

INDEPENDENT CONTRACTOR AGREEMENT (hereinafter the "Agreement") made this 25<sup>th</sup> day of July, 2019,

BETWEEN

KATHY A. TURNER Ed.D., dba TURNER'S ABOVE the LINE CONSULTING, located at 3540 S. Amanda Street, Flagstaff, AZ 86005 (hereinafter the "Independent Contractor"),

AND

COCONINO COUNTY, a political subdivision of the State of Arizona, of 219 East Cherry Avenue, Flagstaff, Arizona 86001, (hereinafter the "County");

WHEREAS:

- A. The County was allocated Workforce Innovation and Opportunity Act (hereinafter "WIOA") under Intergovernmental Agreements DI16-002119 and DI19-002201 between Arizona Department of Economic Security and Coconino County; and
- B. The County expects to receive an allocation of WIOA funds for PY19/FY20 under an Intergovernmental Agreement between Arizona Department of Economic Security and Coconino County;
- C. The Workforce Innovation and Opportunity Act is funded through the U.S. Department of Labor, Employment and Training Administration, by Catalog of Federal Domestic Assistance 17.258 WIOA Dislocated Worker Formula Grants, 17.259 WIOA Youth Activities, and WIOA Adult Program, 17.278;
- D. The County has a need for an Independent Contractor to provide One Stop Operator Services to comply with WIOA (hereinafter, the Services); and,
- E. The County issued RFP 2019-109 in order to obtain the Services; and,
- F. The Coconino County Workforce Development Board rated the IC's proposal the highest; and,
- G. The Workforce Development Board has selected the Independent Contractor to serve as the One Stop Operator in Coconino County; and,
- H. This Agreement constitutes a subaward and the Independent Contractor is a subrecipient of Federal funds; and,
- I. The parties wish to contract according to the following terms and conditions.

THEREFORE, in consideration of their mutual promises set out herein, the Independent Contractor and the County agree as follows:

- I. Scope of Work

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Coconino County  
Career Center

A. Cooperate with the County’s performance of subrecipient monitoring to ensure compliance with all reporting and documenting requirements set out by the United States Department of Labor, Arizona Department of Economic Security, requirements of WIOA, activities per the Scope of Work, performance, and terms and conditions of the Agreement. Monitoring activities may include:

- i. Review of monthly financial and performance reports submitted by the subrecipient; and
- ii. Subrecipient site visits to examine financial and programmatic records and observe operations; and
- iii. Review detailed financial and program data and information submitted by the subrecipient when no site visit is conducted and documents to review may include timesheets, invoices, contracts, and ledgers that tie back to financial reports; and
- iv. Regular communication with subrecipient and appropriate inquiries concerning program activities.

B. Invoicing

- i. The Independent Contractor will be reimbursed monthly for pre-approved allowable costs.
- ii. The Independent Contractor’s Cost Proposal and Budget Detail, pg. 12 to 15 identifies pre-approved costs. Any other costs must be pre-authorized before included on a monthly reimbursement request. The Cost Proposal and Budget Detail from the Independent Contractor’s proposal has been prorated to an 11-month period.
- iii. Reimbursable expenditures will not exceed the “not to exceed” category amounts listed below:

Personnel		\$49,835
Operating		3,921
Outreach		138
Travel		1,209
Administrative Costs		4,959
Total		\$60,061

- iv. An invoice with summary report of expenditures will be sent to Coconino County Health and Human Services, Career Services, by the 15<sup>th</sup> day following the end of a month. Failure to submit accurate and complete expenditure reports by the 15<sup>th</sup> day following the end of a month may result, at the option of Coconino County, in retention or forfeiture of such payment. The County terms of payment will be Net 30 days. The County will reimburse the Independent Contractor under County vendor number 6084.
- v. The monthly invoice will be supported by proof of actual expenditures and will include copies of receipts and timesheets.

