



**EDMONDS SCHOOL DISTRICT NO. 15**  
 20420 – 68<sup>TH</sup> Avenue West  
 Lynnwood, WA 98036  
 425-431-7000

**INTERLOCAL COOPERATION AGREEMENT**

Whereas, Chapter 39.34 RCW (Interlocal Cooperation Act) permits local government units to make the most efficient use of their powers by enabling them to cooperate with other government entities on the basis of mutual advantage and thereby to provide services and facilities in a manner pursuant to forms of governmental organizations that will accord best with geographic, economic population, and other factors influencing the needs and development of local communities, now therefore, the following agreement is established.

This Contract is made and entered into by and between EDMONDS SCHOOL DISTRICT NO. 15, hereinafter referred to as the "DISTRICT", and **CITY OF EDMONDS**, hereinafter referred to as "CONTRACTOR."

**1. PURPOSE**

The purpose of this contract is to: *Provide educational services to district students as described in scope of work.*

**CONTRACT MANAGEMENT**

The Contract Manager for each of the parties shall be the contact person for all communications and billings regarding the performance of this contract.

Contract Manager for CONTRACTOR is:	Contract Manager for DISTRICT is:
<i>Contract Mgr. Name: Dave Johnson</i>	<i>Contract Mgr. Name: Mark Finley</i>
<b>Contractor Name: CITY OF EDMONDS</b>	<i>Department Name: Student Services</i>
<b>Address: 700 Main St</b>	<i>Address 20420 68th Ave W</i>
<b>City, State Zip Code: Edmonds, WA 98020</b>	<i>City, State Zip Code: Lynnwood, WA 98036</i>
<b>Phone: (425) 771-0232 Fax: (425) 771-0253</b>	<i>Phone: (425) 431-7177 Fax: (425) 431-7339</i>
<b>E-mail address: renee.mcrae@edmondswa.gov</b>	<i>E-mail address: finleym@edmonds.wednet.edu</i>

**2. SCOPE OF WORK**

The DISTRICT and CONTRACTOR have a collaborative arrangement for services to preschool children with disabilities. This includes enrollment of preschool children with disabilities in the CONTRACTOR preschool program. These students participate in the classroom activities and are supported by DISTRICT special education staff. This allows students with disabilities to participate with typically developing peers.

- A. Attachment: A, attached hereto and incorporated by reference, contains the General Terms and Conditions governing work to be performed under this contract, the nature of the working relationship between the DISTRICT and the CONTRACTOR, and specific obligations of both parties.

**3. PERIOD OF PERFORMANCE**

Subject to other contract provisions, the Period of Performance under this contract will be from September 1, 2017 through August 31, 2018, with the option to renew for four additional one year periods.

#### **4. COMPENSATION/ PAYMENT**

Compensation for services rendered shall be based on the schedule set forth in ATTACHMENT B, Fees and Expenses.

#### **5. EXPENSES:**

The District does not cover expenses for independent contractors. Any anticipated expenses must be included as part of the Contractor's compensation.

#### **6. BILLING PROCEDURES**

DISTRICT will pay CONTRACTOR upon receipt of properly completed invoices, which shall be submitted to the contract manager not more often than monthly. The invoices shall describe and document, to the DISTRICT'S satisfaction, the work performed, the progress of the project, and fees.

Payment shall be considered timely if made by the DISTRICT within thirty (30) days after receipt of properly completed invoices. Payment shall be sent to the address designated by the CONTRACTOR.

The DISTRICT may, in its sole discretion, terminate the contract or withhold payments claimed by the CONTRACTOR for services rendered if the CONTRACTOR fails to satisfactorily comply with any term or condition of this contract.

No payments in advance or in anticipation of services or supplies to be provided under this contract shall be made by the DISTRICT.

The DISTRICT shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were performed.

