



AGREEMENT/
CONTRACT NO: [xxxxxxx]
REVENUE CODE: 8985 81 0000 510 0121
Fiscal Year 2014-2015

**INTERLOCAL AGREEMENT FOR
FINANCIAL ADVISORY SERVICES**

between

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

And

**BETHEL SCHOOL DISTRICT NO. 403
516 176th Street East
Spanaway, WA 98387**

- 1. Purpose.** This Agreement between Educational Service District No. 112 (the ESD) and Bethel School District No. 403, (the District), is entered into in accordance with the authority granted in the Interlocal Cooperation Act, RCW 39.34.080 and provisions that authorize educational service districts and school districts to contract with each other for services, specifically 28A.310.010, 28A.310.180, 28A.310.200, 28A.320.080 and 28A.320.035. The ESD, in response to a request from school districts the ESD serves, has employed individuals and developed a program to provide independent financial advisory services to school districts. The District is contracting with the ESD for financial advisory services as described in this Agreement. A separate legal entity is not being created.
- 2. Term.** The Agreement shall be effective starting February 1, 2015 and continue through December 31, 2015 unless terminated in accordance with Section 6. Subject to review and evaluation by the parties, the Agreement shall automatically renew for additional one year terms unless it is terminated in accordance with Section 6.

3. Finance, Budget and Property.

3.1 The ESD will employ and compensate qualified personnel to provide the financial advisory services set out in this Agreement. The District will pay the ESD for the services as described in this Agreement.

3.2 A separate budget for financial advisory services is not required. The District will budget for expenses associated with its obligations under this Agreement, including paying for the financial advisory services. The ESD will budget for expenses it incurs to perform its obligations under this Agreement and for the fee that is being paid.

3.3. Neither party is acquiring real or personal property.

4. Parties Obligations. The parties agree the financial advisory services the ESD is providing the District are intended to assist the District with obtaining efficient funding of the District's capital facilities. ESD employees will exercise independent professional judgment in advising the District on bond-related matters, capital markets, capital facilities planning, and funding. While we will use our best efforts to do so, the ESD is not guaranteeing or making any covenants or representations that the District is securing the most favorable financing terms. The District Superintendent, Fiscal Officer and Board of Directors are responsible for deciding what financing mechanisms will be used for different projects. The ESD and District will work together as follows:

4.1 Responsibilities of the ESD. The ESD agrees to employ and/or contract with qualified staff to provide the financial advisory services. Financial advisory services may consist of the following.

4.1.1 Provide Ongoing Services consisting of:

- Serve as the District's independent financial advisor
- Financial Advisor will serve in a fiduciary capacity to provide advice and recommendations which are solely in the interests of the District
- As requested, participate in meetings with and make presentations to District staff, committees, and Board, and/or rating agencies on subjects related to the municipal financial markets such as financing alternatives, tax rate analyses, and recommended financial strategies
- Evaluate refunding opportunities
- Provide ongoing assistance for bond related matters as requested by the District

4.1.2 Provide Bond Issuance Services consisting of:

- Prepare a financing plan, including issuance goals
- Develop a bond structure in relation to identified goals
 - Tax rates
 - Maturity structure and dates
 - Construction cash flow
 - Debt Service Fund impact
- Evaluate the method of sale (competitive, negotiated, or private placement) and make a recommendation on the most beneficial method of accessing the capital markets
- Prepare a schedule of events in relation to market and economic activity
- Review and comment on the Preliminary Official Statement, Bond Resolution, and Bond Purchase Agreement
- Prepare agency presentations and participate in conversations with bond rating agencies
- Assist in negotiating underwriter compensation that is fair in relation to services provided and is competitive in the current market
 - Overall amount
 - Takedown (sales commissions) structure
 - Management Fee
 - Expenses
- Evaluate the market during the weeks leading up to the day of sale in relation to the defined issuance goals
- Provide input on call provisions and how they impact pricing
- For negotiated sales:
 - Participate in the pre-pricing call discussion with the underwriting team
 - Provide recommendation for appropriate financing terms
 - Maturity structure
 - Coupon rates
 - Investor yields
 - Call provisions
 - Provide a recommendation to District Administration regarding acceptance of the financing terms offered by the underwriter
- For competitive sales
 - Establish bidding parameters
 - Assist with the preparation of the official Notice of Sale
 - Coordinate public bidding process
 - Evaluate bid results in relation to defined issuance goals

- Provide a recommendation to District Administration regarding acceptance of the financing terms
- Assist with accounting and budget information after the sale
 - Financial Statement Impact
 - Debt Service Fund budget
 - Discuss post-issuance compliance responsibilities

4.1.3 Provide other financial consulting on **Special Projects** and advisory services as mutually agreed upon. While no such services are anticipated at this time, the scope of services, fees, and billing for such services will be identified prior to undertaking any services.

