



## **REQUEST FOR PROPOSAL (RFP)**

**Title:** Kitchen Vent Hood Cleaning

**RFP #:** BC5 - SMU2019 – Kitchen Vent Hood Cleaning

**Date Issued:** May 07, 2019

**Final Proposal Due:** May 24, 2019 by 3:00 p.m. (Central Time)

**RFP Issued By:** Brian Cook, RFP Coordinator  
SMU – Purchasing Department

# Section 1 - Overview

## 1.1 Introduction

Southern Methodist University (SMU) is seeking a vendor to provide inspection and cleaning services for kitchen vent hoods on its Dallas based main campus. The purpose of this RFP will be to enter a contract with the selected vendor for a period of three (3) years with two (2) additional one (1) year extensions upon agreement of both parties.

## 1.2 General Background

Facilities Planning and Management is responsible for SMU's physical assets in the areas of project management, maintenance and grounds, real estate management, planning and engineering, space management, and energy management. This group seeks to provide a safe, functional, clean, and welcoming campus environment for faculty, staff, students, and visitors in support of the University's mission and strategic initiatives.

## 1.3 Current Operating Environment

Entering its second century of achievement, SMU is recognized as a university of increasing national prominence and impact. The University offers a strong foundation in the humanities and sciences, as well as undergraduate and graduate degree programs through seven schools. Students benefit from small classes and opportunities for research, leadership development, and unique learning experiences on campus and around the world. SMU is dedicated to shaping world changers. It prepares students to make an impact through their chosen professions and service to society. SMU was founded by what is now The United Methodist Church in partnership with civic leaders. The University is nonsectarian in its teaching and committed to academic freedom and open inquiry.

Today, SMU enrolls nearly 12,000 students and has a total operating budget of approximately \$660 million. Campus locations and facilities are as follows:

- **Dallas/University Park/Highland Park**
  - 5 miles north of downtown Dallas
  - 107 buildings on 234 acres
  - 6.2 million total gross square feet
- **SMU-in-Taos (Not included in the scope of this RFP)**
  - 31 buildings located on 423 acres within the Carson National Forest and surrounded by the Sangre de Cristo Mountains in northern New Mexico

## **Section 2 – Proposal Submittal**

### **2.1 Questions and Inquiries**

All inquiries concerning the RFP should be directed to:

Brian Cook, RFP Coordinator  
SMU - Purchasing  
Email: [brianc@smu.edu](mailto:brianc@smu.edu)  
Phone: 214-768-0099

Questions should be submitted in writing via email. Written questions should be directly tied to the RFP and should be asked in consecutive order, following the organization of the RFP and referencing the RFP section. General questions will be shared with all those firms participating in the process. Short procedural inquiries may be accepted by telephone or email by the buyer, however, oral explanations or instructions given over the telephone shall not be binding upon the University.

### **2.2 Bidder Responsibility**

The bidder assumes sole responsibility for the complete effort required in this RFP. No special consideration shall be given because vendor's failure to be knowledgeable of all the requirements of this RFP. By submitting a proposal in response to this RFP, the vendor represents that it has satisfied itself, from its own investigation, of all the requirements of this RFP.

### **2.3 Cost Liability**

SMU assumes no responsibility and bears no liability for costs incurred by vendors in the preparation and submittal of proposals in response to this RFP.

### **2.4 Revisions to this RFP**

In the event that it becomes necessary to clarify or revise this RFP, such clarification or revision will be by an Amendment. Any RFP Amendment will be emailed to all participants. Any amendment to this RFP shall become part of this RFP.

### **2.5 Proposal Acceptance/Rejection**

SMU reserves the right to reject any or all proposals, to accept or reject any or all the items in the proposal and to award the Preferred Agreement in whole or in part as deemed to be in the best interest of SMU. SMU reserves the right to negotiate with any vendor if such action is deemed to be in the best interest SMU.

## Section 3 – Scope of Work

### 3.1 Overview

Selected vendor shall first scrap clean exhaust system, as needed. Utilize chemical and hot water (washed clean with food-safe caustic chemicals and hot water pressure-washing where possible to safely collect the dissolved grease and water).

The cleaning of all vent hoods shall be cleaned per NFPA 96 Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, which is listed below. This requirement is for all locations listed **Section 3.2 Location of Services** and on attached spreadsheet.

SMU reserves the right to add or subtract properties/locations during the contract term as required. Notice of such action will be given to the contractor in writing thirty (30) days in advance.

The Contractor shall perform all work in a first-class, professional manner in accordance with this contract, specifications, governing codes and instructions by SMU. Efforts by the Contractor to obtain a clear understanding of the scope of work for each assignment governed by this contract shall be requisite in contractor acceptance of this contract.

#### 3.1.1 NFPA 96 Scope

**3.1.2\*** - This standard shall provide the minimum fire safety requirements (preventative and operative) related to the design, installation, operation, inspection, and maintenance of all public and private cooking operations.

**3.1.2** - These requirements include, but are not limited to, all manner of cooking equipment, exhaust hoods, grease removal devices, exhaust ductwork, exhaust fans, dampers, fire-extinguishing equipment, and all other auxiliary or ancillary components or systems that are involved in the capture, containment, and control of grease-laden cooking effluent.

**3.1.3** - This standard shall apply to residential cooking equipment used for commercial cooking operations.

**3.1.4** - This standard shall not apply to cooking equipment located in a single dwelling unit.

**3.1.5\*** - This standard shall not apply to facilities where all of the following are met:

- (1) Only residential equipment is being used.
- (2) Fire extinguishers are located in all kitchen areas in accordance with NFPA 10, Standard for Portable Fire Extinguishers.

- (3) The facility is not an assembly occupancy.
- (4) The authority having jurisdiction has approved the installation.

**3.1.6** - This judgment should take into account the type of cooking being performed, the items being cooked, and the frequency of cooking operations. Examples of operations that might not require compliance with this standard include the following:

- (1) Day care centers warming bottles and lunches
- (2) Therapy cooking facilities in health care occupancies
- (3) Churches and meeting operations that are not cooking meals that produce grease-laden vapors
- (4) Employee break rooms where food is warmed

### 3.2 Location of Services

BUILDING NAME	ADDRESS	NOTES	Frequency
Kappa Sigma	3022 SMU Blvd.		Quarterly
Joseph Wylie Fincher Memorial Building	6212 Bishop Blvd.	Bagel Hood	Quarterly
Hughes-Trigg Student Center	3140 Dyer St.	Dishwasher Vent	Quarterly
Hughes-Trigg Student Center	3140 Dyer St.	Pizza Hood	Quarterly
Hughes-Trigg Student Center	3140 Dyer St.	Seco Hood	Quarterly
Hughes-Trigg Student Center	3140 Dyer St.	Subway Hood	Quarterly
Hughes-Trigg Student Center	3140 Dyer St.	Wall-Mounted Hood	Quarterly
Anita and Truman Arnold Dining Commons	5905 Bush Ave.	Hood # 103	Quarterly
Anita and Truman Arnold Dining Commons	5905 Bush Ave.	Hood # 123 A/B	Quarterly
Anita and Truman Arnold Dining Commons	5905 Bush Ave.	Hood # 166	Quarterly
Anita and Truman Arnold Dining Commons	5905 Bush Ave.	Hood # 187	Quarterly
Anita and Truman Arnold Dining Commons	5905 Bush Ave.	Hood # 207	Quarterly
Anita and Truman Arnold Dining Commons	5905 Bush Ave.	Hood # 37A	Quarterly
Anita and Truman Arnold Dining Commons	5905 Bush Ave.	Hood # 37B	Quarterly
Anita and Truman Arnold Dining Commons	5905 Bush Ave.	Hood # 37C	Quarterly
Anita and Truman Arnold Dining Commons	5905 Bush Ave.	Hood # 51	Quarterly
Anita and Truman Arnold Dining Commons	5905 Bush Ave.	Hood # 52 A/B Double Sided	Quarterly
Anita and Truman Arnold Dining Commons	5905 Bush Ave.	Hood # 78A	Quarterly
Anita and Truman Arnold Dining Commons	5905 Bush Ave.	Hood # 78B	Quarterly
Anita and Truman Arnold Dining Commons	5905 Bush Ave.	Hood # 88	Quarterly
Service House	3041 Dyer Ct.		Quarterly
Sigma Alpha Epsilon	3005 Dyer Ct.		Quarterly
Beta Theta Pi	3004 Dyer Ct.		Quarterly

