

**AGREEMENT
BETWEEN
THE GOVERNOR OF THE STATE OF NEBRASKA,
THE GREATER NEBRASKA CHIEF ELECTED OFFICIALS BOARD,
AND
THE NEBRASKA DEPARTMENT OF LABOR**

Grant Recipient Services

THIS AGREEMENT (Agreement) is entered into on July 1, 2020 between the Governor of the State of Nebraska (Governor), the Greater Nebraska Chief Elected Officials Board (GNCEOB), and the Nebraska Department of Labor (NDOL).

WHEREAS, the federal Workforce Innovation and Opportunity Act of 2014 (Public Law 113-128) (WIOA) has been implemented in the State of Nebraska; and

WHEREAS, the Greater Nebraska Workforce Development Area (GNWDA) is one of three designated local workforce development areas in the State of Nebraska, and serves 88 counties (which includes all of Nebraska except Lancaster, Saunders, Douglas, Washington, and Sarpy Counties); and

WHEREAS, the Governor has agreed to act as grant recipient and Chief Elected Official (CEO) for the GNWDA, and has appointed a board of municipal and county elected officials to carry out the CEO duties in the GNWDA as prescribed in WIOA, and such board is referred to as the Greater Nebraska Chief Elected Officials Board (GNCEOB); and

WHEREAS, NDOL has been designated as the local grant recipient and has agreed to be the administrative entity for the GNWDA; and

WHEREAS, the parties are entering into this Agreement in order to formally set forth their roles and responsibilities.

NOW, THEREFORE, the parties agree as follows:

I – RESPONSIBILITIES OF THE PARTIES

- A. The GNCEOB, representing the Governor as CEO under WIOA, has responsibilities, including but not limited to, the following:
1. Select and appoint the Greater Nebraska Workforce Development Board (GNWDB) in accordance with criteria established under WIOA.
 2. Enter into an agreement with the GNWDB, describing roles and responsibilities of the parties.
 3. Establish bylaws for the GNWDB.
 4. In partnership with the GNWDB, set policy for the portion of the statewide workforce development system within the local area.

5. Review and approve the four-year local plan (the next plan will be effective July 1, 2021), developed by the GNWDB under Section 108(a) of WIOA and its implementing regulations.
 6. Request designation for the GNWDA in collaboration with the GNWDB.
 7. Approve actions of the GNWDB, including but not limited to, the GNWDB's selection of a one-stop operator, or local board's intent to serve as the one-stop-operator and/or provide career services, prior to requesting approval from NDOL, according to the requirements of 20 CFR § 679.410.
 8. In collaboration with the GNWDB, designate/certify the American Job Centers for the GNWDA.
 9. Review and approve the memorandums of understanding developed by the GNWDB with American Job Center partners concerning the operation of the American Job Center network delivery system in the GNWDA.
 10. Consult with the state board and NDOL, as appropriate, regarding significant structural, planning, operational, and performance matters pertaining to the delivery of workforce services, including consultation related to: (a) designation of local areas; (b) identification of planning regions; (c) allocation of WIOA Title IB funds; and (d) policies regarding certification of American Job Centers (AJCs) and funding of AJC infrastructure costs.
 11. Consult with NDOL, as requested, regarding a reorganization plan developed in relation to decertification of the local board.
 12. Enter into an agreement among the chief elected officials in the GNWDA.
 13. Other responsibilities and functions as designated in WIOA and other applicable law and policies, including but not limited to the State WIOA Policy on Workforce Development Boards and Chief Elected Officials.
- B. NDOL, as grant recipient, shall provide the following administrative services:
1. Staff support through NDOL's Employment and Training Division (E&T) to the GNWDB and GNCEOB, including the provision of Youth Services and Adult and Dislocated Worker Services, as provided in separate agreements regarding such services.
 - a. Employees or contractors shall report directly to NDOL.
 - b. NDOL shall determine staffing levels at its discretion.
 2. Preparation of program plans, budgets, related schedules, and modifications.
 3. Negotiation of memorandums of understanding and awarding of specific subgrants, contracts, and purchase orders through appropriate procurement processes.
 4. Oversight and monitoring of agreements for service and training providers.
 5. Conducting public relation activities that are related to program outreach.

6. Development of systems and procedures including information systems for assuring compliance with program requirements.
 7. Development of Individual Training Account (ITA) system for participants.
 8. Assisting in the designation/certification of the American Job Centers.
 9. Assisting GNWDB in negotiation of performance measures.
 10. Resolution of findings arising from audits, reviews, incident reports, grievances and complaints.
 11. General administrative services, including legal services, financial management and accounting services, audit services, managing purchasing, property, payroll and personnel, and recordkeeping.
 12. Ensure proper internal controls and prevent conflict of interest related to NDOL services.
 13. NDOL shall administer the funds allocated to the local system through Governor according to the budget established by GNCEOB. NDOL shall have authority to approve or deny applications for funds and execute all contracts and agreements entered into with the United States Department of Labor, the Governor of Nebraska, or other departments, agencies, organizations, businesses, or local governments as deemed necessary and desirable under the WIOA or under the local plan. The administration of budgeted funds shall include the right to apply for, receive, and expend grants, and to make transfers of unencumbered balances or portions thereof between major expense categories.
 14. NDOL shall be the fiscal agent of the GNWDA and shall fulfill the functions delineated in this Agreement. Additionally, NDOL shall fulfill the functions set out in 20 CFR § 679.420.
 15. All purchases for the GNWDA by NDOL shall be made in accordance with applicable law and the purchasing regulations of the State and the GNWDA procurement policy, and all funds shall be handled by and through NDOL as Administrative Entity. No funds shall be disbursed except as authorized by this Agreement.
- C. Additional assignments and responsibilities may be negotiated, and agreed to, between the parties to this Agreement.

