STATE OF NEW MEXICO  
State Purchasing Division General Services Contract  

INFORMATION TECHNOLOGY GENERAL SERVICES AGREEMENT  

NEW MEXICO BOARD OF NURSING  

THIS INFORMATION TECHNOLOGY GENERAL SERVICES AGREEMENT (“Agreement”) is made by and between the State of New Mexico, BOARD OF NURSING hereinafter referred to as the “Procuring Agency” and TAYLOR LEWIS hereinafter referred to as the “Contractor” and collectively referred to as the “Parties”.  

WHEREAS, pursuant to the Procurement Code, NMSA 1978 13-1-28 et. seq.; and Procurement Code Regulations, 1.4.1 NMAC; the Contractor has held itself out as expert in implementing the Scope of Work as contained herein and the Procuring Agency has selected the Contractor as the offeror most advantageous to the State of New Mexico; and  

WHEREAS, all terms and conditions of the invitation for bids (“IFB”) and the Contractor’s response to such document(s) complied with all applicable regulations and are incorporated hereto; and  

WHEREAS, the parties agree that, pursuant to the Procurement Code Regulation, 1.4.1.51 NMAC, the total amount of this Agreement is greater than twenty thousand dollars ($20,000) but does not exceed sixty thousand dollars ($60,000), and complies with procedures and processes set forth by the state purchasing agent.  

IT IS, THEREFORE, MUTUALLY AGREED BETWEEN THE PARTIES:  

1. Scope of Work  

The Contractor shall provide the following services, more fully described in Exhibit A.  

Performance Measures, default by Contractor – Contractor shall substantially perform the Performance Measures fully described in Exhibit A.  

In the event the Contractor fails to obtain the results as set forth in Exhibit A, the Procuring Agency may provide written notice to the Contractor of the default and specify a reasonable period of time, no more than ten (10) business days, in which the Contractor shall advise the Procuring Agency of specific steps it will take to achieve these results in the future and the timetable for implementation. Nothing in this subparagraph shall be construed to prevent the Procuring Agency from exercising its rights pursuant to Paragraph 7 below.  

2. Performance Schedule  

The due dates set forth in Exhibit A shall not be altered or waived by the Procuring Agency without prior written approval by the Executive Level Representative, the
individual empowered with authority to represent and make decisions on behalf of the Procuring Agency’s representative.

3. Acceptance

A. Submission. Upon completion of agreed upon Deliverables as set forth in Exhibit A, Contractor shall submit a Payment Invoice with the Deliverable, or description of the Deliverable, to the Agency Project Manager or designated Agency representative. Each Payment Invoice shall be for the fixed Deliverable price as set forth in Paragraph 4 and Exhibit A.

B. Acceptance. In accord with Section 13-1-158 NMSA 1978; the Executive Level Representative shall determine if the Deliverable provided meets specifications. No payment shall be made for any Deliverable until the individual Deliverable that is the subject of the Payment Invoice has been Accepted, in writing, by the Agency. In order to Accept the Deliverable, the Agency Representative, in collaboration with the Agency Project Manager, will assess the Quality Assurance level of the Deliverable and determine, at a minimum, that the Deliverable:

1.) Complies with the Deliverable requirements as defined in Exhibit A;
2.) Complies with the terms and conditions of this Agreement;
3.) Meets the performance measures for the Deliverable(s) and this Agreement;
4.) Complies with all the requirements of this Agreement.

If the Deliverable is deemed Acceptable, the Agency Representative will notify the Contractor of Acceptance, in writing, within fifteen (15) business days from the date the Executive Level Representative receives the Deliverable(s) and accompanying Payment Invoice.

C. Rejection. Unless the Agency representative gives notice of rejection within the fifteen (15) day business day Acceptance period, the Deliverable will be deemed to have been accepted. If the Deliverable is deemed unacceptable under Quality Assurance, fifteen (15) days from the date the Agency Representative receives the Deliverable(s) and accompanying Payment Invoice, the Agency Representative will send a consolidated set of comments indicating issues, unacceptable items, and/or requested revisions accompanying the rejection. Upon rejection and receipt of comments, the Contractor will have ten (10) business days to resubmit the Deliverable to the Agency Representative with all appropriate corrections or modifications made and/or addressed. The Agency Representative will again determine whether the Deliverable(s) is Acceptable and provide a written determination as soon as possible, but within no more than fifteen (15) business days of receipt of the revised or amended Deliverable. If the Deliverable is still unacceptable and thus rejected, the Contractor will be required to provide a remediation plan that shall include a timeline for corrective action acceptable to the Agency Representative. The Contractor shall also be subject to all damages and remedies attributable to the late delivery of the Deliverable under the terms of this Agreement and available at law or equity.

