



REQUEST FOR PROPOSALS
SBC PROJECT NO. 408/012-01-2022
AMENDMENT No. One
FOR Southern Central Regional Health Office (SCRHO)
Replacement Facility

DATE: May 19, 2023

RFP SBC Project No.: 408/012-01-2022 IS AMENDED AS FOLLOWS:

- This RFP Schedule of Events updates and confirms scheduled RFP dates. Any event, time, or date containing revised or new text is highlighted.**

	EVENT	TIME (Central Time)	DATE	UPDATED / CONFIRMED
1	RFP Issued		May 4, 2023	CONFIRMED
2	Disability Accommodation Request Deadline		May 9, 2023	CONFIRMED
3	Pre-response Conference	2:00 pm	May 18, 2023	CONFIRMED
4	Notice of Intent to Respond Deadline		May 19, 2023	CONFIRMED
5	Written "Questions & Comments" Deadline	2:00 pm	May 25, 2023	CONFIRMED
6	State Response to Written "Questions & Comments"		June 1, 2023	CONFIRMED
7	Response Deadline	2:00 pm	June 6, 2023	CONFIRMED
8	State Completion of Technical Response Evaluations		June 13, 2023	CONFIRMED
9	Notification of Respondents Invited to Interview		June 14, 2023	CONFIRMED
10	Interviews		June 20 - 21, 2023	CONFIRMED
11	State Completion of Technical Response Evaluations and Final Technical Score		June 21, 2023	CONFIRMED
12	State Opening & Scoring of Cost Proposals		June 21, 2023	CONFIRMED

EVENT	TIME (Central Time)	DATE	UPDATED / CONFIRMED
13 State Notice of Intent to Award Released <u>and</u> RFP Files Opened for Public Inspection		June 22, 2023	
14 Protest Period Ends		June 29, 2023	CONFIRMED
15 State Building Commission (SBC) Approval Sought		July 13, 2023	CONFIRMED
16 State sends contract to Contractor for signature		July 13, 2023	CONFIRMED
17 Contractor Signature Deadline		July 21, 2023	CONFIRMED

2. Please delete RFP Attachment 6.6., Pro Forma Master Contract and Contract Attachments and replace with the attached.

**CONSTRUCTION MANAGER / GENERAL CONTRACTOR
MASTER CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF GENERAL SERVICES
AND
CONTRACTOR NAME
TO
SBC PROJECT NUMBER 408/012-01-2022**

This Master Contract (the "Master Contract"), by and between the State of Tennessee, Department of General Services, hereinafter referred to as the "Owner" and Contractor Legal Entity Name, hereinafter referred to as the "Contractor," is for the provision of pre-construction and construction services, as further defined in the "SCOPE OF SERVICES." Owner and Contractor are hereinafter collectively referred to as the "Parties".

The Contractor is a/an Individual, For-Profit Corporation, Non-Profit Corporation, Special Purpose Corporation Or Association, Partnership, Joint Venture, Or Limited Liability Company.

Contractor Place of Incorporation or Organization: Location

Contractor Edison Registration ID # Number

Secretary of State # Number

A. SCOPE OF SERVICES:

- A.1. The Contractor shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by the Master Contract.
- A.2. The Contractor shall provide consulting, scheduling and estimating/cost control services during the pre-construction phase of the project, and shall be the general contractor during construction, holding the trade contracts and providing the management and construction services during the construction phase. As soon as practicable after execution of this Master Contract, the Contractor and the Owner shall negotiate in good faith mutually acceptable terms, conditions, and pricing for a written construction services agreement with a guaranteed maximum price, covering the construction phase. The Contractor shall competitively procure and contract with the trade contractors and assume the responsibility and the risk of construction delivery within the specified cost and schedule terms and provide a guaranteed maximum price for the scope(s) of work for the project titled South Regional Health Office (SCRHO) Replacement Facility, SBC Project No. 408/012-01-2022. (Refer to CM/GC Scope of Services and Deliverables attached hereto as Master Contract Attachment C for a detailed listing of particular requirements).
- A.3. The Contractor may be requested to provide such professional assistance as the State may require, in addition to those described in the "SCOPE OF SERVICES" and related to the ongoing design work of the Designer of this project, including, but not limited to, site investigations, testing, delegated design services, production of samples or models, and other items needed to complete the design work and prior to the acceptance of a Guaranteed Maximum Price (GMP) ("Additional Related Services"). Such work done by the Contractor shall be approved in writing by the State prior to the start of the work. The State shall make the requests described in this paragraph A.3 through task orders ("Task Orders"), with each Task Order being issued to the Contractor.
- A.4. The Contractor shall be required to maintain the following individuals as staff on this project per their response to the RFP:
- Project Executive: <Name>
Preconstruction Lead: <Name>
Project Manager: <Name>
Superintendent: <Name>

Substitution of the individuals listed above will be permitted only with the prior written approval of STREAM. The Contractor shall provide written justification and background information on each proposed individual,

demonstrating that they have equal or greater experience relative to the project scope. The State reserves the right to require additional information, and, at its sole, reasonable discretion, accept or reject the request.

B. CONTRACT PERIOD:

- B.1. Contract Period. This Master Contract shall be effective for the period commencing on the date of full and complete execution of this Master Contract and shall be effective for the period of time necessary for the Contractor to complete construction of the Project to the satisfaction of the Owner and to fulfill all obligations of the construction services agreement with a guaranteed maximum price (the "Effective Period"). In no event shall the Effective Period extend beyond the final completion and close out of the contract for construction related to SBC Project No. 408/012-01-2022, South Central Regional Health Office (SCRHO) Replacement Facility. The Contractor hereby acknowledges and affirms that the Owner shall have no obligation for services rendered by the Contractor which were not performed within this specified contract period.
- B.2. Term Extension. The Owner reserves the right to extend this Master Contract for an additional period or periods of time. An extension of the term of this Master Contract will be affected through an amendment to the Master Contract. If the extension of the Master Contract necessitates additional funding beyond that which was included in the original Master Contract, the increase in the Owner's maximum liability will also be accomplished through an amendment to the Master Contract.
- B.3. Construction Services Agreement with a Guaranteed Maximum Price. Under no circumstances shall the initial term of the construction services agreement with a guaranteed maximum price, to be negotiated after execution of this Master Contract, extend beyond that set forth in Sections B.1 and B.2 above.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the Owner under this Master Contract exceed **Insert Written Dollar Amount (\$Number Amount)** ("Maximum Liability"), the total of which is the lump sum payment for pre-construction phase services described in Section C.4. and the possible payment or payments available for Additional Related Services described in Section C.5.
- The Maximum Liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Master Contract unless the Contractor performs said work, and in which case, the Contractor shall be paid in accordance with Sections C.4. and C.5. below.
- C.2. Lump Sum Payment for Pre-Construction Phase Services. Payment by the Owner to the Contractor under this Master Contract for pre-construction phase services shall be a lump sum of **Insert Amount in Words** and **No/100ths Dollars (\$Insert Number Amount)** in accordance with the Payment Methodology in Section C.4 below. This amount shall constitute the entire lump sum fee due the Contractor for the pre-construction phase services hereunder regardless of the difficulty, materials or equipment required and does not guarantee payment of any such funds to the Contractor under this Master Contract unless the Contractor performs said work. The Master Contract amount includes, but is not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor for pre-construction phase services. This pre-construction phase services lump sum fee does not include the amounts that are to be covered under the construction services agreement with a guaranteed maximum price, or any Additional Related Services requested by the State.
- C.3. Compensation Firm. The lump sum fee liability of the Owner for pre-construction phase services under this Master Contract is firm for the duration of the Master Contract and is not subject to escalation for any reason unless amended.
- C.4. Payment Methodology (Pre-Construction Phase Services). For payment for the pre-construction phase ("PCP") services described in Section A of this Master Contract, the Contractor shall submit an invoice, in form and substance acceptable to the Owner and with all of the required supporting documentation, if any, prior to any payment. As a guide for invoicing

payments of the PCP services provided by the CM/GC, the following percentages for each phase shall be followed:

Schematic Design Documents	35%
Design Development (“DD”) Phase	35%
Construction Document (“CD”) Phase	20%
Conclusion of Trade Contractor Buy Out	10%

The fee for each phase shall be invoiced and payable upon completion and approval by Owner of each phase of PCP services work unless otherwise agreed to by Owner. Fees for Schematic Design and Design Development Phases may be paid in two approximately equal payments in conjunction with payments to the Designer. See Attachment B for Schedule of Payments.