II – REIMBURSEMENT

Reimbursement for the services provided by NDOL shall be based upon actual expenses incurred by NDOL, and shall be paid from WIOA fund sources. In no event shall such actual expenses exceed the funding sources available.

III – TERM AND TERMINATION

- A. This Agreement is effective July 1, 2020 through June 30, 2023, and supersedes the prior Agreement between the parties. This Agreement may be renewed for one (1) additional two (2) year period.
- B. This Agreement may be amended, extended, or renewed (as specified herein), upon mutual written agreement of the parties.
- C. This Agreement shall terminate upon the occurrence of any one or all of the following:
1. Mutual, written agreement of the parties.
 2. In full, or in part, in the event of a lack of funding or termination of federal funds which permit funding this Agreement. In that event, payment shall be made to NDOL for services rendered and completed prior to termination of the Agreement.
 3. Upon sixty (60) days' notice by one party to the others.
 4. In the event this Agreement is declared void or unenforceable by final order of a court of competent jurisdiction.
 5. Expiration of the term of the Agreement.
 6. In the event of a default or violation of the terms of this Agreement by a party, or failure to use the funds for only those purposes set forth herein, or failure by a party to make sufficient progress so as to endanger performance, another party may:
 - a. Suspension: After ten (10) days' notice to the breaching party, suspend the Agreement, pending corrective action, or a decision to terminate.
 - b. Termination: Terminate the Agreement in whole or in part at any time before the date of completion whenever it is determined that a party has failed to comply with the terms and conditions of the Agreement. However, the party shall provide the breaching party with notice, in writing, of the terms and conditions it has failed to comply with and at least thirty (30) days in which to cure such defect or failure, unless such delay would cause irreparable harm to the program. In the event of irreparable harm, forty-eight (48) hours to cure such defect or failure will be adequate. The party shall promptly notify the breaching party in writing of the determination and the reasons for the termination, together with the effective date.
 - c. When there is a termination for cause, payments or recoveries shall be in accord with the legal rights and liabilities of the parties. Payments and recoveries may include, but are not limited to, unencumbered funds advanced to NDOL, payments allowed for costs determined to be in compliance with the terms of this Agreement up to the date of termination. Further, any costs previously paid to NDOL which are subsequently determined to be unallowable through an audit conducted by the State of Nebraska or the Federal Government, and closeout procedure may be recovered.

IV- COMPLIANCE WITH APPLICABLE LAW

- A. NDOL and GNCEOB agree to comply with WIOA and its implementing regulations, and all other applicable law, regulation, guidance, and policy; including but not limited to, requirements imposed by federal appropriation acts for WIOA, terms imposed through United States Department of Labor (USDOL) WIOA federal funding agreements (Federal Award Terms), applicable USDOL guidance, and requirements in 2 CFR Part 200 and 2 CFR Part 2900.
- B. In the event that WIOA funds are expended in a manner contrary to applicable requirements, such funds will have to be repaid to the federal government. In such event, amounts of future grants (if any) may be reduced in order to make any such repayment.

V- CORRECTIVE ACTION

NDOL and GNCEOB understand that the Governor will require on-site monitoring of the GNWDA. In the event of poor performance or noncompliance with WIOA or other applicable law, regulation, and policy, the Governor may require corrective action, or impose sanctions authorized under WIOA and its implementing regulations. Nothing contained in this Agreement will reduce the Governor's authority under WIOA or other applicable law, regulation, and policy.

VI - POINT OF CONTACT AND NOTICES

- A. NDOL and GNCEOB designate the following individuals as their Points of Contact (POC):

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|---|---|
| NDOL: | |
| Mary Anne Bradfield Deputy Commissioner for Reemployment 550 S. 16th Street P.O. Box 94600 Lincoln, NE 68509-4600 | Telephone: (402) 471-9948 E-Mail: maryanne.bradfield@nebraska.gov |
| GNCEOB: | |
| Pam Lancaster Chair 2809 Apache Road Grand Island, NE 68801 | Telephone: (308) 381-2754 E-Mail: pelcommish@charter.net |

- B. Except as otherwise expressly specified herein, all notices, requests, or other communications shall be in writing and shall be deemed to have been given if delivered personally or mailed by U.S. Mail, postage prepaid and return receipt requested, to the POCs at their respective addresses set forth in this Agreement, or at such other addresses as may be specified in writing by either of the parties. All notices, requests, or communications shall be deemed effective upon personal delivery or deposit in the mail.

