

EXHIBIT A

Sample Professional Services Agreement

These are the Standard terms and conditions which will appear in the agreement issued to successful recipient of the RFP award.

(In the following provisions, Contractor refers to the consultant / vendor selected under this RFP)

This Agreement is entered into on the ____ day of _____, 2019, between Long Beach Community College District, ("DISTRICT") and CONTRACTOR/Vendor Name (School ("CONTRACTOR")), with offices located at CONTRACTOR/vendor Business Address.

WHEREAS, the DISTRICT hereby engages the services of CONTRACTOR;

WHEREAS, CONTRACTOR represents that it is duly qualified and able to render the services described in Attachment A;

NOW THEREFORE, the parties hereto agree AS FOLLOWS:

THE TERM OF THIS AGREEMENT SHALL BE FROM THE DATE OF ____ X, 20__, THROUGH _____ XX, 20__.

1. Duties, Term, and Compensation. The CONTRACTOR'S duties, term of engagement, compensation and provisions for payment thereof shall be as set forth in Attachment A.
2. Expenses. CONTRACTOR agrees to perform services inclusive of all expenses. In the event expenses are to be incurred by the CONTRACTOR and reimbursed by the DISTRICT in performing services during the term of this Agreement, the CONTRACTOR must obtain prior written approval from the DISTRICT. The DISTRICT will not reimburse the CONTRACTOR for any out-of-pocket expenses that are incurred in connection with the performance of the duties hereunder, without prior written approval from the DISTRICT. Notwithstanding the foregoing, expenses for the time spent by CONTRACTOR in traveling to and from DISTRICT facilities shall not be reimbursable.
3. Written Reports. The DISTRICT may request training/instructional plans, progress reports and/or other reports to be provided by CONTRACTOR. A final report shall be due at the conclusion of the project and shall be submitted to the DISTRICT.
4. District Network and Email Access. If CONTRACTOR is provided access to the Long Beach City College Network and Email system, the CONTRACTOR agrees to abide by the LBCCD Board Policies and Regulations governing computers and e-mail use. These policies and regulations, including Board Policy and Administrative Regulation #6006 are available on the LBCCD website: <http://www.lbcc.edu/policymanual/>. CONTRACTOR accepts sole responsibility for the content of CONTRACTOR's e-mails and agrees to follow recommended procedures to safeguard the account. CONTRACTOR is accountable for the suitability of content and understands that e-mails shall be used for college use only. Failure to abide by these regulations shall constitute a breach of this agreement.

5. Intellectual Property and Copyrights. Any and all inventions, discoveries, developments and innovations conceived by the CONTRACTOR during this engagement relative to the duties under this Agreement shall be the exclusive property of the DISTRICT; and the CONTRACTOR hereby assigns all right, title and interest in the same to the DISTRICT. Any and all inventions, discoveries, developments and innovations conceived by the CONTRACTOR prior to the term of this Agreement and utilized by the CONTRACTOR in rendering duties to the DISTRICT are hereby licensed to the DISTRICT for use in its operations and for an infinite duration. Title to all course materials, copyrightable material, data, conceived or resulting from the performance of work hereunder, shall reside with the DISTRICT. The CONTRACTOR agrees to grant to the DISTRICT a non-exclusive, royalty-free copyright to utilize any such course materials and copyrightable material or data covered under this agreement.

6. Confidentiality. The CONTRACTOR acknowledges that during the performance of services under the agreement, CONTRACTOR will have access to and become acquainted with various trade secrets, inventions, innovations, processes, information, records and specifications owned or licensed by, and /or used by the DISTRICT and/or its customers, in connection with the operation of its business including, without limitation, the DISTRICT and customer's business and product processes, methods, customer lists, accounts and procedures. The CONTRACTOR agrees will not to disclose any of the aforesaid, directly or indirectly, or use any of them in any manner, either during the term of this Agreement or at any time thereafter, except as required in the course of this agreement with the DISTRICT in servicing its customers. All files, records, documents, blueprints, specifications, information, letters, notes, media lists, original artwork/creative, notebooks, and similar items relating to the business of the DISTRICT and its customers, whether prepared by the CONTRACTOR or otherwise coming into CONTRACTOR'S possession, shall remain the exclusive property of the DISTRICT and/or its customers. The CONTRACTOR shall not retain any copies of the foregoing without the DISTRICT and/or its customers' prior written permission. Upon the expiration or earlier termination of this Agreement, or whenever requested by the DISTRICT and/or its customers, the CONTRACTOR shall immediately deliver to the DISTRICT and/or its customers all such files, records, documents, specifications, information, and other items in CONTRACTOR'S possession or control.

