

SERVICE AGREEMENT 2021-0520

For use on any CSU project.

This AGREEMENT is made and entered into this [Day] day of [Month], [Year] pursuant to the Public Contract Code 10700, et seq., by and between the Trustees of the California State University on behalf of

<i>Campus, hereafter referred to as Trustees, and</i> California State University Lorem Ipsum	Amendment No.: 123456	Agreement No.: 123456	Is agreement for Design Professional services: Select	Project No.: 123456
<i>Service Provider, hereafter referred to as Service Provider.</i> Ipsum Lorem Service Provider, Inc.	CSU Vendor ID No.: 123456	License Number: C-123456		DIR No.: 123456

WITNESSETH: That the Service Provider in consideration of the statements and conditions herein contained, agrees to furnish labor, materials, and equipment and to perform work necessary to complete, in a skillful manner: [Provide a brief summary description of the work] for [Project Name] located at [Campus Name].

The Service Provider shall provide such services as more fully described in the following Rider and Exhibits, which by this reference are incorporated herein and made part of this Agreement:

- Rider A Agreement General Provisions, consisting of six (6) pages;
- Exhibit A Scope of Work, consisting of [Number] pages;
- Exhibit B Fee and Payment Schedule, consisting of one (1) page;
- Exhibit C Service Provider Hourly Rate Schedule applicable to this project.

The term shall begin upon receipt of an executed Agreement from the Trustees and shall end as of [Date]. Work elements started during the term shall continue to their completion and acceptance by the Trustees.

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

Service Provider shall report to: [Campus and Name of Project Administrator]

The basic services amount to be expended under this Agreement shall not exceed [Insert Value].

Payment shall be made in accordance with Rider A and Exhibits A, B, C.

Trustees of the California State University							Service Provider								
Campus California State University Lorem Ipsum							Firm Name Ipsum Lorem Service Provider, Inc.								
By (Trustees' Authorized Signature)							By (Authorized Signature)								
Printed Name and Title of Person Signing John Smith, Campus Representative							Printed Name and Title of Person Signing Jack Smith, Service Provider Authorized Signatory								
Address of Campus Project Administrator 99999 Lorem Ipsum Drive, Ipsum, CA 99999							Address of Service Provider 11111 Ipsum Lorem Drive, Lorem CA 11111								
SCO Acct Data:	Fund 123456	Sub Fund 123456	Agency 123456	Yr.	Ref/Item 123456	Category 123456	Program 123456	Element 123456	Component 123456	Chapter 123456	Fiscal Yr. 123456	Legal Ref. 123456			
Fund Name 123456				PS Account 123456		PS Fund 123456		PS Dept. ID 123456		PS Program 123456		PS Class 123456		PS Project/Grant 123456	
Amount Encumbered \$999,999,999			<i>I hereby certify upon my personal knowledge that budgeted funds are available for the period and purpose of the expenditures stated above.</i>												
Amount of Increase \$999,999,999			Signature of Accounting Officer										Date		
Amount of Decrease \$999,999,999			<i>I hereby certify that I have examined the written Agreement and find the same to be in accordance with the requirements of California State University Contract Law. G. ANDREW JONES, General Counsel</i>												
Total Amount Encumbered \$999,999,999			By Attorney										Date		

This Agreement may be executed in counterparts all of which taken together shall constitute one and the same Agreement. The exchange of copies of this Agreement by electronic mail in "portable document format" ("PDF") form or by other similar electronic means shall constitute effective execution and delivery of this Agreement and shall have the same effect as copies executed and delivered with original signatures.

