

STATE OF NEW MEXICO

Legislative Council Service

Agreement for Professional Consulting Services

This Agreement is made between the Legislative Council Service ("LCS"), an agency of the legislative branch of the State of New Mexico, on behalf of the Citizen Redistricting Committee ("CRC"), and David Cottrell ("Contractor").

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

1. **Scope of Work.** The Contractor shall furnish the following services to the CRC as requested and directed by the chair of the CRC, Hon. Edward L. Chávez.

A. All services are to be provided by the Contractor; provided that the Contractor may confer with other experts in quantitative social science, including Dr. Jowei Chen, at the Contractor's discretion.

B. For each district plan that the CRC adopts, the Contractor shall prepare a written evaluation of that plan. Each written evaluation shall include:

(1) measures of partisan fairness, which shall be informed by:

(a) prior partisan election data in New Mexico, collected within the past ten (10) years;

(b) a comparison of the CRC's adopted plans for each districted body against an ensemble of computer-simulated district plans for each districted body; provided that the computer-simulated district plans must: i) include constraints imposed by the federal Voting Rights Act of 1965, as amended, and other constraints identified by the CRC; and ii) be composed of precincts and not smaller units of population; and

(c) established standards for measuring partisan gerrymandering and the partisan fairness of district plans, including the efficiency gap, the mean-median test, partisan symmetry, expected outcomes by party and any other metrics that the Contractor recommends, including measures of compactness and competitiveness;

(2) a narrative and general description of the codes or algorithms that create the computer-simulated district plans; and

(3) a narrative description of each metric of partisan fairness and other metrics employed to compare the ensemble of computer-simulated plans with the CRC's adopted district plans.

C. The Contractor shall work from data sets provided by the CRC, the United States Census Bureau and other CRC contractors, including Research & Polling, Inc., and data made available by the secretary of state.

D. If the Contractor receives an adopted district plan from the CRC, or the CRC's contractor, Research & Polling, Inc., on or before October 20, 2021, the Contractor shall deliver the written evaluation corresponding to that plan to the CRC by October 27, 2021. If the Contractor receives an adopted district plan from the CRC, or the CRC's contractor, Research & Polling, Inc., after October 20, 2021, the Contractor shall deliver the written evaluation corresponding to that plan to the CRC within seven (7) days of receiving the adopted district plan from the CRC.

E. The Contractor shall comply with any prohibitions on ex parte communications with individuals who are not CRC members or staff or other CRC contractors, as set forth in rules of procedure adopted by the CRC.

F. Before the CRC or the CRC's contractor, Research & Polling, Inc., delivers adopted district plans to the Contractor, the Contractor shall provide updates to the chair of the CRC on the development of the ensemble of computer-simulated district plans. The updates shall be provided on or before August 1, 2021, September 1, 2021 and October 1, 2021.

G. The Contractor shall virtually attend a public meeting of the CRC if requested by the chair of the CRC and make any presentations on performance under this Agreement, if requested.

2. **Compensation.**

A. The LCS shall pay the Contractor as compensation for services rendered two hundred dollars (\$200) per hour. The total compensation to be paid the Contractor during the term of this Agreement shall not exceed forty thousand dollars (\$40,000).

B. The parties do not intend for the Contractor to continue to provide services without compensation if the total compensation limitation of Subsection A of this section is reached. The Contractor is responsible for notifying the CRC when the services provided under this Agreement reach the total compensation limitation.

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 Subsection A of this section does not include the gross receipts tax passed on to the LCS.

D. The Contractor shall submit its invoices to the CRC on a monthly basis, and the CRC shall remit the Contractor's invoices to the LCS for payment. 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.

3. **Term.** This Agreement shall be effective on July 3, 2021 and extend through December 31, 2021, unless it is terminated earlier pursuant to Section 4 of this Agreement. The term of the Agreement may be extended as necessary by mutual agreement of the parties.

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. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

5. **Status of Contractor.** The Contractor and the Contractor's agents and employees are independent contractors performing the services described in Section 1 of this Agreement for the CRC and are not employees of the State of New Mexico. The Contractor and the Contractor's agents and employees shall not, as a result of this Agreement, accrue leave, retirement, insurance, bonding, use of state vehicles or any other benefits afforded to employees of the State of New Mexico.

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 and the CRC.

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 CRC.

8. **Records and Audit.** The Contractor shall maintain detailed time records, which indicate the date, time and nature of services rendered. These records shall be provided by the Contractor for inspection by the LCS, the CRC and the State Auditor upon written request of the LCS or the CRC. The LCS and the CRC have 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 New Mexico Legislature to permit those payments. If sufficient appropriations and authorizations are not made by the New Mexico Legislature, this Agreement shall, notwithstanding the provisions of any other section of this Agreement, 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 and the CRC, their employees and the State of New Mexico from all liabilities, claims and obligations arising from or under this Agreement.

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

12. **Confidentiality.** Any information given 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 entity by the Contractor without the prior approval of the CRC.

13. **Product of Services; Copyright.** All work and rights to work produced, developed or acquired by the Contractor under the Agreement, including ownership of any copyrights to work produced under the Agreement, shall be transferred to and become the exclusive property of the state, and all materials developed or acquired under the Agreement shall be delivered to the CRC not later than the termination date of the Agreement. The Contractor and LCS acknowledge that the compensation paid to the Contractor is due consideration for transfer of ownership of any copyrights for work produced under the Agreement.

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 an instrument in writing executed by the parties.

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

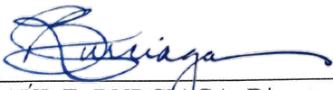
17. **Applicable Law.** This Agreement shall be governed by the laws of the State of New Mexico.

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

Signed by the parties on the dates indicated:

STATE OF NEW MEXICO
LEGISLATIVE COUNCIL SERVICE

By: 
RAÚL E. BURCIAGA, Director


DAVID COTTRELL, Contractor

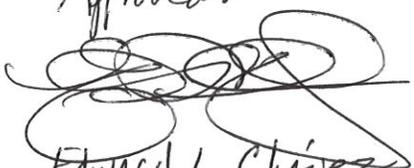
Date: July 12, 2021

Date: July 9, 2021

N.M. Tax I.D. # _____

Federal Tax I.D. # _____

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Approved:

Edward L. Chavez
Chair, Citizen Redistricting Committee
7/11/2021