

INDEPENDENT CONTRACTOR AGREEMENT

Independent contractor agreement (the "Agreement") made on October 15, 2020 between : Le Sueur County organized under the laws of Minnesota, having its principal office at 88 South Park Street, Le Center MN, and Austyn V. Menk, having principle office at 43310 231st Ln., Le Center, MN 56057 (the "Independent Contractor").

Article I

1.1 Terms of Agreement

The services called for under this Agreement shall commence on the date the contract is signed by both parties.

1.2 Work to Be Performed

Company desires that the Independent Contractor perform, and the Independent Contractor agrees to perform, the following work serving Le Sueur County on: CARES Act & Blandin Broadband Community technology devices & management staging, configuration, inventory management, deployment, end user support and other Blandin Broadband Community Grant duties, as assigned.

1.3 Terms of Payment

Company shall pay the Independent Contractor according to the following terms and conditions: \$20.00 per hour and mileage expenses at the 2020 federal rate of \$.58 per mile. Any other expenses would be preauthorized by the Le Sueur County Administrator. Payment will be on a monthly basis.

1.4 Reimbursement of Expenses and Equipment Costs

Company shall not be liable to the Independent Contractor for any expenses paid or incurred by the Independent Contractor unless otherwise agreed to in writing.

Article II

2.1 Independent Contractor Status

The Independent Contractor expressly represents and warrants to Company that (1) is not and shall not be construed to be an employee of the company and that her status shall be that of an independent contractor for which she is solely responsible for her actions and inactions; and (2) the Independent Contractor shall not act as an employee or agent of Company; and (3) the Independent Contractor is not authorized to enter into contracts or agreements on behalf of Company or to otherwise create obligations of Company to third parties.

2.2 Performance of work

The Independent Contractor shall devote such time and effort to the performance of this Agreement so as to effectively perform such services and to accomplish the purposes thereof. The independent contractor shall supply, at her own expense, all materials, supplies, equipment and tools required to accomplish the work agreed to be performed in accordance with this Agreement

2.3 Reports

The Independent Contractor shall promptly provide written reports with respect to the completion of services rendered under this Agreement upon request from the Company.

2.4 Compliance with Laws

The Independent Contractor represents that she has complied with all federal, state and local laws regarding business permits and licenses that may be required to carry out the work to be performed under this Agreement.

2.5 Payment to Independent Contract Employees

The Independent Contractor shall be solely responsible for paying its employees.

2.6 Federal, State, and Local Payroll Taxes

The Independent Contractor acknowledges that Company shall neither pay nor withhold federal, state or local income tax or payroll tax of any kind on behalf of the Independent Contractor or the employees of the Independent Contractor. The Independent Contractor shall not be treated as an employee for the services performed hereunder for federal, state, or local tax or any other purposes.

2.7 Notice to Independent Contractor About Its Tax Duties and Liabilities

The Independent Contractor understands that she is responsible to pay, according to law, her income taxes. If the Independent Contractor is not a corporation, she further understands that she may be liable for self-employment (social security) tax, to be paid by the Independent Contractor according to law.

2.8 Responsibility for Workers' Compensation

The Independent Contractor understands that no workers' compensation insurance shall be obtained by Company covering the Independent Contractor or her employees. The Independent Contractor shall comply with the workers' compensation law concerning the Independent Contractor and her employees.

2.9 Non-Eligibility for Benefits

The Independent Contractor acknowledges that as a non-employee, she is not eligible to participate in any of Company's employee benefit programs (nor are her spouse or dependents) and waives all rights to such benefits, including any right to file a claim for any employee benefits under the Employee Retirement Income Security Act, applicable state or local law, or any Company policy, practice, procedure, or program. The Independent Contractor also agrees that should she at a later time become an employee of Company, she would become eligible to participate in Company's employee benefit programs at that time, in accordance with the terms of each plan and Company policies, practices, procedures, and programs.

2.10 Assignability

The Independent Contractor shall not be allowed to assign this Agreement in whole or in part. Any attempt to assign this agreement shall be null and void.

Article III

3.1 Confidential Matters and Proprietary Information

The Independent Contractor recognizes that during the course of performance of this agreement s/he/it may acquire knowledge of confidential information. The Independent Contractor agrees to keep all such confidential information in a secure place and not to publish, communicate, use, or disclose, directly or indirectly, for her/his/its own benefit or for the benefit of another, either during or after contract performance, any such confidential business information or trade secrets. Upon termination or expiration of this Agreement, Independent Contractor shall deliver all records, data, information, and other documents produced or acquired during the performance of this Agreement, and all copies thereof, to Company. Such material shall remain the property of Company. This obligation of confidence shall not apply to information that (1) is available to the Independent Contractor from third parties on an unrestricted basis; or (2) is disclosed by Company to others on an unrestricted basis.