Beta Upsilon Chi	3004 SMU Blvd.		Quarterly
Alpha Psi Lambda- Multicultural Greek Council House	3160 Daniel Ave.		Quarterly
Phi Delta Theta	3072 SMU Blvd.		Quarterly
Phi Gamma Delta	3064 SMU Blvd.		Quarterly
Sigma Phi Epsilon	3050 SMU Blvd.		Quarterly
Dyer House	3035 Dyer Ct.		Quarterly
Moody Coliseum and Miller Event Center	3009 Binkley Ave.	Hilltop Grill-System # 2	Quarterly
Moody Coliseum and Miller Event Center	3009 Binkley Ave.	Basement # 52- System # 1	Quarterly
Moody Coliseum and Miller Event Center	3009 Binkley Ave.	Hilltop Grill- System # 1	Quarterly
Moody Coliseum and Miller Event Center	3009 Binkley Ave.	Basement # 52A- System # 2	Quarterly
Moody Coliseum and Miller Event Center	3009 Binkley Ave.	Hilltop Grill- System # 3	Quarterly
Carr Collins, Jr. Hall	3300 University Blvd.	Vent Master UV Hood	Quarterly
McElvaney	6000 Bishop Blvd.	Main Kitchen (rear)- Pizza Hood	Quarterly
McElvaney	6000 Bishop Blvd.	Main Kitchen (rear)- Fryers	Quarterly
Elizabeth Perkins Prothro Hall	5901 Bishop Blvd.	Main Hood	Quarterly
Umphrey Lee	3300 Dyer St.	Front Display-Main Hood	Quarterly
Umphrey Lee	3300 Dyer St.	Front Display- Pizza Hood	Quarterly
Umphrey Lee	3300 Dyer St.	Main Kitchen- Double Sided Hood	Quarterly
Umphrey Lee	3300 Dyer St.	Main Kitchen (rear)- Fryers	Quarterly
Umphrey Lee	3300 Dyer St.	Main Kitchen (rear)- Wall Mounted	Quarterly
Umphrey Lee	3300 Dyer St.	Main Kitchen (rear)- Hotline	Quarterly
Umphrey Lee	3300 Dyer St.	Dishwasher # 3	Quarterly

**Schedule Service Dates:**

February

May

August

May

**3.3 Subcontractors**

Extent of the work performed by the Subcontractor shall be bound to the Contractor by the terms of the contract documents, and to assume toward the Contractor, all the obligations and responsibilities which the Contractor, by these documents, assumes toward the owner.

### **3.4 Materials and Equipment**

Selected vendor shall provide all necessary equipment, materials, and labor to adequately perform the specified services.

### **3.5 Code and Regulations**

Contractor shall comply with all applicable codes, regulations, ordinances, rules and other legal requirements, which bear on performance of his/her work. The Contractor agrees, during the performance of the work, to comply with all applicable codes and ordinances of the appropriate City, County or State of Texas as they may apply.

### **3.6 Work Debris, Scrap Materials, and Clean Up**

All work debris, scrap and residual materials shall become the property of the Contractor. It will be Contractor's responsibility to remove all waste materials and rubbish. Work debris and scrap material must be taken to an approved public dump at the end of each work day, by the Contractor. Contractor shall, at all times maintain their work area in a clean, safe and professional manner.

### **3.7 Safety**

Contractor shall strictly adhere and comply with all Occupational Safety and Health Standards (OSHA) and other applicable safety practices as they pertain to the protection of personnel, property and equipment. The selected vendor must provide manufacturer's product/material safety data sheets (SDS) as required for work being performed.

Whenever the SMU Representative becomes aware of any noncompliance with specifications or any conditions which poses a serious or imminent danger to the health and safety of the public or SMU personnel, the SMU Representative shall request the contractor to stop work until an action plan that corrects the situation is approved by the SMU Representative. If the Contractor fails or refuses to promptly take corrective action the Director of SMU Maintenance and Grounds may issue an order to stop all or part of the work until satisfactory corrective action has been taken.

Contractor's equipment shall not be left unattended where unauthorized persons could gain access to it. SMU is not responsible for lost or stolen equipment while work operations are being performed.

Selected vendor shall provide a documented list of employees who will perform work, these employees will be given badges in order to be identified as an approved contractor who can perform work within the designated facilities. All employees shall have passed all background



checks and documentation provided to SMU they have gone through all necessary safety programs in order to perform the scope of work listed.

The selected vendor will check in and report each day at Dawson Service Center before the start of work to inform facilities of areas that will be addressed for the day, check out keys if necessary, and check out at the end of the day.

### **3.8 Damage to the Property**

Contractor shall be responsible for the repair of any damage to the existing facilities, grounds and equipment and restoring them to their original condition.

### **3.9 Approval and Communications**

All communications with SMU and all SMU approvals will be through the Director of Maintenance and Grounds or his Authorized Representative. SMU reserves the right to cancel the contract and pay only for work performed that has been approved and accepted. Official communications and approvals will be in writing. Oral approvals are non-binding.

## **Section 4 – Submission Guidelines and Proposal Requirements**

### **4.1 Submission Guidelines**

All questions and comments in reference to this RFP must be submitted electronically via email to the SMU Purchasing Department. The Purchasing Representative is Brian Cook and his email address is [brianc@smu.edu](mailto:brianc@smu.edu).

Responses must be electronically submitted as stated above no later than 3 p.m. (CT), on April 25, 2019, to SMU Purchasing representative Brian Cook at [brianc@smu.edu](mailto:brianc@smu.edu).

### **4.2 RFP Schedule**

May 07	Request for Proposal Issued
May 13	Deadline for Vendors submit Questions to SMU
May 16	SMU Response to all Vendor Questions Provided
May 24	Responses Due by 3 p.m. (Central Time)

### **4.3 Proposal Requirements**

Responses should follow the outline provided within this RFP document.

Please include general information about the vendor including, but not limited to, company size, number of years in business, business structure, mergers and acquisitions in the past 10 years, number of customers, average customer size, and any other relevant information about the Vendor. In addition, list the contact names and information for the individuals who will be assigned to implement and service the SMU account should the vendor be selected.

#### 4.4 References

Please submit a minimum of three (maximum of four) relevant customer references for which the Vendor has provided a similar solution within the last three years. References of all Vendors may be contacted at any time throughout the RFP process. Please complete all fields for fullest consideration.

