



Standard Form of Agreement between Owner and Designer

This AGREEMENT is made this _____ day of _____ in the year _____

between the Owner: **State of Tennessee**
State Procurement Agency – GS / TBR / UT

and the Designer: **Designer Name**
Address
City State Zip

for the Project: **Project Name**
Project Location
SBC No.

The Owner and The Designer agree as follows:

Article 1 – Project Terms:

1.1 This Agreement sets forth the duties and responsibilities of the Owner and the Designer with respect to the Project. Designer shall provide the services for the Project in accordance with this Agreement.

1.1.1 The scope of the Project is as follows:

See completed “Scope Attachment” attached hereto. Or provide the scope information in this paragraph. This information should include the necessary information set forth in the designer solicitation - the “basic services” scope of the project and any additional services known at the time this Agreement is executed. Also, include details about the Project’s site, program, Owner’s consultants, Owner’s anticipated procurement method, and other information relevant to the Project or the SPA (campus requirements, etc.)

List other attachments if they apply:

The scope may be adjusted by the Owner and the Designer by Supplemental Agreement.

1.1.2 These documents are incorporated herein by reference as if set forth in full: the SBC 6a – Terms and Conditions for Agreement between Owner and Designer - dated **xx/xx/xxxx** (“Terms and Conditions”), the current requirements of the Owner’s Designers’ Manual (“Designers’ Manual”) including the State High Performance Building Requirements (“HPBr”). The Designer shall provide administration of the Construction Contract with the contractor. **To the extent there is any conflict among this Agreement and the documents incorporated into this Agreement, the documents shall be afforded the following precedence: this Agreement including the Scope Attachment and the Designer Fee Computation Attachment, the Terms and Conditions, the Designers’ Manual and then the Construction Contract.**

List other referenced documents if they apply and modify order of precedence:

1.2 This Agreement represents the entire and integrated agreement between the Owner and the Designer and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended and supplemented only by written instrument signed by the parties to this Agreement and approved by all applicable State officials.

1.3 **Designer’s Principal** and License No. for the Project are: *This should be the person, named in the solicitation response:*

Charlie Architect

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1.4 Designer's Consultants

1.4.1 For the purposes of providing Basic Services, Designer's consultants are:

The consultants required for Basic Services may be listed here or may be identified in a "Consultants Attachment".

Service	Firm	Principal	TN License No.
Architectural			
Structural			
Mechanical			
Electrical			
Civil			
Landscape			

1.4.2 If there are no additional consultants known at the time of executing this Agreement, delete the entirety of 1.4.2

If the Project has consultants known at the time of executing this Agreement who will have fees paid as additional services, insert the following:

Additional consultants of the Designer on the Project who are potentially providing services that are outside of Basic Services are:

If the Basic Services Fee has been adjusted to compensate for additional consultants, insert the following:

The additional consultants of the Designer providing services included in the modified Basic Services Fee are:

Service	Firm	Principal	License No.

1.5 For the Designer's Basic Services, the Designer agrees to perform the work of the phases that are checked within the durations identified for each Phase. The Designer shall proceed with the work of the initial phase based on receipt of a fully executed copy of this Agreement and a notice to proceed. The Designer shall proceed with each following phase upon receipt of written approval to proceed.

Included	Phase	Duration in Days
<input type="checkbox"/>	Phase 1 – Program Verification Phase:	30
<input type="checkbox"/>	Phase 2 – Schematic Design Phase:	30
<input type="checkbox"/>	Phase 3 – Design Development Phase:	30
<input type="checkbox"/>	Phase 4 – Contract Document Phase:	30
<input type="checkbox"/>	Phase 5 – Bidding or Negotiation Phase:	In accordance with Owner's schedule and the construction schedule
<input type="checkbox"/>	Phase 6 – Construction Phase:	In accordance with Owner's schedule and the construction schedule
<input type="checkbox"/>	Phase 7- Close-Out Phase:	30 days after final completion of construction

The Phases and durations may be adjusted by the Owner and the Designer by Supplemental Agreement.

1.5.1 Special requirements concerning the Phases or Durations: *Opportunity to add special provisions related to the work or durations to be included in the contract – i.e. on small projects the Owner may want to combine Program, Schematics and possibly Design Development as a single phase. If no additional requirements, this paragraph would be omitted.*

Article 2 – Compensation:

- 2.1 Designer shall be entitled to receive compensation in accordance with the Terms and Conditions and the matters set forth in this Article 2. For purposes of setting the compensation due to the Designer for the Basic Services, the Project Maximum Allowable Construction Cost (bid target plus contingency but not including professional fees or other line items in the Project budget) (“MACC”) is:

One Million and No/100 Dollars \$1,000,000.00

The MACC may be adjusted by the Owner and the Designer by Supplemental Agreement.

