Superintendents 
All Member Districts 
Schools Excess Liability Fund

RE: **PROPOSED AMENDMENTS TO THE SCHOOLS EXCESS LIABILITY FUND AGREEMENT.**

Dear Superintendent:

Many SELF member districts and Members of the Board of Directors representing those districts have expressed an interest in the possibility of SELF providing pooled coverage programs for property, workers' compensation and employee benefit programs. The SELF excess liability program has achieved annual savings for California schools in the range of $20 to $30 million, when compared to conventional insurance. It is quite possible that the opportunity for further savings can be realized by moving into other coverage areas.

In order for SELF to pursue the feasibility of such programs, it is necessary to amend the SELF Agreement accordingly.

The SELF Board of Directors recommended certain amendments to the Agreement at the regular meeting of October 9, 1987, which will allow the JPA to proceed with plans for the possible offering of additional lines of coverage. A copy of the proposed amendments are attached. Portions of the existing Agreement which are to be deleted are identified by brackets [ ], and portions to be added are underlined.

In order for these amendments to become effective, SELF must have the concurrence of a minimum of two-thirds of its members. **FOR THIS REASON, IT IS OF THE UTMOST IMPORTANCE THAT THE APPROVAL OF THESE AMENDMENTS BE PLACED ON THE AGENDA OF YOUR DISTRICT'S VERY NEXT BOARD MEETING AND THAT THE ENCLOSED CERTIFICATION OF BOARD MINUTES BE RETURNED TO THE SELF OFFICE AS SOON AS POSSIBLE THEREAFTER.**
According to the Agreement, the SELF Board must establish a date by which member districts are to notify SELF of their approval of the amendments. **MEMBER DISTRICTS NOT RESPONDING BY SUCH DATE SHALL BE DEEMED TO HAVE REJECTED THE AMENDMENTS.** The Board has established a response date of February 1, 1988, for this purpose.

Approval of the enclosed amendments does not commit member districts to any additional coverage programs or liability. It merely allows SELF to determine the feasibility of additional programs and to offer such programs, if feasible, to member districts on a voluntary basis.

Please return the completed certification of your Board action as soon as possible, but no later than February 1, 1988. Your assistance in this matter, so vital to the future of SELF, is greatly appreciated.

Sincerely

BOARD OF DIRECTORS, SCHOOLS EXCESS LIABILITY FUND

[Signature]

R. VINCENT SANGUINET, CHAIRPERSON

VS/sd

Enclosures (Agreement with Amendments & Certification of Board minutes)

cc: Chief Business Official (without enclosures)

H1: amend
JOINT EXERCISE OF POWERS AGREEMENT
AMONG SPECIFIED PUBLIC EDUCATIONAL AGENCIES
FOR THE MANAGEMENT, OPERATION AND MAINTENANCE OF A
SCHOOLS EXCESS LIABILITY FUND

Pursuant to the provisions of Title I, Division 7, Chapter 5, Article 1 of the Government Code of the State of California (commencing with Section 6500 thereof) relating to the joint exercise of common powers, this Agreement is entered into among those public educational agencies as defined in this Agreement, which are or may hereafter become, parties to this Agreement for the purpose of operating an authority to be known and designated as "Schools Excess Liability Fund" hereinafter referred to as SELF.

WITNESSETH

WHEREAS, the public interest requires and it is to the mutual benefit of the parties hereto to join together to establish and operate a cooperative program of self funding and risk management for excess liability, property, workers' compensation and other plans, and

WHEREAS, the operating of such a cooperative program is of such magnitude that it is necessary for the parties to this Agreement to join together to accomplish the purposes hereinafter set forth, and

WHEREAS, each of the public educational agencies which is a party to this Agreement has the power to establish, manage, operate and maintain a program of excess self funding for liability, property, workers' compensation and other plans, and

WHEREAS, Title I, Division 7, Chapter 5, of the California Government Code authorizes the joint exercise by two or more public agencies of any power which is common to each of them;

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:

I. DEFINITIONS

Unless otherwise stated herein, for purposes of this Agreement the following words shall have the meanings stated:

A. "Claim" means that portion of a [liability] settlement, judgment, compromise and release, award or claim, which exceeds or is likely to exceed the retained limit as specified in the appropriate Memorandum of Coverage. Claim costs shall include expenses as defined in such Memorandum of Coverage.

B. "Bylaws" means the bylaws by which SELF is to be governed.
C. "Board" means the Board of Directors of SELF as established by this Agreement.

