

AN AGREEMENT
BY AND BETWEEN
THE TEXAS A&M UNIVERSITY SYSTEM OFFICES
AND FACILITY PROGRAMMING AND CONSULTING

This Master Agreement (“Agreement”) is entered into and effective September 1, 2017 (the “Effective Date”), by and between The Texas A&M University System (hereafter referred to as “the A&M System”), an agency of the state of Texas, and Facility Programming and Consulting (hereafter referred to as “PROVIDER”). The A&M System and PROVIDER are sometimes hereafter referred to as “Party” individually or “Parties” collectively).

The A&M System and PROVIDER hereby agree as follows:

1. SCOPE OF WORK

PROVIDER will work with the A&M System to provide facility programming services as outlined in RFQ01 FPC-18-001. The PROVIDER will be responsible for facility programming and comprehensive Program of Requirements (POR) development services in conjunction with the construction delivery process as utilized by the A&M System. The services included (but not limited to) in the scope of this Agreement are listed in Exhibit A, attached hereto.

2. TERM OF THE AGREEMENT

The initial term of this Agreement shall begin September 1, 2017 and will extend for two (2) years. This Agreement can be extended for two (2) additional one (1) year terms upon written agreement of both parties. Any extensions shall be at the same terms and conditions plus any approved changes to be determined by the A&M System and negotiated in writing with the PROVIDER.

3. PAYMENT TERMS

- A. The A&M System or the applicable A&M System member (MEMBER) shall compensate the PROVIDER for the scope and fees negotiated at the time a specific project is assigned, to include reimbursables. PROVIDER shall invoice for amounts due consistent with the payment schedule outlined in the purchase order for that specific project. Payment will be made to PROVIDER upon approval of such invoice by the A&M System or MEMBER.
- B. It is the policy of the state of Texas to make payment on a properly prepared and submitted invoice within thirty (30) days of the latter of any final acceptance of performance or the receipt of a properly submitted invoice, in conformance with the Texas Prompt Payment law. Generally, payment will be made on the 30th day unless a discount has been arranged for more immediate payment.
- C. Business-related travel, lodging and/or meal expenses will be reimbursed by the A&M System (if authorized by the A&M System) according to the State of Texas rates, rules, and regulations (<https://comptroller.texas.gov/purchasing/programs/travel-management/>). PROVIDER is required to submit all travel receipts when requesting reimbursement. Under no circumstance will the PROVIDER be reimbursed for alcohol purchases. State travel rates are subject to change without notice and will be adjusted accordingly. Mileage rates will be calculated from point-to-point (PROVIDER’s place of business to

- job site) using the State of Texas mileage. Should the contract be renewed for an additional term, travel reimbursement amounts will be renegotiated at that time.
- D. All payments shall be made by electronic direct deposit. PROVIDER is required to complete and submit to the A&M System a Vendor Direct Deposit Authorization form prior to the first payment request. The form can be accessed at;
<https://www.tamus.edu/business/budgets-and-accounting/accounting/general/> .
 - E. All invoices must reference the A&M System or MEMBER project specific purchase order number and description of services provided to include but not limited to time, deliverables, and activities.
 - F. For A&M System projects, invoices are to be sent to e-Builder with the appropriate link provided in the purchase order. The invoices must include a summary of services performed. The invoices will be processed for payment upon approval by an A&M System representative within Facilities Planning & Construction.

4. DEFAULT AND TERMINATION

- A. In the event of substantial failure by PROVIDER to perform in accordance with the terms hereof, the A&M System may terminate this Agreement upon fifteen (15) days written notice of termination setting forth the nature of the failure (the termination shall not be effective if the failure is fully cured prior to the end of the fifteen-day period), provided that said failure is through no fault of the A&M System.
- B. The A&M System may terminate this Agreement at any time upon seven (7) days prior notice to PROVIDER.

