**STATE OF COLORADO**

**OFFICE OF THE STATE ARCHITECT**

**STATE BUILDINGS PROGRAM**

CONTRACTOR'S AGREEMENT DESIGN/BUILD LUMP SUM (LS) AGREEMENT

(STATE FORM SC-8.0)

**State Agency**

Insert Department or IHE’s Full Legal Name

**Department I.D.**

Insert Department identification

**Contract I.D. Number**

Insert CMS number or other contract number

**Project Number**

Insert OSC Project Number

**Project Name**

Insert Project as as provided by the State Controller's Office

**Contractor Name**

Insert Contractor's full Legal Name including "Inc.", "LLC" etc.

**Principal Representatives**

For the State:

Name

Department Name

Address Line 1

Address Line 2

City, State ZIP

Email

For Contractor:

Name

Company Name

Address Line 1

Address Line 2

City, State ZIP

Email

ATTACHMENT 1: The General Conditions of the Contractor’s Design/Build (D/B) Agreement (SC-8.1)

**STATE OF COLORADO**

**OFFICE OF THE STATE ARCHITECT**

**STATE BUILDINGS PROGRAM**

**CONTRACTOR'S DESIGN/BID/BUILD AGREEMENT**

(STATE FORM SC-8.0)

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SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

Each person signing this Agreement represents and warrants that the signer is duly authorized to execute this Agreement and to bind the Party authorizing such signature.

In accordance with §24-30-202, C.R.S., this Contract is not valid until signed by the State Controller (or an authorized delegate) or the Title of IHE CFO per the Fiscal Rules of the individual Institution of Higher Education

Project Number/Name: Insert OSC Project Number followed by Project Name

Contract ID No.: Insert CMS Number & Encumbrance Number

CONTRACTOR

INSERT: Legal Name of Contractor

By: Name & Title of Person Signing for Contractor

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

STATE OF COLORADO

Jared S. Polis, Governor

INSERT: Name of Agency or IHE

INSERT: Name & Title of Head of Agency or IHE

By: Name & Title of Person Signing for Agency or IHE

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

OFFICE OF THE STATE ARCHITECT

State Buildings Program

By: Name & Title of Person Signing for State Buildings

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

LEGAL REVIEW

Philip J. Weiser, Attorney General

By: Assistant Attorney General

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

STATE CONTROLLER

Robert Jaros, CPA, MBA, JD

By: Name of Agency or IHE Delegate

Effective Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**STATE OF COLORADO**

**OFFICE OF THE STATE ARCHITECT**

**STATE BUILDINGS PROGRAM**

**DESIGN/BUILD LUMP SUM (LS) AGREEMENT**

(STATE FORM SC-8.0)

Department ID: Insert Dept. Code Contract ID #: Insert Contract ID Project #:Insert Project #

**PARTIES**. THIS AGREEMENT is entered into by and between the STATE OF COLORADO, acting by and through the Insert Department's or IHE's Full Legal Name hereinafter referred to as the State or the Principal Representative, and Insert Contractor's full Legal Name including "Inc.", "LLC" etc. having its offices at Street address, City, State and Zip Code hereinafter referred to as the Design/Build Entity or the contractor.

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

RECITALS:

**WHEREAS**, the Principal Representative intends to procure Insert Project Name as provided by the State Controller's Officehereinafter called the Project; and

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

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

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

**WHEREAS,** the Principal Representative has established the **Fixed Limit of Design and Construction Cost** in the amount of Insert Dollar Value in Written WordsDollars ($     ) and

**WHEREAS**, the Design/Build Entity acknowledges the statutory authority and responsibility of the Principal Representative within the State of Colorado;

**WHEREAS**, the Design/Build Entity was selected after a determination that its proposal was the most advantageous to the Principal Representative pursuant to a request for proposal issued and awarded on      ; and

**WHEREAS**, the Design/Build Entity and the Principal Representative have negotiated the terms of this Agreement pursuant to the Colorado Procurement Code or the applicable procurement code for institutions of higher education, as amended.

