

DESIGN-BUILD CONTRACT
BETWEEN DISTRICT AND DESIGN-BUILDER

(District-Wide Administered Design-Build Procurement)

THIS DESIGN-BUILD CONTRACT BETWEEN DISTRICT AND DESIGN-BUILDER ("Design-Build Contract") is entered into on this _____ day of _____, 200____ by and between the **LOS ANGELES COMMUNITY COLLEGE DISTRICT** ("District") and _____, a _____ ("Design-Builder").

**ARTICLE 1
DEFINITIONS**

Capitalized terms used in the Contract Documents shall have the meanings assigned to them in the General Conditions. If not defined in the General Conditions they shall have the meanings assigned to them elsewhere in the Contract Documents. If not defined in the General Conditions or elsewhere, they shall have the meanings reasonably understood to apply to them by the context in which they are used.

**ARTICLE 2
THE WORK**

2.1 SCOPE OF WORK

Design-Builder shall execute the entire Work called for by the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of District or another Project Team member retained by District.

2.2 STANDARD OF PERFORMANCE

In addition to and without limiting Design-Builder's other obligations under the Contract Documents, Design-Builder shall at all times in its performance of its obligations under the Contract Documents conform to the following general standards of performance:

2.2.1 comply with the requirements of the Contract Documents;

2.2.2 comply with Applicable Laws;

2.2.3 conform to the standard of care applicable to those who provide design-build professional services and construction of the type called for by this Design-Build Contract for projects of a scope and complexity that is comparable to the Project;

2.2.4 furnish efficient business administration of the Work, utilizing sufficient senior level management and other qualified personnel to manage the Work; and

2.2.5 apply its best and highest skill and attention to completing the Work in an expeditious and economical manner, consistent with the expressed best interests of the District and within the limitations of the Contract Sum and Contract Time.



ARTICLE 3 CONTRACT TIME

3.1 DATES OF COMMENCEMENT

The Contract Time for completion of the design portion of the Work shall be measured from the Date of Commencement of Design. The Contract Time for Substantial Completion of entire Work shall be measured from the Date of Commencement of Construction.

3.2 NOTICES TO PROCEED

The design portion of the Work shall not commence prior to the date fixed in the Notice to Proceed With Design. No physical construction at the Site shall commence prior to the date fixed in the Notice to Proceed With Construction.

3.3 CONTRACT TIME

3.3.1 Design. Design-Builder shall complete the Final Construction Documents not later than [REDACTED] ([REDACTED]) Days after the Date of Commencement of Design.

3.3.2 Construction. Design-Builder shall achieve Substantial Completion of the entire Work not later than [REDACTED] ([REDACTED]) Days after the Date of Commencement of Construction and shall achieve Final Completion of the entire Work not later than [REDACTED] ([REDACTED]) Days after the occurrence of Substantial Completion.

3.4 LIQUIDATED DAMAGES TO DISTRICT

3.4.1 District Right. District and the Design-Builder acknowledge and agree that if Design-Builder fails to Substantially Complete the Work within the Contract Time for Substantial Completion, District will suffer substantial Losses, which would be both extremely difficult and impracticable to ascertain. On that basis they agree, as a reasonable estimate of those Losses and not a penalty, to the payment by Design-Builder of liquidated damages pursuant to this Section 3.4.

3.4.2 Daily Rate. If Design-Builder fails to achieve Substantial Completion of the entire Work within the Contract Time for Substantial Completion, Design-Builder shall pay to District as liquidated damages the amount of [REDACTED] Dollars (\$ [REDACTED]) per Day for each Day occurring after the expiration of the Contract Time for Substantial Completion until the Design-Builder achieves Substantial Completion of the entire Work.

3.4.3 Extensions of Time. Liquidated damages shall not be charged to Design-Builder for Delays to Substantial Completion for which the Design-Builder is entitled under the Contract Documents to receive a Contract Adjustment to the Contract Time for Substantial Completion.

3.4.4 Partial Completion. Liquidated damages shall not be reduced or apportioned for Substantial Completion of portions of the Work prior to Substantial Completion of the entirety of the Work.

3.4.5 Remedies. District may deduct such liquidated damages as are payable hereunder from money due or to become due to Design-Builder, or pursue any other legal remedy to collect such liquidated damages from Design-Builder and/or its Surety.

3.4.5 Not a Limitation. District's rights under this Section 3.4 shall not be interpreted as precluding or limiting: (1) any right or remedy of District arising from an Event of Design-Builder Default other than a failure to Substantially Complete the Work within the Contract Time; or (2) District's right to order an acceleration, at Design-Builder's Own Expense, of performance of the Work to overcome Delay, including, without limitation, a Delay for which District has the right to assess liquidated damages.