<b>Reference 1– <u>Client Name</u>:</b>			<b><u>State</u>:</b>	<b><u>Type of Business</u>:</b>
<b><u>Contact Name</u>:</b>	<b><u>Job Title</u>:</b>	<b><u>Phone Number</u>:</b>		
<b><u>System Replaced</u>:</b>	<b><u>Email Address</u>:</b>			
<b><u>Number of Users</u>:</b>	<b><u>Date Implemented</u>:</b>			
<b><u>Description / Notes</u>:</b>				
<b>Reference 2 – <u>Client Name</u>:</b>				
<b><u>Contact Name</u>:</b>	<b><u>Job Title</u>:</b>	<b><u>Phone Number</u>:</b>		
<b><u>System Replaced</u>:</b>	<b><u>Email Address</u>:</b>			
<b><u>Number of Users</u>:</b>	<b><u>Date Implemented</u>:</b>			
<b><u>Description / Notes</u>:</b>				

<b>Reference 3 – <u>Client Name:</u></b>	<b><u>State:</u></b>	<b><u>Type of Business:</u></b>
<b><u>Contact Name:</u></b>	<b><u>Job Title:</u></b>	<b><u>Phone Number:</u></b>
<b><u>System Replaced:</u></b>	<b><u>Email Address:</u></b>	
<b><u>Number of Users:</u></b>	<b><u>Date Implemented:</u></b>	
<b><u>Description / Notes:</u></b>		
<b>Reference 4 – <u>Client Name:</u></b>	<b><u>State:</u></b>	<b><u>Type of Business:</u></b>
<b><u>Contact Name:</u></b>	<b><u>Job Title:</u></b>	<b><u>Phone Number:</u></b>
<b><u>System Replaced:</u></b>	<b><u>Email Address:</u></b>	
<b><u>Number of Users:</u></b>	<b><u>Date Implemented:</u></b>	
<b><u>Description / Notes:</u></b>		

#### 4.5 Pricing Structure

- Submit pricing based off location and service date frequency.
- Provide an annual price based off information provided within the RFP and Location of Services Spreadsheet
- Submit pricing for emergency and after hour calls (24 hour call number should be provided from vendor).

#### 4.6 Proposal Requirements

Please include any additional services offered by the vendor and the corresponding pricing information.

## Section 5 – Evaluation and Selection Process

### 5.1 RFP Evaluation Committee

Each proposal will be evaluated by the RFP Evaluation Committee comprised of Facilities Planning and Management and other employees from within the University community. The RFP Evaluation Committee will initially review all proposals for completeness and compliance with the terms and conditions of the RFP. Proposals clearly inconsistent with the RFP requirements will be eliminated from further consideration. Proposals that pass the completeness and compliance review will be evaluated against the Basis of Selection outlined below. The RFP Evaluation Committee is the sole judge of the best offers and reserves the right to accept or reject any or all proposals. The vendor recognizes this by submitting a proposal.

### 5.2 Basis of Selection

The RFP Evaluation Committee will evaluate proposals and select firms based on a best value analysis involving the following factors.

- The firm's plan to meet the requirements in the **Scope of Work** including the quality of the proposal, responsiveness to SMU requirements and adequacy of information provided.
- The firm's relevant experience, qualifications and previous success in providing work related to referral services.
- The firm's ability to demonstrate quality of work and superior customer service.
- The proposed pricing methodology and overall potential cost to the University.

Any other factors relevant to the firm's capacity and willingness to satisfy the University's service needs.

<b>BUILDING NAME</b>	<b>ADDRESS</b>	<b>NOTES</b>	<b>Frequency</b>
Kappa Sigma	3022 SMU Blvd.		Quarterly
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Beta Theta Pi	3004 Dyer Ct.		Quarterly
Beta Upsilon Chi	3004 SMU Blvd.		Quarterly
Alpha Psi Lambda- Multicultural Greek Council House	3160 Daniel Ave.		Quarterly
Phi Delta Theta	3072 SMU Blvd.		Quarterly
Phi Gamma Delta	3064 SMU Blvd.		Quarterly
Sigma Phi Epsilon	3050 SMU Blvd.		Quarterly
Dyer House	3035 Dyer Ct.		Quarterly
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Moody Coliseum and Miller Event Center	3009 Binkley Ave.	Basement # 52- System # 1	Quarterly

Moody Coliseum and Miller Event Center	3009 Binkley Ave.	Hilltop Grill- System # 1	Quarterly
Moody Coliseum and Miller Event Center	3009 Binkley Ave.	Basement # 52A- System # 2	Quarterly
Moody Coliseum and Miller Event Center	3009 Binkley Ave.	Hilltop Grill- System # 3	Quarterly
Carr Collins, Jr. Hall	3300 University Blvd.	Vent Master UV Hood	Quarterly
McElvaney	6000 Bishop Blvd.	Main Kitchen (rear)- Pizza Hood	Quarterly
McElvaney	6000 Bishop Blvd.	Main Kitchen (rear)- Fryers	Quarterly
Elizabeth Perkins Prothro Hall	5901 Bishop Blvd.	Main Hood	Quarterly
Umphrey Lee	3300 Dyer St.	Front Display-Main Hood	Quarterly
Umphrey Lee	3300 Dyer St.	Front Display- Pizza Hood	Quarterly
Umphrey Lee	3300 Dyer St.	Main Kitchen- Double Sided Hood	Quarterly
Umphrey Lee	3300 Dyer St.	Main Kitchen (rear)- Fryers	Quarterly
Umphrey Lee	3300 Dyer St.	Main Kitchen (rear)- Wall	Quarterly
Umphrey Lee	3300 Dyer St.	Main Kitchen (rear)- Hotline	Quarterly
Umphrey Lee	3300 Dyer St.	Dishwasher # 3	Quarterly

**CONTRACT**  
**TO PROVIDE SERVICES ON**  
**AN ANNUAL BASIS**  
**TO**  
**SOUTHERN METHODIST UNIVERSITY**  
**BY**

This Contract to Provide Services on an Annual Basis (this "Contract") is made by and between Southern Methodist University ("SMU"), a Texas nonprofit corporation, and ("Contractor"), a corporation.

**ARTICLE 1**

**SERVICES TO BE PROVIDED UNDER THIS CONTRACT**

Contractor will provide to SMU the services described in the documents, attached hereto as Exhibit A (the "Services"), and in accordance with Contractor's Proposal, dated , attached hereto as Exhibit B. The term "Services" means the services to be provided pursuant to this Contract and includes all labor, materials, equipment, subcontractor services and/or miscellaneous items provided by Contractor to fulfill Contractor's obligations hereunder. Labor will include straight-time wages, fringe benefits, workers' compensation and other insurance, applicable taxes, small tools expenses, truck allowance, overhead and profit. Contractor will not charge SMU for overtime unless authorized by SMU's Representative designated in Exhibit D.

The Contractor must comply with the requirements set forth in SMU's Design Guidelines and Construction Standards Manual, as amended from time to time, available at [www.smu.edu/BusinessFinance/Facilities/GuidelinesAndStandards](http://www.smu.edu/BusinessFinance/Facilities/GuidelinesAndStandards).

**ARTICLE 2**

**TERM**

The term of this Contract begins , and will end at the conclusion of business on . SMU reserves the right to extend this Contract by written direction of the President, a Vice President or other authorized signatory identified in Exhibit C, for two additional one-year terms on the terms, including, without limitation, pricing terms, specified in this Contract.

### ARTICLE 3

#### CONTRACT AMOUNT

3.1 SMU will pay to Contractor the sum set forth in Exhibit B for satisfactory completion of Services. Contractor will invoice SMU on a monthly basis upon completion of providing Services for the preceding month. Each invoice will be delivered to SMU at the address set forth in Exhibit D and will specify the location of Services performed, the purchase order number and monthly cost, and will be delivered to the address set forth in Exhibit D. The total compensation for all Services will not exceed \$\_\_\_\_\_, and the term of the Contract will not extend beyond the latest date set forth in Article 2, without the written agreement of the President, a Vice President, or the Associate Vice President of Facilities Planning and Management.

3.2 Each invoice will be due and payable by SMU thirty (30) days after satisfactory completion of Services and acceptance and approval of the Services and of such invoice by SMU.