Progress payments and final payment for the construction phase shall be applied for and paid as provided in the construction services agreement with a guaranteed maximum price.

C.5. Payments Methodology (Additional Related Services). The contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the maximum liability established in the Task Order, Attachment E.

- a. The contractors compensation shall be contingent upon the satisfactory completion of units, milestones, increments of service, or other authorized work, as defined in each Task Order.
- b. The Contractor shall be compensated for said units, milestones, increments of service, or other authorized work based on the following rates:

Service Description	Amount (per compensable increment)
Compensate the Contractor for his employees’ time for services as described in the Task Order	A multiple of 1.15 times the employee’s Direct Personnel Expense not to exceed \$175.00 per hour. “Direct Personnel Expense” means the actual cost of the employee to the company, which may not exceed 139% of the employee’s base salary. Direct Personnel Expense includes the cost of the employee’s base salary and mandatory and customary benefits, such as statutory employee benefits, insurance, sick leave, holidays and vacations, pensions, and similar benefits. See <u>Attachment D</u> – Direct Personnel Expense Calculation Worksheet.
Reimburse the Contractor for the services of third party Contractors for services as described in the Task Order.	A maximum of 1.1 times the amount billed to the Contractor provided such services are competitively bid and approved in writing, in advance, by the Owner.
Compensate the Contractor in a lump sum for services as described in the Task Order, when the above two are not appropriate.	The lump sum quoted and approved in writing, in advance, by the Owner.

C.6. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging over and above the pre-construction services phase lump sum fee under this Master Contract and the guaranteed maximum price for construction under the construction services agreement.

C.7. Invoice Requirements. The Contractor shall invoice the Owner only for completed increments of service and for the amounts stipulated in Section C.3, above, and present said invoices no more often than monthly, with all necessary supporting documentation, to:

Original: Project Coordinator
Department of General Services
Real Estate Asset Management
312 Rosa L. Parks Avenue
W. R. Snodgrass Tennessee Tower, 24th Floor
Nashville, Tennessee 37243

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
- (1) Invoice Number (assigned by the Contractor);
 - (2) Invoice Date;
 - (3) Contract Number SBC Project No. 408/012-01-2022;
 - (4) Customer Account Name: Department of General Services, State of Tennessee Real Estate Asset Management;
 - (5) Customer Account Number (assigned by the Contractor to the above-referenced State Agency);
 - (6) Contractor Name;
 - (7) Contractor Federal Employer Identification, Social Security, or Tennessee Edison Registration ID Number Referenced in Preamble of this Master Contract;
 - (8) Contractor Contact for Invoice Questions (name, phone, and/or fax);
 - (9) Contractor Remittance Address;
 - (10) Description of Delivered Service;
 - (11) Total Amount Due for delivered service (as stipulated in Section C.3. above);
 - (12) Further, the monthly invoices will include the name of each individual, the individual's job title, the number of hours worked during the period, the hourly rate, the total compensation requested for the individual, the total amount due the Contractor for the period involved, each project expenditure to-date, and total expenditures to date and balance of funds remaining in the contract.
- b. The Contractor understands and agrees that an invoice under this Master Contract shall:
- (1) Include only charges for service described in Master Contract Section A and in accordance with payment terms and conditions set forth in Master Contract Section C;
 - (2) Only be submitted for completed service and shall not include any charge for future work;
 - (3) Not include sales tax or shipping charges; and
 - (4) Initiate the timeframe for payment (and any discounts) only when the Owner is in receipt of the invoice, and only if the invoice meets the minimum requirements of this Section C.5.
- Should the state require the submission of invoices through an electronic project management system Contractor shall utilize said system in lieu of that required above. Regardless of whether the Contractor is required to submit invoice pursuant to C.5. above or to submit them through an electronic project management system, invoices shall maintain the same format and structure.
- C.8. Payment of Invoice. A payment by the Owner shall not prejudice the Owner's right to object to or question any payment, invoice, or matter in relation thereto. A payment by the Owner shall not be construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.
- C.9. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the Owner, on the basis of audits conducted in accordance with the terms of the Master Contract, not to constitute proper remuneration for compensable services.
- C.10. Deductions. The Owner reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts, which are or shall become due and payable to the State of Tennessee by the Contractor.

- C.11. Prerequisite Documentation. The Contractor shall not invoice the Owner under this Master Contract until the Owner has received the following properly completed documentation:
- a. The Contractor shall complete, sign, and present to the Owner an "Authorization Agreement for Supplier Direct Deposit Form". By doing so, the Contractor acknowledges and agrees that, once said form is received by the Owner, all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Direct Deposit. This form can be found at <http://www.tn.gov/finance/article/fa-accfin-swa>. Please follow the instructions at the top of the form regarding submission of the form.
 - b. The Contractor shall complete, sign, and present to the State a "Taxpayer Identification Number and Certification Form". The taxpayer identification number detailed by said form must agree with the Contractor's Federal Employer Identification Number or Tennessee Edison Registration ID referenced in this Contract. This form can be found at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>. Please submit this form with the Authorization Agreement for Supplier Direct Deposit Form form as indicated at the top of the form regarding submission of the form.
- D. STANDARD TERMS AND CONDITIONS:
- D.1. Required Approvals. The Owner is not bound by this Master Contract until it is signed by the contract parties and approved by the appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of General Services, the Office of the State Architect, the Comptroller of the Treasury, and the Office of the Attorney General). Approvals shall be evidenced by a signature or electronic approval.
 - D.2. Modification and Amendment. This Master Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of General Services, the Office of the State Architect, the Comptroller of the Treasury, and the Office of the Attorney General).
 - D.3. Termination for Convenience. The Owner may terminate this Master Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the Owner. The Owner shall give the Contractor at least thirty days written notice before the effective termination date. The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the Owner be liable to the Contractor for compensation for any service that has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount. In no event shall the Owner's exercise of its right to terminate this Master Contract for convenience relieve the Contractor of any liability to the Owner for any damages or claims arising under this Master Contract.
 - D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Master Contract in a timely or proper manner, or if the Contractor violates any material terms of this Master Contract ("Breach Condition"), the Owner shall have the right to immediately terminate the Master Contract and withhold payments in excess of fair compensation for completed services. Time is of the essence in this contract. Notwithstanding the above, the Contractor shall not be relieved of liability to the Owner for damages sustained by virtue of any Breach Condition and the Owner may seek other remedies allowed by law or in equity for any breach of this Master Contract.
 - D.5. Assignment and Subcontracting. The Contractor shall not assign this Master Contract or enter into a subcontract for any of the services provided under this Master Contract without obtaining the prior written approval of the Owner. If such subcontracts are approved by the Owner, each shall contain, at a minimum, sections of this Master Contract pertaining to "Conflicts of Interest", "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.

D.6 Conflicts of Interest. The Contractor warrants that no part of the Contractor's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Master Contract.

The Contractor acknowledges, understands, and agrees that this Master Contract shall be null and void if the Contractor is, or within the past six months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six months has been, an employee of the State of Tennessee.

The Contractor acknowledges, understands, and agrees that it and its performance under this Contract are subject to State Building Commission Policy and Procedure 12.02, "Organizational Conflicts of Interest," (the "SBC Conflict Policy"), and that Contractor has read and understands all of the provisions and requirements of same.

D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Master Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post notices of nondiscrimination in conspicuous places, available to all employees and applicants.

