

**AGREEMENT FOR E-RATE SERVICES  
2005-2006 SCHOOL YEAR**

Between

**Northwest Educational Service District No. 189  
1601 "R" Avenue  
Anacortes, Washington 99221  
(hereinafter referred to as the "NWESD 189")**

And

**Lakewood School District  
P.O. Box 220  
Lakewood, Washington 98259  
(hereinafter referred to as the "District")**

**I. PURPOSE AND FORMATION**

This Agreement stipulates the promises and conditions by which the NWESD 189 provides E-Rate services to the District. Both the NWESD 189 and District recognize this is a mutual arrangement for the benefit of both parties.

The conditions and stipulations of this Agreement to which the parties hereto agree have been entered into by appropriate action of the District's Board of Directors.

The purpose of this Agreement is for the NWESD 189 to provide assistance to the District so that the District may meet its obligations for the efficient and effective filing for Universal Service Reimbursements or Discount according to provisions delineated in Title 28A Revised Code of Washington (RCW); resultant regulations delineated in the Washington Administrative Code (WAC); and the written policies and procedures of the District.

**II. DURATION**

This Agreement shall be effective September 1, 2006, through August 31, 2007, and shall be automatically renewed for additional September 1 through August 31 terms thereafter unless the District provides written notice of its election to terminate the Agreement by April 15, 2007, or April 15 of any year thereafter for any subsequent term, or unless the Agreement is terminated or dissolved in accordance with paragraphs VI and/or VII herein. Failure to provide notice by April 15 makes all fees due and owing for the subsequent term subject to the provision of services under this Agreement and invoicing by the NWESD 189.

**III. ORGANIZATION AND GOVERNANCE**

The NWESD 189's Board of Directors is authorized as the legal and administrative entity to manage the Agreement according to the policies and procedures adopted by the NWESD 189's Board of Directors.

The District shall inform the NWESD 189 of the District's liaison individual for day-to-day contact on the services provided under terms of this Agreement. Said liaison shall be the sole authority for authorizing services provided pursuant to this Agreement.

#### IV. FINANCE AND BUDGET

The NWESD 189 shall prepare applications and appropriate forms and/or training for all services provided to the District. The Agreement will be established in the term prior to the term for which the Agreement is effective, except for the first term, wherein the budgeted amount is developed in conjunction with this Agreement.

The budget developed by the NWESD 189 shall be based on the actual costs, regardless of form, of the services and indirect costs. The reimbursement rate(s) shall be established for each term of the Agreement. In those instances wherein the District requests additional service(s), the NWESD 189 shall evaluate and determine whether there is expertise or capability to provide the additional service(s).

The District hereby agrees to pay to the NWESD 189, upon receipt of invoice from the NWESD 189, fifteen percent (15%) of the E-rate discounts received in one of the following methods (select one):

- Pre-payment based upon an estimate based upon the average of the district's telecommunications expenses the prior year. Adjustments will be made to the actual E-rate discounts received, once they are known. If the actual E-rate discounts received are less than the estimate, the NWESD 189 will refund the difference. If the actual E-rate discounts received are more than the estimate, the District will make a supplemental payment to the NWESD 189 upon receipt of a second invoice.
- Payment upon receipt of E-rate discounts. The NWESD 189 invoice shall be equal to the fifteen percent (15%) fee, plus six percent (6%) annual interest on this fee.

#### V. DISPUTES

Disputes shall be resolved by a three-member committee. The representatives shall be selected by NWESD 189 and the District, each selecting one representative. Thereafter, the NWESD 189's representative and the District's representative shall select an impartial third party who shall serve as the third member of the Dispute Resolution Committee. Decisions of the Dispute Resolution Committee shall be limited by the articles contained in this Agreement and shall be binding on the parties without any further right of appeal.

