

VENDOR AGREEMENT
FOR WEB-BASED LEARNING MANAGEMENT SYSTEM SERVICES

AGREEMENT #: WIOA-METRIX-1718-016

BETWEEN



AND

NEW YORK WIRED FOR EDUCATION

CONTRACT PERIOD FOR WEB-BASED LEARNING MANAGEMENT SYSTEM SERVICES

October 16, 2017 – October 15, 2019

VENDOR: NEW YORK FOR EDUCATION
251 Fuller Road, Room 150
Albany, NY 12203

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AGREEMENT #: **WIOA-METRIX-1718-016**

REGION 12 CENTRAL FLORIDA REGIONAL WORKFORCE DEVELOPMENT BOARD, INC.
d/b/a CAREERSOURCE CENTRAL FLORIDA
390 North Orange Avenue, Suite 700 • Orlando, FL 32801

VENDOR AGREEMENT FOR WEB-BASED LEARNING MANAGEMENT SYSTEM SOLUTION

This Agreement is between the Central Florida Regional Workforce Development Board, Inc., hereinafter referred to as "CareerSource Central Florida or CSCF", whose address is 390 North Orange Avenue, Suite 700, Orlando, FL 32801, and New York Wired for Education hereinafter referred to as "Vendor or Contractor", whose address is 251 Fuller Road, Room 150 Albany, NY 12203.

This Agreement shall take effect upon execution to allow performance hosting customized web portal for CSCF using New York Wired for Education's SkillUp America™ solution. The Agreement shall commence on October 16, 2017 and expires on October 15, 2018. All Services must be delivered during this period to qualify as part of this Agreement. Through this Agreement Contractor shall provide services for CSCF as described in the attached Statement of Work.

This Agreement shall contain exercisable fixed-priced options for two additional 1-year terms pursuant to the price to which the Contractor responded. CSCF may extend the term of this contract by written notice to the Contractor within option periods of October 16, 2018 through October 15, 2019 and October 16, 2019 through October 15, 2020; provided that the CSCF gives the Contractor a preliminary written notice of its intent to extend before the contract expires. The preliminary notice does not commit CSCF to an extension. If the CareerSource exercises this option, the extended contract shall be considered to include this option clause. The total duration of this contract, including the exercise of any options under this clause, shall not exceed 36 months.

In return, CSCF shall compensate Contractor for services rendered in an amount not to exceed **\$50,000.00**, in accordance with the Payment Terms of this Agreement, unless otherwise modified by mutual consent of both parties.

The parties agree to comply with all the terms and provisions of this Agreement, including the included attachments.

Approved by:

Central Florida Regional Workforce
Development Board - Region 12
d/b/a CareerSource Central Florida

By: Pamela Nabors
Signature
Pamela Nabors

Typed Name
President and CEO

Title
10-18-17

Date

Approved by:

New York Wired for Education

By: Brian Lee
Signature
Brian Lee

Typed Name
Chief Executive Officer

Title
10/13/17

Date

STATEMENT OF WORK

- 1 **SERVICE AND ACTIVITIES:** This section is part of the Agreement between CSCF and Contractor and establishes the understanding that the services to be performed by Contractor shall be in accordance hereto.

Contractor will provide CSCF access to “Skill-up” web portal consisting of the following content and features:

ELearning Licenses – WIOA-eligible customers residing in CSCF LWIA

- Unlimited SkillSoft (business, desktop, IT) 6-month Licenses
- Unlimited Amatrol (manufacturing) Licenses
- 150 Medcom (healthcare) 6-month Licenses

Assessments

- Kenexa Prove It! Assessments for 5 sites
- Skill Profile self-assessment

Business Services

- Business Survey (local job and skill demand)
- Revenue share model, offer local business training
- Training and Consultation

Career Pathways Tool

- 10 Pathway industries, 200+ Occupations, 250+ Skills
- Progressive skill training, skills badging (see Attachment G)

Integrated Certifications

- \$5,000 pool towards certifications and vouchering

Consulting & Support

- Virtual administrator training and consultation (WDB and partners)
- Customer support (phone and email)
- Administrator support (phone and email)
- Quarterly reviews

- 2 **REPORTS AND EVALUATION:** CSCF will issue a yearly report based on checklist, which will be the instrument to determine whether the contract will be renewed or extended.

- 3 **RECORDKEEPING:** Contractor must maintain records in sufficient detail to demonstrate compliance with the relevant contractual criteria related to the Services as contained in this Agreement.

All records will be made available to CSCF, state and federal officials, and auditors. Records will be retained for a period of three years following the date of final report for this contractor until all audit questions and concerns have been resolved, whichever is later.

- 4 **INSURANCE:** Contractor must carry commercial liability insurance of \$1 million or more. In addition, Contractor shall provide CSCF with proof of insurance every six months after the contract execution date until the end of the contract period.

