



NEW MEXICO COALITION FOR LITERACY

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Contractor: Name
Contract Number: 1819OAG00
Contract Amount: dollar amount (\$00,000)
Contract Period: September 1, 2018 (9/1/18) to June 30, 2019 (6/30/19)

CONTRACT FOR SERVICES RENDERED:

THIS AGREEMENT is made and entered into this **(date) day of October, 2018**, by and between the **New Mexico Coalition for Literacy**, hereinafter called the “**NMCL**,” and the **Name of Program**, hereinafter called the “**Contractor**.”

WITNESSETH:

Whereas the NMCL is advised and believes that the Contractor is of such requisite character and qualifications and is willing to engage the Contractor for professional services, in accordance with the terms and conditions hereinafter set out, and the Contractor, understanding and consenting to the foregoing, is willing to render such professional services as outlined in Paragraph 1. Now therefore, in consideration of the premises and of the mutual reciprocal promises of the parties hereto, it is hereby covenanted and agreed by and between the parties:

1. SCOPE OF WORK

That the Contractor will render general services to the NMCL by providing instructional literacy services to the community as described in the Contractor’s Operating Assistance Grant application and as specified by the NMCL Grants Review Committee if applicable, with authorized revisions on file with the NMCL. Contractor must also report services and outcomes to the NMCL on a mid-year and year-end basis, which shall include student data obtained through the use of a standard assessment instrument to be administered at pre- and post-test intervals set by the manufacturer and/or the NMCL; provide an orientation to students prior to placing them based on the results of intake tests; and participate in an assessment of student satisfaction, which shall include students’ reports about whether they are meeting their immediate, short-term goals for enrollment. The reporting requirements and due dates are outlined in the attachment entitled, “Reporting Requirements, Program Year 2018-2019” and in paragraphs 2, 4, 22, and 23 below.

2. RECORDS AND AUDIT

That the Contractor shall collect and maintain programmatic data, including registration data, attendance data, instructional hours, test data (including data obtained through the use of a standard assessment instrument, which is required under this agreement), student goals, student demographic data, and student impact data, and shall maintain detailed records indicating the date, time and duration, cost, and nature of services rendered during the Agreement’s term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. These records shall be subject to inspection by the NMCL or its designated agent, including mid-year data checks. The NMCL shall have the right to audit billings both before and

after payment; payment under this contract shall not foreclose the right of NMCL to recover excessive illegal payment.

3. TERM

This agreement shall become effective upon approval by the NMCL and will cover the period from **July 1, 2018 (7/1/18) through June 30, 2019 (6/30/19)** unless terminated pursuant to Paragraph 11 herein.

4. COMPENSATION

That for services rendered satisfactorily as per Paragraph 1, supra, the NMCL agrees to pay the Contractor an amount not to exceed the contract amount stated on page one (p.1) of this agreement in total on a reimbursement basis upon submission of claims on the forms provided as **Financial Reporting and Reimbursement Forms A-1 and A-2. *Reimbursement claims shall be submitted once a month. In addition and without exception, the Contractor's last reimbursement request of the year MUST BE received by June 15, 2019 in order to be compensated; invoices received after such date WILL NOT BE PAID. Furthermore, should the Contractor fail to submit a reimbursement claim on a monthly basis, the NMCL, at its discretion, may elect not to pay a reimbursement claim, in whole or in part, or otherwise partially or fully withhold payment which seeks reimbursement for more than one month.***

Note well that the NMCL will not pay the Contractor the New Mexico Gross Receipts Tax levied on the amounts payable under this contract, as the Contractor is exempt from paying Gross Receipts Taxes. Further, payment is contingent upon the NMCL's certification that the Contractor's performance of services under the contract is satisfactory. Travel reimbursements submitted by the Contractor must be in compliance with New Mexico State Statute 10-8-4 and the State's map mileage between cities in New Mexico; the Contractor shall receive no more than thirty-two cents (\$0.32) per mile for each mile traveled in a privately owned vehicle.

