

SERVICE AGREEMENT (3/10/09f)

This AGREEMENT is made and entered into this _____ day of _____, _____ pursuant to the Public Contract Code 10700 *et seq.*, by and between the Trustees of The California State University on behalf of

| | | | | |
|--|-------------------|---------------|----------------|---------------|
| University The California Maritime Academy | Agreement No: | Amendment No: | Project No: | Project Name: |
| hereafter referred to as Trustees, and Service Provider, | CSU Vendor ID No. | | Federal ID No: | License No: |
| Address of Service Provider | | | Telephone No: | Fax No: |

WITNESSETH: That the Service Provider in consideration of the covenants, conditions and agreements of the Trustees herein contained, does hereby agree to furnish all labor, materials, and equipment and to perform all work necessary to complete, in a skillful manner, the following:

The Service Provider is to _____ for the Public Works Project, _____ Project No. _____ located at _____. The Service Provider shall provide the required services necessary in accordance with the following Riders, which by this reference are incorporated herein and made part of this Agreement.

- Rider A - Scope of Services, Term, and Payment Schedule, consisting of _____ pages;
- Rider B - Agreement General Provisions, consisting of three (3) pages.

The term shall begin upon receipt of a fully executed agreement and written authorization to proceed from the Trustees. The term shall end upon the acceptance of completion by the Trustees. The term of this Agreement is _____

The Service Provider shall not perform services in excess of the Agreement without prior written authorization to proceed from the Trustees' Representative.

Service Provider shall report to _____

The total amount to be expended under this Agreement shall not exceed _____. Payment shall be made in accordance with Rider A.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon date first above written.

| THE TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY | | | | | | SERVICE PROVIDER | | | | | |
|--|--|--------|----|------------|----------|--|------------|----------|------------------|-----------------|--|
| Campus The California Maritime Academy | | | | | | Full Legal Name of Service Provider | | | | | |
| By (Trustees' Authorized Signature) | | | | | | By (Service Provider's Authorized Signature) | | | | | |
| Printed Name and Title of Person Signing for Trustees | | | | | | Printed Name and Title of Person Signing for Service Provider | | | | | |
| California Maritime Academy 200 Maritime Academy Drive, Vallejo, California 94590 | | | | | | Check appropriate box below that best describes Service Provider: <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Limited Liability Co. <input type="checkbox"/> Other (specify) _____ | | | | | |
| Fund | Sub Fund | Agency | Yr | Ref/Item | Category | Program Element | Component | Chapter | Fiscal Yr | Legal Reference | |
| SCO Account Data: | | | | | | | | | | | |
| Fund Name | | | | PS Account | PS Fund | PS Dept ID | PS Program | PS Class | PS Project/Grant | | |
| Amount Encumbered \$ | I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditures stated above. | | | | | | | | | | |
| Amount of Increase | | | | | | | | | | | |
| Amount of Decrease | Signature of Accounting Officer | | | | | | | | | Date | |
| Total Amount Encumbered | I hereby certify that I have examined the written Agreement and find the same to be in accordance with the requirements of the California State University Contract Law. CHRISTINE HELWICK, General Counsel. | | | | | | | | | | |
| | By Attorney: | | | | | | | | | Date | |