- 2.2 The Owner shall compensate the Designer for Basic Services (the “Basic Services Fee”) in accordance with the invoicing and payment process set forth in the Terms and Conditions and as follows:

☐ A lump sum of:

or

☐ Hourly as a multiple of Direct Personnel Expense with a maximum fee not to exceed:

One Hundred Thousand and No/100 Dollars \$100,000.00

The Basic Services Fee is further defined in the attached **Designer Fee Computation Attachment** dated **January 1, 2015**.

- 2.3 Designer’s compensation for Basic Services, when the Basic Services Fee is based on a multiple of Direct Personnel Expense, and for Additional Services is determined as follows:

- 2.3.1 Time for all individuals providing services under this Agreement shall be billed at the individual’s typical or standard rate, in dollars per hour, calculated as set forth below and not to exceed two hundred seventy-five and no/100 dollars (\$275.00) per hour.

.1 The typical or standard hourly rate for any employees (not principals or owners) of Designer and its consultants shall not exceed a multiple of two and forty-five one hundredths (2.45) times the individual’s Direct Personnel Expense (as defined in the Terms and Conditions).

.2 The typical or standard hourly rate for any principals and owners of Designer and its consultants shall not exceed the greater of (A) a multiple of two and forty-five one hundredths (2.45) times the individual’s Direct Personnel Expense or (B) the average of the highest typical or standard hourly rate charged by an employee under the employ of said principal or owner for services provided under this contract and the maximum hourly rate permissible pursuant to Section 2.3.1 above.

- 2.3.2 Invoices to the Designer from consultants providing services at an hourly rate for the Project authorized by this Agreement shall be paid to the Designer with a fee, where the total payment does not to exceed one and twenty one hundredths (1.20) times the amount invoiced to the Designer, so long as such invoices were calculated in accordance with section 2.3.1 above.

- 2.4 Designer shall be paid for Reimbursable Expenses (as defined in the Terms and Conditions) at the actual cost to the Designer with no mark-up.

- 2.5 Invoices to the Designer from entities providing surveys, reports, tests, and geotechnical or engineering data shall be paid to the Designer with a fee, where the total payment does not to exceed one and twenty one hundredths (1.20) times the amount invoiced to the Designer. Should the Designer be the entity providing the surveys, reports, tests, and geotechnical or engineering data, the invoiced amount shall be paid with no additional fee.

Article 3 – Insurance:

- 3.1 Designer shall maintain insurance coverage with the limits set forth below. Designer’s certificates of insurance, in a form acceptable to Owner, shall be provided to the Owner before the date of this Agreement and thereafter upon written request. The Designer’s insurance coverage shall be from the date of this Agreement until four (4) years after the date of Substantial Completion of the Project.

Designer may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required below, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. To the fullest extent permitted by law, Designer shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability

to include the Owner as an additional insured for claims cause in whole or in part by Designer's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

3.1.1	Commercial General Liability	
	Each Occurrence	\$ 1,000,000
	Aggregate	\$ 1,000,000
3.1.2	Commercial Automobile Liability	
	Any Auto – Each Accident, Combined Single Limit	\$ 1,000,000
3.1.3	Workers' Compensation as required by statute, including employers' liability with limits of:	
	Each Accident	\$ 100,000
	Disease, each employee	\$ 100,000
	Disease, policy limits	\$ 500,000
3.1.4	Professional Liability Insurance	
	Each Claim	\$ 1,000,000 *
	Annual Aggregate	\$ 1,000,000 *

** For projects with a MACC less than \$3M the PLI shall be \$1M per claim, \$1M annual aggregate, for projects with a MACC equal to or greater than \$3M but less than \$20M, the PLI shall be \$1M per claim, \$2M annual aggregate, for projects with a MACC equal to or greater than \$20M but less than \$100M, the PLI shall be \$2M per claim, \$4M annual aggregate, all other projects have a PLI of \$3M per claim and \$5M annual aggregate.*

SIGNATURES ON FOLLOWING PAGE

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.

Reviewed and approved:

_____ Date: _____
State Architect or designee

In Witness Whereof, the Owner and the Designer have executed this Agreement.

Designer:

Person(s) signing for Designer must be named as Principal above

By:

Title:

Date:

Owner: State of Tennessee

As required by State Building Commission policy and requirements of the State Agency

By:

Title:

Date:

Approved:

By: _____

Title: _____

Date: _____

(For Compliance with
Policy and Statute)

Approved:

Title: _____

Date: _____

(For Form and Legality)

Approved:

By: _____

Title: _____

Date: _____

SCOPE ATTACHMENT

Insert scope description from solicitation document and all other information regarding any anticipated Additional Services, details about the Project's site and program, Owner's consultants, anticipated construction procurement method, and other information relevant to the Project and the SPA.

DESIGNER FEE COMPUTATION ATTACHMENT