

# SERVICE PROVIDER AGREEMENT FOR STANLEY-BOYD AREA SCHOOL DISTRICT §403(b) RETIREMENT PROGRAM

Name of Employer: Stanley-Boyd Area School District (the “Employer”)

Name of Service Provider WEA Tax Sheltered Annuity Trust (the “Service Provider”)

This Agreement, effective as of the Effective Date, by and between Employer and Service Provider sets forth the terms and conditions of the agreement between the parties relating to services provided by Service Provider to Employer in support of its 403(b) Retirement Plan (the “Plan”). The parties intend that Service Provider will provide certain services to the Employer, as needed, to support the Plan. In furtherance of this intention, the parties agree as follows:

## **DUTIES AND RESPONSIBILITIES OF SERVICE PROVIDER.**

Service Provider shall:

1. **Plan Conformity.** Provide services under this Agreement in a manner consistent with the terms of the written Plan document provided by Employer.
2. **Qualified 403(b) Accounts.** Offer investment products (“Accounts”) to Plan participants that meet the requirements of §403(b) of the Internal Revenue Code of 1986, as amended from time to time, any regulations issued thereunder, and any other applicable state or federal law.
3. **Communications.** At the Employer’s request and direction, assist in communicating Plan information to Employer’s employees, including but not limited to presenting information about the Plan and available investment options at group meetings and responding to individual inquiries from employees.
4. **Informational Materials.** Provide Employer with a sample written notice of eligibility/availability for distribution by Employer to employees, prepare and distribute certain materials, including service provider’s investment options, enrollment procedures, and other information necessary for participating in the Service Provider’s investment options.
5. **Value-Added.** Develop certain sample documents to assist Employer with the development of Employer’s Plan. A partial list of documents is attached to this Agreement as Appendix A. The sample documents are not intended to constitute legal or tax advice. The language of the documents may not satisfy all the Employer’s 403(b) Plan needs or requirements. Employer should consult with their legal and tax advisor(s) prior to adopting any sample documents. Service Provider may, in its discretion and when appropriate, update the documents in Appendix A from time to time and shall notify or provide updates to Employer within a reasonable time of completing any updates. However, nothing in this Agreement or this section shall require Service Provider to update or continue to provide documents listed in Appendix A. Service Provider is not responsible for Employer’s use or non-use of documents listed in Appendix A.

6. **Roth Contributions.** Be responsible for tracking the 5-year period in which the Plan participant must maintain the Roth 403(b) account in order to take a qualifying distribution if the Plan permits Roth 403(b) contributions and such contributions are accepted by Service Provider.
7. **Meetings.** Provide meetings with Employer's employees, upon Employer's request, to explain Service Provider's services, respond to questions or concerns about Accounts, discuss the impact of Plan participation in Accounts, and assist with the completion of necessary forms and related documentation.
8. **Participant Statements.** Send statements describing account information including but not limited to asset allocation, fund performance, and current account balance to Plan participant's address of record as soon as administratively feasible after the end of each calendar quarter.
9. **Employer Plan Reports.** Prepare Plan reports based on participant records processed through Service Provider upon Employer's reasonable request, including but not limited to information on the number of participants in each investment option.
10. **Disburse Contributions to Account Investments.** Allocate all amounts received in good order from the Employer to Accounts selected by participants. Such allocation received in good order by Service Provider shall occur within three (3) business days of receipt from the Employer or the Employer's designee unless circumstances beyond the control of Service Provider justify a later transmittal.
11. **Plan Exchanges.** Provide that when receiving assets in an exchange or transfer under the Plan, distribution restrictions are, to the extent Service Provider is able to determine from distributing Provider, not less stringent than those imposed under the transferor contract and that the accumulated benefit (as defined in applicable income tax regulations governing 403(b) plans) under the receiving contract immediately after the exchange or transfer is at least equal to the accumulated benefit under the transferor contract immediately prior to the exchange or transfer.
12. **Confidentiality.** Maintain the confidentiality and/or privacy of all information about Plan participants and employees provided by Employer except where required to disclose Confidential Information by law or court order. Service Provider shall provide Employer with documentation of Service Provider's relevant privacy policies upon Employer's request. All information relating to providing services hereunder shall only be communicated to Service Provider representatives, Employer, or its designated representative.
13. **Solicitation.** Comply with all pertinent written directives regarding the solicitation of employees of Employer, to the extent compliance is not inconsistent with the Agreement, applicable law, or collective bargaining agreements.
14. **403(b) Provisions.** Agree to perform the following services as required under the terms of the Plan:
  - a. Provide the Employer with an annual notification to be distributed to employees advising them of the annual deferral limits under §402(g) of the Code and if the Plan accepts Employer