Rider A - Agreement General Provisions, Service Provider

1. Service Provider Relationship. Service Provider, in the performance of this Agreement, is an independent contractor and is not an employee, agent, or officer of the Trustees.
2. Payments. Payments under this Agreement shall be made in arrears of work increment completed to the satisfaction of the Trustees and upon submission of an invoice in CSU invoice format. If not otherwise specified payments for services rendered will be processed monthly upon presentation of invoice.
3. Services. 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.
4. 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).
5. Ownership. The report, survey, or other product developed by Service Provider pursuant to this Agreement is the property of Trustees, and shall not be disseminated to others by Service Provider unless authorized by Trustees.
6. Termination for Convenience. Trustees may terminate this Agreement upon a three (3) business-day advance written notice to Service Provider. In the event of such termination, Service Provider shall be paid only for the work satisfactorily completed.
7. Termination for Cause. Trustees may terminate this Agreement for cause should Service Provider fail to perform as herein provided. In the event of such termination, Trustees shall be relieved of the obligation to make any payment to Service Provider and Trustees may proceed by other means with the work in any manner the Trustees deem proper.
8. Indemnification.
The Indemnification subsection below, next to the checked box, applies to this agreement, while the subsection next to the unchecked box does not apply to this agreement.
 - a. Provisions of item 8a shall apply if the agreement is with a Service Provider that does **not** qualify under the provisions of California Civil Code section 2782.8. 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, including, but not limited to, attorneys' fees and costs 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.
 - b. Provisions of item 8b shall apply if the agreement is with a Service Provider that does qualify under the provisions of California Civil Code section 2782.8 and the scope of work is for design professional services. 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, including, but not limited to, attorneys' fees and costs to the extent arising out of, pertaining to, or relating to the negligence,

recklessness, or willful misconduct on the part of the Service Provider, its officers, agents, and employees, in the performance of this Agreement. In no event shall the cost to defend charged to the Service Provider exceed the Service Provider's proportionate percentage of fault. However, notwithstanding the previous sentence, in the event one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, the Service Provider shall meet and confer with other parties regarding unpaid defense costs. Service Provider's liability is not limited to recoverable insurance. This provision shall survive the expiration or termination of this Agreement.

The provisions of section 8b pertaining to the duty and cost to defend shall not apply to either of the following:

- 1) Any contract for design professional services per the provisions of California Civil Code section 2782.8, or amendment thereto, where a project-specific general liability policy insures all project participants for general liability exposures on a primary basis and also covers all design professionals for their legal liability arising out of their professional services on a primary basis.
 - 2) A design professional per the provisions of California Civil Code Section 2782.8, that provides design professional service and is party to a written design-build joint venture agreement and not the primary holder of the Trustees and Design-Builder contract.
9. Insurance Provisions. The Service Provider shall not commence work until the Trustees have received evidence of the insurance required in this section and approved it.
- a. Service Provider shall obtain the following policies and coverage. The insurance furnished by the Service Provider under this section shall provide coverage in amounts not less than the following, unless a different amount is stated in Exhibit A, Scope of Work Description:
 - 1) Comprehensive or Commercial Form General Liability Insurance:
On an occurrence basis, cover work done or to be done by or on behalf of the Service Provider and shall provide insurance coverage 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 General Aggregate
\$1,000,000 Each Claim - combined single limit for bodily injury and property damage.
 - 2) Business Automobile Liability Insurance:
On an occurrence basis, cover owned, scheduled, hired, and non-owned automobiles used by or on behalf of the Service Provider and shall provide insurance coverage for bodily injury, property damage, and contractual liability. Use Insurance Service Office (ISO) Form Number CA 0001 covering any automobile. Limits of Liability:
\$1,000,000 Each Accident - combined single limit for bodily injury and property damage.
 - 3) Workers' Compensation Insurance:
This insurance shall include Employers Liability limits of \$1,000,000 and other limits required under California law.
 - 4) Professional Liability Insurance:
Professional liability (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 professional liability in the amount of \$1,000,000 each occurrence. The Service Provider shall obtain and maintain professional liability insurance on a claims-made basis for no less than \$1,000,000 each claim and

\$2,000,000 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 the Service Provider shall renew and keep such insurance in effect for at least ten (10) years after the recordation of the notice of completion.

For any of the insurance described in the paragraphs above, the amount of limits can be satisfied by a combination of primary and excess or umbrella insurance.

- b. Insurers shall be authorized in the State of California to transact insurance and shall hold a current A.M. Best's rating of no less than **A: VII** or alternatively a carrier acceptable to the Trustees.

Verification of coverage shall be provided as follows:

- 1) The Service Provider shall submit to the Trustees copies of certificates of insurance and endorsements to the policies of insurance required by the Agreement as evidence of the insurance coverage.
 - 2) The scope of coverage shall be shown on the certificate of insurance.
 - 3) The Service Provider shall provide written notice of cancellation of coverage within thirty (30) days to the Trustees.
 - 4) The Service Provider shall notify the Trustees in writing of any material change in insurance coverage.
 - 5) Renewal certifications shall be timely filed by the Service Provider for coverage until the work is accepted as complete.
 - 6) Trustees reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these provisions, at any time.
- c. Insurance policies except for Workers Compensation and Professional Liability insurance shall contain, or be endorsed to contain, the following provisions:
- 1) For the general 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 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. 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) 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. Additional Insurance Provisions
- 1) Any deductible under any policy of insurance required in this section shall be the 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) The Service Provider's obligations to obtain and maintain required insurance are non-delegable

duties under this Agreement.

