
CUBA INDEPENDENT SCHOOLS
P.O. Box 70
Cuba, New Mexico 87013
Telephone: (575) 289-3211 Fax: (575) 289-3314

PROFESSIONAL SERVICES AGREEMENT

This agreement is entered into as of _____ day of _____, 20____ between the Cuba Independent School District and _____ (Contractor):

NAME: _____
ADDRESS: _____
PHONE NUMBER: _____
FAX NUMBER: _____
SERVICES TO BE RENDERED: _____
SERVICE START DATE: _____
SERVICE COMPLETION DATE: _____

TERMS: This Agreement is to be prepared and approved before services are rendered. In no case will payment be made for services rendered after the fact. This Agreement shall be accompanied by a fully executed purchase order and all applicable attachments. Any exceptions to the attached terms and conditions shall be processed through the District's Purchasing Department.

COMPENSATION: As full compensation for the services rendered pursuant to this Agreement, the School District shall pay the Contractor the sum not to exceed \$_____, to be paid upon completion of services. The total payment shall not exceed \$_____ without prior written approval by the Superintendent of the School District. Such compensation shall be payable within 30 days of receipt of Contractor's invoice for services rendered supported by reasonable documentation.

ATTACHMENTS:

- Formal Quotation/Detailed Scope of Work *REQUIRED
- Purchase Order *REQUIRED
- W-9 Form *REQUIRED
- Certificate of Insurance (if applicable)
- Background Check (if applicable)
- Licensure/Certification (if applicable)

IN WITNESS WHEREOF the undersigned have executed this Agreement as of the day and year first written above. The parties hereto agree that facsimile signatures shall be as effective as originals.

PRINT: _____ Contractor/Owner Authorized Official	SIGNATURE: _____ Contractor/Owner Authorized Official
PRINT: _____ District Supervisor	SIGNATURE: _____ District Supervisor
PRINT: _____ Finance Director/School Business Official	SIGNATURE: _____ Finance Director/School Business Official
PRINT: _____ Superintendent	SIGNATURE: _____ Superintendent

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TERMS AND CONDITIONS

- 1. Independent Contractor.** Subject to the terms and conditions of this Agreement, the School District hereby engages the Contractor as an independent contractor to perform the services set forth herein, and the Contractor hereby accepts such engagement.
- 2. Non-appropriation of Funding.** If the School District's performance under this Agreement depends upon the appropriation of funds, and if the School District does not appropriate the funds necessary for performance, then the School District may provide written notice to Contractor and cancel this Agreement without further obligation except for payment due as mutually agreed for work in progress or completed by the Contractor.
- 3. Duties, Term, and Compensation.** The Contractor's duties, term of engagement, compensation and provisions for payment thereof shall be as set forth in the fore mentioned PROFESSIONAL SERVICES AGREEMENT FORM.
- 4. Expenses.** Unless otherwise agreed in writing by the School District, the Contractor's out-of-pocket expenses that are incurred in connection with the performance of the duties hereunder shall be considered inclusive within the terms of the CONTRACT FORM. Expenses for the time spent by Contractor in traveling to and from School District facilities shall not be reimbursable.
- 5. Written Reports.** The School District may request that updates on project plans and/or written progress reports be provided by Contractor on a monthly basis. A final written report shall be due at the conclusion of the project and shall be submitted to the School District at such time. The final report shall be in such form and setting forth such information and data as is reasonably requested by the School District.
- 6. Inventions.** Any and all inventions, discoveries, developments and innovations conceived by the Contractor during this engagement relative to the duties under this Agreement shall be the exclusive property of the School District; and the Contractor hereby assigns all right, title, and interest in the same to the School District. Any and all inventions, discoveries, developments and innovations conceived by the Contractor prior to the term of this Agreement and utilized by the Contractor in rendering duties to the School District are hereby licensed solely to the School District for use in its operations.
- 7. Confidentiality.** The Contractor acknowledges that during the engagement the Contractor will have access to and become acquainted with various information, records and specifications owned or licensed by the School District and/or used by the School District in connection with the operation of its business including, without limitation, the School District's processes, methods, staff/student data, accounts and procedures, etc. The Contractor agrees that the Contractor will not disclose any of the aforesaid, directly or indirectly, or use any of them in any manner, either during the term of this Agreement or at any time thereafter, except as required in the course of this engagement with the School District. All files, records, documents, blueprints, specifications, information, letters, notes, media lists, original artwork/creative, notebooks, and similar items relating to the mission of the School District, whether prepared by the Contractor or otherwise coming into the Contractor's possession, shall remain the exclusive property of the School District. The Contractor shall not retain any copies of the foregoing without the School District's prior written permission. Upon the expiration or earlier termination of this Agreement, or whenever requested by the School District, the Contractor shall immediately deliver to the School District all such files, records, documents, specifications, information, and other items in the Contractor's possession or under the Contractor's control.
- 8. Conflicts of Interest; Non-hire Provision.** The Contractor represents that Contractor is free to enter into this Agreement, and that this engagement does not violate the terms of any agreement between the Contractor and any third party. Further, the Contractor, in rendering the Contractor's duties shall not utilize any invention, discovery, development, improvement, innovation, or trade secret in which Contractor does not have a proprietary interest. During the term of this agreement, the Contractor shall devote as much of the Contractor's productive time, energy and abilities to the performance of the Contractor's duties hereunder as is necessary to perform the required duties within the time period outlined in this agreement or otherwise, in a timely and productive manner. The Contractor is expressly free to perform services for other parties while performing services for the School District. The Contractor shall not, directly or indirectly hire any employee of the School District, and no School District employee may be simultaneously employed by the Contractor during the effective period of this agreement
- 9. Right to Injunction.** The parties hereto acknowledge that the services to be rendered by the Contractor under this Agreement and the rights and privileges granted to the School District under the Agreement are of a special, unique, unusual, and extraordinary character which gives them a peculiar value, the loss of which cannot be reasonably or adequately compensated by damages in any legal action, and the breach by the Contractor of any of the provisions of this Agreement will cause the School District irreparable injury and damage. The Contractor expressly agrees that the School District shall be entitled to injunctive and other equitable relief in the event of, or in prevention of, a breach of any provision of this Agreement by the Contractor. Resort to such equitable relief, however, shall not be construed to be a waiver of any other rights or remedies that the School District may have for damages or otherwise. The various rights and remedies of the School District

