



2013

**CONNECTING SCHOOLS AND HOMELESS PROVIDERS
GATES FOUNDATION**

Agreement Number: 08194

Between

PUGET SOUND EDUCATIONAL SERVICE DISTRICT
(Hereinafter referred to as PSESD)
800 Oakesdale Avenue SW
Renton, WA 98057

AND

NORTHWEST EDUCATIONAL SERVICE DISTRICT 189
(Hereinafter referred to as CONTRACTOR)
1601 R Avenue
Anacortes, WA 98221

I. PROGRAM FUNCTION

The purpose of this agreement is to provide funds for the CONTRACTOR to promote opportunities that support connections between homeless providers and public education in a manner that supports the educational success of students that qualify as homeless in Snohomish County.

The PSESD shall subcontract from the GATES Foundation funds to the CONTRACTOR to perform the work set forth in this agreement.

**II. CONDITIONS OF COMMENCEMENT OF PERFORMANCE
AND
SCHEDULE OF PERFORMANCE**

The budget takes effect August 12, 2013, and therefore the CONTRACTOR may commence performance of duties and responsibilities, the terms and conditions of which are contained herein, on this date or the date the agreement is executed, whichever is later. PSESD shall reimburse CONTRACTOR for those costs incurred in performance hereunder, for that period between the beginning date of performance and the end date of September 30, 2013.

III. FINANCING

This Agreement is funded in the amount of \$4,000. Reimbursement to the CONTRACTOR for approved and completed work will be made within thirty (30) days of receipt of the invoice. Approval of payment will be contingent on the submission of a transaction recap report or other documentation showing payment for services provided.

Upon expiration of the contract, any claim for payment not already made shall be submitted no later than November 30, 2013.

IV. DUTIES OF THE CONTRACTOR

By accepting the contract, the CONTRACTOR agrees to perform the following functions and duties:

1. Work in partnership with PSESD to address in common goals/strategies.
2. Finalize the resource needs and gap assessment baseline representing the 14 school districts and their communities in Snohomish County.
3. Complete contacts with each Snohomish County provider, governmental entity and school district Liaison to establish a working plan for future communications.
4. Provide content to the waseh.org website to address system concerns, mitigate issues and promote problem solving.
5. Complete year-end data collection and reports and submit by November 30, 2013.
6. Submit monthly claims. Submit all required reports and a final reimbursement claim form/invoice to PSESD by November 30, 2013. Invoices received after this date may not be paid. PSESD reserves the right to refuse payment on invoices inconsistent with the GATES grant award plan.

V. DUTIES OF PSESD

In order to assist the Contractor in providing services, PSESD shall perform the following functions and duties within the constraints of the contract. Duties shall include but not be limited to the following:

1. Work in partnership with CONTRACTOR to address in common goals/strategies.
2. Ensure and assist with the timely completion of requested data collection, reporting and forms for the GATES Foundation.
3. Coordinate with the GATES Foundation as needed to ensure clarity.

VI. CONTRACT MANAGEMENT

The contract manager for each of the parties shall be the contact person and responsible for all communications and billings regarding the performance of this Agreement.

The Contract Manager for PSESD is:

Kimberly Beeson
800 Oakesdale Avenue SW
Renton, WA 98057
425-917-7821
kbeeson@psed.org

The Contract Manager for the Contractor is:

Jodie Des Biens
1601 R Avenue
Anacortes, WA 98221
360-299-4010
jdesbiens@nwesd.org

VII. INCORPORATION OF GENERAL TERMS AND CONDITIONS

This agreement includes and incorporates as if fully set forth herein the GENERAL TERMS AND CONDITIONS, which are attached hereto and marked "Attachment A".

We the undersigned agree to the terms of the foregoing contract agreement.

Puget Sound Educational Service District

Northwest Educational Service District

For John Welch, [Signature]
Title: Superintendent
Signed this 1st day of Aug, 2013

[Signature]
Title: Superintendent
Signed this 21 day of Aug, 2013

20.