**WITNESSETH**, that the Principal Representative and the Design/Build Entity agree as follows:

# ARTICLE 1 PERFORMANCE OF THE WORK

## THE WORK

### The Design/Build Entity will design and construct the Project within the Lump Sum Lump Sum Contract Price specified, and the Design/Build Entity will furnish all the services, labor and materials to perform all the Work, including design, for the complete and prompt execution of the Project in accordance with the Contract Documents as identified in Section 1.2.

### In the performance of the Work under this Agreement, the Design/Build Entity acknowledges that time is critical for Project delivery and that portions of the Work could have their design completed as separate Construction Phase(s) and under construction before other portions of the Work are fully designed. It is further recognized that this accelerated approach to construction is defined as “Fast Track Construction” and is a concept that requires maximum cooperation between all parties.

### The Principal Representative acknowledges that the Design/Build Entity shall provide Written Number in Words (Number) Construction Phase(s) to accomplish the Work as mutually agreed upon. In the event the Principal Representative for any reason within the Principal Representative’s control, requests more than Written Number in Words (Number) Construction Phase(s) to be furnished by the Design/Build Entity, the Principal Representative shall make arrangement with Design/Build Entity for the additional Construction Phase(s) desired and shall directly compensate the Design/Build Entity for all fees and cost associated therewith.

### The Design/Build Entity agrees to use best efforts, to cooperate fully with the Principal Representative in the design and construction aspects of the Work, and to keep within the Principal Representative's monetary, schedule and quality limitations, as stipulated within this agreement.

### The organization of the Specifications into division, section, and article, and the arrangement of Drawings shall not control the Design/Build Entity in dividing the Work among any level of Subcontractors or in establishing the extent of the Work to be performed by any trade.

### The Lump Sum Contract Price includes plumbing and electrical building permits from appropriate entities and any other building permits as directed by the Principal Representative.

### The Design/Build Entity understands the relationship of trust and confidence established between it and the Principal Representative and accepts those responsibilities as described in this Agreement. The Design/Build Entity covenants with the Principal Representative to furnish its best skill and judgment and to cooperate with the Design Build Entity’s Design Build Entity’s Design Build Entity’s Architect/Engineer in furthering the interests of the Principal Representative. The Design/Build Entity agrees to furnish efficient business administration and superintendence and to use its best efforts to complete the Work in an expeditious and economical manner consistent with the interest of the Principal Representative.

### The Design/Build Entity shall confirm that the Design Build Entity’s Architect/Engineer acknowledges that it is responsible for protecting the Principal Representative’s interests throughout the evolution of design and construction. Therefore, the Design Build Entity’s Design Build Entity’s Architect/Engineer shall provide the full scope of professional level services related to design performance and construction administration services within the Project in the same manner as it would acting as a 3rd Party entity through a conventional Design-Bid-Build or CM/GC delivery method.

## CONTRACT DOCUMENTS

### The Contract Documents are described in Article 1 of the General Conditions of the Design/Build Lump Sum Agreement (SC-8.1) (the “General Conditions”). The Contract Documents, including the General Conditions, and are essential parts of this Agreement and are fully incorporated herein.

# ARTICLE 2 DESIGN/BUILD ENTITY’S SERVICES

The Design/Build Entity shall perform the following services under this Agreement in each of the phases described below:

PRE-CONSTRUCTION SERVICES

## AVAILABLE FUNDS

### The Design/Build Entity acknowledges that the Principal Representative is limited in the sum available to design and construct the Project. Should funding of a lesser amount be made available for the Project, it is the obligation of the Principal Representative to revise the Project Scope consistent with the ultimate appropriation.

