

Contract No. C05908
Vendor No. 0000115064

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this 18th day of March, 2016, by and between the STATE OF NEW MEXICO, NEW MEXICO DEPARTMENT OF TRANSPORTATION, hereinafter referred to as "NMDOT or Department," acting through its Secretary, and Mothers Against Drunk Driving (MADD), hereinafter referred to as "Contractor."

IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. Scope of Work.

The Contractor shall perform the following professional services:

- A. Monitor, gather information, and report back to the Department on a minimum of 250 impaired driving court cases per year, utilizing a court monitoring information storage system. The cases shall primarily be from courts in the counties of Bernalillo, Santa Fe, Doña Ana, McKinley, San Juan and Rio Arriba. However, the Department may request the offeror to monitor cases in other counties as well.**
- B. Develop and implement a court monitoring information storage system. At minimum, the information stored shall include the following:**
- 1) basic case information, such as defendant's name and location of arrest;**
 - 2) charges filed against the defendant, including citation number, case number, and circumstances surrounding the arrest;**
 - 3) arraignment information, such as location, court date, plea entered and disposition;**
 - 4) pretrial hearing information, such as location, court date;**
 - 5) sanctions, including deferred sentences, DWI school or other alternative sentencing or condition the court may impose;**
 - 6) comparisons to impaired driving sanctions in other jurisdictions within the State;**
 - 7) name of court, judge, district attorney and defendant's counsel; and**
 - 8) documentation of personal observations related to the case.**

The Offeror shall adhere to all storage, retention and security practices required by law for sensitive data, as well as any requirements prescribed by the Department.

- C. Provide a minimum of one project manager, who will provide general oversight for the project and serve as the main point of contact for the Department.**
- D. Provide appropriate staff responsible for on-site monitoring of court proceedings.**
- E. Maintain management oversight and office staff sufficient to support the project manager and other staff assigned to this project.**
- F. Develop and implement a training curriculum for staff working on this project. The training curriculum must be approved by the Department in advance, and must at minimum include instruction on proper use of the collection system, information on current impaired driving laws, and information on general operations of courts.**
- G. Provide monthly reports on a format prescribed by the Department.**
- H. At minimum, schedule and attend quarterly meetings with Department staff.**
- I. Develop an evaluation plan to measure the effectiveness of this project.**
- J. Provide a cost proposal for the scope of services. The cost proposal shall include costs necessary to meet the minimum 250 court cases/year as well as a cost proposal to meet any additional requested court cases up to 500/year total.**

Services shall be performed and be completed satisfactory to the Department with the instructions provided by the Department. The Contractor shall provide and charge only for those services requested by the Department. No services may be contracted except as agreed upon in advance by the parties to this Agreement.

Upon execution of this Agreement, the Contractor shall commence work at the Department's request and services shall conform to the description of services as set forth herein or as hereafter mutually agreed to in writing.

2. **Payment Provisions.**

The Department shall compensate the Contractor based on the rates and costs set forth as follows:

a. **Rates.** The Contractor agrees to perform billable work at the following rates per hour:

Classification	Year 1	Year 2
Project Manager	\$38.51/hr.	\$39.66/hr.
Project Specialist	\$24.56/hr.	\$25.29/hr.
Project Administrator	\$20.07/hr.	\$20.67/hr.

b. **Compensation.** Total compensation during the term of this Agreement shall not exceed \$800,000.00, unless otherwise agreed to in writing by the parties hereto, which amount does not include applicable gross receipts taxes during the term of this Agreement. The Department will not compensate the Contractor for services or other deliverables provided prior to the full execution of the contract, after the expiration of the contract, or in excess of the maximum dollar amount of the contract, unless the maximum dollar amount is duly amended prior to providing the services or deliverables. The NMDOT shall reimburse the Contractor up to 100% for reasonable travel expenses upon the Department's receipt and approval of certified invoices from the appropriate vendors for airfare, lodging, car rental and meals.

c. **Payment of Invoice.** Payment shall be made to the Contractor upon receipt of a detailed invoice on a monthly or quarterly time frame applicable for satisfactory work completed and accepted by the Department, unless the Contractor receives verbal or written notice that the invoice is inadequate.

d. Acceptance. The Contractor's satisfactory completion of this Agreement shall be a prerequisite for final payment. Final payment, including any retainage, shall be made within thirty (30) days after the work has been approved and accepted by the Department's Secretary or his duly authorized representative.