DUPLICATION OF BILLED COSTS: The CONTRACTOR shall not bill the DISTRICT for services performed under this contract, and the DISTRICT shall not pay the CONTRACTOR, if the CONTRACTOR is entitled to payment or has been or will be paid by any other source, including grants, for that service.

DISALLOWED COSTS: The CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

#### **7. ASSURANCES**

DISTRICT and the CONTRACTOR agree that all activity pursuant to this contract will be in accordance with all the applicable current federal, state and local laws, rules, and regulations.

#### **8. ORDER OF PRECEDENCE**

Each of the exhibits listed below is by this reference hereby incorporated into this contract. In the event of an inconsistency in this contract, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable Federal and state of Washington statutes and regulations;
- Special Terms and Conditions as contained in this basic contract instrument;
- Attachment A – General Terms and Conditions;
- Attachment B – Fees & Expenses
- Any other provision, term or material incorporated herein by reference or otherwise incorporated.

#### **9. ENTIRE AGREEMENT**

This contract, including referenced exhibits, represents all the terms and conditions agreed upon by the parties. No other understandings or representations oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind any of the parties hereto.

#### **10. CONFORMANCE**

If any provision of this contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

**11. APPROVAL**

This contract shall be subject to the written approval of the DISTRICT'S authorized representative and shall not be binding until so approved. The contract may be altered, amended or waived only by a written amendment executed by both parties.

THIS CONTRACT, consisting of 4 pages and 2 attachments, is executed by the persons signing below who warrant that they have the authority to execute the contract.

EDMONDS SCHOOL DISTRICT NO. 15	CONTRACTOR:
Jean Mirabal, Executive Director, Student Services	(Signature)
Board Approval Date	(Printed name and title)
Jenna Valach Director of Budget & Finance	
	CITY OF EDMONDS
	Company Name
	700 Main St, Edmonds, WA 98020
	Address
	(425) 771-0232 (425) 771-0253
	Phone FAX
	renee.mcrae@edmondswa.gov
	Email
	FEIN or SSN WA UBI

**ATTACHMENT A**  
**GENERAL TERMS AND CONDITIONS**

**1. Definitions**

As used throughout this Agreement, the following terms shall have the meanings set forth below:

- A. **"CLIENT"** shall mean an individual receiving services under this Agreement.
- B. **"CONTRACTOR"** shall mean that agency, firm, provider organization, individual or other entity performing services under this Agreement. It shall include any subcontractor retained by the prime contractor as permitted under the terms of this agreement.
- C. **"CONTRACTING OFFICER"** shall mean that individual authorized to execute this agreement on behalf of the DISTRICT.
- D. **"DISTRICT"** shall mean the Edmonds School District, any division, section, office, unit or other entity of the DISTRICT or any of the officers or other officials lawfully representing that DISTRICT.
- E. **"PERSONAL INFORMATION"** means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- F. **"SUBCONTRACTOR"** shall mean one not an employee of the contractor, who is performing all or part of those services under this Agreement under a separate contract with the contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.
- G. **VENDOR** is an entity that agrees to provide the amount and kind of services requested by the District; provides services under the contract only to those beneficiaries individually determined to be eligible by the District and, provides services on a fee for service or per unit basis with contractual penalties if the entity fails to meet program performance standards.

**2. Provision of Services:**

Contractor agrees to provide the amount and kind of services requested by the District; provides services under the contract only to those beneficiaries individually determined to be eligible by the District and, provides services on a fee-for-service or per-unit basis with contractual penalties if the entity fails to meet program performance standard.

**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 this contract, nor any claim arising under this contract, shall be transferred or assigned by the contractor without prior written consent of the DISTRICT.

**5. Background Check**

At no additional cost to the district, the contractor will ensure that the contractor or any employees who will have regularly scheduled unsupervised access to children shall require a record check through the Washington state patrol criminal identification system under RCW 43.43.830 through 43.43.834, 10.97.030, and 10.97.050 and through the federal bureau of investigation before hiring an employee. The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card.

