

LIMITED ENGAGEMENT AGREEMENT (LEA)

INSTRUCTIONS

1. WHEN TO USE THE LIMITED ENGAGEMENT AGREEMENT:

This LEA is designed to be used for individuals when engaging in selected low risk services under \$5,000 and single payment.

Do not use the LEA for services in which the individual will be supervised; directed in regards to means, manner, and method; or controlled. Do not use the LEA for model services – Contact Human Resources.

2. USER RESPONSIBILITIES:

It is the end-user's responsibility to do the following **prior** to the Contractor providing services:

2.1. Complete all sections of the LEA and obtain the appropriate signatures.

2.2. All blank spaces must be completed. Pay particular attention to sections:

- 1 – Services
- 2 – Contractor Information
 - 2.2 – STRS/PERS Retiree information
- 3 – Contractor Services, Fees

2.3. Obtain a current W-9 and submit to Accounts Payable for Contractor Vendor # setup.

3. CONTRACT THRESHOLDS AND PROCESSING:

3.1. For LEA's ≤ \$5,000, with one invoice payment (**No PO is required**):

- Submit the completed LEA, W-9, [Payment Authorization form](#) (formerly Invoice for Services Rendered Form) and the Contractor's invoice directly to Accounts Payable for processing.

END



Limited Engagement Agreement (\$5,000 or less)

(to be used only for limited engagement services in the amount of \$5,000 or less)

Notice: This Agreement is designed for the limited engagement of speakers, guest lecturers, performers or other individuals at nominal expense to the Foothill – De Anza Community College District. It is to be used for engagements of an academic nature and a short duration presented to the District. It is not designed for engagements that create the significant potential for risk of physical injury or property damage (including by way of example, but without limitation, engagements involving intense physical activity or the use of heavy or dangerous equipment, installations, scaffolding, suspended lights or cameras, or the erection of sculpture or sets). Because there are no insurance requirements in this Agreement, Risk Management must be consulted before this Agreement is used for any engagement other than those for which it is specifically designed as described above.

This Limited Engagement Agreement (“Agreement”) for personal services of an individual is entered into as of the District’s execution date (the “Effective Date”) by and between **Foothill – De Anza Community College District** (hereinafter “DISTRICT”), a California community college district and political subdivision of the State of California, and the **following named independent contractor** (herein after “CONTRACTOR”). Each of DISTRICT and CONTRACTOR are sometimes hereinafter referred to as a “Party” and collectively as the “Parties.”

For good and valuable consideration, the Parties agree as follows:

1. SERVICES:

The District hereby engages and retains CONTRACTOR to provide the following services:

artist musician/performer speaker/lecturer workshop leader trainer other participant

Name of Event:* _____ (the “Engagement”)

Term (Start/End Dates): _____

Location: _____

Topic / Length: _____

**for additional scope of services attach Exhibit A, if applicable*

2. CONTRACTOR INFORMATION:

2.1. General Information:

Company Name: _____ Contact Name: _____

Street Address: _____ Phone: _____

City, State, Zip: _____ Email: _____
(Required)

Social Security #: _____ Fed. Tax ID #: _____
(last four digits) (provide W-9)

2.2. Is Contractor a Current or Former Employee of the DISTRICT or STRS/PERS Retiree?

2.2.1. Are you a current employee of the DISTRICT? Yes* No

Note: Per IRS standards, it is unlikely that an individual would qualify as both an employee and contractor of an organization. The IRS highly scrutinizes situations where a W-2 and a 1099 are issued for the same individual, especially in the same calendar year.

**stop, current employees cannot work as a contractor.*

2.2.2. Are you a former employee of the DISTRICT or STRS/PERS retiree?¹ Yes* No

Note: CalSTRS² publishes the post-retirement earning limit which is adjusted annually. Any money received above the specified amount will be deducted from the employee’s/retiree’s annual CalSTRS retirement benefit.