#### VI. TERMINATION

There is a mutual recognition by both the NWESD 189 and District that there will be consequent damages to the NWESD 189 by the District in the event of premature withdrawal (by failure to give the appropriate notice required in Section II for termination), by failure to pay for services provided at the rates established for each term, or by failure to perform or abide by the duties stipulated in Section IX.

Premature withdrawal, failure to pay for services provided, or failure to perform the duties stipulated in Section IX constitutes a breach of this Agreement and is grounds for termination of the services to the District by the NWESD 189. All fees owed are due and payable in full within thirty days (30) of receipt of a final invoice from the NWESD 189.

## VII. DISSOLUTION

The NWESD 189 reserves the right to dissolve this Agreement and to terminate performance of any duties called for in this Agreement when in its judgment the service requirements of the District cannot be adequately provided, the expertise for the service requirements does not exist in the NWESD 189, or the volume of service is beyond the capacity of the NWESD 189.

In the event of dissolution, all assets acquired by the NWESD 189 from any monetary source or assets donated and placed in service during the life of this Agreement remain the property of the NWESD 189. In the event of dissolution, any real or property assets acquired or donated by the District from any monetary source other than the reimbursement fee authorized in this Agreement and placed in service during the life of this Agreement remain the property of the District.

## VIII. RESPONSIBILITIES OF THE NWESD 189

The responsibilities of the NWESD 189 under this Agreement are as follows:

1. **Employ professional, technical and clerical staff with appropriate training, experience, and/or certificate(s) to provide listed and/or requested E-Rate services.**
2. **Assign staff to specific tasks and supervise the performance of staff in responding to the listed and/or requested services.**
3. Provide services listed in this Agreement and/or additional requested services in conformance with the adopted operational and personnel policies of the NWESD 189.
4. Schedule and budget appropriate time for full service including travel time to the District's site in the initial term of this Agreement.
5. Determine the appropriate alternate site location for the performance of listed and/or requested services.
6. Provide advice, consult, coordinate, analyze, review, and file appropriate applications and/or conduct workshops as agreed to with the intent of insuring the District's compliance with all statutory, regulatory, and procedural requirements of the universal service mechanisms for schools in regards to the following processes:
  - a. annual E-Rate applications 470 and 471 for telecommunications services the initial year and expanded to include other eligible services subsequent years, as determined practical;
  - b. as needed submit Form 500 and SPIN change requests;
  - c. annual 486 notifications to claim funds for the District;
  - d. annual or quarterly 472's for all service providers enabling the District to obtain reimbursements;
7. Supervise staff in the data input for all related applications and forms.
8. Review and process, when necessary, all related materials including telephone bills, contracts and agreements the district has entered into with service providers, free and reduced lunch discount calculations for current and previous years, and maintain unofficial annual records of all pertinent E-Rate documentation.
9. Provide data input for and creation of applications, and preparation of all related reports.
10. Provide other E-Rate management activities as mutually agreed upon and deemed appropriate and accomplishable in the contracted time period.
11. Perform or supervise the performance of the technical aspects of processing E-Rate applications and reimbursement processes related to obtaining discounts or

reimbursement checks from eligible service providers

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12. As requested by the District, advise, consult, coordinate, analyze, review and/or monitor E-Rate management functions with the intent of assisting the District in its efforts to comply with regulatory requirements for the following purposes:
- a. applying for eligible services (telecommunications services the initial year and expanded to include other eligible services subsequent years, as determined practical);
  - ~~b. calculating a discount that is substantiated by an accurate accounting of the district's students who are eligible for free or reduced lunch;~~
  - c. compliance with universal service fee requirements;
  - d. assisting with any appeals regarding funding requests commitment decisions;
  - e. contacting service providers when necessary to verify they have received notice from SLD of the District's funding commitments;
  - f. tracking all applications to verify each step of the process has been completed; and
  - ~~g. performing other E-Rate management activities as mutually deemed appropriate, agreed upon and accomplishable in the contracted time period.~~

