

**FASHION INSTITUTE OF TECHNOLOGY  
REQUEST FOR PROPOSAL NO. C1291**

**STRATEGIC MARKETING COMMUNICATIONS and BRANDING SERVICES**

**Marketing Strategy and Planning**

**Creative Development and Production**

**Media Planning, Buying, and Analysis**

**I. SCHEDULE**

RFP Release Date	1/11/2016
Last day for receipt of written questions	1/25/16
Proposal Due Date	4PM, 2/16/16
Finalists selected	2/22/16
Presentation and Interviews	3/7-10//16
Selection of Contractor	3/16/16
Commencement of Work	Within two (2) weeks of contract's execution

**II. INTRODUCTION**

A. Founded by a group of industry members who wanted to promote education for the fashion and apparel profession, the Fashion Institute of Technology (“FIT”) opened its doors to 100 students in New York City in 1944. By 1951, FIT had evolved into an associate-degree-granting community college of the State University of New York, becoming accredited in 1957.

FIT has long since expanded on its legacies of creativity and innovation, broadening its areas of study and expertise to include advertising, marketing communications, cosmetics and fragrance marketing, film and media, fine arts and illustration, interior design, and toy design. Serving approximately 10,000 students annually, FIT offers 48 majors leading to the AAS, BFA, BS, MA, MFA, and MPS degrees, and has expanded internationally with locations in Italy, Korea, and China.

FIT infuses every career-centric major with a comprehensive liberal arts education, providing students an extraordinary opportunity and capacity to excel in their careers within the intensely competitive global marketplace.

- **FIT Mission**  
FIT prepares its students for professional excellence in design and business through rigorous and adaptable academic programs, experiential learning, and innovative partnerships. A premier public institution in New York City, FIT fosters creativity, career focus, and a global perspective, and educates its students to embrace inclusiveness, sustainability, and a sense of community.
  
- **FIT Vision**  
FIT will be globally celebrated as the institution where students and faculty cross traditional disciplinary boundaries to stimulate innovation, partner with creative industries worldwide, and develop innovative design and business solutions.

B. The vision, goals, and strategies articulated in FIT’s strategic plan, “2020: Our Legacy, Our Future,” ([fitnyc.edu/strategicplan](http://fitnyc.edu/strategicplan)) include a conscious sharpening and provides a refresher of the college’s identity in order to support the continued

work to build a strong and powerful brand. According to the plan, thoughtful and creative attention to strengthening FIT's brand will enable the college to achieve its vision of global recognition and acknowledgement of its special strengths and character.

C. In September 2012, President Joyce F. Brown announced an initiative to revisit FIT's strategic plan. An 18-member planning council—with representation from across the FIT community—was charged with developing that plan. As a result, a refreshed mission, vision, and strategic plan were adopted and approved by FIT's Board of Trustees on September 25, 2013.

Integral to the plan was the charge that FIT's brand and image reflect the institutional goals and be defined and strengthened by them. In 2014, President Brown convened the Brand and Image Consortium to create an updated and clearly articulated brand.

The consortium's deliverable, which was FIT's brand architecture, was presented to the planning council and in town hall meetings in May 2015, providing a foundation for unified, internal and external brand positioning and messaging, while informing marketing communications strategies for the college.

Having completed this work, FIT is now prepared to produce strategies and related activities for marketing the renewed FIT brand to its myriad constituencies in order to enhance and broaden the college's reputation with those audiences locally, regionally, nationally, and internationally.

That work has resulted in a comprehensive brand positioning for the college, which will be the basis for the services defined in this Request for Proposal ("RFP").

D. FIT is presently seeking a firm to develop and execute an institutional strategic marketing communications program for the college based on the consortium's recently completed internal brand work that was undertaken to enhance institutional positioning among myriad constituent groups. The consortium's work identified the need to develop comprehensive brand messaging, design, and a creative campaign for the college, with specific plans for a range of constituents.

FIT seeks a committed consultant to capitalize on institutional name recognition and build/expand the brand with a variety of constituencies, including prospective students and their adult influencers, non-traditional continuing education and transfer students, credit and non-credit course takers, industry, donors and supporters, alumni, educational leaders, museum attendees, and the general public. This will be accomplished by developing institutional marketing communications strategies, as well as specific campaigns per audience.

The firm will develop institutional marketing communications campaigns that include:

- A set of plans/campaigns with detailed plans for each target
- Supporting creative executions and production for each campaign/target
- A media strategy and detailed plans per target for the college to support the campaigns

We seek to develop brand-focused language, visual assets, and a marketing strategy to clearly articulate the college's key messages and distinguish itself from competitor institutions. This assignment will be supported by the brand architecture recently completed

by the consortium, as well as by forthcoming market research.

