

## CONTRACT FOR SUPPLEMENTARY SERVICES AND PUBLIC WORKS

THIS AGREEMENT is made this  4  day of  June , 2010, by and between R&S Painting and Drywall, LLC, hereinafter referred to as "Contractor," and Northwest Educational Service District 189, hereinafter referred to as the "NWESD."

NOW, THEREFORE, it is Mutually Agreed and Understood:

### Section I

#### Description of Services

Contractor agrees to provide all labor, materials and equipment necessary for the interior painting job at the Skagit Discovery Program located at 1103 McGarigle, Sedro-Woolley, WA 98284 as specified in the proposal submitted on May 28, 2010 at the delivered price of \$13,849.60 including taxes. Completed delivery of service will be made within **60** days from award of Agreement.

### Section II

#### General Provisions

1. PREVAILING WAGE

In accordance with WAC 296-127-040 contractor shall be required to submit a *Statement of Intent to Pay Prevailing Wages form* prior to beginning work. An *Affidavit of Wages Paid* (WAC 296-127-045) must be approved by the Department of Labor and Industries prior to beginning work.

2. PAYMENT PROVISIONS

The NWESD will retain 50% of the Agreement amount for 30 days after the date of final acceptance of the completed construction. (RCW 39.08.010)

3. LICENSURE

The contractor must provide proof and assurance that they are registered and licensed in Washington State (RCW 39.06.010).

4. EMPLOYMENT PROHIBITION

In accordance with Title 28A RCW: Contractor shall prohibit any employee of contractor from working at a public school who has contact with children at the school during the course of his/her employment and who has pled guilty to or been convicted of any felony crime involving the physical neglect of a child under Chapter 9A.42 RCW; the physical injury or death of a child under Chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under Chapter 46.61 RCW); sexual exploitation of a child under Chapter 9.44 RCW where a minor is the victim; promoting prostitution of a minor under Chapter 9A.88 RCW; the sale or purchase of a minor child under RCW 9A.64.030; or, violation of similar laws of another jurisdiction. Any failure by contractor to comply with this section shall be grounds for NWESD's immediate termination of this Agreement.

5. COMPLIANCE WITH RULES AND LAWS

The parties shall comply with all laws, ordinances and regulations of governmental bodies applicable to this Agreement as well as applicable local policies and procedures. All provided services will be in accordance with local, state and federal universal/hazardous waste laws and regulations.

6. NO DUAL EMPLOYMENT

Nothing contained in this Agreement, or related documents shall be construed as creating any form of an employment relationship between NWESD and Contractor or the agents, officers, volunteers, or employees of Contractor. The officers, agents, employees, or volunteers of the Contractor shall not be entitled to any rights or privileges of employment with NWESD. Contractor assumes exclusive responsibility for any and all actions, rights and obligations of its officers, agents, employees, or volunteers. NWESD employees and students do not, by this Agreement, become agents or employees of Contractor. Accordingly, NWESD employees and its students shall not be entitled to any rights and privileges established for employees of Contractor, such as vacation; sick leave with pay; paid days off; life, accident, and health insurance; or, severance pay upon termination of this Agreement.

7. NON-DISCRIMINATION/ANTI-HARRASSMENT

In regards to employment, services, or any other benefits provided by the performance of this Agreement, the parties assure compliance with state and federal guidelines and regulations regarding nondiscrimination and harassment involving any employee/student on the basis of race, color, gender, religion, national origin, creed, marital status, age, sexual orientation, pregnancy, or the presence of any sensory, mental, or physical disability.

8. INDEMNIFICATION/HOLD HARMLESS/DUTY TO DEFEND

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.

9. SUSPENSION AND DISBARMENT

The parties to the Agreement certify, and each relies thereon in execution of this Agreement, that their entity 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 (e.g., general manager; plant manager; head of subsidiary, division, or business segment; and similar positions). Further, each party agrees to provide the other(s) immediate written notice if, at any time during the term of this Agreement, including any renewals hereof, it learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances. Each party's certification via the execution of this Agreement is a material representation of fact upon which each party has relied in entering into this Agreement. Should either party determine, at any time during this Agreement, including any renewals hereof, that this certification is false, or should it become false due to changed circumstances, it may terminate this Agreement in accordance with the

terms and conditions therein.

