretion, may distribute to its employees written material supplied by Provider designed to educate its employees with regard to the Plan, in an effort for Employer to meet applicable federal and state requirements, as amended, for

educating its employees; and,

- c. Shall remit monies to Provider at a single location only; and
- d. Shall supply with its remittances a listing containing, with respect to each applicable Participant, the name, social security number, contribution amounts, and loan repayments, if applicable.

13. Prior Agreements: This Agreement supersedes and replaces any other and all prior agreements of Provider regarding the purchase of its Investment Options by the Employer or the sharing of information between the Provider and the Employer, with the exception of the Information Sharing Facilitation Agreement entered into among the Employer, Provider and Administrator as of November 4th, 2020.

14. Termination: The Agreement shall remain in effect until terminated by Provider or Employer with not less than 30 days advance written notice to the other party. Provider's obligations hereunder to provide information as described in Item 2 hereof with respect to accounts with positive balances under this Agreement shall survive such termination, however and shall continue until either such accounts have been fully distributed (through one or more qualifying transfers or distributions, which could include a qualifying distribution of an annuity contract from the plan upon plan termination), or until Employer and Provider have entered into a new agreement governing the accounts.

15. Salary Reduction Agreement with Employees: Provider acknowledges that the Employer may terminate the Salary Reduction Agreement between the Employer and a Participant for whom contributions are made to Participant's account subject to and in accordance with the terms of the Plan and applicable law, in the event the Provider fails to comply with this Agreement; or if the Provider or Participant fails to comply with the Employer's Plans or the rules, requirements, and procedures of the Employer, including those set forth in the Salary Reduction Agreement between the Employer and the Participant; or if the Provider or Participant fails to comply with federal and state regulations.

16. Addresses: Provider agrees to provide an address, or addresses, in the Attachment to this Agreement along with an associated contact person or person and telephone numbers, to which all remittances, administrative communications or legal notifications shall be sent with respect to the investment options and, if different, an address for the associated contact person and telephone number, to be used for submission of invoices and all other purposes. Provider shall promptly inform the Employer and Administrator of any changes in such information, as well as any change in the Provider's name, location, or other pertinent information.

17. Alteration of Terms: No alteration or variation of the terms of this Agreement shall be valid unless the Parties to this Agreement mutually consent in writing to such alteration or variations.

18. Governing Law: This Agreement shall be construed, administered, and enforced in accordance with the laws of the State of California. Any action or proceeding related to or connected with this Agreement shall be brought in the proper court of the State of California.

19. Privacy of Employee Information: The Provider and the Employer each acknowledges that in the course of carrying out its duties under this Agreement it may receive confidential information relating to the Employer's employees. Provider, its agents, employees, or affiliates, as well as the Employer, its agents (including the Administrator), employees or affiliates agree not to disclose such confidential information to other Parties, other than as required to fulfill the responsibilities as stated in this Agreement, and to the extent required by the Internal Revenue Service, Department of Labor, or by

law. Additionally, the Provider and the Employer, its agents, (including the Administrator) employees, or affiliates agree to take appropriate steps to secure such confidential information from misuse or unauthorized disclosure.

20. Number and Gender: For purposes of this Agreement, the plural number shall include the singular, and vice versa, and the masculine gender shall include the feminine and neuter, and vice versa, whenever the context so requires.

21. Headings: The headings used in this Agreement are for convenience only, and shall not limit, restrict, or enlarge the provisions of this Agreement.

22. Severability: If any provision of the Agreement is determined to be illegal, unenforceable, or invalid, the remaining provisions of this Agreement shall not be affected and shall remain in full force and effect.

23. Attorney's Fees: Should either party bring any claims, actions, or proceedings to enforce or contest this Agreement, each party shall be responsible for their own attorney's fees and costs incurred.

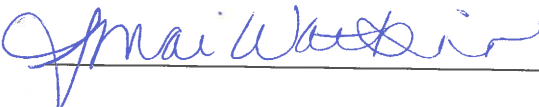
24. Assignment: Neither the Employer nor the Provider shall assign any rights or obligations under this Agreement to any other party without the written consent of the other Party.

