

STATE OF NEW MEXICO

Legislative Council Service

**Agreement for Professional Technical Services for
State and Congressional Redistricting**

This Agreement for Professional Technical Services for State and Congressional Redistricting ("Agreement") is made between the Legislative Council Service ("LCS"), an agency of the legislative branch of the State of New Mexico ("State"), and Research & Polling, Inc. ("Contractor").

In consideration of their mutual promises, the parties agree that:

1. **Scope of Work.** The Contractor will furnish technical consulting services to the LCS as generally requested and directed by or through the Director of the LCS, including the following specified services:

A. design alternative legislative, congressional and Public Education Commission (PEC) redistricting plans as requested through the LCS by the redistricting committee and the legislature and finalize alternative plans during the special legislative session for redistricting;

B. as requested by the Director of the LCS, provide expert technical assistance to the New Mexico Legislative Council, the redistricting committee, the legislature and the LCS, in conjunction with legal counsel, for the development of procedures, policies, guidelines and technical standards to complete state and congressional redistricting while ensuring compliance with the United States Constitution and the federal Voting Rights Act of 1965;

C. develop and provide the necessary database for redistricting, utilizing maps and data from the completed Redistricting Data Program, PL 94-171 data, voter registration and election return data and any other data needed to track changes in precincts and districts since the last census and produce redistricting plans for congressional districts, state legislative districts and PEC districts.

D. recommend appropriate software and hardware necessary for production and distribution of redistricting plans and maps and provide necessary training to LCS staff as designated by the Director of the LCS;

E. assist LCS staff and the redistricting committee in preparation for and participation in public hearings on redistricting throughout the state or online virtual meetings, if necessary, and in committee hearings during legislative sessions dealing with redistricting;

F. develop county-level, regional-level and statewide-level tables and maps comparing 2010 census data with 2020 census data;

G. develop and assist in presenting alternate redistricting plans at public hearings;

H. meet with LCS staff, the redistricting committee, the New Mexico Legislative Council and legal counsel as needed to plan for and coordinate redistricting tasks properly;

I. assist and advise the secretary of state, county clerks and county commissioners in making any changes to precincts that are necessary to meet the legal and constitutional requirements of redistricting and to ensure that all precincts coincide with the census block boundaries of the completed redistricting data program;

J. advise and coordinate with Legislative Information Service staff on appropriate data transfer to the LCS and from the LCS to the legislature and the public;

K. provide other services to the LCS relating to the redistricting process as requested by the Director of the LCS, including post-session services necessary to complete the redistricting process; and

L. if there are legal challenges to the redistricting process or plans, negotiate with the LCS on the provision of and compensation for services necessary for such legal proceedings if requested by the Director of the LCS.

2. **Compensation.**

A. The LCS shall pay the Contractor compensation for services rendered, materials and supplies provided and expenses approved pursuant to Subparagraph B of this paragraph no more than one million fifty-five thousand dollars (\$1,055,000) for work done in fiscal years 2021 and 2022, except as provided in Subparagraphs C and E of this paragraph. The LCS shall pay the Contractor:

- (1) for services rendered at the rate of:
 - (a) two hundred dollars (\$200) per hour for the president;
 - (b) one hundred fifty dollars (\$150) per hour for the vice president;
 - (c) one hundred dollars (\$100) per hour for redistricting specialists; and
 - (d) seventy-five dollars (\$75.00) per hour for other staff;

(2) materials and supplies at actual cost; and

(3) reimbursement or allowance for expenses for necessary travel in accordance with Subparagraph B of this paragraph.

B. The Contractor agrees that any out-of-state travel must be approved in advance by the Director of the LCS. The LCS shall pay the Contractor for all necessary travel as follows:

(1) reasonable lodging and other accommodations at actual cost, including the reasonable costs for accommodations during the special legislative session for redistricting;

(2) map mileage for in-state travel at the federal Internal Revenue Service standard mileage rate;

(3) for approved out-of-state travel, taxi and other transportation at actual cost; and

(4) for travel to meetings outside of Albuquerque, an allowance of forty dollars (\$40.00) per day for meals.

C. The LCS shall pay the Contractor the New Mexico gross receipts tax for which the Contractor is liable on the amount of compensation payable under this Agreement. The limitation of Subparagraph A of this paragraph does not include gross receipts tax passed on to the LCS.