C. Other Fiscal Responsibilities

The Independent Contractor will comply with all requirements under 2 CFR Part 200, Uniform Guidance Requirements, Cost Principles, and Audit Requirements as a Non-federal entity and subrecipient of Federal funds;

- vi. Carry out accounting processes that ensure that separate accounts are maintained for each grant or contract administered by the Independent Contractor;
- vii. Maintain detailed documentation to support all cash disbursements related to the contract;
- viii. Maintain time and attendance records and payroll documentation to support all salaries and wages paid.

#### D. Services

- i. Coordinate the service delivery of the required One-Stop partners and service providers.
  - 1. Act as point of contact to facilitate communication among partner agencies;
  - 2. Physical presence at the One-Stop required monthly at a minimum. Contractor will not be provided designated office space, equipment or materials at the One-Stop. Contractor will have access to meeting space. Use of meeting space at the Comprehensive One-Stop must be reserved.
  - 3. In coordination with partner senior leadership, assure One-Stop staff understand their role in workforce system initiatives impacting customers (such as career pathways, sector strategies, etc.).
  - 4. Use a high level of innovation and creativity in designing and implementing a human-centric workflow system that will benefit ARIZONA@WORK Coconino County customers.
  - 5. Ensure that all One-Stop partners work under the ARIZONA@WORK Coconino County brand and represent one unified brand to customers.
  - 6. Provide services as the ARIZONA@WORK Coconino County One-Stop Operator under the ARIZONA@WORK Coconino County brand regardless of organizational affiliation.
- ii. Coordinate cross trainings with WIOA programs, partners and service providers.
  - 1. Ensure that employees staffing the One-Stop have the requisite knowledge and sensitivity to effectively perform their duties.
  - 2. Ensure One-Stop staff remain current in their professional development.
  - 3. Coordinate One-Stop Partner programs for staff cross-training.
  - 4. As of the issuance of this Request for Proposals, the following programs/partners offer services in Coconino County as part of the One-Stop System; however, other required or additional partners may be added or removed at the discretion of the Coconino County Workforce Development Board.
    - a. Programs authorized under title IB of WIOA: Adult Program;
    - b. Dislocated Worker Program;
    - c. Youth Program;
    - d. The Wagner-Peyser Act Employment Service Program WIOA Title III;
    - e. Adult Education and Family Literacy Act WIOA Title II;
    - f. Vocational Rehabilitation Program WIOA Title IV;
    - g. Senior Community Service Employment Program WIOA Title V;
    - h. Trade Adjustment Assistance activities;
    - i. Programs authorized under State unemployment compensation laws.

- iii. Convene monthly Comprehensive One-Stop partners meetings at the One-Stop with the following deliverables:
  - 1. Agenda posted on ARIZONA@WORK website and dispersed 3-days prior to meeting.
  - 2. Minutes taken and disseminated within one week after meeting date.
  - 3. Provide ongoing training on partner duties at each meeting.
  - 4. Equal Opportunity update and training provided once per calendar quarter.
- iv. Stay current with education and workforce trends within Coconino County.
- v. Create monthly calendar of One-Stop event.
  - 1. Coordinate the creation, posting on ARIZONA@WORK website, and distribution of monthly calendar no later than one-week prior to beginning of month.
  - 2. Collaborate with programs/partners to include all events hosted at the One-Stop.
  - 3. Identify and include additional events hosted at the One-Stop by other service providers.
- vi. Metrics and reports required for this contract shall include the reports as indicated below.
  - 1. Monthly report to the Workforce Development Board Director by the 10<sup>th</sup> day following month-end including:
    - a. Customer Satisfaction Survey results
    - b. Monthly Data Collection
    - c. Staffing Updates
    - d. Employer Events
    - e. Professional Development for partners/providers
    - f. Total number of partners providing services at the One-Stop.
  - 2. Prepare a quarterly report to the Coconino County Workforce Development Board (WDB) Report must be submitted to Career Services staff one-week prior to the scheduled WDB meeting. Report must include:
    - a. Overall count of customers who visited the One-Stop
    - b. Number of workshops/classes offered
    - c. Number of employer events
    - d. Number of referrals for services
    - e. Number of customers assisted with Unemployment Insurance
    - f. Number of Veterans served
    - g. Number of customers obtaining employment
    - h. Average wage of customers obtaining employment
    - i. Number of customers who obtained employment and retained that employment for 6-months.
- vii. Promote outreach for the Comprehensive One-Stop.
  - 1. Promote a wide knowledge base of services available by inviting additional participants to the monthly One-Stop meeting.
  - 2. Identify prospective partners to provide workshops at the One-Stop to increase Job Seeker services.