Within fifteen days after the date the Department receives written notice from the Contractor that payment is requested for services or items of tangible personal property delivered on site and received, the Department shall issue a written certification of complete or partial acceptance or rejection of the services or items of tangible personal property. If the Department finds that the services or items of tangible personal property are not acceptable, it shall, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, provide to the Contractor a letter of exception explaining the defect or objection to the services or delivered tangible personal property along with details of how the Contractor may proceed to provide remedial action. Upon certification by the Department that the services or items of tangible personal property have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of certification. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked.

After the thirtieth day from the date that written certification of acceptance is issued, late payment charges shall be paid on the unpaid balance due on the contract to the Contractor at the rate of one and a half (1½) percent per month. For purchases funded by state or federal grants to local public bodies, if the local public body has not received the funds from the federal or state funding agency, but has already certified that the services or items of tangible personal property have been received and accepted, payments shall be

tendered to the Contractor within five working days of receipt of funds from that funding agency.

e. Payment of Taxes. The Contractor is responsible for making payment of gross receipts taxes to the New Mexico Department of Taxation and Revenue unless Contractor is exempt from payment of taxes.

3. Approval of Contractor Personnel.

Once work has started, changes of personnel will not be made by the Contractor without the prior written consent of the Department. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld.

The Department shall retain the right to request the removal of any of the Contractor's personnel at any time.

4. Effective Date and Term.

This Agreement shall not be effective until executed by the Secretary of the New Mexico Department of Transportation. The term of this Agreement is from the execution date of the Agreement and shall terminate two years after the execution date, unless terminated pursuant to Section Five of this Agreement. The Department shall have the option of extending the Agreement. In no event shall the total term of the Agreement, including extensions, exceed four (4) years.

5. Termination.

The Department has the option of canceling this Agreement by giving thirty (30) days written notice to the Contractor. Upon receipt of the "Notice of Cancellation," the Contractor shall immediately suspend any further work unless otherwise directed by the Department in writing. By such termination neither party may nullify obligations already incurred for performance or failure to perform for the work rendered prior to the date of termination of this Agreement. However, neither party shall have any obligation to perform services or make payment for services rendered after such date of termination.

Either party may terminate the Agreement for cause based upon any material breach of this Agreement by the other party, provided that the non-breaching party shall give the breaching party written notice specifying the breach and shall afford the breaching party a reasonable opportunity to correct the breach.

If within thirty (30) days after receipt of a written notice, the breaching party has not corrected the breach or, in the case of a breach which cannot be corrected in thirty (30) days, the breaching party has not begun and proceeded in good faith to correct the breach, the non-breaching party may declare the breaching party in default and terminate the Agreement effectively immediately. The non-breaching party shall retain any and all other remedies available to it under law.

6. Status of Contractor.

The Contractor and its agents and employees are independent Contractors performing professional services for the Department and are not employees of the Department.

The Contractor and its agents and employees shall not have use of Department State vehicles or any other benefits afforded the Department employees as a result of this Agreement.

7. Permits, Licenses, and Insurance.

Contractor warrants, covenants and represents that Mother Against Drunk Driving (MADD) is properly organized under the laws of the State of New Mexico, and is in good standing to do business in the State of New Mexico. The Contractor shall procure all permits and licenses, and insurance as required by law and pay all charges, fees, royalties, and give all notices necessary and incidental to the due and lawful prosecution of the work. The Contractor agrees to comply with state laws and rules pertaining to workers' compensation insurance coverage for its employees. If Contractor fails to comply with the Workers' Compensation Act and applicable rules when required to do so, the Agreement may be canceled effective immediately.

8. 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 prior written approval of the Department.

9. Subcontracting.

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

10. Records and Audit.

The Contractor agrees to maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred and to make such materials