

UNIVERSITY OF MASSACHUSETTS
FACILITIES ADMINISTRATION
100 MORRISSEY BOULEVARD
BOSTON, MASSACHUSETTS 02125

Contract #:

CONTRACT FOR LABOR & MATERIALS

Project Title: _____

This agreement made and entered into this ____ day of ____ 2006, by and between _____ (hereinafter called "**Contractor**") and the University of Massachusetts Boston, Boston, MA (hereinafter called "**University**"), an agency of the Commonwealth of Massachusetts.

Whereas the University desires to enter into a labor & materials contract, and the Contractor represents itself as competent and qualified to accomplish the specific requirements of this contract to the satisfaction of the University, therefore this contract is entered into under the following terms and conditions:

1. The Contractor agrees to perform Switching services in accordance with Contract No. UMB _____, attached consisting of _____ pages and is hereby made a part thereof. Only those attachments specifically referenced in this Contract shall apply. The terms and conditions as contained in this **CONTRACT FOR LABOR & MATERIALS** shall take precedence over any conflicting terms as may be attached hereto.

Term of the Contract: _____ to _____

2. **Responsible University Official:**

3. **Payment:**

- A. The University will compensate the Contractor for the services in accordance with Contract No.
- B. Payment will be made upon submittal and approval of itemized bills that are received after each occurrence. The University agrees to make all reasonable efforts to process payments within thirty (30) days, in arrears, in accordance with the procedures and regulations of the Office of the State Comptroller.
- C. The total of all payments made against this contract shall not exceed \$.
- D. The University's payment terms are Net 30 days from the date of receipt of all submittals, in accordance with Section 9, with late penalty interest assessable at rates established by the Commonwealth, after 45 days, in accordance with M.G.L. C29, s29C, and with Commonwealth Regulation 815 CMR 4.00.

4. **Scheduling And Coordination:** All work shall be scheduled through _____ or an assigned representative, at telephone number _____. The work schedules and work to be performed shall require prior approval from _____ or a designee thereof.

5. **Wage Requirements:** The Contractor shall pay the prescribed wage rates in accordance with the provisions of Massachusetts General Laws, Chapter 149, Sections 26 and 27 and with the MINIMUM WAGE RATES schedule, issued by the Commonwealth of Massachusetts Department of Labor and Workforce Development dated 11/28/05.

6. **Insurance Requirements:** At the time of bid submittal, the Contractor shall provide a certificate of insurance showing motor vehicle insurance coverage, for each vehicle, meeting the compulsory limits required by the Commonwealth of Massachusetts and a certificate of insurance showing coverage for Worker's Compensation in accordance with the provisions of Massachusetts General Laws, Chapter 438, Acts of 1938 and a certificate of insurance showing that the Firm maintains without deductibility, Contractor's Public Liability and Property Insurance and Contractor's Protective Public Liability and Protective Property Damage Liability Insurance in not less than the following amounts:

<u>Bodily Injury</u>		<u>Property Damage</u>	
Each Person	Each Accident	Each Accident	Aggregate
\$500,000	\$1,000,000	\$500,000	\$500,000

7. **Parking Regulations:** It is the Contractor's responsibility to request an on-campus parking fee schedule and parking permits from the University's Parking & Transportation Office. The fee is \$6.00 per day per vehicle and shall be included in the contract price. The University's Parking Office is located in the Service and Supply building UL level. Telephone number is 617-287-5041.
8. **General:** The work shall commence immediately upon the date of receipt, by the Contractor, of a properly executed "Contract For Labor & Materials," unless otherwise agreed upon, in writing, by the University and the Contractor. Prior to payment, but not more than thirty (30) calendar days after completion of the project, the Contractor shall submit a weekly payroll report, a service report and an invoice. Each report and invoice shall be fully and legibly filled out and shall show, as a minimum, the name(s) and trade labor classification(s) of the individual(s) performing the work, the dates, description, and location of the project, and the total cost for the project. In the event the Contractor will be unable to submit a weekly payroll report, a service report, and invoice within said thirty (30) calendar day period, the Contractor shall submit written notification within said thirty (30) calendar day period, stating the reason for such anticipated delay, to:

MARTHA KELLY-PURCHASING
UNIVERSITY OF MASSACHUSETTS
100 MORRISSEY BOULEVARD
BOSTON, MA 02125

9. **Performance Standards:** All work of the Contractor shall comply with all safety regulations of the Commonwealth of Massachusetts, Federal, OSHA, and Local authorities having lawful jurisdiction. The Contractor shall comply with the University's policies regarding Liquefied Petroleum Equipment, Hot Works, Material Safety Data Sheets, Dig Safe, and Confined Space Entry. If any of the work fails to meet the University's satisfaction and any other applicable Commonwealth of Massachusetts, Federal, OSHA, and Local laws, ordinances, rules, orders, regulations, and codes, the Contractor shall correct the deficiencies and the University will withhold payment until acceptance of all portions of the work.
10. **Permits:** The Contractor shall be responsible for securing all permits required to perform the work under the contract and shall be responsible for all associated charges and/or fees.
11. **Contractor's Certification:** Contractor certifies that this Contract is in full compliance with all applicable regulations and requirements of law, as set forth herein. Contractor further certifies under the pains and penalties of perjury that pursuant to M.G.L. c.62C, s. 49A, that the Contractor has filed all state tax returns, paid all taxes and complied with all laws of the Commonwealth relating to taxes; and that pursuant to M.G.L. c.151A, s.19A(b), has complied with all laws of the Commonwealth relating to contributions and payment in lieu of contributions to the Employment Security System; and with all laws of the Commonwealth relating to Worker's Compensation, c.152. The Contractor also represents that (s)he/it is qualified to perform the described service(s) and has obtained all requisite licenses and permits, as may be required, to perform those services.
12. **Conflict of Interest:** No officer or employee of the Commonwealth shall participate in any decision relating to this Contract which affects his/her personal interest or the interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, as set forth in M.G.L. c.268A. No officer or employee of the Commonwealth shall have any interest, direct or indirect, in this Contract or the proceeds thereof.
13. **Recordkeeping, Audit, and Inspection of Records:** The Contractor shall maintain books, records and other compilations of data pertaining to the requirements of the Contract to the extent and in such detail as shall properly substantiate claims for payment under the Contract. All such records shall be kept for a period of six (6) years or for such longer period as is specified herein. All retention periods start on the first day after final payment under this Contract. If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the applicable retention period, all records shall be retained until completion of the action and resolution of all issues resulting therefrom, or until the end of the applicable retention period, whichever is later. The Federal grantor agency, if any, the University, or any of their duly authorized representatives or designees shall have the right at reasonable times and upon reasonable notice, to examine and copy, at reasonable expense, the books, records, and other compilations of data of the Contractor which pertain to the provisions and requirements of this Contract. Such access shall include on-site audits, review, and copying of records.
14. **Political Activity Prohibited, Anti-Boycott Warranty:** The Contractor may not use any Contract funds and none of the services to be provided by the Contractor may be used for any partisan political activity or to further the election or defeat of any candidate for public office. During the term of this Contract, neither the Contractor nor any controlled group, within the meaning of s.993 (a) (3) of the Internal Revenue Code, as amended, shall participate in or cooperate with any international boycott, as defined in s.999(b) (3) and (4) of the Internal Revenue Code of 1954, as amended; nor shall either engage in conduct declared to be unlawful by M.G.L. c.151E s.2.