5. PUBLIC INFORMATION

- A. PROVIDER acknowledges that the A&M System is obligated to strictly comply with the Public Information Act, Chapter 552, *Texas Government Code*, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law.
- B. Upon the A&M System's written request, PROVIDER will provide specified public information exchanged or created under this Agreement that is not otherwise excepted from disclosure under chapter 552, Texas Government Code, to the A&M System in a non-proprietary format acceptable to the A&M System. As used in this provision, "public information" has the meaning assigned Section 552.002, *Texas Government Code*, but only includes information to which the A&M System has a right of access.
- C. PROVIDER acknowledges that the A&M System may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), *Texas Government Code*.

6. DISPUTE RESOLUTION

The dispute resolution process provided in Chapter 2260, *Texas Government Code*, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by the A&M System and PROVIDER to attempt to resolve any claim for breach of contract made by PROVIDER that cannot be resolved in the ordinary course of business. PROVIDER shall

submit written notice of a claim of breach of contract under this Chapter to Billy Hamilton, Executive Vice Chancellor and Chief Financial Officer for the A&M System, who shall examine PROVIDER's claim and any counterclaim and negotiate with PROVIDER in an effort to resolve the claim.

7. **INSURANCE**

- A. This process is described in Exhibit B, attached hereto.

8. **MISCELLANEOUS**

- A. **Indemnification. PROVIDER agrees to indemnify and hold harmless the A&M System from any claim, damage, liability, expense or loss to the extent arising out of PROVIDER's negligent or willful errors or omissions under this Agreement.**
- B. **Independent Contractor.** PROVIDER is an independent contractor, and neither PROVIDER nor any employee of PROVIDER shall be deemed to be an agent or employee of the A&M System. The A&M System will have no responsibility to provide transportation, insurance or other fringe benefits normally associated with employee status. PROVIDER shall observe and abide by all applicable laws and regulations, policies and procedures, including but not limited to those of the A&M System relative to conduct on its premises.
- C. **Delinquent Child Support Obligations.** A child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive payments from state funds under an agreement to provide property, materials, or services until all arrearages have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency. The *Texas Family Code* requires the following statement: "Under Section 231.006, *Texas Family Code*, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate."
- D. **Payment of Debt or Delinquency to the State.** Pursuant to Section 2252.903, *Texas Government Code*, PROVIDER agrees that any payments owing to PROVIDER under this Agreement may be applied directly toward certain debts or delinquencies that PROVIDER owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.
- E. **Previous Employment.** PROVIDER acknowledges and understands that Section 2252.901, *Texas Government Code*, prohibits the A&M System from using state appropriated funds to enter into any employment contract, consulting contract, or professional services contract with any individual who has been previously employed, as an employee, by the agency within the past twelve (12) months. If PROVIDER is an individual, by signing this Agreement, PROVIDER certifies that Section 2252.901, *Texas Government Code*, does not prohibit the use of state appropriated funds for satisfying the payment obligations herein.
- F. **Franchise Tax Certification.** If PROVIDER is a taxable entity subject to the Texas Franchise Tax (Chapter 171, *Texas Tax Code*), then PROVIDER certifies that it is not

currently delinquent in the payment of any franchise (margin) taxes or that PROVIDER is exempt from the payment of franchise (margin) taxes.