FIT's current marketing communications activities are supported by a consistent tag line and they are graphically coordinated and highly designed. One aspect of FIT's image is based in its stature as a sophisticated design school closely associated with New York City. As a result, there is particular demand that the creative be visually compelling and not "typical" within the realm of college recruitment marketing materials. This next stage—supported by market research and the brand architecture—will provide the foundation to articulate the college's key messages and distinguish itself from competitor institutions. This will necessarily put a greater focus than in the past on a strong marketing message. As such, the work of the consultant will support the Brand Consortium's directive to meet the:

- **Brand Initiative Goal**  
Create a refreshed and clearly articulated FIT brand that exemplifies and supports the strategic plan.
- **Brand Discovery and Development Goal**  
Create a mission-driven positioning platform that
  - accurately reflects the evolved institution and its mission
  - unifies and strengthens messages and communication
  - provides direction for a compelling and relevant proposition to the college's myriad audiences
  - supports achievement of the FIT vision

E. We seek a consultant who has the capabilities and experience to create a strategic marketing communications program and to develop and/or re-engineer a full complement of marketing materials. This includes identifying communications tools and channels, and writing, designing and producing print publications, advertising, and digital and social media to provide a fully integrated set of communications.

This RFP specifies the services the college seeks in order to support its marketing communications and branding work. That work is defined in three components and firms may submit proposals for any or all services by:

- Providing all services through their company, OR
- Providing any/all of the services through partnerships or sub-contactor relationships with other firms to result in one contract, OR
- Responding to any one, two, or three of the components.

The three components are:

1. **Marketing Strategy and Planning**  
Develop a comprehensive institutional marketing communications strategy, an institutional plan, and specific marketing plans per multiple audiences
2. **Creative Development and Production**  
Develop the creative assets including writing, design, and images for all the visual materials in support of the plans
3. **Media Development, Planning, Buying, and Analysis**  
Provide a media strategy and the creative for advertising in print, digital, broadcast, and social media, and purchase and analyze media

FIT reserves the option to award multiple contracts to more than one firm.

F. This RFP is structured with broad guidelines to encourage competition. Proposers are

encouraged to submit evidence of prior completed projects.

G. Under no circumstances will FIT be liable for any costs incurred by Proposers in preparation and/or production of a Proposal nor for any work performed prior to the college's written authorization to proceed on contract.

### **III. REQUIREMENTS**

All Proposers shall meet the following requirements and furnish all necessary information with the Proposal. **Submit five (5) complete copies of your Proposal.** Failure to comply with these requirements shall be grounds for rejection of your Proposal. FIT reserves the right to determine that a Proposer has substantially met all the requirements of the RFP and/or to ask for additional information. Those items for which Proposers have or assert proprietary rights, or which must, under prior contract, remain confidential, shall be clearly indicated. Submission of Proposal shall be deemed to grant FIT the right to utilize submissions in any way, with or without prior notice. Absent affirmative assertion, FIT reserves such right to use.

Proposals shall be submitted on or before **February 16, 2016, 4:00 p.m.** to:

**PURCHASING MANAGER  
FASHION INSTITUTE OF TECHNOLOGY  
PURCHASING DEPARTMENT  
333 SEVENTH AVE., 15 FLOOR  
NEW YORK, NY 10001**

Envelopes should clearly be marked:

**Strategic Marketing Communications and Branding Services  
Request for Proposal No. C1291  
Proposal Due Date and Time**

A. At no time shall the Proposer, its agents, representatives or contracted personnel contact or otherwise communicate with FIT personnel without prior arrangement with the FIT Purchasing Office, for the purposes of negotiating, modifying, changing, or interpreting the Proposal or specifications.

B. Questions shall be submitted in writing to the attention of the FIT Purchasing Office via e-mail to [purchasing@fitnyc.edu](mailto:purchasing@fitnyc.edu) by January 25, 2016, no later than 4:00 PM. Answers will be provided in a timely manner.

C. If it becomes necessary to revise any part of this RFP, addenda will be supplied to all Proposers receiving this RFP.

D. All Proposals submitted in response to this RFP will become the property of FIT and a matter of public record. The Proposer must identify, in writing, all copyrighted materials, trade secrets, or other proprietary information that it claims is exempt from disclosure. Any Proposer claiming such an exemption must also state in its Proposal that the Proposer agrees to hold harmless, indemnify and defend FIT and its agents, officials and employees in any action or claim brought against FIT for its refusal to disclose such materials, trade secrets or other proprietary information to any party making a request thereof. Any Proposer failing to include such a statement shall be deemed to have waived its right to exemption from disclosure.

