



**EDUCATIONAL
SERVICE
DISTRICT 112**

2500 NE 65 Avenue, Vancouver, WA 98661 | T 360 750 7500 F 360 750 9706 TDD 360 750 7510

Counties

Clark
Cowlitz
Klickitat
Pacific
Skamania
Wahkiakum

Board of Directors

Bill Baumann
Kenneth Botero
Ann Campbell
Richard Graham
Marilyn Koeninger
Darlene Stickel
Steve Wrightson

Superintendent

Dr. Twyla G. Barnes

June 12, 2009

Mr. Michael Green, Superintendent
Woodland School District
800 Third Street
Woodland, WA 98674-8467

Dear Mr. Green:

Enclosed is your Agreement for Specialized Transportation Services for the 2009-2010 school year. The school year is defined as 180 required school days.

We anticipate increased utilization of transportation services by Cooperative members; however we will continue to operate the Specialized Transportation Cooperative as efficiently as possible. Beginning in the 2009-2010 year, the Specialized Transportation Executive Committee voted to phase out intra-district transportation from its menu of services. This decision was ratified by the General Membership at the May, 2009 Specialized Transportation General Membership meeting.

Despite challenges, we will continue to provide safe and reliable transportation to our Co-op students and believe that the Specialized Transportation Cooperative is a vital, cost-saving program for the participating school districts.

Thank you for your continued membership and support of the ESD 112 Specialized Transportation Cooperative. Please sign and return the enclosed contract and a countersigned copy will be returned to you.

Please feel free to contact me should you have any questions or concerns. My direct telephone number is 1.360.750.7510.

Sincerely,

Patrick Bonin, Director
Specialized Transportation Cooperative

Enclosure

C: Loy Dale
Tim Merlino
file



**EDUCATIONAL
SERVICE
DISTRICT 112**

AGREEMENT/CONTRACT NO: 1037-30
REVENUE CODE: 7075 81 0000 061 0000 0000
Fiscal Year 2009-2010

AGREEMENT FOR SPECIALIZED TRANSPORTATION SERVICES

between

**EDUCATIONAL SERVICE DISTRICT NO. 112
2500 NE 65th Avenue
Vancouver, WA 98661-6812**

and

**WOODLAND SCHOOL DISTRICT NO. 404
800 Third Street
Woodland, WA 98674-8467**

1. **Purpose.** This Agreement is between Educational Service District No. 112 (the "ESD") and Woodland School District 404 (the "District") as provided in RCW 39.34.030 and as requested by the District. The ESD will provide specialized transportation services in situations of high cost and low incidence transportation, as defined under Section 4.1.
2. **Term.**
 - 2.1. **Initial Term.** The initial term for the Agreement shall be from September 1, 2009 to June 30, 2010.
 - 2.2. **Renewal.** Subject to the termination provisions below, this Agreement shall automatically be renewed for the same period each subsequent year ("renewal") unless the District gives written notice of its election to terminate the Agreement at least one hundred twenty (120) days before the end of the initial term or any renewal term. In the event the District fails to provide notice of election to terminate at least one hundred twenty (120) days before the end of the initial term or any renewal term, then in addition to any other damages required to be paid pursuant to Section 8 below, the District shall be obligated to pay all fees for the renewal term upon invoicing by the ESD.
3. **Organization and Governance.** The parties agree the ESD is authorized as the legal and administrative entity to govern and direct the operation of this Agreement and the parties' obligations hereunder in accordance with the terms of this Agreement and the ESD's adopted policies and procedures.

4. **Responsibilities of the ESD.** ESD112 shall act as Cooperative administrator, and in this regard will provide specialized transportation services high-cost and low incident situations, defined as follows.

4.1

- A. Inter-district Special Education transportation
- B. Inter-district McKinney Vento “Homeless” Assistance Act
- C. Inter-district 504 required transportation
- D. Inter-district after school Special Education academic programs.

- 4.2 Other transportation services may be available, when resources permit, on an individual district payment supplemental fee-for-service basis, including but not limited to: Special Education bus aides; Special Education after school programs; extended school year programs; and bus leasing.

- 4.3 If the District disputes a denial of a Special Education transportation request, they may appeal to the Executive Committee.

- 4.4 Be responsible for employment of any necessary staff and the general administration of the Cooperative. Said staff and/or personnel shall not be considered employees of the district.

- 4.5 Collect state allocation revenue for eligible students based upon Cooperative students transported.

- 4.6 Be responsible to recommend to the Executive Committee additional and/or replacement purchase of buses.

- 4.7 Purchase buses authorized by the Executive Committee.

- 4.8 Maintain or contract for the maintenance of buses.

- 4.9 Invoice the District for annual membership assessment, capital assessment and cost overruns as applicable.

5. **Responsibilities of the District.**

- 5.1 Designate an individual to provide liaison with ESD 112 in special transportation matters.