- G. **State Auditor's Office.** PROVIDER understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), *Texas Education Code*. PROVIDER agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. PROVIDER will include this provision in all contracts with permitted subcontractors.
- H. **Entire Agreement.** This Agreement constitutes the sole agreement of the parties and supersedes any other oral or written understanding or agreement pertaining to the subject matter of this Agreement. This Agreement may not be amended or otherwise altered except upon the written agreement of both parties.
- I. **Severability.** If any provisions of this Agreement are rendered or declared illegal for any reason, or shall be invalid or unenforceable, such provision shall be modified or deleted in such manner so as to afford the Party for whose benefit it was intended the fullest benefit commensurate with making this Agreement, as modified, enforceable, and the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but shall be enforced to the greatest extent permitted by applicable law.
- J. **Headings.** Headings appear solely for convenience of reference. Such headings are not part of this Agreement and shall not be used to construe it.
- K. **Non-Assignment.** PROVIDER shall neither assign its rights nor delegate its duties under this Agreement without the prior written consent of the A&M System.
- L. **HUB Subcontracting Plan.** If awarded a project as a result of this Master Agreement, the PROVIDER must complete an HSP in full per the instructions below upon submittal of the proposal for that specific project.
- a. Complete Section 1
 - b. Complete Section 2a through d.
 - c. Complete Section 4
 - d. Complete Method A or B as applicable depending on your response to questions in Section 2c-d. Below are the instructions for each Method;
Method A: Provide Method A (Attachment A) for each opportunity identified in Section 2b of the HSP and complete all sections. Section A-2 shall include all subconsultants selected for that opportunity, both HUBs and non-HUBs.
Method B: Provide Method B (Attachment B) for each opportunity identified in Section 2b. Reminder that all supporting documentation listed in Section B-3 shall be provided as part of this attachment. The following are additional items of note as part of the good faith effort required:
 - The PROVIDER shall provide potential HUB subcontractors reasonable time to respond to the PROVIDER's notice. "Reasonable time to respond" in this context is no less than seven (7) working days from receipt of notice, unless

circumstances require a different time period and it is approved by TAMUS in writing.

- The PROVIDER shall use the State of Texas Centralized Master Bidders List (CMBL), HUB Directory, internet resources, and/or other directories as identified by the State of Texas or the TAMUS HUB Program Office when searching for HUB subcontractors. **A complete list of all State of Texas certified HUBs may be electronically accessed at;**
<https://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>
- The PROVIDER shall provide the notice described in this section to **three (3) or more** HUBs for **each** subcontracting opportunity as stated in Section B3a. The A&M System encourages PROVIDERs to seek and find a “Diverse Group” of Historically Underutilized Businesses in each category in which a subcontract of services is solicited.
- The PROVIDER shall provide notice to minority and women business trade organizations or development centers that assist in identifying HUBs by disseminating opportunities to their membership/participants. A list of possible organizations/centers can be found at the following site;
<https://comptroller.texas.gov/purchasing/vendor/hub/resources.php>
- The PROVIDER shall negotiate in good faith with qualified HUBs, not rejecting qualified HUBs who were also the best value responsive bidder.
- Provide written justification of the selection process if a non-HUB subcontractor is selected in Section B-4c.

It is the policy of the A&M System to involve qualified HUBs to the greatest extent allowed by law in the A&M System's construction contracting, professional services, and purchase, lease, or rental of all supplies, materials, services and equipment. All A&M System members are responsible for making a good faith effort of ensuring that HUBs are afforded an equitable opportunity to compete for all procurement and contracting activities of the System.

- M. **Force Majeure.** Neither party is required to perform any term, condition, or covenant of this Agreement, if performance is prevented or delayed by a natural occurrence, a fire, an act of God, an act of terrorism, or other similar occurrence, the cause of which is not reasonably within the control of such party and which by due diligence it is unable to prevent or overcome.
- N. **Loss of Funding.** Performance by the A&M System under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the “Legislature”). If the Legislature fails to appropriate or allot the necessary funds, the A&M System will issue written notice to PROVIDER and the A&M System may terminate this Agreement without further duty or obligation hereunder. PROVIDER acknowledges that appropriation of funds is beyond the control of the A&M System.
- O. **Governing Law.** The validity of this Agreement and all matters pertaining to this Agreement, including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas.