**a yes response will trigger Accounts Payable to report payment to Payroll Services.*

¹ Ed Code: 22461: http://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=22461&lawCode=EDC

² CalSTRS: <https://www.calstrs.com/general-information/postretirement-earnings-limit-and-separation-service-effect-retirement-benefit>

If yes, date last worked: _____

If yes, specify last work location: _____

Work Assignment: _____

2.3. Is Contractor Related to DISTRICT Employee?

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

If yes, please identify the individual(s). _____

If yes, have you confirmed there is no actual or perceived conflict of interest pursuant to Board Policy 4115 Nepotism? _____

3. CONTRACTOR SERVICES, FEE:

3.1. Fee for Services:

CONTRACTOR shall be paid an amount not to exceed the fee (the "Fee") specified below for the full and satisfactory completion of services, payable within thirty (30) days from the date a correct and proper invoice is received by the District. The District shall not be obligated to reimburse CONTRACTOR for any additional expenses or costs that are not included in the fee.

If either Party is unable to perform any of its obligations under this Agreement due to events beyond its reasonable control, the District shall have the right to reschedule the Engagement at a time mutually agreed upon with the CONTRACTOR. In such event, the CONTRACTOR will not be compensated for any expenses incurred for the original date of the Engagement and only be compensated for the new rescheduled Engagement.

(Indicate a fixed fee to be paid for all of the described services, inclusive of any travel or other expenses that will be reimbursed in accordance with Administrative Procedure 3152.)

\$ _____

4. TERMINATION:

This contract may be terminated at no cost to either Party upon _____ DAYS ADVANCE WRITTEN NOTICE, or 30 days if no days are indicated.

5. ASSIGNMENT:

CONTRACTOR acknowledges that the services to be rendered under the terms hereof, are of a special and unique character and may not be assigned.

6. VENUE AND EQUIPMENT:

The Engagement will be on the District's premises (the "Facility"). The DISTRICT will provide all sound and lighting equipment, as well as all house support personnel, including, but not limited to all ushers, and security personnel deemed necessary by the DISTRICT. CONTRACTOR may supply any additional equipment, including, but not limited to audio visual aids, demonstration media, fixtures, stage sets, musical instruments, and devices. The Speaker shall use the Facility for the sole purpose described herein and for no other purpose.

7. REPRODUCTION OF ENGAGEMENT:

The District shall be entitled to record, reproduce or transmit audio and/or visual of the Engagement, provided that the District's use of such the recording(s), reproduction(s) or transmittal(s) shall be restricted to activities permitted by law to non-profit educational institutions.

8. MARKETING:

Any and all publicity be means of poster, newspaper, radio, television or otherwise, shall be at the sole discretion and control of the DISTRICT, and is subject to any rules and regulations formulated by the DISTRICT. The Speaker shall not produce or post any advertisements on or off DISTRICT property or in any electronic media without the prior written consent of the DISTRICT. The Speaker shall not make use of the DISTRICT's name, logo, symbol or image without prior written approval of the DISTRICT.

9. ASSUMPTION OF RISK AND RELEASE OF LIABILITY:

- 9.1. Assumption of Risk. CONTRACTOR understands, acknowledges and accepts all known and unknown risks associated with performance of the Services. CONTRACTOR agrees to assume any and all risks associated with said services.
- 9.2. Release from Liability. CONTRACTOR releases, discharges, waives and relinquishes forevermore all claims or actions against the DISTRICT, its trustees, officers, agents, contractors, employees, and volunteers for bodily injury, emotional distress, property damage, wrongful death, and/or any other harm or damage arising out of performance of the Services.

10. INDEMNIFICATION:

- 10.1. CONTRACTOR agrees to indemnify and hold harmless the DISTRICT and its trustees, officers, agents and employees against any and all claims for loss, injury or damage to persons or property arising out of the performance of this Agreement including, without limitation, claims of libel, slander, invasion of privacy, right of publicity, defamation, trademark infringement, and copyright infringement. The acceptance of said services and duties by DISTRICT shall not operate as a waiver of such right of indemnification.

11. DISABLED ACCESSIBILITY:

- 11.1. CONTRACTOR warrants that he/she complies with California and federal disabilities laws and regulations. CONTRACTOR hereby warrants that the products or services to be provided under this Agreement comply with the accessibility requirements of section 508 of the Rehabilitation Act of 1973, as amended (29 U.S. C. 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 1194. CONTRACTOR agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services. CONTRACTOR further agrees to indemnify and hold harmless the DISTRICT from any claims arising out of its failure to comply with aforesaid requirements. Failure to comply with these requirements shall constitute a material breach and be grounds for termination of this Agreement.

