



**PURCHASE AGREEMENT
LUMP SUM**

Date: 10/21/2019

VENDOR: Acme Construction
P.O. Box 1234
Los Angeles, CA 90001

JOB: Sample Project
1000 A. Street
Los Angeles, CA 90001

Acme Construction (hereinafter "Vendor") hereby agrees to furnish all materials, tools, equipment, transportation, hoisting and other facilities necessary to furnish and deliver the following described work to the jobsite for (hereinafter referred to as "Contractor").

GENERAL DESCRIPTION OF WORK: Thin Brick Masonry

VENDOR shall provide the work in strict accordance with the Contract Documents and the terms of this Agreement and as further defined in :

- Attachment A - Listing of Contract Documents
- Attachment B - Project Special Provisions
- Attachment C - Scope of Work
- Attachment D - Insurance Provisions

PURCHASE PRICE (including all applicable taxes):

Four Thousand Six Hundred Eighty-Nine Dollars ----- 4,689

PAYMENT TERMS: Contractor shall pay Vendor in monthly payments of 100% for work done under this Agreement for which Contractor has received payment from Owner. If and when required by Contractor, Vendor agrees to furnish, in form satisfactory to Contractor, receipts and releases of claims for materials and equipment provided by Vendor as well as each and every lower-tier subcontractor and supplier of Vendor. It is also agreed that no payment hereunder shall be made, except at Contractor's option, until and unless such receipts or releases, or any or all of them have been furnished. Any payment made hereunder prior to completion and acceptance of the work referred to above shall not be construed as evidence of acceptance of any part of Vendor's work .

IN WITNESS WHEREOF: The parties hereto have executed this Agreement for themselves, their heirs, executors, successors, administrators, and assignees on the day and year first above written.

Acme Construction

By _____
Name Title

By _____

Corporation Partnership Proprietorship

Contractor's State License No.

INSURANCE: Before Vendor performs any work at, or prepares or delivers materials to, the site of construction, Vendor shall furnish certificates of insurance evidencing the insurance coverages required by this Agreement and such certificates shall provide that the insurance is in force and will not be canceled without ten days written notice to Contractor. Vendor shall maintain all of the insurance coverages in force until the work under this Agreement is fully completed. The requirement for carrying insurance shall not derogate from the provisions for indemnification of Contractor by Vendor under the Indemnity provisions of this Agreement. Vendor shall require its Vendors or sub-Vendors of any tier performing work at the jobsite to maintain insurance of the type and in minimum limits as shown in Attachment D. Supplementary insurance requirements are included in Attachment D which is an integral part of this Agreement.

CHANGES IN THE WORK: Vendor hereby agrees to make any and all changes, furnish the materials and perform the work that Contractor may require, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Purchase Price stated herein, and pro rata to the same. Vendor shall adhere strictly to the plans and specifications unless a change there from is authorized in writing. Under no conditions shall Vendor make any changes, either as additions or deductions, without the written order of the Contractor and Contractor shall not pay any extra charges made by the Vendor that have not been agreed upon in writing by Contractor; and, in no event, shall Contractor make payment for any such extra charges unless and until the Contractor itself receives payment from Owner. Vendor shall submit immediately to the Contractor written copies of his firm's cost or credit proposal for changes in the work.

Any modification in the compensation or time (if any) stated in a Purchase Agreement Change Order shall unequivocally comprise the total compensation and/or time adjustment due or owed by Contractor to Vendor for the work and changes defined therein, and shall represent full and final compensation for all increases or decreases in direct, indirect and consequential costs, overhead, profit and time required to perform the entire work under this Agreement arising directly or indirectly from the work and changes defined therein, including additional and/or extended overheads, delay, acceleration, loss of momentum and cumulative impacts of all other non-affected work under this Agreement.

If the Vendor initiates a substitution, deviation, or change in the work, which affects the scope of the work or the expense of other trades, Vendor shall be liable for the expense thereof.

