REQUEST FOR PROPOSALS
RFP# 19005
AUTISM CONSULTANT
ISSUED AUGUST 24, 2018

I. PURPOSE OF THIS REQUEST FOR PROPOSALS

Region IX Education Cooperative (REC9) on behalf of the New Mexico Public Education Department (NMPED) Special Education Bureau (SEB) is soliciting proposals from highly qualified individuals or organizations to provide coaching, training, professional development, and technical assistance to adults in New Mexico Public Schools that will be working with children that have a diagnosis of Autism Spectrum Disorder (ASD).

All information regarding this RFP can be found at www.rec9nm.org/Employment_Opportunities under the Requests for Proposals section.

II. SCOPE OF PROCUREMENT: Services Provided Under this RFP

Offerors must be able to provide face to face and virtual coaching, training, professional development, and technical assistance to adults working with children that have a diagnosis of ASD. Training must be evidence based for adult learners. Contractor will work collaboratively with SEB Autism Project Lead to evaluate training topics, type of trainings, on-going support and coaching for the New Mexico Autism Project (NMAP). The coaching and training will improve understanding of evidence based practices to use when working with students that have been diagnosed with ASD and; improve understanding of classroom management and how the environment can effect behavior in the classroom for individuals diagnosed with Autism. Coaching will provide an understanding of positive Behavioral supports/interventions in the educational setting. The coaching will improve understanding on using positive reinforcements in the classroom to have better outcomes for children diagnosed with ASD. Educators will have a better understanding of evidence based practices to have better outcomes for students diagnosed with ASD. Contractor will develop and provide on-line training and staff development opportunities for districts participating in NMAP. Coaching will be provided for up to 12 districts that serve pre-school age students (3-5 years of age) that have been diagnosed with Autism and up to 9 districts (per coach) that serve school age students (6-21 years of age) that have been diagnosed with Autism.

III. CONTRACT/PROCUREMENT MANAGER

Region IX Education Cooperative, on behalf of PED will manage all aspects of procurement whose name, address, telephone number and e-mail address are listed below:

Procurement/Contract Contact:
Name: Kim King
Region IX Education Cooperative
IV. SEQUENCE OF EVENTS
The Contract Manager will make every effort to adhere to the following schedule:

<table>
<thead>
<tr>
<th>Action</th>
<th>Responsible Party</th>
<th>Due Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Issue RFP</td>
<td>Region IX Education Cooperative (REC9)</td>
<td>8/24/2018</td>
</tr>
<tr>
<td>Distribution List</td>
<td>Potential Offerors</td>
<td>8/31/2018</td>
</tr>
<tr>
<td>Deadline to Submit Questions</td>
<td>Potential Offerors</td>
<td>8/29/2018</td>
</tr>
<tr>
<td>Response to Written Questions</td>
<td>Contract Manager</td>
<td>8/31/2018</td>
</tr>
<tr>
<td>Submission of Proposal</td>
<td>Potential Offerors</td>
<td>9/10/2018</td>
</tr>
<tr>
<td>Proposal Evaluation</td>
<td>Evaluation Committee</td>
<td>9/11/2018 - 9/12/2018</td>
</tr>
<tr>
<td>Selection of Finalists</td>
<td>Evaluation Committee</td>
<td>9/13/2018</td>
</tr>
<tr>
<td>Best and Final Offers from Finalists</td>
<td>Offerors</td>
<td>9/14/2018</td>
</tr>
<tr>
<td>Oral Presentations by Finalists (At Region IX and NMPED's Discretion)</td>
<td>Offerors/Evaluation Committee</td>
<td>9/17/2018</td>
</tr>
<tr>
<td>Finalize Contractual Agreements</td>
<td>Agency/Finalist Offerors</td>
<td>9/18/2018</td>
</tr>
<tr>
<td>Contract Award</td>
<td>Agency/Finalist Offerors</td>
<td>9/19/2018</td>
</tr>
<tr>
<td>Protest Deadline</td>
<td>REC9</td>
<td>15 days following the contract award</td>
</tr>
</tbody>
</table>

V. EXPLANATION OF EVENTS
The following paragraphs describe the activities listed in the sequence of events shown in Section IV SEQUENCE OF EVENTS above.
A. **Issuance of RFP**
   This RFP is being issued by Region IX Education Cooperative on behalf of New Mexico Public Education Department, Special Education Bureau on August 24, 2018.