- P. **Venue.** Pursuant to Section 85.18, *Texas Education Code*, venue for any suit filed against the A&M System shall be in the county in which the primary office of the chief executive officer of the A&M System is located, which is Brazos County, Texas.
- Q. **Non-Waiver.** PROVIDER expressly acknowledges that the A&M System is an agency of the State of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by the A&M System of its right to claim such exemptions, privileges, and immunities as may be provided by law.
- R. **Non - Discrimination.** The parties agree that in the performance of any contract they shall not discriminate in any manner on the basis of race, color, national origin, age, religion, sex, sexual orientation, disability, genetic information, veterans status or gender identity as protected by law. Such action shall include, but is not limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation. By submitting a submittal, PROVIDER certify that they will conform to the provisions of the Federal Civil Rights Action of 1964, as amended.
- S. **Immigration Reform and Control Act of 1986.** By submitting a state of qualification, the PROVIDER certify that they do not and will not, during the performance of this contract, employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.
- T. **Vendor Liability.** The PROVIDER will be liable for any associated costs of repairs for damage to buildings or other A&M System property caused by the negligence of the PROVIDER's employees. **Modification of Service.** The A&M System reserves the right to modify the services during the course of the contract. Any changes in pricing and rates proposed by the PROVIDER resulting from such changes are subject to acceptance by the A&M System. In the event prices and rates cannot be negotiated to the satisfaction of both parties, the contract may be subject to competitive bidding based upon the new specifications.
- U. **Publicity.** PROVIDER must refrain from giving any reference to this project, whether in the form of press releases, brochures, photographic coverage, or verbal announcements, without specific written approval from the A&M System.
- V. **Ownership of Documents.** Upon completion or termination of any contract agreement, all documents prepared by the PROVIDER for the benefit of the A&M System shall become the property of the A&M System. At the A&M System's option, such documents will be delivered to the A&M System Procurement Office. The A&M System acknowledges that the documents are prepared only for the contracted services specified. Prior to completion of the contracted services, the A&M System shall have a recognized proprietary interest in the work product of the PROVIDER.
- W. **Survivability.** The PROVIDER'S duties under this Master Agreement, project specific agreement and/or purchase order, which impose an obligation after expiration or termination of this Master Agreement, will survive unless otherwise stated within the project specific agreement and/or purchase order.
- X. **Conflict of Interest.** By executing this Agreement, PROVIDER and each person signing on behalf of PROVIDER certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of The A&M System or The A&M System Board of

Regents, nor any employee, or person, whose salary is payable in whole or in part by The A&M System, has direct or indirect financial interest in the award of this Agreement, or in the services to which this Agreement relates, or in any of the profits, real or potential, thereof.

Y. **Prohibition on Contracts with Companies Boycotting Israel.** By executing this Agreement, the PROVIDER certifies it does not and will not, during the performance of this contract, boycott Israel.

Z. **Notices.** Any notice required or permitted under this Agreement must be in writing, and shall be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address set out below. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, email or other commercially reasonable means and will be effective when actually received. The A&M System and PROVIDER can change their respective notice address by sending to the other party a notice of the new address. Notices should be addressed as follows:

The A&M System: The Texas A&M University System
301 Tarrow St., Suite 361
College Station, Texas 77840
Attention: Jeff Zimmermann
Phone: (979) 458-6410
Fax: (979) 458-6250
E-mail: jzimmermann@tamus.edu

PROVIDER: Facility Programming and Consulting
100 West Houston Street, Suite 1100
San Antonio, TX 78205
Phone: (210) 228-9600
Email: douglowe@facilityprogramming.com

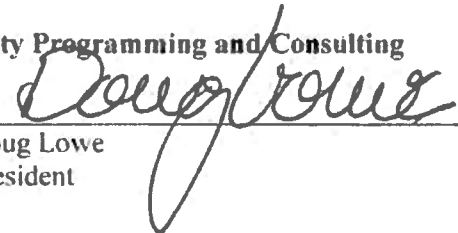
IN WITNESS WHEREOF, intending to be bound, the Parties have entered into this Agreement as of the Effective Date.

The Texas A&M University System

By 
Jeff Zimmermann
Director, Procurement and Business Services

9/22/2017
Date

Facility Programming and Consulting

By 
Doug Lowe
President

9/17/15
Date

EXHIBIT A – SCOPE

Services will include the preparation of comprehensive Programs of Requirements for certain construction projects for A&M System Members as assigned and authorized. In general, the programs will capture and record the requirements for each particular project, clearly define what scope is included in the project, be a basis for sign-off agreement on scope/cost/schedule between the A&M System Member and the A&M System, and present the information needed by the design architects and engineers in a concise and easily understood format.

