



MERCED UNION HIGH SCHOOL DISTRICT

P.O. Box 2147
Merced, CA 95340
(209) 325-2000

FIELD-INDEPENDENT CONTRACTOR AGREEMENT

THIS CONTRACT made and entered into on [REDACTED] by and between [REDACTED] hereinafter called the **CONTRACTOR** and the **MERCED UNION HIGH SCHOOL DISTRICT**, hereinafter called **DISTRICT**.

WITNESSETH; The parties do hereby contract and agree as follows:

1. The **CONTRACTOR** shall furnish **DISTRICT** for a total contract price not to exceed:

[REDACTED] (\$ [REDACTED])

For the following goods/services/scope of work: _____

2. The term of this contract shall begin on [REDACTED] with work to be completed on or before [REDACTED].
3. The Contractor shall not commence work under this Contract until the insurance required under Paragraph 23 of the **Terms and Conditions**, and satisfactory proof of such insurance, has been submitted to DISTRICT and said insurance has been approved by DISTRICT.
4. Payment Schedule - Payment for the work shall be made upon completion of each project and DISTRICT's written approval of the work (which approval shall not be unreasonably withheld).
5. Inspection shall be performed by DISTRICT's authorized representative, who for the purpose of this Contract shall be [REDACTED].
6. The Contract includes the general terms and conditions as printed and set forth on the following pages, and the Contractor, by executing this Contract, agrees to comply with all such general terms and conditions.
7. The Contractor shall guarantee all labor and material used in the performance of this Contract for a period of one year from the date of final written approval by DISTRICT.
8. **IN WITNESS WHEREOF**, the parties hereunto have subscribed to this Contract, including all Contract Documents as listed below:

_____ Work Specs/Scope of Work Statement

_____ Insurance Forms

_____ Addendum Containing Specific Terms and Conditions

_____ Non Collusion Affidavit

Purchase Order No. _____

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self insurance in accordance with

provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Contract."

NOTE: Federal Regulations (Code Sections 6041 and 6209) require non-corporate recipients of \$600.00 or more to furnish their taxpayer identification number to the payer. The regulations also provide that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these regulations, the District requires your federal tax identification number or Social Security Number, whichever is applicable.

TYPE OF BUSINESS ENTITY

_____ Individual
_____ Sole Proprietorship
_____ Partnership
_____ Corporation
_____ Other

TAX IDENTIFICATION

Employer Identification

Social Security Number

Under penalty of perjury, I certify that the number shown on this form is my correct taxpayer identification number.

CONTRACTOR'S NAME

Contractor Name

Authorized Signature

TITLE: _____

LICENSE NUMBER: _____

ADDRESS: _____

DATE: _____

MERCED UNION HIGH SCHOOL DISTRICT

Scott Weimer
Assistant Superintendent, Business & Student Services

DATE: _____

PHONE: _____

FAX: _____

NONCOLLUSION AFFIDAVIT

_____, being first duly sworn, deposes and says that he or she is _____ of the party making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(Signature)

(Date)

GENERAL TERMS AND CONDITIONS

1. **PROPOSAL ACCEPTANCE.** Proposals are subject to acceptance by the signing of a contract and issuance of an appropriate purchase order at any time within sixty (60) days after the receipt of quotes unless otherwise stipulated. DISTRICT reserves the right to accept or reject any and all quotes and reserves the right to waive any informality in any quote.
2. **SITE EXAMINATION.** Contractor must examine the site and certify all measurements, specifications and conditions affecting the work to be performed at the site. By submitting their quote a contractor warrants that they have made such site examination as they deem necessary as to the condition of the site, its accessibility for materials, workmen and utilities and ability to protect existing surface and subsurface improvements. No claim for allowance of time or money will be allowed as to such matters or for any other undiscovered conditions on the site.
3. **EQUIPMENT AND LABOR.** The Contractor shall furnish all tools, equipment, apparatus, facilities, transportation, labor, and material necessary to furnish the services herein described, the services to be performed at such times and places as directed by and subject to the approval of the authorized district representative indicated in the work specifications attached hereto.
4. **SUBCONTRACTORS.** Contractor agrees to bind every subcontractor by terms of the contract as far as such terms are applicable to subcontractor's work. If Contractor shall subcontract any part of this contract, Contractor shall be fully responsible to DISTRICT for acts and omissions of his subcontractor and of persons either directly or indirectly employed by himself. Nothing contained in the contract documents shall create any contractual relations between any subcontractor and DISTRICT.
5. **SAFETY AND SECURITY.** It shall be the responsibility of the Contractor to ascertain from DISTRICT the rules and regulations pertaining to safety, security and driving on school grounds, particularly when children are present.
6. **DEFAULT BY CONTRACTOR.** When Contractor, or any subcontractor, or vendor shall fail to deliver any article or service or shall deliver any article or service which does not conform to the work specifications, DISTRICT may, upon five (5) business days' prior written notice describing the default, at its option, annul and set aside the contract entered into with said Contractor, subcontractor or vendor either in whole or in part, and make and enter into a new contract in such manner as seems to be to the best advantage of DISTRICT. Any failure for furnishing such articles or services by reason of the failure of the Contractor, subcontractor or vendor, as above stated, shall be a liability against the Contractor and his sureties. DISTRICT reserves the right to cancel any articles or services which the Contractor may be unable to furnish because of economic conditions, governmental regulations or other similar causes beyond the control of the Contractor provided satisfactory proof is furnished to DISTRICT, if requested.
7. **CONTRACT CHANGES.** No changes or alterations to this contract shall be made without specific prior written approval by DISTRICT.
8. **WORKERS.** Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ on work any unfit person or anyone not skilled in work assigned to him or her. Any person in the employ of the Contractor whom DISTRICT may deem incompetent or unfit shall be dismissed from the job site and shall not again be employed at site without written consent from DISTRICT.
9. **SUBSTITUTIONS.** No substitutions of materials from those specified in the Work Specifications shall be made without the prior written approval of DISTRICT.
10. **CONTRACTOR SUPERVISION.** Contractor shall provide competent supervision of personnel employed on the job site, use of equipment, and quality of workmanship.

