

# Western Nevada College

## **Independent Contractor Agreement** **Agreement for Services of Independent Contractor**

This Independent Contractor Agreement (“Agreement”) is entered into by and between the Board of Regents of the Nevada System of Higher Education, on behalf of Western Nevada College (“WNC”) and \_\_\_\_\_ (“Contractor”).

Independent Contractor Checklist
<p>1. Does the Nevada System of Higher Education (NSHE) pay others, as employees, who perform the same duties that are to be performed by this independent contractor?</p> <p>Yes: <input type="checkbox"/> No: <input type="checkbox"/></p>
<p>2. Is the recommended independent contractor a current or former (during the past 24 months) employee of the State of Nevada or NSHE (which includes College of Southern Nevada, Desert Research Institute, Great Basin College, Nevada State University, Truckee Meadows Community College, UNLV, UNR, Western Nevada College, or any NSHE System Administration Offices)?</p> <p>Yes: <input type="checkbox"/> No: <input type="checkbox"/></p> <p>If the answer to question 2 is YES, do NOT proceed with this form. Process the payment on an employment document. For current or former State employees, contact Controller for instructions.</p>
<p>3. Is the recommended independent contractor a member of the same household (as defined in NRS 281A.100) as a current an NSHE employee?</p> <p>Yes: <input type="checkbox"/> No: <input type="checkbox"/></p> <p>If the answer to question 3 is YES, contact the Controller before proceeding. Under the Board of Regents’ Conflict of Interest Policy (BOR Title 4 Chapter 10) payment may not be allowed.</p>
<p>4. If the recommended independent contractor is a business entity, does any current NSHE employee, or a member of any current NSHE employee’s household (as defined in NRS 281A.100), have any financial interest in the business entity?</p> <p>Yes: <input type="checkbox"/> No: <input type="checkbox"/></p> <p>If the answer to question 4 is YES, contact the Controller before proceeding. Under the Board of Regents’ Conflict of Interest Policy (BOR Title 4 Chapter 10) payment may not be allowed.</p>
<p>5. If the recommended independent contractor is a natural person, is that individual a U.S. citizen or lawful permanent resident (green card holder)?</p> <p>Yes: <input type="checkbox"/> No: <input type="checkbox"/></p> <p>If NO, contact the Nonresident Alien Tax Specialist at <a href="mailto:nra@unr.edu">nra@unr.edu</a> or (775) 784-1404 for additional documentation requirements and approval.</p>
<p>6. Was the recommended independent contractor verified to ensure that they are not debarred or suspended? Attach verification to the Agreement (Controller’s Office).</p> <p>Yes: <input type="checkbox"/> No: <input type="checkbox"/></p> <p>For those contracts utilizing Federal funds, verification of Federal debarment and suspension is required.</p>

## Recitals

WHEREAS, WNC is authorized to engage the services of independent contractors; and

WHEREAS, it is deemed that the services of Contractor herein specified are both necessary and desirable and in the best interests of WNC; and

WHEREAS, Contractor represents that it holds all required licenses and is duly qualified and able to render the services as hereinafter described.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, WNC and Contractor mutually agree as follows:

## Agreement

1. Incorporation. The foregoing recitals are hereby incorporated and made a part hereof.
2. Term. Unless sooner terminated as provided for herein, this Agreement shall be effective from \_\_\_\_\_ to \_\_\_\_\_. Under no circumstances shall the term of this Agreement exceed five (5) years.
3. Termination.
  - a. WNC may terminate this Agreement, or any portion thereof, for any or no reason upon giving thirty (30) days' advance written notice to Contractor.
  - b. Either party may terminate this Agreement with cause if the other party defaults in the performance or observance of any material term or condition of this Agreement, provided such default is not cured within thirty (30) days after written notice from the non-defaulting party specifying the nature of the default.
  - c. In the event of termination due to Contractor's default, WNC may procure the Services from other sources and hold the Contractor responsible for any resulting excess cost that WNC may incur.
4. Services. The parties agree that the services to be performed by Contractor are as follows (collectively, the "Services"):

[Specifically describe in this space the services to be performed; or, when appropriate, describe in this space the finished product or result to be provided; or attach an exhibit or exhibits containing this information, label the exhibit or exhibits as Exhibit A, Exhibit B, etc.]:

The above referenced exhibits, if any, are hereby incorporated into and made a part of this Agreement. In the event of any conflict between the terms of this Agreement and such exhibits, if any, the terms of this Agreement shall prevail.