Rider B - Agreement General Provisions

1. Trustees agree to pay for the services and materials to be furnished by Service Provider as provided by this Agreement. Payment in arrears shall be made upon Service Provider's completion of the services required by this Agreement to the satisfaction of the Trustees and upon Service Provider's submission of billings as shall be prescribed by the Trustees.
2. Service Provider, in the performance of this Agreement, is an independent contractor and is not an employee, agent, or officer of the Trustees.
3. Trustees may cancel this Agreement should Service Provider fail to perform as herein provided. In the event of such cancellation, Trustees shall be relieved of the obligation to make any payment to Service Provider and Trustees may proceed with the work in any manner the Trustees deem proper.
4. Trustees may terminate this Agreement either upon giving fifteen (15) days written notice or upon the immediate notice with payment of \$25.00 to Service Provider. Payment shall be complete by mailing payment to Service Provider at the address appearing on the face of this Agreement. In the event of such termination, Service Provider shall be paid only for the work satisfactorily completed.
5. Service Provider shall not assign benefits or delegate duties under this Agreement in whole or in part without the prior written approval of the Trustees. Thus, Service Provider may not assign any moneys due or to become due hereunder without the written consent of Trustees.
6. The provisions of this Agreement shall extend to and be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns to the parties hereto.
7. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties. Oral understandings or other agreements not incorporated herein shall not be binding.
8. Trustees may issue a written order with respect to the services to be performed under this Agreement at any time before the completion of the services. Trustees shall pay Service Provider an amount for such services as provided in this Agreement, or if not so provided, Trustees shall pay Service Provider a reasonable amount, which shall be agreed upon by the parties.
9. Any notice, which may be proper or necessary for either of the parties hereto to serve on the other, in case of Trustees, may be served effectually upon Trustees by delivering it in writing, addressed to the Trustees of the California State University, attention of the official executing this Agreement for Trustees, at the California Maritime Academy, 200 Maritime Drive, Vallejo CA 94590, or by depositing it in a United States mail deposit box with first class postage thereon fully prepaid and addressed to Trustees at the above-mentioned address. In the case of Service Provider, notice may be served effectually upon Service Provider by delivering it in writing to Service Provider at the address appearing on the first page of this Agreement or depositing it in a United States mail deposit box with first class postage thereon fully prepaid, and addressed to Service Provider at the Service Provider's above-mentioned address. Any notice may also be served effectually by delivering or mailing it, as in this section provided, addressed to Trustees or Service Provider at any other place or places which Trustees or Service Provider, by written notice served upon the other, may designate, provided, however, that nothing herein shall preclude the giving of notice by personal service.
10. In the performance of this Agreement, the Service Provider will not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex, age, national origin, physical handicap, medical condition, or marital status. The Service Provider will take action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, ancestry, sex, age, national origin, physical handicap, medical condition, or marital status as prohibited by the California Fair Employment and Housing Act (Government Code Section 12900 *et seq.*).
11. Service Provider shall not utilize any information, not a matter of public record, which is received by reason of this Agreement, for pecuniary gain not contemplated by the terms of this Agreement, regardless of whether Service Provider is or is not under contract at the time such gain is realized (Education Code Section 89006).
12. The report, survey, or other product developed by Service Provider pursuant to this Agreement is the property of Trustees, and shall not be used in any manner by Service Provider unless authorized by Trustees.

13. In executing this service agreement, Service Provider swears, under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against Service Provider within the immediately preceding two-year period because of Service Provider's failure to comply with an order of a federal court which orders Service Provider to comply with an order of the National Labor Relations Board. Trustees may rescind this contract if Service Provider falsely swears to this statement (Public Contract Code Section 10296).
14. If the Agreement exceeds \$10,000, the contracting parties shall be subject to the examination and audit of the State Auditor of the State of California for a period of three years after final payment under the Agreement. This examination and audit shall be confined to those matters connected with the performance of this contract, including, but not limited to, the cost of administering this Agreement (Government Code Section 8546.7).
15. The Service Provider hereby certifies compliance with Government Code Sections 8355, 8356, and 8357 in matters relating to providing a drug-free workplace. In accordance with Government Code Section 8355, the Service Provider shall:
- A. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations;
 - B. Establish a Drug-Free Awareness Program to inform employees about all of the following:
 - (1) The dangers of drug abuse in the workplace,
 - (2) The Service Provider's policy of maintaining a drug-free workplace,
 - (3) Any available counseling, rehabilitation, and employee assistance programs, and
 - (4) Penalties that may be imposed upon employees for drug abuse violations;
 - C. Require that each employee engaged in the performance of the Agreement be given a copy of the statement required by subpart A, and require that each employee, as a condition of employment on the Agreement, agree to abide by the terms of the statement.
16. Responsive to direction from the State Legislature (Public Contract Code Section 10115 *et seq.*), the Trustees are seeking to increase the statewide participation of disabled veteran business enterprises in contract awards. To this end, Service Provider shall inform the Trustees of any contractual arrangements with consultants or suppliers that are certified disabled veteran business enterprises.
17. If the Service Provider is a natural person, the Service Provider certifies by signing this Agreement that s/he is a citizen or national of the United States or otherwise qualified to receive public benefits under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193; 110 STAT. 2105, 2268-69), State of California Governor's Executive Order W-135-96.
18. If the Service Provider is a corporation, the Service Provider certifies and declares by signing this Agreement that it is eligible to contract with the State of California pursuant to the California Taxpayer and Shareholder Protection Act of 2003 (Public Contract Code Section 10286 *et seq.*).
19. The Service Provider shall not commence work until it has obtained all the insurance required in this Article, and such insurance has been approved by the Trustees.
- A. Service Provider shall obtain and maintain the following policies and coverage. The insurance furnished by the Service Provider under this Article shall provide coverage in amounts not less than the following, unless a different amount is stated on the Cover Page of this Agreement:
 - (1) Comprehensive or Commercial Form General Liability Insurance: on an occurrence basis, covering work done or to be done by or on behalf of the Service Provider and providing insurance for bodily injury, personal injury, property damage, and contractual liability. The aggregate limit shall apply separately to the work. Limits of Liability:
\$2,000,000.00 General Aggregate
\$1,000,000.00 Each Occurrence—combined single limit for bodily injury and property damage.
 - (2) Business Automobile Liability Insurance: on an occurrence basis, covering owned, scheduled, hired, and non owned automobiles used by or on behalf of the Service Provider and providing insurance for bodily injury, property damage, and contractual liability. Limits of Liability:
\$1,000,000.00 Each Accident—combined single limit for bodily injury and property damage.
 - (3) Workers' Compensation: including Employers Liability limits of \$1,000,000.00 and other limits as required under California law.