## II. Compensation

The Independent Contractor will be reimbursed monthly for pre-approved allowable costs. Compensation for the term of the Agreement will not exceed \$60,061. Additionally, compensation for each budget category shall not exceed the amounts lists in Section II.c. of this Agreement. The negotiated rate of profit is 0%.

III. Term of Agreement

The term of this Agreement shall be from the August 1<sup>st</sup>, 2019 through June 30<sup>th</sup>, 2020. The parties, upon mutual agreement may renew this Agreement for three additional one-year terms. The contract will also be subject to any changes in Federal legislation, regulations or policies enacted by the United States Department of Labor and the State of Arizona. All funding provided through the contract is contingent upon Coconino County's receipt of WIOA funding.

IV. Termination of Agreement

Either party may terminate this Agreement, for cause or convenience, by giving thirty (30) days written notice to the other party. In that event, the terminate date shall be the thirtieth (30<sup>th</sup>) day after furnishing proper notice to the other party. The Independent Contract shall be paid for any work completed up to the date written notice of termination is sent to the other party by first class mail.

V. Insurance

The Independent Contractor will provide and maintain and cause its sub-contractors to provide and maintain appropriate insurance acceptable to the County.

A. In no event will the total coverage be less than the minimum insurance coverage specified below:

- i. Commercial General Liability occurrence version in an amount not less than One Million Dollars (\$1,000,000) per occurrence/Two Million Dollars (\$2,000,000) aggregate. The policy shall include coverage for bodily injury, property damage, personal injury, and products and completed operations and shall include the following;

General Aggregate	\$2,000,000
Products/Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Fire Legal Liability	\$50,000
Each Occurrence	\$1,000,000

- ii. Automobile Liability in an amount not less than One Million Dollars (\$1,000,000) combined single limit (CSL) per occurrence to include either "any auto" or "scheduled, owned, hired, and or non-owned vehicles. Such insurance shall include coverage for loading and unloading hazards.
- iii. A Certificate of Insurance for workers' compensation coverage or Sole Proprietor Waiver, if the Independent Contractor has no employees. If a Certificate of Insurance is provided, the insurer must agree to waive all rights of subrogation against the County, its

officers, agents, employees and volunteers for losses arising from work performed by the Independent Contractor for the County.

B. The Independent Contractor will name the County, its agents, officials, employees and volunteers as additional insureds for general liability including premises/operations, personal and advertising injury, products/completed operations, and as additional insured for automobile liability, and will specify that the insurance afforded by the Independent Contractor is primary insurance and that any insurance coverage carried or self-insurance by the County, any department or any employee will be excess coverage and not contributory insurance to that provided by the Independent Contractor. Said policies must contain a severability of interest provision. County reserves the right to continue payment of premium for which reimbursement will be deducted from amounts due or subsequently due Independent Contractor.

C. If a policy does expire during the life of the Contract, a renewal certificate must be sent to the County fifteen (15) days prior to the expiration date.

D. Upon the execution of this Agreement by the Independent Contractor, the Independent Contractor will furnish the County with copies of the Certificates of Insurance drawn in conformity with the above insurance requirements. The County reserves the right to request and receive certified copies of any or all of the above policies and/or endorsements. Failure on the part of the Independent Contractor to procure and maintain the required liability insurance and provide proof thereof to the County within ten (10) days following the commencement of a new policy, will constitute a material breach of the Agreement upon which the County may immediately terminate the Agreement.