**6. Certification Regarding Debarment, Suspension and Ineligibility**

Contractor certifies that to the best of their knowledge/belief that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded for the award of contracts by any Federal governmental agency or department. Further, AGENCY certifies that they are not presently indicted for or have not within a three year period proceeding this bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract.

If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to any other remedies available to the District, the District may terminate this transaction for default.

Further, it is the responsibility of the Contractor to verify that lower-tier parties to this transaction are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded for the award of contracts by any Federal governmental agency or department.

**7. 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 DISTRICT of the change. Contractor shall provide notice as soon as practicable, but no later than thirty-days after such a change takes effect.

**8. Changes and Modifications**

- A. The contracting officer may, at any time, by written notification to the contractor, and without notice to any known guarantor or surety, make changes within the general scope of the services to be performed under the contract. If the contractor agrees to such changes, a written contract amendment reflecting such change shall be executed by the parties. An equitable adjustment in cost or period of performance or both may be made if required by the change. Any claim for adjustment in price or period of performance must be received within thirty (30) days of the contractor's receipt of the change notice.
- B. The contracting officer may, however, receive and act upon any such claim at any time prior to final payment under the contract at his/her discretion.
- C. Failure to agree to any adjustment made under this section shall be an issue and may be reviewed as provided in the "Disputes" section of this agreement. Nothing in this section shall excuse the contractor from proceeding with the contract as changed.

**9. Compliance with Applicable Law**

Contractor shall comply with all federal, state, and local laws applicable to public contracts, to the work done under this Contract, and with all regulations and administrative rules established pursuant to those law

**10. Conflict of Interest**

- A. The DISTRICT may, in its sole discretion, by written notice to the contractor, terminate this contract if it finds, after due notice and examination by the contracting Officer, that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the contractor in the procurement of or performance under, this contract.
- B. In the event this contract is terminated as provided above, the DISTRICT shall be entitled to pursue the same remedies against the contractor as it could pursue in the event of a breach of the contract by the contractor. The rights and remedies of the DISTRICT provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the contracting officer makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

**11. Covenant Against Contingent Fees**

The contractor warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage

or contingent fee, excepting bonafide employees or bonafide established agent maintained by the contractor for the purpose of securing business. The District shall have the right, in the event of breach of this clause by the contractor, to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fees.

**12. Disputes - Mediation**

- A. Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, the parties agree to participate in mediation in good faith. The mediator shall be chosen by agreement of the parties. If the parties cannot agree on a mediator, the parties shall use a mediation service that selects the mediator for the parties. The parties agree that mediation shall precede any action in a judicial or quasi-judicial tribunal.
- B. Nothing in this contract shall be construed to limit the parties' choice of a mutually acceptable alternative resolution method such as a disputes hearing, a dispute resolution board or arbitration.

**13. Disallowed Costs**

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

**14. Employee Removal.**

At District's request, Contractor will immediately remove any Contractor employee from all District properties in cases where the District determines, in its sole discretion, that removal of that employee is in the District's best interests.

**15. 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 Snohomish County.

**16. Indemnification**

The Contractor shall defend, indemnify and hold harmless the District, its board of directors, officers, employees, or agents from and against any and all claims, liabilities and expenses, including attorney's fees, arising out of or resulting from any injuries to persons (including death) or damage to property arising from acts or omissions of the Contractor, its employees, agents or subcontractors, however caused.

**17. Insurance**

The Contractor shall purchase and maintain at its own cost in a company or companies licensed and admitted to do business in the State of Washington such comprehensive general liability and other insurance, on an occurrence basis, and as will provide protection from claims set forth below which may arise out of or result from the Contractor's operations under the contract, whether to be performed or furnished by the Contractor, by any subcontractor, by anyone directly or indirectly employed by any of them to perform or furnish any of the products or services, or by anyone for whose acts any of them may be liable.

