

INTERGOVERNMENTAL SERVICES AGREEMENT

THIS INTERGOVERNMENTAL SERVICES AGREEMENT is made pursuant to ORS Chapter 190 (Intergovernmental Cooperation) effective July 1, 2021 by and between _____ (“Client”) and Northwest Regional Education Service District (“NWRESD”). Client and NWRESD are collectively identified as the (“Parties”).

DEFINITIONS

The following definitions shall apply to this Services Agreement and to all related Statements of Work unless otherwise indicated within a properly executed amendment, these definitions shall also apply to all amendments to this Services Agreement and to all amendments to Statements of Work executed pursuant to this Services Agreement.

Authorized Client Representative: The Authorized Client Representative is a representative of Client that is authorized by Client to bind Client’s company in contracts.

Agreement: The Agreement consists of the Statement of Work for a given service and this Services Amendment combined..

Cascade Technology Alliance (CTA): Multnomah Education Service District (MESD), Northwest Regional Education Service District (NWRESD) and Willamette Education Service District (WESD) are education service districts established under ORS Chapter 334. Through intergovernmental agreements, MESD, NWRESD, and WESD have formed the Cascade Technology Alliance (CTA) for the purpose of delivering cost effective and efficient technology services.

CTA Partners: The CTA agencies other than NWRESD.

Change Control: Change Control is the procedure described in this Services Agreement to modify the scope or to change the direction of a service after the Statement of Work has been fully executed and service work has begun.

Deliverables: Deliverables include all services or products provided by NWRESD pursuant to this Agreement.

Engagement Number: The Engagement Number is a number assigned by NWRESD to this Agreement and to services requested pursuant to this Agreement for invoicing and tracking purposes.

Services Agreement: The Services Agreement (SA), previously Master Services Agreement, is this document. The terms and conditions of the SA apply to all services pursuant to the Agreement and are not tailored to specific services. The terms and conditions of the SA apply to every service in addition to the terms and conditions of the Statement of Work.

Statement of Work: The Statement of Work (SOW) is the necessary document that describes the terms and conditions that apply to a specific service pursuant to the Agreement in addition to the terms and conditions of the Services Agreement.

GENERAL PROVISIONS

Term. The term of this Services Agreement shall be five (5) years commencing on July 1 2021 and ending June 30, 2026.

Entire Contract. It is the intent of the Parties that this written Service Agreement, its Statements of Work, and properly executed Change Control Request Forms contain the entire understanding of the Parties and supersede all previous and contemporaneous verbal and written agreements relative to the subject matter of this Agreement. The terms and conditions of this Agreement, including its fully executed Statements of Work and Change Control Request Forms shall completely and exclusively replace any and all other agreements including without limitations, the terms of any purchase orders issued for these services even if such purchase orders are issued after the execution date of this Agreement and its Statements of Work and/or Change Request Forms.

Engagement. NWRESD shall perform professional services for Client as defined in the Statements of Work that must be signed and executed by both Parties. Depending on the nature of the professional services, NWRESD may utilize one or more of its CTA Partners to perform the service in whole or in part.

Statement of Work. To initiate or activate an engagement, NWRESD shall prepare a Statement of Work and deliver the completed form to the Client for approval. The Statement of Work shall include a description of the work or service to be performed; conditions specific to the performance of that work or service; a description of billing rates and/or costs and; the start/end date of the engagement. Statements of Work are Exhibits to this Service Agreement.

If the Statement of Work provides for Client approval of a project or service, Client shall designate a representative for that purpose. If Client does not otherwise designate a representative for this purpose, and the Statement of Work specifies a particular individual that will provide direction to NWRESD on Client’s behalf, that individual will be the designated representative.

If the parties seek to modify the scope or to otherwise change the direction of the service, the parties shall agree on whether or not such change is a minor change or a significant change from the obligations of the parties under the original agreement. If the parties determine that the requested change constitutes a significant change, the parties shall execute an amendment to the Statement of Work to document the nature of the change and the obligations of the parties. If the parties determine that the anticipated change only constitutes a minor change, the parties shall initiate change control as outlined below:

1. NWRESD and Client shall agree on two designated representatives (one for Client and one for NWRESD) with authority to sign off on Change Control requests.
2. NWRESD or Client will complete a Service Change Control Request and submit the form to the designated representatives for consideration. Designated Representatives for NWRESD and for Client for purposes of either Change Control approval, Acceptance of Deliverables, or both, may be individuals that are not otherwise authorized to bind their respective companies in contracts. The parties understand and agree that identifying an individual as an authorized representative for Change Control approval or Acceptance of Deliverables does not necessarily mean such individual is otherwise authorized to bind his or her company in any other transactions.
3. NWRESD will solicit input from all relevant service roles and functions to assess the impact of the proposed change including its anticipated effect on cost and schedule.