- 5 **CONFIDENTIALITY:** Confidential information encountered during the course of the contract shall not be disclosed to any individual or to any parties who are not authorized to receive such information.

PAYMENT TERMS

1. **COMPENSATION AND TIME PERIOD:** This is an Agreement in which CSCF will reimburse Contractor for services rendered in an amount not to exceed for Services \$50,000.00, when invoice is submitted to CSCF. Any cancellation resulting hereunder shall be in accordance with provisions set forth in Attachment B, clause 5 entitled CANCELLATION/DEOBLIGATION.
2. **MODIFICATION OF TERMS:** The terms of this Agreement, including total compensation, may be modified by mutual consent of both parties, if agreed-upon Services, funding availability, or circumstances warrant change. Refer to General Provisions and Assurances, Attachment E.
3. **CONDITIONS OF PAYMENT/PERFORMANCE STANDARDS:** It is understood and agreed by both CSCF and Contractor that payment is for costs associated with Services performed in accordance with those outlined in this Agreement.
4. **METHOD AND TIME OF PAYMENT:** Contractor will be paid by ACH deposit for the total allowable cost incurred upon receipt of proper, verified invoice. Invoice will be paid promptly provided the invoice is correct, sufficient, verifiable documentation is attached, and all costs are allowable based on the negotiated terms. Invoice shall be transmitted electronically by email to accountspayable@careersourcecf.com.
5. **CANCELLATION/DEOBLIGATION:** Contractor is expected to meet the terms and conditions specified in this Agreement and to provide those Services contained in the Statement of Work. CSCF will monitor these items and will terminate this contract if Contractor fails to provide the requested Services and performance. If this contract is terminated, the contract will be cancelled/de-obligated and awarded to an alternate provider or retained by CSCF.

If service is cancelled by either party on or before the 90th day of service, CSCF shall be entitled to a refund of 75% of amount paid to Contractor. If service is cancelled after the 90th day but on or before the 180th day, CSCF shall be entitled to a 50% refund of amount paid to Contractor. If service is cancelled by either party after the 180th day but on or before the 270th day, CSCF shall be entitled to a 25% refund of amount paid to seller.

BUDGET FOR WEB-BASED LEARNING MANAGEMENT SYSTEM SERVICES

Contractor shall invoice CSCF and be paid \$50,000.00, during base contract term of October 16, 2017 thru October 15, 2018, for all web-based learning management system services covered during term of this Agreement,.

OPTION YEAR-ONE

During option year-one (1) contract period of November 1, 2018 thru October 31, 2019, Contractor shall invoice CSCF and be paid \$50,000.00 for all web-based learning management system services covered by this agreement.

OPTION YEAR-TWO

During option year-two (2) contract period of November 1, 2019 thru October 31, 2020, Contractor shall invoice CSCF and be paid \$50,000.00 for all web-based learning management system services covered by this agreement.

DESIGNATION OF CONTRACT PERSONNEL

Workforce Central Florida has authorized the following personnel to administer this contract and give direction to the Contractor:

Name: Victor Alvarez
Title: Operations Advisor, Customer Service
Address: 390 North Orange Avenue, Suite 700, Orlando, FL 32801

Victor Alvarez shall perform as contract technical monitor and shall give technical direction hereunder. Ms. Alvarez shall be contacted for all technical matters relating to this contract and may be reached by telephone at 407-531-1222, ext. # 5029.

Name: William Warren
Title: Contract Management Specialist
Address: 390 North Orange Avenue, Suite 700, Orlando, FL 32801

William Warren shall perform as the contractual administrator for this contract. Mr. Warren shall be contacted for all contractual matters relating to this contract and may be reached by telephone at 407-531-1222, ext. # 2088.

Designated by: Pamela Nabors

Title: President and CEO

Date: October 10, 2017

Contractor has authorized the following personnel as the official contact person to accept direction from above named personnel and respond on our behalf:

Name: Christine Peng
Title: Consultant
Email: christine.peng@metrixlearning.com
Telephone Number: 518-462-1780

Designated by Brian Lee
Title: Chief Executive Officer
Date: October 10, 2017

VENDOR GENERAL PROVISIONS, CERTIFICATIONS AND ASSURANCES

CareerSource Central Florida will not award a contract where Vendor has failed to accept the GENERAL PROVISIONS, CERTIFICATIONS AND ASSURANCES contained in this section. In performing its responsibilities under this Cost Reimbursement Agreement, Vendor hereby certifies and assures that it will fully comply with the following:

By signing the Agreement, Vendor is providing the assurances and certifications as detailed below:

I. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTION (29 CFR 98)

The prospective Vendor certifies to the best of its knowledge and belief, that it and its principals are: not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

Have not within a three-year period preceding this proposal been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

Are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (A) (2) of this certification; and,

Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause of default.

