

THE UNIVERSITY OF NEW MEXICO
SERVICE AGREEMENT
ADMINISTRATIVE OR TECHNICAL SERVICES

This Agreement is made this 26th day of March, 2009, between The University of New Mexico (UNM), a constituent institution of the of the State of New Mexico, and Chaparral Middle School with principal office located at 290 E. Lisa Dr. Chaparral, NM 88081 (Consultant).

Recitals and Agreements: UNM is in need of consulting services for a project to provide health career exploration for the middle school. The Consultant has been awarded the contract to provide services to UNM upon the terms and conditions set forth herein, and the Consultant is willing to undertake the work upon such terms and conditions. The consultant represents and warrants that the Consultant is professionally qualified to render the professional services required by UNM and possess any licenses and/or certificates required under state or federal law to perform the services required under this Agreement. If the work to be performed under this Agreement is funded wholly or in part by the federal government, Consultant represents and warrants that neither Consultant nor any employee of Consultant nor any sub-contractor of Consultant are employees of the funding agency.

NOW, THEREFORE, UNM and the Consultant further agree as follows:

1.0 PROFESSIONAL SERVICES

1.1 The Gadsden Independent School District will designate program consultants in Chaparral Middle School. The Chaparral Middle School consultant shall perform those services described in Exhibit A to this Agreement (the Project). Services shall be performed in accordance with the schedule included in Exhibit A, or, if no such schedule is included at this time, in accordance with a schedule agreed upon in writing by the parties at a future date and adopted as an amendment to Exhibit A. The Consultant shall perform the Project as expeditiously as is consistent with good professional skill and care and the orderly progress of the Project.

1.1.1 The fee for the Consultant's professional services is \$1,000.00.

1.2 The budget for Travel for the program is \$2,000.00.

1.3 The Gadsden Independent School District will designate a regional coordinator in Chaparral Middle School. For the duration of the Project, the Regional Coordinator will assist the Consultants in securing local health professionals for student workshops at both sites. The Regional Coordinator will also assist in planning the schedule and activities with the Consultants and local health professionals. If The Regional Coordinator cannot complete the project, The Gadsden Independent School District will appoint a new Coordinator.

1.3.1 The fee for the Regional coordinator's professional services is \$2,000.00.

1.5 The UNM Office of Diversity will designate a staff member to act as Coordinator (Project Coordinator) between UNM and the Consultant. Throughout the period of the Project, copies of

all correspondence, work products, specifications, estimates and other materials prepared by the Consultant should be directed to the Project Coordinator and also to any other UNM personnel designated by the Project Coordinator. Direct contact or communication by the Consultant with other UNM offices or any other state or governmental entity concerning the Project shall be made only with the prior knowledge and approval of the Project Coordinator.

- 1.6 The professional consulting team for the Project shall be the same team identified in the Consultant's submittal responding to UNM's solicitation unless (a) a change is requested by the Consultant and approved in writing by the Project Coordinator; or (b) a change is requested in writing by the Project Coordinator for good cause, in which case the Consultant shall make an appropriate substitution, subject to UNM's approval, and notify UNM in writing. Major changes in the Consultant's organization or personnel (other than the consulting team) shall be reported to UNM in writing as they occur.
- 1.7 All terms and conditions of UNM's solicitation, any amendments thereto and consultant's response are made a part of this Agreement unless expressly contradicted by a term or condition of this Agreement. Proposals or suggestions of the Consultant for changes in the solicitation or the terms and conditions of the contract are not binding upon UNM and are not a part of this Agreement unless set forth in an amendment of the solicitation or in this Agreement and agreed to in writing by UNM.

2.0 PRESS RELEASES

Neither the Consultant nor any member of the Consulting Team shall issue any press release to any publication, including newspapers, without first clearing the text with and receiving prior written approval from the Project Coordinator.

3.0 MONTHLY PROGRESS REPORT AND SCHEDULES

- 3.1 The Consultant shall file with the Project Coordinator a monthly progress report and schedule for the Project. One copy shall be forwarded to UNM in sufficient time to be received no later than the tenth day of the month immediately following the end of the month covered by the report.
- 3.2 Each report shall include a summary of accomplishment during the past month, a projection of work to be accomplished during the month the report is filed, and a long-range projection of work to be accomplished during the next three months. Any information required from UNM and the dates such information is necessary in order to maintain the schedule shall be specifically identified in these reports.
- 3.3 A monthly report and schedule shall be submitted until the Project is completed.
- 3.4 The schedule shall clearly show (under Remarks) the reason(s) for any delay(s) such as Project clarification or revision, delay in receipt of UNM information or approvals, etc., and shall include the dates that each delay started and ended.

