

Services Contract



(not for procuring equipment, supplies, property, construction, repair, or leasing)

This Contract is between Dena' Nena' Henash, d/b/a Tanana Chiefs Conference, an Alaska Native inter-tribal consortium, (TCC), 122 First Avenue, Suite 600, Fairbanks AK 99701, and _____ (Contractor), (individually a "Party" and collectively, "the Parties").

1. Scope of Services ("Services"). Tanana Chiefs Conference (TCC) enters this Contract with Contractor and Contractor agrees to provide the following Services:

- 1.1 Contractor shall furnish legal advice and legal services as directed by TCC's Legal Division to matters concerning energy services, telecommunication/broadband regulatory issues, Federal Energy Regulatory Commission (FERC) requirements, related tax issues, budget and construction issues, grant/contract review and negotiations, as well as other issues related to the grant awards.
- 1.2 Contractor will also provide legal advice and guidance regarding the evaluation and/or implementation of any new business entities needed for these grants under TCC's non-profit Tribal status, or independent of TCC's organizational structure.
- 1.3 Contractor shall be available for mutually agreed scheduled meetings via zoom, phone or in-person meetings as requested by TCC's Legal Division to travel to Fairbanks, Alaska to meet with TCC Staff, TCC Grant partners, and Tribal representatives.
- 1.4 Contractor agrees to use its best efforts to provide timely and quality services which meet all standards applicable to the relevant industry or services being carried out.

2. Management. The TCC Administration Department will manage this contract for TCC. Robin Brown, TCC General Counsel will be TCC's Contract Manager, and Olivia Karns is Contractor's primary contact at TCC. Contractor's primary contact for TCC will be _____. If a Party changes its primary contact(s) then the Party will promptly notify the other in writing of the change.

3. Term of Contract. This Contract shall commence on 6/1/2024 and shall terminate on 9/30/2027 unless terminated sooner as provided in Section 9 of this Agreement. TCC shall not be liable for any fees for services provided before the commencement date, any fees for Services provided after the termination date, or for any fees or expenses in excess of the Contract amount provided herein. This Contract may be renewed beyond

the termination date by the express written consent of the Parties, but not to exceed a total of five (5) years.

- 4. Payment.** Contractor will be paid for Services as follows: \$_____ legal fees and/or travel and per diem (as pre-approved by TCC Legal Division).

4.1 The total amount payable by TCC under this Contract shall not exceed \$_____ unless Services exceeding this amount are specifically authorized in advance in writing by TCC Contract Manager. Contractor shall notify TCC's Contract Manager in advance of providing Services if it expects that Services will exceed the Contract limit.

4.2 On a monthly basis, Contractor shall submit detailed invoices of services completed, including any pre-approved travel and/or per diem costs for reimbursement. Upon receipt of a properly prepared invoice, payment will be made no later than 30 (thirty) days after TCC determines that the Scope of Services agreed upon in Section 1 is being adhered to, satisfactory progress made, and Contractor has furnished TCC with Contractor's taxpayer identification number and all required documents. In the event that TCC finds a discrepancy between the Services provided and the invoice, payment for the questioned portion will be withheld pending clarification by Contractor and approval by TCC.

- 5. Contractor's Representations.** Contractor represents and warrants that Contractor is qualified to perform the Scope of Services outlined in Section 1, and has obtained and shall maintain through the term of the Contract all professional licenses, business licenses, permits and certifications, or governmental approvals necessary for performance of the Services. Upon request, Contractor shall provide TCC with copies of such licenses, permits, certifications, and approvals.

- 6. Insurance by Contractor.** Before starting performance of the Services, the Contractor will provide to TCC proof of all required insurance in connection with the Services or for the type of work, including workers' compensation insurance, in amounts acceptable to TCC. Except for claims arising out of acts caused by the sole negligence of TCC or its employees, the Contractor shall indemnify and hold harmless TCC, its employees, agents, officers, and directors for any claims arising out of an act or omission of any nature whatsoever of the Contractor, or its employees, causing damage to any person or property in performance of this contract. Required limits are listed below:

- Commercial general liability insurance with limits of no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate;
- Automobile insurance with limits of no less than \$1,000,000 combined single limit coverage; and
- Worker's Compensation insurance as required by the State of Alaska, and; where applicable, any other statutory obligations including but not limited to Federal U.S.L. & H. and Jones Act requirements.