3.5 LIQUIDATED DAMAGES TO DESIGN-BUILDER

3.5.1 Design-Builder's Right. District and Design-Builder acknowledge and agree that if Design-Builder is unable due to Compensable Delay to Substantially Complete the Work within the Contract Time for Substantial

Completion, Design-Builder and its affected General Contractor, Subcontractors and Subconsultants will suffer Losses, which would be both extremely difficult and impracticable to ascertain. On that basis they agree, as a reasonable estimate of those Losses and not a penalty, to the payment by District of liquidated damages pursuant to this Section 3.5.

3.5.2 Daily Rate. The Contract Sum shall be increased by Change Order or Unilateral Change Order by the sum of [REDACTED] Dollars (\$ [REDACTED]) per Day as liquidated damages for each Day for which Design-Builder is entitled under the Contract Documents to an adjustment extending the Contract Time for Substantial Completion due to Compensable Delay, with no additional amount added thereto or calculated thereon for Allowable Markup or any other markup for overhead or profit to Design-Builder, General Contractor, or any Subcontractor or Subconsultant..

3.5.3 Payment by District. A Change Order or Unilateral Change Order setting forth a Contract Adjustment to the Contract Sum for liquidated damages permitted by this Section 3.5 shall be executed following, and not before, actual Substantial Completion and prior to Final Completion. Notwithstanding any other provision of the Contract Documents to the contrary and without limitation to the District's rights of withholding payment permitted elsewhere in the Contract Documents or under Applicable Laws, amounts due to the Design-Builder pursuant to this Section 3.5 shall be payable as part of, and not prior to the due date for, Final Payment to Design-Builder.

3.5.4 Exclusive Remedy. Liquidated damages payable pursuant to this Section 3.5 constitute the Design-Builder's sole and exclusive right and remedy for recovery from District of Losses to Design-Builder, General Contractor and the Subcontractors and Subconsultants, of any Tier, that are attributable to Compensable Delay, regardless of the cause, duration or timing of the Compensable Delay.

3.5.5 Deleted Work. A credit shall be given to District reducing the Contract Sum due to Deleted Work that results in a shortening of the Contract Time. Such reduction shall be effected by means of a Contract Adjustment reducing the Contract Sum by the product derived by multiplying (1) the amount of liquidated damages set forth in Paragraph 3.5.2, above (without any additional credit to District for Allowable Markups) by (2) the number of Days that the Contract Time is shortened.

3.5.6 Termination. District shall have no liability to Design-Builder to pay any liquidated damages provided for under this Section 3.5, nor shall District have any other liability to Design-Builder, General Contractor or any Subcontractor or Subconsultant for any Loss due to Delay (including, without limitation, Compensable Delay) in the event there is a termination of the Design-Build Contract (whether such termination is a termination for cause by District or Design-Builder or is a termination by convenience by District) prior to expiration of the period of time set forth in Paragraph 3.3.2, above, for Substantial Completion of the overall Work.

3.5.7 Non-Compensable Delay. No Contract Adjustment or other form of compensation or reimbursement, of any kind, to Design-Builder, General Contractor or any Subcontractor or Subconsultant, of any Tier, shall be permitted for any Loss resulting, directly or indirectly, from or attributable to any of the following: (1) Unexcused Delay or acceleration to overcome Unexcused Delay; (2) Excusable Delay or any acceleration not authorized by District in writing to overcome Excusable Delay; or (3) concurrency of a Compensable Delay with any different type or class of Unexcused Delay or Excusable Delay, whether such concurrency is a concurrency in cause or in effect.

ARTICLE 4 CONTRACT SUM

4.1 CONTRACT SUM

4.1.1 Total Compensation. District shall pay the Design-Builder in current funds for the Design-Builder's complete performance of the Work in accordance with the Contract Documents the Contract Sum of [REDACTED] Dollars (\$ [REDACTED]).

4.1.2 Preconstruction and Design Services Fee. The Contract Price includes a Preconstruction and Design Services Fee of [REDACTED] Dollars (\$ [REDACTED]). The sole purpose of the Preconstruction and Design Services Fee is to determine: (1) the Design-Builder Amount for purposes of calculating the compensation

District is obligated to pay to Design-Builder under Article 14 of the General Conditions in the event the Design-Build Contract is terminated, by either District or Design-Builder, for cause or convenience, prior to commencement of any physical construction at the Site; and (2) the amount that the Design-Builder is entitled pursuant to Subparagraph 9.4.1.1 of the General Conditions to include in its Applications for Payment seeking Progress Payments.