No change, alteration or modification in or deviations from this Agreement or the plans or specifications, whether made in the manner herein provided or not, shall release or exonerate, in whole or in part any surety on any bond given in connection with this Agreement and neither Owner nor Contractor shall be under any obligation to notify the surety or sureties of any such change

INDEMNITY: Vendor shall, to the fullest extent permitted by law, and as it relates to all work covered by this Agreement, done at the site of construction or in preparing or delivering materials or equipment, or any or all of them, to the site, indemnify, defend and hold Contractor and any subsidiary, parent or affiliate corporations and companies of Contractor, and all of their directors, officers, agents and employees (collectively, "Contractor") harmless from all claims, liability, losses, damages, costs, expenses, awards, fines or judgments arising by reason of (i) the death or bodily injury to persons, (ii) injury to property, (iii) design defects (for design within Vendor's scope), or (iv) any other loss, damage, claim or expense of any nature or kind whatsoever asserted against Contractor by any entity or individual; including any of the same resulting from Contractor's alleged or actual passive negligent act or omission; however, Vendor shall not be obligated under this Agreement to indemnify Contractor with respect to the active or sole negligence, or willful misconduct, of Contractor. Vendor's duty to defend is separate and distinct from the duty to indemnify and shall arise immediately upon the date when Contractor tenders in writing a claim to Vendor when a claim is asserted against Contractor in connection with the performance of Vendor, or those for whom Vendor is responsible, relative to this Agreement, and regardless of whether others may owe Contractor a duty of defense and/or indemnity.

With the exception that the Indemnity provisions of this Agreement shall in no event be construed to require indemnification by Vendor to a greater extent than permitted under the statutes or public policy of the State within which the construction work as described in the Recitals of this Agreement will be performed, Vendor shall defend, indemnify, and save harmless Owner, including its officers, directors, partners, joint venturers, agents, employees, affiliates, parents and subsidiaries, and each of them, as well as any other persons that Contractor is required to indemnify and defend under the Contract Documents, of and from any and all claims, to the same extent that Contractor is required to defend and/or indemnify Owner and such other persons, but only with respect to claims arising out of or in connection with Vendor's obligations under this Agreement.

The express indemnity rights and obligations identified in this Agreement shall be, and are, the only indemnity rights and obligations between Contractor and Vendor, in law or equity, arising out of or related to the construction project that is the subject of this Agreement or any claims asserted in relation thereto.

LIENS: Vendor shall at all times indemnify and save Contractor and Owner harmless against all liability for claims and liens by third parties for labor performed or materials used or furnished to be used on the job, including any incidental or consequential damages resulting to Contractor or Owner from such claims or liens.

ENTIRE AGREEMENT: Vendor agrees to be bound to Contractor to the same extent Contractor is bound to Owner for the work scope of this agreement. It is agreed that this Purchase Agreement represents the entire Agreement between Contractor and

Vendor and supersedes any other written or oral proposals or negotiations with respect to this project unless modified through CONTRACTORS issuance of a written change order. Vendor assumes all risks or rewards for the effects of cost escalation or de-escalation for the duration of the project.

TIME: Time is of the essence and it shall be Vendor's obligation to conform to Contractor's progress schedule, which is subject to Contractor's modification. Vendor shall prepare and obtain approval for shop drawings, details and samples and shall coordinate the work covered by this Agreement with that of all other vendors, subcontractors, and Contractor in a manner that will facilitate the efficient completion of the entire work undertaken by Contractor in its contract with the Owner.