D. "Fiscal year" means the period of time commencing on July 1 and ending June 30.

E. "Party" means a public educational agency which is a party to this Agreement.

F. "Public educational agencies" means any public school district, community college district, county board of education/county superintendent of schools, regional occupational programs/centers, or joint powers agencies/authorities [representing any of the above for the purposes of providing liability coverage] serving the interests of any of the above.

G. "Fund" means a sum of money established for the purpose of carrying out this Agreement. A separate fund shall be established for each plan.

H. "Plan" means liability, property, workers' compensation, or other self-funded coverage authorized by the Board.

I. "Retained limit" means the amount of paid claim liability for which each party to this Agreement is responsible on a per occurrence basis.

J. "Excess [liability] coverage" means the amount of coverage provided by SELF in excess of the retained limit as specified in the appropriate plan Memorandum of Coverage.

[K.] ["Steering Committee" means the sixteen (16) members acting as the Board of Directors until July 1, 1987.]

K. "Member" means a person duly elected or appointed by the Board of Directors, hereinafter referred to as the Board.

L. "Memorandum of Coverage" means a document specifying terms, conditions, coverages, and limits of liability for each plan operated by SELF.

M. "Average Daily Attendance" (ADA) means prior year lottery ADA plus summer school, plus apprentice programs.

II. PURPOSE

The purpose of this Agreement is to establish, operate, and maintain [a] programs of self-funding for excess liability, property, workers' compensation and other plans, approved by the Board, the function of said programs being within the power common to each of the parties to this Agreement.
III. ADMINISTRATION OF PROGRAM

A. Administrator: The administrator of this Agreement shall be the Board.

B. Administration: The Board shall, either directly or by contract, perform the following services:

1. Provide for payments of claims in accordance with this Agreement.

2. Establish yearly contributions and loss reserves for [the parties hereto] each plan and return of contributions, if appropriate.

3. Provide a strict accountability of all funds for each plan and a report of all receipts and disbursements.

4. Provide for pooled excess [liability] coverage above the retained limit as specified in the appropriate plan Memorandum of Coverage.

5. Provide, when necessary, for legal representation in defense of claims expected to exceed the retained limit.

6. Provide for annual audit of the Funds by an independent Certified Public Account; copies of such audit to be distributed to all parties hereto.

7. Provide for management reports, including but not limited to, actuarial analyses, claims audits and special reports; all said reports to be distributed to all parties hereto.

8. Prepare and maintain claim files and other records and cause same to be retained.

9. Provide for, when necessary, investigation of claims.

10. Provide information in defense of claims.

11. Authorize the allowance, compromise, settlement or rejection of claims.

12. Prepare all notices and reports and otherwise prepare all matters necessary to comply with the provisions of state law and other legal directives.

13. Prepare a Policy and Procedures Operating Manual to be followed by each of the parties hereto.

14. Except as otherwise provided in this Agreement, the Board, in administering this Agreement, shall have the authority to make and enter into contracts, employ agents and employees, acquire, hold and dispose of real and personal property, incur all debts, liabilities or obligations as is necessary.
to administer and carry out the purpose of this Agreement.

15. Establish bank account and/or trust funds as appropriate.

16. Provide procedures for election of the Board of Directors.

17. Provide for other services as necessary.

IV. TERM OF AGREEMENT

This Agreement shall continue in effect until it is rescinded by mutual consent of all parties or terminated as herein provided.

A. Eligibility: Public educational agencies within California may become parties to this Agreement upon application to and approval of the Board. Parties may participate in any one or more self-funded plans operated by SELF.

B. Successors: Should a party to this Agreement reorganize in accordance with state law, the successor or successors in interest to such party may be substituted as a party or parties to this Agreement, and such substitution shall become effective upon the filing with the Board of an assignment by such party to its successor or successors in interest of all of said party’s rights and obligations hereunder, provided such assignment is fully executed by the party to this Agreement and its successors.

V. FINANCES

Each party to the Agreement shall pay to the fiscal agent designated by the Board each fiscal year an amount calculated pursuant to Paragraph III.B.2, as the established yearly contribution for each plan in which a party participates.

A. Contribution Schedule: Contributions shall be made in advance based on the established yearly amount calculated by the Board. [These amounts shall be based on ADA as defined in Paragraph I.M.] Contributions shall be determined using appropriate actuarial principles.