BUSINESS OFFICE USE ONLY:	
Account Code: 5949-98-7300-012*	\$ <u>4,000</u>
	<u>08194</u> Agreement Number
<u>[Signature]</u> Budget Manager Approval	<u>8/13/13</u> Date
<u>[Signature]</u> Business Office Approval	<u>8/16/13</u> Date

Attachment A
GENERAL TERMS AND CONDITIONS

1. **Access to Data.** The Contractor shall provide access to data generated under this contract to the PSESD and the State Auditor at no additional cost. This includes, but is not limited to access to all information that supports the findings, conclusions, and recommendations of the Contractor's reports, including computer models and methodology for those models.
2. **Alterations and Amendments.** This agreement may be amended only by mutual agreement of all parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.
3. **Americans with Disabilities Act (ADA) of 1990, Public Law 101-336, also referred to as the "ADA" 28 CFR Part 35.** The Contractor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.
4. **Assignment.** Neither the PSESD nor the Contractor shall assign this Contract, either in whole or in part, without the prior written consent of the other party, which shall not be unreasonably withheld. Any assignment permitted under this clause does not relieve either party from its duties or obligations under this contract.
5. **Audit Requirements.** If the Contractor is a subrecipient of federal awards as defined by the Office of Management and Budget (OMB) Circular A-133, the Contractor shall maintain records that identify all federal funds received and expended. Such funds shall be identified by the appropriate OMB Catalog of Federal Domestic Assistance (CFDA) Numbers. The Contractor shall make their records available for review or audit by officials of federal agencies, the General Accounting Office, State Auditor and the PSESD or designee. If the Contractor expends \$500,000 or more in federal awards from any other and or/all sources in any fiscal year ending after 2003, the Contractor shall procure at their expense a single or program-specific audit for that year. The Contractor shall incorporate OMB Circular A-133 audit requirements into all contracts between the Contractor and its Subcontractors who are subrecipients. The Contractor shall comply with any future amendments to OMB Circular A-133 and any successor or replacement Circular or regulation.
6. **Background Checks.** In accordance with Washington State laws, any Puget Sound ESD Contractors who will have contact with or near children are required to be fingerprinted and pass a Washington State Patrol background check before they begin work.
7. **Budget Revisions.** Any monetary amount of an interlocal agreement budgeted by the terms of this contract for various activities and line item objects of expenditure may be revised without prior written approval of PSESD, so long as the revision is no more than ten percent (10%) of the original line item amount and the increase in an amount is offset by a decrease in one or more other amounts equal to or greater than the increase. All other budget revisions exceeding ten percent (10%) shall only be made with the prior written approval of the PSESD.
8. **Certification Regarding Debarment, Suspension, and Ineligibility.** If federal funds are the basis for this contract, the Contractor certifies that neither it nor its principals are presently debarred, declared ineligible, or voluntarily excluded from participation in transactions by any federal department or agency.
9. **Change in Status.** In the event of substantive change in the legal status, organizational structure, or fiscal reporting responsibility of the Contractor, Contractor agrees to notify the PSESD of the change.

Contractor shall provide notice as soon as practicable, but no later than thirty (30) days after such a change takes effect.

10. **Confidentiality.** The Contractor acknowledges that student data, material and information which originates from this contract, and the student assessment data, material and information which will come into its possession in connection with performance under this contract, consists of confidential data owned by the PSESD or confidential personally identifiable data subject to the federal Family Educational Rights and Privacy Act or other privacy laws, and that disclosure to or use by third parties would be damaging. The Contractor, therefore, agrees to hold all such material and information in strictest confidence, not to make use thereof other than for the performance of this contract, to release it only to authorized employees and agents requiring such information and not release or disclose it to any other party. The Contractor agrees to release such information or material only to employees and agents who have signed a written agreement expressly prohibiting disclosure.
11. **Disputes.** In the event that a dispute arises under this contract, it shall be determined in the following manner: (1) The PSESD shall appoint a member to the Dispute Board; (2) the Contractor shall appoint a member to the Dispute Board; (3) the PSESD and the Contractor shall jointly appoint a member to the Dispute Board; (4) the Dispute Board shall evaluate the dispute and make a determination of the dispute; and, the determination of the Dispute Board shall be final and binding on the parties hereto.
12. **Entire Agreement.** This written contract constitutes the mutual agreement of the Contractor and the PSESD in whole. No alteration or variation of the terms of this contract and no oral understandings or agreements not incorporated herein shall be binding.
13. **Ethical Conduct.** Neither the Contractor nor any employee or agent of the Contractor shall participate in the performance of any duty or service in whole or part under this contract in violation of, or in a manner that violates any provision of the Ethics in Public Service law at chapter 42.52 RCW, RCW 42.17.130 and 41.06.250 prohibiting the use of public resources for political purposes.
14. **Governing Law.** This contract shall be construed and interpreted in accordance with the laws of the State of Washington and the venue of any action brought hereunder shall be in Superior Court for King County.
15. **Indemnification / Hold Harmless.** The Contractor shall defend, indemnify and hold the PSESD, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the Contractor's and/or subcontractor's performance of this agreement, except for injuries and damages caused by the sole negligence of PSESD.

The Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of this agreement by the Contractor, their agents, representatives, employees or subcontractors.
16. **Independent Capacity.** The parties intend that an independent contractor relationship will be created by this contract. The Contractor and his/her employees or agents performing under this contract are not employees or agents of the PSESD. The Contractor will not hold himself/herself out as nor claim to be an officer or employee of the PSESD by reason hereof, nor will the contractor make any claim or right, privilege, or benefit which would accrue to such employee under law. Conduct and control of the work will be solely with the Contractor.

17. Insurance.

a. **Worker's Compensation Coverage.** The Contractor shall at all times comply with all applicable worker's compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the fullest extent applicable. This requirement includes the purchase of industrial insurance coverage for the Contractor's employees, as may now hereafter be required of an "employer" as defined in Title 51 RCW. Such worker's compensation and occupational disease requirements shall include coverage for all employees of the Contractor, and for all employees of any subcontract retained by the Contractor, suffering bodily injury (including death) by accident or disease, which arises out of or in connection with the performance of this contract. Satisfaction of these requirements shall include, but shall not be limited to:

- (1) Full participation in any required governmental occupational injury and/or disease insurance program, to the extent participation in such a program is mandatory in any jurisdiction;
- (2) Purchase worker's compensation and occupational disease insurance benefits to employees in full compliance with all applicable laws, statutes, and regulations, but only to the extent such coverage is not provided under mandatory governmental program as in "a" above, and/or;
- (3) Maintenance of a legally permitted and governmentally approved program of self-insurance for worker's compensation and occupational disease.

Except to the extent prohibited by law, the program of the Contractor's compliance with worker's compensation and occupational disease laws, statutes, and regulations in 1), 2), and 3) above shall provide for a full waiver of rights of subrogation against the PSESD, its directors, officers, and employees.

If the Contractor, or any subcontractor retained by the Contractor, fails to effect and maintain a program of compliance with applicable worker's compensation and occupational disease laws, statutes, and regulations and the PSESD incurs fines or is required by law to provide benefits to such employees, to obtain coverage for such employees, the Contractor will indemnify the PSESD for such fines, payment of benefits to Contractor or subcontractor employees or their heirs or legal representatives, and/or the cost of effecting coverage on behalf of such employees. Any amount owed the PSESD by the Contractor pursuant to the indemnity may be deducted from any payments owed by the PSESD to the Contractor for the performance of this contract.

b. **Commercial General Liability.** The contractor shall provide Commercial General Liability insurance written on an occurrence basis with limits no less than \$2,000,000 combined single limit per occurrence for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: blanket contractual; products/completed operations; broad form property damage; explosion, collapse and underground (XCU) if applicable; and employer's liability;

- c. **Auto coverage.** The Contractor shall maintain minimum automobile liability insurance of \$1,000,000 per occurrence for personal injury and property damage if contractor or its staff are required to transport students, clients, or staff pursuant to this agreement.
- d. **Proof of Insurance.** Certificates and or evidence satisfactory to the PSESD confirming the existence, terms and conditions of all insurance required above shall be delivered to the PSESD within five (5) days of the Contractor's receipt of a request for proof. The policy(ies) of insurance required to be maintained in accordance with this contract shall not be cancelled or given notice of non-renewal nor shall the terms and conditions thereof be altered or amended without thirty (30) days written notice being given to the PSESD.

PSESD shall be named as an additional insured on the Commercial General Liability insurance policy, as respects activities of the Contractor and **a copy of the endorsement naming PSESD as additional insured shall be attached to the Certificate of Insurance.** PSESD reserves the right to receive a certified copy of all required insurance policies.