- E. Proposer shall have been in business no less than three years.
- F. Proposer shall include, with the Proposal, a listing of senior staff, with their names and titles, qualifications, experience and a brief biography, and indicate the engagement-in-charge partners(s) to be used if Proposer is awarded this contract. Proposal shall also include the qualifications and experience of any other professional agency or freelance staff that would be assigned to the account.
- G. Proposer shall demonstrate an understanding of this engagement including a process for branding and/or positioning brands, and shall include description(s) and example(s) of any experience your agency has had in developing image campaigns.
- H. Contractor, in collaboration with FIT's Division of Communications and External Relations, is responsible for implementing plans and projects. In many instances, institutional partners (e.g., Admissions Office) participate in the development/approval process. Contractor may be required to work with Communications and External Relations' internal "clients."
- I. Proposer shall include, with the Proposal, detailed information regarding Proposer's qualifications providing the services outlined in the scope of work section to which they are responding. This information shall include:
1. Samples of work that reflect the ability of the firm to fulfill the needs as stated in the RFP.
  2. A list of all clients grouped by size of account such as large, medium, and small, based on billing ranges.
  3. A list of branding and marketing campaigns, communications programs, and/or media placements performed for any clients, but specifically for higher education, creative or cultural institutions, non-profit organizations, and/or industries based in fashion, marketing, design or related industries.
  4. Indicators of client results as a consequence of services provided including any quantitative data.
  5. Samples of how you report on results of marketing plans once implemented, including ROI, tracking of online media, other data sources, etc.
  6. List with the name, address, telephone, email, and contact person for no fewer than five current clients.
- J. Documents evidencing financial viability, including income and expenditure statements and balance sheets for the past two (2) fiscal years. Audited financial statements for the past two (2) fiscal years are preferred. If audited statements are not available, provide copies of Proposer's two most recent tax returns or financial statements prepared by an independent certified public accountant.
- K. List of recognized industry awards received by your firm.
- L. Proposer may include any further information concerning your company or its abilities that would add to FIT's assessment of your firm, including relevant experience in marketing educational and/or institutional products or services such as (but not limited to):
1. A description of value-added arrangements, unique business features,

special services, or conditions for consideration such as event marketing, video production, and media relations experience.

2. A description of any specialized work performed for non-profit organizations, higher education, creative or cultural institutions, and/or fashion, design or related businesses.

M. Proposer shall include fee proposal:

Fee proposals should include but not be limited to the following:

1. Break out fees for each of the components that the Proposer intends to submit. Note that work will be phased over several years and pricing should reflect that where appropriate.
2. Regular mark-up practices
3. A specific definition and meaning of the terms related to the proposed method of payment
4. A detailed breakdown of the total cost of services, if applicable, to the types of services required by this assignment, including a statement for reimbursement of expenses and disbursements
5. A proposed billing schedule
6. A breakdown of the staff and job title of those that will be assigned to these projects and their billable rate, and the amount of time assigned.

N. FIT is exempt from payment of any federal, state, and local sales and use taxes. Do not include these taxes when proposing prices for goods or Services (as defined below).

O. Proposals must be signed. Proposals must be completed in Proposer's legal name, and must be signed by a personal authorized to do so.

P. Proposals shall offer best and final terms. All prices shall be firm and not subject to increase during the period of the contract.

Q. FIT reserves the right to award a contract on the basis of Proposer's submitted proposal without further discussion. Proposer's ideas or concepts included in the Proposal are solely intended for implementation into a contract.

R. By signing and submitting your Proposal, Proposer affirms that it has read this RFP, accepts its terms and is able and willing to sign the contract if Proposer's proposal is accepted, subject only to any changes negotiated and agreed upon by both parties. The issuance of a letter of intent to award or similar document does not require or commit FIT to enter into a contract until all terms and conditions are negotiated and acceptable to FIT. In the event of any inconsistencies between the Proposal and the RFP, the language of the RFP will prevail unless there is a written agreement to accept the Proposal's terms

S. Bid Security, Performance and Payment Bonds are NOT required for this Contract

#### **IV. TERM**

A. The term of the contract shall be for a one three (3) year period commencing with the effective date as specified in the notice to commence performance. After initial branding and marketing plans are approved and creative has been established, work will consist of updating plans annually, writing new plans as needed, managing new and ongoing advertising campaigns, and designing and writing new and updated creative on a range of high-level projects. See Section VII for FIT's Proposed Timeline for deliverables of the initial research. Proposal should clearly indicate any potential variance from this timeline.

B. Proposer is required to offer three successive one (1) year renewal options. FIT will exercise each option in its sole discretion. FIT will send written notice of such intention to renew to Proposer forty-five (45) days prior to the stated conclusion of the term of contract. Failure to notify Proposer by this date shall not constitute a waiver of the college's option to renew.

C. In addition to any other termination or cancellation rights reserved by FIT elsewhere in this RFP, FIT shall have the right to suspend, abandon or terminate contract for any reason, and such action shall in no event be deemed a breach of contract.

#### **V. SCOPE OF SERVICES**

Specifically, the assignment includes three components ("Services") for the Proposer(s) who FIT awards the RFP ("Consultant"). Proposers can provide a response to any or all three parts of the Services through in-house capabilities or they may work in collaboration with outside partners and/or sub-contractors in order to address all three areas of the scope. Consultant shall disclose the name of all outside partners and/or sub-contractors that it collaborates with for Services. FIT shall retain all ownership and possession of any reports or similar materials created by Consultant, its partners and/or its sub-contractors used in fulfilling its Services to FIT.

