

## Foothill - De Anza Community College District

# INDEPENDENT CONTRACTOR AGREEMENT

De Anza College  Foothill College  District Office  District PO No: \_\_\_\_\_

This Agreement entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_ is made between the Foothill-De Anza Community College District, hereinafter referred to as the "DISTRICT", and the following named independent contractor; hereinafter referred to as the "CONTRACTOR", based upon Board Policies BP 3140, BP3143, AP 3140, and AP3143 and the following legal citations:

- A. Government Code Section 53060 authorizes the engagement of persons to perform special services as independent contractors; and
- B. Public Contract Code 20651 requires advertised sealed bids for public projects of \$15,000 or more and most other services of \$69,000 or more. If sealed bids are required, this form of agreement cannot be used;
- C. Government Code Section 8546.7 provides that the contracting parties for any contract involving expenditure of public funds in excess of \$10,000 shall be subject to examination and audit by the State Auditor for a period of three (3) years after final payment under the contract.
- D. The public interest, convenience, necessity and general welfare will be served by this Agreement.

If this agreement has a total cost that exceeds \$20,000, it is not valid and services shall not commence unless and until the Board of Trustees grants approval. **Do not use this form for public project contracts of \$15,000 or more.**

### 1. CONTRACTOR INFORMATION:

Contractor's Name \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_

Business Phone \_\_\_\_\_ Fax No \_\_\_\_\_ Home \_\_\_\_\_

Social Security Number \_\_\_\_\_ \*Fed. Tax I.D. Number \_\_\_\_\_

\*CONTRACTOR MUST PROVIDE W-9

Business License Number \_\_\_\_\_

Are you a current or former employee of the DISTRICT? Yes  No

If yes, date last worked \_\_\_\_\_

If yes, specify last work location  
\_\_\_\_\_

Work Assignment  
\_\_\_\_\_

Are you related to any employee(s) in the DISTRICT? Yes  No

If yes, please identify the individual(s) \_\_\_\_\_

### 2. CONTRACTOR SELECTION PROCESS:

Describe how you selected this contractor and why this contractor is the best source for these services. Board Policy 3140 requires at least three written competitive quotations for public projects greater than \$1000 and other purchases greater than \$10,000. If you did not obtain competitive quotes, provide justification. Advertised competitive bidding by District Purchasing Services is legally mandated for most services in excess of the bid threshold (currently \$69,000) and for all public projects of \$15,000 or more pursuant to Public Contract Code 20651.

3. CONTRACTOR SERVICES, FEE, AND CONTRACT STARTING AND ENDING DATES:

A. Description of services and deliverables to be provided by contractor (**refer to and attach contractor's signed proposal or quotation if possible**):

B. Contractor Fee for Services: \$ \_\_\_\_\_

(Indicate a fixed fee to be paid for all of the described services or indicate hourly or other periodic billing rate(s) plus a maximum total dollar cost, i.e. the "not to exceed" amount, to be paid to the contractor. If travel or other expenses will be reimbursed they should conform to Board Policy AP3152.)

Will contractor also be reimbursed for expenses? YES  or NO  If yes, state maximum reimbursement amount to be paid in addition to contract fee shown above:

\$ \_\_\_\_\_

TOTAL COST OF THIS INDEPENDENT CONTRACT WILL NOT EXCEED \$ \_\_\_\_\_ INCLUDING CONTRACTOR TRAVEL OR OTHER EXPENSE REIMBURSEMENTS. **[Total cannot exceed \$14,999 for public projects. Board approval required prior to commencement of other services if the total cost exceeds \$20,000.]**

C. Contract Starting Date \_\_\_\_\_ Contract Ending Date \_\_\_\_\_

Note: It is not permissible to split the contracted services into two or more contracts within one fiscal year for the purpose of avoiding the requirement for Board of Trustees approval.

4. DISTRICT OBLIGATIONS OTHER THAN PAYMENT, IF ANY:

\_\_\_\_\_

5. PAYMENT TERMS: Unless other payment terms are specified in this section, payment terms are Net 30 days computed either from the date of delivery and acceptance of the contract services or from the date of receipt of correct and proper invoices prepared in accordance with the terms of the contract, whichever date is later.

