ATTACHMENT NO. XIII-H: Approval of CRS Incorporated

Potential motion: Move to approve the CRS Application Service Provider
                                              Renewal Agreement

Recommended action: Approve the CRS Application Service Provider

North Boone CUSD has been using CRS (SubFinder) to place substitute teachers in the district when needed since November 2006. Over the years, we have expanded its use. Today reports developed using the SubFinder database are used in monitoring employee absence and the actual time worked and position in which substitute teachers/paraprofessionals are placed. As of July 1, 2013, it is planned to expand SubFinder to be used by all employees to replace timesheets and the numerous amount of paperwork required for any type of leave or time off.

Attached is a CRS Application Service Provider Renewal Agreement for twelve months from July 1, 2013 through June 30, 2014. The monthly fee of $478.80 is based upon 150 employees requiring substitutes and 80 employees requiring no substitutes, except for July and August. SubFinder has proved to be an invaluable tool in filling our need for substitute teachers, and promises to be even more valuable as we move toward making full use of all of its functions.

CRS APPLICATION SERVICE PROVIDER RENEWAL AGREEMENT

This Application Service Provider (ASP) Renewal Agreement (Agreement) is entered into this 3rd day of May, 20<u>13</u>, by and between CRS Incorporated. (referred to as CRS) and

<u>North Boone Community Unit School District #200</u>   located at <u>6248 North Boone School Road</u>
Organization Name (referred to as the CUSTOMER).

<u>Poplar Grove</u>   <u>IL</u>   <u>61065</u>
City   State   Zip

1. That, for and in consideration of the mutual promises and covenants stated in this agreement, the parties agree as follows:

Subject to the terms of this Application Service Provider (ASP) Renewal Agreement and Customer's compliance with the terms of this ASP Renewal Agreement, CRS grants to Customer a personal, non-assignable, non-transferable, non-divisible and non-exclusive license for the term hereinafter specified (a) to use the following named Software (modules) solely on behalf of school districts and other educational institutions in exchange for a fee provided to CRS by said school districts and other educational institutions and (b) to use the Documentation, but only as required to exercise the license granted in (a). There shall be no other use of the Software or Documentation without CRS's prior written consent. The ASP Agreement shall commence on the date specified in section 2 and terminate upon the expiration date listed in section 2.

<u>SubFinder ASP System</u> (referred to as the SUBFINDER SYSTEM). The SUBFINDER SYSTEM consists of computer programs and documentation. No title or other rights than those expressly set forth in this Lease are transferred to the Customer.

2. The term of this Agreement shall be for <u>12 months</u> commencing on the <u>1</u>st day of <u>July, 2013</u> and ending on the <u>30</u>th day of <u>June, 2014</u>. It is understood and agreed between the parties that the monthly fee for the SUBFINDER SYSTEM is $<u>478.80</u>, based on <u>150</u> employees requiring substitute @ $<u>2.52</u> per employee per month and <u>80</u> employees not requiring substitutes @ $<u>1.26</u> per employee per month payable by the Customer in advance on the first day of each calendar month. For the summer months of <u>July</u> and <u>August</u> there will be no minimum monthly fee for the SubFinder System. In addition CRS reserves the right to increase or decrease the monthly fee based on the number of employees entered into the system and adjust the monthly fee accordingly. This Agreement will renew on a year-to-year basis, at the end of the renewal term listed above, unless you notify us in writing at least 30 days prior to the expiration of the renewal term. After the renewal term, CRS reserves the right to increase the monthly license fee by an amount not to exceed five percent (5%), in addition to any employee count increases. The 5% increase may be applied once per year at the beginning of the annual or fiscal year term, as applicable.

3. CRS shall provide the Customer ongoing telephone, Internet and IM Chat assistance regarding the use of the SUBFINDER SYSTEM during the term of this Agreement. All assistance provided by CRS shall be provided to the SubFinder Operator or their designated backup. CRS shall not be required to provide support on issues not related to the operation of the SUBFINDER SYSTEM.

4. CRS warrants the SUBFINDER SYSTEM to operate as described in its documentation. In order to maintain the warranty, the Customer must notify CRS immediately in writing of any problems or potential problems and make available to CRS all written and printed documents to substantiate said problem. CRS DOES NOT MAKE ANY EXPRESSED OR IMPLIED WARRANTIES EXCEPT AS SET FORTH IN THIS AGREEMENT INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE.

5. The Customer agrees and understands that CRS has incurred great expense in creating its system and has proprietary interest in it which is protectible under the laws of trade secret, contract and copyright. The Customer represents, agrees, covenants and promises that it will not disclose, sublicense, re-sell, sub-lease or re-engineer the SUBFINDER SYSTEM or material of CRS including, but not limited to, the software, the design specifications and associated documentation of the SUBFINDER SYSTEM. The Customer further acknowledges and agrees that, in the event of a breach or threatened or anticipatory breach by the Customer of the provisions of this paragraph, that no adequate remedy at law in money or damages will be available to CRS that will fairly compensate CRS, and therefore CRS shall be entitled to an injunction against such breach or anticipatory breach, and reasonable attorney's fees for bringing and maintaining an action to remedy such breach or anticipatory breach. However, no designation in this agreement of a specific legal or equitable remedy shall be construed as a waiver or prohibition of any other legal remedies in the event of a breach of this agreement. The obligations contained in this paragraph shall survive this agreement, the consummation of this transaction, and the delivery of any documents.

