



**CONTRACT ADDENDUM
BETWEEN
LAMAR UNIVERSITY
AND**

This Contract Addendum ("Addendum") is between Lamar University, an institution of higher education in the State of Texas and a component of The Texas State University System, ("University"), which is located at 4400 MLK Pkwy, Beaumont, Texas 77710 and _____ ("Contracting Party"), which is located at _____. University and Contracting Party shall be known collectively as "the Parties" and singularly as "a Party". This Addendum will control, in the event of any conflict between the provisions of the Agreement and those in the Addendum and Contracting party waives any claim to the contrary. The terms of this Addendum are as follows:

Payment: University shall pay all invoices in accordance with the Prompt Payment Provisions of Texas Government Code 2251.

Insurance: University is self-insured under Texas law and such self-insurance will satisfy any University insurance obligations in the Agreement without further requirement. For the entire term of the Agreement, Contracting Party will carry, and will cause its subcontractors to carry, at least the following insurance in a form and in amounts (unless otherwise specified) as University may require: (i) Workers' Compensation insurance coverage for each of Contracting Party's employees employed pursuant to this Agreement, including Employers Liability coverage of \$1,000,000 per accident. Contracting Party must meet the statutory requirements of the Tex. Labor- Code as applicable to this agreement and specific to construction projects for public entities as required by Tex. Labor- Code as applicable; (ii) Commercial General Liability insurance coverage of \$1,000,000 per occurrence; \$2,000,000 aggregate; \$2,000,000 products/completed operations aggregate; \$1,000,000 personal & advertising injury; \$300,000 premises damage; (iv) Commercial Automobile Liability Insurance Limits, covering all owned, non-owned or hired automobiles of not less than: \$1,000,000 combined single limit; \$300,000 property damage and \$500,000 bodily injury. The Texas State University System (TSUS), TSUS Regents, and Lamar University shall be added as additional insured. The additional insured status must cover completed operations as well. This is not applicable to the workers' compensation policy. All policies shall provide a waiver of subrogation in favor of TSUS and the University. Contracting Party will deliver to University: (i) evidence, satisfactory to University, of the existence of all insurance promptly after the execution and delivery of this Agreement and prior to the performance or continued performance of any services to be performed by Contractor under this Agreement; (ii) additional evidence, satisfactory to University, of the continued existence of all insurance not less than thirty days prior to the expiration of any insurance. Insurance policies will provide that the policies will not be canceled until after thirty (30) days unconditional written notice to University. The insurance policies required in this Agreement will be kept in force for the periods as specified: (i) Commercial General Liability Insurance, Commercial Automobile Liability Insurance, will be kept in force until receipt of Final Payment by University to Contractor; and (ii) Workers' Compensation Insurance will be kept in force until the work has been fully performed and accepted by University in writing.

Eligibility to Receive Payment/ Payment of Debt/Delinquency to the State: In accordance with Section 231.006 of the Texas Family Code and Sections 2155.004 and 2155.006 of the Texas Government Code, Contracting Party certifies that it is not ineligible to receive the Agreement and payments under the Agreement and acknowledges that University may terminate the Agreement and/or withhold payment if this certification is inaccurate. Further, pursuant to Texas Government Code Sections 2107.008 and 2252.903, Contracting Party certifies that it is not indebted to the State of Texas and is current on all taxes owed to the State of Texas. Any payments owed to Contracting Party under the Agreement may be applied directly toward any debt or delinquency that Contracting Party owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.

Dispute Resolution: The dispute resolution process provided for in Chapter 2260 of the Texas Government Code shall be used to resolve a dispute arising under this Agreement.

Sales Tax/Tax Exemption: University, an agency of the State of Texas, is exempt from Texas Sales & Use Tax in accordance with Section 151.309, Texas Tax Code, and Title 34 Texas Administrative Code ("TAC") Section 3.322. University will not be required to pay taxes for which it can demonstrate an exemption.

