



**AUSTIN COMMUNITY COLLEGE DISTRICT**  
**Contract for Provision of XXXXX District-Wide**

**Contract No. 09-00XX**

This non-exclusive contract for provision of xxxxxx district-wide is entered into as of the 21st of May 2009, by and between XXXXXX with its principal place of business at XXXX XXXXX, Austin, Texas 787xx, and AUSTIN COMMUNITY COLLEGE DISTRICT (“ACC”), a Public Junior College and Political Subdivision of the State of Texas, with its principal place of business at 9101 Tuscany Way, Austin, Texas 78754, for and in consideration of the mutual promises and covenants herein, and for other good and valuable consideration.

**1.0 REPRESENTATIVES OF THE PARTIES**

The representatives of the parties to whom all communications pertaining to this contract shall be directed are:

For AUSTIN COMMUNITY COLLEGE DISTRICT:

Name of BUYER  
TITLE  
ACC Business Service Center  
9101 Tuscany Way  
Austin, TX 78754  
Telephone:  
Facsimile:  
Email

Name of Representative  
TITLE  
ACC Business Service Center  
9101 Tuscany Way  
Austin, TX 78754  
Telephone:  
Facsimile:  
Email:

For XXXXXX:

Mr. Name Here  
President  
XXXXX XXXXXXXX  
Austin, TX  
Telephone:  
Facsimile:  
Email:

## 2.0 SCOPE OF WORK

Company Name (hereafter, “Vendor” or “Contractor”), shall provide services and materials for irrigation systems repairs and maintenance for ACC district-wide. Such services are in accordance with the provisions, terms and conditions of this contract no. 09-00XX consistent with Vendor’s response to ACC’s Request for Proposals No. 962-09035RW (the “RFP”), incorporated by reference herein as though set forth in full, to the extent that none of the provisions, terms and conditions of the RFP conflict with those contained in this Contract No. 09-00XX. Conflict, if any, shall resolve in favor of this Contract No. 09-00XX.

## 3.0 TERM OF CONTRACT AND RENEWAL

Assuming continued availability of funding, the term of this contract shall commence on June 29, 2009 and terminate on June 30, 2014.

ACC may, at its sole option and with consent of the Contractor, renew this contract for two (2) additional five-year periods with expiration dates of June 30, 2019; and June 30, 2024, respectively.

## 4.0 COMPENSATION

- 4.1 The Contractor shall be compensated for satisfactory services provided in accordance with pricing/rates/fees negotiated pursuant to the RFP, which pricing shall be based upon the price and fees as proposed in Exhibit “E”.
- 4.2 The maximum compensation payable under this contract shall not exceed **One Hundred Thousand Dollars (\$100,000) per fiscal year**, unless provided by written amendment hereto.

## 5.0 TERMS AND CONDITIONS

### 5.1 Contract Not a Guarantee of Purchase

This contract is not a guarantee of purchase. Purchases shall be made subject to fund availability, budgetary concerns, and other matters affecting, or which may affect, the services to be performed.

### 5.2 Warranty

As applicable, unless otherwise agreed in writing prior to award, the warranty for all items purchased shall be manufacturer’s minimum standard warranty. The contractor shall be an authorized dealer, distributor or manufacturer of the product(s) offered.

### 5.3 Indemnification

The Contractor shall save and keep harmless and indemnify ACC against any and all liability, claims and costs of whatsoever kind and nature of injury to or death of any person or persons and for loss or damage to any property occurring in connection with or in any incident to or arising out of occupancy, use, service, operations or performance of work in connection with this contract, resulting in whole or in part from the negligent acts or omissions of the Contractor.

### 5.4 Insurance Requirements

5.4.1 The Contractor shall carry general public liability insurance covering all duties, services, or work to be performed under the contract. Insurance shall provide limits of \$1,000,000 each occurrence, \$1,000,000 products/completed operations aggregate, \$1,000,000, personal injury liability, \$50,000 property damage liability, \$5,000 medical payments coverage, \$2,000,000 policy aggregate. Automobile liability insurance of \$500,000 each person, \$1,000,000 per accident for bodily injury, and \$100,000 per accident for property damage.

5.4.2 The Contractor must also maintain Workers' Compensation insurance, providing the statutory benefits for the State of Texas and employers' liability in the amount of \$500,000 for each person, \$500,000 in the aggregate, and \$500,000 for each person for occupational disease. Sole proprietors, or independent contractors who do not carry Workers' Compensation insurance, will be required to provide a completed TDI Form DWC-85 (10/05), or current.

5.4.3 Austin Community College shall bear no financial responsibility for Contractor's insurance coverage.

5.4.4 Each policy of required insurance shall provide for 30 days notice of cancellation to ACC and shall name Austin Community College and its Board of Trustees as additional insureds and shall include the following provision:

**“It is a condition of this policy that the Company shall furnish written notice to the Purchasing Office, Austin Community College, 9101 Tuscany Way, Austin, Texas 78754, 30 days in advance of the effective date of any reduction in, or cancellation of, this policy.”**

### 5.5 Prices and Invoicing

5.5.1 Prices shall be provided based on the prices listed under Exhibit “E” of the RFP proposal and Contract No. 09-00XX. Pricing shall include all charges associated with the cost of the completion of the contract.

