

## MASTER SERVICES AGREEMENT

#C0003834

This MASTER SERVICES AGREEMENT (“MSA”), effective as of the last date executed (“Effective Date”), is between Virginia Commonwealth University, a corporation and an institution of higher education of the Commonwealth of Virginia, whose address is 912 West Grace Street, Richmond, VA 23298 (“VCU”, or “University”), and SMBW, PLLC, a limited liability company, with offices located at 111 Virginia Street, Suite 111, Richmond, VA, 23219, (“SMBW” or “Contractor”). VCU and SMBW are sometimes referred to individually as a “Party” and collectively as the “Parties.”

WHEREAS, VCU issued a Request For Proposals to solicit proposals for Interior Design Services, RFP # 165299223TH issued August 30, 2023 (the RFP); and

WHEREAS, SMBW submitted its proposal dated September 29, 2023 (the “Proposal”) wherein it wished to be considered, inter alia, for the Interior Design Services as more fully specified therein (the “Services”); and

WHEREAS, VCU considered all proposals submitted, including the SMBW’s Proposal, and VCU now desires to award to SMBW, as set forth in greater detail below; and

WHEREAS, SMBW desires to perform the Interior Design Services as set forth herein.

NOW THEREFORE, in consideration of the mutual promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **CONTRACT DOCUMENTS.** The contract documents are integrated and shall consist of: This MSA, Attachment A – Price Schedule, and RFP# 165299223TH referenced and incorporated herein, (all of the foregoing, together, the “Contract”). Should a conflict arise among the foregoing Attachment A – Price Schedule, and RFP# 165299223TH, and this MSA, this MSA shall control.
2. **SERVICES/GOODS.** SMBW shall perform interior design services on an as needed basis as requested by VCU.
3. **TERM and RENEWAL OF CONTRACT:** This contract shall have a two (2) year initial term (the “Initial Term”) and may be renewed by VCU upon mutual written agreement of authorized representatives of both Parties for two (2) successive two (2) year periods (the “Renewal Term”) under the terms and conditions of this original Contract or as otherwise agreed in writing by the Parties at such time.

If the Commonwealth elects to exercise the option to renew the contract for an additional one (2)-year period, the contract price(s) for the additional two (2) years shall not exceed the contract price(s) of the previous contract period increased/decreased by more than the percentage increase/decrease of the

services category of the CPI-U section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.

4. **FEES:** VCU shall pay Contractor pursuant to Attachment A – Price Schedule.
5. **PAYMENT METHOD AND PAYMENT TERMS:** VCU shall pay Contractor net 30 days following receipt of a proper invoice, services rendered, or goods delivered, whichever is later pursuant to and in accordance with §§ 42-45 of the Rules Governing Procurement of Goods, Services, Insurance and Construction by a Public Institution of Higher Education of the Commonwealth (similar to the Virginia Prompt Payment Act). Should VCU choose to exercise its right to Renew, the fee shall remain fixed or as agreed, pursuant to any applicable schedules or negotiated terms, during the Renewal Term. Thereafter, VCU shall pay any additional fees or payments due in accordance with this Section 4. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after receipt of invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however. Fees appearing to be incorrect will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached.
6. **INVOICING:** Invoices shall be submitted per the instruction listed on the purchase order within 30 days of completion of work. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after receipt of invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however. Fees appearing to be incorrect will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached.

<https://procurement.vcu.edu/for-suppliers/vendor-invoicing--payment/>

7. **ACCEPTANCE OF VCU PURCHASE ORDERS:** Quotes will be requested and a purchase order will be established for approved work per the contract pricing, terms and conditions. SMBW will not send additional documents for signature introducing new terms and conditions.
8. **CONTRACTOR RESPONSIBILITIES.** The responsibilities of SMBW under this Agreement include, but are not limited to:
  - A. SMBW will assign a senior project manager for each project who will be the lead contact for VCU.
  - B. SMBW will gather all information to provide a quote that includes a detailed scope of services and description per area/room, anticipated time needed for each phase of the project and overall project schedule, number of hours, hourly rate and responsibilities for each person on the team, and a detailed description and schedule of deliverables.
  - C. SMBW will ensure all work is performed per all applicable codes and regulations.
  - D. For each project, SMBW will communicate with the VCU assigned project manager.

