

FACILITIES ORDER FORM

(contract/agreements for \$50,000 or less)

DISTRICT INFORMATION

Los Angeles City College

Department:

Name:

Ext.

c/o Los Angeles Community College District
Facilities Planning & Development
770 Wilshire Boulevard
Los Angeles, CA 90017

CONTRACTOR INFORMATION:

Name:

Address:

Contact Person:

Phone No:

Fax No:

Email Address:

Date:

Contract No:

Vendor No:

Project No:

Fund/Cost Center:

G/L Account:

Public Work Project:
(DIR Registration Attached)

Maintenance Of Equip:
(DIR Registration if Applicable)

(Academic Department – See “RFC” or “STA”)

Department/Supervisor Signature: _____

Emergency Work (Check the Box)

This Contract is your authorization to furnish the following services, goods or other work (“Work”), subject to the additional terms and conditions that follow below (use continuation page(s) if necessary. Include in the description of the Work a list of any drawings, plans or specifications that govern the scope and performance of the Work):

Work Description: **(Include Start & End Date of your Project)**

The Work will be performed for the following compensation (check as applicable):

Time and materials not to exceed a maximum price (“Contract Sum”) of:

Or

Lump sum price (“Contract Sum”) of:

Pursuant to Labor Code Section 1771.7, the District *has*, *has not* adopted an approved Labor Compliance Program, initially approved on July 19, 2004, which is applicable to this Project. For questions or assistance concerning the Labor Compliance Program, contact Patricia Padilla or Miguel Cabral, Padilla & Associates, Inc., at (714) 577-5340]. If neither box in the preceding sentence is checked, then it shall be deemed that there is no Labor Compliance Program that applies to the Project.

LOS ANGELES COMMUNITY COLLEGE DISTRICT

Recommended for approval:

Vice President
Administrative Services

Date

[Please Do Not Fax to the Vendor – 10/22/2019](#)
Revised 8/30/2017, 10/22/2019vt

(Contractor Name & License Number)