Edmonds School District No. 15 shall be named as a primary, non-contributing additional insured on such policies other than state workers' compensation. The District's specification or approval of this insurance or of its amount shall not relieve or decrease the liability of the Contractor under this contract or otherwise. Policies shall contain a provision that the District shall be given 30 days written notice by certified mail before cancellation of any insurance or reduction of the amount thereof, or any alteration, modification or restriction thereto. Upon acceptance of contract and prior to any work being performed, a certificate of insurance with additional insured endorsement attached shall be mailed to:

**Edmonds School District No. 15  
Attn: Risk Management  
20420 68th Ave W  
Lynnwood, WA 98036-7400  
Or sent via email to: RiskMgmt@edmonds.wednet.edu**

**REQUIRED COVERAGE:**

- A. Claims under workers' or workmen's compensation, disability benefits and other similar employee benefit acts, including Contingent Employers Liability (Stop Gap);
- B. Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- C. Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- D. Claims for damages insured by personal injury liability coverage which are sustained (a) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (b) by any other person for any other reason. Claims for damages, other than to the products or services themselves, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom;
- E. Claims arising out of operation of Laws or Regulations for damages because of bodily injury or death of any person or for damage to property;
- F. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle, including coverage for Owned Motor Vehicles, Non-Owned Motor Vehicles and Hired or Borrowed Motor Vehicles;
- G. Comprehensive General Liability;
- H. Blanket Contractual Liability;
- I. Comprehensive Auto Liability; and
- J. Claims for damages arising out of the contractor's errors and omissions while performing professional services
- K. These required coverage shall be written for not less than the following (or greater if required by law):

Worker's Compensation:	State: Statutory Employer's Liability:	\$500,000	
Comprehensive General Liability (including Premises-Operations; Independent Contractor's Protective; Products and Completed Operations; Broad-Form Property Damage):	Bodily Injury; Property Damage; Combined Single Limit:	\$1,000,000 Each Occurrence	\$2,000,000 Aggregate
Blanket Contractual Liability:	Bodily Injury; Property Damage; Combined Single Limit:	\$1,000,000 Each Occurrence	\$2,000,000 Aggregate
	Personal Injury, with Employment Exclusion Deleted:	\$1,000,000 Each Occurrence	\$2,000,000 Aggregate
Comprehensive Automobile Liability:	Bodily Injury; Property Damage; Combined Single Limit:	\$1,000,000 Each Occurrence	\$2,000,000 Aggregate
<u>Professional Errors and Omissions Liability</u>	<u>Damages arising out of the contractor's errors and omissions while performing professional services</u>	<u>\$1,000,000 Each Occurrence</u>	<u>\$2,000,000 Aggregate</u>

**18. Independent Capacity**

The parties intend that an independent contractor relationship will be created by this contract. The contractor and his or her employees or agents performing under this contract are not employees or agents of the District. The contractor will not hold himself/herself out as nor claim to be an officer or employee of the District by reason hereof, nor will the contractor make any claim of right, privilege or

benefit that would accrue to such employee under law. Conduct and control of the work will be solely with the contractor.

**Industrial Insurance Coverage**

- A. The contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, the District may collect from the contractor the full amount payable to the Industrial Insurance accident fund. The District may:
- B. Deduct the amount owed by the contractor to the accident fund from the amount payable to the contractor by District under this contract; and
- C. Transmit the deducted amount to the Department of Labor and Industries (L&I), Division of Insurance Services.
- D. This provision does not waive any of L&I's rights to collect from the contractor.

**19. Licensing and Accreditation Standards**

The contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements/standards, necessary in the performance of this contract.

**20. Limitation of Authority**

Only the contracting officer or his/her delegate by writing (delegation to be made prior to action) shall have the express, implied or apparent authority to alter, amend, modify or waive any clause or condition of this contract. Furthermore, any alteration, amendment, modification or waiver of any clause or condition of this contract is not effective or binding unless made in writing and signed by the contracting officer.