Where the prospective Vendor is unable to certify to any of the statements in this certification, such prospective Vendor shall attach an explanation to this proposal (or plan).

II. CERTIFICATION REGARDING LOBBYING (29 CFR Part 93)

Vendor certifies, to the best of his or her knowledge & belief, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative Agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employees of Congress, or employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this

transaction imposed by Section 1352, Title 31, and U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

III. NON-DISCRIMINATION & EQUAL OPPORTUNITY ASSURANCE (29 CFR Part 37)

As a condition to the award of financial assistance from the Department of Labor under Title I of the WIOA, the grant applicant assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

1. Section 188 of the Workforce Innovation and Opportunity Act (WIOA) which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation, or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I financially assisted program or activity;
2. Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin;
3. Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
4. The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and

Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

Section 654 of the Omnibus Budget Reconciliation Act of 1981 as amended, 42 U.S.C. 9849, which prohibits discrimination on the basis of race, creed, color, national origin, sex, handicap, political affiliation or beliefs.

IV. WORKER'S COMPENSATION RELEASE

The undersigned hereby agrees that all employees or subcontractors hired by the undersigned to work on any project involving the CareerSource Central Florida shall be covered by Worker's Compensation in accordance with the laws of the State of Florida as same may exist from time to time.

V. COST ANALYSIS CERTIFICATION

That the cost data presented on line-item budgets or bids related to this Agreement were accurate, complete and current at the time of modified Agreement on price. I understand that negotiating this award, or modification, based on this data provides CareerSource Central Florida the right to a price adjustment to exclude any significant sum by which the price was increased because I had knowingly submitted data that were not accurate, complete or current as certified.

VI. ACCESS TO RECORDS

Access by CareerSource Central Florida, Inc., the Comptroller General of the United States or any of their duly authorized representatives must be given to any books, documents, papers and records (including computer records) of Vendor or sub-contractor which are directly pertinent to charges to the services, in order to conduct audits and examinations and to make excerpts, transcripts and photocopies; this right also includes timely and reasonable access to Vendor's and subcontractor's personnel for the purpose of interviews and discussions related to such documents.

VII. OFFICE OF MANAGEMENT AND BUDGET (OMB) CIRCULARS

Vendor agrees that, if applicable, it shall comply with all applicable OMB circulars, such as 2 CFR 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements For Federal Awards.

VIII. RECORD RETENTION

Vendor will retain records as required and will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the Contract; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

IX. PROVISION AGAINST ASSIGNMENT

Vendor shall not subcontract any of the services named in this modified agreement. No contract awarded under these terms, conditions and specifications shall be sold, transferred or assigned without the written approval of the Board. Approval does not relieve Vendor from this modified agreement.

X. DAVIS-BACON ACT

Vendor will comply, as applicable, with the provisions of the Davis-Bacon Act, as amended (40 U.S.C. 276a to 276a7) and as supplemented by Department of Labor (DOL) regulations 29 CFR part 5, the Copeland Anti Kick Back Act (40 U.S.C 276c and 18 U.S.C. 874) as supplemented by DOL regulations (29CFR, part 3), and the Contract Work Hours and Safety Standards Act (40U. S. C. 327-333) as supplemented by DOL regulations 29 CFR part 5, regarding labor standards for federally assisted construction sub-agreements.

XI. CONSTRUCTION OR RENOVATION OF FACILITIES USING PROGRAM FUNDS

Vendor is aware that Federal funds may not be used for the purchase or improvement of land, or the purchase, construction, or permanent improvement of any building or facility. If any property has been constructed or substantially renovated, through the unlawful use of state or federal funds, the federal government shall be entitled to a lien against said property.

XII. AMERICANS WITH DISABILITIES ACT

Vendor will comply with the American with Disabilities Act of 1990, P.L. 101-336, which prohibits discrimination on the basis of disability and requires reasonable accommodation for persons with disabilities; in all employment practices, including job application, procedures, hiring, firing, advancement, compensation, training, and other terms, conditions, and privileges of employment. It applies to recruitment, advertising, tenure, layoff, leave, fringe benefits, and all other employment-related activities

XIII. EXECUTIVE ORDER 11246

Executive Order 11246, as amended by Executive Order 11375, requires that Federal Vendor and Subvendors not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. It also requires the Vendor/Subvendor to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin.

XIV. CONFLICT OF INTEREST/STANDARDS OF CONDUCT

Vendor agrees that in administering the contract to comply with standards of conduct that maintain the integrity of the contract in an impartial manner, free from personal, financial or political gain by avoiding situations which suggest that any decision was influenced by prejudice, bias or special interest.