Signature _____

Print Name _____

Title _____

License Number _____

Date _____

GENERAL PROVISIONS

- 1. Work.** Contractor shall provide and pay for labor, services, materials, equipment, tools, machinery, water, heat, utilities, transportation, supervision, coordination, royalties, permits, fees, licenses, local, state and federal taxes and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent. All Work shall be performed in accordance with the plans, specifications and other documents, if any, identified on the cover page of this Contract, all of which are incorporated by this reference as part of this Contract. **Any** new or different terms proposed by Contractor to those stated or incorporated into this Contract shall be deemed proposals only and shall not become part of this Contract unless accepted by District in writing. All Work delivered to District shall be deemed provided, at no extra costs to District, F.O.B. destination, free of any "destination in" charges to District, and all similar charges (including, without limitation, charges for transportation, delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, duties, and bond premiums).
- 2. Warranty.** Contractor warrants that all labor, installation, materials and equipment furnished in connection with physical Work performed by Contractor for the improvement of District's plants, building, infrastructure or facilities is of first-class quality, new, free of defects, free of liens, claims and security interests of third parties and conforms to the requirements of this Contract and applicable laws. Such Work that does not conform to the foregoing warranty shall be repaired or replaced, together with the repair or replacement of any other work which may be removed, displaced or damaged in so doing, with ordinary wear and tear and unusual abuse or neglect by District excepted.
- 3. Laws, Licenses, Permits.** Contractor shall comply with, and give notices required by, applicable state, local and federal laws applying to the Work covered by this Contract, including, without limitation, those relating to safety, prevailing wages and nondiscrimination. Contractor warrants that it possesses and will maintain such contracting, business and professional licenses as required by applicable laws for the duration of its performance of the Work and any warranty. Contractor shall secure and pay for all necessary local (city and county) governmental approvals, whether related to the Work on the site, off the site or on public property, required for or in connection with the construction, use or occupancy of permanent structures or for permanent changes in existing improvements or facilities that may be part of the Work to be performed by Contractor. If Contractor is performing Work that requires review or approval by the Division of the State Architect in the Department of General Services for the State of California, Contractor shall obtain such approval prior to performing the Work.
- 4. Protection, Safety, Hazardous Substances.** With respect to portions of the Work, if any, that are performed by Contractor or its subcontractors, sub-consultants or suppliers on a site owned or occupied by District, Contractor shall take all necessary precautions for safety of, and shall provide all necessary protection to prevent loss or damage to, persons, personal property, adjacent property, landscaping, stored materials, work of other contractors, existing facilities, utilities and structures caused by its/their activities on such site. Contractor and its subcontractors, sub consultants and suppliers shall not generate, manufacture, transport, store or dispose of, nor permit the introduction, use, generation, storage or disposal of, Hazardous Substances on, under or about the site, except for Hazardous Substances that: (1) are specified in this Contract for use in the construction of the Work; (2) are stored and used by this Contractor in compliance with applicable laws; (3) do not contain asbestos or polychlorinated biphenyls (PCB's); and (4) do not require a permit or license from, or need not be reported to, a governmental authority. The term "Hazardous Substances", shall mean those materials and substances prohibited, proscribed, or the use of which is controlled by any federal, state or local agency having jurisdiction of such matters.
- 5. Field Conditions, Coordination, Clean Up, Submittals.** If the Work involves Contractor performing or designing the physical improvement of District's plants, building, infrastructure or facilities improvements, then Contractor shall (1) take field measurements and verify field conditions before commencing the Work; (2) schedule and perform the Work avoiding conflict, delay in or interference with the work of the other contractors, the activities of District's own forces and the operations of the College; (3) be responsible for changes in patterns of surface water drainage resulting from, and related erosion control or made necessary by, the performance of the Work; and (4) at all times shall keep the site free from debris such as waste, rubbish and excess materials and equipment caused by the performance of the Work. The Contractor shall perform no portion of the Work requiring submittal and review of shop drawings, product data, samples, installation plans or other submittals until the respective submittal has been approved by the District in writing. All Work shall be in accordance with approved submittals. Contractor shall remain solely responsible for the Work despite such submittal approval.
- 6. Prevailing Wages.** District has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime Work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to execute the Work ("prevailing wage rates"), which are on file with District and will be made available to any interested party on request. Contractor shall, if performing Work at a site owned or occupied by District that is subject to payment of prevailing wages, post the prevailing wage rates at each such site. All workers employed by Contractor or its subcontractors and with respect to whom prevailing wages are required to be paid by applicable laws shall be paid not less than the prevailing wage rates. For projects over \$1000, Contractor and its subcontractors shall comply with all applicable laws and the Labor Compliance Program (if any is indicated on the cover page to be applicable to the Project) relating to payment of prevailing wage, hours of work and maintenance and submission of certified payroll reports and shall pay appropriate penalties to the District for failure to comply pursuant to the Labor Code, including, but not limited to, §§ 1775, 1776, 1777.7 and 1813. If certified payroll records are requested by District, copies shall be provided promptly.
- 7. Utilities.** All utilities, including, but not limited to, electricity, water, gas and telephone, used in performance of the Work at a site owned or occupied by District shall be furnished and paid for by the District. District assumes the responsibility for removal, relocation, and protection of existing main or trunkline utility facilities located at the site at the time of commencement of the Work which are not identified in this Contract. Contractor shall be entitled to reasonable additional compensation for, and shall not be responsible for delays caused by, relocating, repairing or removing such unidentified utilities.
- 8. Contractor Status, Subcontractors, Third Parties.** Contractor is an independent contractor wholly responsible for the manner in which it performs the Work and without reservation assumes responsibility for the acts of its subcontractors and suppliers as they relate to the Work. Contractor shall require each of its subcontractors, sub-consultants and suppliers to be bound by terms of this Contract and to assume toward Contractor all the obligations and responsibilities which Contractor assumes toward District, including, without limitation, the procedures for final determination of claims as set forth in Paragraph 11, below. Each subcontract and sub-consultant agreement is hereby assigned by Contractor to District or its designee, provided that such assignment is effective only after termination of this Contract and only for those subcontracts District accepts in writing. Nothing contained in this Contract shall create any third-party beneficiary rights in favor of any third persons or entities.
- 9. District Authority.** The Executive Director or his/her designee is the only person with authority to bind District contractually. Persons acting in the capacity as project managers, construction managers or design consultants to District do not have authority to: (1) obligate or commit District to any payment of money; (2) obligate District to any modification to this Contract or the Contract Sum; (3) relieve Contractor of any of its obligations under this Contract; or (4) approve or order any Work involving delay or extra work.
- 10. Changes.** Changes or additions to the Work may be ordered by District without invalidating this Contract. Contractor shall not be entitled to an adjustment to the Contract Sum for such changes or additions except as authorized in writing signed by District's Executive Director or his/her designee. Changes or additions to the Work performed without such prior written authorization shall be at Contractor's own risk and expense. Nothing herein shall be interpreted as altering the requirements of California Education Code Section 81655 pertaining to approval or ratification by the Board of Trustees of contracts and modifications to contracts entered into by District.
- 11. Claims, Disputes.** Claims by Contractor for additional money, damages or other relief that are denied by District shall be submitted and finally determined pursuant to binding arbitration in accordance with the Public Contract Code Sections 10240 *et seq.* Contractor's exclusive right and remedy