- 5.2 Provide to ESD 112, as Cooperative Administrator, such data as may be deemed necessary by the Cooperative for statistical information purposes as related to management of the Specialized Transportation Cooperative.
- 5.3 The annual membership assessment for districts joining the Specialized Transportation Cooperative after September 1, 1997, shall be postmarked within five (5) working days of the last day of the first month of participation. Annual flat rate assessment shall be as follows: For Districts with enrollment greater than 2,000 students, \$4,000. For Districts with enrollment less than 2,000 students, \$2,000.
 - 5.3.1 In accordance with the majority vote of the Executive Committee, pay to ESD 112, as Cooperative Administrator, the rate of capital assessments for purchase of buses in any year in which a capital assessment is levied.
 - 5.3.2 Pay all supplemental invoices for fee-for-service activities provided by the ESD, as per Section 4.2.
 - 5.3.3 Should the fees to be paid under this Agreement, for the services per Sections 4.1 and 4.3-4.9, be insufficient to pay for the services required by the District hereunder, or should expenses exceed revenue, the ESD shall identify such unanticipated expenditures and the cost-overrun will be prorated to members of the cooperative based on the cost model approved by the Executive Committee on April 9, 2009.
6. **Assignment.** Neither this Agreement nor any interest therein may be assigned by either party without the prior written consent of the other party.
7. **Mutual Termination.** This Agreement may be terminated by mutual agreement by the parties.
8. **Unilateral Termination By District.**
 - 8.1. **Definition.** A “unilateral termination by the District” is a withdrawal from or termination of the Agreement prior to the expiration of the initial or any renewal term.
 - 8.2. **Damages.** By entering into this Agreement, the District acknowledges that it is or may be participating in a fee for services program with the ESD and that its withdrawal from or termination of this Agreement prior to the expiration of the then ongoing term is likely to result in material adverse financial consequences for the ESD. As a result, in the event of the unilateral termination by the District, the

District shall pay all fees for the remainder of the then ongoing initial term or renewal term in full; fees shall not be prorated for any partial term. The District agrees such amount constitutes liquidated damages and not a penalty and further agrees that those amounts are a reasonable reflection and estimate of damages which will be incurred by the ESD as a result of the District's unilateral termination.

8.3. Termination After Renewal. If this Agreement is renewed and thereafter the District unilaterally terminates this Agreement within the last one hundred twenty days (120) of the ongoing initial term or any renewal term, then in addition to the damages called for above, the District shall also be responsible for all costs related to personnel whose services would have been needed to serve the District had it not unilaterally terminated and who cannot lawfully be terminated (or non-renewed) in a timely manner.

9. Termination by ESD.

9.1. Breach by District. In the event the District fails or neglects to pay or perform according to the terms of this Agreement, the ESD may terminate this Agreement upon thirty (30) days written notice to the District & the District shall be responsible for payment of all damages as described in Section 8 above.

9.2 Upon Dissolution of Fee for Services Program. The ESD reserves the right to dissolve this fee for services program and terminate this Agreement when in the ESD's judgment its participation in this fee for services program does not afford an educational or financial advantage in quality or quantity of services called for in this Agreement. The ESD will give the district 120 days notice of the dissolution of this program. In the event of dissolution of this fee for services program, all assets acquired by the ESD from any monetary source or assets donated and placed in service for this fee for services program during the life of the Agreement shall be and remain the property of the ESD.

10. Termination for Breach

If either party fails to comply with the terms and conditions of this agreement, the other party, upon 30 days prior written notice to the breaching party, may terminate this agreement with no continuing financial liability to the non-breaching party.

11. Employment Representation

During the term of this contract, an employee(s) of the ESD may have contact with public school children. Therefore, the ESD is prohibited from employing any person who has pled guilty or been convicted of any felony crime involving the physical neglect, injury, death or sexual abuse or exploitation of a minor. Failure of the ESD to comply with this section shall be grounds for immediate termination of this contract.

12. Indemnification.

12.1. ESD. The ESD agrees to protect, defend, indemnify and hold the District, its officers, agents and employees harmless from any and all claims and losses for bodily injury, including death, and/or property damage to the extent such claims or losses arise or result from the ESD's negligent performance under this Agreement.

12.2. District. The District agrees to protect, defend, indemnify and hold the ESD, its officers, agents and employees harmless from any and all claims and losses for bodily injury, including death, and/or property damage to the extent such claims or losses arise or result from the District's negligent performance under this Agreement.

13. 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.

14. Severability. If any term of 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 and, to this end, the terms and conditions of this Agreement are declared severable.

15. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Washington and any action or litigation undertaken to enforce the terms of this Agreement shall be conducted in Clark County, Washington.

16. Whole Agreement. The parties agree that this Agreement, together with all appendices, if any, constitute the entire agreement between the parties and supersedes all prior or existing written or oral agreements between the parties and may not be amended other than in writing signed by the parties.

17. Attorneys Fees and Costs. In the event litigation arises out of this Agreement, the losing party agrees to pay the prevailing party's attorney fees incident to said litigation, together with all costs and expenses incurred in connection with such action, whether incurred in trial court or on appeal.

18. Captions. Paragraph headings have been included for the convenience of the parties and shall not be considered a part of this Agreement for any purpose relating to construction or interpretation of the terms of this Agreement.

19. **Opportunity Without Discrimination.** The ESD and the District agree to comply with all laws that prohibit discrimination on the basis of race, creed, color, national origin, age, families with children, sex, marital status, sexual orientation, physical, sensory or mental disabilities, or use of a trained guide dog or service animal. Inquiries regarding compliance and/or grievance procedures for the ESD may be directed to the ESD at its address above.
20. **Authority.** The terms and conditions of this Agreement to which the parties agree are being entered into by appropriate resolutions of the respective boards of directors of the ESD and the District.

IN WITNESS WHEREOF, the District and the ESD have executed this Agreement on the date and year indicated below.

EDUCATIONAL SERVICE DISTRICT NO. 112

by: _____ Date: _____

WOODLAND SCHOOL DISTRICT NO. 404

by: _____ Date: _____

PLEASE SIGN, DATE, AND RETURN BOTH COPIES OF THIS AGREEMENT TO:

Internal Accounting
Educational Service District 112
2500 NE 65th Avenue
Vancouver WA 98661-6812

A countersigned copy will be returned to you.