Travel Expenses: If the Agreement requires University to reimburse Contracting Party for travel expenses, Contracting Party shall invoice all requests for reimbursement in accordance with the State of Texas travel, meal and lodging reimbursement guidelines applicable to State of Texas employees.

Audit: Acceptance of funds under the Agreement constitutes Contracting Party's acceptance of the authority of University and/or the Texas State Auditor (collectively, "Auditor") to conduct audits or investigations in connection with the Agreement. Contracting Party agrees to cooperate with the Auditor conducting such audits or investigations and to provide all information and documents reasonably requested.

Term Length: The Term will not exceed three (3) total years.

Termination for Convenience: University may terminate this Agreement in writing at any time upon providing at least thirty (30) days written notice to Contractor. University will only be liable for payment for Services received prior to the effective date of such termination.

Funding: University's performance under the Agreement may be dependent upon appropriation of funds by the Texas State Legislature ("Legislature") and/or allocation of funds by University's Board of Regents ("Board"). If the Legislature fails to appropriate the necessary funds, or the Board fails to allocate the necessary funds, University may terminate the Agreement without liability by providing written notice to Contracting Party.

Independent Contractor: Nothing herein shall be construed to create a joint venture, partnership, association or like relationship between the parties. Neither University, Students, nor any University personnel, including faculty, shall be considered employees, agents, borrowed servants, partners, or joint ventures of Contracting Party. All of Contracting Party's employees providing the work to University will be deemed employees solely of Contractor and will not be deemed for any purposes whatsoever employees, agents or borrowed servants of, acting for or on behalf of, University. Contracting Party's employees will remain employees of Contracting Party and will not be considered employees of University. Contracting Party recognizes that it is engaged as an independent contractor and acknowledges that University has no responsibility to provide transportation, insurance, vacation or other fringe benefits normally associated with employee status. Contracting Party, in accordance with its status as an independent contractor, covenants and agrees that it will conduct itself consistent with that status, that it will neither hold itself out as, nor claim to be an officer, partner, employee or agent of University, and that it will not make any claim, demand or application to or for any right or privilege applicable to an officer, representative, employee or agent of University, including unemployment insurance benefits, social security coverage or retirement benefits. Contracting Party agrees to make its own arrangements for any fringe benefits as it may desire and agrees that it is responsible for all income taxes required by Applicable Laws. No acts performed or representations, whether oral or written, made by Contractor with respect to third parties will be binding upon University.

Subcontractors: If Contracting Party subcontracts any of the work set forth in the Agreement, Contracting Party shall ensure that each subcontractor complies with all provisions of the Agreement and this Addendum. Contracting Party will remain liable for the acts and omissions of such subcontractor(s) and the proper performance and delivery of the products and/or services set forth in the Agreement.

Intellectual Property: Contracting Party represents that it has all intellectual property rights necessary to enter into and perform its obligations in the Agreement and shall indemnify University against any liability, loss, expense or claims related to such intellectual property rights and representations.

Indemnification: To the extent authorized by the Constitution and the laws of the State of Texas, University agrees to indemnify Contracting Party, its affiliates, and their respective officers, directors, employees and agents against and hold the same harmless from any claims, demands, causes of action, liabilities, costs, and damages, asserted or adjudged against or incurred by Contracting Party resulting from breach by the University of any provisions of this Agreement, including negligence in performing its obligations under this Agreement arising directly or indirectly, in contract or tort, out of the acts or omissions of staff or faculty. Nothing in this Agreement extends the University's liability beyond the liability or authority provided in the Constitution and laws of the State of Texas. Contracting Party will and does hereby agree to indemnify University, its affiliates, and their respective officers, directors, employees and agents against and hold the same harmless from any claims, demands, causes of action, liabilities, costs, damages, expenses, and attorneys' fees asserted or adjudged against or incurred by University resulting from breach by the Contracting Party of any provisions of this Agreement, including negligence in performing its obligations under this Agreement arising directly or indirectly, in contract or tort, out of the acts or omissions of its employees, directors, officers, subcontractors or agents. Except as otherwise provided under Texas law, neither the execution of the Agreement by University nor any other conduct, action or inaction of any University representative relating to the Agreement is a waiver of sovereign immunity by University or the State of Texas.