E. The Independent Contractor will comply with statutory requirements for both workers' compensation and unemployment insurance coverage during the term of this Agreement. A Certificate of Insurance for workers' compensation coverage, or Sole Proprietor Waiver, will be provided within ten (10) days of signing this Agreement. The insurer must agree to waive all rights of subrogation against the County, its officers, agents, employees and volunteers for losses arising from work performed by the Independent Contractor for the County.

## VI. Indemnification

The Independent Contractor will at all times, to the fullest extent permitted by law, indemnify, keep indemnified, defend and save harmless the County and/or any of its agents, officials and employees from any and all claims, demands, suits, actions, proceedings, losses, costs and/or damages of every kind and description, including any attorney's fees and/or litigation expenses, which may be brought or made against or incurred by the County on account of loss of or damage to any property or for injuries to or death of any person, caused by, arising out of, or contributed to, in whole or in part, by reason of any alleged act, omission, professional error, fault, mistake, or negligence of the Independent Contractor, its employees, agents, representatives, or subcontractors, their employees, agents, or representatives in connection with or incidental to the performance of this Agreement or arising out of Workers' Compensation claims, Unemployment Compensation claims, or Unemployment Disability Compensation claims of employees of the Independent Contractor and/or its subcontractors or claims under similar such laws or obligations. The Independent Contractor's obligations under this paragraph do not extend to any liability caused by the sole negligence of the County or its employees.

VII. Independent Contractor's Status

The Independent Contractor will operate as an independent contractor and not as an officer, agent, servant, or employee of the County.

A. The Independent Contractor will be solely responsible for the acts and omissions of its officers, agents, servants, and employees. As an independent contractor, the Independent Contractor is responsible for the payment of all applicable income and employment taxes and for providing all workers' compensation insurance required by law.

B. The independent contractor will operate as an independent entity and none of the employees of the independent contractor are to be considered employees of Coconino County. Independent contractor employees are not eligible for Coconino County group health insurance or other benefits.

C. The independent contractor will be solely responsible for offering health insurance to its employees as required by the Affordable Care Act, and for any penalties charged to it by the Internal Revenue Service for noncompliance with the Affordable Care Act.

D. In performance of services within this contract, the independent contractor shall determine his/her necessary hours of work. Contractor shall provide whatever tools; equipment, vehicles, and supplies Contractor may determine to be necessary in performance of services hereunder. Contractor may establish offices in such locations within or outside Arizona, as Contractor may determine to be necessary for the performance of services hereunder and shall be responsible for all expenses of operation of said office, including expenses incurred in hiring employees and assistants to Contractor.

E. The Independent Contractor has no authority to enter into contracts or agreements on behalf of the County. This Agreement does not create a partnership between the parties.

VIII. Force Majeure

Independent Contractor will not be liable for any unforeseen acts or events that prevent it from performing its obligations under this Agreement, if beyond the control of the party despite exercise of due diligence, including, but not limited to, delays caused by fire, flood, earthquake, landslide, washouts, storm damage, acts of war or terrorism, unavailability of materials or supplies, epidemics, labor strikes, civil disturbances, insurrections, riots, explosions, and acts of God.

IX. Immigration and Scrutinized Business

Pursuant to A.R.S. 41-4401, Coconino County, as a political subdivision of the State of Arizona, is required to include in all contracts the following requirements:

A. The Independent Contractor and each of its subcontractors warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-314(A).

B. A breach of warranty under paragraph (a) above shall be deemed a material breach of the contract and is subject to penalties up to and including termination of the contract.

C. The County retains the legal right to inspect the papers of the Independent Contractor or any of its subcontractors who work on the contract to ensure that Independent Contractor or its subcontractor(s) is complying with the warranty provided under paragraph (a) above.

D. False certifications may result in the termination of this contract.

X. Certification Pursuant to A.R.S. § 35-393.01

To the extent allowed by law, pursuant to the requirements of A.R.S. § 35-393.01(A), the Independent Contractor hereby certifies that the Independent Contractor is not currently engaged in a boycott of Israel. The Independent Contractor further certifies that no wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of the Independent Contractor (if any) are currently engaged in a boycott of Israel. Independent Contractor further and additionally agrees that for the duration of this Contract, neither Independent Contractor, nor any wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of Independent Contractor (if any) shall engage in a boycott of Israel.

