

**BOWIE STATE UNIVERSITY  
CONSULTANT SERVICES CONTRACT**

By this Contract, made this day \_\_\_\_\_, by and between Bowie State University (BSU), Bowie, Maryland 20715, hereinafter referred to as University, and \_\_\_\_\_ as Consultant, the parties hereby agree as follows:

**1. Term of Contract**

Consultant will begin services on \_\_\_\_\_ and complete services no later than \_\_\_\_\_.

**2. Scope of Contract**

The Consultant agrees to perform and provide the following tasks and deliverables to the University:

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**3. Compensation and Method of Payment**

3.1. Consultant services are subject to the approval of the Project Manager or his/her designee, before payment can be made.

3.2. Consultant's Federal tax identification number is \_\_\_\_\_.

3.3. As compensation for satisfactory performance of the work described in Section 2 above, University shall pay Consultant as follows:

a. Consultant shall be compensated at an hourly rate of \_\_\_\_\_. This contract is awarded to Consultant for a maximum of \_\_\_\_\_ hours. The total value of this contract shall not exceed \_\_\_\_\_.

b. The University will pay Consultant on a monthly basis for services provided beginning \_\_\_\_\_, until the contract is completed \_\_\_\_\_ and final product is approved pursuant to Paragraph 3.1. If in the opinion of the Project Manager or his/her designee, reasonable progress is not being made toward the ultimate completion of this contract, monthly payments may be retained until the Consultant adequately addresses those concerns.

c. Monthly progress reports shall be provided to the Project Manager or his/her designee, detailing accomplishments to date.

d. Consultant shall be paid only for items or services that are specifically named in this Contract. No additional costs for items or services shall be paid by the University without its prior express written consent.

#### **4. Payment of University Obligations**

Payments to Consultant pursuant to this Contract shall be made no later than 30 days after receipt of a proper invoice from Consultant by University's Department of Accounts Payable. Charges for later payment of invoices, other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, are prohibited.

#### **5. Contract Modifications**

The University may at any time, by written order, make changes within the general scope of this Contract, including but not limited to changes (i) in specifications; (ii) in the method, quantity, or manner of performance of the work; (iii) in any University furnished facilities, equipment, materials, services, or site; or (iv) directing acceleration in the performance of this work.

#### **6. Delays and Extension of Time**

6.1. Consultant agrees to perform the work continuously and diligently, and no charges or claims for damages shall be made by it for any delays or hindrances, from any cause whatsoever, during the progress of any portion of the work specified in this Contract.

6.2. Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of Consultant, including but not restricted to acts of God, acts of the public enemy, acts of the State of Maryland in either its sovereign or contractual capacity, acts of another consultant in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either Consultant or its subcontractors or suppliers.

6.3. Liquidated Damages. Time is an essential element of this Contract, and it is important that the work be vigorously prosecuted until completion. Consultant is expected to meet all scheduled deadlines. For each day that Consultant fails to provide service, as scheduled, Consultant may be liable for liquidated damages in the amount of One Hundred Dollars (\$100.00).

#### **7. Independent Contractor**

It is understood and agreed that the Consultant is an independent contractor of

the University, and not an employee. The University will not withhold income taxes, social security, or any other sums from the payments made to the Consultant hereunder. If the Consultant employs additional persons in the performance of this Contract, those persons shall in no way be considered employees of the University, but rather they shall be employees or contractors of the Consultant, and the Consultant bears full responsibility for compensating those persons.

The Consultant shall in no way hold himself out to any third person as an Agent of the University

### **8. Non-Hiring of Employees**

No employee of the State of Maryland or any unit thereof, whose duties as such employee include matters relating to or affecting the subject matter of this Contract, shall, while so employed, become or be an employee of Consultant.

### **9. Suspension of Work**

The University unilaterally may order the Consultant in writing to suspend, delay, or interrupt all or any part of the work for such period of time as it may determine to be appropriate for the convenience of the University.