Limitations: The Parties understand that there are constitutional and statutory limitations on the authority of University to enter into certain terms and conditions of the Agreement, including, but not limited to, those terms and conditions related to liens on University's property, disclaimers and limitations on warranties, disclaimers and limitations of liability for damages, waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal actions/ granting control of litigation or settlement to another Contracting Party; liability for acts or omissions of third parties; payment of attorneys' fees; dispute resolution; indemnities; and confidentiality (collectively, the "Limitations"), and terms and conditions related to the Limitations will not be binding on University except to the extent authorized by the Constitution and laws of the State of Texas.

Nondiscrimination/Compliance with Laws: In their execution of this agreement, all contractors, subcontractors, their respective employees, and others acting by or through them shall comply with all federal and state policies and laws prohibiting discrimination, harassment, and sexual misconduct. Contracting Party shall observe and abide by all applicable local, state and federal laws, rules and regulations and University policies and procedures applicable to the Agreement. Any breach of this covenant may result in termination of the Agreement.

Public Information: University strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information under the Texas Public Information Act, Chapter 552, Texas Government Code. Contractor is required to make any information created or exchanged with the state pursuant to this contract, that is not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the state. The following format(s) shall be deemed to be in compliance with this provision: electronic files in Word, PDF, or similar generally accessible format.

Governing Law: This Agreement shall be interpreted and construed in accordance with the laws of the State of Texas, without regard to its conflict of laws principles.

Representations by Contracting Party: If Contracting Party is a business entity, it represents that: (i) it is duly organized, validly existing and in good standing under the laws of the state of its organization; (ii) it is authorized and in good standing to conduct business in the State of Texas; (iii) it has all necessary power and has received all necessary approvals to execute and perform its obligations in the Agreement; and (iv) the individual executing the Agreement and this Addendum on behalf of Contracting Party is authorized to do so. Contracting Party affirms that it has not been administratively or judicially determined to have committed fraud or any other material violation of law involving Federal, State, or local government funds and that it does not employ officers or employees that have been convicted of, or pled *nolo contendere* or guilty to, a crime involving the acquisition, use, or expenditure of Federal, State, or local government funds.

Use of Name/Image: The Parties agree not to use the other Party's name, likeness, images in any advertising, promotional material, press release, publication, public announcement or other media, oral or written, without the written consent of the other Party.

General:

If any part of this Agreement should be determined to be invalid, illegal, inoperative, or contrary to applicable law, statute, regulation, or University or Contracting Party policies, that part of this Agreement shall be reformed, if reasonably possible, to comply with the applicable policies, provisions of law, statute, or regulation, and, in any event, the remaining parts of this Agreement shall be fully effective and operative insofar as reasonable possible.

No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any other provision, unless in writing. No delay in acting with regard to any breach of any provision shall be construed to be a waiver of such breach.

In accordance with Texas Education Code, Chapter 51, Section 51.9335, Subsection (h), any contract for the acquisition of goods and services to which an institution of higher education is a party, a provision required by applicable law to be included in the contract is considered to be a part of the executed contract without regard to: (a) Whether the provision appears on the face of the contract; or, (b) Whether the contract includes any provision to the contrary.

This Addendum and the Agreement shall constitute the complete understanding of the Parties related to the subject matter contained herein and supersedes all prior agreements, proposals, or understandings, whether written or oral.

IN WITNESS THEREOF, this Addendum, in multiple originals, each of equal force, has been executed on behalf of the Parties hereto as follows:

CONTRACTING PARTY:

Signature Date

Printed Name: _____

Title: _____

LAMAR UNIVERSITY:

Signature Date

Printed Name: _____

Title: _____