3.3 Payments will be made only to Contractor and will be sent to Contractor at the address designated in Exhibit D.

3.4 Contractor must present all invoices to SMU no later than ninety (90) days after completion of Services.

### ARTICLE 4

#### CONTRACT DOCUMENTS

The following documents form a part of this Contract and are attached hereto and incorporated herein by reference (including plans, specifications and drawings, if applicable):

<b><u>Exhibit</u></b>	<b><u>Title</u></b>	<b><u>Pages</u></b>
A	Scope of Work	
B	Contractor's Proposal	
C	Insurance Requirements of the Contract	2
D	Primary Location of Business to Receive Notices, Invoices and Payments; Designated Persons to Receive Notices and Authorized to Sign	3
E	Contractor's Certificate of Asbestos Free Materials	1
F	Conditional Waiver and Release on Final Payment and Bills Paid Affidavit	2

In the event of a conflict between (i) the provisions of this Contract, and the attached Exhibits A, C, D, E and F, and (ii) the provisions of Exhibit B or any other proposal or bid from Contractor, then the provisions of this Contract and the attached Exhibits A, C, D, E and F will control.



## ARTICLE 5

### RESPONSIBILITIES OF CONTRACTOR

5.1 By execution of this Contract, Contractor represents that Contractor has visited the SMU premises where Contractor is to perform the Services under this Contract and is familiar with the local conditions under which the Services are to be performed. Contractor understands and agrees that work will be scheduled in such a manner as to not conflict with academic or administrative activities.

5.2 Contractor will be responsible to SMU for the acts and omissions of Contractor's employees, subcontractors, sub-subcontractors, suppliers, volunteers, agents and any other persons performing any part of the Services hereunder. Contractor is responsible for ensuring that all persons performing any part of the Services comply with the obligations of the Contractor set forth in this Contract.

5.3 Contractor will not subcontract any portion of the Services to be performed under this Contract without advance written approval by SMU. Contractor will notify SMU's Representative of the names of any subcontractors, persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Services. Contractor will not contract with any subcontractor, person or entity to which SMU has made reasonable objection. By appropriate written agreement, Contractor will (a) require each subcontractor, person or entity, to the extent of the Services to be performed, to be bound to Contractor by terms of this Contract, and to assume toward Contractor all obligations and responsibilities which Contractor, by this Contract assumes toward SMU; (b) allow to each subcontractor, person or entity the benefit of all rights, remedies and redress afforded to Contractor by this Contract; and (c) require each subcontractor to enter into similar agreements with sub-subcontractors. Contractor will maintain all subcontractor agreements, purchase orders, and certificates of insurance at its offices and upon SMU's request will provide SMU with copies of same.

5.4 Contractor will give notices required by and comply with all applicable laws, ordinances, rules, regulations and lawful orders of public authorities relating to the Services, including, without limitation, those bearing on safety of persons and property and their protection from damage, injury or loss. Contractor will obtain and pay for all required permits, licenses and inspections and will pay all governmental fees. Contractor will be responsible for all fines, penalties and other costs resulting from Contractor's failure to meet its obligations under this Contract.

5.5 Contractor will supervise and direct the performance of the Services, using Contractor's best skill and attention. Contractor will be solely responsible for and have control over the means, methods, techniques, sequences and procedures involved in performance of the Services, so long as such are consistent with all specifications of this Contract, and for coordination of all portions of performance of the Services under this Contract, unless otherwise specifically agreed by the parties elsewhere in this Contract.

5.6 Unless otherwise provided in this Contract, Contractor will provide and pay for labor, materials, subcontractors, equipment, tools, machinery, transportation, and other facilities and services necessary for the proper performance of the Services hereunder, whether temporary or permanent. Contractor will certify that materials furnished by it hereunder are free of asbestos, meaning that the materials, if sampled and analyzed, can be determined to contain no asbestos. Contractor will execute Contractor's Certificate of Asbestos Free Materials, attached hereto as Exhibit E, prior to commencing the Services.

5.7 (a) Contractor will enforce strict discipline and good order among Contractor's employees and others performing any part of the Services under this Contract. When not a safety hazard, a photo ID badge must be worn in plain sight by all persons performing any part of the Services under this Contract. Contractor will not permit unfit persons or persons unskilled in the tasks assigned to them to perform any part of the Services hereunder. Contractor will independently verify whether any person assigned to work on SMU property has a record of a conviction of any felony or of a misdemeanor involving alcoholic beverages, animals, assault, computers, controlled substances, criminal mischief, dishonesty, disorderly conduct, explosives, fire alarms, fraud, harassment, indecent exposure, public indecency, public lewdness, riot, stalking or theft ("Misdemeanor") under Texas law or the equivalent under the laws of another jurisdiction. Contractor will also ensure that employment screenings are conducted on all persons who are expected to perform Services, consistent with the duties and responsibilities associated with such individuals' positions, locations of work and other factors. Contractor will not permit any person to perform Services hereunder if Contractor deems such individual to be an unreasonable risk on the basis of the results of such screenings. In addition, Contractor will not permit any person to perform Services on SMU property who has been convicted of any felony or Misdemeanor under Texas law, or the equivalent under the laws of another jurisdiction, without first obtaining written approval from the SMU Police Department. SMU reserves the right to refuse to grant such permission if, in its sole judgment, business necessity requires it to do so. SMU reserves the right to remove immediately from SMU's property (or to require Contractor to remove immediately) any person performing any part of the Services, should such person pose, in the reasonable judgment of SMU, an immediate threat of harm or nuisance to persons or property.

(b) To the extent required by law, all persons performing any part of the Services will be United States citizens or nationals, lawful permanent residents, or aliens properly authorized to work in the United States.

(c) At SMU's request, Contractor will provide appropriate documentation demonstrating compliance with the requirements of this Section 5.7.

5.8 Contractor warrants to SMU that the Services performed hereunder will be performed in a good and workmanlike manner and that they will conform to the requirements of this Contract. If Contractor provides professional or other expertise for performance of the Services, Contractor warrants that the Services will be performed in accord with the highest appropriate professional and/or industry standard. SMU relies upon Contractor's expertise to perform the Services in a manner fit to accomplish those particular purposes stated herein and all other foreseeable purposes. If required by SMU, Contractor will furnish to SMU satisfactory evidence of the kind and quality of materials and equipment it will use to perform the Services hereunder. Contractor will correct any defect in the Services at no cost to SMU for a period of one year following completion of the Services. Contractor will provide to SMU any documentation from manufacturer(s), including, but not limited to, warranties, service manuals and operating instructions.

5.9 Unless otherwise provided in this Contract, Contractor will pay sales, consumer, use and other similar taxes which are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect during the term of this Contract, and will secure and pay for any permits and governmental fees, licenses and inspections necessary for proper performance of the Services.

5.10 Contractor will confine the Services to areas permitted by law, ordinances, permits and this Contract, and will not unreasonably encumber the area with materials or equipment. Unless approved by SMU's Representative, Contractor will not permit use of cellular telephones on construction sites. In addition, Contractor will restrict all persons performing any part of the Services to such areas. Contractor must obtain authorization for parking of vehicles or equipment on SMU property from SMU's Representative. Vehicles and equipment will also conform to all parking regulations of SMU as directed

by SMU's Police Department. Without limiting the foregoing, no driving or parking is permitted on pedestrian walkways.

5.11 Contractor will be permitted to use existing entrances and stairs and such other areas only with SMU's prior approval and subject to SMU's security arrangements. Contractor will at no time have possession of keys, cards or codes allowing access to SMU properties.

5.12 Cutting and patching will be neatly and carefully done in a thorough and competent manner. Patches and repairs will be as inconspicuous as possible and will be subject to approval by SMU. Any Contractor cutting and/or altering existing conditions must repair, patch and refinish such work.