In general, a typical program could be required to address subjects to include but not be limited to the following, as applicable to a particular project and as approved by the A&M System:

Project Background

- User justification
- Project narrative
- Goals and Objectives
- Enrollment, faculty, and staff projections
- THECB space projections, campus space utilization score
- Council on the Built Environment (CBE) project approvals (Texas A&M only)

General Requirements

- Project team members and roles, contact info
- User coordinator responsibilities provided by A&M System FP&C
- Codes and Regulations and other facility or certification requirements unique to the project
- Detailed cost estimate as coordinated with A&M System FP&C to mid-point of construction
- Project schedule as coordinated with A&M System FP&C
- Coordination with member institution master plan priorities
- Coordination with member institution support departments – identify requirements, roles and responsibilities
- Coordination with member institution CEO/President and CFO – identify CEO/CFO goals
- Items that are *not* included in the project or budget (for example, computers, phones, moving/relocation expenses, desktop supplies and equipment, maintenance and custodial services, etc.)
- Building Information Modeling (BIM) requirements for the member institution
- Any sole source products required by member institution with approval documentation from the A&M System for each (sole source pricing should be reflected in the cost estimate)
- Signature page for the project
- Memorandums of understanding, agreements, easements, land ownership transfers, etc. required

Texas Higher Education Coordinating Board (THECB) Requirements

- Project's achievement of any of the THECB goals (60x30 or latest version)
- Predominant building use classification
- Required building efficiency based on use
- NASF and E&G SF by room
- NASF and GSF by floor, by building, and total
- Room code for each space

Site Development Requirements

- Site selection studies
- Availability, quantity and quality of existing site utilities.
- On-site utilities coordination – identify source, contact information, points of connection, etc.
- Off-site utilities coordination – identify source, contact information, points of connection, etc.
- Drainage, erosion control, and storm water detention requirements and recommendations
- Adjacent uses and buildings
- Archeological survey
- Noise Abatement
- Hazardous materials survey
- Acquisition of property requirement and agreement(s)
- Demolition of existing structures
- Natural features or trees to remain
- Campus landscape requirements
- Site security considerations
- Phasing of development activities
- Vehicular and bicycle parking requirements

Building Requirements

- Basis of Design assumptions identifying materials, structural assumptions, mechanical, electrical, and other system requirements
- Life Cycle Cost criteria as coordinated with the A&M System FP&C
- Rainwater, condensate, and gray water collection and reuse requirements and recommendations
- Alternative energy requirements and recommendations
- Sustainability requirements
- Hazardous materials survey (if existing building)
- Re-purposing of existing facilities (if applicable)
- Space requests and needs
- Functional relationships of departments and spaces
- Room by room requirements per *Room Data Sheets*
- Matrix of existing and/or new Moveable Equipment, including anticipated future equipment needs, procurement responsibilities (procurement, installation, in/out of project budget) with cut sheets
- Matrix of existing and/or new Moveable Furnishings

Room Data Sheets

- Space use
- Test fits / Design concepts
- Finishes
- Audio-Visual equipment and infrastructure requirements
- Moveable furnishings
- Moveable Equipment
- Casework
- Fixtures
- Security equipment and requirements
- Performance requirements of all systems and equipment
- Cut sheets for equipment

- Special sound or vibration requirements beyond the Facility Design Guidelines baselines

Building Configuration and Massing

- Space schematics and flow diagrams
- Departmental interaction matrix
- Room-by-room interaction matrix
- Diagrammatic block bubble plan (not circles)
- Horizontal and vertical block stacking diagrams with relative spatial requirements
- Optional Renderings and/or virtual animations

The more specific tasks to be performed in the development of Programs of Requirements, as applicable to the particular project, could include, but not be limited to, such items as the following:

Task 1 – Data Gathering

- Kick-off meeting (at A&M System Member campus)
 - + Meet with representatives of the A&M System Member and the A&M System to define project goals, set the direction for the project, discuss the “big picture” issues that will control program development, and discuss the organization of facility or academic departments and identify stakeholders who will participate in data gathering
 - + Develop a schedule for the Program of Requirements preparation including associated interviews and workshops
- Preparation for Workshop(s)
 - + Prepare and distribute project questionnaires to stakeholders and receive and analyze completed questionnaires prior to holding stakeholder workshops
- Workshops(s)
 - + Conduct workshop(s) (multi-day if required) at the A&M System Member campus
 - + Conduct detailed interviews with Users and meet with other stakeholders
 - + Review current space use within each academic department
 - + Review possible changes in institution and departmental organization
 - + Discuss future scenarios for number of students, faculty and new programs
 - + Develop appropriate space standard sizes for offices, work stations, classrooms, etc. from the A&M System Member requirements
 - + Define preliminary ideal projected space requirements of each activity and the functional relationship between all activities
 - + Present a summary of the projected space requirements to the A&M System Member and A&M System representatives for preliminary test of reasonability

Task 2 – Program Development

- Develop Outline Program
 - + Analyze all of the space and adjacency requirements information for each activity
 - + Prepare exhibits that describe the programmatic needs of each activity
 - + Develop a series of relationship diagrams
 - + Identify costs associated with needed improvements, using cost per square foot benchmarks
 - + Organize all of the information to date into an outline program and issue it to designated representatives of the System Member and the A&M System
- Workshop(s) – Presentation of the Outline Program and Gaming Workshop (at System Member Campus)

- + Meet with A&M System Member and A&M System representatives to review the outline program
- + Facilitate gaming workshop to assist in prioritizing and adjusting the allocation of space within the draft program
- Workshop(s) – Additional Detailed Programming (at the A&M System Member Campus)
 - + Conduct follow-up interviews as needed with Users and meet with other stakeholders
 - + Define space allocations and adjacencies
 - + Review and document detailed room requirements including furniture, fixtures, finishes, equipment and utilities
- Site development, technical requirements and cost estimate
 - + Document a recommended site use and building configuration concept
 - + Develop blocking and stacking diagrams to illustrate the preferred space allocations
 - + Identify collateral project needs such as site related issues, infrastructure improvements, MEP designs, structural engineering issues, etc., if required by the particular assignment
 - + Incorporate guidelines, standards or specifications provided by the A&M System for items such as project administration and general project requirements, building systems, information technology, safety, code requirements, etc.
 - + Incorporate a suitable project schedule and include information concerning the delivery method all in coordination with the A&M System and the A&M System Member
 - + Develop a construction cost estimate including all requirements and agreed scope of the project for a complete and functional facility
- Prepare and present final POR
 - + Prepare a 75% draft of the program and review with the A&M System Member and A&M System representatives
 - + Refine the 75% draft program based on comments received
 - + Prepare a 95% draft of the program and review with the A&M System Member and A&M System representatives
 - + Refine the 95% draft program based on comments received
 - + Prepare and issue the final version of the program

The A&M System reserves the right on each assignment to authorize all or any part of the above subject areas and/or work tasks, as the A&M System deems necessary, for the individual project. The scope to be performed will be set forth in each work authorization and be based on a proposal from the PROVIDER for the particular assignment. A purchase order will establish a scope of work and a lump sum or not-to-exceed fee for each assignment upon successful negotiations.

Note: For A&M System projects, e-Builder is the project management software and the PROVIDER will be expected to fully utilize this program. Training in College Station will be provided at no additional cost.

EXHIBIT B – INSURANCE

PROVIDER shall obtain and maintain, for the duration of this Agreement or longer, the minimum insurance coverage set forth below. With the exception of Professional Liability (E&O), all coverage shall be written on an occurrence basis. All coverage shall be underwritten by companies authorized to do business in the State of Texas or eligible surplus lines insurers operating in accordance with the Texas Insurance Code and have a financial strength rating of A- or better and a financial strength rating of VII or better as measured by A.M. Best Company or otherwise acceptable to the A&M System. By requiring such minimum insurance, the Owner shall not be deemed or construed to have assessed the risk that may be applicable to PROVIDER under this Agreement. PROVIDER shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. PROVIDER is not relieved of any liability or other obligations assumed pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. No policy will be canceled without unconditional written notice to the A&M System at least ten days before the effective date of the cancellation.

