**STATE OF COLORADO**

**OFFICE OF THE STATE ARCHITECT**

**STATE BUILDINGS PROGRAM**

**ARCHITECT/ENGINEER AGREEMENT DESIGN/BID/BUILD**

(STATE FORM SC-5.1)

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| DEPARTMENT ID: |  |
|  |  |
| CONTRACT ID #: |  |
|  |  |
| PROJECT #: |  |
|  |  |
| PROJECT NAME: |  |
|  |  |
| VENDOR NAME: |  |
|  |  |

ATTACHMENT 1

ARCHITECT/ENGINEER AGREEMENT TERMS AND CONDITIONS

DESIGN/BID/BUILD

(STATE FORM SC-5.1TC)

**STATE OF COLORADO**

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**EXHIBITS:**

1. Architect/Engineer Proposal (Including Design Services Schedule and Certificates of Insurance)
2. Wage Rates Schedule
3. Approved State Building Codes (Exhibit A of the Building Code Compliance Policy: Coordination of Approved Building Codes, Plan Reviews and Building Inspections (attached to SC-5.1TC
4. Code Compliance Plan Review Procedures (Exhibit B of the Building Code Compliance Policy: Coordination of Approved Building Codes, Plan Reviews and Building Inspections) (attached to SC-5.1TC)
5. Design Requirements/Facility Program Plan/Sustainability Goals (as applicable)

**F.** Certification and Affidavit Regarding Unauthorized Immigrants (State Form UI-1)

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(STATE FORM SC-5.1)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Department ID: |  | Contract ID #: |  | Project #: |  |

**1. PARTIES**. THIS AGREEMENT is entered into by and between the STATE OF COLORADO, acting by and through the *(agency)* , hereinafter referred to as the Principal Representative, and *(vendor name)* having its offices at *(vendor address)* hereinafter referred to as the Architect/Engineer.

**2. EFFECTIVE DATE AND NOTICE OF NONLIABILITY.** This Agreement shall not be effective or enforceable until it is approved and signed by the State Controller or its designee (hereinafter called the “Effective Date”), but shall be effective and enforceable thereafter in accordance with its provisions. The State shall not be liable to pay or reimburse Architect/Engineer for any performance hereunder or be bound by any provision hereof prior to the Effective Date.

**RECITALS:**

**WHEREAS**, the Principal Representative intends to procure *(project name)* hereinafter called the Project; and

**WHEREAS**, authority exists in the Law and Funds have been budgeted, appropriated, and otherwise made available, and a sufficient unencumbered balance thereof remains available for payment In Fund Number , Account Number ; and

**WHEREAS,** the State has **Appropriated** and the Principal Representative has been authorized to expend the total sum of Dollars ($ ) for this project including all professional services, construction/improvements, project contingencies, furnishings, movable equipment, reimbursable expenses and miscellaneous expenses; and

*(WHEREAS, funds are available for only a portion of the services defined herein, as more fully described in the funding Condition Precedent clause in Article 3.5)*

**WHEREAS,** the Principal Representative has established the **Fixed Limit of Construction Cost** in the amount of Dollars ($ ), and

**WHEREAS**, the ARCHITECT/ENGINEER was selected and determined to be the most qualified, and fees negotiated in accordance with the provisions of Section 24‑30‑1401, C.R.S. as amended, and

**WHEREAS**, this is a phase one waived contract, waiver number 175 Architect/Engineer Agreement for Capital Construction Form (SC-5.1).

**ENTIRE AGREEMENT** – The entire contract consists of the Architect/Engineer Agreement (SC-5.1) and Attachment 1, the Architect/Engineer Terms and Conditions (SC-5.1TC) incorporated herein by reference. The ARCHITECT/ENGINEER acknowledges having reviewed and accepted the Architect/Engineer Agreement Terms and Conditions (SC-5.1TC).