- Professional Liability insurance covering negligent acts, errors, and omissions in the performance of the professional services with policy limits not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning from the time that work under this contract is completed.
 - Waiver of Subrogation. Contractor waives all rights against TCC and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the above policies maintained pursuant to this agreement. Contractor shall obtain an endorsement to the above policies to affect this waiver.
- 7. Compliance.** For the duration of this Contract, Contractor will comply with all applicable local, state, and federal regulations; comply with the requirements of this Contract; and work in a manner that is ethical and respectful. Contractor will also keep apprised of and comply with any changes to applicable local, state, or federal regulations as well as changes to this Contract as agreed upon by amendment.
- 8. Records and Retention.** Contractor shall maintain accurate and reliable financial records regarding its provision of the Services and any relevant expenses, and shall make its books, documents, papers, records, and financial statements available to TCC or its auditors upon reasonable notice, as necessary for auditing, examinations, excerpts and transcriptions, copying, or other compliance activities. Contractor will also make these materials available to the Comptroller General of the United States and any federal or state grantor agency that contributed any portion of the Contract funding, as required by grant terms or law. Contractor agrees to maintain all financial records relating to this Contract for at least seven (7) years from the date when final Contract payment is made by TCC to Contractor.
- 9. Termination.**
- 9.1 Either Party may terminate this Contract upon thirty (30) days' prior written notice to the other Party. TCC may terminate this Contract immediately for a breach, non-performance, material non-compliance, lack of insurance coverage, or convenience. TCC may, at its option, provide Contractor with an opportunity to correct a breach or violation of this Contract in lieu of termination. Any such correction must occur within thirty (30) days after TCC provides notice of the cause and its intent to terminate, unless TCC determines that additional time for correction is appropriate under the circumstances.
- 9.2 If TCC terminates this Contract because of breach, non-performance, or material non-compliance or Contractor terminates this Contract for a reason other than a breach by TCC, Contractor shall be liable to TCC for damages equal to the difference between the Contract price and cost to TCC to complete the work. If

TCC terminates this Contract without cause, Contractor shall be paid for the percentage of total work under the Contract satisfactorily completed, less advances.

- 10. Privacy and Confidentiality.** Contractor agrees and understands that all information relating to the business of TCC, including but not limited to the terms of this contract, proprietary or financial information, employee and personnel information, client information and protected health information, that Contractor learns or has access to in the course of providing Services under this Contract, is confidential information belonging to TCC and not to Contractor. This includes information about the identity of any TCC client or their presence and activities at a TCC facility. Contractor shall keep all such information in strict confidence and must use reasonable technical and administrative protections to safeguard and protect the information against inadvertent use, access or disclosure, whether by its own employees or agents or by third parties. Except as necessary to carry out Services under this Contract, Contractor agrees not to divulge, disclose or communicate any information relating to the business of TCC learned or gained during the course of providing Services, directly or indirectly, to any person or entity, without the express written consent of TCC. If Contractor has any questions regarding matters of privacy or confidentiality, Contractor must contact the TCC Contract Manager prior to making any disclosures of information that Contractor suspects may be covered by this provision.
- 11.** To the extent the Contractor receives, or has access to or control over protected health information, Contractor agrees to sign a separate Business Associate Agreement with TCC and to comply with all applicable privacy and security laws including the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations; the Health Information Technology for Economic and Clinical Health Act of 2009 and its implementing regulations; and if applicable, federal regulations on the Confidentiality of Substance Use Disorder Patient Records, 42 CFR Part 2.
- 12. Independent Contractor.** The Parties agree and understand that in the performance of Services under this Agreement, the Contractor is an independent Contractor and not an employee of TCC. The Parties do not intend to create, nor shall this agreement be deemed or construed to create an employment relationship between the Parties. Contractor shall possess a valid, current Alaska business license and City of Fairbanks business license, if applicable, and such other permit, licenses, and any insurance required outside of liability to perform the Services and work required by this Contract. Contractor is solely responsible for all taxes, employee withholdings, workers' compensation insurance, and unemployment insurance necessary for or attributable to the Services being provided.
- 13. Prohibition on Subcontracting and Assignment.** Contractor may not subcontract the Services or any part of the Services without the prior written consent of TCC. Neither Party may assign this Contract or its rights, interests or obligations under this Contract without the prior written consent of the other Party.

