

FORM: GENERAL TERMS & PROVISIONS FOR INTERLOCAL AGREEMENTS FOR SERVICE PROVIDED TO ESD FY 2018-2019 UPDATE

EXHIBIT B GENERAL TERMS & CONDITIONS

I. AUTHORITY

- a. This Agreement between ESD112 and the District, is entered into in accordance with the authority granted in the Interlocal Cooperation Act, RCW 39.34.030 and provisions that authorize educational service districts and school districts to contract with each other for services, specifically 28A.310.010, 28A.310.180, 28A.310.200, 28A.320.080 and 28A.320.035
- b. The provision of educational, instructional or specialized services in accordance with this Agreement will improve student learning or achievement.
- c. A separate legal entity is not being created. ESD112 shall administer the joint undertaking described in the terms of this Agreement.

II. FINANCE, BUDGET & PROPERTY

- a. **Budget.** The District will budget for and pay the costs associated with services provided as detailed in "Exhibit A: Scope of Services Provided". A separate budget for this joint undertaking is not required
- b. **Invoices.** The District shall invoice ESD112 as described in Exhibit A, Section II. ESD112 shall pay the invoice within forty (45) days of receipt. Invoices may be billed electronically to contracts.invoices@esd112.org or by mail at ESD112's business mailing address.
- c. **Property.** Neither party is acquiring real property. Any personal property that is acquired will be owned and retained by the party that pays for the personal property.

III. GENERAL OBLIGATIONS OF THE PARTIES. ESD112 and the District shall:

- a. Conduct background checks on any officials, employees, volunteers or agents who may perform obligations under this Agreement and who may have access to children. No person employed or contracted by a party to the agreement who has plead guilty to or been convicted of a felony crime specified in RCW 28A.400.322 will have access to children. Failure to comply with this provision is grounds for immediate termination.
- b. Comply with federal, state, and local laws in performing obligations under this Agreement, and any policies or regulations adopted by the parties' boards of directors, including restrictions on use of tobacco on school district property.
- c. Obtain and maintain commercial general liability insurance and automobile liability insurance in an amount not less than \$1,000,000 per occurrence. The parties shall, upon request, provide each other suitable evidence of the insurance coverage that is required.
- d. Obtain any licenses or permits that are required to perform their respective obligations under the Agreement.
- e. Comply with Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (2 C.F.R. §200) under the Office of Management and Budget (OMB) and the terms of any grant that is being implemented in whole or in part by this Agreement, as applicable.
- f. Perform their obligations in accordance the terms of this Agreement AND any federal or state grant that is funding any of the obligations under this Agreement.

IV. TERMINATION. Either party may terminate this Agreement by providing the other party thirty (30) days prior written notice, provided ESD112 may terminate this Agreement immediately, without prior notice, if any of the funds ESD112 receives or has budgeted for in connection with its payment obligations under this Agreement are reduced or eliminated. Upon termination, the joint undertaking

will be dissolved and the parties will retain ownership of the personal property they acquired in connection with this Agreement.

V. GENERAL PROVISIONS

- a. **Indemnification.** Both parties agree to protect, defend, indemnify and hold the other party, and its directors, officers, agents and employees harmless from any and all claims and losses that are caused by the indemnifying party, or the indemnifying parties directors', officers', agents' or employees' negligent or malicious acts or omissions.
- b. **Assignment.** This Agreement may not be assigned by either party without prior written consent of the other party.
- c. **Whole Agreement.** The parties acknowledge that they have read and understand this Agreement. The parties further agree that this Agreement constitutes the entire agreement between the parties and supersedes all communications, written or oral, related to the subject matter of this Agreement. This Agreement may only be modified or amended upon signed written agreement of both parties.
- d. **Applicable Laws and Venue.** This Agreement shall be governed by the laws of the State of Washington. Venue for any legal action or proceeding arising out of or in any way related to this Agreement shall be in Clark County, Washington.
- e. **Waiver.** No provision of this Agreement, or the right to receive reasonable performance of any act called for by its terms, shall be deemed waived by a waiver of a breach thereof as to a particular transaction or occurrence.
- f. **Severability.** 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.
- g. **Non-Discrimination.** Per the requirements of state, local and federal laws, including 13 CFR 145, ESD112 and the District agree not to discriminate on the basis of race, creed, religion, color, national origin, age, families with children, sex, gender expression or identity, honorably discharged veteran or military status, marital status, sexual orientation, or non-job-related physical, sensory, or mental disabilities, or use of a trained guide dog or service animal. Inquiries regarding compliance and/or grievance procedures for ESD112 may be directed to ESD112 at its address above.
- h. **Conflict of Interest.** Neither party shall receive compensation from more than one political subdivision of the state of Washington for the same work that is being done under this Agreement. If either party is providing services to another organization that are the same as the services being provided and compensated for under this Agreement, the amount paid under this Agreement shall constitute an overpayment, which shall be withheld from future payments or reimbursed. No person engaged in any activity associated with this Agreement has a personal financial interest, direct or indirect, in this Agreement. The District and ESD112 warrant that neither party presently has interests, and will not acquire interests, directly or indirectly, which would create a conflict of interest in performing the obligations under this Agreement. Any direct or indirect conflict of interest must be disclosed.
- i. **Privacy.** Both parties may have access to educational records that are confidential and subject to privacy protections under the Federal Educational Rights and Privacy Act. Both parties shall take all necessary steps to protect the confidentiality of educational records and shall not disclose such records or the information obtained from having access to such records without obtaining the consent of the other party and the parent of the student whom the record pertains to.
- j. **Records.** Both parties shall maintain books, records, documents, data and other materials compiled and related to the performance of their obligations under this Agreement for the time period required under law or any applicable grant agreement. Both parties agree to provide the other party access to and copies of any such books, records, documents, data or other materials.
- k. **Exclusion, Debarment and Suspension Certification.** Per the requirements of Executive Order 12-549, ESD112 and the District certify that neither they, nor their officers, directors, general managers or persons having primary management or supervisory responsibilities, are on the Excluded Parties List Report (web address: <http://www.sam.gov>) and that they are not presently debarred, suspended, proposed for debarment, or declared ineligible or voluntarily excluded for the

award of contracts by any federal governmental agency or department. ESD112 and the District shall provide immediate written notice to each other if, at any time during the term of this Agreement, including any renewals hereof, they learn that this certification has become erroneous by reason of changed circumstances

- l. Intellectual Property.** Any materials ESD112 produces shall be owned by ESD112. ESD112 will be considered the author of such materials. To the extent materials being produced by the District in connection with this Agreement are found to be “works made for hire,” the District hereby irrevocably assigns all right, title and interest in such materials, including intellectual property rights, to ESD112 effective from the moment of creation. The District shall not use any materials produced for ESD112 in connection with this Agreement without obtaining ESD112’s prior written consent.
- m. Notice.** Whenever notice is required under this Agreement, it shall be provided by emailing and mailing the notice to the contacts provided. Notice shall be deemed effective upon the earlier of actual receipt or three (3) days after notice is deposited in the United State Mail, postage prepaid.