## CONSULTATION AND VALUE ENGINEERING

### The Design/Build Entity shall provide consultation throughout the Preconstruction and Construction Phases including but not limited to the furnishing of Value Engineering Services to identify cost effective changes in the State's specifications that will result in reducing the Lump Sum Contract Price without impairing essential functions or characteristics. The objective of Value Engineering is to achieve optimum value for each construction dollar spent and keep the time of completion and cost of the Work within the time and fiscal constraints set forth throughout the Contract Documents. In cooperation with the Principal Representative, the Design/Build Entity shall:

1. Formulate and evaluate alternative designs, systems, materials, etc.;
2. Provide cost estimates of the alternatives to be evaluated. Cost estimates shall include industry standard operating and maintenance costs when appropriate to evaluate life-cycle costs of the alternatives. Cost estimates shall take into consideration all cost impacts related to alternatives including but not limited to design and construction costs. The Design/Build Entity shall, at a minimum review the cost estimate at the completion of the Schematic Design and design development phases and include an analysis and commentary as to any discrepancies observed in the report referenced in 3.2.1 below;
3. Evaluate the alternatives on the basis of costs, time schedules, availability of labor and materials, construction feasibility, etc.; and
4. Enable the Design Build Entity’s Architect/Engineer to prepare written reports at the end of the Schematic Design and Design Development Phase summarizing the Value Engineering activities.
5. Lead a formal Value Engineering workshop as requested by the Principal Representative, at the end of the Schematic Design, Design Development and Construction Documents Phases review and estimating tasks, bringing multidiscipline cost/construction experts to evaluate alternative designs, systems and materials.

### The Principal Representative shall participate in the formulation and evaluation of alternatives in the Value Engineering activity.

## DESIGN AND CONSTRUCTION COSTS

### The parties have not included, other than allowances specified, any Principal Representative’s contingency in the Lump Sum Lump Sum Contract Price. The Design/Build Entity is responsible for performing in accordance with the Contract Documents, in exchange for the payment of the Lump Sum Contract Price by the Principal Representative. Any adjustments in the Lump Sum Contract Price will be governed by the General Conditions of the Design/Build Lump Sum Agreement (SC-8.1).

### The Schedule of Values shall include, without duplication:

1. All labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work;
2. Any allowance designated by the Principal Representative;
3. Any Principal Representative furnished equipment which has been designed, specified, selected or specifically provided for by the Design Build Entity’s Architect/Engineer;
4. The Design Build Entity’s fee and the cost of work provided by the Design/Build Entity;
5. All bonds, insurance premiums and applicable taxes;
6. Contingencies for bidding, price escalation, and construction;
7. Plumbing and electrical building permits from appropriate entities and any other building permits as directed by the Principal Representative; and
8. Design fees and administrative expenses directly related to the Work.
9. (Refer to the General Conditions of the Design/Build Lump Sum Agreement (SC-8.1) Article 12.2 Schedules).

### The Design and Construction Costs shall include the compensation of the Design Build Entity’s Architect/Engineer and, the Design Build Entity’s Architect/Engineer’s structural, mechanical, electrical, plumbing and any other consultant required in the Request For Proposal or any other sums due the Design Build Entity’s Architect/Engineer and it’s consultants, but shall not include the costs of land, right of way, financing or other costs, which are the responsibility of the Principal Representative. With prior approval of the Principal Representative, the Design/Build Entity shall contract with the Design Build Entity’s Architect/Engineer to perform services in connection with the Project.

## OTHER PRE-CONSTRUCTION SERVICES

### The Design/Build Entity shall perform the other Pre-Construction Services designated in this Article 3 together with such other services as are normally and customarily provided by a Design/Build Entity.

### The Design/Build Entity shall make recommendations to the Principal Representative regarding the division of Work in the Drawings and Specifications to facilitate the bidding and awarding of subcontracts, allowing for phased construction and funding, if applicable, taking into consideration such factors as time of performance, availability of labor, overlapping trade jurisdictions, provisions for temporary facilities, etc.