5. Fees. WNC agrees to pay Contractor as full compensation for the complete and faithful performance of all Services hereunder as follows [Choose Only One]:

☐ A flat fee not to exceed \_\_\_\_\_, which fee is inclusive of travel and all other expenses incurred by Contractor in performance of this Agreement.

OR

☐ At a cost of \_\_\_\_\_ per \_\_\_\_\_ (here set forth the hourly, daily, etc. rate at which the Contractor agrees to perform the Services exclusive of travel expenses) with the total cost not to exceed \_\_\_\_\_.

WNC (select one) ☐ agrees ☐ does not agree to reimburse Contractor for travel expenses reasonably incurred in the performance of this Agreement plus a per diem allowance of \_\_\_\_\_ per day while on travel status in performance hereof.

WNC will pay Contractor the foregoing amounts in installments as follows:

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6. Audit. WNC may conduct an audit of Contractor's books and records pertaining to the Services to verify Contractor's compliance with its obligations hereunder, by giving Contractor fifteen (15) days' written notice of its intent to conduct such audit. Upon receipt of such notice, Contractor shall make available to WNC for audit all of its books and records reasonably necessary to enable WNC to evaluate Contractor's compliance with the terms and conditions of this Agreement, such audit to occur at WNC's main campus.

7. Ownership and Use of Documents. Any reports, studies, photographs, negatives, data files, computer discs, or other documents or drawings, in any medium, prepared by Contractor in the performance of its obligations under this Agreement shall be the exclusive property of WNC, and all such materials, if any, shall be remitted to WNC by Contractor upon completion, termination, or cancellation of this Agreement for any reason. Contractor shall not use, willingly allow, or cause to have such materials, if any, used for any purpose other than the performance of Contractor's obligations under this Agreement without the prior written consent of WNC.

8. Indemnification. To the fullest extent permitted by applicable law, Contractor agrees to indemnify, defend, and hold harmless the Board of Regents, Nevada System of Higher Education, Western Nevada College, and their respective regents, officials, officers, employees and agents (each an "Indemnified Party") from and against any and all liabilities, claims, damages, losses, lawsuits, judgments, and expenses, including without limitation attorney fees, arising directly or indirectly out of, resulting from or relating to: (a) performance of Contractor's Services under this

Agreement; (b) the negligent acts or omissions of Contractor, any subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable (each a “Responsible Party”); (c) failure of Contractor to conform to any applicable statutes, ordinances, regulations, laws, or court decrees; (d) any claim by any employee or subcontractor of any Responsible Party that WNC is liable to such person as the employer or joint employer of such person, including any claim for employee benefits as a result thereof; and (e) any claim related to any occupational injury or illness sustained by an employee or agent of any Responsible Party, even if any Responsible Party would otherwise be immune from direct liability to, or suit from, such employee or agent under applicable workers’ compensation laws; regardless of whether such claim, action, damage, loss, injury, liability, cost or expense is caused in part by the Indemnified Party.

9. Insurance.

a. General Requirements. Without limiting any of the other obligations or liabilities of Contractor, Contractor shall, at Contractor’s sole expense, procure, maintain, and keep in force for the duration of this Agreement the amounts and types of insurance conforming to the minimum requirements set forth in this Section 9. The coverage requirements established herein shall apply as primary and not excess to any insurance carried by WNC and shall be maintained throughout the term of the Agreement as specified. Insurers must be approved to do business within the state of Nevada. Contractor shall provide WNC with renewal or replacement evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required hereunder, an insurer or surety shall fail to comply with the requirements of this Agreement, as soon as Contractor has knowledge of any such failure, Contractor shall immediately notify WNC and immediately replace such insurance or bond with insurance or bond meeting the Agreement’s requirements. It is expressly understood and agreed that the foregoing minimum limits of insurance coverage shall not limit the liability of Contractor under this Agreement.

b. Workers’ Compensation and Employer’s Liability Insurance. Contractor shall provide proof of workers’ compensation insurance as required by NRS 616B.627 or proof that compliance with the provisions of Nevada Revised Statutes, Chapter 616A-D and all other related chapters, is not required. If work occurs outside of the state of Nevada, by employees who do not live and work in Nevada, proof of applicable statutory state’s workers’ compensation insurance must be provided.