D.8. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Master Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Master Contract.

a. The Contractor agrees that it shall not knowingly utilize the services of an illegal immigrant in the performance of this Master Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Master Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the Owner a completed and signed copy of the document at Attachment A, hereto, with each invoice, as described in Section C.3, during the period of this Master Contract. If the Contractor is a party to more than one contract with the Owner, the Contractor may submit one attestation that applies to all contracts with the Owner. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.

b. Prior to the use of any subcontractor in the performance of this Master Contract, and semi-annually thereafter, during the entire Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Master Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Master Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.

c. The Contractor shall maintain records for all personnel used in the performance of this Master Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the Owner.

d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.

e. For purposes of this Master Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person

whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Master Contract.

- D.9. Licensure. The Contractor and its employees and all sub-contractors shall be licensed pursuant to all applicable federal, state, and local laws; ordinances; rules; and regulations and shall upon request provide proof of all licenses.
- D.10. Records. The Contractor shall maintain documentation for all charges under this Master Contract. The books, records, and documents of the Contractor, for work performed or money received under this Master Contract, shall be maintained for a period of five full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State and by the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.11. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Master Contract shall be subject to monitoring and evaluation by the Owner, and by the Comptroller of the Treasury, or their duly appointed representatives.
- D.12. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the Owner as requested.
- D.13. Strict Performance. Failure by any party to this Master Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Master Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Master Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.14. Independent Contractor. The parties hereto, in the performance of this Master Contract, shall not act as employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Master Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- The Contractor, being an independent contractor and not an employee of the State of Tennessee, agrees to provide insurance coverage as required by construction services agreement with a guaranteed maximum price.
- D.15. Limitation of Owner's Liability. The Owner shall have no liability except as specifically provided in this Contract. In no event will the Owner be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Master Contract or otherwise. The Owner's total liability under this Master Contract (including any exhibits, schedules, amendments or other attachments to the Master Contract) or otherwise shall under no circumstances exceed the Maximum Liability of this construction services agreement. This limitation of liability is cumulative and not per incident.
- D.16. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism, epidemics, quarantine restrictions, or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaroud plans, or other means. A strike, lockout, or labor dispute shall not excuse either Party from its obligations under this Master Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Master Contract arising from a Force Majeure

Event is not a default under this Master Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor's representatives, suppliers, subcontractors, customers or business apart from this Master Contract is not a Force Majeure Event under this Master Contract. Contractor will promptly notify the Owner of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the Owner within one day of the inception of the delay), that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. Contractor will not increase its charges under this Master Contract or charge the Owner any fees other than those provided for in this Master Contract as the result of a Force Majeure Event.

- D.17. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Master Contract.
- D.18. Governing Law. This Contract shall be governed by and construed in accordance with the substantive laws of the State of Tennessee, without regard to its conflicts of choice of law rules. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Master Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Master Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 407.
- D.19. Entire Agreement. This Master Contract is complete and contains the entire understanding between the Parties relating to its subject matter, including all the terms and conditions of the Parties' agreement. This Master Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.
- D.20. Severability. If any terms and conditions of this Master Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Master Contract are declared severable.
- D.21. Headings. Section headings of this Master Contract are for reference purposes only and shall not be construed as part of this Master Contract.
- D.22. Boycott of Israel. Pursuant to Tenn. Code Ann. § 12-4-119, Contractor certifies that it is not currently engaged in, and will not for the duration of the Contract, engage in a boycott of Israel, as defined by Tenn. Code Ann. § 12-4-119(a)(1).
- E. SPECIAL TERMS AND CONDITIONS:
- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Master Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Master Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid; by overnight courier service with an asset tracking system; or by e-mail. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address or e-mail address set forth below or to that of such party of address, as may be hereafter specified by written notice.

The Owner:

Deputy Commissioner of General Services or designee
State of Tennessee, Department of General Services
Real Estate Asset Management
312 Rosa L. Parks Avenue, 24th Floor
Nashville, Tennessee 37243

The Contractor:

Contact Name & Title Firm Name

Address

City, State Zip

Email Address

Telephone # Number

FAX # Number

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.3. Document Priority. Should any conflict arise within any of the requirements of these Master Contract documents, the documents shall be interpreted in priority in the following order:
1. Construction services agreement with guaranteed maximum price, upon negotiation of its terms and conditions and execution by both parties, and subsequent amendments, and modifications;
 2. Addenda or amendments to the documents referenced in 3 and 4 below;
 3. This Master Contract and its attachments;
 4. The request for proposal documents, which are incorporated by reference; and,
 5. The proposer's proposal, which is hereby incorporated by reference.
- E.4. Subject to Funds Availability. The Master Contract is subject to the appropriation and availability of State or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the Owner reserves the right to terminate this Master Contract upon written notice to the Contractor. The Owner's exercise of its right to terminate this Master Contract shall not constitute a breach of Master Contract by the Owner. Upon receipt of the written notice, the Contractor shall cease all work associated with the Master Contract. If the Owner terminates this Master Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the Owner and for all satisfactory and authorized services completed as of the termination date. Should the Owner exercise its right to terminate this Master Contract due to unavailability of funds, the Contractor shall have no right to recover from the Owner any actual, general, special, incidental, consequential, or any other damages of any description or amount.
- E.5. Tennessee Consolidated Retirement System. Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, *et seq.*, the law governing the Tennessee Consolidated Retirement System ("TCRS"), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-35-101, *et seq.*, accepts State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Master Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the Owner under this Master Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the Term.
- E.6. Tennessee Department of Revenue Registration. The Contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Master Contract.
- E.7. Patents or Copyrights. The Contractor shall indemnify and hold the Owner harmless from all claims or suits which may be brought against the Owner for infringement of any laws regarding patents or copyrights which may arise from the performance of the Contractor under the Master Contract. In any such action brought against the Owner, the Contractor shall satisfy and indemnify the Owner for the amount of any final judgment, or settlement entered into in good faith by the Owner for infringement.
- E.8. Insurance. The Contractor shall carry adequate liability and other appropriate forms of insurance including without limitation, the coverages set forth in this Section E.8. Such insurance shall provide for policy limits

equal or greater to the amounts set forth herein and shall list the State as additional insured.

A copy of the appropriate policy or a Certificate of Coverage fully listing all limits of liability shall verify all required insurance. Such insurance shall be maintained through the life of the Contract. Renewal policies or certificates of coverage must be forwarded to the State within thirty days upon issuance. Failure to maintain required insurance could be cause for cancellation of the Contract.

- a. Workers Compensation and Employer's Liability:
(without restriction as to whether covered by Workmen's Compensation law):
Workers Compensation: according to statute
Employer's Liability:
Each Accident: \$100,000
Disease – Policy Limit: \$500,000
Disease – Each Employee: \$100,000
- b. Commercial General Liability Insurance:
 - 1. The Contractor shall maintain commercial general liability insurance, which shall be written on an Insurance Services Office, Inc. (also known as ISO) occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises/operations, independent contractors, contractual liability, completed operations/products, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).
 - 2. The Contractor shall maintain bodily injury/property damage with a combined single limit not less than \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage, including products and completed operations coverage with an aggregate limit of at least \$2,000,000.
- c. Business Automobile Liability:

Including owned, hired, and non-owned vehicles; or, if there are no owned vehicles, Contractor may provide written certification of such and provide coverage limited to hired and non-owned vehicles.

Bodily injury and property damage combined single limits:
Each Occurrence: \$1,000,000

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This instrument may be executed in one or more counterparts. It shall be fully executed when each party whose signature is required has signed at least one counterpart, even though no one counterpart contains the signatures of all parties to this instrument. Electronic, scanned, or facsimile signatures shall have the same force and effect as original signatures.

IN WITNESS WHEREOF:

CONTRACTOR LEGAL ENTITY NAME:

Contractor Signatory, Contractor Title

DATE: _____

**STATE OF TENNESSEE,
DEPARTMENT OF GENERAL SERVICES:**

Christi W. Branscom, Commissioner

DATE: _____

OFFICE OF THE STATE ARCHITECT:

Ann McGauran, State Architect

DATE: _____

APPROVED AS TO COMPLIANCE WITH POLICY AND STATUTE:

Jason E. Mumpower, Comptroller of the Treasury

DATE: _____

APPROVED AS TO COMPLIANCE WITH FORM AND LEGALITY:

Jonathan Skrmetti, Attorney General and Reporter

DATE: _____

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	408/012-01-2022
CONTRACTOR LEGAL ENTITY NAME:	
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Master Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Master Contract.

CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.

PRINTED NAME AND TITLE OF SIGNATORY

ATTACHMENT B TO MASTER CONTRACT

BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF GENERAL SERVICES
AND

CONTRACTOR

SBC PROJECT NUMBER 408/012-01-2022

Pre-Construction Services Payment Schedule

Agreed Lump Sum Amount: **Amount of Lump Sum**
Projected Start Date: Full and complete execution of this Master Contract

Lump Sum Fees. Includes pre-construction phase described in Attachment C. Lump Sum Fees are to be paid per the following schedule:

Initial Evaluation of Schematic Design Documents	\$ AMOUNT
Design Development Phase	\$ AMOUNT
Construction Document Phase	\$ AMOUNT
Conclusion of Trade Contractor Buyout Phase	\$ AMOUNT

Pre-Construction Services Lump Sum Fee Total \$ _____

Note: If services are completed early, the Lump Sum balance may be invoiced as a final payment.

STREAM CM/GC PRECONSTRUCTION SCOPE OF SERVICES

1.0 SCOPE OF SERVICES

The Construction Manager/General Contractor ("CM/GC") shall provide Pre-Construction Phase ("PCP") Services and Construction Phase ("CP") Services for the Project described in RFP Section 2.4, Project Narrative and Documentation, including, but not limited to, development of a Guaranteed Maximum Price ("GMP"). Services shall be provided by the personnel designated in the CM/GC's Technical Proposal or by substitute personnel approved in writing by the Owner. Requests for substitute personnel shall include justification for the substitution and qualifications of the substitute personnel in similar form and content as required for the Technical Proposal.

1.1 PRE-CONSTRUCTION PHASE SERVICES

A. Project Information and Procedures

1. The CM/GC shall meet with the Owner, the Designer, and other design team members to review documents and gain a full understanding of the program, the design documents, the Project scope and all other aspects of the Project. The CM/GC is to become a fully integrated member of the project team. The CM/GC shall provide feedback on the presented program including, but not limited to, constructability, cost, and potential risk(s) to the project.
2. The CM/GC, in conjunction with the Designer, shall develop written Project procedures, which will clarify and compliment the Owner's requirements, to be used as a guide for the management and coordination of the Project. The Project procedures shall incorporate the CM/GC's knowledge of external environmental factors that could impact project objectives. These project procedures could include system selection materials selection, site investigation, code, and other regulatory requirements, HPBr, and other Design related decision-making elements.
3. The CM/GC and the Designer shall work together for the mutual benefit of the project. Each shall provide support for the other to the greatest extent allowable under their licensure. The Owner may require a partnership agreement to be signed that describes the obligations of this arrangement.

B. Meetings and Key CM/GC Personnel

1. The CM/GC shall provide the designated key personnel who shall consistently attend and participate in meetings scheduled with the Owner and the Designer throughout the duration of PCP Services. Such meetings shall be as frequent as needed to support Project progress. Participants shall be as designated in the RFP.
2. The CM/GC shall provide a responsibility assignment matrix ("RAM") that designates key personnel and assigned task(s). The submitted RAM should be in the form of a RACI (responsible, accountable, consult, and inform) Chart, which is a key tool in the management process as the project team consists of external and internal resources and clearly designates roles and responsibilities

RACI CHART	Person				
Activity	Brian	Penny	Michael	Peter	Tim
Schedule	R	A	A	A	R
WBS	I	I	A	I	R
Cost Estimate	I	A	A	I	R
Code Review	A	R	I	A	C
Risk Assessment	C	I	R	R	C

3. The CM/GC shall provide the designated PCP Services Project Manager to facilitate such meeting, along with the Designers Lead Representative.

4. The CM/GC, in conjunction with the Designer, shall prepare and distribute an agenda at least two working days in advance of meetings. Said agenda shall at a minimum include design progress, design issues, risk registry review, current schedule, and current cost as relating to budget as required in subsequent sections of this document.
5. The CM/GC shall record and distribute meeting notes to the Owner, Designer, and other attendees within two working days of meeting. At a minimum, said meeting minutes shall include: attendees list, items completed since previous meeting, items expected for subsequent meeting, key action items, next steps and who those are assigned to, and date of next meeting.
6. Project team members who are assigned to the construction/execution phase should be integrated into the CM/GC process as soon as schedules allow. Confirmation of the key personnel's assignment, and setting the team, is necessary to complete identified project activities and is key in the continuity of the approved program.

C. Phase Determination and Deliverables for PCP Services

1. Phase of Work for the PCP Services shall be determined in conjunction with the Design phase services as defined in the SBC-6a Terms and Conditions for Agreement between Owner and Designer. In addition, the buyout phase shall commence upon issuance of the Construction Services Agreement ("CSA"), and shall conclude upon execution of all trade subcontracts.
2. CM/GC deliverables for each phase shall be current iterations of all documents required by paragraphs D through G below.
3. CM/GC deliverables for the Design Development Phase shall include the full GMP package as described in Section I below.
4. CM/GC deliverables for the Construction Document Phase shall include a letter of acknowledgement stating that Construction Documents have been submitted that are suitable for permitting and construction.
5. The CM/GC deliverable for the Buyout Phase shall be a reconciliation of all trade contracts, shall show the balance of the CM/GC's contingency, and shall establish an Owners reserve if applicable.

D. Value Management ("VM") and Risk Assessment

1. The CM/GC shall advise the Owner and Designer on matters relating to site use, improvements, selection of materials, building methods, construction details, building systems (including exploring alternative and non-traditional building systems), and equipment.
2. The CM/GC shall provide recommendations to the Owner and Designer on the items below, submitting recommendations concurrently to the Owner and Designer in writing:
 - a. Construction feasibility actions designed to minimize adverse effects of labor or material shortages;
 - b. Time requirements for procurement, installation, and construction completion; and
 - c. Factors related to construction cost, including estimates of alternative designs or materials, preliminary budgets, and possible economies, which should include conceptual cost estimates based on preliminary designs.
3. The CM/GC shall complete a Value Management Process.
 - a. It shall create a VM Log, which shall include a list of recommendations including pro/con analyses to achieve a balance between initial costs, life cycle operating costs, aesthetics, and function. The VM log shall document the items to be implemented including the details of such items stated in dollars, time, or other appropriate measures.
 - b. It is a requirement of the VM process that the basic functionality of the project not be sacrificed as a consequence of any proposed design revisions. A comparison of the Designer's originally submitted and revised construction documents, along with a revised Work Breakdown Structure ("WBS"), as defined and required by paragraph E.4. below, should be analyzed in the effort to control costs and meet the GMP Target.
 - c. Cost modifications using VM shall occur according to the following levels of intensity:

- i. Basic VM – changes in materials, finishes, etc.;
 - ii. Moderate VM – more intrusive construction method and materials changes and modifications to types of construction without changing the overall floor plan; and
 - iii. Intensive VM – includes floor plan adjustments that don't change the scope, just the amount of space provided; that should be targeted to right sizing spaces where a room was sized just because it fit, modifying circulation paths, and similar adjustments; And that also includes modifying story/height of the building.
 - d. Scope Reduction, defined as elements of the program being reduced or deleted to accommodate the budget, shall only be considered after all efforts associated with subparagraph b above have been exhausted.
 - e. It shall also engage in the VM process utilizing the work packages of the WBS. Each item in the VM log shall be presented with a WBS.
 - f. It shall present each item to the Owner for acceptance, demonstrating that the project remains within the GMP Target. Upon acceptance by the Owner, each item shall be incorporated into the master WBS, the design documents, and the Construction Cost Estimate.
4. Recommend to the Owner and Designer opportunities to phase issuance of drawings and specifications to facilitate phasing or sequencing of demolition, site work, site utilities, and building construction activities of each phase to improve economies, performance time, and responses to construction resource conditions.
 5. The CM/GC shall not be called upon to provide advice on legal issues or to engage in the practice of architecture or engineering. While the CM/GC's scope of services is in its capacity as a CM/GC, not as a design professional, the CM/GC shall participate to the greatest extent possible in the design process, both technically and aesthetically. The CM/GC shall not be responsible for providing architectural or engineering services for the Project.
 6. The CM/GC shall develop and maintain a risk registry through performing a risk management analysis for each aspect of the project. Risk management analysis is an iterative process that must include scope, cost elements, and schedule activities.
 - a. The CM/GC shall determine each risk or opportunity that would impact the project and document its characteristics. The intent shall be to enable the project team to have the knowledge and ability to anticipate the impact of such risks or opportunities.
 - b. The CM/GC's obligations in this paragraph 6, shall be performed through a structured review of project documentation to date that includes comparison to previous documentation and the program.
 - c. The CM/GC shall use documented information gathering techniques in identifying risks or opportunities. Acceptable techniques include Brainstorming, Delphi Technique, Interviewing, SWOT Analysis, and Root Cause Analysis.
- E. Scope of the Work
1. The general scope of the Project has been defined by the Owner through a project program, which contains, in general terms, the Owner's intent for the totality of the Work of the Project.
 2. Scope of Work Document - The CM/GC, in collaboration with the Designer and Owner, shall develop a Scope of Work Document that details elements of design and construction. Development of the Scope of Work Document is an iterative process, and the document shall detail the Work described in the Owner's project program. It will provide a common understanding of the scope among all team members (Owner, Designer, and Contractor), will provide to the project team a structured version of what is to be delivered, and should assist in managing stakeholder expectations. The Scope of Work Document should convey at a minimum:
 - a. Detailed Narrative of Design & Construction Scope of Work;
 - b. Exclusions from Scope of Work;
 - c. Scope of Work broken out in a WBS that details the proposed work elements and their cost,

duration, and interrelations. WBS should be structured to accommodate the development and detail of the WBS throughout the design process;

- d. Any item in the current document that appears to deviate from the understanding and discussion of the design intent; and,
- e. Assumptions and risk.

The Scope of Work Document shall be updated and maintained throughout the design process.

3. Scope Management Plan - The CM/GC, in collaboration with the Designer and Owner, shall develop a Scope Management Plan ("SMP"), that describes how the scope of the work will be defined, developed, monitored, controlled, and verified throughout the project. Development of the SMP, and detailing of the scope, will begin with the development of the Scope of Work Document. The SMP will detail the project's deliverables and the work required to create those deliverables, and should address at a minimum:
 - a. Deliverables,
 - b. Constraints affecting execution of the work,
 - c. Criteria for acceptance of Scope of Work elements,
 - d. Criteria for dealing with unknown Scope of Work elements, and
 - e. Assumption and risk.
4. Work Breakdown Structure – The CM/GC shall prepare a WBS, which is a hierarchical decomposition of the total scope of work to be defined during preconstruction services and anticipated to be carried out in the construction of the work. Each descending level of the WBS represents an increasingly detailed classification of the construction work ultimately culminating in individual planning packages, and the level of detail of which shall be commensurate with the level of detail associated with the current phase of design. The resultant planning packages shall be provided as a part of the GMP. Planning packages will be converted to work packages at project buy out.
 - a. The CM/GC shall create a preliminary summary task list that includes all planned construction activities anticipated on the project.
 - b. Each task shall have a scope of work description that is sufficient in detail to ensure all project team members understand what work is required to be completed.
 - c. During Schematic Design Phase, the CM/GC, in coordination with the design team, shall begin the development of the WBS such that it is detailed into major building elements commensurate with the type of project. The WBS at this level should be influenced by the CM/GC's knowledge of the Program, its experience with similar building types and current market conditions, and by input from the design team.
 - d. During the Design Development Phase, the CM/GC shall begin the decomposition process into planning packages.
 - i. Tasks shall have durations for which the period of that work is performed and shall have resources and costs associated with that work.
 - ii. Tasks shall have attributes that extend the description of the task by identifying the multiple associated components.
 - iii. The purpose of each task is to:
 - a. Identify the associated resources,
 - b. Ensure all deliverables are accounted for,
 - c. Map work to each deliverable, and
 - d. Ensure that no work is omitted, and no extra work is performed.
 - iv. The WBS shall contain the project WBS Dictionary that provides detailed deliverable, task, and scheduling information. The WBS Dictionary is a document that supports the WBS and should include, but not be limited to:
 - a. Description of the Work,
 - b. Assumptions and constraints,
 - c. Responsible organization,

- d. Schedule milestones,
 - e. Associated schedule activities,
 - f. Resources required,
 - g. Cost estimates,
 - h. Quality requirements,
 - i. Acceptance criteria, and
 - j. Technical references.
5. Constructability Review Process – The CM/GC shall review the design documents and the WBS for opportunities to enhance constructability, including proposals for alternate construction means, methods, and materials. During this process, the project team will systematically identify available efficiencies utilizing the collective knowledge and experience of the Owner, Designer, consultants, and contractors. The CM/GC shall maintain a constructability log recording constructability issues and their resolution. For each item identified, the CM/GC shall also provide the following:
- a. Description with supporting information.
 - b. Listing of associated work elements,
 - c. Cost impacts,
 - d. Risks,
 - e. Detailed recommendation, and
 - f. Project team resolution.

F. Construction Cost Estimate

1. All construction cost estimating prior to establishment of the GMP shall be done conceptually until sufficient detail is available and shall include all items shown, proposed, discussed, and reasonably anticipated within the scope of the work for a complete project. No allowance will be given for the cost of additional items that should have been assumed but were not included. Additionally, all estimates shall be within the GMP Target and eventual GMP, with only a refining of the details of the estimate allowed.
2. Within 30 days from the establishment of the WBS, the CM/GC shall develop and communicate in writing to the Designer and Owner for review an initial construction cost estimate that shall be independent from the Designer’s cost estimate (“Designer’s Estimate”). The construction cost estimate shall be kept up to date at all times until it is proposed and accepted as the GMP.
3. The construction cost estimate shall detail the amount for the eventual GMP with sufficient supporting information to communicate each cost activity within each work package that was developed as part of the WBS, and shall further detail the significant contributing costs within each work package to a level of detail appropriate with the level of design. The cost estimate shall be aggregated by work packages in accordance with the WBS, shall provide a clear and concise understanding of how the cost estimate was derived, and shall address at a minimum:
 - a. Basis of estimate,
 - b. assumptions,
 - c. known risks and constraints,
 - d. range of values, and
 - e. confidence levels.
4. The construction cost estimate will be reviewed by the Designer, Contractor, and Owner for reasonableness and compatibility with the GMP Target at each meeting. The Owner, Designer, and CM/GC shall work together to identify and resolve any differences between the Designer’s Estimate and the CM/GC’s construction cost estimate by reviewing the WBS for any scope variances or alterations that exist.

5. In the event the construction cost estimate exceeds the GMP Target, the Owner, Designer, and CM/GC will work to reconcile the overage. If in the review of the WBS and associated costs the scope is determined to be valid and in accordance with the proposed project program, the Owner may elect to either revise the Project Scope or increase the budget.
 - a. In the event the Owner elects to increase the budget, where no change in scope has occurred, the fee for the work may be converted to a lump sum calculated as the Owners original GMP Target multiplied by the percentage fee proposed in the RFP response.
 - b. In the event a redesign is directed by the Owner, the CM/GC will continue to provide its PCP Services as described herein, in conjunction with the Designer's redesign of the Project as necessary to move the Project program back within the GMP Target; in which case, the CM/GC shall do so without additional compensation. The redesign process shall proceed in the same manner as described above until the project is within the GMP Target