7. Excluded Parties List System. The CONTRACTOR warrants that the CONTRACTOR and/or CONTRACTOR'S subcontractor(s) is/are not listed on the Excluded Parties List System.

8. Conflicts of Interest. The CONTRACTOR warrants that the CONTRACTOR is free to enter into this Agreement and that this engagement does not violate the terms of any agreement between the CONTRACTOR and any third party. Further, the CONTRACTOR, in rendering duties shall not utilize any invention, discovery, development, improvement, innovation, or trade secret in which CONTRACTOR does not have a proprietary interest. During the term of this agreement, the CONTRACTOR shall devote as much productive time, energy and abilities to the performance of duties hereunder as is necessary to perform the services in a timely and productive manner. The CONTRACTOR is expressly free to perform services for other parties while performing services for the DISTRICT.

9. Termination. The DISTRICT may terminate this Agreement at any time by providing thirty (30) calendar days' written notice to CONTRACTOR. In addition, if CONTRACTOR is convicted of any crime or offense, fails or refuses to comply with the written policies or reasonable directive of the DISTRICT, is guilty of serious misconduct in connection with performance hereunder, or materially breaches provisions of this Agreement, the DISTRICT may terminate the agreement with CONTRACTOR at any time immediately with written notice to the CONTRACTOR.

In the event of termination of this Agreement, (a) CONTRACTOR agrees to continue its services without interruption through the period of time referenced on the termination notice, and (b) CONTRACTOR will assist the DISTRICT with orderly and professional transition of any duties to another party or designated DISTRICT staff member.

10. Independent Contractor. This Agreement shall not render the CONTRACTOR an employee, partner, agent of, or joint venturer with the DISTRICT for any purpose. The CONTRACTOR is and will remain an independent contractor of the DISTRICT. The DISTRICT shall not be responsible for withholding taxes with respect to the CONTRACTOR'S compensation hereunder. The CONTRACTOR shall have no claim against the DISTRICT hereunder or otherwise for vacation pay, sick leave, retirement benefits, Social Security, Workers' Compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.

11. Insurance. CONTRACTOR shall maintain in full force and effect a policy or policies of insurance in accordance with the following DISTRICT requirements:

- A. Commercial General Liability Insurance with limits of not less than \$1,000,000 per occurrence, \$1,000,000 Personal Injury and Advertising Injury, \$1,000,000 Products/Completed operations annual aggregate, and \$2,000,000 General annual aggregate.
- B. Automobile liability insurance is required for any vehicle owned, rented, leased, or used by CONTRACTOR or CONTRACTOR's employees in the performance of work under this contract with limits of liability of or equal to \$1,000,000 combined single limit bodily injury and property damage liability, and \$1,000,000 uninsured/underinsured motorist coverage.
- C. Statutory Workers' Compensation Insurance covering all employees of CONTRACTOR as required by law in the State of California and in compliance with all federal, state and local laws and ordinances applicable to the work to be performed under this Agreement and \$1,000,000 limit Employers Liability.
- D. Prior to or concurrent with the execution and delivery of this Agreement, CONTRACTOR shall deliver to DISTRICT original certificates of insurance and endorsements evidencing and effecting insurance coverage required hereunder.
- E. The Long Beach Community College DISTRICT and its Board of Trustees shall be named as additional insureds under all insurance policies, except Worker's Compensation. Additional insured Endorsements are required and shall accompany certificates of insurance. Certificate of Insurance shall provide written notice of cancellation.
- F. CONTRACTOR releases DISTRICT from any claims for damage to any person or property, to fixtures, personal property, improvements, and alterations that are caused by or result from risks insured against under any insurance policies carried by DISTRICT and in force at the time of any such damage. Furthermore, each insurance policy shall provide that the issuing insurance company waives all rights of recovery by way of subrogation.