B. **Distribution List**
   An e-mail distribution list will be created for Offerors submitting contact information. Offerors must complete the Distribution List Form via [R9 RFP 19005 Autism Consultant Distribution List](#) by August 31, 2018.

C. **Deadline to Submit Written Questions**
   Potential Offerors may submit written questions to the Kim King (<kim.king@regionix.org>) as to the intent or clarity of this RFP until August 29, 2018 at 4:00 p.m. Mountain Standard Time/Daylight Time as indicated in the sequence of events. Questions shall be clearly labeled and shall cite the Section(s) in the RFP or other document which form the basis of the question.

D. **Response to Written Questions**
   Written responses to written questions will be distributed as indicated in the sequence of events to all potential Offerors whose contact information appears on the distribution list. An e-mail copy of Questions & Answers will be sent to all Offeror’s that submit the Distribution List Form before the deadline.

E. **Submission of Proposal**
   ALL OFFEROR PROPOSALS MUST BE SUBMITTED ELECTRONICALLY FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER NO LATER THAN 4:00 PM MOUNTAIN STANDARD TIME /DAYLIGHT TIME ON SEPTEMBER 10, 2018. Proposals received after this deadline will not be accepted. The date and time of receipt will be electronically timestamped on each proposal.

   Proposals must be addressed and delivered via electronic submission at [REGION IX RFP 19005 AUTISM CONSULTANT SUBMISSION](#).

   A public log will be kept of the names of all Offeror organizations that submitted proposals. Pursuant to NMSA 1978, § 13-1-116, the contents of proposals shall not be disclosed to competing potential Offerors during the negotiation process. The negotiation process is deemed to be in effect until the contract is awarded pursuant to this Request for Proposals. Awarded in this context means the final required state agency signature on the contract(s) resulting from the procurement has been obtained.

F. **Proposal Evaluation**
   An Evaluation Committee will perform the evaluation of proposals. This process will take place as indicated in the sequence of events, depending upon the number of proposals received. During this time, REC9 may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals. However, proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

G. **Selection of Finalists**
   The Evaluation Committee will select and the Procurement Manager will notify the finalist Offerors as per schedule in Sequence of Events or as soon as possible.

H. **Finalize Contractual Agreements**
   Any Contractual agreement(s) resulting from this RFP will be finalized with the most advantageous Offeror(s) as per schedule Sequence of Events or as soon thereafter as possible. This date is subject to change at the discretion of REC9 or NMPED. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the time specified, the State reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.
I. **Contract Awards**
After review of the Evaluation Committee Report and the signed contractual agreement, REC9 will award as per the Sequence of Events or as soon as possible thereafter. This date is subject to change at the discretion of REC9 or NMPED.

The contract shall be awarded to the Offeror (or Offerors) whose proposals are most advantageous to the State of New Mexico and NMPED taking into consideration the evaluation factors set forth in this RFP. The most advantageous proposal may or may not have received the most points. The award is subject to appropriate Department and State approval.

J. **Protest Deadline**
Any protest by an Offeror must be timely and in conformance with NMSA 1978, § 13-1-172 and applicable procurement regulations. ONLY protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals. The 15 calendar day protest period shall begin on the day following the award of contracts and will end at 5:00 pm Mountain Standard Time/Daylight Time on the 15th day. Protests must be written and must include the name and address of the protestor and the request for proposal number. It must also contain a statement of the grounds for protest including appropriate supporting exhibits and it must specify the ruling requested from the party listed below. The protest must be delivered to:

Name: Region IX Education Cooperative – Bryan Dooley
Address: 143 El Paso Rd., Ruidoso, NM 88345
Telephone: (575) 257-2368
Fax: (575) 257-2141
Email: bryan.dooley@regionix.org

Protests received after the deadline will not be accepted.

