

## CONTRACT BETWEEN

**Northwest Educational Service District 189** AND **Concrete School District**

*(Hereinafter referred to as NWESD)*

**1601 R Ave, Anacortes, WA 98221**

**(360) 299-4000**

**FAX (360) 299-4070**

**Contract Order No: 79349SP**

**NWESD Account  
Code:**

**1250-98-7000-0924**

**Name** *(Hereinafter referred to as Business)*

**45389 Airport Way**

**Address**

**Concrete**

**WA**

**98237**

**City**

**State**

**Zip**

**TIN (or last 4**

**digits of SSN) 91-1037019**

**Phone: 360-853-4000**

In consideration of the promises and conditions contained herein, NWESD and the Business do mutually agree as follows:

### I. PURPOSE

The purpose of this Contract is to provide paid work-based learning experience (WBLE) to students who are at least 16 years of age at the time work begins. The student will become the employee of the Business for the duration of student worked hours as identified in Section II.3a. Responsibilities of Business.

### II. RESPONSIBILITIES OF BUSINESS

In accordance with this Contract, the Business shall provide all labor, materials and equipment necessary for:

1. Training the student on the responsibilities of the job;
2. Total number of students employed, NTE 3 students;
3. Compensating the student either the Washington State prevailing hourly wage, or the local minimum wage, whichever is greater;
  - a. Expect a minimum of 40 hours per student, but no more than 120 hours will be reimbursed.
4. Invoicing the NWESD no later than 30 days after **the student completes all of their WBLE hours** and the student is no longer employed with the Business;
5. Submitting **monthly reports of the students WBLE hours**, either via time card, payroll report, or other form of proof with business signature.

### III. TERM OF THE CONTRACT

The start date of this Contract is the later of 11/01/2023 or the effective date of this Contract and will end 9/30/2024 unless mutually extended in writing by both parties. Termination is further specified in the Termination section of this Contract.

### IV. CONTRACT OBLIGATION

The NWESD shall provide:

1. Program Support Specialist to meet with Business during student hours to review progress of student;
2. Reimburse the Business for the amount of wages NTE \$6,739.92 (based on the Washington State prevailing wage or local minimum wage, whichever is greater, plus a flat fee of 15% for payroll taxes and related personnel costs for each student who participates in WBLE); and,
3. Conduct an exit interview which will include surveying the Business upon completion of student hours.

## V. PAYMENT PROVISIONS

All payments to the Business shall be conditioned upon:

1. The NWESD or its designee determines that the services or goods provided by the Business are satisfactory, provided that such determination shall be made within a reasonable time and not be unreasonably withheld; and
2. The Business submits satisfactory invoices to the NWESD by sending a timely invoice detailing the services or goods rendered for requested payment within **30 days after the student completes all of their WBLE hours.**
3. Any date(s) specified herein for payment(s) to the Business shall be considered extended as necessary to process and deliver payment. Such extension will not be greater than thirty (30) days following delivery of satisfactory services or goods and receipt of the appropriate invoices, whichever occurs later.

## VI. CONTRACT MANAGERS

<u>NWESD Contract Manager</u>	<u>Business Contract Manager</u>
Name: Brian McClay, Program Specialist III	Name: Marla Reed
Business: NWESD	Business: Concrete School District
Address: 1601 R Avenue Anacortes, WA 98221	Address: 45389 Airport Way Concrete, WA 98237
Phone: 360-299-4075	Phone: 360-853-4000
Email Address: bmcclay@nwesd.org	Email Address: mreed@concrete.k12.wa.us

## VII. NONDISCRIMINATION/ANTI-HARASSMENT

In performing its obligations under this contract, the Business shall comply with the NWESD, state and federal guidelines and regulations regarding nondiscrimination and harassment involving any employee/student on the basis of race, color, sex, religion, ancestry, national origin, creed, marital status, age, sexual orientation, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or use of a trained dog or service animal by a person with a disability in employment, services, or any other regards.

## VIII. GOVERNING LAW/VENUE

The terms of this Contract shall be construed and interpreted in accordance with the laws of the state of Washington, without regard to conflicts of laws principles. In the event that legal action or arbitration is commenced to resolve a dispute related to this Contract, the venue of such action or arbitration shall be in Skagit County, Washington.