**21. Nondiscrimination**

During the performance of this contract, the contractor shall comply with all federal and state nondiscrimination laws, regulations and policies. In the event of the contractor's noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the contractor may be declared ineligible for further contracts with the District. The contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

**22. Overpayments and Assertion of Lien**

In the event that the District establishes overpayments or erroneous payments made to the contractor under this contract, the District may secure repayment, plus interest, if any, through the filing of a lien against the contractor's real property or by requiring the posting of a bond, assignment of deposit or some other form of security acceptable to the District or by doing both.

**23. Ownership of Work Products.**

Contractor agrees that any and all goods or services provided by or developed for District are intended as "works made for hire" by Contractor for District. As a work made for hire, all work products (including intellectual property) created by the Contractor, as part of Contractor's performance under this Contract shall be the exclusive property of the District. If any such work products contain Contractor's intellectual property that is or could be protected by federal copyright, patent, or trademark laws, Contractor hereby grants District a perpetual, royalty-free, fully-paid, non-exclusive, and irrevocable license to copy, reproduce, deliver, publish, perform, dispose of, and use or re-use, in whole or in part, and to authorize others to do so, all such work products. District shall have no right in any pre-existing work product of Contractor provided to District by Contractor in the performance of this Contract, except to copy, use, or re-use any such work product for District use only.

**24. Privacy**

- A. This provision is required by statute. As required by the 20 USC 1232(g) (Family Educational Rights and Privacy Act, "FERPA"), and RCW 28A.605.030, Contractor shall not disclose any information or records regarding students or their families that Contractor may learn or obtain in the course and scope of its performance of this Contract



- B. FERPA Re-disclosure. The parties recognize that FERPA imposes strict penalties for improper disclosure or re-disclosure of confidential student information, including but not limited to denial of access to personally identifiable information ("PII") from education records for at least five years (34 CFR 99.33(e)). Therefore, consistent with FERPA's requirements, PII obtained by Contractor in the performance of this Contract may not be re-disclosed to third parties without the written consent of the student's parent/guardian and must be used only for the purposes identified in this Contract
- C. Personal information collected, used or acquired in connection with this contract shall be used solely for the purposes of this contract. Contractor and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the agency or as provided by law.
- D. Contractor agrees to implement physical, electronic and managerial safeguards to prevent unauthorized access to personal information.
- E. The District reserves the rights to monitor, audit or investigate the use of personal information collected, used or acquired by the contractor through this contract. The monitoring, auditing or investigating may include but is not limited to "salting" by the District. Contractor shall certify the return or destruction of all personal information upon expiration of this contract. Salting is the act of placing a record containing unique but false information in a database that can be used later to identify inappropriate disclosure of data contained in the database.
- F. Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The contractor agrees to indemnify and hold harmless the District for any damages related to the contractor's unauthorized use of personal information.
- G. For the purposes of this provision, personal information includes but is not limited to information identifiable to an individual that relates to a natural person's health, finances, education, business, use or receipt of governmental services or other activities, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and other identifying numbers.

**25. Records, Documents, and Reports**

Contractor agrees that District and its authorized representatives are entitled to review all Contractor books, documents, papers, plans, and records, electronic or otherwise ("Records"), directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. The contractor shall maintain all books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract. Contractor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by the District, personnel duly authorized by the District, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

**26. Registration with Department of Revenue**

The contractor shall complete registration with the Department of Revenue, General Administration Building, Olympia WA 98504, and be responsible for payment of all taxes due on payments made under this contract.

**27. Right of Inspection**

The contractor shall provide right of access to its facilities to the District 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 District. All inspections and evaluations shall be performed in such a manner that will not unduly interfere with the contractor's business or work hereunder.