Article IV

4.1 Termination of Agreement

A. Either party may terminate this Agreement by giving 10 days' written notice to the other of its intent to terminate this agreement. Such termination may be made with or without cause. During the 10-day period after such notice is sent, the parties shall continue to act toward each other in good faith.

B. Either party may terminate this Agreement with reasonable cause, effective immediately upon the giving of written notice of the termination. The grounds for reasonable cause shall include: material violation of this agreement or any act exposing the other party to liability for personal injury, property damage, or any other liability cognizable by a judicial body of competent jurisdiction.

4.2 Effect of Termination

Upon termination of this Agreement, the Company will compensate the Independent Contractor for work performed under this Agreement to the date of termination, as agreed to by the parties in writing. Where agreement cannot be reached, provisions of Article V shall apply.

Article V

5.1 Defense and Indemnification of claims

At its own cost and expense, Independent Contractor shall defend, indemnify and hold harmless Company from and against any claims brought by third parties as a result of performance of this Agreement. If Independent Contractor shall fail to promptly, professionally and diligently defend Company, Company may, but shall have no obligation to, assume the conduct of the defense, or settle the claim without Independent Contractor's consent and Independent Contractor shall thereupon be fully responsible for the costs and expenses of the defense and/or settlement.

5.2 Insurance

The Independent Contractor does further agree that in order to protect itself as well as the County under the indemnity agreement provision hereinabove set forth, it will at all times during the term of the Agreement have and keep in force:

- (1) A single limit or combined limit or excess umbrella general liability insurance policy of an amount of not less than of \$1,500,000 for property damaged arising from one occurrence, \$1,500,000 for total bodily or personal injuries or death and/or damages arising from one occurrence. Such a policy shall also include contractual liability coverage protecting the County, its offices, agents and employees by specific endorsement or certificate acknowledging the contract between the Provider and the County, through the Department, naming the county as an additional insured.
- (2) A professional liability insurance policy covering personnel of the Provider while performing services under this Agreement naming the County as an additional insured in the following amounts: \$500,000 per claimant for personal injuries, death and/or damages, and \$1,500,000 for total bodily injuries, personal injuries, death and/or damages arising from the one occurrence.

5.3 Choice of Law

Any dispute under this Agreement, or related to this Agreement, shall be decided in accordance with the laws of the state of Minnesota.

Article VI

6.1 Security Regulations and Code of Conduct

The Independent Contractor shall comply with all applicable security regulations and code of conduct of Company. Independent Contractor agrees that compliance with this provision does not change her status of Independent Contractor.

6.2 Entire Agreement

This Agreement supersedes all prior oral or written agreements, if any, between the parties and constitutes the entire agreement between the parties. The Agreement cannot be changed or modified orally. This Agreement may be supplemented, amended, or revised only in writing by agreement of the parties.

6.3 Nonwaiver

The failure of either party to this Agreement to exercise any of its rights under this agreement at any time does not constitute a breach of this Agreement and shall not be deemed to be a waiver of such rights or a waiver of any subsequent breach.

6.4 Severability

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

6.5 Survival

Independent Contractor agrees that Articles II – VI of this Agreement and subsections

therein shall survive termination of this Agreement and shall be fully enforceable thereafter.

6.6 Conflicts of Interest

The Independent Contractor shall not act as an agent for, consultant to, or as an officer, employee, or other representative of any subcontractor or supplier to Company, or serve in any of the foregoing capacities for any of Company's competitors or prospective competitors, without giving prior written notification to Company. The Independent Contractor hereby warrants that there is no conflict of interest between the Independent Contractor's other employment, if any, or other contracts, if any, and the activities to be performed hereunder. The Independent Contractor shall promptly advise Company if a conflict of interest arises in the future.

6.7 Acknowledgements

The Independent Contractor hereby acknowledges that she has been provided with a copy of this Agreement prior to signing it, that she has been advised and given the opportunity to have this Agreement reviewed by her own attorney prior to signing the Agreement, that she understands the purposes and effects of this Agreement, and that she has been given a signed copy of this Agreement for her own records. The Independent Contractor expressly acknowledges and agrees that the execution by Company of this Agreement constitutes full, adequate, and sufficient consideration to Independent Contractor from Company for the duties, obligations, and covenants of Independent Contractor under this Agreement and that Company has a legitimate business interest in obtaining Independent Contractor's commitment to the duties, obligations, and covenants of this Agreement. Company expressly acknowledges and agrees similarly with respect to the consideration received by it from Independent Contractor under this Agreement

6.8 Ambiguity

It is the intention of both Company and Independent Contractor that the normal rule of construction to the effect of any ambiguities are to be resolved against the drafting party shall not be utilized in the interpretation or construction of this Agreement. Both parties shall be deemed to have participated equally in the drafting of this Agreement.

6.9 Headings

The headings in this Agreement are for convenience only and do not affect this Agreement's interpretation.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of this 07 day of July, 2020.

INDEPENDENT CONTRACTOR

By: 

Austyn V. Menk

LE SUEUR COUNTY

By:

Board chair

