

CONTRACT

BETWEEN

Northwest Educational Service District 189
(Hereinafter referred to as NWESD)

1601 R Ave, Anacortes, WA 98221

(360) 299-4000

FAX (360) 299-4070

NWESD Account: 5971

AND Stanwood-Camano School District
Name (Hereinafter referred to as Client)

26920 Pioneer Hwy

Address

Stanwood

WA

98292

City

State

Zip

Phone/FAX:

360-629-1200 / 360-629-1242

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

I. PURPOSE

The purpose of this Contract is to provide regular and vocational education opportunities for eligible students through NWESD's Open Doors – Youth Reengagement Program. The Program will meet system definitions and compliance requirements as identified in RCW 28-A.175.100 and WAC 392-700.

II. RESPONSIBILITIES OF NWESD

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

1. Employ qualified teacher(s) who meet Open Doors standards.
2. Employ an Educational Advocate/teaching assistant.
3. Provide the District with a calendar of the school year prior to the beginning of the Program's start date.
4. Provide program enrollment reports to the District on Form P223-1418 on the monthly count day defined in WAC 392-121-119.
5. Provide and oversee all instruction identified in the Scope of Work.
6. Administer standardized tests within one month of enrollment or secure test results from no more than six (6) months prior to enrollment in order to determine a student's initial math and reading levels upon entering the Program.
7. Provide instruction, tuition, and required academic skills assessments at no cost to the students, with the understanding that NWESD may collect related fees as needed.
8. Schedule instruction so enrolled students have the opportunity to attend and work with instructional staff during the Program's standard instructional day.
9. Assume responsibility for the provision of case management services to all enrolled students.
10. Restrict or deny access into specific program elements if NWESD determines a student's academic performance or conduct does not meet established guidelines.
11. Provide the same accommodations to reengagement students under Section 504 of the 1973 *Rehabilitation Act*.
12. Comply with requirements of the school calendar stating that the school year begins in September and ends in August.
13. Maintain student documentation to support eligibility as specified in the Scope of Work. Maintain documentation of case management, student assessment, basic skills gains, attainments of credentials, earned measure of academic progress, and award of credit.

III. RESPONSIBILITIES OF DISTRICT

In accordance with this Contract, the District shall:

1. Provide a confidential setting for day-to-day work and private group meetings.
2. Provide telephone and access to fax machine.
3. Provide ten (10) classroom computers with internet and printer access.
4. Provide access to relevant electronic student information to perform the program's duties
5. Provide adequate locking file cabinets to secure confidential information.
6. Identify all students enrolled in the Program in the District's student information system and in the Comprehensive Education Data and Research System (CEDARS) using the code to be provided by the Office of Superintendent of Public Instruction (OSPI).
7. Work cooperatively with the NWESD to implement the Scope of Work and ensure quality reengagement services are provided in accordance with WAC 392-700.
8. Ensure that the process for awarding high school credits is implemented as part of the District's policy regarding award of credits per WAC 180-51-050(5) and (6).
9. Work with the Program to collect and report student data requested by the Education Data and Research System order to accomplish the longitudinal follow-up of Program students. Specifically, the following unique identifier data points will be collected, to the extent possible, by the NWESD, and verified by the District, for each enrolled student.

IV. TERM OF THE CONTRACT

The start date of this Contract is the later of September 1, 2019 or the date that signatures have been obtained from both parties to the Contract. The end date of this Contract is August 31, 2020 unless mutually extended in writing by both parties. Termination is further specified in the Termination section of this Contract.

V. CONTRACT OBLIGATION

For the performance of the work as set forth in the "Responsibilities of NWESD", the District shall pay an amount as follows:

- A. Basic Education Program: An amount not to exceed \$8078.00 (eight thousand seventy-eight dollars), which is 95% of the basic education allotment of \$8503.15 (eight thousand five hundred three dollars and fifteen cents), for each non-vocational Average Annual Full-time Equivalent (AAFTE), as of the time of the execution of this agreement. If the basic education allotment is changed after execution of this agreement, payment amount will be revised to equal 95% of the revised basic education allotment.
- B. Enhanced Education Program: In recognition of District's intent to provide a program that enhances the services beyond the basic education program (outlined in the Scope of Work Agreement related to the operation of an Open Doors (1418) Youth Reengagement Program between Northwest Educational Service District 189 and Stanwood-Camano School District attached to this Contract), payments in accordance with the following will be made:

Prior to the start of each year, NWESD will develop a proposed budget, comparing the amount anticipated to be received as apportionment based upon projected student enrollment (95% of the basic education allotment) with planned costs of the Program. The NWESD shall receive indirect costs of nine percent (9%) for administering this Program. Such budget will be provided to the District for review. Any and all program enhancements and associated costs beyond those funded by state apportionment will be billed to the District.

The NWESD will invoice in accordance with the following schedule:

- A. Monthly; an amount for the basic education program based upon student enrollment and 95% of the basic education allotment.
- B. Quarterly; a pro-rated amount for the enhanced educational program costs in excess of amounts received in A. above. Projected program costs will be adjusted based upon actual student enrollment and updated expenditure projections beginning with the second quarter billing.
- C. Annually; an amount equal to the final costs incurred in excess of amounts received in A. and B. above. Final payment will be determined upon the close of all accounts for the school year, but no later than September 15th of the following year.

VI. PAYMENT PROVISIONS

All payments to the NWESD shall be conditioned upon:

- 1. The Client or its designee determines that the services or goods provided by the NWESD are satisfactory, provided that such determination shall be made within a reasonable time and not be unreasonably withheld; and
- 2. The NWESD timely submits to the Client Fiscal Department satisfactory invoices detailing the services or goods rendered for requested payment.
- 3. Any date(s) specified herein for payment(s) to the NWESD 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.