### **10. Termination for Convenience**

Upon written notice to the Consultant, the University may terminate this Contract, in whole or in part, whenever the University shall determine that such termination is in the best interest of the University. The University shall pay all reasonable costs incurred up to the date of termination and all reasonable costs associated with termination of the Contract. However, the Consultant shall not be reimbursed for anticipatory profits.

### **11. Termination for Default**

When the Consultant has not performed or has unsatisfactorily performed the Contract, payment shall be withheld at the discretion of the State. Failure on the part of the Consultant to fulfill contractual obligations shall be considered just cause for termination of the Contract, and the Consultant is not entitled to recover any costs incurred by the Consultant up to the date of termination.

### **12. Retention of Records**

The Consultant shall retain and maintain all records and documents relating to this Contract for three years after final payment by the University hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the University, including the procurement officer or his designee, at all reasonable times.

### **13. General Terms**

13.1. This Contract shall be governed by the laws of the State of Maryland without reference to conflict of law principles. All legal actions must be brought in the courts in the State of Maryland or in the U.S. District Court for the District of Maryland. Consultant consents to the jurisdiction of said courts.

13.2. This Contract, the University's purchase order attached hereto and made a part hereof, embody the entire understanding of the parties and shall supersede all previous communications, representations, and/or understandings, either written or verbal, between parties, relating to the subject matter hereof.

13.3. It is mutually agreed that Consultant's Proposal is supplemental and subordinated to the Bowie State University Consultant Contract and purchase order. The terms and conditions of this Bowie State University Contract and the rights, privileges, duties, and obligations arising pursuant thereto shall in the event of conflict and at all other times and in all events and situations be controlling.

13.4. This Contract shall not be deemed or construed to be modified, amended, extended, rescinded, canceled, or waived in whole or in part, except by written amendment of the parties hereto.

13.5. This Contract may not be assigned or otherwise transferred by Consultant.

13.6. In the event that any of the terms of this Contract is or becomes or is declared to be invalid or void by any court or tribunal of competent jurisdiction, such term or terms shall be null and void and shall be deemed severed from this Contract, and all the remaining terms of this Contract shall remain in full force and effect.

13.7. No action, regardless of form, arising out of this Contract may be brought by either party more than one (1) year after the cause of action has arisen.

13.8. No waiver by either party of any breach of any provision of this Contract shall constitute a waiver of any other breach of that or any other provision of this Contract.

### **14. Notices**

Notices under this Contract will be written and will be considered effective upon personal delivery to the person addressed or five calendar days after deposit in any U.S. mailbox, first class (registered or certified) and addressed as follows:

For Bowie State University:

Steven A. Jost  
Director of Procurement  
14000 Jericho Park Road  
Bowie, Maryland 20715

For the Consultant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**15. Compliance with Laws**

The Consultant hereby represents and warrants that:

- a. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- b. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- c. It shall comply with all federal, State, and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
- d. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

**16. Specifications**

All materials, equipment, supplies or services shall conform to federal and State laws and regulations and to the specifications contained in the bid/proposal solicitation, if applicable.

**17. Delivery and Acceptance**

Delivery shall be made in accordance with the terms and conditions stated in this agreement, Section I. the University, in its sole discretion, may extend the time of performance for excusable delays due to unforeseeable causes beyond the Consultant's

control. The University unilaterally may order in writing the suspension, delay, or interruption performance hereunder. The University reserves the right to test any materials, equipment, supplies, or services delivered to determine if the specifications have been met.

### **18. Nondiscrimination in Employment**

The Consultant agrees not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or physical or mental handicap unrelated in nature and extent so as reasonably to preclude the performance of such employment and to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

### **19. Financial Disclosure**

The Consultant shall comply with State Finance and Procurement Article, S13 221, Annotated Code of Maryland, which requires that every business that enters into contracts, leases or other agreements with the State and receives in the aggregate \$100,000 or more during a calendar year shall, within 30 days of the time when the \$100,000 is reached, file with the Secretary of State certain specified information to include disclosure of beneficial ownership of the business.