XV. CLEAN AIR/CLEAN WATER ACT/SOLID WASTE DISPOSAL ACT

The Vendor, if receiving in excess of \$100,000 in funding through this modified agreement, is required to comply with all applicable standards, orders, or regulations issued under the Clean Air Act, as amended (42 U.S.C. 7401), Section 508 of the Clean Water Act, as amended (33 U.S.C. 1368 et seq.), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR, Part 15). Vendor shall report any violations of the above to the Board. The Vendor will comply with the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6962).

XVI. ENERGY EFFICIENCY

Vendor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State of Florida's Energy Conservation Plan issued in compliance with Energy Policy and Conservation Act (Public Law 94-163).

XVII. ENVIRONMENTAL STANDARDS

Vendor will comply with environmental standards which may be prescribed pursuant to the following; (a) institution of quality control measures under the National Environmental Policy Act of 1969 (P.L.91-190) and Executive Order (EO 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood plains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C 1451 et seq.) (f) conformity of Federal Actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U. S. C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P. L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P. L. 93-205).

XVIII. INTEGRITY

Vendor shall comply with the provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) 29 CFR part 93. When applicable, if this Contract is in excess of \$100,000, Vendor must, prior to execution, complete the Certification Regarding Lobbying Form.

XIX. PUBLIC ANNOUNCEMENTS AND ADVERTISING

When issuing statements, press releases, request for proposals, bid solicitation, and other documents describing the project or programs funded in whole or in part with Federal money, all Vendors receiving Federal funds, shall clearly state: (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

XX. MODIFICATIONS

The terms of this modified agreement may be renegotiated and changed whenever extenuating circumstance affect the ability of either party to honor commitments made in this modified agreement. Extenuating circumstances must be for situations beyond the control or expectations of either party. Both parties must mutually agree upon renegotiation.

No modification of this modified agreement will be effective unless it is in writing, signed and dated by both parties.

The Board may unilaterally modify this modified agreement at will to accommodate any change in the federal or state programs, under which this modified agreement is funded, any change in the interpretation of the federal or state programs, under which this modified agreement is funded, or any applicable federal, state or local laws, regulations, rules or policies. The Board retains the option to extend this contract for an additional one year period at the end of this contract.

XXI. TERMINATION FOR DEFAULT/CONVENIENCE

This modified agreement may be terminated as follows:

1. Either party may request termination of modified agreement upon 60 days prior written notice to the other party.
2. The Board may unilaterally terminate or modify this modified agreement, if for any reason either the U.S. Department of Labor or the State of Florida reduces funding through the grants under which this modified agreement is funded.

3. The Board may unilaterally terminate this modified agreement at any time that it is determined that:
 - a. Vendor fails to provide any of the services it has contracted to provide; or
 - b. Vendor fails to comply with the provisions of this modified agreement; or
 - c. Such termination is in the best interest of the BOARD.
4. Written notification of termination must be by registered mail, return receipt requested.

If Vendor disagrees with the reasons for termination, they may file a grievance in writing within ten days of notice of termination to the CareerSource Central Florida Consortium of Elected Officials, who will conduct a grievance hearing and decide, from evidence presented by both parties, the validity of termination.

In the event this modified agreement is terminated for cause, Vendor shall be liable to the Board for damages sustained for any breach of this modified agreement by the Vendor, including court costs and attorney fees, when cause is attributable to the Vendor.

In instances where Vendors/sub grantees violate or breach modified agreement terms, the Board will use all administrative, contractual or legal remedies that are allowed by law to provide for such sanctions and penalties as may be appropriate.

XXII. COMPLIANCE WITH TANF

Vendor shall comply with the Temporary Assistance to Needy Families Program (TANF), 45 CFR parts 260-265, and other applicable federal regulations and policies promulgated there under.

XXIII. RIGHTS TO DATA/COPYRIGHTS AND PATENTS

The Board, State of Florida and the U.S. Department of Labor shall have unlimited rights to inventions made under contract or agreement: Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements" and any implementing regulations issued by the awarding agency.

Vendor also assures that it will comply with 29 CFR Part 37 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIOA Title I – financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIOA Title I – financially assisted program or activity. Vendor understands that Department of Economic Opportunity (DEO) and the United States have the right to seek judicial enforcement of the assurance.

XXV. PUBLIC ENTITY CRIMES

Vendor shall comply with subsection 287 .L33(2)(a), F.S., whereby a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity and may not transact business with any public entity in excess of the threshold amount provided in section 287.0t7, F.S., for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

XXVI. THE PRO-CHILDREN ACT

Vendor agrees to comply with the Pro-Children Act of 1994, 20 U.S.C. 6083. Failure to comply with the provisions of the law may result in the imposition of civil monetary penalty up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity. This clause is applicable to all approved sub-contracts. In compliance with Public Law (Pub. L.) L03-277, the Contract shall not permit smoking in any portion of any indoor facility used for the provision of federally funded services including health, day care, early childhood development, education or library services on a routine or regular basis, to children up to age 18.