c. Commercial General Liability Insurance. Contractor shall maintain commercial general liability insurance in the following minimum amounts:

General Aggregate	\$2,000,000
Products-Completed Operations	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000

Coverage shall be on an occurrence basis and shall cover liability arising from premises, operations, independent contractors, completed operations, personal injury, products, and liability assumed under contract.

d. Business Automobile Liability Insurance. Business auto insurance is required for any services or work performed by Contractor on property owned by WNC. Coverage shall be

provided for owned, non-owned and hired autos used in connection with this Agreement, with the minimum combined single limit of \$1,000,000 (or \$5,000,000 each occurrence for charter services).

e. Professional Liability Insurance. Professional liability insurance is required only if the Contractor is providing services of a professional nature. If applicable, Contractor shall maintain professional liability insurance in the amount of each occurrence/incident/claim of \$1,000,000 and in aggregate of \$3,000,000. In the event that any professional liability insurance required by this Agreement is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Agreement, and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning at the time Services under this Agreement are completed.

f. Umbrella or Excess Liability Insurance. May be used to achieve the above minimum liability limits. Shall be endorsed to state it is "As Broad as Primary Policies."

g. Technology Errors and Omission/Cyber Liability. Required when Agreement includes software, financial programs, or cloud-based services. Coverage shall be at the minimum amount of \$5,000,000 per claim and \$5,000,000 per aggregate. The retroactive coverage date shall be no later than the effective date of the Agreement. Contractor shall maintain and extend reporting period for not less than three (3) years after termination of this Agreement.

h. Additional Insured. By endorsement to all liability policies, except professional liability, "The Board of Regents of the Nevada System of Higher Education, on behalf of Western Nevada College" shall be named as additional insured for all liability arising from the Agreement using the applicable ISO endorsement CG Form. The endorsement form must be included with the certificate of insurance.

i. Waiver of Subrogation. Each liability insurance policy, including workers' compensation, required hereunder shall provide for waiver of subrogation against WNC.

j. Deductibles and Self-Insured Retentions. Insurance maintained by Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$100,000.00 per occurrence, unless otherwise approved by WNC's Risk Manager.

k. Certificate of Insurance. Prior to the start of the Services, Contractor shall provide to WNC an Accord form certificate of insurance (or equivalent) to evidence insurance policies and coverage required by this Agreement. The certificate for each insurance policy is to be signed by a person authorized by that insurer to bind coverage on its behalf. Failure to maintain the insurance policies or to provide evidence of renewal as required by this Agreement is a material breach of contract.

l. Notice of Cancellation. Should any of the insurance policies required under this Agreement be suspended, voided, or cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

10. Legal Compliance. Contractor shall be responsible for complying with all city, county, state and federal laws, codes and regulations, as applicable, in the performance of this Agreement.

Without limiting the foregoing, in connection with the performance of its obligations under this Agreement, Contractor shall not discriminate against any of its employees or agents because of race, religion, color, national origin, sex, sexual orientation, gender identity or expression, or age. Contractor shall further comply with all standards, rules, and regulations promulgated by any licensing bodies or professional organizations related to Contractor's profession. Contractor warrants that its Services shall be performed in a competent and workmanlike manner, consistent with the level of skill, care, and diligence which may be reasonably expected of other professionals within Contractor's profession.

11. Independent Contractor. The parties agree that Contractor is an independent contractor and that this Agreement is entered into in accordance with NRS 333.700, which statute in pertinent part provides that the Contractor is not an employee of WNC, and there shall be no:

- Withholding of income taxes by WNC;
- Workers' compensation insurance provided by WNC;
- Participation in group insurance plans which may be available to employees of WNC;
- Participation or contributions by either the Contractor or WNC to the public employee's retirement system;
- Accumulation of vacation leave or sick leave; or
- Unemployment compensation coverage provided by WNC if the requirements of NRS 612.085 for independent contractors are met.

It is further agreed that Contractor is not an employee of WNC and is not entitled to any of the compensation, benefits, rights, or privileges of employees of WNC.