9. **GENERAL TERMS AND CONDITIONS**

- A. **APPLICABLE LAW AND COURTS:** This Contract shall be construed, governed, and interpreted pursuant to the laws of the Commonwealth of Virginia without regard to choice of law principles. The Parties agree that all disputes arising under this Contract shall be brought in the state or federal courts located in Richmond, Virginia. To the extent any provision of the Contract is

prohibited by Virginia law, or is otherwise not authorized by Virginia law, due to VCU's status as an agency of the Commonwealth of Virginia, such provision is null and void. Each party shall be responsible for its own legal fees and costs unless otherwise ordered by a court of law.

- B. ARBITRATION: Neither Party shall be compelled to arbitrate any matter or otherwise be subject to any form of alternative dispute resolution, but may request and/or opt to participate in alternative dispute resolution in its sole discretion.
- C. WAIVER OF CLAIMS: Notwithstanding anything contained herein to the contrary, VCU is an agency of the Commonwealth of Virginia and as such, pursuant to Va. Code § 2.2-514, cannot waive or settle legal claims that VCU may have against another party nor may VCU bestow any right or obligation that is beyond the duly granted authority of the signatory to bestow or incur on behalf of the Commonwealth of Virginia.
- D. ANTI-DISCRIMINATION: Contractor certifies to the Commonwealth that it will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, the Virginians With Disabilities Act, the Americans With Disabilities Act and Section 2.2-4311 of the *Virginia Public Procurement Act*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the Contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that Contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1). In every Contract over \$10,000 the provisions in 1. and 2. below apply:
  - 1. During the performance of this Contract, the Contractor agrees as follows:
    - a. VCU is an equal opportunity/affirmative action institution providing access to education and employment without regard to age, race, color, national origin, gender, religion, sexual orientation, veteran's status, political affiliation or disability. As such, the Contractor will not discriminate against any employee or applicant for employment because of age, race, color, national origin, gender, religion, sexual orientation, veteran's status, political affiliation or disability or any other basis prohibited by state law related to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
    - b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
    - c. Notices, advertisements, and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

- B. The Contractor will include the provisions of a. above in every subcontract or purchase order over \$10,000 so that the provisions will be binding upon each subcontractor or vendor who performs work relative to this RFP.
- E. IMMIGRATION REFORM AND CONTROL ACT OF 1986: Contractor certifies that it does 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.
- F. ANTITRUST: By entering into a Contract, Contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of the action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under this Contract.
- G. ASSIGNMENT OF CONTRACT: The Contract shall not be assignable by Contractor in whole or in part without the written consent of the University.
- H. TESTING AND INSPECTION: To the extent applicable, VCU reserves the right to conduct any testing/inspection it may deem advisable to assure goods and services conform to the specifications/Contract.
- I. TERMINATION OF CONTRACT:
1. Either Party may terminate this Contract if the other Party materially breaches this Contract and such breach is not cured within thirty (30) days after written notice to the breaching Party.
  2. University reserves the right to terminate this Contract, in part or in whole, without penalty, upon sixty (60) days written notice to the Contractor.
  3. Either Party may terminate this Contract after the initial twelve (12) months of this Contract upon sixty (60) days written notice to the other Party.
- J. CHANGES TO THE CONTRACT: Changes may be made to the Contract:
1. The parties may agree to modify the scope of the Contract. An increase or decrease in the price of the Contract resulting from such modification shall be agreed by the parties as a part of their written Contract to modify the scope of the Contract.
  2. The Purchasing Agency may order changes within the general scope of the Contract at any time by written notice to the Contractor. Changes within the scope of the Contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Contractor shall comply with the notice upon receipt. The Contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings.
  3. Material, substantive modifications, changes, and amendments to the Contract must be in a writing executed by authorized representatives of each party.
- K. NOTICE: All notices provided hereunder in regard to default, claims, actions, or similar events shall be in writing and delivered personally, or sent by registered or certified mail, return receipt requested, postage prepaid, to the respective party at the following addresses:

For VCU:  
Director, Procurement Services  
912 West Grace Street, 5<sup>th</sup> Floor  
Richmond, Virginia 23298-0327

For Contractor:  
Michelle Mikita, Principal, Interior Design  
111 Virginia Street  
Suite 111  
Richmond, VA 23219

Any notice sent by any other means shall not be considered duly given or delivered unless the receiving party affirmatively acknowledges receipt. Notices with respect to any services and communications specifically for day-to-day servicing purposes shall be sent to the designated points of contact as specified by each Party.