5.13 Contractor will at all times during the performance of the Services keep the premises and surrounding areas free from accumulation of waste matter and rubbish caused by the Services under this Contract and will confine equipment, materials and operations of workers to limits of the Services area. All rubbish and debris will be removed and disposed of from the areas on an as needed basis. Contractor will promptly remedy damage and loss to property at the sites where the Services are performed. Upon completion of the Services, Contractor will remove from SMU's property all rubbish, tools, equipment, unused building materials and other associated materials.

5.14 Contractor's cleanup will include, but not be limited to, removing broken or scratched glass and replacing with new glass; removing paint droppings, spots, stains and dirt from finished surfaces; removing tape and any other obstructions from sprinkler heads; and cleaning plumbing fixtures, hardware, floors and equipment. Contractor will be responsible for repair or cleanup of any items within or beyond the Services area damaged as a result of Services provided under this Contract. Contractor will restore to satisfactory condition all new and existing walks, roads, curbs, and other interior or exterior improvements that may have been damaged as a result of Services provided under this Contract. Contractor will leave the area ready for use and occupancy without the need of further cleaning.

5.15 Contractor will permit SMU access to observe and evaluate Contractor's performance of the Services at any time desired by SMU.

#### **5.16 INDEMNIFICATION.**

**(a) TO THE FULLEST EXTENT PERMITTED BY LAW, AND EXCEPT TO THE EXTENT CAUSED BY THE NEGLIGENCE OR FAULT OF THE INDEMNIFIED PARTY, CONTRACTOR WILL INDEMNIFY, DEFEND (WITH COUNSEL ACCEPTABLE TO SMU) AND HOLD HARMLESS SMU, ITS TRUSTEES, OFFICERS, EMPLOYEES, VOLUNTEERS AND/OR AGENTS AND/OR THE SUCCESSORS AND/OR ASSIGNS OF ANY OF THEM (EACH, AN "INDEMNIFIED PARTY") FROM AND AGAINST ANY AND ALL LOSS, COST, EXPENSE, DAMAGE, INJURY, LIABILITY, CLAIM, DEMAND, FINE, PENALTY OR CAUSE OF ACTION, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COSTS AND EXPENSES OF ANY DISPUTE RESOLUTION PROCEEDING (EACH A "CLAIM" AND COLLECTIVELY, "CLAIMS"), DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM, OR RELATING TO CONTRACTOR'S PERFORMANCE OF THE SERVICES HEREUNDER OR OTHER ACTIVITIES OF THE CONTRACTOR, INCLUDING, BUT NOT LIMITED TO:**

**(i) CONTRACTOR'S BREACH OF THIS CONTRACT;**

**(ii) ANY CLAIM ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE, OR DEATH OF ANY PERSON, OR TO INJURY TO OR**

**DESTRUCTION OF PROPERTY, INCLUDING, BUT NOT LIMITED TO, LOSS OF USE OF THE PROPERTY;**

**(iii) ANY LIEN CLAIM OR NOTICE OF LIEN CLAIM ASSERTED BY ANY SUBCONTRACTOR, SUB-SUBCONTRACTOR, SUPPLIER OR EQUIPMENT PROVIDER OF ANY TIER WHO PROVIDES LABOR, MATERIALS OR EQUIPMENT TO THE PROJECT TO CARRY OUT ANY OF THE SERVICES PROVIDED IN THIS CONTRACT, TO THE EXTENT CONTRACTOR HAS BEEN PAID FOR THE SERVICES; OR**

**(iv) THE ACT OR OMISSION OF CONTRACTOR, A SUBCONTRACTOR, SUB-SUBCONTRACTOR, SUPPLIER, OR ANY OTHER PERSON OR ENTITY DIRECTLY OR INDIRECTLY EMPLOYED BY SUCH PARTIES OR FOR WHOSE ACTS OR OMISSIONS THEY MAY BE LIABLE.**

In the event that an Indemnified Party is found by final award to be negligent or at fault at whole or in part, the indemnity and hold harmless obligation of Contractor with regard to attorneys' fees and costs and expenses of any dispute resolution proceeding will be reduced by the percentage of fault or negligence of the Indemnified Party. These obligations will not be construed to negate, abridge or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 5.16.

**(b) INDEMNITY – EMPLOYEE INJURY CLAIMS; INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS. IN ADDITION TO THE INDEMNIFICATION PROVIDED IN SECTION 5.16(a) AND TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR WILL INDEMNIFY, DEFEND (WITH COUNSEL ACCEPTABLE TO SMU), AND HOLD HARMLESS EACH INDEMNIFIED PARTY FROM AND AGAINST ANY CLAIM (i) DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM, OR RELATING TO BODILY INJURY, SICKNESS, DISEASE OR DEATH OF ANY EMPLOYEE OF CONTRACTOR, ANY SUBCONTRACTOR OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY EITHER, BROUGHT BY SUCH INJURED EMPLOYEE OR THE EMPLOYEE'S WORKERS' COMPENSATION INSURANCE CARRIER; AND/OR (ii) ANY CLAIM THAT ANY MATERIALS CONTRACTOR PRODUCES FOR OR USES AT SMU INFRINGE ON THE COPYRIGHT, TRADEMARK, SERVICE MARK, OR TRADE NAME OR OTHER INTELLECTUAL PROPERTY RIGHT OF A THIRD PARTY, OR PLAGIARIZE THE WORK OF A THIRD PARTY, IT BEING THE EXPRESSED INTENT OF SMU AND CONTRACTOR THAT THE CONTRACTOR IS TO INDEMNIFY, DEFEND AND HOLD HARMLESS EACH INDEMNIFIED PARTY EVEN TO THE EXTENT SUCH CLAIM IS ALLEGED TO BE CAUSED, IN WHOLE OR IN PART, BY THE SOLE OR CONCURRENT NEGLIGENCE OF AN INDEMNIFIED PARTY.**

**(c) The indemnification of this Section 5.16 will not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for Contractor under workers' compensation acts, disability benefit acts or other employee benefit acts. The obligations of Contractor under this Section 5.16 will survive the expiration of this Contract.**

5.17 Contractor must demonstrate that it has in place a fully comprehensive safety program that complies with all applicable regulatory standards, including, without limitation, Occupational Safety and Health Administration (OSHA), United States Environmental Protection Agency (EPA) and State of Texas laws and regulations. Contractor's safety program must include, but is not limited to, complying with OSHA and SMU requirements relating to lock-out, tag-out, cutting, welding and other hot work and impairments to sprinkler systems. Contractor will be responsible for reporting to SMU any noncompliance with such standards observed by its employees or any other person performing any part of the Services hereunder. Contractor will be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of this Contract. Contractor will take reasonable precautions for safety of, and will provide reasonable protection to prevent damage, injury or loss to:

(a) persons performing the Services and other persons who may be affected thereby, including the student and campus population and general public in the vicinity of Contractor's employees and others performing any part of the Services during the course of Contractor's performance of the Services hereunder;

(b) automobiles, materials, tools, equipment and other property of Contractor and others;

(c) the materials and equipment to be installed hereunder; and

(d) other property at the site of Contractor's performance of the Services (or adjacent thereto) such as trees, shrubs, lawns, walks, pavement, roadways, structures and utilities not designated for removal, relocation, or replacement in the course of performance of the Services.

5.18 Prior to commencement of work in Permit-Required Confined Spaces, as defined by OSHA workplace standards, Contractor will obtain from SMU's Representative a copy of SMU's operating procedures. Contractor will perform work in Permit-Required Confined Spaces in accordance with SMU's operating procedures and in accordance with all applicable law. Before proceeding, Contractor will bring to the attention of SMU's Representative any conflicts between SMU's operating procedures and applicable law.