4.0 PAYMENTS

- 4.1 Payment requests (invoices) shall be sent to UNM Accounts Payable Department, PO Box 4548, Albuquerque, NM 87196.
- 4.2 Invoices may be presented at the beginning of each month covering service and/or expenses incurred during the previous month. The Consultant shall furnish an original and three copies of each invoice, with the Purchase Order Number clearly indicated on each invoice.
- 4.3 No invoice will be processed if there is a dispute between UNM and the Consultant as to the current or cumulative services provided.
- 4.4 UNM's approval of periodic payments if any, to the Consultant shall not constitute, in any sense, approval or acceptance by UNM of the Project work performed through the date of the invoice or of the Consultant's assertion of the percentage of the Project work completed through the date of the invoice.
- 4.5 When required by UNM to substantiate the degree of completion claimed in any application for periodic payments, the Consultant shall furnish UNM with copies of the documents evidencing the degree of completion claimed.
- 4.6 Upon all applications for periodic payments, excepting only the first such application, the Consultant shall certify in writing to UNM under penalty of perjury, that all subcontractors to the Consultant whose work comprised a portion of the prior application for periodic payment were paid in full within ten (10) days after Consultant received payment from UNM for such prior application.
- 4.7 All Consultant invoices to UNM shall set forth the Consultant's Federal Employer Identification Number, which is 85600313
- 4.8 Should the Project be abandoned or curtailed or should UNM cancel this Agreement at any time, the Consultant shall be paid a proportionate part of the compensation due and payable to it based upon the proportion of the Project completed as of the termination of work hereunder. Notice of abandonment, curtailment or cancellation may be oral, but shall be confirmed in writing within 30 days by UNM, at which time the Consultant shall immediately file with UNM the final date of the professional services performed and a final progress report. If payments have exceeded the proportion of Project work completed, a refund shall be due UNM.

5.0 PROJECT REVIEW MEETINGS

If so requested by the Project Coordinator, the Consultant shall meet as soon as possible after execution of this Agreement with the Project Coordinator and other UNM staff to discuss final details relative to commencement of and performance of this Project.

6.0 OWNERSHIP OF DOCUMENTS

- 6.1 All documents which are prepared by the Consultant or any member of the consulting team that form a part of its services under this Agreement shall be the property of UNM and shall be delivered to UNM upon termination of this Agreement if UNM so requests . The Consultant shall be responsible for the protection and/or replacement of any original documents in its possession. UNM shall receive all original drawings and the Consultant shall retain a reproducible copy.
- 6.2 For the consideration payable under this Agreement, the work product required by this Agreement shall be considered a work made for hire within the meaning of that term under the copyright laws of the United States, applicable common law and corresponding laws of other countries. UNM shall have sole right and authority to seek statutory copyright protection and to enjoy the benefits of ownership of the work. The party performing the work hereby assigns all rights, title and interest in and to the work to UNM and shall require all members of the consulting team to agree in writing that they assign all right, title and interest in work product required by the Agreement to UNM.
- 6.3 For the consideration payable under this Agreement, the Consultant agrees to report any invention arising out of the Work required by this Agreement to UNM. UNM shall have sole right and authority to seek statutory patent protection under United States and foreign patent laws and to enjoy the benefits of ownership of the invention, whether or not the invention was required of the Consultant or member of the consulting team as part of the performance of Work. The Consultant hereby assigns all right, title and interest in and to inventions made in the course of the Work to UNM and agrees to execute and deliver all documents and do any and all things necessary and proper to effect such assignment. Consultant shall require all members of the Consulting Team to agree in writing that they will execute and deliver all documents and do any and all things necessary and proper to effect assignment of inventions arising out of the Work required by this Agreement to UNM.
- 6.4 This provision shall survive expiration and termination of this agreement.