- (4) Errors and Omissions Insurance: on an occurrence basis is preferred, covering work done or to be done by or on behalf of the Service Provider and providing insurance for errors and omissions in the amount of \$1,000,000.00 each occurrence. At a minimum, Service Provider shall obtain and maintain errors and omissions insurance on a claims-made basis for no less than \$1,000,000.00 each claim and \$2,000,000.00 annual aggregate, and certification of coverage shall be submitted to the Trustees upon signing of this Agreement. If the total contract amount exceeds \$1,000,000, Service Provider shall renew and keep such insurance in effect for at least five (5) years after the recordation of the notice of completion.
- B. Service Provider shall submit to the Trustees certificates of insurance and original endorsements to the policies of insurance required by the agreement as evidence of the insurance coverage. The scope of coverage and deductible shall be shown on the certificate of insurance. The certificates of insurance and endorsements shall provide for no cancellation of coverage without thirty (30) days written notice to the Trustees, as specified in Section 19-C (3). Renewal certifications and endorsements shall be timely filed by the Service Provider for all coverage until the work is accepted as complete. The Trustees reserve the right to require the Service Provider to furnish the Trustees complete, certified copies of all required insurance policies. The Service Provider shall notify the Trustees in writing of any material change in insurance coverage.
- C. The insurance policies shall contain, or be endorsed to contain, the following provisions.
- (1) For the general and automobile liability policies, the State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents shall be covered as additional insureds.
 - (2) For any claims related to the work, the Service Provider's insurance coverage shall be primary insurance as respects the State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents. Any insurance or self-insurance maintained by the State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents shall be in excess of the Service Provider's insurance and shall not contribute with it.
 - (3) Each insurance policy required by this Article shall state that coverage shall not be canceled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Trustees.
 - (4) The State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents shall not by reason of their inclusion as additional insureds incur liability to the insurance carriers for payment of premiums for such insurance.
- D. Insurers shall be licensed by the State of California to transact insurance and shall hold a current A.M. Best's rating of no less than A:VII or equivalent carrier otherwise acceptable to the Trustees.
- E. Miscellaneous.
- (1) Any deductible under any policy of insurance required in this Article shall be Service Provider's liability.
 - (2) Acceptance of certificates of insurance by the Trustees shall not limit the Service Provider's liability under the agreement.
 - (3) In the event the Service Provider does not comply with these insurance requirements, the Trustees may, at its option, provide insurance coverage to protect the Trustees. The Service Provider shall pay the cost of the insurance and, if prompt payment is not received by the insurance carrier from the Service Provider, the Trustees may pay for the insurance from agreement sums otherwise due the Service Provider.
 - (4) If the Trustees are damaged by the failure of Service Provider to provide or maintain the required insurance, the Service Provider shall pay the Trustees for all such damages.
 - (5) The Service Provider's obligations to obtain and maintain all required insurance are non-delegable duties under this agreement.
20. The Service Provider agrees to hold harmless, defend, and indemnify the State of California, the Trustees of the California State University, the University, and the officers, employees representatives, and agents of each of them from any and all claims, damages, losses, causes of action and demands, and all costs and expenses incurred in connection therewith, resulting from or in any manner arising out of or in connection with any negligent act or omission or willful misconduct on the part of the Service Provider, its officers, agents, and employees, in the performance of this Agreement. This provision shall survive the expiration or termination of this Agreement.
21. In accordance with Labor Code Section 1720, Service Provider must pay employees the minimum prevailing rate wages for inspection, surveying, or similar work during the design, preconstruction, and construction phases of a public works project.