Insurance:

<u>Coverage</u>	<u>Limit</u>
A. <u>Worker's Compensation</u>	
Statutory Benefits (Coverage A)	Statutory
Employers Liability (Coverage B)	\$1,000,000 Each Accident \$1,000,000 Disease/Employee \$1,000,000 Disease/Policy Limit

Workers' Compensation policy must include under Item 3.A. on the information page of the workers' compensation policy the state in which work is to be performed for the A&M System. Workers' compensation insurance is required, and no "alternative" forms of insurance will be permitted

B. Automobile Liability

Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 Single Limit of liability per accident for Bodily Injury and Property Damage;

If a separate Business Auto Liability policy is not available, coverage for hired and non-owned auto liability may be endorsed on the Commercial General Liability policy.

Additional Endorsements

The Auto and Commercial General Liability Policies shall name the Texas A&M University System Board of Regents for and on behalf of The Texas A&M University System as additional insured's.))

C. <u>Commercial General Liability</u>	
Each Occurrence Limit	\$1,000,000
General Aggregate Limit	\$2,000,000
Products / Completed Operations	\$1,000,000
Personal / Advertising Injury	\$1,000,000

Damage to rented Premises	\$300,000
Medical Payments	\$5,000

The required commercial general liability policy will be issued on a form that insures PROVIDER's or its subcontractors' liability for bodily injury (including death), property damage, personal and advertising injury assumed under the terms of this Agreement

D. Professional Liability (Errors & Omissions) Insurance with limits of not less than \$1,000,000 each occurrence, \$2,000,000 aggregate. Such insurance will cover all professional services rendered by or on behalf of PROVIDER and its subcontractors under this Agreement. Renewal policies written on a claims-made basis will maintain the same retroactive date as in effect at the inception of this Agreement. If coverage is written on a claims-made basis, PROVIDER agrees to purchase an Extended Reporting Period Endorsement, effective for two (2) full years after the expiration or cancellation of the policy. No professional liability policy written on an occurrence form will include a sunset or similar clause that limits coverage unless such clause provides coverage for at least three (3) years after the expiration of cancellation of this Agreement.

E. PROVIDER will deliver to the A&M System:

Evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all insurance after the execution and delivery of this Agreement and prior to the performance of any services by PROVIDER under this Agreement. Additional evidence of insurance will be provided on a Texas Department of Insurance approved certificate form verifying the continued existence of all required insurance no later than thirty (30) days after each annual insurance policy renewal.

All insurance policies, with the exception of worker's compensation, employer's liability and professional liability will be endorsed and name The Board of Regents for and on behalf of The Texas A&M University System and The Texas A&M University System as Additional Insureds up to the actual liability limits of the policies maintained by PROVIDER. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-contributory coverage. The Commercial General Liability Additional Insured endorsement will include on-going and completed operations and will be submitted with the Certificates of Insurance.

All insurance policies will be endorsed to provide a waiver of subrogation in favor of The Board of Regents of The Texas A&M University System and The Texas A&M University System. No policy will be canceled without unconditional written notice to the A&M System at least ten days before the effective date of the cancellation. **All insurance policies** will be endorsed to require the insurance carrier providing coverage to send notice to the A&M System ten (10) days prior to the effective date of cancellation, material change, or non-renewal relating to any insurance policy required in this Exhibit B.

Any deductible or self-insured retention must be declared to and approved by the A&M System prior to the performance of any services by PROVIDER under this Agreement. PROVIDER is responsible to pay any deductible or self-insured retention for any loss. All deductibles and self-insured retentions will be shown on the Certificates of Insurance.

Certificates of Insurance and Additional Insured Endorsements as required by this Agreement will be mailed, faxed, or emailed to the following the A&M System contact in Section 8Z.

The insurance coverage required by this Agreement will be kept in force until all services have been fully performed and accepted by the A&M System in writing, except as may be noted.