contributions, of the annual limitations applicable under §415(c) of the Code. Service Provider will provide calculations to determine eligible contribution limits upon request of Employer and/or Plan participant. Any such calculations will be based upon applicable federal and state rules and regulations. Service Provider shall perform any such calculations with reasonable accuracy upon reliance of information received from the Employer and/or Plan participant.

- b. If permitted under the Plan, properly calculate the maximum allowable contribution for contributing employees who are utilizing the “catch-up” provisions of §402(g)(7) and/or §414(v) in accordance with the information provided to Service Provider by Employer and the employee.
- c. If permitted under the Plan, properly administer loans in accordance with applicable federal and state rules and regulations.
- d. Provide eligibility of rollover notice to employees and to such beneficiaries as may be required under applicable law, including the right to directly roll over eligible distributions to eligible retirement plans in accordance with the Code. If an eligible rollover distribution is received that includes after-tax employee contributions or designated Roth 403(b) contributions, Service Provider agrees to furnish information regarding the participant’s basis under §72 of the Code in the amount rolled over.
- e. Provide tax reporting and required notices to participants requesting distributions.
- f. Permit and process corrective distributions of excess deferral contributions and properly track and report and/or distribute excess §415(c) contributions in accordance with applicable IRS regulations where such excess deferrals or excess contributions have been identified by Service Provider, Employer, or Employer’s designated representative.
- g. Withhold and report any federal and state taxes on any distributions made directly to any employee and/or his/her beneficiaries as appropriate.
- h. Notify participants who are age 70½ that they may be required to take a required minimum distributions and, upon direction from a participant, calculate and distribute such amounts as may be required under the Plan and the Code.
- i. If permitted under the Plan, administer hardship distributions including (if applicable) notifying Employer of the hardship distribution with instructions for Employer to suspend all elective deferrals by participant to all plans sponsored by Employer for 6 months.
- j. Administer distributions and enforce distribution restrictions under §403(b) of the Code.
- k. Administer transfers, exchanges, and rollovers to the extent permitted under the Plan subject to Employer designation of authorized providers and products.
- l. In the event of a tax audit, provide information to Employer relating to 403(b) Accounts held by Service Provider for participants, subject to written authorization by Employer and/or participant (as applicable). For example:

- i. Annual listing of total contributions, by investment provider, for each year under audit;
- ii. Annual listing of all participant distributions for each year under audit.
- iii. Annual listing of outstanding participant loans for each year under audit.
- iv. Annual listing of any participant defaulted loans for each year under audit.
- v. Annual listing of exchanges and transfers processed for each year under audit.
- vi. Copies of IRS tax reporting information for all distributions and defaulted loans for each year under audit.

Such information shall be provided electronically, in hard copy, or in a manner otherwise mutually agreed upon by Employer and Service Provider.

## **DUTIES AND RESPONSIBILITIES OF EMPLOYER.**

Employer shall:

1. **Authorized Provider**. Name Service Provider as authorized investment provider under the Plan in all Employer materials and communications listing such provider(s).
2. **Determine Eligible Employees**. Determine which employees of Employer are eligible to participate in the Plan and certify that the 403(b) program will be made available to all eligible employees as required under the terms of Code Section 403(b)(12)(A)(ii).
3. **Provide Annual Notice**. At least once per year, provide written notice to eligible Employees of their right to participate in the Plan, including information on procedures to enroll in the Plan.
4. **Primary Contact Person**. Appoint and communicate to Service Provider the primary contact person for purposes of implementing, administering, and coordinating any issues that may arise with respect to the Plan.
5. **Transmit Contributions**. Transmit all contributions to Service Provider in a time and manner acceptable to both parties and consistent with applicable tax regulations. Service Provider is not responsible for any funding of Plan Accounts or making contributions to Plan participants.
6. **Identify Investment Providers**. Make available to all Employer's employees and Service Provider a current list of authorized investment providers available under the Plan and contact information for each listed provider.
7. **Provide Information**. Agree to furnish Service Provider, as soon as practicable, any and all information which Service Provider may require in order to fulfill its duties under this Agreement, including but not limited to information that a Plan participant has other 403(b) contracts or custodial accounts held by other service providers under the 403(b) plan, information