## **28. Rights in Data**

- A. Unless otherwise provided, data that originates from this contract shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by the District. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.
- B. Data that is delivered under the contract, but that does not originate there from, shall be transferred to the District 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 license shall be limited to the extent that the contractor has a right to grant such a license.
- C. The contractor shall exert all reasonable effort to advise the District, at the time of delivery of data furnished under this agreement, of all known or potential invasions of privacy contained therein and of any portion of such document, which was not produced in the performance of this agreement.
- D. The District shall receive prompt written notice of each notice or claim or copyright infringement received by the contractor with respect to any data delivered under this agreement. The District shall have the right to modify or remove any restrictive markings placed upon the data by the contractor.

## **29. Safeguarding of Information**

The contractor shall not use or disclose any:

- A. Personal Information gained by reason of this contract or:
- B. Information that may be classified as confidential for any purpose not directly connected with the administration of this contract except (1) with prior written consent of the District or (2) as may be required by law. The contractor shall safeguard such information and shall return or certify destruction of the information upon contract expiration or termination.

## **30. Savings**

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 District may terminate the contract under the "Termination for Convenience" clause, without advance notice, subject to renegotiation at the District's discretion under those new funding limitations and conditions.

## **31. Security**

Any disclosure or removal of any District matter or property by Contractor shall be cause for immediate termination of this Contract. Contractor shall bear sole responsibility for any liability including, but not limited to attorneys' fees, resulting from any action or suit brought against District as a result of Contractor's willful or negligent release of information, documents, or property contained in or on District property. District hereby deems all information, documents, and property contained in or on District property privileged and confidential.

## **32. 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 the other provisions of this contract that can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this contract, and to this end the provisions of this contract are declared to be severable.

## **33. 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 District. In no event shall the existence of the subcontract operate to release or reduce the liability of the contractor to the District 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.

### **34. Termination for Convenience**

Except as otherwise provided in this contract, the contracting officer may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this contract in whole or in part. If this contract is so terminated, the District shall be liable only for payment required under the terms of this INTERAGENCY AGREEMENT rendered or goods delivered prior to the effective date of termination.

### **35. Termination for Default**

- A. The contracting officer may terminate this contract for default, in whole or in part, by written notice to the contractor if the District has a reasonable basis to believe that the contractor has:
  - 1. Failed to meet or maintain any requirement for contracting with the District;
  - 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.
- B. If it is later determined that the contractor was not in default, the termination shall be considered a termination for convenience.

### **36. Termination Procedure**

- A. Upon termination of this contract, the District, in addition to any other rights provided in this contract, may require the contractor to deliver to the District 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.
- B. The District shall pay to the contractor the agreed upon price, if separately stated, for completed work and services accepted by the District and the amount agreed upon by the contractor and the contracting officer for (a) completed work and services for which no separate price is stated, (b) partially completed work and services, (c) other property or services that are accepted by the District, and (d) the protection and preservation of the property, unless the termination is for default, in which case the contracting officer shall determine the extent of the liability of the District. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this agreement.
- C. The District may withhold from any amounts due the contractor for such completed work or services such sum as the contracting officer determines to be necessary to protect the District against potential loss or liability.
- D. The rights and remedies of the District provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.
- E. After receipt of a notice of termination, and except as otherwise directed by the contracting officer, the contractor shall:
  - F. Stop work under the agreement on the date and to the extent specified in the notice;
  - G. Place no further orders or subcontracts for materials, services or facilities except as necessary to complete such portion of the work not terminated;
  - H. Assign to the District, in the manner, at the times, and to the extent directed by the contracting officer, all of the rights, titles, and interest of the contractor under the orders and subcontracts in which case the District has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
  - I. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the contracting officer to the extent he/she may require, which approval or ratification shall be final for all the purposes of this clause;
  - J. Transfer title to the District and deliver, in the manner, at the times and to the extent as directed by the contracting officer, any property which, if the contract had been completed, would have been required to be furnished to the District;
  - K. Complete performance of such part of the work not terminated by the contracting officer; and,

- L. Take such action as may be necessary or as the contracting officer may direct, for the protection and preservation of the property related to this agreement that is in the possession of the contractor and in which the District has or may acquire an interest.