G. Schedule

1. Two types of schedules are required of the CM/GC in the pre-construction phase as described in the following sections:
 - a. Pre-Construction Phase Schedule, and
 - b. Preliminary Construction Schedule.
2. General Schedule Information
 - a. The CM/GC shall prepare, maintain, and communicate the schedules in writing in appropriate detail to enable determination of critical paths and enable Project decision-making throughout the duration of the Project.
 - b. Schedules shall be developed on industry standard software with proven compatibility and ability to maintain baseline schedule and each iteration of the schedule.
 - c. Schedules shall be made readily available to all members of the Project Team during the pre-construction phase.
3. Pre-Construction Phase Schedule
 - a. Meet with the Designer and Owner to develop a Pre-Construction Phase Schedule ("PCPS"), detailing the services and activities of the Designer, CM/GC, and Owner required during the pre-construction phase.
 - b. Within one week of the PCPS development meeting, the CM/GC shall submit an initial version of the PCPS to the Project Team for review and acceptance.
 - c. The CM/GC shall monitor and manage the PCPS throughout the duration of the pre-construction phase.
 - d. Adjustments to the schedule are to be mutually agreed upon by the Project Team with the goal of maintaining the original completion date.
 - e. The CM/GC shall keep the initial PCPS and subsequent versions up to date throughout the duration of the pre-construction phase.
4. Projected Construction Schedule
 - a. In coordination with the development of the Construction Cost Estimate, the CM/GC shall develop a Projected Construction Schedule ("PCS"), for submission to the Designer and Owner for review.
 - b. Schedule components shall include:
 - I. Defined construction activities previously established in the WBS, including sequences and durations to document the specific actions to be performed;
 - II. Milestones (zero duration) along the project timeline to assess deadlines, key dates, and potential bottlenecks within the defined construction activities;
 - III. Occupancy dates meeting the Owner's requirements and showing portions of the Project having occupancy priority, if applicable;
 - IV. A proposed date of Substantial Completion that is agreed upon by the Designer and Owner; and

- V. An analysis of activity sequences, durations, resource requirements, and constraints developed using the Critical Path Method.
- c. The PCS shall be developed such that the final version, at establishment of the GMP, will be the Baseline Construction Schedule.

H. Subcontractor Participating in Pre-Construction Phase

1. Use of Subcontractors in Non-Compensated Capacity
 - a. The CM/GC is permitted to use subcontractors in a non-compensated consulting capacity to assist in scope, schedule, and budget management.
 - b. The use of a subcontractor in a non-compensated consulting capacity shall in no way bind the Owner, Designer, or CM/GC to utilize their recommendations during the Pre-Construction Phase.
 - c. The use of a subcontractor in a non-compensated consulting capacity shall in no way bind the Owner, Designer, or CM/GC to utilize their services during the construction phase and shall not predispose or prejudice the CM/GC toward their selection.
 - d. Should such subcontractors desire to provide a subtrade bid to the CM/GC during the construction phase, they shall be required to follow procurement procedures required of all bidders.
2. Use of Subcontractors in Compensated Capacity
 - a. The CM/GC is permitted to use subcontractors in a compensated consulting capacity to assist in scope, scheduled, and budget management.
 - b. The use of a subcontractor in a compensated consulting capacity shall preclude that subcontractor from further participation in bidding or construction.
 - c. Such subcontractors shall be compensated by the CM/GC out of their Pre-Construction Services Fee, with no provision for additional compensation from the Owner.
3. Use of Subcontractors in a CM/GC Capacity
 - a. The CM/GC may request approval of the Owner to procure selected subcontractors in a subcontractor construction management ("S/CM") arrangement.
 - b. S/CM procurement shall generally follow State procurement procedures normally utilized to procure a CM/GC.
 - i. S/CM responses shall include both qualifications and cost components.
 - ii. Costs shall be provided in a separately sealed and labeled package and make up at least 30% of overall scoring.
 - iii. The CM/GC shall include in the solicitation for a S/CM an anticipated cost of the work being solicited and an anticipated duration for such work.
 - iv. The S/CM[s] shall be required to include labor rates for construction phase services which will also be evaluated as a part of the solicitation.
 - v. The cost proposal[s] shall include at a minimum S/CM PCP SERVICES lump sum fee, S/CM construction services fee, S/CM monthly General Conditions, S/CM lump sum general condition, and S/CM bond rate.
 - vi. The S/CM's participation in PCP SERVICES will not guarantee its continued participation in Construction Phase Services.
 - c. S/CM shall be compensated for PCP SERVICES by the CM/GC out of their Pre-Construction Services Fee, with no provision for additional compensation from the Owner.

I. Guaranteed Maximum Price for Construction

1. The Guaranteed Maximum Price ("GMP") shall be an all-inclusive cost based on the Scope of Work Document as required by Section E above. The GMP shall not include costs for any assumptions which have not been accepted by the Project Team. Costs shall be summarized on the form as provided by the Owner. The GMP shall not exceed the GMP target as established by the Owner.
2. GMP establishment shall be reflected in the PCP SERVICES schedule and no later than 45 calendar days after acceptance of the DD Phase design documents by the Owner. Notice to proceed to the CD Phase will not occur until the DD Phase design documents and GMP have been accepted by the Owner.
3. By the nature of the CM/GC delivery method, the CM/GC agrees and accepts greater responsibility for coordination and understanding of the design intent than is normally required in a hard bid delivery method. As such, the GMP shall contain all elements necessary to deliver the Work. This obligation is in addition to the diligence required by STREAM General Conditions of the Contract for Construction 00 72 13.
4. The GMP shall be solely based on the estimating of the CM/GC as a natural outgrowth of estimating done to date and shall not be a new estimating exercise. The CM/GC may utilize trade subcontractor or supplier pricing in the development of its estimate; however, no solicitation of cost information shall bind the Owner or the CM/GC as if bidding had occurred. Furthermore, the CM/GC shall not enter into binding contracts with trade subcontractors or suppliers for construction work until after the Construction Services Agreement ("CSA") for a GMP is negotiated and executed.
5. The CM/GC shall submit to the Owner a GMP in a format to be provided by the Owner. The GMP shall include all construction related costs as follows:
 - a. Lump Sum General Conditions from RFP Attachment 6.3, escalated as applicable;
 - b. Monthly General Conditions from RFP Attachment 6.3, escalated as applicable;
 - c. General Requirements as proposed by the CM/GC, not to exceed 3% of the GMP Target. General Requirements shall include all work performed directly by the CM/GC for the benefit of the Work, including self-performed trade work or shared direct costs associated with the work of trade subcontractors. Examples may include scaffolding, lifts, and material and personnel hoists;
 - d. Trade Costs within the GMP shall be presented in the previously established WBS planning packages. The owner reserves the right to allow the CM/GC to include allowances. Should allowances be included as a trade cost line item, any remaining value shall not be available to the CM/GC to offset overages associated with other trade cost line items. The unused balance of any allowance shall be committed to an Owner's reserve fund within the construction contract;
 - e. CM/GC Contingency, as defined in I.7. below;
 - f. Construction Services Fixed Fee as calculated based on the percentage provided in RFP Attachment 6.3;
 - g. P&P Bond as calculated based on the rate provided in RFP Attachment 6.3
 - h. Subcontractor default insurance as calculated based on the rate provided in RFP Attachment 6.3; and
 - i. CCIP as calculated based on the rate provided in RFP Attachment 6.3.
6. In the event the GMP exceeds the GMP target, the Design Development Phase shall not be considered complete. The CM/GC shall continue to provide pre-construction phase services in conjunction with the Designer until the GMP is within the GMP Target.
7. The CM/GC shall perform the work set forth in this paragraph I. above without additional compensation over and above the lump sum pre-construction fee provided in the PCP Services contract.
8. CM/GC-GMP Contingency