on contributions to other qualified retirement plans sponsored by Employer, information on employment status, any exchanges and transfers authorized by Employer or its representative, and information on any participant hardship withdrawals from other Accounts under the Plan. Employer shall hold harmless Service Provider for any claims or damages incurred by Service Provider, Employer, or the Plan as a result of Service Provider's reliance on inaccurate information from Employer, Plan participants, or any third party providing information on behalf of Employer.

8. **Eligible Employer.** Certify that it qualifies under §403(b) of the Code, as an organization eligible to offer this Plan to its employees and accept all liability for this determination. Employer agrees to notify Service Provider if it becomes an ineligible organization.
9. **Plan Document.** Certify that it now maintains or will, on or before January 1, 2009, maintain a written 403(b) plan document in accordance with applicable IRS regulations and that among other provisions, the Plan provides or will provide for exchanges between authorized product providers or investment options. Written notice will be provided to service provider thirty (30) days prior to any material changes to the Employer's 403(b) plan (a copy of the plan document and any future amendments will be provided to Service Provider after adoption).
10. **Plan Exchanges.** Agree that Service Provider may accept an exchange of assets from any other 403(b) account under the Plan.
11. **Third Party Administrator.** Agree to notify Service Provider if Employer has allocated certain specified administrative responsibilities to a third party and, by so notifying Service Provider, authorize Service Provider to share necessary Plan information with the third party administrator in a manner which is consistent with applicable privacy requirements under this Agreement and under applicable law.
12. **Employer Contributions.** If the Plan includes nonelective Employer contributions, agree to provide to Service Provider information sufficient to allocate those contributions, including, but not limited to, the names, personal identification numbers, Account numbers, applicable investment direction, and the dollar amount of the Employer nonelective contribution to be allocated to each eligible Employee participating in the §403(b) Contracts.
13. **Roth Contributions.** If the Plan includes Roth 403(b) contributions, agree to provide to Service Provider sufficient information to identify the Roth 403(b) contributions separately from the pre-tax 403(b) deferral contributions for each employee, including the dollar amount of the Roth portion and the pre-tax deferral portion, the relevant Account numbers and applicable investment direction.
14. **Fiduciary.** Retain ultimate authority with respect to the Plan. For purposes of this Agreement, Employer is considered the sponsor and named fiduciary of the Plan.

**BOTH PARTIES AGREE** that the following terms and conditions are included as part of this Agreement:

1. **Information Sharing.** To the extent permitted by law, each party agrees to provide information necessary to comply with the regulations under Section 403(b) of the Code and the

Plan, including information concerning the participant's employment status and information that takes into account other Code Section 403(b) contracts/custodial accounts and any other information deemed necessary to ensure compliance, including but not limited to information required for distributions from the Plan, Plan loans, rollovers into the Plan, Plan-to-Plan transfers, and Plan exchanges. Such information shall be provided in a form and manner, and within time periods, as shall be agreed from time to time between Employer and Service Provider.