5. STATUS OF CONTRACTOR

That the Contractor is an independent contractor performing general services for the NMCL and is not an employee of the NMCL or the State of New Mexico as a result of this contract. The Contractor shall not accrue any benefits afforded to employees of the NMCL or the State of New Mexico as a result of this contract.

6. APPROPRIATIONS

That the terms of this contract and payment are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico and/or the funding State Agency for the performance of this contract. The NMCL's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the NMCL proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment. Because the NMCL is subject to Section 6-3-1 NMSA 1978, in odd numbered fiscal years the Contractor may not draw more than fifty percent (50%) of its allocated financial resources available under this contract prior to December 31.

7. ASSIGNMENT

That the Contractor shall perform all the services under this contract and shall not assign any interest in this contract or transfer any interest in same or assign any claim for money due or to become due under this contract without the prior written consent of the NMCL.

8. SUBCONTRACTING

That the Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior approval of the NMCL.

9. RELEASE

That final payment of the amounts due under this Agreement shall operate as a release of the NMCL, its officers and employees, and the State of New Mexico from all liabilities, claims, and obligations whatsoever arising from or under this Agreement.

10. CONFLICT OF INTEREST

That the contractor agrees that it has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this agreement.

11. TERMINATION

That either party, independently or in concert, may terminate the contract for good and just cause, including but not limited to nonperformance of contracted services, and/or failure to perform services on a timely basis, by giving thirty (30) days written notice to the other party. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. Immediately upon receipt by either the NMCL or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the NMCL; 2) comply with all directives issued by the NMCL in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the NMCL shall direct for the protection, preservation, retention or transfer of all property titled to the NMCL and State of New Mexico and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the NMCL upon termination and shall be submitted to the NMCL as soon as practicable. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the NMCL or if, during the term of this Agreement, the Contractor or any of its officers, employees, or agents is indicted for fraud, embezzlement or other crimes due to misuse of state funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE STATE'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

12. NON-WAIVER

That nothing in this contract shall constitute a waiver of existing legal rights and remedies in the event of a breach of this agreement.

13. APPLICABLE LAWS

That this agreement shall be performed within applicable guidelines of Federal law of the United States of America, applicable State Statutes and Regulations of the State of New Mexico, applicable Standards and Regulations of the State Agency, and applicable Standards and Regulations of the NMCL. The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

14. SCOPE OF AGREEMENT

That this agreement incorporates all of the agreements, covenants, and understandings between parties hereto concerning the subject matter thereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreements or understandings, verbal or otherwise, of the parties and their agents, shall be valid or otherwise enforceable unless embodied in this agreement.

15. INVALID TERM OR CONDITION

That if any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable unless such invalid term or condition has nullified the entire agreement by its breach.

16. ENFORCEMENT OF AGREEMENT

That a party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

17. ACKNOWLEDGMENT

That Contractor must include recognition of the NMCL on all printed and published materials that its funding supported, in full or in part, along with the NMCL official logo obtained directly from the NMCL by request of the Contractor. All printed, audio, and visual materials and/or announcements made at the time of activities or for display must clearly state: This project is funded in part by the New Mexico Coalition for Literacy. Abbreviations (e.g. NMCL) are not acceptable. Any changes to or deviation from this wording must be approved in advance by the NMCL. Failure to provide this information may jeopardize present and future funding from the NMCL.

18. AMENDMENTS

That this agreement shall not be altered, changed, or amended except by instrument in writing executed by the parties hereto, and approved by all required approving agencies and parties. If the NMCL proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

19. CONFIDENTIALITY

That any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the NMCL.

20. EQUAL OPPORTUNITY COMPLIANCE

That the Contractor agrees to abide by all Federal and State laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations, and executive orders of the Governor of the State of New Mexico, the Contractor agrees to assure that no person in the United States shall, on the grounds of race, color, religion, national origin, sex, sexual preference, age, or handicap, be excluded from employment with or participation, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this agreement. If Contractor is found to be out of compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

21. PENALTIES FOR VIOLATIONS OF LAW

That the Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities, and kickbacks.

