

## **AGREEMENT**

01 - 31 - 016

This Agreement is made and entered into this 1st day of September, 2014, by and between Northwest Educational Service District, hereinafter referred to as "NWESD" and the Arlington School District No. 016 hereinafter referred to as "District".

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

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

**WHEREAS**, the District and NWESD under RCW 28A.520.080, 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 NWESD;

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

### **1. TERM OF AGREEMENT**

This agreement shall be effective from September 1, 2014 to August 31, 2015, and shall be automatically renewed from year to year thereafter with the subsequent fee schedules and service revisions as adopted by the NWRDC unless the District gives written notice of its election to modify its service options or Agreement termination at least one hundred and twenty days (120) prior to August 31, 2015, or at least one hundred and twenty days (120) prior to August 31 of any year thereafter, or unless the agreement is terminated in accordance with paragraph 12 herein. The District may extend the term of services beyond the end of the Year in which notice of termination is given for an initial extension period of a minimum of six (6) months.

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

The District shall become a full member of the NWRDC effective September 1, 2014. Membership shall entitle the District to nominate candidates and vote for representatives on the NWRDC Executive Committee. The NWRDC shall be a part of and function through NWESD.

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

During the term of this agreement, NWESD agrees, through the NWRDC, to provide to the District information system services as set forth in Appendix "A", which outlines the software, service levels, roles and responsibilities of the NWRDC to the 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 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 the NWRDC. The WSIPC fee is established by the WSIPC Board of Directors and the NWRDC fee is approved by the member districts' superintendents.

The annual cost to the District for services provided under this Agreement will be determined pursuant to paragraph 5.a., 5.b., or 5.c. If the enrolled student FTE is less than 220, paragraph 5.a., 5.b., or 5.c. shall be calculated using 220 FTE. 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. The Student FTE count shall be the average annual FTE for 2013-2014 for the first ten payments. A final adjustment shall be made to the actual average annual FTE for 2014-2015 on the July and August payments.

- 5.a. The Fiscal Service Fee shall be \$30.93 per annual student FTE allocated as follows: \$12.94 NWRDC fee plus \$17.99 WSIPC fee.
- 5.b. The Student Service Fee shall be \$25.66 per annual student FTE allocated as follows: \$14.77 NWRDC fee plus \$10.89 WSIPC fee
- 5.c. The Full Service Fee shall be \$41.26 per annual student FTE allocated as follows: \$23.27 NWRDC fee plus \$17.99 WSIPC fee

### **6. RIGHT TO PARTICIPATE IN JOINT PURCHASES**

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 NWRDC and WSIPC cooperatives. Formal bidding will occur when necessary to satisfy RCW 28A.335.190 (currently existing or hereinafter amended), which is the statute

establishing bidding procedures required of school districts. Members of these cooperatives may, at their own option, participate in the bidding/purchasing aspect of the NWRDC Cooperative, but will not be required to do so for any particular item(s).

## **7. CONFIDENTIALITY**

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

The NWRDC and WSIPC will use reasonable security procedures and protections to assure that District material is not disclosed to third parties without written consent of the District, with the exception of the Washington State Auditor, Washington State Legislature, and the Office of the Superintendent of Public Instruction may be given such records as they request except for information governed by legislation on confidentiality of personnel records.

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

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

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

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

## **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 the 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 the district, each selecting one representative. Thereafter, the NWESD's representative and the 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.

## **50. ASSIGNMENT**

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

## **15. 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.