**NOW, THEREFORE,**

The Principal Representative and the Architect/Engineer, for the considerations hereinafter set forth, agree as follows:

ARTICLE 1. BASIC SERVICES OF ARCHITECT/ENGINEER

1.1THE SERVICES

1.1.1 For services in connection with the design of a funded project, the Architect/Engineer promises to perform the professional services for the contemplated project as delineated in the proposal letter dated , submitted by the Architect/Engineer, which is attached hereto and made a part hereof by reference as **Exhibit A**. In addition, the Architect/Engineer promises to perform the professional services as set forth in Terms and Conditions (SC-5.1TC) 1.2 A, B, C, D, E, F and G.

1.2DEVELOPMENT OF THE PROJECT

1. BIDDING PHASE

.6The Architect/Engineer shall furnish copies of the Construction Documents as follows, subject to limitations hereinafter set forth:

(a) For Bidding Documents: (\_\_\_\_\_) sets to insure distribution among prime contractors and subcontractors in accordance with the advertisement for bids.

(b) For Contract Documents: The Principal Representative will require up to (\_\_\_\_\_) sets. The Contract Documents bearing the seal and the signature of the Architect/Engineer and the appropriate responsible professional Engineering Consultants are to be signed by the Contractor and the Principal Representative at the Contractor's contract signing conference. The Architect/Engineer acknowledges that prior to the contract signing conference and State Buildings Program authorizing the Notice to Proceed State Form SBP-6.26, a Letter of Compliance must be obtained from the State’s Code Review Agent verifying that the contract Documents and all addenda, value engineering recommendations and all other changes to the bidding documents are in compliance with the applicable codes as adopted by State Buildings Program as indicated in **Exhibit C**.

(c) For Construction: Each prime contractor shall be furnished with (\_\_\_\_\_) sets or partial sets of the Contract Documents to insure prompt prosecution of the work.

(d) (\_\_\_\_\_) complete sets of drawings and specifications shall be the maximum required to be furnished by the Architect/Engineer. The Principal Representative will pay for all other sets of documents or partial sets of documents required at the cost of reproduction.

#### ARTICLE 2. REIMBURSABLE EXPENSE

* 1. REIMBURSEMENT

2.1.1 Reimbursable expenses are in addition to the compensation for Basic and Additional Services and include actual expenditures made by the Architect/Engineer and its employees, associate Architect/Engineer, and consultants in the interest of the Project. Pay requests for reimbursable expense shall be submitted with receipts, statements, or other acceptable supporting data. The Architect/Engineer understands and agrees that a certain dollar amount as enumerated in line **H** of paragraph 3.1.1 has been established as a maximum amount to be paid for all reimbursable expenses.

* + 1. The Architect/Engineer shall be reimbursed for:
1. In accordance with the provisions of paragraph 1.2.E.6 (d) of this Agreement, for all copies over ( ) of the Construction Documents which are provided for the project.
2. The costs of all items furnished by the Architect/Engineer in accordance with paragraphs 5.1.1 (d) and (e) of the Architect/Engineer Agreement Terms and Conditions Design/Bid/Build (SC-5.1TC) as requested by the Principal Representative.

(c)Fees of special consultants if their employment is authorized in advance by the Principal Representative for other than the required architectural, structural, mechanical, electrical and civil engineering services; landscaping, if any; space planning/interior layout; and any other services included in this Agreement.

1. Expense of data processing and photographic production techniques when used in connection with Additional Services.
2. Expense of long distance telecommunication related to the performance of Basic Services.
3. Expense of renderings, models and mock-ups requested by the Principal Representative other than those described in the designated services.
4. Expense of mail, deliveries, mileage for local travel other than that necessary for the performance of Basic Services, and expense travel for special consultants as per Article 1.1 Basic Services of Architect/Engineer. Reimbursement of travel expenses is to be based on reasonable and necessary travel costs within the limits of State/Federal per diem rates as published in the travel section of the State Controller’s Fiscal Rules, Meal and Incidental Per Diem Rates, Appendix A1.
5. Expense of any additional insurance coverage or limits, including professional liability insurance, requested by the Principal Representative in excess of that required in Article 8.
6. Other expenses as approved in writing by the Principal Representative and State Buildings Program.