##### **1. Marketing and Branding Strategy and Planning**

- A. Undertake a comprehensive communications audit of all current college-wide communications activities including advertising, digital, social, and print.
- B. Based on the communications audit and the work of the consortium, and supplemented by past, current, and future market research and institutional data, create a marketing and branding strategy and goals for the college in support the institutional strategic plan, mission, and vision with specific expected outputs/deliverables in a brand book to include:
  - Brand language and message(s)
  - Brand visual assets
  - Logo adjustments as needed
- C. Developing a strategic comprehensive marketing communications plan for FIT. The plan, which will include specific messages and concept direction, will be based on the FIT consortium's foundational work; available FIT market research; a detailed understanding of FIT's programs, history, and its strategic goals; consumer trends in credit and non-credit higher education; an assessment of higher education promotional opportunities; and knowledge of higher education as a consumer category.

The plan will include detailed action steps, a timeline, and prioritized activities across a variety of channels in support of:

- Reputation and brand marketing and communications
- Student recruitment, for traditional undergraduate, adult, and graduate programs
- Outreach for fundraising and building industry partnerships

D. FIT has a five-year objective for marketing the refreshed FIT brand, and by 2020 FIT will be regarded around the world as the best, comprehensive educational institution leading to careers in the creative industries. To achieve this objective, the firm will work in partnership with FIT's marketing communications team to develop comprehensive communications plans per audience. Development and implementation of plans will be phased over approximately 18-24 months. While additional plans may be identified over time, the current scope for the first two years includes writing, implementing, measuring, and annually updating plans for:

1. Traditional prospective undergraduate students and those who influence their decisions (guidance counselors, teachers, parents, etc.)
2. Prospective graduate students
3. Industry partners and supporters of the college
4. The higher education community; government, industry influencers and professional audiences with an affinity for FIT
  - a. Adult learners, non-traditional, and transfer students, interested in FIT to:
    - i. obtain a professional certificate (both credit and/or noncredit)
    - ii. take courses on an as-needed basis (both credit and/or noncredit)
    - iii. enroll in a degree program after attending another institution

## **2. Creative Development and Production**

- A. To support all visuals, the firm will develop creative briefs for the institution and per campaign as appropriate encompassing a creative brief, communications targets and objectives, major "selling" or promotional objectives.
- B. Develop a visual identity program for use in print collateral, advertising, and other marketing materials. Note: Changes to the FIT logo, related fonts, and the primary institutional color are not part of this assignment, though a refresh of any of these elements in support of the branding program and new creative will be considered.
  1. Using information from the communications audit, evaluate the current set of print publications and related collateral, including digital promotional materials
  2. Make recommendations for new color palettes, visual typography, and design direction based on strategic marketing plan
  3. Develop concepts, art direct projects, create layouts, and produce print and/or digital ready layouts, and partner with FIT on production and distribution of printed and digital marketing communications collateral. Some projects may utilize FIT writers or freelancers, others may require the firm to produce original writing.

Currently, there are approximately 12 primary publications, 25 secondary publications, and related digital communications per year. It is anticipated that new designs will be



used with moderate refresh for multiple years. Primary campaigns/publications include, but are not limited to:

- FIT's primary recruitment publications (graduate and undergraduate)
- Continuing education course bulletins
- Supplemental recruitment brochures
- Annual report
- Donor-related collateral such as event invitations and programs

C. Provide oversight of design, as needed, produced by:

1. FIT in-house personnel as needed
2. Freelance graphic and web designers

### **3. Media Development, Planning, Buying, and Analysis**

A. Research, evaluate and recommend all media opportunities

B. Develop multiple media plans throughout the year to support:

1. Brand and image campaigns and advertising to enhance the college's reputation to a range of audiences
2. Increase the number of students taking courses through the Center for Continuing and Professional Studies
3. Enhancement of inquiries and quality of graduate school applicants
4. Traditional undergraduate recruitment activities
5. Support marketing efforts for The Museum at FIT

C. Recommend how to best use the following marketing channels per audience:

1. Print advertising
2. Outdoor advertising (bus, subway, etc)
3. Online advertising (online advertising, email marketing, etc.)
4. Google key word, SEM and SEO
5. Facebook, Twitter, and all other social media
6. Direct marketing (print and online)
7. Buying media and mailing lists
8. Broadcast media (television, radio, podcasts, etc.)
9. Special events
10. College guides and higher education publications
11. Trade opportunities as they relate to FIT's programs
12. "Product" placement of FIT in the media

D. Track effectiveness and ROI on all activities and provide regular and detailed reports on all integrated marketing efforts.

E. Stay ahead of trends in social media marketing and make regular recommendations for incorporating all such platforms into any marketing plans and activities.

F. Design and create direct consumer promotional materials printed including both print and online advertising, postcards and direct mailers from concept through production as needed.

