

AGREEMENT FOR E-RATE SERVICES
BETWEEN
PRESCOTT VALLEY PUBLIC LIBRARY AND YAVAPAI COUNTY SCHOOL
SUPERINTENDENT

1. **Parties.**

Prescott Valley Public Library “Library”).

The Yavapai County School Superintendent (“YCSS”).

2. **Purpose.**

2.1 Universal Service Administrative Company’s Schools and Library Program, commonly known as “E-Rate Services,” provides discounts of up to 90% to assist most schools and libraries in the United States to obtain affordable telecommunications and Internet access. YCSS assists school districts, individual schools and libraries with the compliance of applicable regulations to obtain all available E-Rate Services at the lowest cost.

2.2 The purpose of this agreement is that Prescott Valley Public Library retains YCSS to provide consulting about and assistance with E-Rate Services pursuant to a service program under A.R.S. § 15-365 (hereinafter referred to as the “Agreement”).

2.3 The E-Rate Services provided by YCSS are intended to support and enhance student achievement by assisting and guiding Prescott Valley Public Library to plan, procure, and implement essential technology assets.

3. **Statutory Authority.**

3.1 YCSS is the statutory educational service agency for Yavapai County Schools and has authority to provide assistance with E-Rate Services to Prescott Valley Public Library pursuant to A.R.S. §§ 15-301 (Office of County School Superintendent), 15-302 (Powers and Duties), and 15-365 (Service Programs Operated Through the Office of a County School Superintendent).

3.2 Library has authority to retain YCSS for consulting about and assistance with E-Rate Services pursuant to A.R.S. §§ 15-365 (Service Programs Operated Through the Office of a County School Superintendent) and 41-3508(E) (Statewide E-Rate Program Fund).

4. **Duration.**

This Agreement's term is for three years and shall be effective from July 1, 2015 until June 30, 2018 ("FY 2015-17").

5. **Contract Interpretation.**

5.1 **Arizona Law.** The law of Arizona applies to this Agreement.

5.2 **Implied Contract Terms.** Each provision of law and any terms required by law to be in this Agreement are a part of this Agreement as if fully stated in it.

5.3 **Contract Order of Precedence.** In the event of a conflict in the provisions of the Agreement, as accepted by the parties and as they may be amended, the following shall prevail in the order set forth below:

- 1) Terms and Conditions;
- 2) Statement or Scope of Work;
- 3) Attachments;
- 4) Referenced Documents.

5.4 **Relationship of Parties.** Neither party to this Agreement shall be deemed to be the employee or agent of the other party to the Agreement.

5.5 **Severability.** If any provision(s) of this Agreement is/are invalid, illegal, or unenforceable for any reason, all other Agreement provisions shall nevertheless remain in full force and effect. If any provision(s) is/are inapplicable to any person or circumstance, the same provision(s) shall nevertheless remain applicable to all other persons and circumstances.

5.6 **Entire Agreement.** This Agreement represents the entire, integrated Agreement between the parties. The Agreement supersedes all prior negotiations, representations, or Agreements, whether written or oral. The Agreement may be amended only by written instrument signed by the parties.

5.7 **No Parole Evidence.** This Agreement is intended by the parties as a final and complete expression of their Agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document.

5.8 **No Waiver.** No action or failure to act by the parties constitutes a waiver of any right or duty under this Agreement, nor does the action or failure to act constitute approval of or acquiescence in a breach of the Agreement, unless the waiving party memorializes the waiver or approval in writing and sign it.

5.9 **Headings.** Headings are for organizational purposes only and shall not be interpreted as having legal significance or meaning.

6. **Standard Terms.**

6.1 **Compliance with Law.** The parties shall comply with all applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities in performing this Agreement, including but not limited to environmental laws.

6.2 **Immigration Law Compliance.** Both parties hereby warrant that they will at all times during the term of this Agreement comply with all federal immigration laws applicable to their employment of their employees, and with the requirements of A.R.S. §§ 23-214 and 41-4401 (together the “State and Federal Immigration Laws”). A breach of the foregoing warranty shall be deemed a material breach of the contract, and the parties shall have the right to terminate this Agreement for such a breach, in addition to any other applicable remedies. The parties retain the legal right to inspect the papers of each contractor, subcontractor or employee of either who performs work pursuant to this Agreement to verify performance of the foregoing warranty of compliance with the State and Federal Immigration Laws.

6.3 **Fingerprint and E-verify.** If required, and only to the extent required, the parties shall comply with the fingerprinting provisions in A.R.S. § 15-512(H) and the e-verify provisions in A.R.S. § 41-4401.

6.4 **Nondiscrimination.** The parties shall comply with Executive Order 2009-09, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities, and all other applicable State and Federal employment laws, rules and regulations, including the Americans with Disabilities Act. The Parties shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

7. **Notices.**

All notices under this Agreement must be in writing and sent to the appropriate person. Notices will be deemed properly given if sent by (1) personal delivery, (2) facsimile transmission, (3) first-class United States mail, postage prepaid, or (4) certified U.S. mail, postage prepaid, return receipt requested, addressed as follows:

Prescott Valley Public Library

Attn: _____

YCSS

2970 Centerpointe East Drive

Prescott, AZ 86301

Attn: Tim Carter, Yavapai County School Superintendent

Each party may specify by notice to the others a different address for purposes of subsequent notices. Notice is effective on the date of actual receipt or three days after the date of mailing, whichever is earlier.

8. **Alternative Dispute Resolution.**

Pursuant to A.R.S. § 12-1518, disputes under this Agreement may be resolved through the use of arbitration. The parties expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before a court.