- L. TAXES: Contractor acknowledges all sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against this Contract shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.
- M. FAILURE TO DELIVER GOODS OR SERVICES: In case of failure to deliver goods or services in accordance with the Contract terms and conditions, VCU, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which VCU may have.
- N. SHIPPING: Contractor shall ship all goods FOB destination at the actual freight rate based upon the actual weight of the goods to be shipped.
- O. INSURANCE: Contractor certifies it will have the following insurance coverages, and any insurance otherwise required by applicable law, throughout the entire term of the Contract, as well as renewal terms. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. Contractor further certifies all insurance coverage will be provided by insurance companies authorized by the Virginia State Corporation Commission to sell insurance in Virginia. Minimum Insurance Coverages and Limits Required for Most Contracts:
  - 1. Worker's Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer.
  - 2. Employers Liability - \$100,000.
  - 3. Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products, and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.
  - 4. Automobile Liability - \$1,000,000 per occurrence. (applicable only if motor vehicle is to be used

in performance of this Contract)

5. Cyber Security Liability - \$5,000,000 (applicable as determined by the University)
- P. DRUG-FREE WORKPLACE: During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) includes the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor providing services under this Contract. For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the Contract.
- Q. NONDISCRIMINATION: As applicable, federal law requires compliance with the following:
1. 41 CFR § 60-1.4 Equal Opportunity Clause prohibiting discrimination on the basis of race, color, religion, sex, or national origin.
  2. 41 CFR 60-741.5(a) and 41 CFR 60-300.5(a). These regulations prohibit discrimination against qualified individuals on the basis of disability (60-741.5(a)) and protected veteran status (41 CFR 60-300.5(a)), and require affirmative action to employ and advance in employment qualified individuals with disabilities and qualified protected veterans.
- R. FERPA: To the extent that University provides to Contractor any identifiable student information, including student address, phone number and email address, the University hereby designates Contractor as a school official with a legitimate educational interest in using such student information, and Contractor agrees to use such information only for the purpose of fulfilling its obligations under this Contract. Contractor further agrees not to disclose any such student information to any individual other than the student except as required by applicable law, rule or regulation or court or governmental order or as authorized in writing by the University or the individual student. Contractor acknowledges that this protection of student information is necessary for the University's compliance with the Code of Virginia section 23.1-405(C) and the federal Family Educational Rights and Privacy Act (FERPA).
- S. CONFIDENTIAL INFORMATION: "Confidential Information" means all information of a party ("Disclosing party") disclosed or made available to the other party ("Receiving party") that (i) is clearly marked or identified as such at the time of disclosure or within a reasonable time thereafter; or (ii) should be reasonably known by the Receiving party to be confidential due to the nature of the information disclosed and the circumstances surrounding the disclosure. Confidential Information of VCU shall include, but not be limited to information about VCU personnel and students of VCU to the extent such information is not available to the public domain in accordance with the laws of the Commonwealth of Virginia and FERPA. Contractor shall use its reasonable efforts to prevent and protect Confidential Information from unauthorized use or disclosure, with at least the same degree of care that Contractor uses to protect its own confidential and proprietary

information, but in no event less than a reasonable degree of care under the circumstances. Each Party will only disclose the other Party's Confidential Information to its employees, consultants, or subcontractors only on a need-to-know basis, provided that such employees or subcontractors are subject to confidentiality obligations no less restrictive than those contained herein. Upon the completion of the services and upon request of VCU, Contractor shall return all Confidential Information received in written format, including copies or reproductions or other media containing Confidential Information within seven (7) days of such request.