G. Manage supplied and purchased email lists and develop, sending, and track outbound email marketing campaigns.

H. Recommend institutional inquiry tracking and fulfillment procedures.

I. Provide creative input, as requested, on projects related to recruitment communications but

not directly involving the agency (e.g., production of a CD or video).

- J. Assist in conducting market research, focus groups, or developing surveys.
- K. Provide account services management including (but not limited to):
  - 1. Reports of campaign activities and costs upon request
  - 2. Schedules of production work per campaign
  - 3. Digital files or output of ads, printed samples, and tear sheets of media appearances upon request

## **VI. EVALUATION OF PROPOSALS**

A. A duly selected committee will use the following criteria to evaluate those proposals, which meet the requirements of these specifications.

- |  |     |
|--|-----|
| 1. Proposer's experience in direct response to the scope including:<br>Demonstrated successful track record in any and/or all of the deliverables including strategy development, marketing and branding   | 25% |
| 2. The Proposer's creative process development, and demonstration of innovative and creative execution of visuals and design   | 20% |
| 3. Proposer's measurable success in developing advertising marketing plans including experience in social media strategy and online marketing  | 10% |
| 4. Evaluation of company's financial stability and reputation, and specifically their experience with a client base of higher education, creative or cultural institutions, non-profit organizations, and/or industries based in fashion, marketing, design or related industries client references. | 10% |
| 5. Price, including value added  | 20% |
| 6. Interview and presentation  | 15% |

B. FIT reserves the right to award the contract to the Proposer(s) with the highest scores on criteria one (1) through five (5) or to interview the Proposers with the highest scores on criteria one (1) through five (5). In the latter case, FIT will award the contract to the Proposer(s) with the highest score on criteria one (1) through six (6).

## **VII. PROPOSED TIMELINE FOR INITIAL RESEARCH**

Contract Award	March 2016
Audit complete	April 2016
Initial brand book	May 2016
Draft plans	June 2016
Creative presentation	July 2016
Creative development	August 2016
Materials in market	Sept 2016

**Proposer** THE FASHION INSTITUTE OF TECHNOLOGY

**TERMS AND CONDITIONS**

**A. PERFORMANCE:**

1. Proposer shall deliver the goods or perform the work of the contract as described in the RFP and Proposal (as defined in Section S below) subject to all relevant federal, state and local laws.
2. Proposer shall provide copies of all licenses and certificates required for performance of the work within ten (10) days of FIT's written request.
3. When Proposer, its employees, subcontractors and agents are on the FIT campus, they shall be subject to applicable FIT workplace and safety rules and regulations of which Proposer has been apprised in writing and shall otherwise comply with all policies that govern the general conduct of employees, students, and visitors on campus.

**B. CHANGES IN SCOPE OF WORK:**

1. FIT reserves the right to make reasonable changes within the general scope of the contract and not materially affecting the substance thereof, including additions, deletions or other revisions to the work, subject to the following:
  - a. Any change in work shall be made in writing by FIT and Proposer, and the contract price shall be adjusted accordingly.
  - b. Increases or decreases in the contract price required by a change in work shall be determined and agreed to by the parties in writing:
    - i. By applying the applicable unit prices established by the contract or
    - ii. By estimating the fair and reasonable cost of the change in work.

**C. INSURANCE REQUIREMENTS:**

1. Before commencing work on the FIT campus, Proposer shall procure at its own expense all of the insurance required under this section and shall maintain such insurance until the work of the Proposer is completed or as specified.
2. Required insurance shall be procured from companies licensed or authorized to do business in the State of New York.
3. Proposer shall submit certificates of insurance required under this section to the FIT Purchasing Department before commencing work on the FIT campus.
4. Types and minimum limits of insurance:

- a. Workers' compensation insurance as required by New York State Law.
- b. Employer's liability insurance with a limit of not less than \$500,000 for bodily injury by accident; \$500,000 for bodily injury by disease – policy limit; \$500,000 for bodily injury by disease – each employee.

Evidence of completed operations coverage shall be provided until at least completion of the work described in this contract.

Commercial General Liability coverage shall include damages resulting from Bodily Injury, Property Damage and Contractual Liability for insured contracts. The Certificate of Insurance shall evidence the following:

**The Fashion Institute of Technology, its auxiliary corporations, the State University of New York, the New York City Department of Education and the City and State of New York shall be covered as Additional Insured's for Commercial General Liability coverage pursuant to Proposer's acts or omissions in performance of services under this agreement.**

5. Each insurance policy required by this section shall state that coverage shall not be suspended, voided or canceled, nor shall coverage be materially reduced in coverage or in limits below those required herein except after at least thirty (30) days' prior written notice has been given to the first Named Insured. In turn, Proposer shall provide notice to FIT pursuant to same.
6. This contract shall be void and of no force and effect unless Proposer shall provide and maintain coverage during the life of this contract for the benefit of its employees who are required to be covered by the provisions of the Workers' Compensation Law.
7. Proposer waives any right of recovery against FIT and additional insured's for any loss or damage covered by any policy of insurance maintained by Proposer in connection with the work of the contract. Proposer shall obtain from its insurer under any such policy a waiver of all right of recovery by way of subrogation against FIT and additional insured's in connection with any claim of loss or damage covered by such policy.