7.0 ADMINISTRATION PROVISION AND TERMS REQUIRED BY STATE PURCHASING CODE

- 7.1 New Mexico Law - The laws of the State of New Mexico shall govern the interpretation and enforcement of this Agreement.
- 7.2 Termination for Convenience - UNM may terminate this Agreement, in whole or in part, without showing cause upon prior written notice to the Contractor specifying the extent and the effective date of the termination. The provisions of the UNM Purchasing Policies and Procedures hereunder, including the determination of rights and obligations of the parties, shall govern termination.
- 7.3 Termination for Default - When the Consultant has not performed or has unsatisfactorily performed the Agreement; payment shall be withheld at the discretion of the UNM. Failure on the part of a Consultant to fulfill contractual obligations shall be considered just cause for

termination of the Agreement and the Consultant is not entitled to recover any costs incurred by the Consultant up to the date of termination. The provisions of UNM Purchasing Policies and Procedures hereunder, including the determination of the rights and obligations of the parties, shall govern termination.

- 7.4 Changes - This Agreement may be amended with the consent of both parties. Amendments may not change significantly the scope of the Agreement.
- 7.5 Disputes - This Agreement shall be subject to UNM Purchasing Policies and Procedures. Pending resolution of a claim, the Consultant shall proceed diligently with the performance of the Agreement in accordance with the UNM Purchasing Director's decision.
- 7.6 Suspension of Work - The UNM Purchasing Director unilaterally may order the Consultant in writing to suspend, delay, or interrupt all or any part of the work for such period of time as he may determine to be appropriate for the convenience of UNM.
- 7.7 Delays and Extension of Time - The Consultant agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Agreement.

Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without fault or negligence of the Consultant, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Consultant in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Consultant or the subcontractors or suppliers.

- 7.8 Nondiscrimination in Employment - The Consultant agrees not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or disability of a qualified individual with a disability and post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

8.0 INDEMNIFICATION AND INSURANCE

- 8.1 **INDEMNIFICATION:** Consultant assumes the entire responsibility and liability for losses, expenses, damages, demands and claims in connection with or arising out of any actual or alleged personal injury (including death) and/or damage or destruction to property sustained or alleged to have been sustained in connection with or arising out of the goods delivered by Consultant or the performance of the work by Consultant, its agents, employees, subcontractors or consultants, except to the extent of liability arising out of the negligent performance of the work by or willful misconduct of the University. Consultant shall indemnify, defend and hold harmless the University, its officers, agents, and employees from any and all liability for such losses, expenses, damages, demands, claims and judgments, including court costs and attorney's

fees, which may arise out of Consultant's performance of services. Consultant will also indemnify defend and hold harmless the University against any joint and several liabilities imposed against the University with respect to strict products liability claims attributable to the fault of the Consultant. The liability of the University of New Mexico shall subject in all cases to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-41-1 et seq, NMSA 1978, as amended.

8.2. **INSURANCE:** Consultant will procure and maintain during the life of this contract, Professional Liability Insurance in an amount not less than \$750,000 each occurrence. The insurance coverage will not be canceled or materially changed except after thirty (30) days written notice has been provided to UNM. Consultant will furnish the UNM copies of Certificates of Insurance showing coverage, limits of liability, covered operations, effective dates and dates of expiration of policies of insurance carried by consultant. Said coverage will be maintained for a period of three years after the date of final payment hereunder.

9.0 **CERTIFICATION:** The University of New Mexico Supplier Conflict of Interest and Debarment/Suspension Certification Form has been signed, as appropriate, and is included as part of this Agreement.

10.0 INDEPENDENT CONTRACTOR STATUS

10.1 It is expressly understood that Consultant is an independent contractor and not the agent, partner or employee of UNM. Consultant shall have complete charge and responsibility for persons employed by Consultant and engaged in the performance of the specified work. Neither Consultant nor any of its agents shall be treated as an employee of UNM for any purpose whatsoever. Consultant declares that Consultant has complied with all federal, state and local laws regarding business permits and licenses of any kind that may be required to carry out the said business and the tasks to be performed under this Agreement. Consultant further declares that it is engaged in the same or similar activities for other clients and that UNM is not Consultant's sole or only client or customer.

10.2 No federal, state, or local income, payroll and employment, taxes nor New Mexico Gross Receipt Tax, NMGRT, shall be withheld or paid by UNM with respect to payments to or on behalf of Consultant, its agents or employees. Consultant shall withhold and pay any taxes on behalf of its employees as required by law. The payroll or employment taxes that are the subject of this paragraph include but are not limited to FICA, FUTA, federal personal income tax, state personal income tax, state disability insurance tax, and state unemployment insurance tax. If consultant is not a corporation, consultant further understands that Consultant may be liable for self-employment (social security) tax, to be paid by Consultant according to law.