## IX. INDEMNIFICATION/HOLD HARMLESS

The Business indemnifies and shall defend and hold the NWESD, its employees, agents and representatives, harmless from and against all third-party claims, actions, liens, suits or proceedings asserted against the NWESD that are related to the Business's obligations or performance under this Contract. The Business shall timely reimburse the NWESD for all costs, expenses, damages, losses, liabilities or obligations, including reasonable attorney's fees, incurred by the NWESD as a result of such third-party claims, actions, liens, suits or proceedings.

## X. INSURANCE

During the term of the Contract, the Business shall maintain in force at its own expense, the following insurance with an insurance company rated at least A-VIII or better in Best's Insurance Reports:

1. *Commercial General Liability* insurance written on an occurrence basis with limits of no less than one million dollars (\$1,000,000) combined single limit per occurrence and two million dollars (\$2,000,000) aggregate for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: blanket contractual; products/completed operations; broad form property damage; explosion, collapse and underground (XCU) if applicable; employer's liability; and Sexual Abuse and Molestation liability.

The Business shall ensure that the NWESD shall have no less than thirty (30) days prior written notice of any cancellation, suspension or material change in coverage. Promptly upon request, the Business shall provide the NWESD with a certified copy of all required insurance policies. In addition, promptly upon request, the Business shall name the NWESD as an additional insured on the Commercial General Liability insurance policy, as respects work performed by or on behalf of the Business and upon such a request, receive a copy of the endorsement naming the NWESD as additional insured.

#### **XI. DISPUTE RESOLUTION**

If a dispute regarding this contract arises between the Business and the NWESD, then the Business will appoint someone to represent it, the NWESD will appoint someone to represent it, and those two parties will appoint someone as a third representative. Decisions will be made by a vote of the majority of the representatives. The dispute committee shall be limited to resolving issues pursuant to the terms of this Contract, and its decision(s) shall be final.

#### **XII. TERMINATION**

This Contract may be terminated by the NWESD at any time, without reason, upon written notification thereof to the Business. The notice shall specify the date of termination and shall be conclusively deemed to have been received by the Business as of midnight of the second day following the date of its posting in the United States mail addressed as first noted herein. In the event of termination by the NWESD, the Business shall be entitled to an equitable proration of the total compensation provided herein for uncompensated services that have been performed as of the date of termination, and to the reimbursement of expenses incurred as of the date of termination, but solely to the extent such expenses are reimbursable under this Contract.

#### **XIII. OTHER ASSURANCES**

In performing its obligations under this Contract, each party shall promptly comply with all laws, ordinances, orders, rules, regulations and requirements of the federal, state, county or municipal governments or any of their departments, bureaus, boards, commissions or officials concerning the subject matter of this Contract (the "Laws"). This provision applies to Laws currently existing or applicable to a party's duties under this Contract during the term of this Contract.

#### **XIV. ASSIGNMENT**

Neither this Contract nor any interest therein may be assigned by the Business without first obtaining the written consent of the NWESD.

#### **XV. DEFAULT**

The Business shall be in default of this Contract upon the occurrence of any of the following:

1. Any covenant, representation or warranty made by the Business was false or misleading when made or subsequently becomes so;
2. The Business fails to perform any of its obligations under the Contract, and unless otherwise specifically stated elsewhere in this Contract, such failure continues for thirty (30) calendar days after the Business receives a notice to cure from the NWESD or its designee;
3. The Business files a petition in bankruptcy or other similar proceeding, makes any assignment for the benefit of creditors, or is the subject of an involuntary bankruptcy petition, receivership or other insolvency proceeding; or
4. After the termination of the Contract, the Business continues to use any of the NWESD's intellectual property.

#### **XVI. BREACH/DEFAULT WAIVER**

No delay or failure on the part of the NWESD to exercise any rights under the Contract shall operate as a waiver of the NWESD's contractual rights. Also, the NWESD's waiver or acceptance of a partial, single or delayed performance of any term or condition of the Contract shall not operate as a continuing waiver or a waiver of any other breach of a Contract term or condition. No waiver shall be binding unless it is in writing and signed by the party waiving the breach.