### The Design/Build Entity shall review Drawings and to (1) eliminate areas of conflict, overlapping trade jurisdictions, and overlapping in the Work to be performed by the various Subcontractors, (2) endeavor to confirm that all Work has been included, and (3) allow for phased construction as applicable.

### The appropriate representatives of the Principal Representative shall review documents submitted as described in paragraph 2.4.4 by the Design/Build Entity and shall render decisions pertaining thereto without unreasonable delay.

### The Design/Build Entity, including the Design Build Entity’s Architect/Engineer, shall attend all regular meetings with the Principal Representative and such additional meetings as the Principal Representative may request. All regular meetings shall be scheduled with the Design/Build Entity and approval of the Principal Representative. All additional meetings shall be requested by the Principal Representative.

### The Design/Build Entity shall investigate and recommend materials and equipment that could be purchased by the Principal Representative; consider long lead time procurement and mass purchasing power in making such recommendations; recommend a schedule for such purchases after coordination with the schedule for preparation of Contract Documents; and expedite and coordinate delivery of these purchases to facilitate their delivery by the required dates.

### The Design/Build Entity shall provide not later than the first of each month, unless requested otherwise by the Principal Representative, a monthly report utilizing the Project Management Software described in paragraph 2.6.4 documenting the current status of the project’s schedule, costs, requests for information, submittals, manpower, safety, and other pertinent information. The report shall include a narrative discussion of the progress achieved, activities anticipated for the next month, and issues that are affecting the rate of progress. Progress photographs should be attached/included. This monthly report shall be provided in Design and Construction Phases of the project. The schedule status shall include the following minimum items:

1. Cost report showing activity dollar value, dollar value of Work in place to-date and dollar value for current period.
2. Cost report showing activity dollar value, dollar value of Work in place to-date, and dollar value for current period summarizing to schedule of values.
3. Resource report showing man-day allocations by specific trade on each activity.
4. Variance report comparing current dates to target dates.
5. Cash flow report showing monthly projections of expenditures.

A narrative schedule report shall document:

1. Description of the actual Work accomplished during the reporting period.
2. Description of any problem areas.
3. Description of current and anticipated delays with recommended corrective actions to mitigate such delays.
4. A list of proposed modifications, additions, deletions, and changes in logic to the approved schedule.

### If the Design/Build Entity, any of its sub-consultants, or any of its Subcontractors of any tier participating in the Design Reviews observes that any of the Contract Documents are at variance with applicable laws, statutes, building codes, ordinances, rules or regulations, in any respect the Design/Build Entity shall promptly notify the Principal Representative in writing, noting the applicable drawing or specification, and recommending an appropriate alternative for correcting the design.

## DESIGN SERVICES

### Full scope of Design services shall be performed by qualified architects/engineers and other professionals selected and paid by the Design/Build Entity. The professional obligations of such persons shall be undertaken and performed in the interest of the Design/Build Entity. Nothing contained herein shall create any contractual relationship between Subcontractors, architects/engineers and/or suppliers with the Principal Representative.

### Design/Build Entity shall be responsible to the Principal Representative for acts and omissions of the Design/Build Entity's employees, Subcontractors, agents and parties in privity of contract with the Design/Build Entity to perform any portion of the Work, including all design elements of the Project.

### The Design/Build Entity may or may not be a licensed as an architect or engineer in the State of Colorado and is not authorized by law to perform design services. Accordingly, if the Design/Build Entity is not a licensed architect or engineer, they will not perform design services pursuant to this Agreement, but will furnish and warrant such design services as otherwise herein provided as a consultant. Prior to designating a professional individual or firm to perform any of these services, the Design/Build Entity shall submit the name, together with a resume of training and experience in the work of like character and magnitude for the Project being contemplated, to the Principal Representative, and receive approval in writing therefrom.

