

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, with all exhibits hereto (“Agreement”) is made this 13th day of May, 2020, by and between New America School, a New Mexico public charter school (“School”), and Charter School Nursing Services, a nursing services provider with its principal place of business at 221 Cottonwood Ct. NW, Albuquerque, NM 87107 (“Contractor”), for the provision of certain school nursing/health services for the period beginning August 1, 2021 and ending May 31, 2022.

RECITALS

WHEREAS, Contractor has expertise in the provision of school nursing/health services and Contractor and its employees providing services hereunder are duly licensed and fully qualified to provide the contracted services described herein; and

WHEREAS, School requires school nursing/health services on a part-time basis for the 2019-2020 school year; and

WHEREAS, School seeks to contract with Contractor to provide such services, pursuant to NMSA 1978 § 13-1-125(A).

NOW, THEREFORE, in consideration for the mutual promises, agreements and covenants contained herein, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. Scope of Work.

Contractor shall provide weekly school nursing/health services to the School, specific days/times to be negotiated between the School and Contractor at least 1 week in advance of the dates/times on which the services are needed

Deliverables and delivery dates shall be as follows:

School Nursing Services as requested by Principal, including but not limited to:

IEP evaluations;

Health plans;

Immunization records;

Vision Screening and Stereo Acuity;

Hearing Testing;

Medication Evaluation – Training;

Height

Weight

Bloodborne Pathogen Education

Set up First Aid and CPR Training

Supervise Health Assistants

Make Student Appointments and Arrange Transport

Assist in Finding Funding for Student Health
Assist with Setting up Wellness/Health Policies
Recruiting New Students and Encouraging Parent Participation
Notary services
Health Fair;
Drug Awareness Week
Puberty and Hygiene Education
Vaccine Clinics

Contractor shall at all times adhere to New Mexico law and the School charter provisions in carrying out the Scope of Work. Contractor shall comply with all School rules and regulations, including School security requirements, while on School premises.

All employees of Contractor performing services at School shall have been fully background-checked in accordance with NMPED requirements for School contractors and staff having access to School students. School reserves the right to reject any Contractor employee whose background check results are unacceptable to School, and Contractor will immediately reassign an approved employee to provide services to School.

2. Compensation.

A. School shall pay Contractor for the above-described services at the rate of \$70/hour for 15 hours per week, for 38 weeks, except that for the month of August 2019, Contractor shall provide 30 hours per week. This hourly rate is inclusive of time, travel, expenses and materials. The total amount payable to Contractor pursuant to this Agreement, including travel and other reimbursable expenses, shall not exceed \$42,000, excluding applicable taxes.

B. Contractor shall invoice School monthly for services performed. Contractor's invoices shall be in the form of a detailed statement of accounting for services performed and expenses incurred hereunder, that has been approved by appropriate School personnel.

C. Within fifteen (15) days after the date that School receives written notice from Contractor that payment is requested for services, School shall issue a written certification of complete or partial acceptance or rejection of the services. If School finds that the services are not acceptable, it shall, within thirty (30) days after the receipt of written notice from Contractor that payment is requested, provide to Contractor a letter of exception explaining the objection to the services along with details of how Contractor may proceed to provide remedial action. Upon certification by School that the services have been received and accepted, payment shall be tendered to Contractor within 30 days.

3. Term.

This Agreement shall terminate on May 31, 2022, unless terminated earlier pursuant to paragraph 4, infra, or paragraph 5.

4. Termination.

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least ten (10) days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. This Agreement may be terminated immediately with written notice to Contractor, if Contractor becomes unable to perform the services contracted for, as determined by School or if, during the term of this Agreement, Contractor is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE SCHOOL'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

B. Termination Management. Immediately upon receipt by either School or Contractor of notice of termination of this Agreement, Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of School; 2) comply with all directives issued by School in the notice of termination as to the performance of work under this Agreement; and 3) take such action of School shall direct for the protection, preservation, retention or transfer of all property titled to School and client records generated under this Agreement and any non-expendable personal property or equipment purchased by Contractor with contract funds shall become property of School upon termination. On the date the notice of termination is received, Contractor shall furnish to School its client records, and a final closing of the financial records and books of accounts which were required to be kept by Contractor under the paragraph of this Agreement regarding financial records.