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#### **IX. RESPONSIBILITIES OF THE DISTRICT**

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The responsibilities of the District under this Agreement are as follows:

1. Recognize and accept full responsibility and accountability for schools and library division (SLD) previous and current funding commitments to the District and comply with District and SLD policies and procedures, federal, state and local government statutes and regulations; and use this Agreement as a tool for the provision of professional and technical assistance by the NWESD 189.
2. Assign sufficient personnel to accomplish the technical aspects of assisting transactions related to obtaining the necessary information to file all applications in a timely manner.
3. Authorize and notify the NWESD 189 of who will be responsible for reviewing, approving, and signing all appropriate applications and notifications forwarded to SLD.
4. Provide accurate and complete information to the NWESD 189 prior to filing applications, and upon request, so when District's applications are audited by SLD's Program Integrity Team, available and accurate documentation can be provided within the seven (7) day time restriction.
5. Pay to the NWESD 189, upon receipt of invoice, the fees established pursuant to this Agreement.
6. Certify that the District has an approved technology plan.
7. Retain for five years any and all records that apply to all applications and forms submitted to SLD.
8. Prepare and award bids and forward information to ESD 189 by deadlines established by ESD 189, based on SLD's timelines.
9. Make payment for additional consultant services, pursuant to mutually agreed upon rates and terms, in addition to the E-rate services delineated in this Agreement (e.g., as specifying internal connections, editing tech plans, etc.).

#### **X. ASSIGNMENT**

Neither party may assign this Agreement.

**X. WAIVER AND SEVERABILITY**

No provisions of this Agreement or the right to receive reasonable performance of any act called for by its terms shall be deemed waived by 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. To this end the terms and conditions of this Agreement are declared severable.

**XII. ACKNOWLEDGMENT**

The parties acknowledge that they have read and understand this Agreement, including any supplements thereto, and do agree 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 by written mutual consent of the collective parties signing this Agreement.

**XIII. APPLICABLE LAW**

The laws of the State of Washington shall govern this Agreement. Venue for any legal action shall be proper only in Skagit County.

**XIV. INDEMNIFICATION**

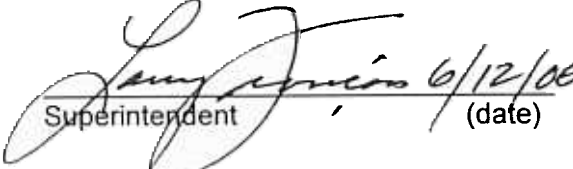
Any and all claims which hereafter arise on the part of any and all persons as a direct or indirect result of NWESD 189's employees' or agents' negligent performance or negligent failure to perform duties pursuant to this Agreement shall be the NWESD 189's sole obligation, and the NWESD 189 shall defend, pay costs of defense, indemnify and hold harmless the District or District's employees and agents in full for any and all such negligent acts or negligent failures to act on the part of the NWESD 189 or NWESD 189's employees or agents.

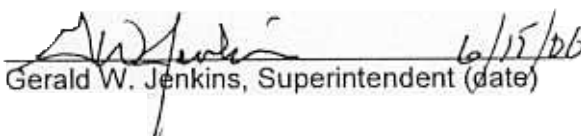
Any and all claims which hereafter arise on the part of any and all persons as a direct or indirect result of the District's employees' or agents' negligent performance or negligent failure to perform duties pursuant to this Agreement shall be the District's sole obligation, and the District shall defend, pay costs of defense, indemnify and hold harmless the NWESD 189 or NWESD 189's employees and agents in full for any and all such negligent acts or negligent failures to act on the part of the District or District's employees or agents.

IN WITNESS WHEREOF, the parties have executed this Agreement consisting of five pages.

**LAKESWOOD SCHOOL DISTRICT**

**EDUCATIONAL SERVICE DISTRICT 189**

  
Superintendent (date) 6/12/06

  
Gerald W. Jenkins, Superintendent (date) 6/15/06