### The Design Build Entity’s Architect/Engineer shall begin design services upon receiving the Notice To Proceed to Commence Design Phase (SBP-8.26) and shall make certain to the best of its knowledge, information and belief, that the drawings and specifications prepared by it are in compliance with the approved codes as adopted by State Buildings Program (as a minimum standard) as indicated in **Exhibit H**, Building Code Compliance Policy: Coordination of Approved Building Codes, Plan Reviews and Building Inspections. Other more restrictive standards as specified by the Principal Representative are as indicated in **Exhibit H**. Drawings and specifications are to be reviewed by the State’s approved Code Review Agents at the appropriate phases and with the required information as described in **Exhibit H**.

### No design consultant or subconsultant, not already approved by the Principal Representative, shall be engaged to perform work on the Project wherein a conflict of interest exists, such as being connected with the sale or promotion of equipment or material which may be used on the Project, provided, however, that in unusual circumstances and with full disclosure to the Principal Representative of such interest, the Principal Representative may provide a waiver, in writing, in respect to the particular consultant or subconsultant.

### The Design/Build Entity shall review with the Principal Representative alternative approaches to design and construction of the improvements. Any alternative approaches must be approved in writing by the Principal Representative prior to implementation by the Design/Build Entity.

### The Design/Build Entity has submitted to the Principal Representative a preliminary design for the Work and a proposed schedule for completion of the improvements for the Project in the technical proposal, **Exhibit A**, and the cost proposal, **Exhibit B**. Prior to the development of Construction Documents, the Design/Build Entity shall provide Design Development Phase drawings for review which shall resolve outstanding issues with the preliminary design and shall fix all design elements and Construction Phase(s) of the Project for final review by the Principal Representative.

### At intervals appropriate to the progress of the Design Development Phase, the Design/Build Entity shall provide the Principal Representative with copies of all materials, documents, and studies necessary to permit the Principal Representative to monitor, review, provide input to, and any necessary acceptance of, the Design Development Phase in progress and completed components thereof.

### The Design/Build Entity shall provide no fewer than Insert number of sets (     ) complete sets of Drawings, Specifications, and such other documents necessary to fully illustrate the complete Design Development Phase to the Principal Representative for the Principal Representative’s approval and provide electronic files in an electric media format that conforms to the latest requirements of the Principal Representative’s drawing standards.

### For the Principal Representative’s review and approval of the complete Design Development submittal, the Design/Build Entity shall also include the Design/Build Entity’s updated Scope Narrative for the Project.

### The Principal Representative’s final Design Development Phase review must be completed within Insert number of days (     ) days, excepting holidays, commencing with the date of receipt of the complete documents by the Principal Representative. Final review by State Buildings Program Code Review Agents, are conducted separately from the Principal Representative review and shall be coordinated by the Design/Build Entity per 2.5.4 hereof.

### The Design/Build Entity shall respond to all written Design Development Phase review comments in a written, tabular format. Any reviews held in meeting format shall be documented by the Design/Build Entity and copies distributed as directed by the Principal Representative. The Design/Build Entity shall record minutes of all design meetings and distribute them to all participants of the meeting. The Design/Build Entity shall by responsible for resolving review comments and obtaining necessary approvals prior to proceeding with the Construction Documents.

### Upon final review and approval of the Design Development Phase, the Design/Build Entity shall develop and submit Construction Documents and Specifications coordinated with the Construction Phase schedule as follows:

1. A Minimum thirty percent complete Construction Documents;
2. A Minimum sixty percent complete Construction Documents; and,
3. A Minimum one hundred percent complete Construction Documents.

### The Construction Documents (CDs) shall be developed and submitted in accordance with the information and detail required for each Construction Phase and shall illustrate the extent and scope of work fixed directly or indirectly by the previous and corresponding Construction Phase(s) and work related to it. Upon review and approval of each CD submittal, the Principal Representative shall issue a Notice to Proceed to Commence Construction Phase for that related Construction Phase.