5.19 (a) The consumption of alcoholic beverages and the illegal use of controlled substances will not be permitted on SMU's property nor will Contractor employees or any other person performing any part of the Services be under the influence of such substances while on SMU's property. Contractor will comply with SMU's Non-Smoking Policy, a copy of which can be obtained from SMU's Representative. Smoking will not be permitted at any location where either SMU or Contractor has posted a "No Smoking" sign, it being understood that Contractor has the obligation to post appropriate "No Smoking" signs as necessary for safety reasons within the spaces for which Contractor is responsible. Further, it is understood that SMU has designated all campus buildings as "No Smoking" areas, which designation must be respected unless a "Smoking Permitted" sign has been posted by SMU.

(b) To the fullest extent permitted by law, the use or possession of dangerous weapons or facsimiles of dangerous weapons on SMU property is prohibited for all persons except for persons duly authorized by the SMU Police Department or by an accredited law enforcement office, to carry a firearm in the performance of their duty.

5.20 (a) Without altering in any way Contractor's liability under this Contract or applicable law, Contractor agrees to comply with the "Insurance Requirements of the Contract" attached hereto as Exhibit B and incorporated herein by reference.

(b) None of the requirements as to types, limits or SMU's approval of Contractor's insurance coverage limits, qualifies or quantifies the liabilities and obligations assumed by Contractor under this Contract or otherwise provided by law. Contractor is responsible for maintaining its own insurance coverage on its personal property.

5.21 If any materialman's, mechanic's or other similar lien or claim thereof is filed by any materialman or laborer, and if Contractor has not caused such lien to be released and discharged forthwith, or filed a bond in lieu thereof, SMU will have the right to pay all sums necessary to obtain such release and discharge and deduct all amounts so paid from the amount due to Contractor on the next succeeding invoice until the total amount of same will be recouped as SMU may elect. If any such lien is filed or otherwise imposed, Contractor, at the request of SMU, will cause such lien to be released, bonded off or otherwise discharged. Contractor will indemnify, defend and hold harmless SMU from any Claims of whatever nature arising out of any such lien or that part of the Services covered thereby. At the conclusion of the term of this Contract, Contractor will furnish to SMU an executed Conditional Waiver and Release on Final Payment and, if requested by SMU's Representative, an All-Bills Paid Affidavit in the forms provided in Exhibit F attached hereto, prior to SMU's release of payment to Contractor. SMU's Representative may, from time to time, require Contractor to execute additional lien waiver and release documents in such form as prescribed by Texas law including, but not limited to, a Conditional Waiver and Release on Progress Payment or an Unconditional Waiver and Release on Progress Payment or on Final Payment once funds are in hand.

5.22 Prior to commencing work, Contractor will obtain from SMU any available report relating to inspections of the site for Asbestos-Containing Building Materials (ACBM) (the "Report"). Contractor agrees not to nail holes in, remove, demolish, renovate or otherwise disturb areas of the site that the Report indicates may contain ACBM without (i) notifying SMU in advance and (ii) following all recommendations set forth in the Report. The full report including backup data is available for review by Contractor upon request to SMU's Representative.

5.23 Contractor must not cause or permit any hazardous material to be released, brought upon, stored, produced, disposed or used upon, about, or beneath the premises. Notwithstanding the foregoing, Contractor may use any ordinary or customary materials reasonably required to be used in the normal course of Contractor's business permitted on the premises, so long as such use does not expose the premises to any risk of contamination or damage, or expose SMU to any liability therefor. Contractor must at all times be in compliance with all applicable laws of the EPA and the Texas Commission on Environmental Quality for the proper storage, handling and disposal of any hazardous waste.

5.24 In the event Contractor encounters on the site material reasonably believed to be hazardous materials which has not been rendered harmless and not within the scope of work under this Contract, Contractor must immediately stop Services in the area affected and notify SMU immediately. The Services in the affected area must not thereafter be resumed except by notification of SMU and Contractor if in fact the material is hazardous as defined by OSHA and the EPA. The Services in the affected area will be resumed in the absence of hazardous materials, or when it has been rendered harmless, by notification of SMU and Contractor. The foregoing will be communicated by Contractor to all persons performing any part of the Services under this Contract.

5.25 Contractor will be responsible for ensuring that the performance of the Services and the completed work comply with the Americans with Disabilities Act of (42 U.S.C. Section 12101 et seq.) and with Chapter 469, Texas Government Code, Elimination of Architectural Barriers, and with other laws affecting the rights of individuals with disabilities, and related federal and state regulations, as amended from time to time. If required by law or by SMU's Representative, Contractor will enter into a subcontract with a third-party Registered Accessibility Specialist (RAS) acceptable to SMU. The cost of RAS services will be billed by Contractor as a direct pass-through cost to SMU without mark-up.

5.26 As used in this Section, the terms "Renovation" and "Renovator" will have the meanings ascribed to such terms in 40 CFR 745.83. Contractor represents to SMU that (i) Contractor or its subcontractors performing any Renovation work have been certified to perform such Renovation work under the Lead Renovation, Repair and Painting Rule, 40 CFR Part 745, Subpart E (the "Rule"); (ii) all persons performing Renovation work will be properly trained, qualified and certified as a Renovator or will have been trained by a certified Renovator in accordance with 40 CFR 745.90 of the Rule to perform such Renovation work; (iii) all Renovation work will comply with the Work Practice Standards specified in the Rule; and (iv) all dust sampling will be performed in accordance with the Rule by certified dust sampling technician.

5.27 Information Technology Security; Data Encryption and Computer Hardware Protection.  
(a) Contractor covenants that it will secure its information technology systems with commercially appropriate security measures in accordance with the highest industry standards. Any data transmitted over any network or other information technology system must be encrypted with commercially appropriate security measures in accordance with the highest industry standards. Contractor will report in writing to SMU any unauthorized use or disclosure of confidential information or other security breach within five (5) business days after Contractor learns of such use or disclosure or security breach. Contractor acknowledges that if a third party obtains unauthorized access to Contractor's systems or to SMU's systems or otherwise as a result of an action or omission of Contractor, or obtains access to information pertaining to SMU or to its trustees, officers, employees, students, volunteers, donors, alumni, guests, tenants, agents or others affiliated with SMU, then that will be considered a material breach of this Contract. Upon such breach, in addition to any other remedies available to SMU at law or in equity, without limitation of the foregoing, Contractor will pay all costs of notifying system users of such security breach and of credit watch services (or, if directed by SMU, Contractor will perform such notifications of system users and will arrange for credit watch services for such users) and SMU may terminate the Contract immediately without further obligation to make payments for services not theretofore delivered, and will receive a refund of any prepaid fees for the period following the date of termination.

(b) If computer hardware and other equipment are used in the performance of this Contract, Contractor will use all security measures necessary to insure that SMU data is not copied or otherwise compromised. At the time this Contract is terminated, SMU data must be promptly returned to SMU in usable form as directed by SMU, and all equipment used to copy or scan SMU materials or otherwise containing SMU data must be erased according to U.S. Department of Defense standard 5220.22-M and overwritten to guarantee that all hard drive space contains no SMU data. Contractor will provide to SMU's Chief Information Officer evidence to confirm that all appropriate security measures required by this Contract and by good industry practices have been taken to ensure that SMU's data is protected.

(c) This Contract supersedes the terms of any on-line click through end user agreement in connection with any software delivered to SMU in connection with the Services.

## ARTICLE 6

### MISCELLANEOUS PROVISIONS

6.1 With respect to the Services to be provided by Contractor and the administration of this Contract, SMU and Contractor will designate a) the primary location of business to receive notices, invoices and payments; b) the parties to receive notices and communications and to act for SMU and Contractor in all respects; and, c) the parties authorized to sign agreements and changes to this Contract. Such designations are listed in the Primary Location of Business to Receive Notices, Invoices and Payments; Designated Persons to Receive Notices and Authorized to Sign, attached hereto as Exhibit D.