- 14. Conflicts of Interest.** Contractor represents and agrees that it has no conflicts (unless waived in writing by all parties involved) between duties required under this Contract and any other Contract, agreement, arrangement or understanding to which Contractor is a Party, or to any rules, regulations, directive, order or law to which Contractor is subject. Before signing this Contract, Contractor agrees to disclose to the TCC Contract Manager any relationship that may be a potential conflict of interest related to the performance of the Services. A potential conflict of interest includes, but is not limited to, Contractor having existing relationships or agreements with entities that may be averse to TCC, Contractor being related within the third degree of blood relationship to an employee of TCC, Contractor having an existing financial interest with TCC, or Contractor having an existing financial interest with any person involved in the signing of this contract. By signing this contract, Contractor represents and warrants that it has made all required disclosures to TCC. Any breach of this Section will be considered a material breach of this contract.
- 15. Background Checks.** If the Services involves regular contact with TCC Clients, Contractor may be required to conduct a background check for its employees, subcontractors or agents carrying out Services under this Contract, and the criminal history of such individuals may bar them from providing such Services. In particular, if Contractor's Services involve regular contact or control over minors, Contractor must undergo a background check and may not provide Services using any individual who has criminal history which is disqualifying under the Indian Child Protection and Family Violence Prevention Act (ICPA), 25 USC § 3207. Contractor must notify TCC if Contractor or any of its employees carrying out this Contract have been found guilty of, or entered a plea of nolo contendere or guilty to, or are charged with, any felonious offense, or any of two or more misdemeanor offenses, under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; crimes against persons; or offenses committed against children. Similarly, if Contractor's Services involve contact with, access to personal or financial records, or control over the financial wellbeing of recipients of services, State background check requirements and character standards under the Alaska Barrier Crimes Act, AS 47.05.300 et seq., and the associated regulations, 7 AAC 10.010 et seq., may apply.
- 16. Debarment and Suspension Certification.** Contractor certifies that its principals are licensed attorneys in good standing in a state within the United States, and no principals are listed on the Excluded Parties List System, in accordance with the OMB guidelines at 2 CFR part 180 that implement Executive Orders 12549 and 12689, "Debarment and Suspension."
- 17. Native Hire.** Contractor will provide employment preference for Native Americans in activities under this Contract under Public Law 93-638 and other applicable laws. Contractor shall list all job solicitations for work under this Contract with the TCC Human Resources Department. This provision shall not apply to Contractor's employees hired before the effective date of this Contract.

- 18. Equal Employment Opportunity.** Subject to Section 16, Contractor will comply with Executive Order 11246, "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- 19. Ownership of Inventions and Work Product.** To the extent this Contract requires the Contractor to produce goods, tangible objects, inventions, or original intellectual property of any kind, including but not limited to written reports, memoranda, documents, graphs, charts, illustrations, artwork, photographs, video recordings or audio recordings of any kind, regardless of the medium in which such products are recorded (print or electronic), all ownership and copyright interests in such work product shall belong to TCC.
- 20. Severability.** If any provision of this Contract is held invalid, then that provision shall be interpreted to the fullest extent possible so as to be valid and effective, and the remaining provisions of this Contract shall continue in full force and effect.
- 21. Complete Contract.** This Contract, together with any written amendments, attachments, or other documents expressly referenced, comprises the complete agreement between the Parties and supersedes any prior understandings, Contracts or representations by or between the Parties. The Parties acknowledge that they have had ample opportunity to review the terms of this Contract and consult with legal counsel if so desired.
- 22. Counterparts.** This Contract may be executed in one or more counterparts, any one of which need not contain the signatures of more than one Party, but all such counterparts taken together will constitute one and the same instrument.
- 23. Dispute Resolution.** The Parties agree to enter into good faith negotiations to resolve any disputes that arise out of or relate to this Agreement as a condition predicate to litigation. If negotiations do not resolve the dispute, the Parties may agree to participate in non-binding mediation before a neutral mediator selected by the Parties or, if the Parties cannot agree on a mediator, selected in accordance with the applicable rules of the American Arbitration Association. If the dispute is not resolved by non-binding mediation, the dispute shall be decided by the TCC Executive Board under such procedures as the Board may determine. The TCC Executive Board's decision shall be final and binding and may not be appealed by either Party.
- 24. Governing Law and Forum.** The law of the State of Alaska, without regard to conflicts of laws principles, governs the construction, validity, and interpretation of this Contract. Any claim under this Contract shall be filed in the United States District Court for the District of Alaska if it has jurisdiction, or otherwise in the State of Alaska courts, Fourth Judicial District at Fairbanks. Nothing in this Contract may be construed to limit or in any way prejudice either Parties' protections under the law, including the Federal Tort Claims Act and other protections, privileges, or immunities applicable to either Party.
- 25. Headings.** Headings in this Contract are used for reading convenience only.

26. Amendment and Waiver. This Contract may not be amended or waived except by a writing signed by both Parties. A Party's non-enforcement of any provision of this Agreement shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or the remainder of this Agreement.

27. Notices. Any notice given under this Agreement shall be given by mail in writing to the addresses shown in this Agreement, which may be changed by giving notice of the change to the other Party, or by fax or other electronic means if receipt is acknowledged by the other Party.

28. Attachments. This Contract does _____ have attachment(s) that are incorporated into this Contract. To the extent any attachments conflict with the terms of this Contract, this Contract controls.

29. Signatures. By their signatures below, the Parties enter this Agreement.

DENA' NENA' HENASH, d/b/a TANANA CHIEFS CONFERENCE

Signature: _____

Name and Title: _____

Date: _____

CONTRACTOR

Signature: _____

Print Name and Title: _____

Date: _____

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