10. INSURANCE

During the term of this Agreement, each party shall maintain in force at its own expense, the following insurance:

Worker's Compensation Insurance in compliance with RCW Title 51;

General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$1,000,000 each occurrence and \$2,000,000 aggregate for bodily injury and property damage. It shall include premises and operations, independent contractors, products and completed operations, personal injury liability, and contractual liability coverage for the indemnity provided under this Agreement.

There shall be no cancellation, material change, or reduction of limits or intent not to renew insurance coverage(s) without thirty (30) days written notice from one party or its insurer(s) to the other party. Each party shall furnish acceptable insurance certificates to the other. Such certificates shall include applicable policy endorsements, the thirty (30) day cancellation clause, and the deduction or retention level.

11. INTEGRATION/MODIFICATION

This Agreement constitutes the entire and exclusive Agreement between the parties regarding this matter and no deviations from its terms shall be allowed unless a formal, written, mutual Agreement amendment occurs between the parties. No such modification shall be valid unless the written modification is first provided via certified mail or personal delivery to each of the parties. Actual receipt by either party constitutes compliance with the requirement to send by certified mail or personal delivery.

12. WAIVER OF BREACH/DEFAULT

No waiver or any breach of any term of this Agreement shall be construed, nor shall be, a waiver of any other breach of this Agreement. No waiver shall be binding unless it is in writing and signed by the party waiving the breach.

13. SEVERABILITY

If any provision of this Agreement 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 Agreement shall remain enforceable.

14. MANDATORY DISPUTE RESOLUTION

If a dispute regarding this Agreement arises between the Contractor and the NWESD, then the Contractor 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 Agreement, and its decisions shall be final.

15. GOVERNING LAW/VENUE

The terms of this Agreement shall be governed by the laws of the State of Washington. In the event that legal action is commenced to resolve a dispute arising out of the Agreement, the venue of such action shall be in Snohomish County, Washington.

16. AUTHORITY TO SIGN AND OBLIGATE

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

17. INVOICES

All invoices shall be sent to NWESD Accounts Payable, 1601 R Avenue, Anacortes, WA 98221. Any decrease in price by a manufacturer shall be passed through in total, dollar for dollar, on the effective date of such decrease. Payment will be made after the inspection and acceptance by NWESD.

18. SAFETY REQUIREMENTS

All items furnished under this Agreement must comply with safety requirements imposed by NWESD, State, Federal or other governmental agencies. Contractor further agrees to indemnify and hold harmless NWESD from all damages assessed against NWESD as a result of Contractor's failure to comply with the acts and the standards issued there under and for the failure of the items furnished under this order to so comply.

**Section III**

Assignment/Waiver/Severability

No rights or responsibilities required or authorized by this Agreement can be assigned by any party hereto unless otherwise allowed in this agreement.

No provision of this agreement, or the right to receive reasonable performance or any act called for by its terms, shall be deemed waived by a breach thereof as to a particular transaction or occurrence.

If any term or 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 this Agreement that can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this Agreement are declared severable.

**Section IV**

Headings/Signatures/Approval

The headings of each section of this Agreement are only provided for the aid to the reader. If there is any inconsistency between the heading and the context, the context will prevail.


By signing this Agreement, the parties acknowledge that they have read and understand this

Agreement, including any supplements or attachments thereto, and do agree thereto in every particular. The parties further agree that this Agreement, together with any appendices, constitutes the entire Agreement between the parties and supersedes all communications, written or oral, heretofore related to the subject matter of this agreement.

By signing below, each party affirms that this Agreement has been approved by his/her Board of Directors or he/she has been given authority by such Board to enter into this agreement. If this approval is provided through a resolution, a copy of said resolution will be attached hereto.



\_\_\_\_\_  
Rick Mathews Date  
R&S Painting and Drywall, LLC  
P.O. Box 268  
Sedro-Woolley, WA 98284  
Skagit County, Washington

 6/15/10  
\_\_\_\_\_  
Superintendent Date

Northwest Educational Service District 189  
1601 R. Avenue  
Anacortes, WA 98221  
Skagit County, Washington

