

DAKOTA STATE UNIVERSITY
CONSULTING CONTRACT/LETTER OF AGREEMENT
BETWEEN

Consultant Name: Fresh Produce Inc.	DSU Department: Public Relations/Marketing
Consultant Address: 400 N. Main Ave. #400 Sioux Falls, SD 57104	Dakota State University 820 N Washington Ave Madison SD 57042
Referred to as: Consultant	Referred to as: DSU

The State hereby enters into this Agreement for services with Consultant in consideration of and pursuant to the terms and conditions set forth herein.

1. The Consultant will perform those services described herein or in the Work Plan, attached hereto as Exhibit A and by this reference incorporated herein.

Develop and implement a tv campaign focus on new student recruitment for Fall 2011. The campaign will consist of 2 - :30 second ads. The ads will be produced by Fresh Produce Inc. Fresh Produce Inc. will assist with media placement strategy, however, DSU will pay media invoicing direct to media outlets.

2. The Consultant's services under this Agreement shall commence on Sept 1, 2011 and end on Dec 31, 2011 unless sooner terminated pursuant to the terms hereof.
3. The Consultant will not use State equipment, supplies or facilities. YES NO
4. The State will make payment for services upon satisfactory completion of the services. The TOTAL CONTRACT AMOUNT is an amount not to exceed \$25,500 to be paid to Fresh Produce Inc. and \$29,500 to be paid directly to media outlets. The State will not pay Consultant's expenses as a separate item. Payment will be made pursuant to itemized invoices submitted.
5. The Consultant agrees to indemnify and hold the State of South Dakota, its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as the result of performing services hereunder. This section does not require the Consultant to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.
6. Insurance Provision: Does Dakota State require an insurance provision? YES NO

If YES, does the consultant agree, at its sole cost and expense, to maintain adequate general liability of no less than \$1,000,000 in aggregate, worker's compensation, professional liability and automobile liability insurance during the period of this agreement?
YES NO

7. While performing services hereunder, the Consultant is an independent contractor and not an officer, agent, or employee of the State of South Dakota.
8. Consultant agrees to report to the State any event encountered in the course of performance of this Agreement which results in injury to the person or property of third parties, or which may otherwise subject Consultant or the State to liability. Consultant shall report any such event to the State immediately upon discovery.

Consultant's obligation under this section shall only be to report the occurrence of any event to the State and to make any other report provided for by their duties or applicable law. Consultant's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the State under this section shall not excuse or satisfy any obligation of Consultant to report any event to law enforcement or other entities under the requirements of any applicable law.

9. This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Consultant breaches any of the terms or conditions hereof, this Agreement may be terminated by the State at any time with or without notice. If termination for such a default is effected by the State, any payments due to Consultant at the time of termination may be adjusted to cover any additional costs to the State because of Consultant's default. Upon termination the State may take over the work and may award another party an agreement to complete the work under this Agreement. If after the State terminates for a default by Consultant it is determined that Consultant was not at fault, then the Consultant shall be paid for eligible services rendered and expenses incurred up to the date of termination.
10. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.
11. This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.
12. This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.
13. The Consultant will comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.

14. The Consultant may not use subcontractors to perform the services described herein without the express prior written consent of the State. The Consultant will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Consultant will cause its subcontractors, agents, and employees to comply, with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

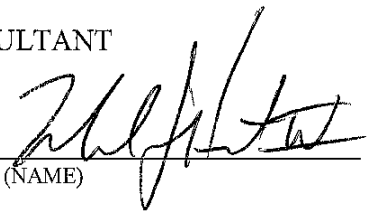
15. All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

In Witness Whereof, the parties signify their agreement effective the date above first written by the signatures affixed below.

DSU DEPARTMENT HEAD

CONSULTANT

BY: DocuSigned by:
Amy S. Crissinger
30829652037C4FC...
(NAME)

BY: 
(NAME)

Associate VP of Enrollment Management
(TITLE AND DEPARTMENT)

PRESIDENT
(TITLE)

9/1/11
(DATE)

9/1/11
(DATE)

DSU AUTHORIZING OFFICIAL

BY: DocuSigned by:
Stacy Krusemark
CFADDB4D1...
(NAME)

VP Business & Admin Services
(TITLE)

9/1/11
(DATE)

- DSU Account Index: 830601.
- Completed W-9? On file X Attached _____
- Name and phone number of contact person at DSU who can provide additional information regarding this contract Amy Crissinger/Erica Clements.