**37. Treatment of Assets**

- A. Title to all property financed or furnished by the District shall remain in the District. Title to all property purchased by the contractor, for which the contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the District upon delivery of such property to the contractor. Title to other property, the cost of which is reimbursable to the contractor under the contract, shall pass to and vest in the District upon (i) issuance for use of such property in the performance of this contract or (ii) commencement of use of such property in the performance of this contract or (iii) reimbursement of the cost thereof by the District in whole or in part, whichever first occurs.
- B. Any property of the District furnished to the contractor shall, unless otherwise provided herein or approved by the District, be used only for the performance of this contract.
- C. The contractor shall be responsible for any loss or damage to property of the District that results from the negligence of the contractor or that results from the failure on the part of the contractor to maintain and administer that property in accordance with sound management practices.
- D. If any District property is lost, destroyed or damaged, the contractor shall notify the District and shall take all reasonable steps to protect the property from further damage.
- E. The contractor shall surrender to the District all property of the District prior to settlement upon completion, termination or cancellation of this agreement.
- F. All reference to the contractor under this clause shall include contractor's employees, agents or subcontractors.

**38. Waiver of Default**

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Waiver shall not be construed to be a modification of the terms of the contract unless stated to be such in writing, signed by the contracting officer of the District.

**39. Work Performed on District Property**

Contractor shall comply with the following:

- A. Identification: When performing work on District property, Contractor shall be in full uniform at all times. Uniforms must include shirt with attached Contractor company identification. All such persons must also carry photo identification and must present it to any District personnel upon request. If Contractor cannot produce such identification or if the identification is unacceptable to District, District may provide at its sole discretion, District-produced identification tags to Contractor, costs to be borne by Contractor. If Contractor does not have a specific uniform for its employees, then Contractor shall provide identification tags as described above and/or any other mechanism the District in its sole discretion determines is required to easily and appropriately identify Contractors.
- B. Sign-in Required: As required by schools and other District locations, each day Contractor's employees are present on District property, those employees must sign into the location's main office to receive an in-school identification/visitors tag. Contractor's employees must display this tag on their person at all times while on District property.
- C. No Smoking: All District properties are tobacco-free zones; Contractor is prohibited from using any tobacco product on District property.
- D. No Drugs: All District properties are drug-free.
- E. No Weapons or Firearms: Except as provided by statute and District policy, all District properties are weapons- and firearms-free zones; Contractor is prohibited from possessing on its persons or in its vehicles any weapons or firearms while on District property.
- F. Unsupervised Contact with Students

- G. This provision is required by statute. "Unsupervised contact" with students means contact that provides the person opportunity and probability for personal communication or touch with students when not under direct District supervision. As required by RCW 28A.400.303, Contractor shall ensure that Contractor, any subcontractors, and their officers, employees, and agents will have no direct, unsupervised contact with students while on District property. Contractor will work with District to ensure compliance with this requirement. If Contractor is unable to ensure through a security plan that none of its officers, employees, or agents or those of its subcontractors will have direct, unsupervised contact with students in a particular circumstance or circumstances, Contractor shall notify District before beginning any work that could result in such contact. Contractor authorizes District to obtain information about Contractor and its history and to conduct a criminal background check, including fingerprinting, of any Contractor officers, employees, or agents who will have unsupervised contact with students. Contractor shall cause its employees and/or subcontractors, if any, to authorize District to conduct these background checks. Contractor shall pay all fees for processing the background check. District may deduct the cost of such fees from a progress or final payment to Contractor under this Contract, unless Contractor elects to pay such fees directly.

## **ATTACHMENT B    FEES AND EXPENSES**

*Tuition based on the following level of services:*

*Annual tuition cost of approximately \$2,650 per student, pro-rated for partial year enrollment, with variations due to specific days and times, plus possible one time fees for registration and supplies.*

*Anticipated enrollment is 3 students. Total contract amount may change based on changes in enrollment. All enrollment changes must be approved by District through the IEP process.*