4.1.4 For **Ongoing Services**, described in section 4.1.1, invoice the District \$2,500 per quarter, beginning thirty days after the Effective Date as described in section 2, and March 31, June, 30, September 30, and December 31 thereafter.

4.1.5 For **Bond Issuance Services**, described in section 4.1.2, invoice the District for the amount shown below upon a successful closing of the financing **discounted by 40%**.

Par Value	Base Fee	Plus \$ Per \$1,000	Over
Up to \$5,000,000	\$ 17,500	\$ -	\$ -
\$5,000,001 to \$15,000,000	17,500	1.00	5,000,000
\$15,000,001 to \$100,000,000	27,500	0.75	15,000,000
\$100,000,001 and above	91,250	0.20	100,000,000

4.1.6 For **Special Project** services, described in Section 4.1.3, invoice the District as agreed upon.

4.2 Responsibilities of the District. The District agrees to:

4.2.1 Provide information as requested by the ESD and as may be necessary to keep the ESD apprised of financial and bond-related issues.

4.2.2 Assume full responsibility for and pay all costs incurred or charged by the District's underwriter, bond counsel or others that are providing services to the district associated with district financing or projects.

- 4.2.3 Pay the costs for ESD direct out of pocket expenses for items such as travel, postage, copying, and telephone, if separately identified and agreed to by the District.
 - 4.2.4 Pay the costs incurred for any necessary legal review or advice.
 - 4.2.5 Pay the ESD for services and costs described above. Payments shall be made within thirty (30) days of receipt of invoices from the ESD.
 - 4.2.6 Discuss any additional services that are needed that are beyond the scope of the Agreement and execute mutually agreed upon amendments to this Agreement to address additional services and the cost.
- 5. **Assignment.** Neither this Agreement nor any interest therein may be assigned by either party without the prior written consent of the other party.
- 6. **Termination.** This Agreement may be terminated by either party by providing the other party sixty (60) days written notice of intent to terminate. If the Agreement is terminated, the District shall pay the ESD for all work performed and expenses incurred up to the date the Agreement is terminated. The fees owed to the District following termination shall be paid within sixty (60) days of receipt of an invoice.
- 7. **Crimes Against Children**
The ESD and District are prohibited from employing any person who will provide services under this Agreement, and who may come into contact with children in a public schools, if the person has plead guilty to or been convicted of a felony crime specified in RCW 28A.400.322. Failure to comply with this section shall be grounds for immediate termination of this contract.
- 8. **Indemnification.**
 - 8.1. **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.
 - 8.2. **The 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.

9. **Force Majeure.** The ESD and District shall not be liable for any failure to perform its obligations in this Agreement, and shall not be liable for the damages in Section 6, if the failure to perform or action that gave rise to damages is a result of any act of God, riot, war, civil unrest, flood, earthquake, or other cause beyond the District's or ESD's reasonable control, such as changes to federal, state or local laws, but excluding failure caused by a party's financial condition or negligence.
10. **Waiver.** No provision of this Agreement, or the right to receive reasonable performance of any act called for by its terms, including but not limited to the right of a performing party to notify a non-performing party there has been a unilateral early termination, shall be deemed waived by a parties failure to enforce the provision or rights to performance in a particular transaction or occurrence. Any and all waivers shall be in writing and signed by the party waiving the provision or its rights to performance. Any waiver that is not in writing shall not be binding or effective.
11. **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.
12. **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.
13. **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.
14. **Attorneys Fees and Costs.** In the event litigation arises out of this Agreement, each party shall bear its own attorney's fees and costs.
15. **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.
16. **Opportunity Without Discrimination.** Per the requirements of state, local and federal laws, including 13 CFR 145, the ESD and the District agree not to discriminate on the basis of race, creed, religion, color, national origin, age, families with children, sex, honorably discharged veteran or military status, marital status, sexual orientation including gender expression or identity, or non-job-related 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.


17. **Exclusion, Debarment and Suspension Certification.** Per the requirements of Executive Order 12-549, the ESD and the District certify that neither they, nor their officers, directors, general managers or persons having primary management or supervisory responsibilities, are on the Excluded Parties List Report (web address: <https://www.sam.gov>) and that they are not presently debarred, suspended, proposed for debarment, or declared ineligible or voluntarily excluded for the award of contracts by any Federal governmental agency or department. The ESD and the District shall provide immediate written notice to each other if, at any time during the term of this Agreement, including any renewals hereof, they learn that this certification has become erroneous by reason of changed circumstances.
18. **Authority.** The terms and conditions of this Agreement to which the parties agree are being entered into by appropriate resolutions or delegation of authority by 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: _____

BETHEL SCHOOL DISTRICT NO. 403

by:  _____ Date: 1/28/2015

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.