- 18. **Licensing and Accreditation Standards.** The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements/standards, necessary to the performance of this contract.
- 19. **Non-Discrimination.** The Contractor shall comply with all the federal and state non-discrimination laws, regulations and policies, which are otherwise applicable to the PSESD. Accordingly, no person shall, on the ground of race, creed, color, national origin, sex, marital status, or the presence of any sensory, mental, or physical disability, be unlawfully excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any activity performed by the Contractor and its agents under this contract. The Contractor shall notify the PSESD immediately of any allegations, claims, disputes, or challenges made against it under the Americans with Disabilities Act. In the event of the Contractor's noncompliance or refusal to comply with this nondiscrimination provision, this contract may be rescinded, cancelled or terminated in whole or part, and the Contractor may be declared ineligible for further contracts with the PSESD.
- 20. **Payments.** No payments in advance or in anticipation of services or supplies to be provided under this contract shall be made by the PSESD. All payments to the Contractor are conditioned upon (1) Contractor's submission of a properly executed and supported invoice for payment, including such supporting documentation of performance and supporting documentation of costs incurred or paid, or both as is otherwise provided for in the body of this contract under Duties of the PSESD, and (2) Acceptance and certification by the PSESD or designee of satisfactory performance by the Contractor.

Except as otherwise provided in this contract, (1) All approvable invoices for payment due to the Contractor shall be paid within thirty (30) calendar days of their submission by the Contractor, and (2) All expenses necessary to the Contractor's performance of this contract shall be borne in full by the Contractor.
- 21. **Registration with Department of Revenue.** The Contractor shall be registered with the Department of Revenue and be responsible for payment of all taxes due on payments made under this contract.
- 22. **Rights in Data.** Data that originates under this contract shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by the PSESD. In the event any data which originates under this contract is not considered a "work for hire" under the U.S. Copyright laws, Contractor hereby, irrevocably assigns all rights, title, and interest in such data, including all intellectual rights, to the PSESD effective from the moment of creation of such data. Data shall include, but not be limited to, notes, minutes, reports, documents, pamphlets, articles, books, magazines, surveys, studies, computer

programs, films, tapes, and/or sound reproductions, photographs, and other items in any format, form, or medium. Ownership includes ownership of all intellectual concepts and properties embodied in data, the right to copyright, patent or register data, and the right to transfer these rights.

Data which is delivered under this contract, but which does not originate thereunder, shall be transferred to the PSESD with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so: PROVIDED, that such a license shall be limited to the extent which the contractor has a right to grant such a license. The contractor shall exert all reasonable effort to advise the PSESD, at the time of delivery of data furnished under this contract, of all known or potential invasions of privacy contained therein and of any portion of such document that was not produced in the performance of this contract. The PSESD shall receive prompt written notice of each notice or claim of copyright infringement received by the Contractor with respect to any data delivered under this contract. The PSESD shall have the right to modify or remove any restrictive markings placed upon the data by the Contractor.

23. **Records, Documentation and Reports.** The Contractor shall maintain complete financial records relating to this contract and complete records documenting the services rendered under the contract, including all books, records, documents, magnetic media, receipts, invoices, and all other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract. These records shall be subject to all reasonable times to inspection, review, or audit by personnel duly authorized by the PSESD, the Office of the State Auditor, and state and federal officials so authorized by law, rule, regulation, or agreement. The Contractor will retain all books records, documents, and other materials relevant to this contract for seven (7) years after the date of final payment by the PSESD, and make them available for inspection by persons authorized under this provision.

If any litigation, claim or audit is started before the expiration of the seven (7) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

24. **Right of Inspection.** The contractor shall provide right of access to its facilities to the PSESD or any of its officers at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract on behalf of the PSESD. All inspections and evaluations shall be performed in such a manner that will not unduly interfere with the Contractor's business or work hereunder.
25. **Severability.** If any provision of this contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect other provisions of this contract which can be given effect without the invalid provision, and to this end the provisions of this contract are declared to be severable.
26. **Subcontracting.** Neither the Contractor nor any subcontractor shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the PSESD. In no event shall the existence of the subcontract operate to release or reduce liability of the Contractor to the PSESD for any breach in the performance of the Contractor's duties. This clause does not include contracts of employment between the Contractor and personnel assigned to work under this contract.
27. **Termination.**
- a. **Termination for Convenience.** Except as otherwise provided in this contract, the PSESD Superintendent or Designee may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this contract in whole or in part. The notice shall specify the date of termination and shall be conclusively deemed to have been delivered to and received by the