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for claims involving additional compensation or damages due to differing site conditions shall be its rights under Public Contract Code Section 7104. No dispute with respect to any matters relating to the performance of this Contract, including, without limitation, the amount of any payment claimed due by Contractor that is disputed in good faith by District for Work or for changes or additions to the Work, shall relieve or excuse Contractor from the obligation to proceed with and maintain continuous, expeditious and uninterrupted performance of the Work, including performance of any disputed changes or additions.

12. Payments, Withholding, Substitution of Securities. Applications for Payment shall be properly prepared and submitted to District once a month on or before the fifth (5th) Day of the month following the month in which the Work that is the subject of such Application for Payment was performed. Progress payments shall not exceed the progressed value of the Work, calculated by multiplying the percentage of the Work that District determines, in good faith, to have been properly performed times the Contract Sum. Pursuant to California Public Contract Code Section 20104.50, District shall make progress payments of undisputed sums within thirty (30) days of receipt of an undisputed and properly submitted Application for Payment. Contractor shall keep sufficient records to verify the amount of sales and use taxes paid. Final Payment shall not become due by District until sixty (60) Days after "completion" of the Work as defined in California Public Contract Code Section 7107, subject to District's right to withhold 150% of any amounts in dispute. Without limitation to the foregoing, District shall have the right to withhold payment for losses caused or threatened as a result of any of the following: (1) defective Work; (2) failure to pay third parties for Work performed; or (3) any other violation of the terms of this Contract. District shall have the right, if deemed necessary in its sole discretion, to issue joint checks made payable to Contractor and any of its subcontractors, sub-consultants or suppliers. If the Contractor is performing work in involving construction of improvements at a site owned or occupied by District, then Contractor shall be permitted pursuant to Public Contract Code Section 22300 to substitute securities in lieu of monies withheld or retained by District or in the alternative to release such monies to an escrow agent at the expense of Contractor. Acceptance by Contractor of final payment shall be a waiver of all claims for additional compensation, except as to claims identified by Contractor in writing at the time of application therefore.

13. Insurance. Without limiting Contractor's indemnification and as material condition of this Contract, the District has arranged for certain projects to be insured under an Owner Controlled Insurance Program ("OCIP") **IF APPLICABLE**. The OCIP will provide workers compensation, employer's liability insurance, general liability insurance, and excess liability insurance, for Work performed by certain contractors and subcontractors. Insurance under the OCIP shall apply only to those operations of each Enrolled Party performed at the project site related to the Work. The following parties are not eligible for OCIP insurance: (1) architects and their consultants, surveyors, soil testing engineers; (2) hazardous materials removal and/or transport companies; (3) vendors, suppliers, fabricators, material dealers; (4) truckers, haulers, drivers and others who merely transport, pickup, deliver, or carry materials, personnel, parts or equipment or any other items or persons to or from the Project site; (5) contractors and their subcontractors who do not perform any actual labor on the Project site; (6) any parties or entities not specifically listed as an Insured Party in the OCIP; (7) any parties or entities excluded by the District in its sole discretion. All other parties must enroll in the OCIP unless excluded by the District. The District may include or exclude any contractor or subcontractor from the OCIP, even if that party is eligible. The Contractor's duties and responsibilities are stated in the OCIP Reference Guide sometimes referred to as the "OCIP Manual." The OCIP Manual is incorporated into this agreement by this reference. Contractor agrees to the duties and responsibilities stated more fully in the OCIP Manual, even if Contractor has not read the OCIP Manual. Contractor warrants and represents to the District that the costs of insurance for OCIP coverages, as defined in the OCIP Manual, are not included in the Contract Sum if Contractor is eligible for enrollment in the OCIP. The District shall pay OCIP Premiums, as defined in the OCIP Manual. The District shall be entitled to receive all adjustments to the OCIP premiums or insurance costs including dividends, retroactive adjustments, return premiums, or other moneys due from OCIP insurers. Contractor agrees to sign any documents of assignment as may be necessary to permit the District to receive these adjustments. The District reserves the right, at its option without obligation, to furnish other insurance coverage of various types and limits. The District shall have no obligation to provide insurance other than the OCIP insurance. The District has no responsibility to determine if the OCIP insurance is sufficient for the conduct of Contractor's business or performance of the Work. The District may discontinue the OCIP; modify the limits of liability provided in the OCIP, or request that Contractor withdraws from OCIP insurance coverage. If so, the District will give thirty (30) days written notice. Contractor shall obtain at the District's expense and maintain during the performance of the Work, all (or a portion thereof as specified by the District) any necessary replacement of the OCIP insurance, and the District shall then no longer be obligated to furnish all or a part of such insurance through the OCIP. The form, content, limits of liability and cost of such insurance and the insurer issuing such insurance procured by Contractor shall be subject to the District's approval. Additional insurance that Contractor and its subcontractors must maintain at all times (for off-site losses) is fully described in the OCIP Manual. Minimum requirements are as follows: (a) General liability insurance with minimum limit of \$1 million per occurrence \$2 million general aggregate; (b) Workers' compensation – statutory limits; and (c) Automobile liability insurance with a minimum of \$2 million combined single limit (\$1 million for subcontractors). If the Contractor is providing design professional services, then in addition to the foregoing, it shall provide and maintain errors and omissions liability insurance with coverage (per claim and aggregate) of \$ 1,000,000.