6. CRS agrees to indemnify and hold the CUSTOMER harmless against any claims by any third person and any costs incurred by CUSTOMER as a result of a settlement or a judgment in connection with the defense thereof resulting from alleged trade secret, patent, trademark or copyright infringement by the CUSTOMER's licensed use of the SUBFINDER SYSTEM in accordance with the terms of Paragraph 1 of this agreement, provided that CRS is notified promptly by the CUSTOMER, in writing, of any action or allegation of infringement and provided further that CRS shall have sole control of defense of any such action and all negotiations for its settlement or compromise. However, the parties agree and understand that CRS will not be liable for nor assume any financial responsibility for any breach by the CUSTOMER of any terms of this Agreement including, but not limited to, any unauthorized use, manufacture, copying, or sale of the SUBFINDER SYSTEM by the CUSTOMER.

7. CRS shall not, without the Customer's prior written consent, use or disclose to others any of the Customer's data or proprietary confidential information acquired by CRS from the Customer.

8. This Agreement shall not be assignable by the Customer. In the event that a third party, by merger or stock acquisition, acquires substantially all of the assets of the CUSTOMER associated with performance under this Agreement or acquires a controlling interest in the CUSTOMER, CRS agrees to negotiate in good faith a new license agreement with such third party which would waive any initial fee already paid by the CUSTOMER for the SUBFINDER SYSTEM provided that such third party shall expressly assume all of the CUSTOMER's obligations under this Agreement and shall be subject to all of its terms and conditions. Subject to the foregoing, this agreement shall be binding upon and inure to the benefit of the parties, and to CRS's respective successors and assigns.

9. Each paragraph and provision of this Agreement is severable from the entire agreement, and, if one provision is declared invalid, the remaining provisions shall remain in effect.

10. THE PARTIES ACKNOWLEDGE THAT THERE IS GREAT DIFFICULTY IN ASCERTAINING DAMAGES UNDER THIS AGREEMENT AND IT IS THEREFORE AGREED THAT THE LIABILITY OF CRS TO THE CUSTOMER FOR ANY LOSSES OR DAMAGES, WHETHER DIRECT OR INDIRECT, ARISING OUT OF THIS AGREEMENT, SHALL NOT EXCEED THE AMOUNT STATED IN PARAGRAPH 2 OF THE AGREEMENT. IT IS FURTHER AGREED EXPRESSLY BETWEEN THE PARTIES THAT IN NO EVENT SHALL CRS BE LIABLE FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, SUCH AS, BUT NOT LIMITED TO, LOSS OF ANTICIPATED PROFITS OR OTHER ECONOMIC LOSS IN CONNECTION WITH, OR ARISING OUT OF THE SERVICES PROVIDED FOR IN THIS AGREEMENT, THE PERFORMANCE OF THE SOFTWARE, OR THE USE OF THE SYSTEM, WITH THE EXCEPTION OF THE INDEMNIFICATION EXPRESSED IN PARAGRAPH 6.

11. The performance by CRS of any obligation shall be excused, if such failure is caused by any event or circumstance beyond CRS's own direct control. If CRS should fail to make System availability as a result of any such event or circumstance beyond its own direct control, CRS shall have the right to make System availability within a reasonable time after the cause of such delay has been removed, and the Customer shall be obligated to accept deferred System availability, it being agreed that upon the occurrence of any such circumstance or event beyond CRS's own direct control, the time for delivery by CRS shall be extended by that number of days equal to the number of days of delay attributable to any such circumstances or event beyond CRS's own direct control.

12. The price referred to in Paragraph 2 does not include any local or state sales or use taxes, any assessment of which shall be paid by the Customer. Without limiting the foregoing, Customer shall promptly pay to CRS any amounts actually paid or required to be collected or paid by CRS pursuant to any statute, ordinance, rule or regulation of any legally constituted taxing authority. If the Customer claims tax exempt status or the right to remit taxes directly, the tax exempt number must be entered on the front page of this agreement and the Customer shall indemnify and hold CRS harmless for any loss occasioned by its failure to pay any tax when due.

13. The following shall constitute events of default by Customer:
   a. Failure by Customer to pay any amounts due under this Agreement within sixty (60) days after such amount becomes due.
   b. Failure by Customer to observe or perform and other covenants, conditions or provisions contained in this Agreement, provided that such default shall continue for a period of fifteen (15) business days after written notice from CRS to Customer.

14. In the event that a default occurs under Section 13 and continues after written notice from CRS to Customer, CRS may exercise any of all of the following remedies:
   a. Immediately terminate the Agreement and the rights granted to Customer under this Agreement and take all necessary actions to deny, prevent and prohibit access and use of the System by the Customer and its employees.
   b. CRS shall be permitted and authorized to collect the entire balance due under this Agreement by any and all legal means available to it.

15. This Agreement shall be governed by and construed with the laws of the Commonwealth of Pennsylvania.

16. This License Agreement may be terminated by Customer upon thirty (30) written days notice. In the event that Customer terminates this Agreement CRS shall be entitled to retain all monies received from the Customer pursuant to this Agreement and CRS shall be relieved from all liabilities and obligations to the Customer hereunder.

17. This Agreement supersedes all prior agreements and understandings between Customer and CRS, including any representations, expressed or implied. The Customer acknowledges that this Agreement may not be changed or terminated orally. No change, termination or attempted waiver of any of the provisions in this Agreement shall be binding unless in writing and signed by the party against whom the same is sought to be enforced. The parties, each acting under proper authority, have signed this Agreement on the date indicated below.

18. Any notices required or permitted under this Agreement shall be in writing and shall be effective when delivered in person or sent by registered or certified mail, return receipt requested, with proper postage affixed, or by personal courier to the address set forth in this Agreement or any more recent address to which the sending party has been apprised.

Customer Name

Name
(Typed or Printed)

Signature

Date

CRS Incorporated

Peter Lupacchino
Name
(Typed or Printed)

Pete Lupacchi (signature)
Signature

5-6-13
Date