VII - STAFFING

- A. This Agreement does not create an employment relationship or establish other employment-related rights. GNWDB, or any related governmental entity, and NDOL shall retain all supervisory responsibility over their respective staff providing services required under this Agreement. Services provided shall be scheduled during regular work hours, be subject to availability, and

shall, in no event, limit or restrict NDOL's or other partnering staff's ability to provide other essential services.

- B. Personnel of NDOL are not and will not be considered employees of the GNCEOB or the GNWDB, nor will they be under the supervision of the GNCEOB or the GNWDB. NDOL will honor all rules and terms set forth by State Personnel, NDOL's Office of Finance & Human Relations, and the Union Contract.

VIII - DEBARMENT, SUSPENSION OR DECLARED INELIGIBLE

- A. Each party certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. It is each party's affirmative duty to notify the other party if it or any of its principals is sanctioned or debarred. Each party acknowledges that suspension or debarment is cause for termination.
- B. NDOL must ensure that no contractors used in the performance of services under this Agreement (if any) are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

IX - DISASTER RECOVERY

NDOL shall have a disaster recovery and back-up plan, which includes, but is not limited to equipment, personnel, facilities, and transportation, in order to continue delivery of services as specified in the Agreement in the event of a disaster.

X - DRUG FREE WORKPLACE

NDOL shall comply with all provisions contained in the State Of Nebraska Drug Free Workplace Policy.

XI - FORCE MAJEURE

Neither party to this Agreement shall be liable for any costs or damages resulting from its inability to perform any of its obligations under the Agreement due to a natural disaster, public health crisis, or other similar event outside the control of and not the fault of the affected party (Force Majeure Event). A Force Majeure Event shall not constitute a breach of the Agreement. The party so affected shall immediately give notice to the other party of the Force Majeure Event. Either party may grant relief from performance of the Agreement if the other party is prevented from performance by a Force Majeure Event. The burden of proof for the need for such relief shall rest upon the party giving notice. To obtain release based on a Force Majeure Event, the party shall file a written request for such relief with the other party. Labor disputes with the impacted party's own employees will not be considered a Force Majeure Event and will not suspend performance requirements under the Agreement.

XII - EMPLOYEE WORK ELIGIBILITY STATUS

The parties are required and hereby agree to comply with Neb. Rev. Stat. §§4-108 through 4-114 regarding requiring verification of lawful presence for purposes of public benefits, and verification of work eligibility status for the purposes of public employment.

XIII - WORK ENVIRONMENT

NDOL shall provide a safe and secure place of work, and shall maintain all legally required health and safety standards.

XIV – GOVERNING LAW

Notwithstanding any other provision of this Agreement, or any amendment or addendum(s) entered into contemporaneously or at a later time, the parties understand and agree that, (1) the State of Nebraska (State), of which NDOL is an agency, is a sovereign state and its authority to contract is therefore subject to limitation by the State's Constitution, statutes, common law, and regulation; (2) this Agreement will be interpreted and enforced under the laws of the State of Nebraska; (3) any action to enforce the provisions of this Agreement must be brought in the State of Nebraska per state law; (4) the person signing this Agreement on behalf of the State does not have the authority to waive the State's sovereign immunity, statutes, common law, or regulations; and (5) all terms and conditions of the Agreement are entered into specifically subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity.

XV - ENTIRE AGREEMENT

This Agreement, including any items incorporated herein by reference, contains the entire agreement of the parties. No representations were made or relied upon by either party other than those that are expressly set forth herein. No rights or remedies to third parties not part of this Agreement are created herein.


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[signature page follows]


XVI- SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, each duly authorized to do so, effective July 1, 2020.

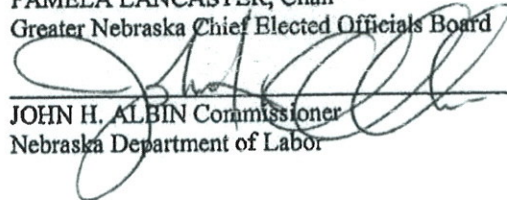
7/24/20
Date


PETE RICKETTS, Governor
State of Nebraska


7-8-2020
Date


PAMELA LANCASTER, Chair
Greater Nebraska Chief Elected Officials Board

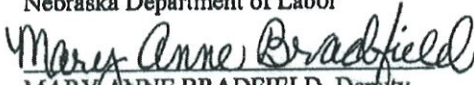
6/26/2020
Date


JOHN H. ALBIN Commissioner
Nebraska Department of Labor


REVIEWED AND APPROVED:


KIM SCHREINER, Controller
Nebraska Department of Labor

6-25-2020
Date


MARY ANNE BRADFIELD, Deputy
Commissioner for Reemployment
Nebraska Department of Labor

6/25/2020
Date


KATIE S. THURBER, General Counsel
& Interim UI Director
Nebraska Department of Labor

6/25/2020
Date