VI. **GENERAL REQUIREMENTS**
Acceptance of Conditions Governing the Procurement
Submission of a proposal constitutes acceptance of the Evaluation Factors contained in this RFP.

A. **Incurring Cost**
Any cost incurred by the potential Offeror in preparation, transmittal, and/or presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Offeror.

B. **Prime Contractor Responsibility**
Any contractual agreement that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of all requirements of the contractual agreement which may derive from this RFP. Region IX Education Cooperative will make payments to only the prime contractor.

C. **Subcontractors/Consent**
The use of subcontractors is allowed. The prime contractor shall be wholly responsible for the entire performance of the contractual agreement whether or not subcontractors are used. Additionally, the prime contractor must receive approval, in writing, from REC9, before any subcontractor is used during the term of this agreement.

D. **Offeror’s Rights to Withdraw Proposal**
Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The Offeror must submit a written withdrawal request electronically and signed by the Offeror’s duly authorized representative.
The approval or denial of withdrawal requests received after the deadline for receipt of proposals is governed by the applicable procurement regulations.

E. **Proposal Offer Firm**
Responses to this RFP, including proposal prices for services, will be considered firm for one hundred twenty (120) days after the due date for receipt of proposals or ninety (90) days after the due date for the receipt of a best and final offer, if the Offeror is invited or required to submit one.

F. **Disclosure of Proposal Contents**
Proposals will be kept confidential until negotiations and the award are completed by REC9. REC9 will not disclose or make public any pages of a proposal on which the potential Offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements:
Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal.
Confidential data is restricted to:
- confidential financial information concerning the Offeror’s organization;
- data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, NMSA 1978 § 57-3A-1 to 57-3A-7.

PLEASE NOTE: The price of products offered or the cost of services proposed shall not be designated as proprietary or confidential information.

If a request is received for disclosure of data for which an Offeror has made a written request for confidentiality, Region IX Education Cooperative shall examine the Offeror’s request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

G. **No Obligation**
This RFP in no manner obligates the State of New Mexico or any of its Agencies to the use of any Offeror’s services until a valid written contract is awarded and approved by appropriate authorities.

H. **Termination**
This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when the agency determines such action to be in the best interest of the State of New Mexico.

I. **Sufficient Appropriation**
Any contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such terminations will be effected by sending written notice to the contractor. REC9 and NMPED decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

J. **Legal Review**
Region IX Education Cooperative requires that all Offerors agree to be bound by the General Requirements contained in this RFP. Any Offeror’s concerns must be promptly submitted in writing to the attention of Kim King (kim.king@regionix.org).

K. **Governing Law**
This RFP and any agreement with an Offeror which may result from this procurement shall be governed by the laws of the State of New Mexico.

L. **Basis for Proposal**
Only information supplied, in writing should be used as the basis for the preparation of Offeror proposals.
M. Contract Terms and Conditions

The contract between Region IX Education Cooperative and a contractor will follow the format specified and contain the terms and conditions set forth in the Sample Contract Appendix A. However, Region IX Education Cooperative reserves the right to negotiate provisions in addition to those contained in this RFP (Sample Contract) with any Offeror. The contents of this RFP, as revised and/or supplemented, and the successful Offeror’s proposal will be incorporated into and become part of any resultant contract.

Region IX Education Cooperative discourages exceptions from the contract terms and conditions as set forth in the Sample Contract Appendix A. Such exceptions may cause a proposal to be rejected as nonresponsive when, in the sole judgment of the Agency (and its evaluation team), the proposal appears to be conditioned on the exception, or correction of what is deemed to be a deficiency, or an unacceptable exception is proposed which would require a substantial proposal rewrite to correct.