VII. CONTRACT MANAGERS:

<u>NWESD Contract Manager</u>	<u>Client Contract Manager</u>
Name: Jodie DesBiens	Name: Dan Johnston
Address: 1601 R Avenue Anacortes, WA 98221	Address: 26920 Pioneer Hwy Stanwood, WA 98292
Phone: 360-299-4010	Phone: 360-629-1246
Fax: 360-299-4004	Fax:
Email: jdesbiens@nwesd.org	Email: djohnston@stanwood.wednet.edu

VIII. NONDISCRIMINATION/ANTI-HARASSMENT

In performing its obligations under this contract, the Client 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.

IX. 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.

X. INDEMNIFICATION/HOLD HARMLESS

The Client 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 Client's obligations or performance under this Contract. The Client 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.

XI. TERMINATION

This Contract may be terminated by the NWESD at any time, without reason, upon written notification thereof to the Client. The notice shall specify the date of termination and shall be conclusively deemed to have been received by the Client 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, the NWESD 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.

XII. 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.

XIII. ASSIGNMENT

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

XIV. DEFAULT

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

1. Any covenant, representation or warranty made by the Client was false or misleading when made or subsequently becomes so;
2. The Client 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 Client receives a notice to cure from the NWESD or its designee;
3. The Client 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 Client continues to use any of the NWESD's intellectual property.

XV. 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.

XVI. REMEDIES FOR DEFAULT

If the Client 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 Client improperly or without permission uses the NWESD's intellectual property;
4. Consequential and incidental damages to the NWESD from the Client'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.

XVII. 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.

XVIII. 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.

XIX. 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.

XX. 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 the 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.

XXI. 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.

XXII. BACKGROUND CHECKS

By executing this Contract with the Client, the NWESD represents and warrants that each of its employees or agents shall have a record check through the Washington state patrol criminal identification system in compliance with RCW 43.43.830 through 43.43.834, 10.97.030, and 10.97.050 and through the Federal Bureau of Investigation before she or he has unsupervised access to any child. The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card.

XXIII. COPYRIGHTS

The NWESD reserves all right, title and interest in and to the copyrights it owns, unless otherwise expressly granted to the Client under the Contract. Nothing in the Contract shall be construed to convey any right, title or interest in or to the NWESD's copyrighted works to the Client beyond the use expressly permitted by the Contract. The Client shall have no claim, right, title or interest in or to the goodwill associated with the NWESD's copyrighted works, now or in the future. The Client shall never contest any aspect of the NWESD's intellectual property rights in and to the NWESD's copyrighted works, the goodwill associated with those works or the validity of any license to use those works granted under this Contract. Further, the Client shall reasonably assist the NWESD in protecting and maintaining copyrights owned by the NWESD, including without limitation furnishing samples, signing declarations or providing notice or testimony of infringement of which the Client becomes aware. As to any copyrighted works that the Client owns, the Client represents and warrants that it exclusively owns its copyrighted works; there are no claims, judgments or settlements related to its copyrighted works; and its copyrighted works do not infringe any third-party's rights.

XXIV. CRIMES AGAINST CHILDREN

The NWESD warrants that any of its employees or agents who has pled guilty or been convicted of any crime under RCW 28A.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.

XXV. DISPUTE RESOLUTION

If a dispute regarding this contract arises between the Client and the NWESD, then the Client 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.

XXVI. FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)

NWESD agrees that it may create, have access to, or receive from or on behalf of the Client, records or record systems that are subject to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. Section 1232g (collectively, the "FERPA Records"). NWESD represents, warrants, and agrees that it will: (1) hold the FERPA Records in strict confidence and will not use or disclose the FERPA Records except as (a) permitted or required by this Contract, (b) required by law, or (c) otherwise authorized by the Client in writing; (2) safeguard the FERPA Records according to commercially reasonable administrative, physical and technical standards that are no less rigorous than the standards by which the NWESD protects its own confidential information; and (3) continually monitor its operations and take any action reasonably necessary to assure that the FERPA Records are safeguarded in accordance with the terms of this Contract.

XXVII. OWNERSHIP OF WORK PRODUCTS


If the NWESD develops any product or concept for the Client under this Contract, then all correspondence, papers, documents, reports, files, film work products (inclusive of intellectual concepts and properties), and all copies thereof that are received or developed by the NWESD or the NWESD's employee(s) and agent(s) in the course of performing the NWESD's contractual duties, or as incident thereto, shall, immediately upon receipt, preparation, or development, become the exclusive property of the NWESD in perpetuity of any and all purposes unless otherwise provided in this Contract.. All items described above shall be provided to and left with the NWESD.


XXVIII. SUSPENSION AND DISBARMENT ASSURANCES

The NWESD certifies, and the Client 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 NWESD agrees to provide the Client 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 NWESD's certification via the execution of this Contract is a material representation of fact upon which the Client has relied in entering into this Contract. Should the NWESD 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 Client may terminate this Contract in accordance with the terms and conditions therein.

XXIX. SIGNATURES/APPROVALS

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


Larry Francois, Superintendent
Northwest Educational Service District 189
7/8/19
Date


Jean Shumate, Ed D., Superintendent
Stanwood-Camano School District
6/18/19
Date

Reviewed:

Program Manager _____

Fiscal _____

PLEASE SIGN, DATE AND RETURN TWO ORIGINALS OF THIS CONTRACT TO:

NWESD Contact Name: Mia Troy
Northwest Educational Service District 189
1601 R Avenue
Anacortes, WA 98221
Contact Phone: 360-299-4016

A countersigned original will be returned.