4. NWRES D and Client will either authorize or decline the change within a reasonable time.
5. If the Parties authorize the change, the proposed change will be implemented as an addendum to the Statement of Work.
6. If the Parties cannot agree on a proposed change within a reasonable period of time, the Statement of Work will not be amended and the terms of the original Statement of Work shall remain in full force and effect.

All Statements of Work shall be subjected to the terms and conditions of this Services Agreement. If there is any conflict between the terms of a Statement of Work and the terms of this Services Agreement, the terms of this Services Agreement shall prevail over those of the Statement of Work. Client may terminate any Statement of Work or part thereof provided that NWRES D receives notice sixty (60) days prior to the date of termination. Following the notice of termination Client's liability for payment shall be limited to actual services performed and expenses incurred by NWRES D pursuant to the Statement of Work through the date of termination and NWRES D will not be liable for the functionality of any service prematurely terminated by Client.

Compensation, Billing and Other Communications. As full compensation for the work performed by NWRES D, Client will pay NWRES D as described in the Statement of Work and under the terms and conditions set forth in this Agreement. All payments shall be due upon Client's receipt of the invoice. If any payment under this Agreement is not received by NWRES D within thirty (30) days after the due date, an administration fee of one percent (1%) of the invoice amount may be charged. An additional one percent (1%) late charge shall accrue on the first day of each calendar month thereafter, until all delinquent amounts have been paid in full. All invoices will be deemed "received" by Client three (3) business days after deposit in the United States mail, first class, postage prepaid.

All invoices shall be mailed/emailed to address(es) on file. Updated information may be submitted to: AR_Billing@nwresd.k12.or.us

All payments shall be mailed to: Northwest Regional ESD Att: Accounts Receivable 5825 NE Ray Circle Hillsboro, OR 97124-6436 and Electronic Mail: AR_Billing@nwresd.k12.or.us

Expenses. Client shall pay all necessary and reasonable travel expenses and other out-of-pocket expenses directly related to NWRES D providing specific work for any of Client's engagements as presented in the SOW.

Materials Supplied by Client. Client warrants and represents that all material including but not limited to artistic works, graphics, text, logos, and all other material that may be subject to copyright or other intellectual property rights, furnished to NWRES D by Client for the performance of this Agreement shall not infringe the copyright, trademark, trade name or other intellectual property rights of any third party.

Confidentiality. Client will provide NWRES D with access to documents and other information ("Client Information") as a result of NWRES D performing the Work requested by Client. NWRES D will treat all such information as "Confidential Information" and will not disclose any portion of the Client Information to others. NWRES D shall not utilize the Client Information, except in the course of activities relating to this Agreement without prior written consent. At any time upon Client's request, NWRES D will deliver to Client all copies then in NWRES D's possession of Client's Information as permitted under law.

The Parties recognize that the Family Educational Rights and Privacy Act (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 from education records for at least five (5) years (34 CFR 99.33(e)). Therefore, consistent with the requirements of FERPA, personally identifiable information obtained by the Parties in the performance of this Agreement 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 Agreement.

Ownership of Software. NWRES D or, if CTA partner will be performing the SOW, the CTA partner, owns all right, title, and interest, including all copyright, trademark, patent and any other proprietary and intellectual property rights embodied in any software, including both object code and source code, that is not identified as owned by a third-party provider. The Software is protected by copyright laws. Client may not copy, use, modify, display, sublicense, rent, or distribute any software except as permitted under this Agreement. Client may copy the software (a) as necessary for the purpose of using it as permitted under this Agreement and (b) for backup purposes. Client may not disassemble, decompile, reverse engineer, or decrypt the software.

Data Transfer. Data transfer between the Client and NWRES D will use secure file transfer methods.

Disclaimer of Warranties. THE SOFTWARE IS PROVIDED TO CLIENT "AS IS" WITHOUT ANY WARRANTY. EXCEPT FOR ANY THIRD PARTY WARRANTIES, NWRES D MAKES NO EXPRESS OR IMPLIED WARRANTIES, SUCH AS WARRANTIES OF PERFORMANCE, NONINFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. For any third party software or hardware, NWRES D hereby assigns to Client all end user warranties relating to such third party software and hardware through to Client.