5.5.2 The contractor shall submit an invoice upon NET 30 day payment terms for services performed for the College under the terms of this contract. The invoice shall contain a complete itemization of the services

performed, including a description of all services, parts, equipment, the total amount due, invoice number, invoice date, this contract number and ACC's purchase order number.

**5.6 Contracts subject to UCC**

Where applicable, contracts between a vendor and ACC shall adhere to the statutes set forth in the Uniform Commercial Code (*Arts. 1-9*) by the American Law Institute and the National Conference of Commissioners on Uniform State Laws (1992).

**5.7 Taxes**

ACC is exempt from federal excise, state and local taxes unless otherwise stated in this document. ACC claims exemption from all sales and/or use taxes under Texas Tax Code Section 151.309, as amended. Upon request, Texas Limited Sales Tax Exemption Certificates will be furnished.

**5.8 Compliance with Local Laws**

Contractor shall comply with all applicable laws, ordinances, and codes of the State and local governments, including City of Austin Code of Ordinances (*See at Vol.2, Title 25, et seq.*) and shall commit no trespass on any public or private property in performing any of the work embraced by this contract.

**5.9 Changes**

ACC may, from time-to-time, request changes in the scope of services of this contract. Such changes, including any increase or decrease in the amount of the contractor's compensation, which are mutually agreed upon, shall be incorporated in written amendments to this contract by ACC.

No change may be made to this contract without a written amendment signed by both parties.

**5.10 Severability**

If any section, subsection, paragraph, sentence, clause, phrase or word of these requirements or the specifications shall be held invalid, such holding shall not affect the remaining portions of these requirements and the specifications and it is hereby declared that such remaining portions would have been included in these requirements and specifications as though the invalid portion had been omitted.

**5.11 Non-Assignment**

Neither this contract, nor any portion of it, may be assigned without the written approval of ACC's Purchasing Director.

**5.12 Conflict of Interest**

ACC Administrative Rule No. 7.02.001 (Purchasing G-2) states:

No contract for the purchase of Personal Property or Service shall be awarded to any vendor where the contract would violate the applicable state laws regarding conflicts of interest by elected or appointed public officers. Neither ACC trustees, employees, nor their spouses, shall accept gifts or entertainment from vendors of the College. The College shall not do business with any of its trustees, employees, or their spouses.

**5.13 Right to Cancel**

ACC may cancel contracts at any time for a breach of any contractual obligation by providing the contractor with notice of such cancellation. Should ACC exercise its right to cancel, such cancellation shall become effective on the date as specified in the notice to cancel.

**5.14 Termination for Convenience of the Parties**

The performance of work, services, or provision of goods under this contract may be terminated by ACC in accordance with this clause in whole or, from time-to-time, in part, whenever ACC shall determine that such termination is in the best interest of ACC. Any such termination shall be effected by delivery by ACC to the contractor, a Notice of Termination, specifying the extent to which performance of the work under this agreement is terminated and the date upon which termination becomes effective.

**5.15 Termination for Default**

By written notice, ACC may terminate this contract, in whole or in part, for failure of the contractor to perform any of the provisions of this contract. In such event, the contractor shall be liable for damages including the excess cost of re-procuring similar services provided that if (1) it is determined for any reason that the contractor was not in default, or (2) failure to perform was beyond contractor's control, fault or negligence, the termination shall be considered a termination for convenience.

**5.16 Attorney's Fees**

If either party hereto should retain legal counsel for the purpose of enforcing any term or condition of this contract, then the prevailing party shall be entitled to recover all damages, costs, and expenses, including but not limited to, reasonable attorney's fees thereby incurred.

**5.17 Dispute Resolution:**

The parties hereto shall attempt to resolve any controversy or claim arising from any contractual matter by mediation. The parties will agree on a mediator and shall share equally in the costs assigned thereto.

**5.18 Governing Law and Venue**

This contract shall be construed in and governed under and by the laws of the State of Texas. Any actions or remedies pursued by either party shall be pursued in the State and Federal Courts of Travis County, Texas, only after Alternate Dispute Resolution (ADR) has been exhausted.

**5.19 Extra Contractual Products and Services**

ACC reserves the right to purchase products and services of a related or similar nature and kind from the contractor. Such services and products, if purchased, shall be on an as needed basis at contractor's then prevailing prices; provided that such prices are deemed reasonable by ACC.

**5.20 Price Escalation**

Prices shall remain firm during the initial term of the contract and for any extension thereof; provided, however, that after the initial term, if contract costs have substantially and materially increased, Contractor may request a price increase. The request shall be submitted in writing at least sixty (60) days prior to the proposed effective date of the increase and shall be fully documented as to the reason(s) therefore. ACC shall determine whether the request is reasonable and either grant the request, purchase services from another source, or re-bid the contract.

**6.0 Entire Agreement**

This Contract No. 09-00XX constitutes the entire agreement between the parties as to the subject matter hereof.

**IN WITNESS WHEREOF, the parties have set their hands:**

NAMED CONTRACTOR:

AUSTIN COMMUNITY COLLEGE  
DISTRICT:

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_