- T. VA FOIA: Nothing contained herein is intended to limit VCU's compliance with the Virginia Freedom of Information Act ("VFOIA"). For clarity, contracts and pricing between VCU and its vendors are not considered to be exempt from VFOIA requests.
- U. INDEMNIFICATION: Contractor agrees to indemnify, defend, and hold harmless VCU, the Commonwealth of Virginia, and their officers, employees and agents from any claim, damage, liability, injury, expense or loss, including defense costs and attorneys' fees, arising from Contractor's negligence under this Agreement. Accordingly, VCU shall promptly notify Contractor of any claim or action brought against VCU in connection with this Agreement. Upon such notification, and at the request and direction of VCU and/or the Office of the Attorney General, Contractor will immediately defend any such claim or action pursuant to the provisions and requirements of § 2.2-514 of the Code of Virginia.
- V. LIMITATION OF LIABILITY: Contractor shall be liable for the direct damages caused by the negligence of itself, its officers, employees, and agents in connection with this Contract or any goods, services, actions, or omissions relating to this Contract.
- W. SUBCONTRACTS: No portion of the work shall be subcontracted without prior written consent of the University. In the event that the Contractor desires to subcontract some part of the work specified herein, the Contractor shall furnish the University with the names, qualifications and experience of their proposed subcontractors. The Contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the Contract.
- X. PRIME CONTRACTOR RESPONSIBILITIES: The Contractor shall be responsible for completely supervising and directing the work under this Contract and all subcontractors that Contractor may utilize, using best skill and attention. Subcontractors who perform work under this Contract shall be responsible to the prime Contractor. The Contractor agrees that it is as fully responsible for the acts and omissions of subcontractors and of persons employed by them as Contractor is for the acts and omissions of its own employees.
- Y. STATUTORY DAMAGES: VCU is not authorized to waive damages granted or otherwise available by statute.
- Z. SOVEREIGN IMMUNITY: VCU is an agency of the Commonwealth of Virginia and is afforded the protection of sovereign immunity under Virginia law. Any claims against VCU or the Commonwealth are subject to the requirements established under Virginia law for bringing such claims against VCU or the Commonwealth, including the Virginia Tort Claims Act (Va. Code §§ 8.01-195.1 et seq.) and other applicable statutes relating to claims against the Commonwealth or its agencies. Notwithstanding any other provision, nothing in this Contract shall be deemed to be or construed as a waiver of VCU's or the Commonwealth's sovereign immunity, or any other applicable requirements under Virginia law for bringing claims against VCU or the Commonwealth. The total

cumulative liability of the University, its officers, employees, and agents in connection with this Contract or in connection with any goods, services, actions or omissions relating to this Contract, shall not under any circumstance exceed payment of the maximum purchase price.

AA. FORCE MAJEURE: Neither Party will be responsible for any losses resulting from delay or failure in performance resulting from any cause beyond either Party's reasonable control, including without limitation, war, strikes or labor disputes, civil disturbances, fires, natural disasters, pandemics, including if VCU, in its sole discretion, must close a campus location or take other restrictive actions due to concerns related to the COVID-19 pandemic or acts of God. If the delay or failure in the performance of the Party claiming Force Majeure continues for thirty (30) days or more, then the Party not claiming Force Majeure may terminate this Agreement by written notice to the other Party without penalty. Any funds paid will be reimbursed pro rata based on Services not provided

BB. AUDIT: The Contractor shall retain all books, records, and other documents relative to this Contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The University, its authorized agents, and/or State auditors shall have full access to and the right to examine any of said materials during said period.

CC. AVAILABILITY OF FUNDS: It is understood and agreed between the parties herein that VCU shall be bound hereunder only to the extent the funds are appropriated, or otherwise made available, from the Virginia General Assembly or other funding source, or which funds may hereafter be provided for the purpose of this Contract.

DD. ADDITIONAL GOODS AND SERVICES: The University may acquire other goods or services that the supplier provides than those specifically solicited. The University reserves the right, subject to mutual contract, for Contractor to provide additional goods and/or services under the same pricing, terms and conditions and to make modifications or enhancements to the existing goods and services. Such additional goods and services may include other products, components, accessories, subsystems, or related services newly introduced during the term of the Contract.

EE. PAYMENT TO SUBCONTRACTORS:

1. Contractor awarded a contract under this solicitation is hereby obligated to pay the Subcontractor(s) within seven (7) days of the Contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the Subcontractor(s) under the contract; or
2. To notify the agency and the Subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.
3. The Contractor is obligated to pay the Subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in 2.(a) above. The date of mailing of any payment by U.S. Mail is deemed to be payment to the addressee. These provisions apply to each sub sub-tier Contractor performing under the primary contract. A Contractor's obligation to pay an interest charge to a Subcontractor may not be construed to be an obligation of the Commonwealth.