Should an Offeror object to any of the terms and conditions as set forth in the Sample Contract Appendix A strongly enough to propose alternate terms and conditions in spite of the above, the Offeror must propose specific alternative language. REC9 may or may not accept the alternative language. General references to the Offeror’s terms and conditions or attempts at complete substitutions of the Sample Contract are not acceptable to REC9 and will result in disqualification of the Offeror’s proposal.

Offerors must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

If an Offeror fails to propose any alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror), no proposed alternate terms and conditions will be considered later during the negotiation process. Failure to propose alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror) is an explicit agreement by the Offeror that the contractual terms and conditions contained herein are accepted by the Offeror.

N. Offeror’s Terms and Conditions

Offerors must submit with the proposal a complete set of any additional terms and conditions they expect to have included in a contract negotiated with the Region IX Education Cooperative.

O. Contract Deviations

Any additional terms and conditions, which may be the subject of negotiation (such terms and conditions having been proposed during the procurement process, that is, the RFP process prior to selection as successful Offeror), will be discussed only between Region IX Education Cooperative and the Offeror selected and shall not be deemed an opportunity to amend the Offeror’s proposal.

P. Offeror Qualifications

The Evaluation Committee may make such investigations as necessary to determine the ability of the potential Offeror to adhere to the requirements specified within this RFP. The Evaluation Committee will reject the proposal of any potential Offeror who is not a Responsible Offeror or fails to submit a responsive offer as defined in NMSA 1978, § 13-1-83 and 13-1-85.

Q. Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor irregularities. The Evaluation Committee also reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

R. Notice of Penalties
The Procurement Code, NMSA 1978, § 13-1-28 through 13-1-199, imposes civil, misdemeanor and felony criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

S. **Right to Publish**
Throughout the duration of this procurement process and contract term, Offerors and contractors must secure from Region IX Education Cooperative written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement and/or agency contracts deriving from this procurement. Failure to adhere to this requirement may result in disqualification of the Offeror’s proposal or removal from the contract.

T. **Ownership of Proposals**
All documents submitted in response to the RFP shall become property of the State of New Mexico.

U. **Confidentiality**
Any confidential information provided to, or developed by, the contractor in the performance of the contract resulting from this RFP shall be kept confidential and shall not be made available to any individual or organization by the contractor without the prior written approval of Region IX Education Cooperative.

The Contractor(s) agrees to protect the confidentiality of all confidential information and not to publish or disclose such information to any third party without the procuring Agency's written permission.

V. **Electronic mail address required**
A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence.

W. **Use of Electronic Versions of this RFP**
This RFP is being made available by electronic means.

X. **Disclosure Regarding Responsibility**
Any prospective Contractor and any of its Principals who enter into a contract greater than sixty thousand dollars ($60,000.00) with any state agency or local public body for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor’s company:
- is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body;
- has within a three-year period preceding this offer, been convicted in a criminal matter or had a civil judgment rendered against them for:
  - the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract or subcontract;
  - violation of Federal or state antitrust statutes related to the submission of offers; or
  - the commission in any federal or state jurisdiction of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violation of Federal criminal tax law, or receiving stolen property;
- is presently indicted for, or otherwise criminally or civilly charged by any [federal state or local] government entity with the commission of any of the offenses enumerated in paragraph A of this disclosure;
- has, preceding this offer, been notified of any delinquent Federal or state taxes in an amount that exceeds $3,000.00 of which the liability remains unsatisfied. Taxes are considered delinquent if the following criteria apply.

The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge of the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.
The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded. Have within a three year period preceding this offer, had one or more contracts terminated for default by any federal or state agency or local public body.)

Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.

The Contractor shall provide immediate written notice to REC9 if, at any time during the term of this Agreement, the Contractor learns that the Contractor’s disclosure was at any time erroneous or became erroneous by reason of changed circumstances.