22. FISCAL MATCHING REPORT

That in addition to the monthly financial report and reimbursement claim forms, the Contractor will provide the NMCL with a fiscal matching funds report by **July 10, 2019** on the form provided as **Fiscal Matching Report Form**. Said fiscal matching report shall summarize: the amounts and sources of the Contractor's matching in-kind and cash funds. The Contractor will match the **total** grant amount **at a rate of one hundred percent (100%) for both cash and in-kind contributions**. The match must be cash and/or in-kind goods and/or services, with a minimum of 25% cash match. Your agency may use volunteer time as in-kind match for up to 75% of the match. Volunteer time can be included under in-kind at the the Independent Sector's current estimated dollar value of volunteer time.

23. PROJECT PROGRESS REPORTING

That the Contractor must perform a **Mid-Year Data Project Progress Report Check by February 28, 2019 and a Year-End Project Progress Report and Data on program demographics, services, and outcomes by July 10, 2019**. That Contractor must keep program data current in the Literacy, Adult, and Community Education (LACES) database or provide the NMCL with data for inclusion in LACES. Programs should collect and track the NMCL-specified data (attached) for the mid-year data project progress report check and Year-End Project Progress Report; the data is subject to change with prior, written notice to the Contractor of no less than thirty (30) days. Additionally, the Contractor may be required to complete a program survey or surveys during the course of this contract, and will accommodate the NMCL's request for a site-visit and/or program evaluation on an as-needed basis. **Failure to submit the required data on a timely basis may result in termination of this contract**

pursuant to Paragraph 11 above and may jeopardize present and future funding from the NMCL.

24. INCONSISTENT ACTIVITIES

That Contractor agrees that during the period of this contract it shall not, without the NMCL’s express prior written consent, engage in any activity, such as funding collaborations or alliances, that would undermine or hinder NMCL funded literacy programs within the State of New Mexico, provided however, that Contractor shall be entitled, subject to the terms and conditions of this contract, to engage in activities which do not overlap with the NMCL’s literacy mission, such as protected political speech.

25. TRAINING

That all programs must be trained in governance, program management, financial management, data reporting, assessment, and/or tutor training as requested by the NMCL, on an as-needed basis determined by the NMCL. That all programs must use volunteer tutors with NMCL-provided or NMCL-approved tutor training, exclusively or in part, to provide literacy services.

26. INTELLECTUAL PROPERTY

That all materials developed or acquired by the Contractor under this agreement shall become the property of the State of New Mexico and shall be delivered to the NMCL no later than thirty days (30) from the termination of this contract. Nothing produced, in whole or in part, by the Contractor under this contract shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

27. COLLABORATION

That the Contractor will coordinate with the NMCL on its funding activities, including legislative affairs and with the executive branches of Government, to promote NMCL’s literacy mission.

28. INVALID PROVISIONS

If any term or condition of this agreement shall be held invalid or unenforceable, the remainder of this agreement shall not be affected and shall be valid and enforceable.

29. NOTICE

That any notice required to be given to either party by this agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the NMCL: Heather Heunermund, Executive Director
1219 Luisa St., Unit 2
Santa Fe, NM 87505

To the Contractor: Name, Title
Address
City, NM, ZIP

30. AUTHORITY

That if Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

31. AGREEMENT

That the foregoing, being clearly understood and agreed to, the parties hereto have set their hands and seals.

NEW MEXICO COALITION FOR LITERACY:

Heather Heunermund _____
NMCL Executive Director Printed Name

NMCL Executive Director Signature

9/ --/18
Date

CONTRACTOR:

Contractor (Printed Name of Program)

Contractor's Federal Tax ID Number

Contractor's State Tax ID Number:

Authorized Program Representative (Contractor) Printed Name

Authorized Program Representative Title

Authorized Program Representative Signature

Date

Fiscal Agent Printed Name and Title (if applicable)

Fiscal Agent Signature (if applicable)

Date