Compliance with Laws. The Parties agree to fully abide by, and cause any agents or subcontractors to fully abide by all applicable foreign, municipal, federal, state, county, and local laws and regulations which may govern either Party's conduct in performing this Agreement.

Indemnification/Insurance. Subject to any limits in the Oregon Tort Claims Act, the NWRES D will indemnify, defend, and hold harmless the Client and its officers, agent, and employees against all liability, loss, and costs from actions, suits, claims, or demands arising from the acts or omissions of the NWRES D and the NWRES D's officers, agents, and employees in the performance of this Agreement.

Subject to any limits in the Oregon Tort Claims Act, the Client will indemnify, defend, and hold harmless the NWRES D and its officers, agents, and employees against all liability, loss, and costs from actions, suits, claims, or demands arising from the acts or omissions of the Client and the Client's officers, agents, and employees in performance of this agreement.

Both NWRES D and Client shall obtain and at all times keep in effect comprehensive liability insurance and property damage insurance covering each respective party's own acts and omissions under this agreement. Such liability insurance, whatever the form, shall be in an amount not less than the applicable limits of public body tort liability specified in Oregon Tort Claims Act (ORS 30.260 to 30.300). If Client is self-insured, it will maintain at least the same level of self-insurance or insurance plus a self-insured retention sufficient to comply with this requirement.

Client agrees to defend, indemnify, and hold harmless NWRES D, its directors, officers, employees, and agents, from and against any and all claims or liability, including reasonable costs and attorney fees, brought by a third party alleging that the materials provided by Client under this Agreement infringe or misappropriate the intellectual or proprietary rights of a third party or violates applicable law.

NWRES D agrees to defend, indemnify, and hold harmless Client, its directors, officers, employees, and agents, from and against any and all claims or liability, including reasonable costs and attorney fees, brought by a third party alleging that the materials provided by NWRES D under this Agreement infringe or misappropriate the intellectual or proprietary rights of a third party or violates applicable law.

Non-Solicitation. Client acknowledges that NWRES D’s relationships with its administrators, licensed staff, classified employees and contractors are valuable business assets of NWRES D. In the interest of preserving NWRES D’s workforce stability, Client agrees that, during the period of the services under this Agreement and for (1) year thereafter, Client shall not, directly or indirectly (for Client, a third party or otherwise) divert or attempt to divert from NWRES D any such administrator, licensed staff, classified employee or contractor, through solicitation, hiring or otherwise.

Assignment. Neither party to this Agreement may assign its interest in the agreement without the express written consent of the other party. Provision of services utilizing a CTA Partner will not be considered a transfer or assignment of this Agreement.

Waiver. No waiver of any portion of this agreement shall be deemed or shall constitute a waiver of any other portion thereof, nor shall any waiver constitute a continuing waiver.

Contract Disputes. The Parties agree that any disagreement regarding the interpretation, meaning or affect or any provision of this agreement shall be settled by arbitration if so requested by either party in writing. The arbitration decision will be binding upon the parties. The cost of such arbitration shall be shared equally between the parties.

Relationship. This Agreement does not create an employer/employee or an agency relationship between Client and NWRES D.

Discrimination. The NWRES D and the Client agree to avoid discrimination in any way against any employee or applicant for employment and will not limit, segregate, or classify employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise affect the individual’s status as an employee because of such individual’s race, color, religion, sex, sexual orientation, retaliation for opposing an unlawful employment practice, association with a member of a protected class, national origin, marital status, age, family relationship or disability.

Termination. This Agreement may be terminated any time during the fiscal year by mutual consent, or by either party upon sixty (60) days written notice. No such termination shall prejudice any right or obligation of either party already accrued prior to the effective date of termination.

Venue and Choice of Law. It is agreed by and between NWRES D and Client that all disputes and matters whatsoever arising under, in connection with, or incident of this Agreement shall be governed by, and construed in accordance with, the laws of the State of Oregon without regard to the principles of conflict of laws. Parties agree to be subject to the jurisdiction of Oregon courts and that any and all claims arising from this Agreement shall be litigated if at all in a state or federal court located in Washington County, State of Oregon.

Execution of this Agreement occurs upon duly signed Statements of Work. If Client requires an executed copy of this Agreement, Client may sign and date below, returning copy to AR_Billing@nwresd.k12.or.us

**NORTHWEST REGIONAL EDUCATION
SERVICE DISTRICT**

Client: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

By: _____

By: _____

Authorized Signature

Authorized Signature

Contract Engagement Number: 202126

Modified May 20th, 2021