4.1.3 Adjustments. The Contract Sum is only subject to adjustment as permitted by the General Conditions for Contract Adjustments due to Compensable Changes, Deleted Work or Compensable Delay.

4.1.4 All-Inclusive Price. Subject to Design-Builder’s rights under the Contract Documents to Contract Adjustments, the Design-Builder assumes the risk of and responsibility for all Losses arising out of or related to the performance of the Work, including, without limitation, the effects of natural elements upon the Work, unforeseen difficulties or obstructions affecting the performance of the Work (including, without limitation, unforeseen conditions at the Site that do not constitute Differing Site Conditions) and fluctuations in market conditions and price escalations (whether occurring locally, nationally or internationally) from any cause, including, without limitation, causes beyond the control or foreseeability of the Design-Builder, General Contractor, the Subcontractors or the Subconsultants, of any Tier.

4.2 ALTERNATES

The Contract Sum is based upon the following Alternates described in the RFP Documents, which are hereby accepted by the District:

Number	Description	Dollar Amount
--------	-------------	---------------

4.3 UNIT PRICES

The following unit prices are agreed to by the Design-Builder and District:

Description	Measurement Unit	Dollar Amount
-------------	------------------	---------------

4.4 ALLOWANCES

The following Allowances are included in the Work and Contract Sum:

Description	Materials Only/Labor and Materials (indicate which applies)	Dollar Amount
-------------	---	---------------

**ARTICLE 5
ENUMERATION OF CONTRACT DOCUMENTS**

5.1 LIST OF CONTRACT DOCUMENTS

The Contract Documents, include, without limitation to other documents included in the definition of Contract Documents that is set forth in the General Conditions, the following:



5.1.1 Project Criteria. The Contract Documents include the Project Criteria that are set forth in the RFP Documents.

5.1.2 RFP Documents, Design-Builder Proposal, Best and Final Offer. The Contract Documents include (1) the RFP Documents and (2) either (a) if no Best and Final Offers have been submitted, the Design-Builder Proposal or (b) if Best and Final Offers have been submitted, the Design-Builder's last-submitted Best and Final Offer, including, in the case of a Best and Final Offer that is an amendment to a Design-Builder Proposal, any portion of the Design-Builder's Proposal expressly stated to be a part of the Design-Builder's Best and Final Offer; provided, however, that, with the exception of Approved Deviations, the Contract Documents shall not include any portion of the Design-Builder Proposal or a Best and Final Offer that deviates from the Project Criteria.

5.1.3 Design-Build Contract. The Contract Documents include this executed Design-Build Contract between District and Design-Builder.

5.1.4 General Conditions. The Contract Documents include the General Conditions to the Design-Build Contract.

5.1.5 General Requirements, Supplemental and Special Conditions. The Contract Documents include the following General Requirements and Supplemental and Special Conditions:

Document Title	Date	Pages
----------------	------	-------

5.1.6 Final Construction Documents. The Contract Documents include the Final Construction Drawings prepared by the Design-Builder and its Subconsultants and approved by the District in accordance with the terms of the Contract Documents; provided, however, that, the Contract Documents shall not include any portion of the Final Construction Documents that deviates from the Project Criteria.

5.1.7 Addenda. The Contract Documents include the Addenda listed below:

Addendum Number	Date	Pages
-----------------	------	-------

5.1.8 Reference Documents. The Contract Documents include the following Reference Documents:

Document Title	Date	Pages
----------------	------	-------

5.1.9 Project Labor Agreement. The Contract Documents include the Project Labor Agreement.

5.1.10 Labor Compliance Program. The Contract Documents include the District's Labor Compliance Program adopted pursuant to California Labor Code Section 1771.7. For questions or assistance concerning the Labor Compliance Program, contact the Labor Compliance consultant, Padilla Associates, Attn: Veronica Alvarez Martinez, Labor Compliance Officer, veronica.martinez@build-laccd.org.

5.1.11 College Construction Health, Safety and Environmental Program. The Contract Documents include the College Construction Health, Safety and Environmental Program.

WHEREFORE, This Design-Build Contract is entered into as of the day and year first written above.

CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTOR'S STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST DESIGN-BUILDERS IF A COMPLAINT REGARDING A PATENT ACT OR OMISSION IS FILED WITHIN FOUR YEARS OF THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN 10 YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS STATE LICENSE BOARD, P.O. BOX 26000, SACRAMENTO, CALIFORNIA, 95826.

LOS ANGELES COMMUNITY COLLEGE DISTRICT

DESIGN-BUILDER

_____, a _____

By: _____

By: _____

Title: _____

Title: _____

SAMPLE