12. CHOICE OF LAW:

The law governing this Agreement shall be that of the State of California, and venue shall be in the County of Santa Clara.

13. AMENDMENTS:

This Agreement contains the entire agreement between the Parties hereto. Both Parties shall make any changes to the terms and conditions of this Agreement in the form of a written amendment.

14. INDEPENDENT CONTRACTOR:

It is understood and agreed that CONTRACTOR, in the performance of the work and services agreed to under this Agreement, shall act as and be an independent contractor and not an agent or employee of the DISTRICT, and as an independent contractor, CONTRACTOR shall obtain no rights to retirement benefits or other benefits which accrue to DISTRICT employees.

15. W-9:

CONTRACTOR acknowledges and agrees that it must submit a completed "Request for Taxpayer identification Number and Certification" (Form W-9) with this signed Agreement and that the DISTRICT will report payment information to the Internal Revenue Service under the name and TIN or SSN, whichever is applicable, provided by CONTRACTOR. No payments will be processed unless a completed W-9 Form is on file with the DISTRICT. The W-9 Form may be obtained at the following link: <https://www.irs.gov/>

Out-of-State Contractors (check when applicable). If the Contractor has neither a permanent place of business in California nor is registered with the California Secretary of State to do business in California, the Contractor acknowledges and agrees that the Contractor is required to provide the District with properly completed California Franchise Tax Board forms related to nonresident withholding of California source income. Also see link: <https://www.ftb.ca.gov/forms/misc/1017.html> and <https://www.ftb.ca.gov/pay/withholding/withholding-on-payments-to-nonresidents.html>.

Payments of \$1,500 or more, in a calendar year, made to California non-residents, including corporations, limited liability companies, non-profits, and partnerships that do not have a permanent place of business in the State of California, are

subject to seven percent (7%) state income tax withholding pursuant to the California Revenue and Taxation Code, Section 18662³. The District is obligated to abide by California Franchise Tax Board (FTB) withholding requirements, unless the District receives authorization for a waiver or a reduced withholding rate from the Franchise Tax Board.

16. ENTIRE AGREEMENT:

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 Agreement requires mutual agreement by both Parties.

In Witness Whereof, the Parties have entered into the Agreement on the day and year set forth beneath the respective names below:

CONTRACTOR

AGREEMENT OF CONTRACTOR: By signing below, I agree to perform the services described above for the payment indicated. I understand that while performing Agreement services I am not an employee of the Foothill-De Anza Community College District because:

1. *I follow an independent trade or profession,*
2. *I will not be subject to control and direction as to the details and means for accomplishing the anticipated result of my service, and*
3. *I customarily perform work that is outside the usual course of the DISTRICT'S business, and operate my business offering the same type of services to other clients as being offered to the District.*

**Foothill – De Anza Community College District
“DISTRICT”**

This document certifies that I and my assigns have reviewed the appropriate legal and procedural guidelines pertinent to determination of independent contractor status, have analyzed their application to the services being provided, and have concluded that the hiring of the subject individual to perform the functions described does indeed constitute correct and legal independent contractor status as summarized below:

1. *Contractor follows an independent trade or profession,*
2. *Contractor is free from the control and direction of the District in connection with the performance of the work, both under the contract for the performance of such and in fact,*
3. *Contractor performs work that is outside the usual course of the DISTRICT'S business.*

By: _____
Authorized Signature

Print Name: _____

Title: _____

Date: _____

By: _____
Authorized Signature

Print Name: _____

Title: _____

Date: _____

FOR CAMPUS USE ONLY:

Originator: _____ Date: _____ Extension: _____

FOAP: I _____ F _____ O _____ A _____ P _____

Campus Finance/Fiscal Services Authorization:

Name: _____ Signature: _____

Title: _____ Date: _____

³ RTC Link: http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=18662&lawCode=RTC
Limited Engagement Agreement (Rev.12.04.19)

EXHIBIT A - Scope of Services

Detailed scope of services if needed.