11. **CLEAN UP.** Debris shall be removed from the premises. Job site shall be in order at all times when work is not actually being performed and shall be maintained in a reasonably clean condition.

12. **ACCESS TO WORK.** DISTRICT representatives shall at all times have access to work wherever it is in preparation or progress. Contractor shall provide safe and proper facilities for such access.

13. **PROTECTION OF WORK AND PROPERTY.** The Contractor shall erect and properly maintain at all times, as required by conditions and progress of work, all necessary safeguards, signs, barriers, lights, and watchmen for protection of workmen and the public, and shall post danger signs warning against hazards created by such features in the course of construction. In an emergency affecting life and safety of life or of work or of adjoining property, Contractor, without special instruction or authorization from DISTRICT, is permitted to act at his discretion to prevent such threatened loss or injury.

14. **OCCUPANCY.** DISTRICT reserves the right to occupy buildings at any time before formal contract completion and such occupancy shall not constitute final acceptance or approval of any part of the work covered by this contract, nor shall such occupancy extend the date specified for substantial completion of the work.

15. **ASSIGNMENT OF CONTRACT AND PURCHASE ORDER.** The Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties, or obligations under this contract without the prior written consent of DISTRICT.

16. **FORCE MAJEURE CLAUSE.** The parties to the Contract shall be excused from performance thereunder during the time and to the extent that they are prevented from obtaining, delivering, or performing by act of God, fire, strike, loss, or shortage of transportation facilities, lock-out, commandeering of materials, products, plants or facilities by the government, when satisfactory evidence thereof is presented to the other party (ies), provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the party not performing.

17. **HOLD HARMLESS AGREEMENT.** The Contractor shall save, defend, hold harmless and indemnify DISTRICT from and against any and all losses, damages, liabilities, claims, and costs of whatsoever kind and nature for injury to or death of any person and for loss or damage to any property occurring in connection with or in any way incident to or arising out of the occupancy, use, service, operations, or performance of work on the property under the terms of this contract, resulting in whole or in part from the negligent acts or omissions of the Contractor, any subcontractors, or any employee, agent, or representative of Contractor and/or its subcontractors.

18. **PAYMENT.** Unless otherwise specified, the Contractor shall render invoices in triplicate for materials delivered or services performed under the Contract/Purchase Order. DISTRICT shall make payment for materials, supplies or other services furnished under this Contract in lump sum on completion of the work within thirty (30) days after delivery to and approval by the authorized DISTRICT representative of all invoices and other documentary evidence reasonably required by DISTRICT (which approval shall not be unreasonably withheld).

19. **PERMITS AND LICENSES.** The Contractor and all of his employees, agents, and subcontractors shall secure and maintain in force, at Contractor's sole cost and expense, such licenses and permits as are required by law, in connection with the furnishing of materials, supplies, or services herein listed.

20. **CONTRACTOR NOT OFFICER, EMPLOYEE, OR AGENT OF DISTRICT.** While engaged in carrying out other terms and conditions of the purchase order, the Contractor is an independent Contractor, and not an officer, employee, agent, partner, or joint venture of DISTRICT.

21. **ANTI-DISCRIMINATION**. It is the policy of DISTRICT that in connection with all work performed under construction and purchasing contracts, there be no discrimination against any employee engaged in the work because of race, color, sex, ancestry, national origin, or religious creed, and therefore the Contractor agrees to comply with the applicable Federal and California Laws, including, but not limited to the California Fair Employment Practice Act, beginning with Labor Code, Section 1410 and Labor Code, Section 1735. In addition, the Contractor agrees to require such compliance by all subcontractors employed on the work by him.

