



FFS No. 1213-0057

**INTERAGENCY AGREEMENT  
BETWEEN**

**PUGET SOUND EDUCATIONAL SERVICE DISTRICT  
800 Oakesdale Avenue SW  
Renton, WA 98057-5221**

**AND**

**South Whidbey School District #206  
721 Camano Ave  
PO Box 346  
Langley, WA 98260-0346**

**THIS AGREEMENT** is made and entered into by and between PUGET SOUND EDUCATIONAL SERVICE DISTRICT, hereinafter referred to as "PSESD," and the South Whidbey School District #206 hereinafter referred to as the "DISTRICT/SCHOOL."

**IT IS THE PURPOSE OF THIS AGREEMENT** to provide a centrally-hosted environment at PSESD, of Follett Destiny Products to South Whidbey School District #206, as agreed upon under this Agreement and in accordance with the Washington Learning Source Agreement, (WLS Agreement).

**STATEMENT OF WORK**

PSESD will host the Follett Destiny Library and Resource Management solutions. Hosting services include storage of data; hardware and software maintenance, updates, upgrades, backups, and related support services as described in Attachment A, Service Level Agreement.

**PERIOD OF PERFORMANCE**

Subject to its other provisions, the period of performance of this Agreement shall commence on September 1, 2012 and continue through August 31, 2013. This agreement may be renewed in writing for subsequent one-year periods upon mutual written agreement of the parties.

**PAYMENT**

The DISTRICT/SCHOOL's fee for 2012-2013 shall be \$ 1,227.00, based on 3 schools or buildings in the district at a price of \$ 409.00 per building. Payment is due to PSESD within 30 days of invoicing.

Payment for satisfactory performance of the work shall not exceed these amounts unless the parties mutually agree to a higher amount as stated in the Agreement Alterations and Amendments clause.

### **RECORDS MAINTENANCE**

The PSESD shall maintain books, records, documents and other evidence that sufficiently and properly reflect all direct and indirect costs expended in the performance of the service(s) described herein. These records shall be subject to inspection, review or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

Records and other documents, in any medium, furnished by one party to this agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

### **INDEPENDENT CAPACITY**

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

### **AGREEMENT ALTERATIONS AND AMENDMENTS**

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

### **INDEMNIFICATION / HOLD HARMLESS**

Each party shall defend, indemnify and hold the other party, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of injuries and damages caused by each party's own negligence.

### **CONFIDENTIALITY/SECURITY**

PSESD acknowledges that data, material and information which originates from this contract, and the data, material and information which will come into its possession in connection with performance under this contract, consists of confidential data owned by the DISTRICT/SCHOOL or confidential personally identifiable data subject to the federal Family Educational Rights and Privacy Act, RCW 19.255.010, and other privacy laws, and that disclosure to or use by third parties would be damaging. PSESD, therefore, agrees to hold all such material and information in strictest confidence, not to make use thereof other than for the performance of this contract, to release it only to authorized employees and agents requiring such information and not release or disclose it to any other party. PSESD agrees to release such information or material only to employees and agents who have signed a written agreement expressly prohibiting disclosure.

PSESD operates as part of the Washington State Government K20 Network following security protocols established by the Washington State Government and approved by the Washington State Information Services Board. Data will, therefore, be K20 secure.

PSESD access to the data will be limited to the qualified members of the Technology Services department. All accesses to the system are logged and monitored. The servers will be housed in the Data Center located in the PSESD's Renton building. The Server Room is physically accessible only by authorized personnel. The Server Room temperature and humidity are maintained at levels prescribed by best practices. Data will be backed up hourly, daily and weekly. PSESD shall provide Backup Tape Vaulting which shall include off-site data protection for the weekly backup tapes.

### **TERMINATION FOR CAUSE**

If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days. If failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

### **DISPUTES**

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, agreement terms and applicable statutes and rules and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties hereto. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

### **GOVERNANCE**

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws. In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- a. Applicable state and federal statutes and rules;
- b. Statement of work; and
- c. Any other provisions of the agreement, including materials incorporated by reference.

### **ASSIGNMENT**

The work to be provided under this Agreement, and any claim arising there under, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

### **WAIVER**

A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

### **SEVERABILITY**

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.

### **ALL WRITINGS CONTAINED HEREIN**

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

**DEBARMENT**

By signing this contract, PSESD and the DISTRICT/SCHOOL certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency and has authorization to enter into the attached contract.

**CONTRACT MANAGEMENT**

The program manager for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Agreement.