11.0 **ENTIRE AGREEMENT:** This Agreement, with its incorporated exhibits, constitutes the entire agreement between the parties and supersedes all prior negotiations, representations, commitments, offers, contracts and writing. Any amendments or further addenda hereafter made shall be in writing and executed with the same formality.

- 12.0 SEVERABILITY: All terms of this Agreement are severable such that if any provision is declared by a court of competent jurisdiction to be illegal, void or unenforceable, the remainder of the provisions shall continue to be valid and enforceable.
- 13.0 ASSIGNMENT: Consultant may not assign the rights or obligations under this Agreement without UNM's prior written approval.
- 14.0 NOTICES: Any notice to either party hereunder must be in writing signed by the party giving it, and shall be served either personally or by registered or certified mail addressed as follows:

To Chaparral Middle School Consultant:

Ms. Rhonda Alden (Consultant)
Ms. Jasmine Kilpatrick (Regional Coordinator)
Ms. Marti Muela (Principal)
290 E. Lisa Drive, Chaparral, NM 88081

To UNM:

- 15.0 TERM The professional services to be provided by Consultant under this Agreement shall commence not later than April 1, 2009 and be completed by May 30, 2010. Time is of the essence in this Agreement. This term may be extended beyond such completion date if UNM agrees to the extension in writing.
- 16.0 CONFIDENTIALITY OF INFORMATION: Confidential information provided by UNM to Contractor shall not be disclosed by Contractor, its officers, employees or agents, to any third party, without the express written consent of UNM.
- 17.0 COOPERATION AND DISPUTE RESOLUTION: The parties agree that, to the extent compatible with the separate and independent management of each, they will maintain effective liaison and close cooperation. If a dispute arises related to the obligations or performance of either party under this Agreement, representatives of the parties will meet in good faith to resolve the dispute.

This Agreement incorporates by reference, RFP No. _____ in its entirety, Consultant's response to that RFP and UNM's Purchase Order No. _____.

BY SIGNING BELOW, THE CONSULTANT CERTIFIES THAT HE/SHE IS AUTHORIZED TO OBLIGATE HER/HIS FIRM TO THE TERMS AND CONDITIONS OF THIS CONTRACT.

SIGNATURE BLOCKS.

The University of New Mexico

Consultant

Signature

Signature

Print Name

Marti Muela

Print Name

Title

Principal

Title

Signature

Efren Yturralde

Print Name

Deputy Superintendent

Title

X This contract is not a federally funded project.

_____ This contract is a federally funded project and the attached DFAR clauses apply.

EXHIBIT A

DESCRIPTION OF WORK

To CONSULTING SERVICES AGREEMENT dated March 25,2009 between The University of New Mexico (UNM) and Marti Muela, Chaparral Middle School Principal(Consultant).

This document is Exhibit A to the above-captioned Agreement between UNM and Consultant, and specifies certain terms, conditions and provisions thereof:

The consultant will facilitate the execution of the program goal, objective and activities.

Goal: Provide health career exposure. Objective: To identify, recruit, select, mentor, and advise a group of seventh and eighth graders from Chaparral Middle School to participate in Dream Makers Club.

Activities: 1) Provide 13 health careers workshops per year to students in Dream Makers health club.
2) Provide Dream Makers student leadership workshops through community entities.
3) Provide an evening presentation to members of the Dream Makers club and their families on the costs associated with higher education and provide information on available sources of financial aid.
4) Will address unique issues relating to the cultural beliefs of the students from the Las Vegas, NM region about science and health professions. In addition, will educate students, families, and communities about health professions and UNM Health Sciences Center. Session topics are to be developed by the consultant at the Chaparral Middle School, to include areas of health care that are available and relevant to the community.

This educational component will continue throughout the 2008-2009 school year. A toolkit will be provided by the Office of Diversity for use with the program in hopes that the Dream Makers Program, or a similar program offering health career exposure, will continue in the contracted school for years to come.

Consultant warrants that it will provide all services necessary to fulfill the complete scope of services outlined in the specifications for the quoted costs noted on this Exhibit.