### The thirty percent complete CD submittal shall contain all information required for and related to the Construction Phase; including, but not limited to the following:

1. Analysis of the Project as it relates to applicable codes, a complete State Buildings Program Code review and a Fire Code Compliance Plan.
2. Any changes made to the Technical Proposal, **Exhibit A**, as a result of the Design Development review.
3. Site Development Drawings, defining the proposed scope of development including demolition, earthwork, surface development, grading and drainage analysis and utility infrastructure; and confirm accessibility and other design requirements as indicated in the Request for Proposal, **Exhibit D**.
4. Complete stamped, engineered drawings for foundation and slab design in conformance with the requirements of the Geotechnical Report dated      as provided in the Request For Proposals, **Exhibit D**.
5. Dimensioned floor plans indicating all interior wall, exterior wall and structural elements and any other dimensions necessary for the engineered foundation plans, and including proposed movable equipment and furnishings, label rooms with square footage size.
6. Exterior elevations, including detailed material notes, vertical dimensions as appropriate and any information necessary to the development of engineered foundation plans.
7. Building and wall sections with information in sufficient detail to define the basic building structure and any additional scope related to or affected by Construction Phase(s).
8. Cut-sheets, materials, equipment and system components, including all such items normally specified under the CSI format Divisions as they relate to the 30% CD submittal.
9. All mechanical, electrical, and plumbing systems and equipment affected directly or indirectly by the scope of the Construction Phase(s).
10. Outline specifications, including Division 1, using CSI format, identifying conditions of the Agreement, materials, and standards of quality.
11. An updated schedule, including a timetable for submission of any other designs required due to change orders or Value Engineering.
12. An updated Scope Narrative for the Project.

### The Design/Build Entity shall provide no fewer than Insert number of sets      complete sets of Drawings, Specifications, and such other documents necessary to fully illustrate the 30% complete CDs to the Principal Representative for the Principal Representative's approval and provide electronic files in an electric media format that conforms to the latest requirements of the Principal Representative’s drawing standards.

### The Design/Build Entity shall make certain that to the best of its knowledge, information and belief, the CD Drawings and Specifications prepared by it are in full compliance with all applicable codes, regulations, laws and ordinances, including both technical and administrative provisions thereof. It shall be the responsibility of the Design/Build Entity to submit documents and secure approvals as required for State Buildings Program’s Code Compliance Review as per 2.5.4 hereof.

### Upon the Principal Representative’s review and approval of the 30% CD submittal, the Design Entity shall prepare, for review and approval by the Principal Representative a 60% complete CD submittal, including all information required by and related to Insert number of phases (     ) Construction Phase(s). The submittal will consist of construction documents at 60% complete, including Project Specifications in CSI format and further development of all items required in the 30% submittal as provided in paragraph 2.5.15 hereof. The Design/Build Entity shall furnish no fewer than Insert number of sets (     ) complete sets of all 60% documents and Insert number of phases (     ) Construction Phase(s) for review by the Principal Representative.

### Upon the Principal Representative’s review and approval of the 60% complete CD submittal, the Design/Build Entity shall prepare, for the Principal Representative’s final review and approval, a 100% complete CD submittal, including all information required in Insert number of phases (     ) Construction Phase(s) and all drawings and specifications necessary for completion of the Project. This submittal shall also include the Design/build Entity’s final Scope Narrative for the Project.

### These 100% and final Construction Phase(s) documents, when submitted for approval shall include a minimum of Insert number of sets (     ) complete sets (including electronic media) of the following for the Principal Representative's review:

1. Complete architectural, civil, site development, utility, structural, mechanical and electrical drawings. The Design Build Entity’s Architect/Engineer shall provide record sets of prints of the Construction Documents which bear the seal of the professional license and the signature of the appropriate consultants;
2. Complete sets of all of the Construction Phase(s) Documents including specifications in CSI format;
3. The title sheet shall contain the International Building Code occupancy type, construction type, gross square footage, net square footage, gross building volume and code compliance report, and the area and volume take-off;
4. A Code Compliance Review and Fire Code Compliance Plan that defines area separations, fire and smoke barriers, exits, exit passages, exit enclosures and fire protection or alarm systems.
5. The final Construction Phase(s).