2. **Indemnification.** Each party agrees, to the extent permitted by applicable law, to indemnify and hold harmless the other party, including any individual member of the governing boards and their employees from every claim, demand, or suit which may arise out of, be connected with, or be made by reason of the indemnifying party's failure to meet the requirements of this Agreement. Notwithstanding the preceding sentence, this indemnification shall not cover any claim, demand, or suit based on the willful misconduct or fraud of either party or its employees. Either party shall, at its own expense and risk, defend or at its option settle, any court proceeding that may be brought against it, members of the governing board, and employees on any claim, demand, or suits covered by this indemnification and shall satisfy any judgment that may be rendered against any of them with respect to any such claim or demand, provided that such party notifies the other party, in writing, within twenty (20) business days of receipt of such claim or demand. Each party's liability hereunder shall be limited to actual damages, including where applicable, income tax penalties (but not the taxes themselves) and out-of-pocket legal fees and expenses only.
3. **Exclusive Services.** Except as otherwise provided in this paragraph 3, this Agreement and the underlying contracts or Accounts are the exclusive arrangement between the parties for services under the Plan and the terms of this Agreement do not extend beyond such program. Neither party shall have any other obligations or liabilities not specified herein unless both parties agree to such additional obligations or liabilities in writing.
4. **Confidentiality.** Any information provided under this Agreement shall be kept confidential ("Confidential Information") and shall be used only for Plan compliance purposes. Personal information on Employees and their accounts under the Plan is considered to be Confidential Information and shall be protected by Employer, Service Provider, and their respective delegates. Confidential Information shall not be disclosed for any purpose other than as required for Plan compliance. Both parties agree that the obligation to protect Confidential Information is satisfied if the party receiving such information utilizes the same degree of control and care as it employs to avoid disclosure of its own Confidential Information. Either party may disclose Confidential Information pursuant to a requirement of a governmental agency or pursuant to a valid court or administrative subpoena, order, or other such legal process or requirement of law; provided that, prior to disclosing such Confidential Information, the other party will be informed of such order.
5. **Not Legal Advice.** The parties agree that no service provided by the terms of this Agreement or under the Plan is to be construed as individual legal or tax advice to participants, nor to either party.
6. **Effective Date and Term.** The effective date of this Agreement is the latest date on which a party executes and dates the Agreement ("Effective Date"). The initial term shall be one (1)-

year commencing on the Effective Date. Thereafter, this Agreement shall renew automatically for successive one (1)-year periods until terminated by either party, in writing, upon at least thirty (30)-days written notice to the other party or at any time by mutual written agreement.


7. **Applicable Law.** This Agreement shall be construed under the laws of the state of Wisconsin, to the extent not pre-empted by federal law. Any interpretation or action taken with respect to the terms or conditions of the Agreement will be conducted under Wisconsin's jurisdiction and the parties agree that venue lies therein.
8. **Severability.** Each party agrees that it will perform its obligations hereunder in accordance with all applicable laws, rules, and regulations now or hereafter in effect. If any term or provision of this Agreement shall be found to be illegal or unenforceable, then notwithstanding, the remainder of this Agreement shall remain in full force and effect and such term or provision shall be deemed stricken.
9. **Force Majeure.** Neither party shall be deemed in default of this Agreement or held responsible for any cessation, interruption, or delay in performance of its obligations hereunder due to causes beyond its reasonable control and without negligence, including but not limited to natural disaster, act of God, civil disobedience, disruption of the public markets, war, armed conflict, or the inability to obtain sufficient materials or services required in the conduct of business.

By executing this Agreement, each party acknowledges that it has read this Agreement and agrees to its terms.

AGREED TO:

Employer: Stanley-Boyd Area School District  
Address: 507 E 1<sup>st</sup> Avenue  
Stanley, WI 54768

Service Provider: WEA Tax Sheltered Annuity Trust  
Address: P.O. Box 7893  
Madison, WI 53707

By:  \_\_\_\_\_  
Authorized Representative

By: \_\_\_\_\_  
Authorized Representative

Title: Superintendent

Title: \_\_\_\_\_

Date: 3/21/18

Date: \_\_\_\_\_

## APPENDIX A VALUE-ADDED DOCUMENTS

The table below outlines the materials included in the value-added package. Some of these sample documents may be available electronically at [weabenefits.com](http://weabenefits.com).

### **Value-Added Sample Documents**

#### *Sample Documents:*

- Written Plan Document
- Adoption Agreement
- Service Provider/Hold Harmless Agreement
- Board Resolution (if needed)
- Salary Reduction Agreement
- Information Sharing Agreement

#### *Sample Notices:*

- Universal availability notices (mandatory)
- Employee notices
- Vendor notices