- a. The GMP shall include a construction contingency (“CM/GC-GMP Contingency”), in an amount approved by the Owner, not to exceed 3% of the trade costs, to help reduce the risks assumed by the CM/GC in providing the GMP for the Project. The Owner retains the right to specifically request a revision to the amount of the contingency prior to the Owner’s acceptance of the GMP. The Owner and the CM/GC acknowledge that the contingency is included to adjust the estimate for eventualities which have not been taken into precise account in the establishment of the GMP, including, but not limited to, those resulting from:
 - i. Incomplete items, unclear items, unrefined design, or undefined standards of quality, that were not present in or reasonably inferable from, the DD documents;
 - ii. Scope gaps between trade contractors;
 - iii. Unforeseen field conditions, circumstances, occurrences, or errors and omissions in the contract documents which would not have been reasonably detected or anticipated during the execution of the CM/GC’s pre-construction duties; and/or
 - iv. A net overage in all executed trade cost subcontracts, excluding those trade costs derived from allowances.
- b. The CM/GC shall provide written justification and relevant substantiating estimate with back-up as verification that the CM/GC-GMP Contingency funds are being used accurately and correctly. Any use of the CM/GC-GMP Contingency funds requires mutual agreement by the CM/GC and Owner through the execution of a Field Order by the Owner. The CM/GC shall document the change on its copy of the construction documents that will be used as a part of the record documents. The use of the contingency funds shall not be unreasonably withheld; however, the Owner reserves the right to reject the use of funds when they are inadequately justified or inaccurate.
- c. The amount of the CM/GC-GMP Contingency is the maximum sum available to the CM/GC to cover costs incurred as a result of such unanticipated causes or details. Cost overruns in excess of the amount of the CM/GC-GMP Contingency will be borne by the CM/GC, unless the GMP is adjusted pursuant to the terms of the CSA executed by the CM/GC and the Owner. If all of the funds in the CM/GC-GMP Contingency are expended, or, in the event the cost of the work exceeds the GMP and any adjustments as may be due under the terms of the CSA, the CM/GC shall continue to perform all of its obligations at no additional cost to the Owner until the work is complete. The CM/GC shall be responsible for paying all costs, in accordance with the terms of the CSA that may be necessary to complete the work, even if such costs are in excess of the GMP.
- d. The CM/GC-GMP Contingency is not available and shall not be used for the costs of CM/GC activities including, but not limited to, the following:
 - i. Correction and/or completion of work that is not depicted in the contract documents, but which is common industry practice in similar situations or uses;
 - ii. Correction of deficient or defective work that is not depicted in the contract documents that enables work to comply with all applicable statutes, codes, and ordinances;
 - iii. To supplement the CM/GC’s own office or field staff, beyond the levels or commitment originally agreed to, without prior written consent of the Owner;
 - iv. To reimburse CM/GC for errors or omissions in subcontractor or supplier take offs or bids;
 - v. To reimburse CM/GC for insurance deductibles or any costs that are recovered by the CM/GC from insurance;
 - vi. To reimburse CM/GC for any costs that are recovered by the CM/GC from sub-contractors, suppliers, or any other source;
 - vii. Payment of liquidated damages, reimbursement of additional consultant services due to deficient or delayed work, or similar back charges or damages from the Owner caused by the CM/GC; or



- viii. Any other use that is for the sole use, benefit, or convenience of the CM/GC and would not create any additional benefit to the Owner or the Work beyond the benefit conveyed prior to the execution of the CSA by the CM/GC and the Owner.
- J. Acceptance of the GMP and Proceeding with the CSA
1. Upon acceptance by the Owner of a GMP, the Owner and the CM/GC shall execute the CSA which shall include the approved GMP.
 2. All required bonds and insurance shall be provided in accordance with the terms of the CSA, and shall be furnished upon CM/GC signature of the CSA.
 3. All costs associated with the GMP are subject to audit at Owner's discretion. The CM/GC shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under the CSA. The Owner and the Owner's accountants or other representatives shall be afforded access to the CM/GC's records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda, and other data relating to this Project, and the CM/GC shall preserve these for a period of five years after final payment, or for such longer period as may be required by statute. Any such audit shall be performed in accordance with Generally Accepted Government Auditing Standards (GAGAS). Copies of such audits shall be provided to the Tennessee Comptroller of the Treasury, the Department of Finance and Administration, and shall be made available to the public.
- K. Non-Acceptance of the GMP and Termination
1. The Owner, at its sole discretion, may decline to proceed with a CSA based on the CM/GC's GMP for the Project, and thereupon, without penalty, the contract services for the Project shall terminate at the end of the pre-construction phase.
 2. In any event, such termination shall likewise terminate all further services and obligations of the CM/GC for the Project. The CM/GC shall accept the lump sum contract amount for PCP Services as full and complete reimbursement of all costs and services performed by the CM/GC for PCP Services, and shall not be entitled to any further amount for such services. Thereafter, the Owner shall have the right to continue its activities to place the Project under construction with no obligation or restriction regarding the CM/GC and with full ownership and use of any data and information developed during PCP Services.
 3. Notwithstanding the forgoing to the contrary, in the event that a CSA has been previously executed for a portion of the work, and the owner declines to proceed with any proposed amendments to the CSA, the CM/GC shall be required to continue and complete the scope of work under the previously executed CSA or any amendments thereto.
 4. Termination under this Section is in addition to the termination provisions set forth elsewhere in the Contract, including, but not limited to, the conditions of the Contract included in the CSA.
- L. Support Ongoing Project Design Activities
1. Upon acceptance of a GMP for all or a portion of the Work, and despite the execution of any CSA, the CM/GC shall continue to perform PCP Services without additional compensation as required to support ongoing design activities including:
 - a. Completion of Construction Documents;
 - b. Design to implement phased construction activities or amendments to the CSA;
 - c. Design activities related to administration of allowances within the CSA; or
 - d. Design activities related to coordination of activities requiring delegated design.
 2. Modifications to the CSA by change order or directive during the execution of the Work of the CSA shall have PCP Services but shall be compensated according to the terms and conditions of the CSA.

M. Ownership of Documents

All data, information, material, and all copies thereof, developed by the CM/GC or in the CM/GC's possession or control, relating to the Project are the property of the Owner and shall be turned over to the Owner within fourteen calendar days after the Owner's request. However, the CM/GC may keep its own counterparts of executed agreements and one duplicate of its other data and documents for its own records but not for reuse.

N. Providing of Additional Related Services

The Contractor may be requested to provide Additional Related Services to support ongoing design activities of the Designer. Services that may be requested include:

1. Site Investigations – Intensive or destructive investigations where the Designer cannot investigate on their own by conventional means of readily observable circumstances.
2. Testing – Third party testing to determine the composition of existing materials such as hazardous or geotechnical studies.
3. Delegated Design – Design of components of the Work that cannot be performed by the Designer due to their unique or proprietary nature and the design work must be completed prior to the execution of the CSA.
4. Production of Samples or Models – Construction of samples or models for approval of the Designer and/or State to approve and set standards for quality, finishes, layouts, or other criteria that are required to determine a GMP.
5. Other Related Services – other similar services that are normally performed under the oversight of a contractor and must be accomplished prior to the execution of the CSA.

When these services are requested to be performed, the Contractor shall provide quotes for work to be self-per-formed and/or bids for work to be performed others. Work shall be authorized through the issuance of Task Orders that will be compensated in addition to the pre-construction phase services fee.

1.2 CONSTRUCTION PHASE (CP) SERVICES

The CM/GC services shall consist of providing CP Services as required by the Contract Documents including, but not limited to, the CSA's General Conditions of the Contract for Construction, current version at the time of the acceptance of the GMP, and all additional documents enumerated in Article 1 of the CSA to affect the complete construction of the Project and to maintain the established GMP and Contract Time of the Project. The CM/GC shall continue to perform PCP Services as described in this contract during construction as required relative to the work and changes being performed.

During the performance of the CSA, the CM/GC may self-perform Project work to assist with the coordination of subcontracts and minor Project facilitation. The CM/GC shall not perform trade contract work. The maximum percent of the GMP that the CM/GC can self-perform shall be three percent.

TASK ORDER FOR CONSULTING SERVICES

«Date»

«Contact_First_Name» «Contact_Last_Name»

«Consultant_Firm»

«Address_Line_1»

«City», «State» «ZIP_Code»

RE: **SBC Project No. «SBC_»-«Vendor_»**
Task Authorization # «Vendor_»-«Task_Auth_»
Funding Source: Programming Funds - DGS Op
«Project_Title»
«Project_Location»
«Project_City», «Project_County» County, Tennessee

Dear Mr. «Contact_Last_Name»,

Please consider this Task Authorization as your notice to proceed with the work set forth in the Cost Proposal (the "Authorized Work"), which has been attached hereto and shall be considered a part of this Task Authorization. This Task Authorization is issued pursuant to the terms of Professional Services Contract SBC Project No. «SBC_»-«Vendor_». If not specifically specified in the Cost Proposal, you are hereby authorized to make site visits and perform any other services necessary or desirable to allow you to complete the Authorized Work.