## **XVII. REMEDIES FOR DEFAULT**

If the Business is in default of this Contract, the NWESD may pursue any or all of the following remedies, which may be cumulative:

1. Immediately terminate the Contract;
2. Injunctive relief without proof of actual damage and without posting a bond pending resolution by court action or arbitration;
3. Liquidated damages to protect against the immeasurable damage to the NWESD's business and goodwill of \$50.00 for each day that the Business improperly or without permission uses the NWESD's intellectual property;
4. Consequential and incidental damages to the NWESD from the Business's default; and
5. Recover reasonable attorneys' fees and costs for any arbitration or litigation brought to enforce the NWESD's rights under this Contract.

## **XVIII. SEVERABILITY**

If any provision of this Contract is determined to be invalid under any applicable statute or rule of law, it is to that extent to be deemed omitted and the balance of the Contract shall remain enforceable.

## **XIX. HEADINGS**

The headings of each section of this Contract are provided only to aid the reader. If there is any inconsistency between the heading and the content of the paragraph or the context of the contract, the content or context will prevail.

## **XX. INTEGRATION/MODIFICATION**

This Contract constitutes a fully integrated document containing the full, final and binding agreement of all parties signatory and all persons claiming by or through a signator, and supersedes all other negotiations, offers or counteroffers relating to the subjects treated in this Contract. The Parties may amend this Contract only upon a writing bearing the actual signatures of the names of all the Parties or their respective, authorized representatives.

## **XXI. NOTICES**

Any notice given under this Contract shall be in writing from one party to another, given only by one of the following methods: (i) personal delivery, (ii) United States first class and certified mail, return receipt requested, with postage prepaid to the recipient's business address provided on the front page of this Contract; or (iii) e-mail to the recipient's email address given in Contract Managers section. Notice shall be deemed to occur in the case of the use of the mail, when the notice is postmarked. Notice shall be deemed received on the date of personal delivery, on the second day after it is deposited in the mail or on the day sent by e-mail. A party may change the place notice is to be given by a notice to the other party. For efficiency, the parties agree that documents sent by electronic means shall be considered and treated as original documents.

## **XXII. FORCE MAJEURE**

A party to this Contract is not liable to the other party for failing to perform its obligations if such failure is a result of Acts of God (including fire, flood, earthquake or other natural disaster), war, government sanction/order/regulation, riot, terrorist attack, labor dispute, or other similar contingency beyond the reasonable control of the parties. Force Majeure does not include computer events, such as denial of service attacks or those that may occur as a result of a third party. Each party shall have backup computer systems to allow it to continue to perform its obligations under the Contract. If a party asserts Force Majeure as an excuse for failure to perform its contractual obligations, then it must prove that it took reasonable steps to minimize delay or damages caused by foreseeable events, that it substantially fulfilled all non-excused obligations and that the other party was timely notified of the likelihood of or actual occurrence of such an event.

### **XXIII. SUSPENSION AND DEBARMENT ASSURANCES**

The Business certifies, and the NWESD relies thereon in execution of this Contract, that neither it nor its Principals are presently debarred, suspended, proposed for debarment, or declared ineligible or voluntarily excluded for the award of contracts by any Federal governmental agency or department. "Principals", for the purposes of this certification, mean officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity. Further, the Business agrees to provide the NWESD immediate written notice if, at any time during the term of this Contract, including any renewals hereof, it learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances. The Business's certification via the execution of this Contract is a material representation of fact upon which the NWESD has relied in entering into this Contract. Should the Business determine, at any time during this Contract, including any renewals hereof, that this certification is false, or should it become false due to changed circumstances, the NWESD may terminate this Contract in accordance with the terms and conditions therein.

