

REQ. # _____

FOR SITE USE

LEMON GROVE SCHOOL DISTRICT
8025 Lincoln Street
Lemon Grove, California 91945
619-825-5600

P.O. # _____

FOR BUSINESS OFFICE USE ONLY

FIELD CONTRACT FOR SERVICES UNDER \$15,000.00
AGREEMENT NUMBER -2015-2016

THIS CONTRACT made and entered into on _____, 2015 by and between _____, hereinafter called the **CONTRACTOR** and the **LEMON GROVE SCHOOL DISTRICT**, hereinafter called the **DISTRICT**.

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

1. The **CONTRACTOR** shall furnish the **DISTRICT** for a total contract price of:

_____ Dollars \$

the following services (the "Project"):

Insert Project Description Here

2. The term of this contract shall begin on _____ with work to be completed on or before _____.
3. The Contractor shall not commence work under this Contract until the insurance required under paragraph 23 of the **General Terms and Conditions** and satisfactory proof of such insurance has been submitted to the District and said insurance has been approved by the District.
4. Payment Schedule - Payment for the work shall be made in lump sum upon final completion of the Project subject to the provisions of Paragraph 18 of the **General Terms and Conditions** and the District's written approval of the work (which approval shall not be unreasonably withheld). No payment by the District shall be due or owed until at least thirty (30) days following final approval of completed work by the District.
5. Inspection shall be performed by the Director of Facilities and Support Operations for the District, or his authorized representative.
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 the District.
8. Documents Constituting Agreement. The documents indicated below collectively constitute the entire Agreement, and shall be attached and maintained with a copy of this Agreement:

- _____ Work Specs/Scope of Work Statement _____ Non-Collusion Declaration
- _____ Certificates of Insurance
- _____ Addendum Containing Specific Terms and Conditions
- _____ Contractor Certification Form Attachment A
- _____ Performance/Payment Bonds if required by District

"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.

- 10. Entire Agreement/Amendments. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may not be amended except by a writing signed by the District and Contractor. No waiver, alternation or modification of the provisions of this Agreement shall be effective unless signed by both Parties.
- 11. Severability. If any section, subsection, sentence, clause or phrases of this Agreement, or the application thereof to any of the Parties, is for any reason held invalid or unenforceable, the validity of the remainder of the Agreement shall not be affected thereby and may be enforced by the Parties to this Agreement.
- 12. Exhibits and Recitals. All Exhibits and Recitals contained herein are hereby incorporated into this Agreement by this reference.
- 13. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one agreement.

IN WITNESS WHEREOF, the parties hereunto have subscribed to this Contract, including all Contract Documents described herein:

CONTRACTOR

Contractor Name

Authorized Signature

TITLE: _____

LICENSE NUMBER: _____

ADDRESS: _____

DATE: _____

LEMON GROVE SCHOOL DISTRICT

 Gina Potter, Deputy Superintendent

DATE: _____

EMAIL: _____

PHONE: _____

FAX: _____

NON-COLLUSION DECLARATION

State of California)
County of San Diego)

_____ (name) , being first duly sworn, deposes and says that he or she is _____ (title) 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.

(Date)

(Signature)

GENERAL TERMS AND CONDITIONS

1. **PROPOSAL ACCEPTANCE.** Proposals are subject to acceptance by the District and 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. The District reserves the right to accept or reject any and all quotes and reserves the right to waive any informality in any quote. No attachment or exhibit to any such proposal provided by Contractor shall supersede these General Terms and Conditions or other contract documents. Any such provisions which conflict with the requirements of the contract documents shall be void and unenforceable.

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 the District for acts and omissions of his subcontractor and of persons either directly or indirectly employed by him. Nothing contained in the contract documents shall create any contractual relations between any subcontractor and the District.

5. **SAFETY AND SECURITY.** It shall be the responsibility of the Contractor to ascertain from the 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, the 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 the Board of Education to be to the best advantage of the 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. The Board of Education 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 the Board of Education, if requested.

7. **CONTRACT CHANGES.** No changes or alterations to this contract shall be made without specific prior written approval by the District.

8. **WORKERS.** Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ on work any unfi person or anyone not skilled in work assigned to him or her. Any person in the employ of the Contractor whom the 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 the District.

9. **SUBSTITUTIONS.** No substitutions of materials from those specified in the Work Specifications shall be made without the prior written approval of the 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 the District.

16. **FORCE MAJEURE CLAUSE.** The parties to the Contract shall be excused from performance there under 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 To the fullest extent permitted by law, Contractor shall defend (with counsel of District's choosing), indemnify and hold the District, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Contractor's Services, this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys fees and other related costs and expenses; provided, however, that Contractor shall not be liable for the sole established negligence, willful misconduct or active negligence of District. Contractor shall reimburse District and its officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the District, its directors, officials officers, employees, agents, or volunteers. Notwithstanding the foregoing, to the extent Contractor's Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to**

claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor.

18. **PAYMENT.** Unless otherwise specified, the Contractor shall render invoices in triplicate for materials delivered or services performed under the Contract/Purchase Order. The District shall make payment for materials, supplies or other services furnished under this Contract in lump sum on completion of the work in accordance with applicable law after delivery to and final approval by the authorized District representative of all invoices and other documentary evidence reasonably required by the District (which approval shall not be unreasonably withheld), **except in the event that the Contract Price exceeds \$5,000, then the District shall withhold retention in the amount of five percent (5%) of all such payment(s) until final completion and release of retention in accordance with applicable law.**

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 the District.

21. **ANTI-DISCRIMINATION.** It is the policy of the Lemon Grove School District Board of Education 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.