6.2 Any assignment of this Contract by Contractor, and more specifically assignment to a factoring company, will be void without the express written consent of the President or a Vice President of SMU. Contractor will not be relieved of its obligations under this Contract in the event of an authorized assignment. It is agreed that any sale, merger, corporate reorganization, or significant change of ownership of Contractor or any substantial alteration in the nature or character of its business will constitute a change in Contractor and it is agreed that continuation of this Contract after such a change will be considered to be an assignment.

6.3 It is understood and agreed that the relationship of Contractor to SMU will be that of an independent contractor. Nothing contained herein or inferable herefrom will be deemed or construed to (1) make Contractor the agent, servant or employee of SMU; or (2) create any partnership, joint venture or other association between SMU and Contractor. Any directions or instructions by SMU in respect of the Services will relate to the results SMU desires to obtain from the Services and will in no way affect Contractor's independent contractor status as described herein.

6.4 (a) In the event of the breach of any of the terms of this Contract by either party, the non-breaching party may terminate this Contract if (1) the non-breaching party provides written notice to the breaching party that a breach has occurred, the nature of the breach, and the date this Contract will terminate, which will be no less than ten (10) days from the date of the written notice, and (2) the breaching party fails to cure the breach within the ten (10) day period. In no event will SMU be liable to Contractor for damages for delay.

(b) If a party files a petition or be adjudged bankrupt or insolvent under any applicable federal or state bankruptcy or insolvency law, or admits that it cannot meet its financial obligations as they become due; or if a receiver or trustee is appointed for all or substantially all of the assets of the party; or if a party makes a transfer in fraud of creditors or makes an assignment for the benefit of creditors that will be considered a breach of this Contract and the non-breaching party may terminate this Contract immediately.

6.5 Contractor represents and warrants that no trustee, officer, employee, student or agent of SMU has been or will be employed, retained, or paid a fee, or otherwise has received or will receive any personal compensation or consideration by or from Contractor or any of Contractor's directors, officers, employees, or agents in connection with the obtaining, arranging, or negotiation of this Contract. Contractor agrees that the consideration to be paid by SMU under this Contract represents fair and reasonable consideration relative to the value of services to be provided by Contractor to SMU.



6.6 In its performance of this Contract, Contractor warrants that it will not discriminate against any person on the basis of race, color, religion, national origin, sex, age, disability, genetic information or veteran status. Contractor will also not discriminate against any person on the basis of sexual orientation or gender identity and expression. Contractor affirms that it is an equal opportunity and affirmative action employer and that it will comply with all applicable federal, state and local laws and regulations. The parties hereby incorporate the equal employment opportunity and affirmative action requirements, if applicable, of 41 C.F.R. 60-1.4(a) and 29 C.F.R. Part 471, Appendix A to Subpart A. **Contractor and all subcontractors will abide by the requirements of 41 CFR 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified protected veterans and qualified individuals on the basis of disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and qualified individuals with disabilities.**

6.7 No waiver of any breach of any provision of this Contract will operate as a waiver of any other or subsequent breach thereof or of the provision itself, or of any other provision. No provision of this Contract will be deemed to have been waived unless such waiver is in writing and is signed by the party waiving the same.

6.8 Contractor will not disclose the terms of this Contract without the express written consent of the President or a Vice President of SMU, unless such disclosure is required by law or court order.

6.9 Nothing contained herein allows Contractor to use the name "SMU" or "Southern Methodist University", or any of its logos or images, except for the purposes set forth in this Contract, unless prior written permission of SMU's President or Vice President for Development and External Affairs or their respective designees is obtained. Contractor will take no action that states or implies or allows another to infer that SMU has approved or endorsed Contractor's products or services.

6.10 Contractor will not report or release information concerning SMU or its trustees, officers, employees, students, volunteers, donors, guests, tenants, agents or alumni or others affiliated with SMU to third parties without SMU's prior written approval. Without limiting the foregoing, any such report or release of information will, at a minimum, comply with those requirements enumerated in the Gramm-Leach Bliley Act (15 U.S.C. §6801 et seq.; 16 CFR §314 et seq.) and all other applicable laws regarding privacy or protection of personally identifiable information.

6.11 This Contract will be governed by and construed under the laws of the State of Texas. Each party to this Contract hereby irrevocably submits to the exclusive jurisdiction of the federal or state courts in Dallas County, Texas and consents to venue in Dallas County, Texas for any action arising out of this Contract.

6.12 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations or any additional insured requirements under this Contract, such legal limitations are made a part of the contractual obligations and will operate to amend the obligations to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the obligations will continue in full force and effect. Should any provision of this Contract be held invalid, unenforceable or contrary to public policy, law, statute or ordinance, then the remainder of the provision, paragraph, section and/or Contract will not be affected thereby and will remain valid and fully enforceable.

6.13 This Contract, including its exhibits (as set forth specifically in this Contract), and each Directive constitutes the entire agreement of the parties and supersedes any previous oral or written agreements regarding the subject of this Contract. Article and section headings are inserted for convenience of reference only and will in no way alter, modify, or define, or be used in construing the text of such articles or sections. Terms and conditions submitted by Contractor with a proposal, a Directive, an invoice or otherwise are not incorporated in this Contract. This Contract will not be modified or altered, including without limitation, making changes to the scope or cost of the work, except by mutual agreement, confirmed in writing and signed by the parties, with the signature on behalf of SMU being that of the President, a Vice President, the Associate Vice President for Facilities Planning and Management, or the Director of Purchasing.

6.14 The obligations contained in Sections 5.3, 5.7, 5.9, 5.16, 5.21, 5.22, 5.26, 6.7, 6.8, 6.9, 6.10, 6.11 6.12, 6.13 and 6.14 of this Contract will survive the expiration, completion, abandonment and/or termination of the Contract and final completion of the Services.

6.15 Either party may terminate this Contract for convenience upon ten (10) days' written notice to the other party. Each party will remain responsible for all obligations accruing prior to the termination date.

This Contract is hereby executed and effective on the date on which it is signed and initialed by the last of those required to sign and initial this Contract. This Contract may be executed in multiple counterparts, including facsimile counterparts, each of which will be deemed an original, and all of which together will constitute one and the same instrument.

#### **SOUTHERN METHODIST UNIVERSITY**

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

#### **CONTRACTOR**

BY: \_\_\_\_\_

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

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

DATE: \_\_\_\_\_

**EXHIBIT C**  
**Southern Methodist University**  
**Office of Risk Management**  
**Certificate of Insurance Requirements**  
**(Third Party Doing Business with SMU)**

A valid Certificate of Insurance must be provided to SMU's Office of Risk Management by any person or entity who is (i) providing goods or services to or for SMU, (ii) using SMU property for events, programs or other purposes or (iii) otherwise doing business with SMU (each a "Contractor"). Insurance must be in place prior to commencement of provision of goods or services or the use of property or other business engagement and must be maintained throughout the term of the contract or other engagement between SMU and the Contractor (the "Contract"), and thereafter, as required below:

1. These requirements apply to Contractor, and to Contractor's contractors, subcontractors, sub-subcontractors, consultants, suppliers and others fulfilling Contractor's obligations under the Contract, whether persons or entities and including international providers ("Subcontractors"). Contractor must require all Subcontractors to comply with the insurance requirements applicable to Contractor.
2. The Contractor must be licensed or otherwise authorized to do business in the State of Texas.
3. Insurance must be written on an ISO form CG 00 01 form or equivalent and must be issued by insurance companies with not less than an AM Best A-III rating.
4. Contractor must waive subrogation against SMU, its trustees, officers, employees, students, volunteers and agents for claims or any other loss arising out of Contractor's negligence or willful misconduct or omission.
5. Contractor shall provide coverage for broad-form indemnification if such indemnification is required by the Contract.
6. Contractor shall maintain all required insurance throughout the duration of the Contract. For any "claims-made" coverage such as insurance for any professional liability or directors and officers coverage, each policy must have a retroactive date prior to the date of project or Contract commencement and must be maintained by the Contractor until completion and for at least three (3) years thereafter either through policies in force or through "tail coverage."
7. Additional insured status shall be written as noted for commercial general liability, automobile liability and excess liability or as noted on the P.2 of this form using ISO additional insured endorsements for ongoing and completed operations. For purposes of this additional insured requirement, "equivalent coverage" means coverage for liability arising out of Contractor's actions and omissions in connection with the Contract, including coverage for the negligence or fault of Contractor and/or SMU or other parties indemnified under the Contract as to bodily injury or death of an employee or agent of the Contractor or of Subcontractors, including products-completed operations.
8. Contractor agrees to allow SMU to review all applicable insurance policies upon request.
9. Contractor is responsible for maintaining its own insurance coverage on its personal property.