For purposes of this Section, “boycott of Israel” shall mean engaging in a refusal to deal, terminating business activities, or performing other actions that are intended to limit commercial relations with Israel or with persons or entities doing business in Israel or in territories controlled by Israel, if those actions are taken either: (a) in compliance with or adherence to calls for a boycott of Israel other than those boycotts to which 50 U.S.C. § 4607(c) applies; or (b) in a manner that discriminates on the basis of nationality, national origin or religion and that is not based on a valid business reason.

XI. Non-Appropriation of Funds

Notwithstanding any other provisions in this Contract, this Contract may be terminated if the County’s governing body does not appropriate sufficient monies to fund its obligations herein or if grant funds are terminated or reduced for the purpose of maintaining this Contract. Upon such termination, the County shall be released from any obligation to make future payments and shall not be liable for cancellation or termination charges.

XII. Amendment and Entirety of Contract

This document constitutes the entire agreement between the parties with respect to the subject matter hereto and supersedes all previous proposals, both oral and written, negotiations, representation, commitments, writings, agreements and other communications between the parties. It may not be changed or modified except by an instrument in writing signed by a duly authorized representative of each party.



XIII. Records

The Independent Contractor will:

A. Submit all reports and invoices specified in this Agreement.

B. Retain and contractually require each subcontractor to retain all data and other records relating to the acquisition and performance of this Agreement (hereinafter the "Records") for a period of (5) years after the termination or completion of this Agreement. If any litigation, claim, dispute or audit is initiated before the expiration of the five (5) year period, the Records will be retained until all litigation, claims, disputes or audits have been finally resolved. All Records will be subject to inspection and audit by the County at reasonable times. Upon request, the Independent Contractor will produce a legible copy of any or all Records.

XIV. Approval by the County

Before this Agreement can become effective and binding upon the County, it must be approved by the County Board of Supervisors. In the event that the Board of Supervisors fails or refuses to approve this Agreement, it will be null and void and of no effect whatsoever.

XV. Waiver

The failure of either party at any time to require performance by the other party of any provisions hereof will in no way affect the party's subsequent rights and obligations under that provision. Waiver by either party of the breach of any provision hereof will not be taken or held to be a waiver of any succeeding breach of such provision or as waiver of such provision itself.

XVI. Non-assignment

This Agreement is non-assignable. Any attempt to assign any of the rights, duties or obligations of this Agreement is void.

XVII. Cancellation of Agreement

This Agreement may be cancelled by the County pursuant to A.R.S. § 38-511.

XVIII. Non-discrimination

The Independent Contractor will comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations prohibiting discrimination.

XIX. Notice

Any notice given in connection with this Agreement must be given in writing and delivered either by hand to the party or by certified mail-return receipt to the party's place of business as set forth above.

XX. Choice of Law

Any dispute under this Agreement or related to this Agreement will be decided in accordance with the laws of the State of Arizona.

XXI. Severability

If any part of this Agreement is held to be unenforceable, the rest of the Agreement will nevertheless remain in full force and effect.

XXII. Authority

Independent Contractor warrants that the person signing below is authorized to sign on behalf of Independent Contractor and obligate Independent Contractor to the above terms and conditions.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date hereinbefore indicated.

TURNER'S ABOVE the LINE CONSULTING

COCONINO COUNTY

By *Kathy A. Turner, Ed.D.*  
Kathy A. Turner, Ed.D.  
Owner

By *Mike Townsend*  
Mike Townsend  
Deputy County Manager/CFO

ACKNOWLEDGED before me by Jeremy Higley as Notary of and for Kathy A. Turner, Ed.D. on this 25<sup>th</sup> day of July, 2019.

ATTEST:  
*Jeremy Higley*  
Clerk of the Board

*Jeremy Wilson Higley*  
Notary Public

Approved as to form:  
*Yvonne Vea*  
Deputy County Attorney

11-22-22  
My Commission Expires