RECOURSE BY CONTRACTOR: In the event that Vendor defaults at any time by refusing or neglecting to supply a sufficient quantity of materials of proper quality, or is adjudicated bankrupt, or files an arrangement proceeding, or commits any act of insolvency, or makes an assignment for the benefit of creditors without Contractor's consent, or fails to make prompt payment to his subcontractors, suppliers and/or laborers, or fails in any respect to properly and diligently prosecute the work covered by this Agreement, or otherwise fails to perform fully any of the agreements herein contained, Contractor may, at his option, after giving written notice to Vendor: supplement Vendor's work efforts by providing or causing to be provided any design, engineering, labor, materials, equipment, subtrade, or any other type of work or payment as may be necessary to cure the default of Vendor; and/or terminate Vendor's right to proceed with a portion of or the remainder of Vendor's work in which event Contractor shall have the right to enter upon the premises of the project and take possession, for the purpose of completing the work included under this Agreement, of Vendor's materials, tools, and appliances, and may employ any other person(s) or firm(s) to finish Vendor's work and provide the materials therefore. In the case of termination of the remainder of Vendor's work Vendor shall not be entitled to receive any further payment under this Agreement until the work undertaken by Contractor in his prime contract is finished. In the case of such supplementation or termination of Vendor's work, Contractor shall be entitled to recover all expenses and damages incurred for completing Vendor's work including, but not limited to, the cost of: design, engineering, labor, materials, equipment, subtrade work, general conditions, onsite supervision, insurance, bonds, and any payments made on behalf of Vendor plus a markup of fifteen percent on all such expenses and damages, hereinafter referred to collectively as Completion Costs. Such Completion Costs shall be deducted from any payment then due or to become due to Vendor. If the unpaid balance of the amount to be paid under this Agreement exceeds the Completion Costs incurred by Contractor, the excess shall be paid by Contractor to Vendor as it becomes due under the terms of this Agreement; but, if the Completion Costs exceed such unpaid balance, then Vendor shall promptly pay to Contractor the amount by which the Completion Costs exceed such unpaid balance and Contractor shall have a lien upon all Vendor's materials, tools and appliances taken possession of, as aforesaid, to secure the payment thereof. The notice referred to in this Paragraph H will be sufficient and complete when handed to a supervising employee employed by Vendor or when sent to Vendor at his address shown in this Agreement or sent via facsimile or e-mail to the then current facsimile number or e-mail address of the Vendor.

Contractor may withhold, or on account of subsequently discovered evidence, nullify the whole or a part of any payment under Attachment B Payment, to such extent as may be necessary to protect Contractor from loss on account of (1) defective work not remedied; (2) claims filed or reasonable evidence indicating probable filing of claim; (3) failure of Vendor to make payments promptly to his subcontractors or for material, labor, or for fringe benefits; (4) a reasonable doubt that this Agreement can be completed for the balance then unpaid; (5) damage to another subcontractor. When the above grounds are removed, such amounts as are then due and owing shall be paid or credited to Vendor.

SUBMITTALS: Vendor shall furnish all samples, shop drawings, schedules, and descriptive literature as required by and in accordance with the Contract Documents. Submittals shall be made with a sufficient number of copies to comply with the project requirements, and shall be issued to Contractor in a timely manner so as to not delay the progress of work. Vendor shall strictly conform to the requirements of the Contract Documents, and specifically identify any and all deviations in the Submittal package.

LABOR RELATIONS: Vendor agrees to comply with the terms and conditions of the current labor agreement or agreements applying to Contractor insofar as they relate to the work to be performed by Vendor under this Agreement.

DELIVERIES / STORAGE: Vendor is aware of the site constraints and limited space available for material storage. Vendor shall coordinate and deliver all on-site storage materials with Contractor prior to delivery. Vendor shall keep the path of travel clear and shall not block any entries, exits, areas of handicap accessibility, egress and the like at any time.

FEDERAL, STATE, AND LOCAL LAW: Vendor agrees to comply with all applicable Federal (including Executive Orders), State and Local Law, including but not limited to those pertaining to Equal Employment Opportunity and Safety.

CONTINUOUS PERFORMANCE DURING A DISPUTE: In the event of a dispute between Contractor and Vendor over the scope of Vendor's work under this Agreement, or any other dispute regarding the parties' rights and obligations under this Agreement, Vendor shall follow the written direction of Contractor and shall not delay, postpone or otherwise hinder the progress of the work.

Vendor shall give written notice of claim relating to any work for which extra compensation is claimed within 7 days after Vendor becomes aware of its claim, or Vendor shall be deemed to have abandoned any claim therefore. In the event of such a dispute, it is understood that Vendor reserves all of its contractual rights as it proceeds under protest pursuant to Contractor's written direction.

TERMINATION OF AGREEMENT, SUSPENSION OF WORK: In the event the prime contract is terminated prior to its completion, Vendor shall be entitled only to payment for the work actually completed by it at the pro rata of the price herein set forth unless Contractor itself receives additional compensation or damages on account of such termination; in which event, Vendor shall be entitled to such proportion of the additional compensation or damages actually received as is equitable under all of the circumstances. Nothing herein contained shall require Contractor to make any claim against Owner for such additional compensation or damages in the event of termination before completion, and it is specifically agreed that the failure of Contractor to prosecute any such claim against Owner shall not entitle Vendor to any claim for additional compensation or damages against Contractor.