A disclosure that any of the items in this requirement exist will not necessarily result in termination of this Agreement. However, the disclosure will be considered in the determination of the Contractor’s responsibility and ability to perform under this Agreement. Failure of the Contractor to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.

The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement. If during the performance of the contract, the Contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with commission of any offenses named in this document the Contractor must provide immediate written notice to the State Purchasing Agent or other party to this Agreement. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the State Purchasing Agent or Central Purchasing Officer may terminate the involved contract for cause. Still further the State Purchasing Agent or Central Purchasing Officer may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the State Purchasing Agent or Central Purchasing Officer.

VII. RESPONSE FORMAT AND ORGANIZATION
Any proposal that does not adhere to the requirements of this Section may be deemed non-responsive and rejected on that basis.

A. NUMBER OF RESPONSES
Offerors shall submit only one (1) proposal in response to this RFP.

B. METHOD OF SUBMISSION
All proposals must be submitted electronically via REGION IX RFP 19005 AUTISM CONSULTANT SUBMISSION. Offeror need only submit a single electronic copy of each portion of the proposal, outlined below.

C. SUBMISSION FORMAT
All information for the technical proposal must be combined into a single pdf file/document for uploading.

D. TECHNICAL ISSUES
For technical support issues contact Kim King, mailto:kim.king@regionix.org (575) 257-2368 Ext 111

E. PROPOSAL FORMAT
All proposals must be submitted as follows:
Typeface must be easily readable such as Arial, Courier, or Times Roman and type size must be 12-point.
The technical proposal may be no longer than 20 single-spaced pages. Supplemental information may be appended to the technical proposal.

F. RESPONSE FORMAT AND ORGANIZATION
The proposal must be organized in the following format and must contain, at a minimum, all listed items in the sequence indicated. Offerors should respond in the form of a thorough narrative to each, unless otherwise instructed. The narratives, including required supporting materials will be evaluated and awarded points accordingly.

a) TECHNICAL PROPOSAL:

(1) Experience (30 points)
Please present a detailed statement of qualifications and summarize relevant experience in coaching, training, professional development, and technical assistance in the following areas:

● Behavioral techniques and interventions
● Children with behavioral needs within a classroom setting
● Collecting ABC data and using that data to determine behavioral strategies for students in a school setting
● Providing training, coach and professional development to early childhood and school aged educators
● Using positive reinforcement with students that have a diagnosis of ASD.
Please include any special or unique characteristics of the individual/organization which would make it especially qualified to perform the specific work required by this RFP.

(2) Staff Qualifications (30 points)
It is highly preferred offerors have qualifications in the following:

● BCBA certification
● Certifications or licensures that demonstrate knowledge in behavior, development or using data to provide instructional planning
● Certification or specialized training as Training the Trainer
● Certification or specialized training

Summarize the background and qualifications of key personnel. If subcontractors are to be used, please specify the name, address, and a brief description of the subcontractors’ organizational capacity and qualifications.

(3) Similar Projects (10 points)
Offerors must submit relevant organizational information, a list of similar projects undertaken and/or clients served, agency expertise relative to the services requested, and a statement of existing workload as it impacts the performance of the project. Please provide a sample of professional development that has been delivered.

(4) References (10 points)
Offerors must submit three references and include organization name, contact person, phone, e-mail address and services performed.

b) COST PROPOSAL (20 points)
The contractor must prepare a cost proposal reflecting the hourly rate or other fee structure proposed for the scope of services.

This procurement will result in a contractual agreement between two parties; the procurement may be used by other state agencies.
VIII. TERMS OF THE CONTRACT
The contract shall be implemented for a term of one (1) calendar year, and may be extended on an annual basis for up to one (1) year in one-year increments for a total of four (4) years, contingent upon sufficient funding and satisfactory work performance provided by the selected vendor. In no case will the contract, including all renewals thereof, exceed a total of four (4) years in duration.