B. Additional Contributions: Should [excess liability] claims against or by the parties to [this agreement] any plan exceed the amount available for the payment of such claims, then each party to such plan shall be required by the Board to contribute an additional pro-rated amount [based upon each party’s ADA relative to the total ADA of all parties] sufficient to meet the claims liability.

C. Loss Payments: [Excess liability] Claims will be paid on behalf of a covered party pursuant to the appropriate plan Memorandum of Coverage.
VI. [LIABILITY] COVERAGE

[The liability] Coverage shall be as established in the appropriate plan Memorandum of Coverage.

VII. WITHDRAWAL OF A PARTY

A party to this Agreement may cease to be a party hereto or may discontinue participation in any plan and may withdraw as a party to this Agreement or from any plan in the manner hereinafter provided:

A. Three Fiscal Years Participation: No party to this Agreement may withdraw from a plan until it has been a party to such plan for at least three (3) full fiscal years.

B. Intention to Withdraw: To effect withdrawal from this Agreement, or any plan in which a party is participating, such (a) party, by its governing body, shall adopt a resolution of intention to withdraw.

C. Notice of Intention to Withdraw: A party that intends to withdraw shall cause to be sent to the Board a true copy of the resolution of its governing body stating its intentions to withdraw.

D. Time of Notice of Intention to Withdraw: Not later than the first day of October before the close of the fiscal year, a party that intends to withdraw shall serve its notice of intention to withdraw upon the Board, in the manner provided herein for the giving of such notice.

E. Effective Date of Withdrawal: The effective date of a party’s withdrawal shall be at the end of the fiscal year in which it gave the notice of intention to withdraw.

F. Where Monies are Due from the Withdrawing Party: The Board shall have the right to grant to a withdrawing party a grace period of up to three (3) years within which to pay any monies determined to be due from the withdrawing party.

G. Continuing Obligations of a Withdrawing Party: Parties withdrawing from [the pool] a plan may be entitled to a refund of accumulated plan reserves under certain conditions. After considering reserves for claims reported and claims incurred but not reported, the Board will make a determination after five (5) years regarding the overall fiscal impact on the plan pool. In addition, the withdrawal of a party from [this agreement] a plan shall not relieve such party of any obligations that such party otherwise has in connection with claims which arose while said withdrawn party was a party to [this agreement] such plan.
VIII. TERMINATION OF AGREEMENT

The governing bodies of the parties may determine that the public interest will not be served by the continuance of this Agreement. In such event, by a two-thirds (2/3) vote of the total number of parties voting in favor of termination, this Agreement shall be terminated effective at the end of the fiscal year specified by such parties at the time of voting.

IX. DISTRIBUTION OF PROPERTY AND MONIES UPON TERMINATION OF THIS AGREEMENT

A. Reserve Account: Upon any termination of this Agreement, the Board shall provide or cause to be provided [a "reserve account"] plan reserve accounts for a period of up to ten years for the purpose of paying all legal obligations hereunder, and such obligations shall include but not be limited to, all payments required to be established for the purpose of paying claims, and any other legal obligations incurred by the Board pursuant to this Agreement. At the end of such period of up to ten years, the Board or its designee shall make no more payments in connection with claims which arose while the Agreement was in effect and any such liability reverts to the individual parties to this Agreement. Any funds remaining in the reserve accounts after the ten year transition period shall be distributed in accordance with the provisions of paragraph [X] IX.B.

B. Distribution of Assets: Upon termination of this Agreement, all assets remaining after the establishment of the reserve accounts shall be distributed to the then current parties to this Agreement in proportion to the cumulative paid-in contributions less cumulative losses and administrative expenses.

X. LIABILITIES

A. Claims Indemnification ad Hold Harmless: Each party to this Agreement shall be liable for its pro rata share of all of the debts and liabilities of the parties hereto for claims. A party’s pro rata share shall be determined by such party’s cumulative contributions and assessments relative to the cumulative contributions and assessments of all parties to this Agreement. To achieve such purpose, each party hereby indemnifies and holds harmless the other parties for any loss, cost, or expense that may be imposed upon such other party in excess of such pro rata liability. The rules for interpreting indemnity agreements as set out in Civil Code Section 2778 are hereby expressly made a part of this Agreement.