12. Indemnification. The CONTRACTOR shall indemnify, defend and hold harmless the DISTRICT, its Board of Trustees, officers, agents, and employees, from and against any and all claims, liability, loss, damage, expense, costs, demands, suits, actions and causes of actions (including without limitation costs and fees of litigation) of every nature rising out of or in connection with the CONTRACTOR'S performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, or its failure to comply with any current or prospective law, except for such loss or damage which was caused by the sole negligence or

willful misconduct of the DISTRICT. The provisions of this Section Shall survive the expiration or sooner termination of this Agreement with respect to any such matters arising in connection with any event occurring prior to such expiration or termination.

13. **Governing Law.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California, notwithstanding choice of law principles.

14. **Compliance with Laws.** In the performance of this Agreement, each party agrees to comply with all applicable laws, rules, and regulations.

15. **Binding Arbitration.** Any controversies arising out of the terms of this Agreement or its interpretation shall be settled exclusively in Los Angeles County, California in accordance with the rules of the American Arbitration Association, and the judgment upon award may be entered in any court having jurisdiction thereof. Any judgment upon award shall be final, binding and non-appealable.

16. **Headings.** Section headings are included for convenience only and are not to be used to construe or interpret this Agreement.

17. **Discrimination.** CONTRACTOR agrees that it will not discriminate based on race, creed, national origin, religion, sex, marital status, age, handicap and/or medical condition.

18. **Assignment.** The CONTRACTOR shall not assign any of [his or her] rights under this Agreement, or delegate the performance of any of CONTRACTOR'S duties hereunder, without the prior written consent of the DISTRICT.

19. **Records.** Pursuant to and in accordance with the provisions of Government Code Section 8546.7, or any amendments thereto, all books, records and files of DISTRICT, CONTRACTOR, or any subcontractor connected with the performance of this Agreement involving the expenditure of public funds in excess of Ten Thousand Dollars (\$10,000), including, but not limited to the administration thereof, shall be subject to the examination and audit of the Office of the State Auditor of the State of California, at the request of DISTRICT or as part of any audit of DISTRICT, for a period of three (3) years after final payment is made under this Agreement. CONTRACTOR shall preserve and cause to be preserved such books, records and files for the audit period.

20. **Time.** Time is of the essence with respect to all provisions of this Agreement.

21. **Notices.** Any and all notices, demands, or other communications required or desired to be given hereunder by any party shall be in writing and shall be validly given or made to another party if personally served, or if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested. If such notice or demand is served personally, notice shall be deemed constructively made at the time of such personal service. If such notice, demand or other communication is given by mail, such notice shall be conclusively deemed given three (3) days after deposit thereof in the United States mail addressed to the party to whom such notice, demand or other communication is to be given as follows. Any party hereto may change its address for purposes of this paragraph by written notice given in the manner provided above.

To the CONTRACTOR:

Name:
Company:
Address:

Email:
Telephone:

To the DISTRICT:

Name: Contracts Management G-4
Long Beach Community College District
Address: 4901 E. Carson Street
Long Beach CA, 90808
Email: _____@lbcc.edu
Telephone: (562) 938-_____ FAX: (562) 938-4544

With a copy to Requesting Department:

Name:
Department:
Address: 4901 E. Carson Streets
Long Beach CA, 90808
Email: _____@lbcc.edu
Telephone: 562-938-_____

22. Modification or Amendment. No amendment, change or modification of this Agreement shall be valid unless it is in writing signed by the parties hereto.

23. Complete Understanding; Modification. This Agreement, together with all attachments, exhibits and addenda attached hereto, constitute the full and complete understanding and agreement of the parties relating to the subject matter hereof and supersede all prior or contemporaneous understandings and agreements relating to such subject matter. Any waiver, modification or amendment of any provision of this Agreement shall be effective only if in writing and signed by the parties hereto.

24. Unenforceability of Provisions. If any provision of this Agreement, or any portion thereof, is held to be invalid and unenforceable, then the remainder of this Agreement shall nevertheless remain in full force and effect.

25. Counterparts and Facsimiles. This Agreement may be executed in counterparts, each of which shall be deemed an original but together shall be deemed to constitute one and the same instrument; a facsimile signature by a Party may be relied upon by the other Party as an original signature.

26. Authority. Each person executing this Agreement warrants that he or she has the authority to so execute this Agreement and that no further approval of any kind is necessary to bind the parties hereto.

IN WITNESS WHERE OF, said parties have executed this agreement as of the date and year first above written.