FF. REALSOURCE REGISTRATION: This Contract shall result in a purchase order or purchase orders issued via VCU's source-to-pay platform, RealSource. Contractor shall register in RealSource upon award of contract. For information on registering, visit [realsource.vcu.edu](https://realsource.vcu.edu). Registration is free, and registered vendors shall have access to purchase order, invoice, and payment information.



Contractor is responsible for the security of its RealSource portal account, including restricting access to it, maintaining the confidentiality of login information, and taking any other actions necessary to protect the security of the Contractor's account. VCU will not be responsible for a third party's fraudulent collection of VCU payments due to the Contractor's failure to update or protect its account information. If this is a cooperative procurement, this clause shall apply to orders placed by VCU only.

GG. eVA REGISTRATION AND FEES: Contractor agrees to self-register with the Commonwealth of Virginia's electronic procurement system, eVA (information on eVA can be found at <http://www.eva.virginia.gov>), and agrees to maintain self-registered status for the duration of this Contract. The Commonwealth shall assess eVA transaction fees as specified below for each order resulting from this Contract. The Vendor Transaction Fee is:

1. DSBSD-certified Small Businesses: 1%, capped at \$500 per order.
2. Businesses that are not DSBSD-certified Small Businesses: 1%, capped at \$1,500 per order.

The specified Vendor Transaction Fee will be invoiced by the Commonwealth of Virginia Department of General Services, approximately 30 days after the corresponding purchase order is issued and the invoice is payable 30 days after the invoice date.

Contractor is responsible for the security of its eVA account, including restricting access to it, maintaining the confidentiality of login information, and taking any other actions necessary to protect the security of Contractor's account. VCU will not be responsible for a third party's fraudulent collection of VCU payments due to Contractor's failure to update or protect its account information.

HH. SWAM REPORTING: Contractor will submit a quarterly SWAM business report to the University by the 8th of the month following each calendar quarter, specifically the months of April, July, October, and January. Contractor will submit the quarterly SWAM business reports, based upon the Contractor's proposed commitment to:

VCU SWaM Reporting  
E-mail: [swamreporting@vcu.edu](mailto:swamreporting@vcu.edu)

The quarterly SWAM business reports will contain the following information:

- a. SWAM firms' name, address and phone number with which Contractor has contracted over the specified quarterly period.
- b. Contact person at the SWAM firm who has knowledge of the specified information.
- c. Type of goods and/or services provided over the specified period of time.
- d. Total amount paid to the SWAM firm as it relates to the University's account.

## 10. SPECIAL TERMS AND CONDITIONS

A. ADVERTISING: Contractor shall not state in any of its advertising or product literature that the University, the Commonwealth of Virginia, or any agency or institution of the Commonwealth has purchased or uses its products or services.

B. TRADEMARKS/LOGOS: The University retains all rights, title and interest to its trademarks,

logos and other intellectual property. Contractor shall first submit a request in writing to the VCU Division of University Relations prior to use of any VCU marks, name, or logos.