**D. PROPOSER'S WORKERS:**

1. Proposer shall provide competent workers for the performance of the work of the contract.
2. If, in FIT's reasonable opinion and upon written notice from FIT, any worker employed by Proposer is not competent or otherwise not acceptable (for legally permitted reasons), Proposer shall promptly replace such worker.

**E. WORK FOR HIRE:**

1. Except for any Proposer Materials contained therein, any reports, PowerPoints, or other copyrightable works created by Proposer for delivery to FIT during the work of this contract shall be deemed “work for hire”, and FIT will hold all rights, titles and interests in this work for hire upon full payment to Proposer under this contract. For purposes of these terms (i) “Materials” means works of authorship, materials, information and other intellectual property; (ii) “Proposer Materials” means all Materials created prior to or independently of the performance of the work hereunder or created by Proposer or its subcontractors as a tool for their use in performing the Services, plus any modifications or enhancements thereto and derivative works based thereon. Proposer grants to FIT the right to use any Proposer Materials included in such work for hire in connection with its use of such work for hire.
2. Proposer shall agree to give FIT all assistance reasonably required and requested by FIT in writing to protect any right, title or interest in such work for hire thus created.

**F. WARRANTIES:**

1. Proposer warrants that it will perform the Services in a professional and workmanlike manner in accordance with industry standards. Proposer disclaims all other warranties, express or implied, including implied warranties of merchantability or fitness for a particular purpose.

**G. PROPOSER’S GUARANTEE:**

1. Proposer shall guarantee all Services provided to FIT as to such workmanship pursuant to the foregoing warranty in Section F and shall repair or replace without cost to FIT any Services that do not comply with such warranty under Section F above identified in writing by FIT within thirty (30) days from date of FIT’s receipt of Proposer’s final report from such services.
2. If Proposer fails to repair or replace services pursuant to the foregoing within thirty (30) days from the date of notice, FIT reserves all right to remedy under this contract or at law.
3. Proposer shall not be responsible for defects caused by FIT’s improper or negligent use provided that Proposer has previously instructed FIT in the proper use of the Services.

**H. CANCELLATION OF CONTRACT:**

If Proposer fails to deliver the goods or perform the work pursuant to the Services as listed in the RFP or breaches any provision of the contract, FIT may terminate this contract upon written notice to Proposer. Said notice shall contain the reasons for FIT’s intention to terminate the contract

upon a date specified by FIT and give Proposer a reasonable opportunity to cure (not less than ten (10) business days). If Proposer fails to cure the failure or breach within the time provided by FIT, the contract shall terminate on the date specified by FIT. FIT will thereupon have the right to take over the work of the contract and to pursue any remedy it may have under this contract or at law.

The foregoing rights are in addition to any other remedies provided herein or provided by law or in equity.

**I. ADDITIONAL GROUNDS FOR CANCELLATION OF CONTRACT:**

1. In addition to the grounds set forth in the preceding Section, upon the refusal of a person to testify in an investigation concerning any transaction or contract they had with the state, any political subdivision thereof, a public authority or with any public department, agency or official of the state or of any political subdivision thereof, or of a public authority; or to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant questions concerning such transaction or contract, when called before a grand jury, head of a state department, temporary state commission or other state agency, the organized crime task force in the department of law, head of a city department, or other city agency, which is empowered to compel the attendance of witnesses and examine them under oath; such person, and any firm, partnership or corporation of which he is a member, partner, director or officer shall be disqualified from thereafter selling or submitting bids to or receiving awards from or entering into any contracts with FIT, for goods, work or services, for a period of five (5) years after such refusal.
2. Any and all contracts made with FIT by such person, and by any firm, partnership or corporation of which he is a member, partner, director or officer may be canceled or terminated by FIT without incurring any penalty or damages on account of such cancellation or termination but any monies owing by FIT for goods delivered or work done prior to the cancellation or termination shall be paid.

**J. INSOLVENCY:**

If Proposer becomes insolvent or its property or business is placed in the hands of a receiver or trustee, FIT will have the right, at its sole election, to treat such occurrence as a breach of the contract and to terminate the contract upon five (5) days' written notice to Proposer.

**K. TERMINATION FOR CONVENIENCE:**

FIT reserves the right to terminate this contract for convenience upon thirty (30) days' written notice to Proposer. FIT will pay Proposer on a prorated basis for any goods delivered and accepted or work performed pursuant to the contract up to the date of termination.

**L. PAYMENT AND RELEASE:**

1. Proposer shall provide complete and accurate billing invoices which shall include the purchase order number assigned by FIT. FIT reserves the right to request reasonable additional supporting documentation.
2. FIT will effect prompt payment in accordance with FIT procedures and practices, making payment within thirty (30) days of receipt of invoice.