The approved budget for the Authorized Work is «Amount_in_Words»/100ths Dollars (\$«Amount_in_Numbers»). This is a "Not to Exceed" budget and includes amounts for all reimbursable expenses (as defined in the ***Consulting Services Master Contract***) that may be payable in connection with the completion of the Authorized Work. No amounts will be paid by the State in connection with the Authorized Work unless such sums have been previously approved in writing by the State. Services requested under this Task Authorization shall be complete by no later than «Number_of_Days_Words» («Number_of_Days_Numbers») calendar days from the date of commencement, subject to authorized adjustments as stipulated in the TASK AUTHORIZATION.

Please reference the SBC Project No. «SBC_»-«Vendor_», the **Task Authorization Number** and the **Project Location and Description** on all correspondence and invoicing related to this Task Authorization. Electronic, scanned or facsimile signatures shall have the same force and effect as original signatures.

APPROVED:

STATE OF TENNESSEE
DEPARTMENT OF GENERAL SERVICES

**Executive Director of
Capital Projects**

Development Manager

STATE OF TENNESSEE

Real Estate Asset Management

Construction Services Agreement Between Owner and Construction Manager / General Contractor

where the Basis of Payment is a
GUARANTEED MAXIMUM PRICE

Use only with the coordinated documents identified in the current
Designers' Manual
for projects of the State Building Commission of Tennessee

AGREEMENT

made as of the _____ day of _____ in the year of Two Thousand Twenty-Three

BETWEEN the Owner: STATE OF TENNESSEE, General Services

and the Contractor:

the Project: **South Central Regional Health Office (SCRHO)
Replacement Facility
Columbia, Maury County, Tennessee
SBC Project No. 408/012-01-2022**

the Designer: **TMPartners, LLC
211 Franklin Road, Suite 200
Brentwood, Tennessee 37027
Richard J. McNeil, Jr.**

The Owner and the CM / GC agree as set forth below.

005223-1

ARTICLE 1
THE WORK AND THE CONTRACT DOCUMENTS

- 1.1** The Construction Manager / General Contractor shall perform all the Work required by the Contract Documents for the Project identified on page one.
- 1.2** The Contract Documents include the Master Contract and the Individual Contract elements of the Contract Documents identified below in Paragraph 1.4. These form the Contract and together constitute the entire agreement between the Owner and the Contractor, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. An enumeration of the Contract Documents appears in Paragraph 1.4.
- 1.3** Terms used in this Agreement which are defined in the Conditions of the Contract shall have the meanings designated in those Conditions.
- 1.4** The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

The Construction Manager / General Contractor (CM/GC) Master Contract
Dated _____ between the State of Tennessee, Department of General Services and for the project titled:

South Central Regional Health Office (SCRHO)
Replacement Facility
Columbia, Maury County, Tennessee
SBC Project No. 408/012-01-2022

This Agreement

Conditions of the Contract:

Terms and conditions of the CSA shall be STREAM section 00 72 13, AIA Document A201-2017 General Conditions of the Contract for Construction as modified, current edition as of the date of acceptance of the GMP, and other related specifications sections and Supplemental General Conditions as determined during the design phases.

Specifications

Drawings, dated _____, as identified in the Project Manual

The portions of the following addenda as pertain to the documents listed above:

Standard Bidding and Construction Documents, as applicable to the CM/GC's Work that are included in the Owner's Designers' Manual:

00 38 60.....Disqualified Contractors and Subcontractors
00 45 21.....Drug Free Workplace Affidavit
00 52 23.....Construction Services Agreement Between Owner and CM / GC
00 54 00.....Supplier Direct Deposit Authorization Form
00 54 00.....Request for Taxpayer Identification Number and Certification W-9 Form
00 54 43.....Retainage Escrow Initiation
00 61 13.....Contract Bond
00 61 43..... Three Year Roof Bond
00 65 01.....Non-Use of Asbestos Containing Affidavit
00 72 13.....AIA A201-2017 General Conditions of the Contract for Construction
00 73 15.....Supplementary Conditions for use with Construction Manager/General Contractor
01 21 13.....Allowances
01 22 19.....Unit Prices
01 26 00.....Contract Modification Procedures
01 26 10 CM / GC – GMP Contingency and Owner Reserve Procedures
01 26 20.....Weather Delays
01 26 39 Form For Field Order
01 26 40.....Form for Amendment, Change Order or Directive
01 26 54.....Form for Price Summary
01 26 55.....Form for Price of Work
01 26 55.....Form for Price of Time
01 29 73.....Schedule of Values
01 29 76.....Payment Procedures
01 29 76.13...Attestation of Personnel Used in Contract Performance
01 31 13.91...Commissioning Coordination
01 31 19.....Project Meetings
01 31 90.....Administrative Logs
01 32 15 Progress Schedules and Reports
01 33 91.....Commissioning Submittals
01 41 15.....Regulatory Requirements
01 43 25.....Testing Laboratory Services
01 52 25 Owner's Field Offices
01 62 25.....Product Options and Substitutions
01 62 32.....Substitution Request Form
01 77 70.....Closeout Procedures
01 77 70.91...Contract Commissioning Closeout
01 78 26.....Roof Data Form
01 78 36.....Total Roofing System Warranty
01 78 39.....Total Metal Roofing System Warranty
01 78 88.....Report of Subcontractors and Suppliers
01 79 00.....Demonstration and Training
01 81 14.....High Performance Building Requirements

The Owner's Designers Manual can be accessed at

[Designers' Manual 2020 \(tn.gov\)](http://www.tn.gov/designers-manual-2020)

or a hard copy can be requested through the Owner.

ARTICLE 2
TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

2.1 The Work to be performed under this Contract shall be commenced on the date stipulated in the Notice to Proceed; and, subject to authorized adjustments, Substantial Completion shall be achieved for the work and each Phase thereof in accordance with the number of calendar days Contract Time allotted each, from and including the Commencement of each, wholly and severally for the Work of each Phase.

_____ **Calendar Days From the Notice to Proceed for the Work.**

2.2 Liquidated Damages, as set forth in paragraph 9.12 of the General Conditions, are _____ **Per Calendar Day**

ARTICLE 3
CONTRACT SUM

3.1 The Owner shall pay the Contractor in current funds for the performance of the Work, subject to additions and deductions by Change Order as provided in the Contract Documents, an amount not to exceed the Guaranteed Maximum Price, also referred to as the "Contract Sum", of

3.2 The Guaranteed Maximum Price (GMP) is determined as follows:

Trade Contracts:	\$
General Conditions Budget:	\$
CM / GC Contingency:	\$
CM / GC Construction Services Fixed Fee:	\$
Project Related Cost	\$

Guarantee Maximum Price:	\$

3.3 Unit Prices will be used as specified.

This instrument may be executed in one or more counterparts. It shall be fully executed when each party whose signature is required has signed at least one counterpart, even though no one counterpart contains the signatures of all the parties to this instrument. Electronic, scanned or facsimile signatures shall have the same force and effect as original signatures. This Agreement entered into as of the day and year first written above as witnessed:

**BY CONSTRUCTION MANAGER /
GENERAL CONTRACTOR:**

Signature: _____

Name: _____

Title: _____

**AND BY OWNER: STATE OF TENNESSEE
Department of General Services**

APPROVED: _____ **Date:** _____

Christi W. Branscom, Commissioner
Department of General Services

APPROVED: _____ **Date:** _____

Ann McGauran, State Architect

APPROVED: _____ **Date:** _____

Jason E. Mumpower, Comptroller of the Treasury
for compliance with policy and statute

APPROVED: _____ **Date:** _____

Jonathan Skrmetti, Attorney General
for form and legality

END of AGREEMENT FORM for the Project titled:

South Central Regional Health Office (SCRHO)
Replacement Facility
Columbia, Maury County, Tennessee
SBC Project No. 408/012-01-2022

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