4. Compensation Schedule
A. The Procuring Agency shall pay the Contractor based upon full payment for services satisfactorily performed at the hourly rate of nineteen dollars and twenty-six cents ($19.26) per hour, such compensation not to exceed a yearly maximum of 2,080 hours and forty thousand sixty dollars and eighty cents ($40,060.80), excluding gross receipts tax. The New Mexico gross receipt tax levied on the amounts payable under this Agreement with a maximum of two thousand eight hundred four dollars and twenty-six cents ($2,804.26) shall be paid by the Agency to the Contractor.

B. The Procuring Agency shall pay the Contractor upon receipt of a detailed statement of accounting for services performed and expenses incurred hereunder, and as agreed to by the parties. All invoices MUST BE received by the Procuring Agency no later than fifteen (15) days after the termination of the contract. Invoices received after such date WILL NOT BE PAID.

C. The total compensation under this Agreement shall not exceed forty-two thousand eight hundred sixty-five dollars and six cents ($42,865.06) including New Mexico gross receipts tax.

5. Taxes

A. Payment of taxes for any money received under this Agreement shall be the Contractor’s sole responsibility.

B. The New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by the Procuring Agency to the Contractor.

6. Term

THIS AGREEMENT SHALL NEITHER BE EFFECTIVE NOR BINDING UNTIL APPROVED BY THE DoIT AND DFA/CRB.

This Agreement shall terminate on June 30, 2016, unless terminated pursuant to paragraph 7, infra. The contract term, including extensions and renewals, shall not exceed one year, except as set forth in Section 13-1-150 NMSA 1978.

7. Termination

A. General. This Agreement may be terminated by either of the parties upon written notice delivered to the other party at least ten (10) days prior to the intended date of termination.

B. Appropriations. By the Procuring Agency, if required by changes in State or Federal law, or because of Court order, or because of insufficient appropriations made available by the United States Congress and/or the New Mexico Legislature for the performance of this Agreement. The Procuring Agency’s decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Procuring Agency terminates this Agreement pursuant to this subsection, the Procuring Agency shall use its best efforts to provide the
Contractor written notice of such termination at least fifteen (15) business days prior to the effective date of the termination.

C. **Notice: Agency Opportunity to Cure.**

1. Except as otherwise provided in Paragraph (3), the Agency shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency’s material breaches of this Agreement upon which the termination is based and (ii) state what the Agency must do to cure such material breaches. Contractor’s notice of termination shall only be effective (i) if the Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Agency does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the Agency; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the State Purchasing Agent; or (iii) the Agreement is terminated pursuant to Paragraph 5, “Appropriations”, of this Agreement.

D. **Liability.** Except as otherwise expressly allowed or provided under this Agreement, the Agency’s sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor’s receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party’s liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. **THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE AGENCY’S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR’S DEFAULT/BREACH OF THIS AGREEMENT.**

8. **Status of Contractor**

The Contractor and its agents and employees are independent contractors performing professional and general services for the Procuring Agency and are not employees of the State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico as a result of the Agreement. The Contractor acknowledges that all sums received hereunder are personally reportable by it for income tax purposes as self-employment or business income and are reportable for self-employment tax.

9. **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 the prior written approval of the Procuring Agency.

10. **Subcontracting**

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

11. **Records and Audit**

The Contractor shall maintain, for three years, detailed time records, which indicate the date, time and nature of services rendered. These records shall be subject to inspection by the Procuring Agency and the State Auditor. The Procuring Agency shall have a right to audit billings both before and after payment; payment under this Agreement shall not foreclose the right of the Procuring Agency to recover excessive and/or illegal payments.

12. **Release**

The Contractor’s acceptance of final payment of the amount due under this Agreement shall operate as a release of the Procuring Agency, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to purport to bind the State of New Mexico unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

13. **Confidentiality**

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the Procuring Agency.

14. **Product of Service – Copyright**

All materials developed or acquired by the Contractor under this Agreement shall become the property of the State of New Mexico and shall be delivered to the Procuring Agency no later than the termination date of this Agreement. Nothing produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

15. **Conflict of Interest**

The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Contractor certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18 NMSA 1978,
regarding contracting with a public officer, state employee or former state employee have been followed.