The Certificate of Insurance must be completed using the following Description and Certificate Holder language:

1. **DESCRIPTION:** SMU must be named as additional insured unless noted otherwise on the attached form and must include the following language:

***Southern Methodist University, its trustees, officers, employees, students, volunteers and agents are named as additional insured (as the interest of each insured may appear) as to all insurance coverage required.***

2. **CERTIFICATE HOLDER:** listed as follows and address to send Certificate of Insurance to:

*Warren Ricks, Associate Vice President & Chief Risk Officer  
Southern Methodist University -- Office of Risk Management  
P.O. Box 750231  
Dallas, Texas 75275-0231 [by courier: 3050 Dyer Ct., Dallas, TX 75205]*

3. **CONTACT FOR QUESTIONS:** Assistant Director of Risk Management  
Your prompt attention in this matter is greatly appreciated. If you have any questions, **please contact (214) 768-2083 or riskmanagement@smu.edu; Fax: (214) 768-4138**

**SOUTHERN METHODIST UNIVERSITY**  
**Standard Limits of Liability and Certificate of Insurance Requirements**

The following Standard Limits are the minimum requirements for all Contractors. There are specific requirements that supersede the Standard Limits for Contractors providing high-risk services or for other high-risk projects and events. Please consult with the Office of Risk Management.

Coverages required for this Contract are marked with an “X” in the second column titled “Description of Coverage”. Coverages without an “X” are not required. **ONLY PROVIDE THAT WHICH IS MARKED IN YELLOW**

<b>Southern Methodist University</b>	<b>Initiator Name: SMU _SMU</b>	<b>Contract Provider Name</b>	<b>Request Date 11.15.16._</b>
<b>Certificate of Insurance Requirements</b>	Phone _____ Email _____	Contract # _____	Completed ORM: _____
<b>Line of Coverage (Required if checked)</b>	<b>Description of Coverage</b>	<b>Limits of Liability (Minimum or as noted)</b>	<b>Additional Insured Language</b>
<b>General Liability</b> CG 00 01	Premises Liability     _X_ Personal Injury       _X_ Products Liability     _X_ Medical Payments     _X_ Host Liquor Liability   ___ Sexual Molestation/Assault _X_ General Aggregate     _X_ Contractual Liability   _X_	\$1,000,000 per occurrence \$1,000,000 \$1,000,000 \$10,000 \$1,000,000 \$50,000 minimum SA \$2,000,000 \$1,000,000	<b>Yes-ALWAYS Required</b>
<b>Automobile Liability</b> CG 00 01 CA 00 05, ..12, ..20	Combined Single Limit _X_ Charter Bus           ___ Garagekeepers' Legal   ___	\$1,000,000 (autos) \$5,000,000 \$1,000,000 (valet)	Yes-ALWAYS if applicable
Excess Liability (GL)	Over General Liability, auto, employer's liability (WC)     ___ or other as noted	\$5,000,000 or as noted:\$ _____	Yes
Director's & Officer's Liability	Wrongful Acts         _X_ Errors & Omissions    _X_	\$1,000,000 /2,000,000   or as noted: \$ _____	Yes
<b>Professional Liability</b>	Architects & Engineers   ___ Lawyer's Malpractice     ___ Medical Malpractice     ___	\$2,000,000 per occurrence \$1,000,000 \$1,000,000	Yes
Cyber Liability	Breach, Privacy, Virus, Security ___	\$1,000,000 per occurrence \$2,000,000 aggregate all types of coverage	Yes
Crime/Fidelity	Embezzlement, Fraud, Theft ___	\$1,000,000 per occurrence  \$2,000,000 aggregate	Yes
<b>Workers' Compensation</b> (If applicable)	Injury/Illness         _X_ Employer's Liability    _X_	Statutory _X_ \$1,000,000	No-ALWAYS
Pollution Liability	Hazardous Transfer, Storage, Disposal, Spills _____	\$1,000,000 per occurrence \$2,000,000 aggregate	Yes
Accident insurance (to be purchased from SMU)	For events, camp and conference attendees or as otherwise required by SMU	\$1.50 per Attendee, times actual number of days Attendee is on campus	Yes
Tenant and Users Liability Insurance Policy (TULIP)	For events and catering or as otherwise required by SMU       ___	Obtain password from SMU's Office of Risk Management and apply and pay online	Yes
Others as listed:	Personal/Indemnity     ___ Hull		Yes

**PRIMARY LOCATION OF BUSINESS  
TO RECEIVE NOTICES, INVOICES AND PAYMENTS**

**DESIGNATED PERSONS  
TO RECEIVE NOTICES AND AUTHORIZED TO SIGN**

PRIMARY LOCATION OF BUSINESS TO RECEIVE NOTICES:

Any notice required or permitted to be delivered must be in writing and may be given by certified or registered mail, facsimile, hand delivery or by overnight courier and will be deemed to be received (a) if given by certified or registered mail, three days after deposited in the United States mail, postage prepaid, certified mail, return receipt requested; or, (b) if given by facsimile or hand delivery, when such notice is received by the party to whom it is addressed or, if given by an overnight courier or delivery service when deposited with such courier.

The following are the designated Primary Locations of Business to Receive Notices:

For Contractor:

For SMU:

With a copy to Vice President for Legal Affairs and Government Relations:

PRIMARY LOCATION OF BUSINESS TO RECEIVE INVOICES AND PAYMENTS:

Invoices will be sent to SMU by United States mail, postage prepaid, to the following location:

Payments will be sent to Contractor by United States mail, postage prepaid, to the following location:

DESIGNATED PERSONS TO RECEIVE NOTICES AND COMMUNICATIONS:

The parties hereby designate and appoint the following persons, whose addresses are designated above, as their representatives respectively, to receive all notices and communications and, to the extent of their obligations, to act for them in all respects.

For Contractor:

SMU's Representatives:

Contractor will not take direction from persons in academic, administrative or operating units of SMU not specifically named herein. It is agreed, if Contractor takes direction from persons not named herein and proceeds to perform additional services, modifies established programming or changes the scope of basic services, SMU will not reimburse Contractor for any such expenses, will not extend the schedule of performance of Services, and will not compensate Contractor for any services or expenses to bring the Services into compliance with the Contract.

DESIGNATED PERSONS AUTHORIZED TO SIGN:

Unless specifically stated otherwise in the Contract, the following are the designated persons authorized to sign written authorizations or agreements, including but not limited to Change Orders and work orders required by the Contract:

For Contractor:

For SMU:

Should it become necessary to change the Primary Location of Business to Receive Notices and Payments or the Designated Persons to Receive Notices and Authorized to Sign, any party may do so by giving written notice to the other representatives as provided in the above within seven (7) days of such change.

