

## **AGREEMENT**

Fife 01-27-417

This Agreement is made and entered into this 1st day of September, 2019, by and between the Northwest Educational Service District, ("NWESD" hereinafter) and the Fife School District No.417, ("District" hereinafter).

**WHEREAS**, the NWESD is authorized to provide services to school districts by RCW 28A.310.010;

**WHEREAS**, the NWESD has formed the Northwest Regional Data Center cooperative, ("NWRDC" hereinafter);

**WHEREAS**, the District and NWESD under RCW 28A.320.080, RCW 28A.310.200, and RCW 39.34.080 are empowered to enter into agreements for Interlocal agreements and cooperative service programs; and,

**WHEREAS**, the District desires to enter into a cooperative service agreement with the NWESD;

**IT IS HEREBY AGREED** that the NWESD shall receive funds from the District and shall expend such funds for the purpose of providing information systems services through the NWRDC and the Washington Schools Information Processing Cooperative, ("WSIPC" hereinafter) in accordance with the terms and conditions set forth herein:

### **1. GENERAL TERM OF THE AGREEMENT**

**The term of the Agreement will commence September 1, 2019. Thereafter, the terms of the Agreement will automatically renew from September 1<sup>st</sup> through August 31<sup>st</sup> of each successive year.**

This term shall continue unless District gives written notice to NWRDC to terminate the Agreement. This notice must be provided to NWRDC by March 1<sup>st</sup> of the same year termination is desired, at which time District agrees to continue paying Cooperative fees until August 31<sup>st</sup> of the same year. District may extend the term of services beyond the date which notice of termination is given. Each extension must be at least two months long. When applicable, notification of changes made to the Appendix B fee schedule of this agreement will be provided prior to March 1<sup>st</sup> of each year and will include a request for District acknowledgement of receipt.

### **2. MEMBERSHIP IN NORTHWEST REGIONAL DATA CENTER**

District shall become a full member of NWRDC effective September 1, 2019. Membership shall entitle District to nominate candidates and vote for representatives on the NWRDC Executive Committee. NWRDC is a part of and functions through NWESD.

### **3. INFORMATION SYSTEM SERVICES**

During the term of this Agreement, NWESD agrees, through NWRDC, to provide to District information system services as set forth in the Appendix A, which outlines the software, service levels, roles and responsibilities of NWRDC to District in support of student, business and personnel related software packages offered by WSIPC including software support, amount and method of customer support, performance levels, and availability of staff, of this Agreement.

### **4. PROGRAM DEVELOPMENT**

NWESD agrees that priority in the development of new applications services by WSIPC shall be in accordance with the expressed direction of the WSIPC Board of Directors operating under their bylaws.

### **5. COST TO THE DISTRICT**

During each year of the term, the WSIPC fee will be incorporated into the total fee collected by NWRDC. The WSIPC fee is established by the WSIPC Board of Directors and the NWRDC fee is approved by its Executive Committee.

The annual cost to District for services provided under this Agreement will be determined pursuant to the Appendix B fee schedule. The FTE fee will be calculated based on the actual annual student FTE count for the prior fiscal year. This cost includes amounts for sales use or other similar taxes related to the services provided herein. One twelfth of the annual cost will be invoiced for the first ten months of the Agreement. A final adjustment shall be made to the actual average annual FTE for the current year on the July and August payments.

### **6. RIGHTS TO PARTICIPATE IN JOINT COOPERATIVE**

As authorized by RCW 28A.320.080 (3) and RCW 28A.310.180 (3) (currently existing or hereinafter amended), group purchasing and/or bidding for data processing equipment and/or services, or related equipment and/or services, may be part of the activities of the ESD cooperatives. Members of these cooperatives may, at their own option, participate in the bidding/purchasing role of WSIPC, but will not be required to do so for any particular item(s).

### **7. CONFIDENTIALITY**

All materials furnished to WSIPC and NWRDC by District pursuant to this Agreement, shall remain the property of District and shall not be disclosed to third parties except by written consent of District. These materials include, but are not limited to, source data, computer files, reports, listings and computer programs.