22. **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). Current determinations can be found at the California Department of Industrial Relations website: www.dir.ca.gov/DLSR/statistics_research.html#pwd.

Effective March 1, 2015, if the services are being performed as part of an applicable "public works" or "maintenance" project, in addition to the foregoing, then pursuant to Labor Code sections 1725.5 and 1771.1, the Contractor and all subcontractors must be registered with the Department of Industrial Relations ("DIR"). Contractor shall maintain registration for the duration of the project and require the same of any subcontractors.

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 the District's prior written consent, and, the 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.

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 60561.000039675179

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.

The Contractor shall procure and shall maintain during the life of his contract, Contractor's Public Liability Insurance in an amount not less than \$1,000,000 for injuries, including accidental death to any one person, and subject to the same limit for each person, in an amount not less than \$1,000,000 on account of one accident, and Contractor's Property Damage Insurance in an amount not less than \$1,000,000. Any subcontractor employed in connection with the work shall maintain such insurance unless the Contractor's insurance covers the subcontractor and its employees.

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 the 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 the 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 the District, in writing, and, at the sole option of the 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 the District. If Contractor performs any work knowing it to be in violation of such laws, ordinances, rules or regulations and without first notifying the District of such violation, Contractor shall bear all costs arising there from.

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. **State Contractor's License.** For construction work, Contractor shall possess the following classification of State contractor's license throughout the duration of the Contract: _____

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 the Lemon Grove School 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 the District. This refers to the sawing, grinding, cutting, or drilling of any A.C.B.M. in occupied areas of District building.

33. LABOR COMPLIANCE MONITORING. Pursuant to Labor Code section 1776, the Contractor and each subcontractor shall maintain weekly certified payroll records showing the name, address, social security number, work classification, straight time and overtime hours paid each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed in connection with the work. Contractor shall certify under penalty of perjury that records maintained and submitted by Contractor are true and accurate. Contractor shall also require subcontractor(s) to certify weekly payroll records under penalty of perjury.

In accordance with Labor Code section 1771.4, the Contractor and each subcontractor shall furnish the certified payroll records directly to the Department of Industrial Relations ("DIR") on a weekly basis and in the format prescribed by the DIR, which may include electronic submission. Contractor shall comply with all requirements and regulations from the DIR relating to labor compliance monitoring and enforcement.

34. TERMINATION OF AGREEMENT. District may, by written notice to Contractor, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Contractor of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Contractor shall be compensated only for those services which have been adequately rendered to District, and Contractor shall be entitled to no further compensation. Contractor may not terminate this Agreement except for cause.

(i) **Effect of Termination.** If this Agreement is terminated as provided in this Section, District may require Contractor to provide all finished or unfinished documents, data, programming source code, reports or any other items prepared by Contractor in connection with the performance of Services under this Agreement. Contractor shall be required to provide such documents and other information within five (5) days of the request.

(ii) **Additional Services.** In the event this Agreement is terminated in whole or in part as provided herein, District may procure, upon such terms and in such manner as it may determine appropriate, services similar or identical to those terminated.

(iii) **Delivery of Notices.** All notices permitted or required under this Agreement shall be given to the respective parties at the addresses provided in the Contract, or at such other address as the respective parties may provide in writing for this purpose: Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

35. FINGERPRINTING REQUIREMENTS. It shall be the responsibility of the Contractor to ascertain from the District the rules and regulations pertaining to safety, security and driving on school grounds, particularly when children are present. All employees of Contractor, including those of subcontractor, working on a school site while children are present shall have been cleared by the Department of Justice as not having been convicted 60561.000039675179

of serious or violent felonies as per Education Code 45125.1 and 45125.2. The District shall notify the Contractor in writing if its employees must be fingerprinted prior to commencing work.

36. DRUG/TOBACCO-FREE FACILITIES. All District facilities are drug and tobacco-free facilities. Any drug and/or tobacco use (smoked or smokeless) is prohibited at all times on all areas of District facilities.

37. COMPLIANCE WITH STORM WATER PERMIT
Contractor shall be required to comply with all conditions of the State Water Resources Control Board ("State Water Board") National Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity ("Permit") – General NPDES Permit No. CAS000004 adopted by the State Water Resources Control Board. Contractor shall be responsible for filing the Notice of Intent and for obtaining the Permit and include all costs in the Contract amount. Contractor shall be responsible for procuring, implementing and complying with the provisions, monitoring and reporting requirements as required by the Permit. Contractor shall provide copies of all reports and monitoring information to the District Representative. Failure to comply with the Permit is in violation of federal and state law.

38. Liquidated Damages. If the Work is not completed in accordance with the date required by the Contract and usable by the District, it is understood that the District will suffer damage. In accordance with Government Code section 53069.85, being impractical and infeasible to determine the amount of actual damage, it is agreed that Contractor shall pay to the District as fixed and liquidated damages, and not as a penalty, the sum of _____ (\$ _____) for each and every calendar day of delay beyond the time prescribed in the Contract for finishing the Work. In the event this is not paid, the Contractor agrees that the District may deduct that amount from any money due or that may become due the Contractor under the Contract.

39. Procedure for Resolving Disputes. The parties to this Contract are subject to the provisions of Article 1.5 (commencing with section 20104) of Chapter 1 of Part 3 of the Public Contract Code, which requires compliance with the procedures set forth therein to resolve any claim by the Contractor of \$375,000 or less regarding an extension of time, a change order, extra work, or any other disputed amount. If after the procedures set forth in Article 1.5 (commencing with section 20104) of Chapter 1 of Part 3 of the Public Contract Code are completed and a civil action is filed, the action shall be subject to the mediation and arbitration provisions required by Section 20104.4 of the Public Contract Code.

Init _____