14. Indemnity. To the fullest extent permitted by law, Contractor agrees to indemnify, defend at its own expense and hold harmless District, District's colleges, District's Board of Trustees, and each of their members, officers, employees, agents, insurers and volunteers ("Indemnitee(s)"), through legal counsel reasonably acceptable to District, from any and all losses, liabilities and damages, regardless of whether caused in part by such Indemnitee, arising out of or relating to any of the following: (1) with respect to Work that does not involve the performance of professional services by a licensed architect, engineer, landscape architect, or land surveyor (a), any act or omission of Contractor, or any of its subcontractors, sub-consultants or suppliers; (b) the existence of any Hazardous Substances introduced to or released at the Site, or handled or disposed of, as a result of the actions of Contractor or its subcontractors, sub-consultants or suppliers; (c) any infringement of copyright, trademark or patent rights, except where such infringement is the result of a particular design, process or product required by District; (d) the violation by Contractor or its subcontractors, sub-consultants or suppliers of any applicable law (including, without limitation, any labor requirements of applicable laws) and (2) with respect to Work that involves the performance of professional services by a licensed architect, engineer, landscape architect, or land surveyor, any act or omission of Contractor, or any of its sub-consultants providing such professional services that constitutes negligence (including, without limitation, negligent breach of contract), recklessness or willful misconduct; provided, however, that nothing contained herein shall be construed as obligating Contractor to indemnify an Indemnitee for losses, liabilities or damages resulting from defects in design furnished by that Indemnitee or resulting from that Indemnitee's negligence, recklessness or willful misconduct. The provisions of this Paragraph shall not be limited to the availability or collect ability of insurance proceeds and shall survive termination and/or expiration of this Contract.

15. Default and Termination. Should Contractor fail to perform any obligation under this Contract, or should Contractor file or have filed against it a petition for bankruptcy or have its assets be subject to a general assignment for the benefit of its creditors, become insolvent and or be declared insolvent, or be unable to pay the obligations to its creditors when due, then District shall have the option, after forty-eight (48) hours written notice to Contractor, without prejudice to any other right or remedy at law or in equity, to take any actions necessary to cure such default and to charge the costs thereof to Contractor. Alternatively, District may demand that Contractor cure such default and if Contractor fails to fully cure such default within five (5) days after written notice by District, then District may elect to terminate this Contract and take possession of all tools, equipment, materials and supplies specifically produced for the Work and thereafter use whatever means deemed appropriate by District to complete the Work. Upon such termination, Contractor shall not be entitled to receive any further payments under this Contract until the Work is completed and accepted by District

16. Termination for Convenience. District shall have the right at any time, without cause and for its convenience, to terminate this Contract in whole or in part upon giving Contractor ten (10) days prior written notice. Contractor's sole compensation in the event of such termination shall be its right to be compensated a pro rated portion of its Contract Sum based on District's good faith determination of the percentage of Work completed in accordance with this Contract. District shall have no other or further liability to Contractor for any direct, consequential or prospective damages, including, without

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limitation, prospective loss of profits, loss of bonding capacity, loss of business opportunity or unabsorbed overhead. In the event any termination by Contractor under Section 16 is determined to be wrongful, then such termination shall be deemed to be a termination under this Section 16.