NWRDC and WSIPC acknowledge that performance of Services under this Agreement may involve access to confidential information including, personally-identifiable

information, student records, protected health information, or individual financial information that is subject to state or federal law/rules restricting the use and disclosure of such information, (reference Family Educational Rights and Privacy Act (20 U.S.C. § 1232g). NWRDC and WSIPC agree to comply with said FERPA regulations and will follow the federal guidelines in handling or disclosing personally identifiable information.

## **8. ACCESS TO PUBLIC RECORDS**

No records of District shall be made available for public inspection or copying by NWRDC, NWESD, or WSIPC without express written authorization of District. Requests pursuant to RCW 42.17 for inspection or copying of public records of District, held or maintained by NWRDC shall be referred to District.

## **9. RIGHTS IN COMPUTER SOFTWARE**

During the term of this Agreement, District agrees that it shall safeguard all Skyward, Inc., NWRDC, and WSIPC proprietary materials as set forth under "Grant and Limitations" in the WSIPC Services portion of Appendix A.

## **10. PERFORMANCE AND BONDING**

NWESD shall not be liable for inadequate services or errors caused by inaccurate or inadequate input data, programs or other software furnished by District.

## **11. DISPUTES**

Any dispute, claim or grievance arising out of or relating to the interpretation or application of this Agreement shall be resolved by a three-member committee. The representatives shall be selected by NWESD and District, each selecting one representative. Thereafter, NWESD's representative and District's representative shall select an impartial third party who shall serve as the third member of the committee. This dispute resolution committee shall be guided and limited by the terms and conditions expressly delineated in this Agreement.

## **12. TERMINATION FOR BREACH**

If either party fails to comply with the terms and conditions of this Agreement, the other party upon thirty (30) days prior written notice to the breaching party may terminate this Agreement.

## **13. INTERLOCAL AGREEMENT**

This Agreement provides authority in addition to those vested by RCW 28A.310.200 and RCW 28A.320.080, is be deemed to be in satisfaction of the provisions of RCW 39.34, and is deemed a contract pursuant to RCW 39.34.080

## **14. CRIMES AGAINST CHILDREN**

In accordance with RCW 28A.400.330, employees, agents, and contractors of NWESD are prohibited from working at a school if they have or may have contact with children at a public school during the course of their employment and have pleaded guilty to or been convicted of the crimes identified in RCW 28A.400.322. Any failure to comply with this section shall be grounds for District immediately terminating the Agreement.

## **15. INDEMNITY**

NWESD shall defend, indemnify, and hold harmless District in full for any and all claims against District or its employees, officials, or contractors which arise from the acts or omissions of NWESD and its employees, officials, and contractors in the provision of services under this Agreement. District shall defend, indemnify, and hold harmless NWESD in full for any and all claims against NWESD or its employees, officials, or contractors which arise from the acts of omissions of District and its employees, officials, and contractors in the provision of services under this Agreement.

## **16. ASSIGNMENT**

This Agreement may not be assigned by either party without written consent of the parties.

## **17. WAIVER AND SEVERABILITY**

No provision of this Agreement, or the right to receive reasonable performance of any act called for by its terms, shall be deemed waived of a breach thereof as to a particular transaction or occurrence.

If any term or condition of this Agreement or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other terms, conditions or applications of the Agreement which can be given effect without the invalid term, condition or application; to this end the terms and conditions of this Agreement are declared severable.

The parties acknowledge that they have read and understand this Agreement, including any supplements or attachments hereto, and do agree thereto in every particular. The parties further agree that this Agreement, together with all appendices, constitutes the entire Agreement between the parties and supersedes all communications, written or oral, heretofore related to the subject matter of this Agreement. This Agreement may be modified or amended with the mutual consent of the parties. With the signatures below, the parties indicate that they have the legal authority to obligate their respective agency to the terms and conditions contained herein.

Fife School District No. 417 elects to contract for:

**Fiscal Services**

Board approval date: \_\_\_\_\_

OR

Resolution number 19-15 and date 8.26.19, of board delegation of authority to sign interlocal agreements.

Kevin Alfano 8/29/19  
(Superintendent Signature) (Date)

Kevin Alfano  
Printed Name

Pierce, Washington  
(County)

Larry Francois 9/6/19  
Larry Francois, Superintendent (Date)  
Northwest Educational Service District 189  
Skagit County, Washington

L.R.