IX. Administrative Requirements
Contractor must be a licensed business in the State of New Mexico.
All materials created as a result of the contract will be sole property of the State of New Mexico.
Contractor will provide comprehensive quarterly reports to NMPED Autism Project Lead.
Contractor must submit a background check
Administrative fee cannot exceed 10%.
Contractor must be able to execute the contract within 14 days of receipt.

X. EVALUATION
EVALUATION POINT SUMMARY
The following is a summary of evaluation factors per Level including point values assigned per sub-category. The points values assigned will be used in the evaluation of individual potential Offerors proposals received for this RFP.

<table>
<thead>
<tr>
<th>Factors</th>
<th>Points Available</th>
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<tbody>
<tr>
<td>Experience</td>
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</tr>
<tr>
<td>Staff Qualifications</td>
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<tr>
<td>Similar Projects</td>
<td>10</td>
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<tr>
<td>References</td>
<td>10</td>
</tr>
<tr>
<td>Cost Proposal</td>
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</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>100 points</strong></td>
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</tbody>
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APPENDIX A
SAMPLE CONTRACT

PROFESSIONAL SERVICES CONTRACT

Contract #

THIS AGREEMENT is made and entered into by and between the State of New Mexico, REGION IX EDUCATION COOPERATIVE (REC IX), hereinafter referred to as the “Agency,” and <<CONTRACTOR>> (XXXX), hereinafter referred to as the “Contractor,” and is effective as of the date set forth below upon which it is executed by the REC IX Executive Director.

IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work.**
   The Contractor shall provide professional services pursuant to the detailed scope of work and budget attached as Addendum A.

2. **Compensation.**
   A. The Agency shall pay to the Contractor monthly payments for services satisfactorily performed and expenses incurred pursuant to “ADDENDUM A,” such compensation not to exceed $XXXXXXXXXXXXX dollars, including gross receipts tax. Expenses shall include, but not be limited to, report writing, professional development, phone consultations, follow-up recommendations, travel, lodging, meals, mileage, and all taxes and fees. The **total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed $XXXXXXXXXXXX.** This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the Agency when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.

   B. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the <<New Mexico Public Education Department>> pursuant to Intergovernmental Agreement #<<XX-XX-XXXXX>>. All invoices MUST BE received by the Agency no later June 26, 2019. Invoices received after such date WILL NOT BE PAID.

   C. Contractor shall submit certified detailed invoices accounting for all services performed and expenses incurred. If the Agency finds that the services or expenses are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall
provide the Contractor a letter of exception explaining the defect or objection to the services or expenses, and outlining steps the Contractor may take to provide remedial action. Upon certification by the Agency that the services or expenses have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the agency shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

3. **Term.**

   THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL SIGNED BY THE REC IX EXECUTIVE DIRECTOR. This Agreement shall terminate on **June 30, 2019** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations).

4. **Termination.**

   A. **Grounds.** The Agency may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Agency’s uncured, material breach of this Agreement.

   B. **Notice; Agency Opportunity to Cure.**

      1. Except as otherwise provided in Paragraph (4)(B)(3), the Agency shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

      2. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency’s material breaches of this Agreement upon which the termination is based and (ii) state what the Agency must do to cure such material breaches. Contractor’s notice of termination shall only be effective (i) if the Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Agency does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

      3. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the Agency; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the State Purchasing Agent; or (iii) the Agreement is terminated pursuant to Paragraph 5, “Appropriations”, of this Agreement.

   C. **Liability.** Except as otherwise expressly allowed or provided under this Agreement, the Agency’s sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor’s receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party’s liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. **THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE AGENCY’S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR’S DEFAULT/BREACH OF THIS AGREEMENT.**

   D. **Termination Management.** Immediately upon receipt by either the Agency 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 Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency 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 Agency upon termination and shall be submitted to the agency as soon as practicable.

5. **Appropriations.**
   The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, this Agreement shall terminate immediately upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Agency 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.