15. **Publicity, Publication, Reproduction and Use of Contract Products or Materials:** Unless provided otherwise by law or the University, title and possession of all data, reports, programs, software, equipment, furnishings, and any other documentation or product paid for with University funds shall vest with the University at the termination of the Contract. The Contractor shall at all times obtain the prior written approval of the University before it, any of its officers, agents, employees or subcontractors, either during or after termination of the Contract, makes any statement bearing on the work performed or data collected under this Contract to the press or issues any material for publication through any medium of communication. If the Contractor, or any of its subcontractors, publishes a work dealing with any aspect of performance under the Contract, or of the results and accomplishments attained in such performance, the University shall have a royalty-free non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use the publication. The Contractor shall use reasonable means to inform the public that the University provides financial support for its operations and services by explicitly stating on publicity material, stationery, posters and other written materials, and on its premises the following: "This program is supported in part (in full) by the Commonwealth of Massachusetts, University of Massachusetts Boston."
16. **Confidentiality:** The Contractor shall comply with all laws and regulations relating to confidentiality and privacy as defined by M.G.L. c.66A, including but not limited to any rules or regulations of the University.
17. **Assignment by Contractor and Subcontracting:** The Contractor shall not assign or in any way transfer any interest in this Contract without the prior written consent of the University, nor shall (s)he/it subcontract any services without the prior written approval of the University.
18. **Nondiscrimination in Employment and Affirmative Action:** The Contractor shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap, or sexual orientation. The Contractor agrees to comply with all applicable Federal and State statutes, rules and regulations prohibiting discrimination in employment including but not limited to: Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; and M.G.L. c. 151B.
19. **Choice of Law:** This Contract shall be construed under and governed by the laws of the Commonwealth of Massachusetts. The Contractor agrees to bring any federal or state legal proceedings arising under this Contract in which the Commonwealth or the University is a party, in a court of competent jurisdiction within the Commonwealth of Massachusetts. This paragraph shall not be construed to limit any other legal rights of the parties.
20. **Force Majeure:** Neither party shall be liable to the other or be deemed to be in breach of this Contract for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or of a public enemy, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather. Dates or times of performance shall be extended to the extent of delays excused by this section, provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.
21. **Risk of Loss:** The University is non-insured. The Contractor shall bear the risk of loss for any Contractor materials used for a Contract and for all deliverables and work in process.
22. **Compliance with Laws and Indemnification of University:** The Contractor shall comply with all applicable laws, rules, regulations, ordinances, orders or requirements of the Commonwealth and any governmental authority relating to the delivery of the services specified in this Contract. The University may require the Contractor to pay fines, penalties, and damages that may arise out of or may be imposed because of, the Contractor's breach or failure to comply with the provisions of this Contract. Unless otherwise provided by law, the Contractor shall indemnify and hold harmless the Commonwealth, the University, its agents, officers and employees against any and all liability, loss, damages, penalties, costs or expense for personal injury or damage to real or tangible personal property which the University may sustain, incur or be required to pay, resulting from, arising out of, or in connection with the services performed or delivered under this Contract by reason of acts, inactions, omissions, negligence, reckless or intentional misconduct of the Contractor, its agent(s), officers, employees or subcontractors; provided that the Contractor is notified of any claim within a reasonable time after the University becomes aware of it, and the Contractor is afforded an opportunity to participate in the defense of such claim. In such event, no negotiated settlement agreement shall be binding on the Contractor without the Contractor's concurrence.
23. **Waivers:** All conditions, covenants, duties and obligations contained in this Contract can be waived only by written agreement. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to that party.

- 24. **Amendments:** No amendment to this Contract shall be effective unless it is signed by authorized representatives of both parties and complies with all other regulations and requirements of law.
- 25. **Entire Agreement:** The parties understand and agree that this Contract and attachments (if any) supersede all other verbal and written agreements and negotiations by the parties relating to the services under this Contract.
- 26. **Notice:** Unless otherwise specified in an attachment hereto, any notice hereunder shall be in writing addressed to the persons and addresses indicated below.
- 27. In Witness Whereof, the parties hereto set their hands and seals on the date first above written:

I, the Contractor, or acting in behalf of the Contractor, certify under the pains and penalties of perjury that to the best of my knowledge and belief, the following information is true, correct, and complete:

UNIVERSITY OF MASSACHUSETTS BOSTON

CONTRACTOR:

By: _____
 Ellen O'Connor
 Vice Chancellor for Administration

By: _____
 Signature

 Name and Title - Please Type or Print

 Employer Identification Number (EIN)

Legal Address: _____

Telephone: _____

Fax: _____

Email: _____

NOTE: PAYMENTS UNDER THIS CONTRACT ARE CONSIDERED TAXABLE INCOME ON THE CONTRACTOR'S FEDERAL AND STATE ANNUAL TAX RETURNS AND WILL BE REPORTED TO THE INTERNAL REVENUE SERVICE. A FORM 1099 WILL BE SENT TO CONTRACTOR'S LEGAL ADDRESS, AS NOTED IN PARAGRAPH 28, ABOVE.

(Rev. 12_06)