5. Appropriations and Continuation of Charter.

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the Legislature of New Mexico to School for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the Legislature, this Agreement shall terminate immediately upon written notice being given by School to Contractor. School's decision as to whether sufficient appropriations are available shall be accepted by Contractor and shall be final. If School proposes an amendment to the Agreement to unilaterally reduce funding, Contractor shall have the option to terminate the Agreement or agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

The terms of this Agreement are further contingent upon the continuation of School's charter. If School's charter is revoked during the term of this Agreement, this

Agreement shall terminate immediately upon written notice of such by School to Contractor.

6. Status of Contractor.

Contractor is an independent contractor performing services for School and is not an employee of School or the State of New Mexico during the period of this Agreement. Contractor shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of School or the State of New Mexico as a result of this Agreement. Contractor acknowledges that all sums received hereunder are personally reportable by him/her/it for income tax purposes as self-employment or business income and are reportable for self-employment tax.

7. Assignment.

Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of School.

8. Subcontracting.

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

9. Release.

Contractor's acceptance of final payment of the amount due under this Agreement shall operate as a result of School, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement. Contractor agrees not to purport to bind School or the State of New Mexico unless Contractor has express written authority to do so, and then only within the strict limits of that authority.

10. Confidentiality.

Any confidential information provided to or developed by Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by Contractor without the prior written approval of School. Contractor agrees to comply with all federal and state privacy laws relating to records and information maintained by School, including but not limited to FERPA and HIPAA.

11. Products of Service – Copyright.

All materials developed or acquired by Contractor under this Agreement shall become the property of School and shall be delivered to School no later than the termination date of this Agreement. Nothing produced, in whole or in part, by Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on her behalf.

12. Conflict of Interest.
Contractor warrants that he/she/it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. Contractor certifies that he/she/it has complied with and will continue to comply with the requirements of the Governmental Conduct Act, NMSA 1978 §§ 10-16-1, *et seq.*
13. Amendment.
This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.
14. Merger.
This Agreement incorporates all the agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.
15. Penalties.
The Procurement Code, NMSA 1978 §§ 13-1-28 through 13-1-199 imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.
16. Equal Opportunity Compliance.
Contractor agrees to abide by all federal and state laws and rules and regulations, and the executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, Contractor agrees to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to, discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with this requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.
17. Applicable Law.
The laws of the State of New Mexico shall govern this Agreement.
18. Records and Financial Audit.
Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost 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. The records shall be subject to inspection by School, the State Department of Finance and Administration and the State Auditor. School shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the School to recover excessive or illegal payments.

19. Indemnification.
Contractor shall defend, indemnify and hold harmless School from all actions, proceedings, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by Contractor's negligent act or failure to act or if caused by the actions of any subcontractor, agent or client of Contractor resulting in injury or damage to persons or property during the time when Contractor or any agent, or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by Contractor or any agent or subcontractor of Contractor under this Agreement is brought against Contractor, Contractor shall, as soon as practical but no later than two (2) days after he/she/it receives notice thereof, notify the legal counsel of School by certified mail.

20. Notices.
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 School:

LaTricia Mathis, Principal
The New America School-NM
1734 Isleta Blvd. SW
Albuquerque, NM 87105
505-222-4365
lmathis@newamericaschoolnm.org

To Contractor:

Charter School Nursing Services
Bonnie Kaufman, President
221 Cottonwood Ct. NW
Albuquerque, NM 87107
505-872-2548
charterschoolnursing@hotmail.com

21. Authority.
Each party signing below represents that he/she/it has all required authority to represent his/her respective organization/entity, and to execute this Agreement on behalf of that organization/entity.

IN WITNESS WHEREOF, parties have executed this Agreement as of the date of signature by School as stated below

NEW AMERICA SCHOOL – NEW MEXICO

By: _____
Paul Rael, Governing Council President

Date: _____

CHARTER SCHOOL NURSING SERVICES

By: _____
Bonnie Kaufman, President

Date: _____