**6. STANDARD TERMS AND CONDITIONS:**

- A.** CONTRACTOR is solely responsible for the content and sequence of the work. DISTRICT will not provide any training or instruction to CONTRACTOR or its employees.
- B.** Confidentiality: In performing its duties hereunder the Contractor may from time to time gain incidental access to confidential information and records including student record information as defined by 20 USC section 1232g. The parties agree that such incidental access is not a provision or conveyance or disclosure to contractor of student record information in violation of section 1232g or of any similar state law. Contractor agrees that if in the performance of its duties it does obtain such access it shall refrain from any removal, use or disclosure to any third person of such information and records and shall take any and all necessary affirmative steps to maintain the confidentiality, and avoid such removal, use or disclosure, whether intentional or inadvertent, of such records and information.
- C.** CONTRACTOR shall indemnify, defend and hold the DISTRICT, its Board of Trustees, officers, agents and employees harmless from any and all claims, damages, losses, causes of action and demands, including reasonable attorney's fees and costs, incurred in connection with or in any manner arising out of CONTRACTOR'S performance of the work contemplated by this Agreement. Acceptance of this Agreement constitutes that the CONTRACTOR is not covered under the DISTRICT'S general liability insurance, employee benefits or worker's compensation. It further establishes that the CONTRACTOR shall be fully responsible for such coverage.
- D.** The CONTRACTOR shall assume all expenses incurred in connection with the performance of this contract and the DISTRICT shall not be responsible for payment of any other expenses. The payment terms specified in Paragraph 4 above, unless otherwise indicated and agreed to in writing by the CONTRACTOR and the DISTRICT, shall be the only obligation of the DISTRICT. While engaged in carrying out and complying with any of the terms and conditions of this Agreement, CONTRACTOR is not entitled to any right or privilege applicable to an officer or employee of the DISTRICT or of the State of California.
- E.** Any system or documents developed, produced or provided under this contract, including any intellectual property discovered or developed by contractor in the course of performing or otherwise as a result of its work, shall become the sole property of the District unless explicitly stated otherwise in this contract
- F.** Payments to the CONTRACTOR pursuant to this Agreement will be reported to Federal and State taxing authorities as required. DISTRICT will not withhold any sums from compensation payable to CONTRACTOR. CONTRACTOR is independently responsible for the payment of all applicable taxes. An IRS form 1099 will be provided to the CONTRACTOR at the end of the calendar year.
- G.** Payment Of Prevailing Wages: Except for projects of \$1000 or less, if CONTRACTOR provides public project services such as carpet laying or building construction, alteration, demolition or repair CONTRACTOR shall pay all workers on the District project the prevailing wage pursuant to the California Labor Code, Sections 1770 through 1777.7. A copy of the prevailing wage rate determination available online at [www.dir.ca.gov/dlsr/statistics\\_research.html](http://www.dir.ca.gov/dlsr/statistics_research.html). The determination is issued by the California Department of Industrial Relations.
- H.** This Agreement constitutes the entire agreement between the parties. There are no understandings, agreements, or representations of warranties, expressed or implied, not specified in this Agreement. This Agreement applies only to the current proposal as attached. Modification or termination of this contract requires mutual agreement by both parties.
- I.** Upon mutual agreement in writing or the parties hereto, this Agreement may be terminated at any time for any reason.
- J.** The parties to the Agreement, under penalty of perjury, hereby certify that all of the above items and attachments are to the best of their knowledge true and correct statements.

AGREEMENT OF CONTRACTOR: I agree to perform the services described above for the payment indicated. I understand that while performing contract services I am not an employee of the Foothill-De Anza Community College District because I follow an independent trade or profession, and will not be subject to control and direction as to the details and means for accomplishing the anticipated result of my service.

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Date

APPROVED:

This document certifies that I and my assigns have reviewed the appropriate legal and procedural guidelines pertinent to determination of independent contractor status, including IRS Revenue Ruling 87-41, have analyzed their application to the position described on the accompanying documents, and have concluded that the hiring of the subject individual to perform the functions described does indeed constitute correct and legal independent contractor status.

\_\_\_\_\_  
Authorized College/District Requestor/Budgeter

\_\_\_\_\_  
Date

\_\_\_\_\_  
College/District Employee with Authority to Sign Contract

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date Approved by Board of Trustees.

[Required prior to commencement of services if the total cost exceeds \$20,000.]