### **XXIV. INDEPENDENT CAPACITY**

The Contractor and Contractor's employees/agents shall provide the results required in this Contract as an Independent Contractor. The Contractor's employees/agents who are engaged in the performance of this Contract shall continue to be employees/agents of the Contractor and shall not be considered for any purpose to be employees/agents of the NWESD. The Contractor agrees that the NWESD does not direct how the Contractor carries out its obligations under the Contract. It is understood and agreed that the Contractor is responsible for providing Industrial Insurance for him/herself/itself and his/her/its employees/agents and that the Contractor and the Contractor's employees/agents are not covered by Industrial Insurance through the NWESD. It is understood and agreed that the Contractor is responsible for the payment of all taxes due on payments made under this Contract.

### **XXV. EARLY RETIREMENT**

The Contractor must notify the NWESD Contract Manager if the individual(s) performing the work or the Contractor's owner used the 2008 Early Retirement Factor (ERF) to retire from the Washington State Public Employees' Retirement System (PERS); School Employees' Retirement System (SERS); or Teachers' Retirement System (TRS). For additional information, please see: <http://www.drs.wa.gov/employer/drsn/e08014.htm>.

### **XXVI. DRUG FREE WORKPLACE**

Business and Business's employees/agents shall perform all duties pursuant to the Contract in compliance with the intent of the NWESD Drug Free Workplace Policy. It shall be the Business's responsibility to obtain the policy if not otherwise provided.

### **XXVII. BACKGROUND CHECKS**

By executing this Contract with the NWESD, the Business represents and warrants that each of its employees or agents shall have a record check through the DSHS Background Check Central Unit (BCCU) before she or he has unsupervised access to any student.

By executing this Contract with the NWESD, the Business agrees that should student be placed in a one-to-one training environment with Business staff, said staff member will completed a background check at the cost of the NWESD.

### **XXVIII. CRIMES AGAINST CHILDREN**

The Business warrants that any of its employees or agents who has pled guilty or been convicted of any crime under RCW 26A.400.330 shall not have any contact with any child at a public school. Failure to comply with this section shall be grounds for immediate termination of this Contract.

### **XXIX. HAZARDOUS MATERIALS/WASTE**

All provided services will be in accordance with local, state and federal universal/hazardous waste laws and regulations. The Business must promptly provide to the NWESD (whether requested or not) any required Material Safety Data Sheets (MSDS) documentation for hazardous materials.

**XXX. SAFETY REQUIREMENTS**

All materials or equipment furnished by the Business will be required to satisfy any applicable requirements of the Occupational Safety and Health Act ("OSHA") and/or the Washington Industrial Safety and Health Act ("WISHA") in effect at the time of delivery. It shall be the responsibility of the Business to comply with this requirement.

**XXXI. EQUAL EMPLOYMENT OPPORTUNITY**

The Business must ensure compliance with Federal Executive Order 11246, as amended -Equal Employment Opportunity - to prevent discrimination in employment decisions on the basis of race, color, religion, sex, or national origin; and must take affirmative action to ensure that equal opportunity is provided in all aspects of its employment.

**XXXII. CONTRACTOR CERTIFICATIONS**

U (Initials) The Contractor certifies that the Contractor holds himself/herself out to the public as providing services to anyone desiring to purchase them and will pay all related taxes.

U (Initials) The Contractor certifies that all persons performing the work or Contractor's owner have not retired under the 2008 Early Retirement Factor OR has notified the NWESD of such retirement status.

**XXXIII. SIGNATURES/APPROVALS**

The undersigned represent and warrant that they are authorized to enter into this Contract on behalf of the parties.

<p>DocuSigned by: <u>Larry Francois</u> B133E0E45A3B494...</p>	<p>11/8/2023</p>	<p>DocuSigned by: <u>Carrie Crickmore</u> 72E795702AFC42A...</p>	<p>11/8/2023</p>
<p>Larry Francois Superintendent Northwest Educational Service District 189</p>	<p>Date</p>	<p>Carrie Crickmore Interim Superintendent Concrete School District</p>	<p>Date</p>

NWESD Internal Approvals:

<p>Fiscal (content): <u>UM</u></p>	<p>Fiscal (budget): <u>TJ</u></p>
<p>Program Director: <u>PM</u></p>	<p>Program Manager: <u>BM</u></p>

NWESD Contact Name: Kristine Juhl  
Northwest Educational Service District 189  
1601 R Avenue  
Anacortes, WA 98221  
Contact Phone: 360-299-4097