- C. SPECIAL EDUCATIONAL OR PROMOTIONAL DISCOUNTS: The Contractor shall extend any special educational or promotional sale prices or discounts immediately to University during the term of this Contract. Such notice shall also advise the duration of the specific sale or discount price.
- D. ASBESTOS: Whenever and wherever during the course of performing any work under this Contract, the Contractor discovers the presence of asbestos or suspects that asbestos is present, Contractor shall stop the work immediately, secure the area, notify the Building Owner and await positive identification of the suspect material. During the downtime in such a case, the Contractor shall not disturb any surrounding surfaces but shall protect the area with suitable dust covers. In the event the Contractor is delayed due to the discovery of asbestos or suspected asbestos, then a mutually agreed extension of time to perform the work shall be allowed the Contractor but without additional compensation due to the time extension.
- E. RADIATION/CHEMICAL/BIOLOGICAL HAZARD AREAS: The personnel employed by the Contractor shall be capable employees, trained and qualified to perform specified services. If the Contractor is to perform work in areas posted with radiation warning signs and/or chemical/biological hazard signs, prior to the commencement of the Contract, the Contractor shall contact: (1) the Office of Environmental Health and Safety's (OEHS) Radiation Safety Section (804) 828-9131 for training information as required by the NRC and the Commonwealth of Virginia, and (2) the Chemical/Biological Safety Section (804) 828-4866 for training information in the handling of hazardous materials as required by OSHA, and other regulatory agencies. Radiation Safety and Chemical/Biological Safety will provide the Contractor with the appropriate training information for radiation work areas and hazardous materials. The Contractor shall be responsible for training its employees with the information provided by VCU. New employees are required to receive training prior to working in posted areas. A copy of the training roster shall be submitted to OEHS at the end of each month in which training has occurred. Refresher training shall be conducted by the Contractor and reported to VCU annually. Any additional training requirements identified by VCU shall be coordinated with VCU's Contract Administrator, OEHS, and the Contractor.
- F. CONVENIENCE TO GENERAL PUBLIC AND PROPERTY OWNERS: All work covered under this Contract shall be done in such a manner as to cause as little inconvenience as possible to the general public and property owners. All equipment and resulting material shall be placed along the route of the work so as not to inconvenience vehicular and pedestrian traffic. The Contractor shall provide adequate means to safely direct traffic past the points that are affected by the work at all times. No closures shall be allowed unless specifically coordinated and approved. Access to property shall be maintained, and any time where there is a loss of access, the contractor shall coordinate with VCU Facilities Management.
- G. AS-BUILT DRAWINGS: The Contractor shall provide the Commonwealth a clean set of reproducible "as built" drawings and wiring diagrams, marked to record all changes made during installation or construction. The Contractor shall also provide the Commonwealth with maintenance manuals, and parts lists and a copy of all warranties for all equipment. All "as built" drawings and wiring diagrams, maintenance manuals, parts lists, and warranties shall be delivered to the Commonwealth upon completion of the work and prior to final payment.
- H. CONTRACTOR'S TITLE TO MATERIALS: No materials or supplies for the work shall be purchased

by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sales or other contract by which an interest is retained by the seller. The Contractor warrants that he has clear title to all materials and supplies for which he invoices for payment.

- I. FINAL INSPECTION: At the conclusion of the work, the Contractor shall demonstrate to VCU that the work is fully operational and in compliance with Contract specifications and codes. Any deficiencies shall be promptly and permanently corrected by the Contractor at the Contractor's sole expense prior to final acceptance of the work.
- J. INSTALLATION: All items must be assembled and set in place, ready for use. All crating and other debris must be removed from the premises.
- K. LABELING OF HAZARDOUS SUBSTANCES: If the items or products included in the Contract or used to perform the requirements of the Contract are "Hazardous Substances" as defined by § 1261 of the United States Code (U.S.C.) or "Pesticides" as defined in § 136 of Title 7 of the United States Code, then the Contractor, by submitting his proposal, certifies and warrants that the items or products to be delivered under this Contract shall be properly labeled as required by the foregoing sections and that by delivering the items or products the Contractor does not violate any of the prohibitions of Title 15 U.S.C. § 1263 or Title 7 U.S.C. § 136.
- L. MATERIAL SAFETY DATA SHEETS: Material Safety Data Sheets and descriptive literature shall be provided with the proposal for each chemical and/or compound offered. Failure on the part of the Contractor to submit such data sheets may be cause for declaring the proposal as nonresponsive.
- M. WARRANTY (COMMERCIAL): The Contractor agrees that the supplies or services furnished under any award resulting from this solicitation shall be covered by the most favorable commercial warranties the Contractor gives any customer for such supplies or services and that the rights and remedies provided therein are in addition to and do not limit those available to the Commonwealth by any other clause of this solicitation. A copy of this warranty must be furnished with the proposal.
- N. WORK SITE DAMAGES: Any damage to existing utilities, equipment or finished surfaces resulting from the performance of this Contract shall be repaired to the Commonwealth's satisfaction at the Contractor's expense.
- O. WORK ESTIMATES: Under this Contract, the Contractor shall furnish VCU with a non-binding written estimate of the total costs to complete the work required. The estimate must include the labor category(ies), the Contractor's hourly rates specified in the Contract, and a scope of work with deliverables. If VCU determines that the estimated price is not fair and reasonable, VCU has the right to ask the Contractor to reevaluate the estimate. If the revised estimate is determined to be not fair and reasonable, VCU reserves the right to obtain additional quotes from other vendors. A work order will be issued to the Contractor, as the authority to proceed with the work, which will incorporate the Contractor's estimate and the terms and conditions of the contract. The Contractor and his/her personnel shall check in with the designated contract administrator each day before and after work while on site
- P. EXTRA CHARGES NOT ALLOWED: The Contract price shall reflect all fees to be incurred for the performance of the Contract, including all applicable freight and installation charges. Any additional fees that arise during the performance of the Contract shall only be paid if

approved by the University prior to incurring such fees.