B. Other Debts, Liabilities and Obligations: Except as otherwise provided in subparagraph A of this [Paragraph] Section, the debts, liabilities and obligations incurred in the administration of this Agreement shall not constitute any
debt, liability of obligation of any of the the individual parties to this Agreement, and the Board as administrator of this Agreement may insure all or any part of any liability incurred by it hereunder. The cost of such insurance shall be an administrative expense of the Board and it shall be expended from the Fund in the same manner as other administrative expenses.

XI.

BOARD OF DIRECTORS

A. Board of Directors shall be established as herein provided for the purposes specified.

A. Membership: The Board of Directors shall consist of sixteen (16) elected voting members and elected alternates, and two ex-officio members as follows:

1. There shall be four elected members from community colleges, two representing the South and two representing the North;

2. There shall be one elected member from each of the County Superintendents' areas one, two, three and four;

3. There shall be two elected members from County Superintendents' area five;

4. There shall be six elected members from County Superintendents' area six;

5. There shall be one ex-officio member from the State Community College Chancellor's Office; and

6. There shall be one ex-officio member from the Office of the State Superintendent of Public Instruction.

B. Election: [Until July 1, 1987, the Steering Committee shall serve as the Board.] Each party to this Agreement shall be entitled to submit one ballot for the election of members and alternates within its area. Elected Board members shall begin their term of office July 1, following the election.[1987. Each party shall have one vote.]

C. Term of Office: Elections shall be held every two (2) years. Except for the first election, each member shall serve for a period of four (4) years. For the first election, areas 1, 3, and half of the members from areas 5, 6 and from the Community Colleges shall be elected for two (2) year terms. Members from areas 2 and 4, and the remaining members from areas 5, 6 and the Community Colleges shall be elected for the full four (4) year term.
D. Vacancies of the Board: In the event that a member is unable to fulfill his/her term of office, the member’s alternate shall serve as member for the remainder of the term of office.

E. Ralph M. Brown Act: All meetings of the Board, including without limitation, regular, adjourned regular, and special meetings, shall be called, noticed, held, and conducted in accordance with the provisions of the Ralph M. Brown Act, (Gov. Code 54950, et. seq.).

F. Quorum: A Quorum of the Board shall consist of a majority of the members or their alternates.

G. Attendance at Meetings: All members or alternates shall attend all meetings of the Board. If a member or alternate fails to attend two consecutive meetings, the Board may declare a vacancy.

H. Voting: Each member or alternate shall be entitled to cast one vote. A vote may be cast only by the member or alternate who is personally present at the meeting.

I. Hold Meetings: Meetings of the Board shall be held at least twice a year or as often as necessary, at a time and place as designated by the Board.

J. Board Officers: The officers of the Board shall consist of a chairperson, vice chairperson, secretary and comptroller. The comptroller is the person authorized to approve the drawing of warrants by the designated county auditor/controller to pay demands against SELF pursuant to Government Code Section 6505.5. The officers shall be elected by the Board from among themselves on a single vote per member basis. The term of office for officers shall be two years.

K. The Treasurer and Auditor/Controller of Los Angeles County are hereby designated as the Treasurer and Auditor/Controller of SELF pursuant to Government Code Section 6505.5. This designation is conditioned upon Los Angeles County providing the services described in Government Code Section 6505.5 at the rate charged all other public entities in the County similarly served. In the event such condition is not met, the Treasurer and Auditor/Controller of another County willing to provide services under the above condition shall be designated by amendment to this Agreement.

L. Notice of Meetings: Notices of meetings shall be sent by mail to each member and alternate no less than thirty (30) days before regularly scheduled meetings except for special meetings.
M. Conduct of Meetings: Unless otherwise determined by the Board, the meetings shall be conducted pursuant to the most current edition of "Robert's Rules of Order'.

N. Minutes: The secretary shall cause to be kept minutes of all meetings of the Board and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each member and alternate. [and to the governing bodies of each party to this Agreement.]

O. Expense Reimbursement: [The Steering Committee] Members or alternates shall receive reimbursement for travel and per diem expenses incurred in accordance with the guidelines established by the Board. [The Steering Committee] Members or alternates shall not receive any other form of compensation.