Notwithstanding the preceding paragraph, Contractor reserves the absolute right to terminate this Agreement for convenience. In the event of termination without cause, Vendor shall be entitled to payment only as follows: An amount equal to the lesser of the Agreement value of the work performed through the date of termination, or the actual direct costs for labor, materials, and equipment incurred by Vendor for the work completed plus a sum equal to fifteen percent (15%) of such costs for headquarters, supervision, overhead, and profit, reduced by the amount of all payments made to Vendor prior to such termination. Title to all materials included in the computation of such costs and of all purchase orders placed by Vendor for labor and /or materials shall pass to Contractor upon payment to Vendor.

Upon receipt of notice of Contractor's termination for convenience, Vendor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement, and shall, if requested, make every reasonable effort to procure cancellation of all existing orders or contracts upon terms satisfactory to Contractor or, at the option of Contractor, give Contractor the right to assume those obligations directly, including all benefits to be derived therefrom. Vendor shall thereafter do only such work as may be necessary to preserve and protect the work already in progress and to protect material and equipment on the job site or in transit thereto.

Should the Owner suspend the entire work or any part which includes the Agreement work for the convenience of the Owner and such suspension is not due to any act or omission of Contractor, or any other person or entity for whose acts or omissions Contractor may be liable, Contractor shall notify Vendor in writing and, upon receiving notification, Vendor shall immediately suspend the Agreement work. To the extent provided for under the prime contract and to the extent Contractor recovers such on Vendor's behalf, the Agreement price and the Agreement time shall be equitably adjusted by Agreement Change Order for the cost and delay resulting from any such suspension.

PROVISION FOR INSPECTION: Vendor shall furnish to Contractor and its representatives ample facilities at all times for inspecting materials at the site of construction, at the shops, or any place where materials under this Agreement may be in course of preparation, process, manufacture or treatment. Vendor shall further furnish to Contractor as often as required, full reports of the progress of the work at any place where materials under this Agreement may be in the course of preparation or manufacture, said reports to show the progress of such preparation and manufacture in such details as may be required by Contractor, including any plans, drawings, or diagrams in course of preparation. Vendor shall obtain and pay for all permits and licenses required for his own work, and be responsible for securing from any authority having jurisdiction over it, inspections and approval of his work as required by the job schedule.

GUARANTEE: Vendor guarantees all materials and workmanship and agrees to replace at his sole cost and expense, and to the satisfaction of Contractor, any and all materials adjudged defective or improperly installed as well as guarantee the Owner and Contractor against liability, loss or damage arising from said installation during a period of one year from completion and acceptance of the work covered by the prime contract. If, however, the period of guarantee is stipulated in excess of one year by the Contract Documents, Vendor shall be bound during the longer period stipulated. In the event Vendor is a corporation or limited liability company and upon Vendor's execution of this Agreement, all officers and directors of the corporation or all partners and principals of the limited liability company shall be deemed, jointly and severally, to be personally liable to Contractor for the full and faithful performance of this entire Agreement and any modifications thereto in every case where Vendor does not supply a corporate surety bond to Contractor to guarantee the faithful performance hereof.

ARBITRATION: Except as otherwise described below, any and all disputes between Contractor and Vendor arising out of or related to this Agreement shall be submitted to binding arbitration before the American Arbitration Association, pursuant to the Construction Industry Arbitration Rules with an arbitrator or arbitrators who are mutually agreeable to both parties and who are experienced construction lawyers with previous arbitrator experience. In addition, the arbitration shall be governed by the Federal Arbitration Act, rather than state arbitration statutes and laws. Notwithstanding the foregoing arbitration provisions, in the event Contractor or Owner institutes an action or arbitration against the other, and either Contractor or Owner asserts a claim arising out of or related to Vendor's performance within that action or arbitration, the dispute resolution procedures contained in the prime

contract between Contractor and Owner shall prevail over the arbitration provisions in this Agreement. In any arbitration or action between Contractor and Vendor arising out of or in any way related to this Agreement, and notwithstanding any contrary or different language or provision in the Prime Contract, Contractor and Vendor shall bear their own attorney fees and costs in connection with any such arbitration or action.

VENUE: This Agreement should be construed under the laws of the State of California. No action or proceeding shall be instituted by Vendor against Contractor upon any claim or cause of action arising out of or relating to this Agreement or breach thereof unless any such action or proceeding is commenced in Los Angeles County, California

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