**M. INDEMNITY:**

1. Proposer shall indemnify and hold harmless FIT, the State University of New York, the Board of Education of the City of New York, and the City and State of New York, their trustees, officers, employees, and agents (the "Indemnified Parties", from any and all claims, damages, liabilities, costs and expenses, including, without limitation, reasonable fees and disbursements of counsel incurred by the Indemnified Parties in any action or proceeding brought against any of the Indemnified Parties by any third party solely for bodily injury (including death) or damage to real or tangible personal property to the extent directly and proximately caused by the negligence or willful misconduct of Proposer, its employees or subcontractors while engaged in the delivery of goods or performance of work of this contract, or by the negligent act or omission of Proposer, its employees, or subcontractors while on FIT premises during the work of this contract.
2. This provision shall survive the expiration or termination of the contract.

**N. INDEPENDENT CONTRACTOR:**

1. Proposer's status shall be that of an independent contractor and not that of an employee or agent of FIT.
2. All persons furnished by Proposer for the work of this contract shall at all times be deemed employees or agents of Proposer and not employees of FIT, and Proposer shall be solely responsible for their work, conduct, direction and compensation.

**O. SUBCONTRACTING:**

1. Subcontracting is not permitted except as provided in the RFP.

**P. ASSIGNMENT:**

1. Proposer and FIT shall not assign, transfer, convey, sublet or otherwise dispose of the contract, or of its right, title or interest therein without the prior written consent of the other.
2. Failure to comply with this provision shall be grounds for revocation and annulment of the contract, and FIT shall be relieved and discharged from any and all liability and obligations growing out of the contract to Proposer and to any person or corporation to which the contract has been assigned, transferred, conveyed, sublet or otherwise disposed of.

**Q. GOVERNING LAW AND LIMITATION OF LIABILITY:**

1. This contract shall be construed in accordance with the laws of the State of New York without regard to conflict of law provisions, except if the federal supremacy clause requires otherwise.
2. Any action arising from this contract shall be brought in the federal or state courts located in the State of New York and in the County of New York.
3. Proposer consents to the exercise by the courts of the State of New York of personal jurisdiction over it concerning any matter arising out of or in connection with this contract.
4. Each party, its subsidiaries and subcontractors, and their respective personnel shall not be liable to the other for any claims, liabilities, or expenses relating to this engagement ("Claims") for an aggregate amount in excess of (i) in the case of Proposer, the fees paid by FIT to Proposer pursuant to this contract, or (ii) in the case of FIT, the fees paid and payable by FIT to Proposer pursuant to this contract, except to the extent resulting from negligence, recklessness, bad faith or intentional misconduct. Except as otherwise provided in Section U, herein below, in no event shall either party, its subsidiaries or subcontractors, or their respective personnel be liable to the other for any loss of use, data, goodwill, revenues or profits (whether



or not deemed to constitute a direct Claim), or any consequential, special, indirect, incidental, punitive or exemplary loss, damage, or expense relating to this contract.

**R. ENTIRE AGREEMENT:**

1. This contract constitutes the entire agreement of the parties relating to the subject matter hereof; provided however that it is meant to be read in conjunction and consistently with RFP: # C1291 (the "RFP") (which is attached hereto as "Attachment #1"). In the event of a conflict among this contract and the RFP the order of precedence shall be as thus listed. No statement, condition, understanding or representation, either oral or written, shall be deemed to exist or to bind the parties or to vary any of the terms and conditions herein.
2. This contract shall not be changed, modified or altered in any manner except by written agreement between the parties executed in the same manner as this contract.
3. If any one or more of the provisions contained in this contract is held illegal or unenforceable by any court of competent jurisdiction, the other provisions shall remain in full force and effect. Any provision of this contract held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.
4. The headings have been inserted for convenience only and are not to be considered when interpreting the provisions of this contract.
5. This contract may be executed in multiple counterparts, any of which may be a facsimile or "pdf", each of which shall be deemed to be an original but all of which shall constitute one and the same instrument.

**S. AFFIRMATIVE ACTION:**

1. New York State Executive Order No. 6, regarding equal employment opportunities, states:

It is the policy of the State of New York that equal opportunity be assured in the State's personnel system and affirmative action provided in its administration, in accordance with the requirement of the State's Human Rights Law and the mandate of Title VII of the Federal Civil Rights Act, as amended. Accordingly, Executive Order 11246, Section 503 and 4212; Executive Order 13201, it is the responsibility of the State's Department of Civil Service to enforce the State's policy ensuring full and equal opportunity for minorities, women, disabled persons and Vietnam era veterans at all occupational levels of State government.

In keeping with this policy, FIT mandates compliance internally and for all organizations with

which it conducts business. Proposer shall include its organization's affirmative action policy and agree that all presentations and materials will be free from racial, religious or sexual bias.