**ARTICLE 3. BASIS OF COMPENSATION**

3.1 PAYMENT

3.1.1 The total compensation forBasic Services fees (**B** through **F**), including a lump sum price for Reimbursable Expenses and, if applicable, Pre-Design and Post Construction Services fees (**A** and/or **G**), shall be allocated as follows:



3.1.2 Payments to the Architect/Engineer shall be made monthly based upon Architect/Engineer's performance and progress, through a properly executed Application for Payment (SC-7.1). Payments shall be due per § 24-30-202(24) (correct notice of amount due), within forty-five (45) days of receipt by the Principal Representative of the Applications for Payment.

3.5*CONDITION PRECEDENT*

3.5.1. *(At the time of the execution of this Agreement, there are sufficient funds budgeted and appropriated to compensate the Architect/Engineer only for performance of the services through and including \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Therefore, it shall be a Condition Precedent to the Architect/Engineer's performance of the remaining services specified in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_and the State's liability to pay for such performance, sufficient funding must be appropriated and made available to the Principal Representative for the Project prior to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_and, as a further Condition Precedent, a written Amendment is entered into in accordance with the State of Colorado Fiscal Rules, stating that additional funds are lawfully available for the project. If either Condition Precedent is not satisfied by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the Architect/Engineer's obligation to perform services for (scope of work) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and the State's obligation to pay for such service is discharged without liability to each other. If funding is eventually made available after \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the Architect/Engineer has no right to perform services under \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (article referencing scope of work) of this Agreement and the state has no right to require the Architect/Engineer to perform the said services.)*

ARTICLE 11. MISCELLANEOUS PROVISIONS

11.11DESIGNATED REPRESENTATIVES**,** The Principal Representative and the Architect/Engineer authorize the following individuals to act on their behalf as Designated Representatives and points of contact as described in paragraphs 1.1.4 and 5.1.1(b);

For the Principal Representative: For the Architect/Engineer:

**SIGNATURE APPROVALS:**

**THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT**

\*Persons signing for Architect/Engineer hereby swear and affirm that they are authorized to act on Architect/Engineer’s behalf and acknowledge that the State is relying on their representations to that effect. **Principal is not a recognized title and will not be accepted.**

|  |  |
| --- | --- |
| Project Name/Number: |  |
| Contract ID No.: |  |

|  |  |  |
| --- | --- | --- |
| **THE ARCHITECT/ENGINEER** |  | **STATE OF COLORADO**, acting by and through:*(Insert Name & Title of Agency or IHE)* |
|  |  |  |
|  |  | By: |  |
| Legal Name of Contracting Entity |  |  | *(Insert Name & Title of Principal Representative for Agency or IHE)* |
|  |  |  |  |
|  |  | Date: |  |
|  |  |  |
| \*Signature |  | **APPROVED** |
|  |  | DEPARTMENT OF PERSONNEL & ADMINISTRATION |
| By |  |  | STATE BUILDINGS PROGRAM |
|  Name (print) Title |  | State Architect (or authorized Delegate) |
|  |  |  |  |
| Date: |  |  | By: |  |
|  |  |  | *(Insert Name of Authorized Individual)* |
|  |  |  |  |
|  |  | Date: |  |
|  |  |
| ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER: |
| C.R.S. § 24-30-202 requires the State Controller to approve all State Contracts. This Contract is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contactor for such performance or for any goods and/or services provided hereunder. |
|  |
| **APPROVED:** |
| STATE OF COLORADO |
| STATE CONTROLLER'S OFFICE |
| State Controller (or authorized Delegate) |
|  |
| By: |  |
|  | *(Insert Name & Title of Authorized Individual)* |
|  |  |
| Date: |  |

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**EXHIBIT A**

**ARCHITECT/ENGINEER PROPOSAL**

(including Design Services Schedule and Certificates of Insurance, attached)

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**EXHIBIT B**

**WAGE RATES SCHEDULE**

(attached)

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**EXHIBIT E**

**DESIGN REQUIREMENTS/FACILITIES PROGRAM PLAN/SUSTAINABILITY GOALS**

(attached, as applicable)

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(STATE FORM SC-5.1)

**EXHIBIT F**

**CERTIFICATION AND AFFIDAVIT REGARDING UNAUTHORIZED IMMIGRANTS** (required at contract signing prior to commencing work, attached)