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under this Agreement or otherwise shall be construed to be cumulative, and no one of the them shall be exclusive of any other or of any right or remedy allowed by law.

10. Termination. The School District may terminate this Agreement at any time by 10 working days' written notice to the Contractor. In addition, if the Contractor is convicted of any crime or offense, fails or refuses to comply with the written policies or reasonable directive of the School District, is guilty of serious misconduct in connection with performance hereunder, or materially breaches provisions of this Agreement, the School District at any time may terminate the engagement of the Contractor immediately and without prior written notice to the Contractor.

11. Independent Contractor. This Agreement shall not render the Contractor an employee, partner, or agent of with the School District for any purpose. The Contractor is and will remain an independent contractor in the Contractor's relationship to the School District. The School District shall not be responsible for withholding taxes with respect to the Contractor's compensation hereunder. The Contractor shall have no claim against the School District hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.

12. Insurance. The Contractor shall not commence work under this Contract until he has obtained all insurance required under this paragraph and such insurance has been approved by the Owner: a. Comprehensive General Liability Insurance: 1. Property damage: Not less than \$100,000 each occurrence, 2. Medical expense: Not less \$300,000 each occurrence, 3. Bodily injury (excludes medical expense): Not less than \$400,000 any one person, and 4. Maximum per occurrence (excluding medical expense): Not less than \$750,000 each occurrence. b. Workers' Compensation Insurance (if applicable) in statutory form covering all contractor's employees.

13. Successors and Assigns. All of the provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, if any, successors, and assigns.

14. Choice of Law. The laws of the state of New Mexico shall govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties hereto.

15. Arbitration. Any controversies arising out of the terms of this Agreement or its interpretation shall be settled in accordance with the rules of the American Arbitration Association. The parties agree that any arbitration proceeding shall be conducted in Las Cruces, New Mexico, and any subsequent judicial filing or review will be filed in the Third Judicial District of New Mexico or in the federal courts of New Mexico. Furthermore, any judgments upon award shall be entered in the courts of New Mexico.

16. Headings. Section headings are not to be considered a part of this Agreement and are not intended to be a full and accurate description of the contents hereof.

17. Waiver. Waiver by one party hereto of breach of any provision of this Agreement by the other shall not operate or be construed as a continuing waiver.

18. Assignment and Subcontract. The Contractor shall not assign any of the Contractor's rights under this Agreement, or delegate the performance of any of the Contractor's duties hereunder, without the prior written consent of the School District.

19. Background Checks. The Contractor shall be responsible for complying to the provisions of §22-10A-5 NMSA 1978 requiring two fingerprint cards from employees having unsupervised access to students. The cards shall be submitted to the School District for obtaining the employees' Federal Bureau of Investigation record. Convictions of felonies or misdemeanors contained in the Federal Bureau of Investigation record, if supported by independent evidence, may form the basis for the employment decisions for good and just cause. Records and any related information shall be privileged and shall not be disclosed to any person not directly involved in employment decision of Contractor's employee with unsupervised access to students.

20. Notices. Any and all notices, demands, or other communications required or desired to be given hereunder by any party shall be in writing and shall be validly given or made to another party if personally served, or if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested. If such notice or demand is served personally, notice shall be deemed constructively made at the time of such personal service. If such notice, demand or other communication is given by mail, such notice shall be conclusively deemed given five days after deposit thereof in the United States mail addressed to the party to whom such notice, demand or other communication is to be given as follows: If to the Contractor: NAME ADDRESS CITY, STATE, ZIP If to the School District: Superintendent Las Cruces School District 505 S. Main St.; Suite 249 Las Cruces, NM 88001 Any party hereto may change its address for purposes of this paragraph by written notice given in the manner provided above.

21. Modification or Amendment. No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties hereto.

22. Entire Understanding. This document and any supplement attached constitute the entire understanding and agreement of the parties, and any and all prior agreements, understandings, and representations are hereby terminated and canceled in their entirety and are of no further force and effect.

23. Non-enforceability of Provisions. If any provision of this Agreement, or any portion thereof, is held to be invalid and unenforceable, then the remainder of this Agreement shall nevertheless remain in full force and effect.