9. **Third Parties.**

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against Prescott Valley Public Library or YCSS. This Agreement is not intended to benefit any third party.

10. **Insurance.**

The parties shall maintain insurance in the coverage and limits of liability available to it through if a municipal library (i.e., city or otherwise) provide its insurance coverage detail.

11. **Indemnification.**

Each party (as "indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage to the extent that such claims are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers. This indemnification shall survive the termination of this Agreement.

12. Workers' Compensation.

For purposes of workers' compensation, an employee of a party to this Agreement, who works under the jurisdiction or control of, or who works within the jurisdictional boundaries of another party pursuant to this specific Agreement, is deemed to be an employee of both the party who is his primary employer and the party under whose jurisdiction or control or within whose jurisdictional he is then working, as provided by A.R.S. § 23-1022(D). The primary employer party of such employee shall be solely liable for payment of workers' compensation benefits for the purposes of this section. Each party herein shall comply with the provisions of A.R.S. § 23-1022(E) by posting the public notice required.

13. Termination.

Either party may terminate this Agreement with thirty (30) days written notice. This Agreement is also subject to the cancellation provisions of A.R.S. § 38-511. Any termination of this Agreement shall not relieve either party of responsibility for costs incurred prior to the effective date of the termination.

14. Scope of Work: Services and Duties Provided by YCSS. Under this Agreement, YCSS shall provide the following specific services to Prescott Valley Public Library:

- 14.1 YCSS shall consult with and guide Prescott Valley Public Library on Prescott Valley Public Library's E-Rate application for FY 2015-16, 2016-17, and 2017-18.
- 14.2 YCSS shall advise Prescott Valley Public Library on the E-Rate process and share technical advice on related services and equipment.
- 14.3 With respect to E-Rate Services procurement, YCSS shall:
 - (a) prepare bid documents and contract documents necessary to procure and contract for E-Rate Services;
 - (b) assist Prescott Valley Public Library in publishing the call for bids;
 - (c) advise Prescott Valley Public Library on compliance with federal and state procurement regulations; and
 - (d) assist Prescott Valley Public Library in scoring and evaluating all bids received.
- 14.4 YCSS shall file on behalf of Prescott Valley Public Library the following E-Rate forms: Form 470, 471, 472 (BEAR), 486, and any necessary extension letters, appeals, and/or other related forms.

- 14.5 YCSS shall guide Prescott Valley Public Library through any Program Integrity Assurance (PIA) review of FCC forms filed by or on the District's behalf.
- 14.6 YCSS shall advise Prescott Valley Public Library on reasonable means and methods to obtain the maximum E-Rate discount allowed by governing rules and regulations.
- 14.7 YCSS shall advise Prescott Valley Public Library on reasonable means and methods to reduce and minimize costs for both E-Rate eligible and ineligible services.
- 14.8 YCSS shall perform all other reasonable, customary, and lawful E-Rate tasks to assist Prescott Valley Public Library during this Agreement's term.
- 14.9 YCSS shall not accept any gratuity, gift, favor, service, or opportunity from any service provider.

SERVICES NOT PROVIDED BY YCSS. YCSS will not select the final E-Rate vendor or advise Prescott Valley Public Library which vendor to select.

15. **Scope of Work: Duties Provided by Prescott Valley Public Library.** Under this Agreement, Prescott Valley Public Library shall provide the following duties to YCSS:

- 15.1 Prescott Valley Public Library shall provide all information reasonably requested by YCSS in a timely manner.
- 15.2 Prescott Valley Public Library shall designate a responsible, authorized person to:
 - (a) serve as a point of contact for Universal Service Administrative Company's School and Libraries Division (SLD);
 - (b) review all E-Rate Forms; and
 - (c) deal with YCSS on all matters relating to this Agreement.
- 15.3 Prescott Valley Public Library shall fully comply with all E-Rate rules and regulations and all other applicable federal and state laws, including the obligation to certify the representations in and execute the Letter of Agency form attached as Exhibit 1 incorporated by reference herein.
- 15.4 Prescott Valley Public Library shall not accept any gratuity, gift, favor, service, or opportunity from any service provider.

16. Payment and Consideration.

Within 30 days after YCSS invoices Prescott Valley Public Library, Prescott Valley Public Library shall pay YCSS the amount of \$1250.00 for all services provided under this Agreement for FY 2015-16, and \$2,500.00 for FY 2016-17 and FY 2017-18. FY 2016-17 and FY 2017-18 will be invoiced semi-annually, with invoices for \$1,250.00 sent in August of 2016 and 2017, and February of 2016 and 2017. Payment for FY 2016-17 and FY 2017-18 will be conditional upon successful receipt of grant award.

17. Assignment.

Neither party to this Agreement may assign its rights or responsibilities under this Agreement without the written consent of the other party.

18. Counterparts.

This Agreement may be executed in two or more counterparts. Each counterpart will be deemed an original, and all counterparts shall form a single instrument.

This Agreement is effective on the date approved by the Yavapai County Board of Supervisors and Prescott Valley Public Library’s governing board.

APPROVALS

Tim Carter
Yavapai County School Superintendent

Prescott Valley Public Library

Signature Date

Signature of Authorized Agent Date

Name and Title

Name and Title

This Agreement has been reviewed by the undersigned who has determined that it is in the appropriate form and is within the power and authority granted to YCSS.

This Agreement has been reviewed by the undersigned who has determined that it is in the appropriate form and is within the power and authority granted to Prescott Valley Public Library.

Signature Date

Signature Date

Name of Legal Counsel for YCSS

Name of Legal Counsel for Prescott Valley Public Library

APPROVED BY:

Chairman
Yavapai County Board of Supervisors

Date

ATTEST:

Clerk of the Board