6. **Status of Contractor.**
   The Contractor and its agents and employees are independent contractors performing professional services for the Agency and are not employees of the REC IX. The Contractor and its agents and employees shall not accrue leave, retirement, insurance or any other benefits afforded to employees of the Agency as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the REC IX unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. **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 Agency.

8. **Subcontracting.**
   The Contractor shall not subcontract any portion of the services to be performed under this Agreement **without the prior written approval of the Agency.** No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the Agency. A copy of an approved subcontract shall be sent to the Agency within 15 days of final execution.

9. **Release.**
   Final payment of the amounts due under this Agreement shall operate as a release of the Agency, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

10. **Confidentiality.**
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 Agency. Contractor further agrees to comply with all provisions of the Family Educational and Privacy Act (FERPA), 20 U.S.C. Sec. 1232 (g) and to hold Agency harmless from claims, complaints or causes of action arising from an alleged violation of FERPA.

11. **Product of Service -- Copyright.**

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 Agency no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor. Contractor shall further not cite to materials, data, analyses or reports developed or acquired under this Agreement without written permission of the REC IX Executive Director or the Executive Director’s Designee.

12. **Amendment.**

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

13. **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.

14. **Penalties for violation of law.**

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.

15. **Applicable Law.**

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 NMSA 1978, § 38-3-1 (G). 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.

16. **Records and Financial Audit.**
A. The 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 the Agency and the State Auditor. The Agency shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

B. Contractor shall provide background checks for any employees or sub-contractors that may have contact with children.

17. **Indemnification.**

The Contractor shall defend, indemnify and hold harmless the Agency and the State of New Mexico from all actions, proceeding, 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 the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant 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 the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the Agency by certified mail.

18. **Invalid Term or Condition.**

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.

19. **Enforcement of Agreement.**

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.

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 the Agency:
Kim King
143 El Paso Rd.
Ruidoso, NM  88345
Kim.King@regionix.org.

To the Contractor:
21. **Authority.**

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.

22. **Insurance.**

Contractor shall maintain in force during the entire term of this Agreement comprehensive general liability insurance and shall produce a copy of policy if requested by RECIX.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the AGENCY EXECUTIVE DIRECTOR below.

By: Date:

Bryan Dooley, REC IX Executive Director

By: Date:

Name

Print Title
Addendum A

This Addendum is attached to and forms part of the Contract between REC IX and <Contractor Name>. It is an integral part of the Contract and except as set forth herein, subject to its terms and conditions.

Scope of Work:
Contractor shall, under the direction of the SEB Project Lead, provide coaching, training, and technical assistance through technology, webinars, face to face trainings, zoom meetings, and other means of training that are evidence based for adult learners.

Contractor shall work collaboratively with SEB (including project lead) at all times in order to discuss and evaluate what training topics need to be addressed during the 2018-2019 school year. Will work with SEB Project Lead to evaluate the type of trainings as well as what is needed for on-going support and coaching needed for the state.

All training materials developed through the Autism Project will have PED logo and will be vetted through PED/Autism Lead.

Contractor will be assigned school districts based on need and with SEB Project Lead approval.

Contractor will work with the University of New Mexico (UNM) as requested by SEB Project Lead to ensure continuity of Autism Project and training needs.

Contractor will develop four webinars to be housed on the Autism Portal/Region IX website. Webinars topics will be approved through SEB Project Lead.

Start Date: *Contingent upon fully executed contract
End Date: June 30, 2019

Budget
This is a <FEE FOR SERVICE> contract.
<Insert Budget/Fee Schedule Here>

Submit Invoices to:
Region IX Education Cooperative
Kim King
kim.king@regionix.org

Administrative
Provide the SEB Autism Project Lead comprehensive quarterly reports delineating activities and individuals served. Reports will include: school name, sign in sheets quarterly, titles of trainings recommended through Autism Portal, trainings that were given to district staff and coaching that was given to district and date district received.