LABOR CODE. The Contractor shall comply with the applicable provisions of the California Labor Code, Division 3, Part 7, Chapter 1, Articles 1-5, including the payment of the general prevailing rates for public works projects of more than One Thousand Dollars (\$1,000). Copies of the prevailing rate of per diem wages are on file in the Purchasing Department, located at 2820 Clark Avenue, Norco, CA 92860, or: "http://www.dir.ca.gov/DIR/S&R/statistics_research.html."

23. **CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE**. The Contractor shall not commence work under this Contract until he has obtained the insurance required under this paragraph and satisfactory proof of such insurance has been submitted to DISTRICT and said insurance has been approved by the DISTRICT. Except for worker's compensation insurance, the policy shall not be amended or modified and the coverage amounts shall not be reduced without DISTRICT's prior written consent, and, DISTRICT shall be named as an additional insured and be furnished thirty (30) days written notice prior to cancellation. The Contractor shall not allow any Subcontractor, employee or agent to commence work on this contract or any subcontract until the insurance required of the Contractor, subcontractor, or agent has been obtained. Certificates of Insurance shall be mailed to Merced Union High School District P.O. Box 2147 Merced, CA 95340.

a) **WORKER'S COMPENSATION INSURANCE**. The Contractor shall procure and shall maintain during the life of this contract Worker's Compensation Insurance on all of his employees to be engaged in work on the project under this contract and in case of any such work sublet, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the Contractor's Worker's Compensation Insurance.

b) **CONTRACTOR'S PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE**. Prior to execution of the contract, the contractor shall furnish DISTRICT with insurance endorsements evidencing insurance coverage and further indicating that the contractor's policies have been endorsed to name the "MERCED UNION HIGH SCHOOL DISTRICT" as an additional insured. The endorsements shall further provide the contractor's policy is primary over any insurance carried by DISTRICT and that the policy will not be canceled or materially changed without thirty (30) calendar days prior written notice" being given to DISTRICT Procurement Services. During the term of the contract, the contractor shall, at its own cost and expense, maintain the following types of insurance:

Commercial General Liability Coverage, "occurrence" form only, to include bodily injury and property damage for premises and operations, contractual liability, independent contractors, personal and advertising injury, and wrongful termination with a combined single limit not less than \$1,000,000 per occurrence and an annual general aggregate limit not less than \$2,000,000. The policy shall be endorsed to name DISTRICT, its governing boards and commissions and the individuals thereof, and all its officers, agents, employees, representatives and volunteers, as additional insured.

Business Automobile Liability Coverage with \$1,000,000 combined single limit, including coverage for owned, non-owned and hired autos.

24. **WARRANTY/QUALITY**. The Contractor, manufacturer, or their assigned agents shall guarantee the workmanship, product or service performed against defects or failures of materials for a minimum period of one (1) year from delivery or the final completion date for the work. All workmanship and merchandise must be warranted to be in compliance with applicable California energy, conservation, environmental, and educational standards.

25. **ASSIGNMENT OF CLAIMS**. In submitting a quote on this public works project, or any subcontractor agreeing to supply goods, services, or materials, and entering a contract pursuant thereto, the Contractor and/or subcontractor do offer and agree 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. Section 15) or under the Cartwright Act, Chapter 2 (commencing with Section 116700 of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time DISTRICT tenders final payment to the Contractor without further acknowledgment by the parties.

26. **COMPLIANCE WITH LAWS**. Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on conduct or work as indicated or specified. If Contractor observes that any of the work required by this contract is at variance with any such laws, ordinances, rules or regulations, Contractor shall notify DISTRICT, in writing, and, at the sole option of DISTRICT, any necessary changes to the scope of work shall be made and this Contract shall be appropriately amended in writing, or this Contract shall be terminated effective upon Contractor's receipt of a written termination notice from DISTRICT. If Contractor performs any work knowing it to be in violation of such laws, ordinances, rules or regulations, and without first notifying DISTRICT of such violation, Contractor shall bear all costs arising therefrom.

27. **TIME IS OF THE ESSENCE**. Time is of the essence in the performance of and compliance with each of the provisions and conditions of this contract.

28. **GOVERNING LAW**. This contract shall be governed by and construed in accordance with the laws of the State of California.

29. **ATTORNEYS' FEES**. If any action is brought by either party against the other party hereunder, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action.

30. **NO ORAL MODIFICATION**. Any waiver, amendment, modification, consent or acquiescence with respect to this contract or any provision of this contract or with respect to any failure to perform in accordance therewith shall be set forth in writing and duly executed by or on behalf of the party to be bound thereby.

31. **PROVISIONS REQUIRED BY LAW DEEMED INSERTED**. Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and this contract shall be read and enforced as though it were included therein.

32. **ASBESTOS HAZARD EMERGENCY RESPONSE ACT (AHERA)**. All contract work that is performed for DISTRICT by outside contractors or workers must meet all of the regulations that have been set forth in the AHERA rule. This means that all work which could disturb the integrity of any Asbestos Containing Building Material (A.C.B.M.) needs to be approved by DISTRICT. This refers to the sawing, grinding, cutting, or drilling of any A.C.B.M. in occupied areas