- Q. **ADDITIONAL USERS OF CONTRACT:** It is the University's intent to allow for cooperative procurement. Accordingly, any public body, public or private health or educational institution, or any University-related foundation (Additional Users) may access this Agreement if authorized by Selected Firm.

To that end and if agreeable with the Contractor, upon written request from Additional Users the Contractor may allow access to the contract. Although the University desires to provide access on such contract to Additional Users, the Contractor is not required to provide such access. A Contractor's willingness to provide this access to Additional Users, will not be a consideration in awarding this contract. Although the Additional Users have access to any resulting contract, Additional Users are not bound to use the contract and any use of the contract is strictly optional.

If the Additional Users choose to access the contract and the Contractor agrees to such access, the terms and conditions of the contract will be in full force and effect as between the Additional Users and the Contractor. VCU will have no responsibility for the resolution of any contractual disputes, or for payment for services rendered which may arise from an Additional User accessing the contract. The Contractor understands and agrees that it shall not have any recourse against VCU with respect to any claim it may have against another Additional User that accessed this contract.

- R. **CRIMINAL BACKGROUND INVESTIGATION:** If Contractor employees and agents will be on the VCU campus, or have access to protected data as defined herein, Contractor must comply with the following: Contractor shall ensure that its employees, full-time or part-time, including newly hired, re-hired, seasonal, and/or temporary, who may have access to VCU confidential or proprietary information, or data about VCU personnel or students, have passed a criminal background check pursuant to the Code of Virginia, § 2.2-1201.1. Criminal background checks shall comply with the standards set forth in VCU's employment policies found at:

<http://www.policy.vcu.edu/sites/default/files/Criminal%20Conviction%20Investigations.pdf>

Specifically, Contractor shall ensure an investigation is conducted by a third-party vendor utilizing courthouse records and national databases to obtain records within the past seven (7) years. Convictions related to drugs, violence and/or sexual behavior are generally considered job related due to the nature of the VCU environment and the need to provide reasonable levels of protection for students, patients, employees, visitors, and institutional resources.

- S. **IDENTIFICATION CARDS:** All Contractor employees authorized to work at VCU must obtain a VCU identification card. Information on obtaining a card is available at <http://vcucard.vcu.edu/>. Contractor's employees must wear their VCU identification when they are on VCU property.
- T. **REPRESENTATIONS AND WARRANTIES:** All representations and warranties made by University are made to the best of its knowledge at the time the representation or warranty is made. University will use its best efforts to comply with all conditions and restrictions on its accounts and the services provided hereunder.
- U. **DELIVERY AND STORAGE:** It shall be the responsibility of the Contractor to make all arrangements

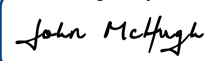
for delivery, unloading, receiving and storing materials in the building during installation. VCU will not assume any responsibility for receiving these shipments. Contractor shall check with VCU and make necessary arrangements for security and storage space in the building during installation.

11. **ENTIRE AGREEMENT.** The Parties agree that this Contract contains the entire agreement between the Parties and may only be modified by written agreement executed by authorized representatives of each Party. This Contract may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

**IN WITNESS WHEREOF,** the Parties have executed this Contract on the dates designated below.

**VIRGINIA COMMONWEALTH UNIVERSITY**

**SMBW, PLLC**

By:   
DocuSigned by:  
EE6DA7427C67468...

By: 

Name: John McHugh

Name: Michelle Mikita

Title: Director Procurement Services

Title: Principal

Date: 1/12/2024

Date: 1/8/24

Michelle Mikita

**Attachment A - Interior Design Services PRICING SCHEDULE**

	<b>SMBW</b>	
<b>Regular Time - Hourly Rate</b>		
Principal	\$	175.00
Project Manager (IDPM)	\$	130.00
Senior Interior Designer	\$	115.00
Interior Designer	\$	115.00
Junior Interior Designer	\$	110.00
Furniture Installation Project Manager	\$	115.00
Administrator	\$	75.00

**Note:**

The proposal must include all costs including, but not limited to supervisionn, office supplies, transportation, incidentals and miscellaneous costs.