10. Personal Eligibility Certification. 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.
11. Corporate Eligibility Certification. 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.*).
12. Nondiscrimination. In the performance of this Agreement the Service Provider and its consultants shall not deny the Agreement's benefits nor shall they discriminate unlawfully against any person on the basis of religion, color, ethnic group identification, sex, actual or perceived gender identity, age, physical or mental disability, medical condition, marital status, or age (over 40). Additionally, the Service Provider and its consultants shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination as well.
 - a. Service Provider shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900, *et seq.*), the regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285.0, *et seq.*), and the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Government Code Sections 11135-11139.5).
 - b. Service Provider shall permit access by representatives of the California Department of Fair Employment and Housing and the Trustees upon reasonable notice at times during normal business hours with at least 24 hours' notice, to its books, records, accounts, other sources of information, and its facilities as the Department or Trustees shall require to ascertain compliance with this Agreement.
 - c. Service Provider and its consultants/subcontractors shall give written notice of their obligations under this Agreement to labor organizations with which they have a collective bargaining or other agreement.
 - d. Service Provider shall include the nondiscrimination and compliance provisions of this Agreement in subcontracts to perform work under the Agreement (Government Code Sections 12990, 11135, *et seq.*, Title 2, California Code of Regulations, Section 11105)
13. Drug Free Workplace Certification. 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.
14. Disabled Veteran Business Enterprise. 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.

15. Assignment. Service Provider shall not assign benefits or delegate duties under this Agreement in whole or in part, nor assign any moneys due or to become due hereunder without the written consent of Trustees.
16. Successors. 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.
17. Notice. Notice for either party may be served by delivering it in writing to the party, or by depositing it in a U.S. mail deposit box with postage fully prepaid addressed as shown within the information block of the Agreement page. Nothing herein shall preclude the giving of notice by personal service.
18. Audit. 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 and the California State University Auditor 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 Agreement, including, but not limited to, the cost of administering this Agreement (Government Code Section 8546.7).
19. DIR Registration. In accordance with Labor Code Section 1720, *et seq.*, the Service Provider shall register with the Department of Industrial Relations (DIR) for this project and pay at least the prevailing wages on services/work aspects where a prevailing wage applies. Such services and/or work aspects include, but are not limited to, the Service Provider or its sub-consultant's provision of geotechnical studies, potholing involving digging, site surveying and/or construction Inspector of Record services as defined by the DIR.
20. Agreement Changes. Alteration or variation of the terms of this Agreement shall not be valid unless made in writing and signed and dated by the parties. Oral representations, understandings, or writings not expressly incorporated in the Agreement are void. Unless identified within Exhibit A, Scope of Work, under a separate sub-heading entitled 'Modifications to Agreement', it is the intent of the Trustees to use the standard published form of this Agreement and Rider A without modification. The Agreement and Rider A shall not be modified without review and concurrence by CSU Office of General Counsel.
21. Offshoring of CSU Contract Work. Service Provider warrants it certified under penalty of perjury in its bid for this Agreement that the Agreement, and any subcontract performed under the Agreement, will be performed solely with workers within the United States; and if this Agreement, and any subcontract performed under this Agreement, will not be performed solely with workers within the United States, Service Provider described in its bid any parts of the work to be performed by workers outside of the United States. Further, Service Provider warrants no work will be performed under the Agreement with workers outside the United States, except as described in Service Provider's bid. If Service Provider or its sub-supplier performs the Agreement with workers outside the United States during the life of the Agreement, and Service Provider did not describe such work in its bid, Service Provider acknowledges and agrees that:
 - a. CSU may terminate the Agreement without further obligation for noncompliance, and
 - b. Service Provider will forfeit to CSU the amount CSU paid for the percentage of work that was performed with workers outside the United States and not described in Service Provider's bid.