17. Time of Essence. All time limits stated in this Contract relative to the Contractor's performance of its obligations under this Contract are of the essence.

18. Assignment. Contractor shall not assign any interest or claim under this Contract, nor any monies due, without the prior written consent and approval of District, which may be granted or withheld in District's sole discretion. Contractor agrees to assign to District all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act, (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to this Contract. This assignment shall be made and become effective at the time District tenders final payment to Contractor, without further acknowledgement by the parties hereto. Contractor hereby assigns to District all subcontracts entered into for the performance of the Work, contingent only upon District's acceptance thereof following termination of this Contract.

19. No Waiver or Limitation. A waiver by either party of any breach of any term or covenant of this Contract shall not be deemed to be a waiver of any subsequent breach of the same or any other term or covenant whether of the same or a different character. Neither payment for nor acceptance of Work by District shall be interpreted as waiving or limiting any of District rights or remedies or as a relieving Contractor from responsibility to comply with its obligations under this Contract. Rights of District under this Contract shall be in addition to and not a limitation on the District's rights otherwise available under applicable laws.

20. Entire Agreement, Requisite Provisions, Severability. This Contract represents the entire agreement between District and Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. Each and every provision and clause required by applicable laws to be inserted in this Contract shall be deemed to be inserted. Any provision hereof found to unenforceable shall be deemed severed and separable from the other provisions hereof.

21. Conflicts. Contractor agrees not to accept any employment or representation which is or may likely make Contractor "financially interested" (as provided in California Government Code Sections 1090 and 87100) in any decision made by the College or District on any matter in connection with which Contractor has been retained.

22. Intellectual Property Rights. Contractor agrees that the Intellectual Property Rights (as defined herein) related to and/or covering any of the Work shall be the sole and exclusive property of District. Intellectual Property Rights shall include all intellectual property rights including without limitation patent, trademark, trade dress, copyright, industrial design rights, priority rights, and trade secrets relating to the Work of Contractor or any Sub-consultant and Subcontractor. Contractor shall, without further consideration, obtain and transfer in writing any and all Intellectual Property Rights in the Work, including any underlying designs or depictions, free and clear of any liens or other encumbrances, to District, and to cooperate with District in securing and registering such rights, such that District shall own all Intellectual Property Rights and any other tangible and/or intangible property rights associated with the Work. Contractor shall not copy, offer to sell, import, display, prepare derivative works of, distribute, make, import, or otherwise commercialize, any of the Work, or any substantial or confusingly similar likeness thereof, for any purpose, without the prior written consent of District, which consent may be granted or withheld in the sole and absolute discretion of District. Contractor represents and warrants that all Work purchased from Contractor by District, and the use of such Work in the ordinary course, are free of any claim of infringement or any other violation of any right of any third party.

23. Inspection. District shall have the right, but not the obligation, to conduct testing or inspection of the Work at any time (including, without limitation, prior to shipment). District shall have the right to waive any such inspection without prejudicing or limiting District's rights or remedies for Work which is defective or does not conform to the stated or incorporated terms of this Contract. Such rejected Work will be removed, replaced, returned to Contractor and/or corrected by Contractor, as District deems appropriate, at not cost to District with appropriate credit to District. Neither payment for nor inspection, approval, acceptance or installation of, Work shall constitute acceptance of Work which is defective or which does not comply with the stated or incorporated terms of this Contract.

24. Title. Title to Work that consists of goods, products or construction will pass to District upon the earlier of either payment by District or completion of Contractor's obligations with respect to delivery and performance. No portions of the Work shall be subject to any chattel mortgage or under a conditional sale or other agreement by which an interest therein or in any part thereof is retained by a seller or supplier.

25. Adequate Assurances. If at any time District in good faith determines that it is insecure with respect to Contractor's ability or intent to fully perform, then Contractor agrees to provide District with written assurance, fully satisfactory to District, of Contractor's ability to fully perform. Upon District's good faith determination that Contractor cannot or will not perform, then District may deem the Contract breached by Contractor.