16. Amendment

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

17. Merger

This Agreement incorporates all the agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

18. Notice

The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

19. Equal Opportunity Compliance

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor agrees to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

20. Employee Pay Equity Reporting

Contractor agrees, if it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification, at any time during the term of this contract, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. If contractor has (250) or more employees, contractor must complete and submit the PE250 form on the annual anniversary of the initial report submittal for contracts that are up to one (1) year in duration. For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, contractor also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual contract anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract, whichever comes first.
Should contractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor agrees to provide the required report within ninety (90 days) of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter.

Contractor also agrees to levy this requirement on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor will submit the required report, for each such subcontractor, within ninety (90 days) of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal. Contractor shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. Contractor acknowledges that this subcontractor requirement applies even though contractor itself may not meet the size requirement for reporting and be required to report itself.

Notwithstanding the foregoing, if this Contract was procured pursuant to a solicitation, and if Contractor has already submitted the required report accompanying their response to such solicitation, the report does not need to be re-submitted with this Agreement.

21. **Invalid Term or Condition**

If any term or condition of this agreement shall be held invalid or unenforceable, the remainder of this agreement shall not be affected and shall be valid and enforceable.

22. **Enforcement of Agreement**

A party's failure to require strict performance of any provision of this agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

23. **Applicable Law**

The laws of the State of New Mexico shall govern this Agreement. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

24. **Indemnification**
The Contractor shall defend, indemnify and hold harmless the Procuring Agency, the State of New Mexico and its’ employees from all actions, proceedings, claims, demands, costs, damages, attorneys’ fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable, but no later than two (2) days after it receives notice thereof, notify the legal counsel of the Procuring Agency, the Risk Management Division of the New Mexico General Services Department, and the Department of Information Technology (DoIT) by certified mail.

25. New Mexico Employees Health Coverage

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed $250,000 dollars.

B. Contractor agrees to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.

C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: http://insurenewmexico.state.nm.us/.

D. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); Contractor agrees these requirements shall apply the first day of the second month after the offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of $250,000, $500,000 or $1,000,000, depending on the dollar value threshold in effect at that time.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.
By: Demetrius Chapman, MPH, MSN (R), APRN, BC, CNS-BC  
Interim Executive Director, Board of Nursing  

Date: 6 June 2015

By: Taylor Lewis  
Contractor  

Date: 8 Jun 2015

By: Shauna Casaus  
Chief Information Officer for Board of Nursing  

Date: 8 Jun 2015

By: Donna Arbogast  
Board of Nursing Chief Financial Officer  

Date: 8 Jun 2015

Approved for legal sufficiency:

By: Joseph Dworak, Assistant Attorney General  
Board of Nursing General Counsel  

Date: 18 June 2015

Taxation and Revenue Department records reflect the Contractor is registered with the Taxation and Revenue Department of New Mexico to pay gross receipts and compensating taxes:

CRS ID Number: 03-270333-00-3

Date: 6-8-15

By: Taxation & Revenue Department
EXHIBIT A – SCOPE OF WORK

I. Performance Measures:

File Management Project – Archived licensing files will be uploaded to SmartSearch File Management System by vendor. Contractor will help insure that files have been uploaded into system before destruction of licensing application.

Assist with Monthly Renewals – Renewal postcards will be sent out by the 10th of each month. Assist with automated text and email nonfictions to licensees of renewal dates.

Online Assistance – Assistance in creating an online brochure, answer and troubleshooting issues regarding online renewals and initial applications, help streamline processes and come up with efficient methods for SmartSearch Application.

II. Goals

The mission of the Board of Nursing is “to protect public safety through effective regulation of nursing care and services.” The strategic goals of the Board are to

Advance Nursing Systems
Maximize Effectiveness in Public Protection; and
Maximize Effectiveness in Customer Service.

The Information Systems Department of the New Mexico Board of Nursing will support the Board’s mission of protecting the public safety by ensuring fast, accessible and reliable information, and providing cost-efficient, high-quality technology-based services.

This contract assists in providing the proper resources to The Board of Nursing to collect data and support data integrity of New Mexico’s Nurses.

III Objectives: Assist the agency with the following:

- File Management – Ensure files have been uploaded into File Management System.
- Assist with Monthly Renewals – Convert excel spreadsheet to labels utilizing Microsoft Visio.
- SmartSearch Application – Assist users in workflow processes, troubleshoot and assist with version control
- Answer and Respond to Online Initial and Renewal Questions – Relieve Licensing Staff of calls
- Provide assistance to IT staff on project initiatives, daily technical issues, and setup of equipment.
- Assist licensing clerks with on-going IT solutions to workflow processes

III. Activities. The contractor will review project plan with IT Manager and assist with Data Integrity/ Scanning Project as assigned.