P. Indemnification: [The members of the Steering Committee and the] Elected Board members and their alternates are indemnified, by the Agreement, and SELF does hereby agree to indemnify and hold them, and each of them, severally and jointly, against and free from all claims, expenses, demands, penalties, fines, forfeitures, judgments, settlements, attorney fees, and any other amounts whatsoever actually and reasonably incurred or threatened by reason of or as a result of their official participations and actions in pursuance of the execution and administration of the Agreement and the operation of the authority created hereunder, including but not limited to amounts arising out of or by any judicial or quasi-judicial action or proceeding, whether civil, criminal, administrative or investigative, on condition that it appear to the satisfaction of the Board that the indemnitee acted in good faith and in a manner reasonably believed by him or her to be in the best interest of SELF and had no reasonable cause to believe that his or her 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 the Agreement 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 SELF or that such a 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 and employees of SELF, at the administrative expense of SELF.
XIII. AMENDMENTS TO THIS AGREEMENT

A. Any amendments to this Agreement shall require the consent of two-thirds (2/3) of the participating parties hereto, subject to the procedures herein provided.

B. Proposed Amendments: Any party to this Agreement may at any time propose amendments to this Agreement. Any proposed amendment shall first be submitted to the Board for study and recommendation. The Board shall have a reasonable time within which to make such study and to submit its recommendations to the parties. Recommendation for adoption of an amendment shall occur at a meeting wherein two-thirds (2/3) of the members are present and at least three-fourths (3/4) of such members vote for adoption. A copy of the proposed amendment, together with the Board's report and recommendation, shall be sent to all parties for action by their governing bodies either approving or rejecting the amendment. If the proposed amendment does not receive approval by vote of the Board, no further action is required.

C. Action on a Proposed Amendment: When the Board submits to the parties a proposed amendment for action, the Board shall specify thereon the deadline for action by the party or parties. Within the deadline specified, each party shall consider the proposed amendment and take action, either approving or rejecting it, and a copy of such action shall be filed with the Board. Any party that does not file a copy of such action with the Board within fifteen (15) working days following the specified deadline shall be deemed to have rejected the proposed amendment.

D. Effective Date of Amendment: Unless otherwise stated in the amendment, the effective date of any amendment shall be on July 1 following its adoption.

XIV. TORT LIABILITY

Section 895.2 of the Government Code imposes certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement as defined in Section 895 of said Code. Therefore, the parties hereto, as between themselves, pursuant to the authorization contained in Sections 895.4 and 895.6 of the Government Code, each assumes the full liability imposed upon it or any of its officers, agents, or employees by law for injury caused by a negligent or wrongful act or omission occurring in the performance of this Agreement, to the same extent that such liability would be imposed in the absence of Section 895.2 of said Code. To achieve this purpose, each party indemnifies and holds harmless the other party for any loss, cost or expense that may be imposed upon such other party solely by virtue of Section 895.2 of the Government Code.
XV.  NOTICE AND SERVICE THEREOF

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

XVI. SHOULD ANY PORTION, TERM, CONDITION, OR PROVISION OF THIS AGREEMENT BE DETERMINED 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 REMAINING PORTIONS, TERMS, CONDITIONS, AND PROVISIONS SHALL NOT BE AFFECTED THEREBY.

XVII. MISCELLANEOUS

A. 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.

B. Whenever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

C. By execution of this Agreement the executing party certifies that it has read the currently adopted bylaws, and agrees to comply therewith and with future bylaws as approved by the Board in the exercise of its powers under this Agreement.

XVIII. EFFECTIVE DATE

This Agreement shall become effective at 12:01 A.M. on the 1st day it has been executed by two or more public educational agencies.

IN WITNESS WHEREOF, each of the parties hereto has caused this JOINT POWERS AGREEMENT to be executed as original counterpart by its duly authorized party on the respective dates indicated below.

Dated: ____________________________  
Santa Barbara Community College District 
(Name of Public Educational Agency)  

BY  
Charles L. Hanson  
Business Manager  
(Title)  

Date of Authorization: ___________  
selfjpa2
CERTIFICATION OF BOARD MINUTES

This to certify that on _____ November 12 _____, 1987, the Governing Board of ______ Santa Barbara Community College ______ School District adopted a formal measure, the content of which is recorded in the official board minutes of the above school district, to approve the amendments to the SCHOOLS EXCESS LIABILITY FUND AGREEMENT which were recommended by the SCHOOLS EXCESS LIABILITY FUND BOARD OF DIRECTORS at their meeting of October 9, 1987.

Motion:
Second:
Vote:

I certify that the foregoing statement is true and correct.

______________________________
November 16, 1987
Date

[Signature]
Dr. Peter R. MacDougall
Superintendent/President and Secretary/Clerk to the Board of Trustees

H: COBM