End of Rider A

The outline provided below is a suggestion for format and should be expanded/edited to reflect the specifics of each project.

**Exhibit 'A' - Scope of Work
(Project Name)
(Project Campus Location)**

1. General:

Identify extent of design services.

Example: Provide complete architectural/engineering design services (schematic, preliminary, construction documents, bidding, construction administration and as-builts) for the (name) project.

Provide a summary description for the overall scope and intent of the project.

2. Design Basis:

Identify and briefly describe supporting documents (i.e., programming, feasibility, technical and other and studies) that the architect/engineer should rely on in developing the design for the project.

Identify key elements of program (i.e., square footage, number of stories, stand alone mechanical system or tie in to central plant, etc)

3. Design Style:

Provide a summary of design intent. Identify stylistic and or materials preferences if any.

4. Phasing:

State if project will or will not be phased. Describe phasing requirements if any.

Example: The project will not be phased. The scope of the project will not encompass the entire building. The exact limits of construction shall be determined as part of the initial design efforts.

5. Existing Site:

Describe site. Identify extent of demolition. Describe features to be preserved/relocated.

6. Investigation into Existing Conditions:

Identify any supporting documents (i.e., technical or other and studies) that the architect/engineer should rely on in developing the design for the project.

Example: It is the intent of the Trustees to issue a separate Extra Service authorization to the A/E to perform a Selective Field Investigation to more completely ascertain inadequately documented and/or hidden conditions that will impact the development of this project. This investigation shall include physical destructive testing as may be needed. The findings from this investigation shall be incorporated into the design development documents.

7. Site Design:

Describe scope and extent. Identify extent and general location of parking to be provided.

Example: Some site design is a part of this work. The design shall address approach, circulation and service access throughout the facility. Service area and limited special permit parking design shall be developed as necessary. The bulk of user parking is remote and existing. Parking design and construction shall include path of travel. It is envisioned that some remote-site modifications will be required for ADA compliance and DSA approval of this project.

8. Landscape Design:

Describe scope and extent.

Example: Landscape design of hardscape, softscape, water features and site lighting are a part of this work. Project extent shall include front portico and central hardscape approach extending to front curb and exterior perimeter landscape areas as may be affected by construction activities. The landscape design of the existing interior garden courtyard will require special attention and renovation to maintain historical design character. The current parking courtyard is envisioned to receive modest landscape improvements at immediate building perimeter along walls of improved spaces.

9. Basis of Design Reports:

Describe any particular systems that should be evaluated as a part of the Basis of Design report.

10. Interior Design:

Describe scope and extent.

Example: Interior design finishes for floors, walls and ceilings and the design of built-in casework is a part of this work.

11. Furnishing and Equipment:

Describe scope and extent.

Example: The architect shall develop a furniture fitment plan, however the specific design, selection, purchasing, installation and coordination of the moveable furnishings and equipment (i.e., desks, tables and chairs) generally depicted therein is not a part of basic services.

12. Hazardous Materials Abatement:

Describe scope and extent.

Example: Within his own work, the architect shall reference and provide support to the Trustees for the coordination of the separate hazardous material abatement design documents that will be prepared by others.

As identified in Section XVI of the Project Architect/Engineer Agreement, any initial modifications to this Agreement prior execution shall be identified within the Scope of Work (Exhibit A) under a separate heading entitled ‘ Modifications to Agreement’. The Agreement and Rider A shall not be modified without review and concurrence by CSU Office of General Counsel.

Modifications to Rider A, Agreement General Provisions

For this Agreement the following sections are revised and shall read as follows:

Identify agreement section
Insert revised wording

End of changes

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Format suggestion. Edit for specifics of each project.

**Exhibit 'B' – Schedule of Lump Sum Fees/Payment Schedule
(Project Name)
(Project Campus Location)**

**The following fees are applicable to this project.
Alternatively, individual Extra Services may be mutually agreed to using a lump sum fee basis.**

[Copy and paste rate schedule(s) applicable to this project.]

SAMPLE

Format suggestion. Edit for specifics of each project.

**Exhibit 'C' – Hourly Rate Schedule
(Project Name)
(Project Campus Location)**

**The following hourly rates are applicable to this project.
Alternatively, individual Extra Services may be mutually agreed to using a lump sum fee basis.**

[Copy and paste rate schedule(s) applicable to this project.]

SAMPLE