### **20. Political Contribution Disclosure**

The Consultant shall comply with the provisions of Article 33, Sections 30-1 through 30-4, Annotated Code of Maryland, which require that every person that enters into contracts, leases, or other agreements with the State of Maryland or a political subdivision of the State, including its agencies, during a calendar year under which the person receives in the aggregate \$10,000 or more, shall on or before February 1 of the following year file with the Secretary of State certain specified information to include disclosure of political contributions in excess of \$100 to a candidate for elective office in any primary or general election.

### **21. Anti-Bribery**

The Consultant warrants that neither it nor any officer director of partner, nor any employee involved in obtaining contracts with the State, or any subdivision of the State has been convicted of bribery, attempted bribery or conspiracy to bribe, nor has engaged in conduct since July 1, 1977, which would constitute bribery, attempted bribery, or conspiracy to bribe under the laws of any sate of the federal government.

### **22. Registration**

Pursuant to S7201 et seq of the Corporations and Associations Article of the Annotated Code of Maryland, corporations not incorporated in the State shall be

registered with the State Department of Assessments and Taxation, 301 West Preston St., Baltimore, Maryland, 21201, before doing any interstate or foreign business in this State. Before doing any intrastate business in this State, a foreign corporation shall qualify with the Department of Assessments and Taxation.

### **23. Contingent Fees**

The Consultant warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Contractor, to solicit or secure this agreement, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this agreement.

### **24. EPA Compliance**

Materials, supplies, equipment, or services shall comply in all respects with the Federal Noise Control Act of 1972, where applicable.

### **25. Occupational Safety and Health Act (O.S.H.A.)**

All materials, supplies, equipment, or services supplied, as a result of this Contract shall comply with the applicable U.S. and Maryland Occupational Safety and Health Act standards.

### **26. Disputes**

This Contract shall be subject to the provisions of Title 15, Subtitle 2, of the State Finance and Procurement Article of the Annotated Code of Maryland and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Consultant shall proceed diligently with the performance of the Contract in accordance with the procurement officer's decision.

### **27. Multi-Year Contract**

If funds are not appropriated or otherwise made available to support continuation in any fiscal year succeeding the first fiscal year, this contract shall terminate automatically as of the beginning of the fiscal year for which funds are not available. The Consultant may not recover anticipatory profits or costs incurred after termination.

### **28. Intellectual Property**

Consultant agrees to indemnify and save harmless the State, its officers, agents and employees with respect to any claim, action, cost or judgment for patent infringement, or trademark or copyright violation arising out of purchase or use of

materials, supplies, equipment or services covered by this Contract.

28.1 Software currently owned by the University, which is upgraded, enhanced, modified or customized by the Consultant shall remain the exclusive property of the University.

**29. Consultant's Invoices**

Consultant agrees to include on the face of all invoices billed to the State, its Federal Tax Identification or Social Security Number.

**30. Pre-existing Regulations**

The regulations set forth in Title 21 of the Code of Maryland Regulations COMAR Title 21) in effect on the date of execution of this Contract are applicable to this Contract.

**31. Indemnification**

The University shall not assume any obligation to indemnify, hold harmless, or pay attorneys' fees that may arise from or in any way be associated with the performance or operation of this agreement.

**32. Drug and Alcohol Free Work Place**

The Consultant warrants that it shall comply with COMAR 21.11.08 Drug and Alcohol Free Workplace, and that the Consultant shall remain in compliance throughout the term of this Contract

IN WITNESS WHEREOF, the authorized officers of the respective parties have hereunto set their hands and the seals of the parties.

**BOWIE STATE UNIVERSITY**

**CONSULTANT**

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

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

Name: Steven A. Jost

Name:

Title: Director of Procurement

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

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

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