D. Payment shall be made upon receipt and review by the LCS of a detailed statement from the Contractor of services rendered in the period preceding the month the bill is submitted. Billing shall not be made more frequently than monthly.

E. Following the special legislative session for redistricting, the LCS may decide whether services necessary to address any legal challenges to the redistricting process or plans are required and may negotiate with the Contractor to amend the Agreement accordingly.

3. **Term.** This Agreement is effective on November 9, 2020 and shall continue in effect until June 30, 2022, unless it is terminated earlier pursuant to Paragraph 4 of this Agreement. It may be renewed for an additional term of up to two (2) years beginning on July 1 of the year of renewal.

4. **Termination.** This Agreement may be terminated without cause by either of the parties upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. A termination pursuant to this provision does not nullify a party's obligations for performance or liabilities for failure to perform already incurred prior to the date of termination.

5. **Status of Contractor.** The Contractor is an independent contractor and is not an employee of the State.

6. **Assignment.** The 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 the LCS. An approved assignment or transfer shall include a provision that binds the assignee or transferee to all terms and conditions of this Agreement.

7. **Subcontracting.** The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the LCS.

8. **Records and Audit.** The Contractor shall maintain detailed time records that indicate the date, time and nature of services rendered. These records shall be provided by the Contractor for inspection by the LCS and the State Auditor upon written request of the LCS. The LCS has the right to audit billings both before and after payment. Payment under this Agreement is not a waiver of the right of the LCS to recover excessive or illegal payments.

9. **Appropriations.** The continuation of this Agreement is contingent upon sufficient appropriations and authorizations for expenditures being made by the legislature to permit those payments. If sufficient appropriations and authorizations are not made by the legislature, this Agreement shall terminate upon the Contractor's receipt of written notice of termination from the LCS. The LCS's decision of whether sufficient appropriations and authorizations for expenditures have been made shall be accepted by the Contractor and shall be final.

10. **Release.** Upon receipt of final payment of the amount due under this Agreement, the Contractor shall release the LCS, its employees and the State from all liabilities, claims and obligations arising from or under this Agreement.

11. **Authority.** The Contractor agrees not to purport to bind the State to any obligation not assumed in this Agreement by the State, unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

12. **Application of the LCS's Laws and Policies to Contractor.** In performing services pursuant to this Agreement, the Contractor shall comply with the laws and policies of the LCS just as if the Contractor were a member of the LCS staff.

13. **Product of Services; Copyright.** All materials developed or acquired by the Contractor under this Agreement are the property of the State and shall be delivered to the LCS not later than the termination date of this Agreement. Nothing produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright by or on behalf of the Contractor.

14. **Conflict of Interest.** The Contractor warrants that the Contractor currently has no interest and shall not acquire any interest, direct or indirect, that does or would conflict in any manner or degree with the performance of services required under this Agreement. The Contractor further warrants that the Contractor has not violated the provisions of Section 10-16-8 or 10-16-13 NMSA 1978 by entering into this Agreement.

15. **Amendment.** This Agreement shall not be changed or supplemented except by a written instrument executed by the parties.

16. **Scope of Agreement.** This Agreement incorporates all the agreements and understandings between the parties concerning its subject matter, and all agreements and understandings have been merged into this Agreement. No prior or contemporaneous agreement or understanding, verbal or otherwise, of the parties or their agents concerning the subject matter of this Agreement is valid or enforceable unless included in this Agreement.

17. **Applicable Law.** This Agreement shall be governed by the laws of New Mexico.

18. **Notice.** This Agreement is subject to the applicable provisions of the Procurement Code. That act imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, illegal gratuities and kickbacks.

19. **Equal Opportunity Compliance.** The Contractor agrees to comply with all federal and state laws pertaining to equal employment opportunity. In accordance with all such laws, the Contractor agrees to assure that no person in the United States shall, on the grounds of race, color, national origin, gender, sexual orientation, age or handicap, be excluded from employment or participation in, be denied the benefits of or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If the Contractor is found to be not in compliance with these requirements during the life of this Agreement, the Contractor agrees to take appropriate steps to correct these deficiencies.

STATE OF NEW MEXICO
LEGISLATIVE COUNCIL SERVICE

RESEARCH & POLLING, INC.

By: 
RAÚL E. BURGIAGA, Director


BRIAN SANDEROFF, President

Date: November 10, 2020

Date: Nov. 11, 2020

N.M. Tax I.D. # 2013-6305-1

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