**T. MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES:**

1. FIT encourages the submission of bids or proposals by certified minority and women-owned business enterprises.

**U. PROTECTION OF CONFIDENTIAL DATA:**

1. Proposer agrees to abide by the limitations on re-disclosure of personally identifiable information from education records set forth in The Family Educational Rights and Privacy Act (34 CFR § 99.33 (a)(2) and with the terms set forth below, that it receives or accesses any such records in performing the services hereunder. 34 CFR 99.33 (a)(2) states that the officers, employees and agents of a party that receives education record information from FIT may use the information, but only for the purposes for which the disclosure was made.

2. Definition: Covered data and information (CDI) means paper and electronic student education record information supplied by FIT, as well as any personally identifiable information provided by FIT's students to the Proposer, if any.

3. Acknowledgment of Access to CDI: Proposer does not intend to, nor require, access to CDI. However, Proposer acknowledges that, by virtue of its performance of services on FIT's premises, such may allow the Proposer access to CDI.

Prohibition on Unauthorized Use or Disclosure of CDI: Proposer agrees to hold CDI in confidence. Proposer shall not use or disclose CDI received from or on behalf of FIT (or its students) except as permitted or required by the contract, as required by law, or as otherwise authorized in writing by FIT. Proposer agrees not to use CDI for any purpose other than the purpose for which the disclosure was made.

4. Return or Destruction of CDI: Upon termination, cancellation, expiration or other conclusion of the contract, Proposer shall return all CDI to FIT, or if return is not feasible, destroy any and all CDI. If the Proposer destroys the information, the Proposer shall provide FIT with a certificate confirming the date of destruction of the data.

5. Remedies: Any provision found elsewhere in this contract to the contrary notwithstanding, if the Proposer has materially breached any of its obligations under this Section U of this contract, FIT, in its sole discretion, shall have the right to require the Proposer to submit to a plan of monitoring and reporting; provide FIT with a fifteen (15) day period to cure the breach; or terminate the contract immediately if cure is not possible. Before exercising any of these options, FIT shall provide written notice to the Proposer describing the violation and the action it intends to take. If the Family Policy Compliance Office of the U.S. Department of Education determines that the Proposer improperly disclosed personally identifiable information obtained from FIT's education records, FIT may not allow the Proposer access to its education records for at least five years.

6. Maintenance of the Security of Electronic Information: Proposer shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all electronically maintained or transmitted CDI received from, or on behalf of FIT or its students. These measures will be extended by contract to all subcontractors used by Proposer.

7. Reporting of Unauthorized Disclosures or Misuse of Covered Data and Information and Remedies: Proposer shall, immediately upon discovery, report to FIT any use or disclosure of CDI not authorized by this contract or in writing by FIT. Proposer's report shall identify, to the extent known using reasonable diligence (as applicable): (i) the nature of the unauthorized use or disclosure, (ii) the CDI used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what the Proposer has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action the Proposer has taken or shall take to prevent future similar unauthorized use or disclosure. Proposer shall provide such other information, including a written report, as reasonably requested by FIT. If FIT is required by applicable law to provide notice to any individual or government agency as a result of a Security Breach attributable to Proposer's breach of the confidentiality terms of this Section pertaining to CDI, Proposer shall reimburse FIT for its reasonable, out-of-pocket costs in notifying any such affected individual and/or government agency. A "Security Breach" is an unauthorized access to, or unauthorized use or disclosure of, computerized CDI under the control of Proposer that adversely affects the security, confidentiality or integrity of such CDI. In addition, any damages that FIT may incur as a result of such Security Breach shall not be subject to any limitation of liability set forth in Section Q(4) of this contract.

**CONTRACT SIGNATURE PAGE FOLLOWS**  
**CONTRACT SIGNATURE PAGE TO BE SIGNED ONLY UPON**

**AWARD OF CONTRACT**

**BID #   C1291   TITLE: Strategic Marketing Communication and Branding Services**

In witness whereof, the parties have executed this contract: The amount of this contract is

\_\_\_\_\_

Dollars (\$ \_\_\_\_\_).

**FOR PROPOSER:**

\_\_\_\_\_

Signature

\_\_\_\_\_

Print Name and Title

**ACKNOWLEDGEMENT OF PERSON EXECUTING FOR PROPOSER**

State of New York )

County of \_\_\_\_\_) SS:

On this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_, before me personally came \_\_\_\_\_  
\_\_\_\_\_, to me known, who being by me duly  
sworn did depose and say that s/he resides at \_\_\_\_\_; that  
s/he is the \_\_\_\_\_ of \_\_\_\_\_, the  
corporation described in and which executed the above instrument; and that s/he signed her/his  
name thereto by order of the Board of Directors of said corporation.

\_\_\_\_\_  
**Notary Public**

**FASHION INSTITUTE OF TECHNOLOGY:**

\_\_\_\_\_

**Sherry F. Brabham, Treasurer**

\_\_\_\_\_

**Date**

**Attachment 1**

**FIT RFP # 1291 Strategic Marketing Communication and Branding Services (the “RFP”)**

odwyerpr.com