The Program Manager for PSESD: Tom Howley, (425) 917-7787

The Program Manager for DISTRICT/SCHOOL: ~~Tracy Miller, (360) 221-6808 x6359~~ <sup>5878</sup>  
David Pfeffer

**IN WITNESS WHEREOF**, the parties have executed this Agreement.

For: **South Whidbey School District #206**

For: **Puget Sound ESD**

Name: David Pfeffer

Name: Tom Howley

Title: Technology Director

Title: Assistant Executive Director, IT

Signature: [Signature]

Signature: [Signature]

Date: 5/7/12

Date: 4/27/12

|                                     |                         |
|-------------------------------------|-------------------------|
| <b>BUSINESS OFFICE USE ONLY</b>     |                         |
| Customer Number: _____              | Approved by/date: _____ |
| Account Codes:                      |                         |
| 960: < > 1872-13-0000-000-0000-7214 | Amount: \$ 1,227.00     |
| Invoiced date/number: _____         |                         |
| Comments: _____                     |                         |
| _____                               |                         |
| Copies mailed: Department _____     | Customer: _____         |

**ATTACHMENT A**  
**Service Level Agreement**  
**PSESD - Follett Destiny Hosting Services**

This Service Level Agreement (SLA) is entered into effect September 1, 2012, ("Effective Date") between Puget Sound Educational Service District ("PSESD") AND South Whidbey School District #206, ("DISTRICT" or "SCHOOL"), pursuant to the Interagency Agreement, FFS No. 1213-0057 (the "Agreement").

**Services**

This SLA specifies the services to be provided under the Agreement beginning on or as soon as practical after the Effective Date contained in the Agreement.

**Overview**

PSESD Follett Destiny Hosting service is a centrally-hosted environment of the Follett Destiny Software Products located at the PSESD facility in Renton, Washington, designed to streamline the business of education while reducing costs and staff time.

**Hosting Services**

- Application Hosting Services: Software, Hardware, and Software Management
- 24/7 Application Monitoring
- Database Backups and Recovery (Daily and Weekly Backups)
- Data Vault storage
- Data and Physical Security Services
- Follett Destiny Application Updates
- Other standard PSESD Data Center System Support and Upgrade Services

**Fees:**

- District or school will pay all fees due according to the Payment Section in the Interagency Fee For Services Agreement.

**Support Services:**

- Follett Software Company will provide application software support pursuant to the software license agreement for issues related to software features and functionality.
- PSESD will provide support for connectivity issues related to transmitting and receiving information from PSESD's Data Center.
- District or school will designate, in writing, no more than two persons total, which will be responsible for contacting PSESD for telephone or email support for connectivity issues.
- PSESD's technical support personnel will be available by telephone and email to answer questions and to help identify, verify, and resolve questions about transmitting and receiving information from PSESD's Data Center.
- Telephone (425-917-7925) and email ([support@psesd.org](mailto:support@psesd.org)) Support for connectivity related issues will be made available Monday through Friday, 8:00 a.m. to 5 p.m., Pacific Time (except holidays).

**System Performance:**

- 99.9% uptime for the Application, except for scheduled maintenance, which will be scheduled outside business hours and will not exceed 6 hours per month
- 24x7x365 access to the Application for authorized users, except for the scheduled maintenance described above

- Upgrades at reasonable intervals to hosting equipment, software, and other hosting infrastructure as reasonably selected by PSESD.

### **Service Level Warranty**

In the event District or school is unable to access the Application for more than one (1) hour, due to PSESD's failure to provide Follett Destiny Application services for reasons within PSESD's reasonable control and not as a result of any actions or inactions of the District's or school's or any third parties (including District or school Equipment and third party equipment), PSESD will, upon District's or school's request, credit District's or school's account the pro rata connectivity charges for one-half (1/2) day of service, up to an aggregate maximum credit of connectivity charges for seven (7) days of service in any one (1) calendar month. For purposes of the foregoing, "unable to transmit and receive" shall mean sustained packet loss in excess of 50 percent.

### **Disclaimer of Actions Caused by and/or Under the Control of Third Parties**

PSESD does not and cannot control the flow of data to or from PSESD's Data Center and other portions of the internet. Such flow depends in large part on the performance of the internet services provided by or controlled by third parties. At times, actions or inactions caused by these third parties can produce situations in which PSESD's District's or school's connections to the internet may be impaired or disrupted. Although PSESD will take actions it deems appropriate to remedy and avoid such events, PSESD cannot guarantee that they will not occur. Accordingly, PSESD disclaims any and all liability resulting from or related to such events.