12. Notices. Written notices required under this Agreement shall be sent certified mail, return receipt requested, to:

WNC:

Western Nevada College  
2201 West College Parkway  
Carson City Nevada 89703

Contractor:

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13. Debarment and Suspension. In the event federal funds are used for payment, in whole or in part, of this Agreement, Contractor is subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR Part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. Contractor certifies that it is not suspended, debarred or ineligible from entering into contracts with the Executive Branch of the Federal Government, or is in receipt of a notice of proposed debarment

from any federal or state agency or local public body.

14. No Representations or Warranties. WNC MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, REGARDING ANY OFFICE OR STORAGE SPACE MADE AVAILABLE TO CONTRACTOR, ANY EQUIPMENT PROVIDED BY WNC, OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT, AND HEREBY EXCLUDES ANY WARRANTY OF MERCHANTABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. ANY OFFICE OR STORAGE SPACE MADE AVAILABLE TO CONTRACTOR, AND ANY EQUIPMENT PROVIDED BY WNC, ARE PROVIDED "AS IS". CONTRACTOR AND ITS EMPLOYEES USE SUCH SPACE AND EQUIPMENT AT THEIR OWN RISK.

15. Consequential Damages Waiver. Notwithstanding anything to the contrary contained in this Agreement, and to the maximum extent permitted by law, in no event will WNC be responsible or liable to Contractor for any incidental damages, consequential damages, exemplary damages of any kind, lost goodwill, lost profits, lost business, and/or any indirect economic damages whatsoever regardless of whether such damages arise from claims based upon contract, negligence, tort (including strict liability or other legal theory), or a breach of any covenant (express or implied) of this Agreement, and regardless of whether WNC was advised or had reason to know of the possibility of incurring such damages in advance.

16. Taxes and Permits. Contractor shall be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law in connection with performance of the Services. Real property and personal property taxes are the responsibility of Contractor in accordance with NRS 361.157 and 361.159. Contractor warrants that it has a valid business license and any other professional or occupational license required to perform the Services.

17. Force Majeure. If either party is delayed or prevented from the performance of any act required hereunder by reason of strikes, failure of public transportation, civil or military authority, inability to procure materials, governmental restrictions, governmental regulations, governmental controls, act of public enemy, pandemics, epidemics or other outbreaks of diseases or other infections, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms, or other similar cause without the fault and beyond the control of the party obligated, performance of such act shall be excused for the period of delay so long as such party continues to use commercially reasonable efforts to recommence performance as soon as practicable.

18. No Waiver. Failure to declare a breach or the actual waiver of any particular breach of the Agreement or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

19. Choice of Law; Venue. This Agreement is subject to and shall be interpreted in accordance with the laws of the state of Nevada. The exclusive venue for any legal dispute hereunder shall be the state or federal courts located in or serving Carson City, Nevada, and Contractor hereby expressly consents to the personal jurisdiction of said courts.

20. Severance. The provisions hereof are severable, and if any provision contained in this Agreement is held to be unenforceable by any court of competent jurisdiction, this Agreement shall be construed as if such provision did not exist and the non-enforceability of such provision

shall not be held to render any other provision(s) of this Agreement unenforceable.

21. Assignment. This Agreement shall be binding upon and inure solely to the benefit of the parties and shall not be assignable by either party without the prior written consent of the other party. Any assignment made in violation of this Section shall be void.

22. No Partnership. Nothing in this Agreement shall be deemed in any way to create between the parties any relationship of partnership, joint venture, or association, and the parties hereby disclaim the existence of any such relationship. The parties agree that Contractor, its agents and employees are not agents or employees of WNC. Contractor shall be solely responsible for the actions and omissions of its agents and employees.

23. Entire Agreement. This Agreement, including any incorporated exhibits, contains the entire agreement between Contractor and WNC regarding the subject matter hereof. This Agreement supersedes any prior agreements, understandings or negotiations, whether written or oral. This Agreement may be amended only through a written document executed by all parties.

24. Counterparts/Electronic Signatures. This Agreement may be executed in any number of counterparts, and such counterparts may be combined to establish a fully executed document. In addition, an electronic signature shall be valid for all purposes.

25. Effectiveness. This Agreement shall not become effective or in force until all of the below-named parties have fully executed this Agreement as indicated by their signatures.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year written below.

WNC:

CONTRACTOR:

BOARD OF REGENTS OF THE NEVADA  
SYSTEM OF HIGHER EDUCATION, ON  
BEHALF OF WESTERN NEVADA  
COLLEGE

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Signature

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Signature

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Printed Name

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