[signatures appear on next page]

SIGNATURE PAGE EMPLOYER

EMPLOYER- Davis Joint Unified School District

By: Amari Watkins
(Printed Name)

Signature: 

Date: 1/4/2021

Title: Associate Superintendent
of Business Services

Address: DJUSD
526 B Street, Davis, CA 95616

PROVIDER-METROPOLITAN LIFE INSURANCE COMPANY

By: _____
(Printed Name)

Signature: _____

Date: _____

Title: _____

Address: _____

CONTACT PERSONS FOR PURPOSES OF THIS AGREEMENT

INFORMATION FOR ADMINISTRATIVE COMMUNICATIONS OR LEGAL NOTIFICATIONS

Provider Contact Information

Name: _____
(Please Print or Type)

Title: _____

Phone: _____

E-mail: _____

Mailing Address:

Employer Contact Information

Name: Mallory Arevalos
(Please Print or Type)

Title: Director of
Fiscal Services

Phone: 530-757-5300 x 125

E-mail: marevalos@djUSD.net

Mailing Address:
526 B Street
Davis, CA 95616

Third Party Administrator Contact Information

Envoy Plan Services, Inc.
Attn: Shari King
23052-H Alicia Parkway #605
Mission Viejo, CA 92692
Phone: 949-461-1413 – Email: info@envoyplanservices.com
Fax: 877-513-2272

ATTACHMENT TO PROVIDER AGREEMENT

Provider please provide the information requested in Section A below:

Section A: INFORMATION FOR REMITTANCES OF CONTRIBUTIONS

Company Name: _____

Contact Name: _____ Phone: _____

Contact Fax: _____ E-Mail: _____

ACH Information:

Bank Name: _____

Bank Address: _____

Bank Account No.: _____

ABA Routing No. (9 Digits): _____

Bank Telephone No.: _____

Bank Fax No.: _____

Mailing Information:

Address Line 1: _____

Address Line 2: _____

City, State: _____ Zip Code: _____

ATTACHMENT TO PROVIDER AGREEMENT

Notice of TSA/403(b) Plan Solicitation Rules

The Purpose of This Notice

It is the intention of the public school employer(s) ("Employer") set forth above to allow all employees who are interested in learning about potential benefits of participation in their voluntary TSA/403(b) Plan ("Plan") to have reasonable opportunity to do so without interrupting the normal flow of day to day responsibilities. The Providers of the products and investment options for the Plan(s) and their designated representatives are, therefore, required to follow the solicitation rules outlined in this notice, and to distribute a copy of these rules to all representatives and employees of the Provider who will be working with any employee regarding the Plan(s).

Access to Employees

The Employer recognizes and acknowledges that Providers and their representatives will require access to employees in order to provide product and investment information to prospective participants. Therefore, Providers and their representatives may:

- I. Schedule appointments with interested employees in the workplace, provided that such appointments take place before or after normal working hours of the school day or during the employee's regularly scheduled lunch break. Permission to be on site anywhere in the workplace must be granted by the school principal, supervisor, department head, other administrative personnel or their designees before the scheduled appointment.
2. No employee is to be contacted by the Provider or their representatives during normal working hours, including times when teaching staff is conducting classes, other than an employee who has initiated contact with the Provider or their representative to meet during unscheduled time (such as a planning period).
3. Provider, its agents and/or employees may not use the Employer's web site for a means to solicit to employees and may not utilize employees' workplace email address without prior written approval from the Employer.

No other contacts will be permitted at the worksite.

Violation of the Rules

Providers or their representatives who violate the rules will receive a written warning. If violations continue following the written warning, the Provider and their representatives will receive written notification of their loss of their eligibility status to enroll new participants, and for the purposes of continuing to receive the ongoing contributions of current participants.

Schedule for Salary Reduction Agreements

The Salary Reduction Agreement ("SRA") for the TSA/403(b) Plan salary deferrals must be submitted to and received by the Administrator no later than the cut-off day established by the Administrator. The SRA form must be submitted to and received by the Administrator, please see your Employer's SRA for due dates. The SRA will always affect compensation amounts not yet paid or made available. Do not submit Salary Reduction Agreements to your Employer, as they will be returned to the employee for proper submission.

Employer Approved Salary Reduction Agreement

Only the Salary Reduction Agreement approved by the Employer and/or Administrator is permitted for use. A copy of the SRA is included in the Enrollment Packet, which can be obtained from the Administrator, or may be downloaded from the Administrator's website at www.envoyplanservices.com.