Contractor as of midnight the second day of mailing in the absence of proof of actual delivery to and receipt by the Contractor. If this contract is so terminated, the PSESD shall be liable only for payment required under the terms of the contract for services rendered or goods delivered prior to the effective date of termination.

b. Termination for Default. The PSESD Superintendent or Designee may terminate this contract for default, in whole or in part, by written notice to the Contractor if the PSESD has a reasonable basis to believe that the Contractor has:

- (1) Failed to meet or maintain any requirement for contracting with the PSESD;
- (2) Failed to ensure the health or safety of any client for whom services are being provided under this contract;
- (3) Failed to perform under, or otherwise breached, any term or condition of this contract; and/or
- (4) Violated any applicable law or regulation.

In such event, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time; provided that if (i) it is determined for any reason the Contractor was not in default, or (ii) the Contractor's failure to perform is without Contractor's and/or subcontractor's control, fault or negligence, then the termination shall be deemed a "Termination for Convenience."

c. Termination Due to Funding Limitations. In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, the PSESD may, without advance notice and without liability for damages, terminate the contract under the "Termination for Convenience" clause. The PSESD and Contractor may, however, renegotiate this contract under any such new funding limitations and conditions.

d. Termination Procedure. Upon termination of this contract the PSESD, in addition to other rights provided in this contract, may require the Contractor to deliver to the PSESD any property specifically produced or acquired for the performance of such part of this agreement as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The PSESD shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by the PSESD and the amount agreed upon by the Contractor and the PSESD for (a) completed work and services for which no separate price is stated, (b) partially completed work and services, (c) other property or services which are accepted by the PSESD, and (d) the protection and preservation of the property, unless the termination is for default, in which case the PSESD shall determine the extent of the liability. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause for this contract. The PSESD may withhold from any amounts due to the Contractor such sum as the PSESD determines to be necessary to protect the PSESD against potential loss or liability.

The rights and remedies of the PSESD provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law under this contract.

After receipt of a notice of termination, and except as otherwise directed by the PSESD, the Contractor shall:

- (1) Stop work under this contract on the date and to the extent specified, in the notice;
- (2) Place no further orders or subcontractors for materials, services or facilities except as may be necessary for completion of such portion of the work under the contract this is not terminated;
- (3) Assign to the PSESD, in the manner, at the times, and to the extent directed by the PSESD, all rights, title, and interest of the Contractor under the orders and subcontracts in which case the PSESD has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- (4) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the PSESD to the extent the PSESD may require, which approval or ratification shall be final for all the purposes of this clause;
- (5) Transfer title to the PSESD and deliver, in the manner, at the times and to the extent as directed by the PSESD, any property which, if the contract had been completed, would have been required to be furnished to the PSESD;
- (6) Complete performance of such part of the work not terminated by the PSESD; and
- (7) Take such action as may be necessary, or as the PSESD may direct, for the protection and preservation of the property related to this agreement which, in is in the possession of the Contractor and in which the PSESD has or may acquire an interest.

28. Text Messaging when Driving. Prohibition of text messaging and emailing while driving during official federal grant business. Federal grant recipients, subrecipients and their grant personnel are prohibited from text messaging while driving a government owned vehicle, or while driving their owned vehicle during official grant business, or from using government supplied electronic equipment to text message or email when driving.

29. Treatment of Assets. Except as otherwise provided for in the contract, the ownership and title to all real property and all personal property purchased by the Contractor in the course of performing this contract with moneys paid by the PSESD shall vest in the PSESD, except for supplies consumed in performing this contract. The Contractor shall (1) maintain a current inventory of all the real and personal property; (2) label all the property "PSESD"; and, (3) surrender property and title to the PSESD without charge prior to settlement upon completion, termination or cancellation of this agreement.

Any property of the PSESD furnished to the Contractor shall, unless otherwise provided herein, or approved by the PSESD, be used only for the performance of the contract.

The Contractor shall be responsible for any loss or damage to property of the PSESD that results from the negligence of the Contractor which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.

If any property is lost, destroyed, or damaged, the Contractor shall notify the PSESD and take all reasonable steps to protect the property from further damage.

All reference to the Contractor under this clause shall include Contractor's employees, agents and subcontractors.