### It shall be the responsibility of the Design/Build Entity to establish a design submittal and review schedule in conjunction with the Principal Representative as directed that is mutually acceptable.

### The final Construction Documents shall be subject to the final approval by the Principal Representative, State Buildings Program and other reviewing authorities. The Principal Representative’s final review must be completed within Insert number of days (     ) days, excepting holidays, commencing with the date of receipt of the complete documents by the Principal Representative. Final review by State Buildings Program Code Review Agents, are conducted separately from the Principal Representative review and shall be coordinated by the Design/Build Entity per 2.5.4 hereof.

### The Design/Build Entity shall respond to all written Construction Document review comments in a written, tabular format. Any reviews held in meeting format shall be documented by the Design/Build Entity and copies distributed as directed by the Principal Representative. The Design/Build Entity shall record minutes of all design meetings and distribute them to all participants of the meetings. The Design/Build Entity shall be responsible for resolving review comments and obtaining necessary approvals prior to proceeding with the Work.

### In addition to the copies required for the preceding Design Phases, the Design/Build Entity shall furnish sufficient sets of the CDs to insure distribution among Subcontractors and reviewing authorities as directed by the Principal Representative.

### The Design/Build Entity is responsible for the cost of all expenses including but not limited to the reproduction requirements outlined in this Article 2. The Principal Representative shall pay for any additional review sets required in addition to those sets specified above.

### The Design/Build Entity shall review the Drawings and Specifications as such are prepared, and shall recommend alternative solutions whenever design details affect construction feasibility, schedules or costs.

### The Design/Build Entity shall divide the Work in the Drawings and Specifications to facilitate the bidding and awarding of sub-subcontracts, allowing for phased construction and funding, if practicable, taking into consideration such factors as time of performance, availability of labor, overlapping trade jurisdictions, provisions for temporary facilities, etc.

### Prior to submission for review and approval, the Design/Build Entity shall review Drawings and Specifications with the Design Build Entity’s Architect/Engineer to (1) eliminate areas of conflict, overlapping trade jurisdictions and overlapping Work to be performed by the various sub-Subcontractors, (2) endeavor to confirm that all Work has been included, and (3) allow for phased construction. It is the responsibility of the Design/Build Entity to submit complete, coordinated drawings and specifications. All submittals made under the terms of this Agreement must be complete per the requirements of Article 2 and include all required materials at the time of submittal. Incomplete submittals will not be reviewed by the Principal Representative, and the review periods of paragraph 2.5.11 and 2.5.22 shall not commence until complete submittals have been received under the terms of this Agreement. If the Principal Representative exceeds the Insert number of days (     ) day review period for any complete submittal made under the terms of this Agreement, and such time extension is shown to cause a delay in the critical path, the Design/Build Entity shall have the right to add the corresponding calendar days of delay to the overall Project construction schedule.

### The Design/Build Entity shall develop a Construction Schedule based upon the Design Build Entity’s Architect/Engineer’s design efforts and design schedule as approved by the Principal Representative, and which is coordinated and integrated therewith.

### The Design/Build Entity and the Design Build Entity’s Architect/Engineer and its Consultants shall attend all preconstruction meetings with the Principal Representative and such additional meetings as the Principal Representative may request. All preconstruction meetings shall be scheduled by the Design/Build Entity with the approval of the Principal Representative. All additional meetings shall be scheduled by the Principal Representative.

CONSTRUCTION PHASE SERVICES

## CONTROL OF THE WORK

### The Design/Build Entity shall supervise and direct the Work of its Subcontractors and shall coordinate the Work with the activities and responsibilities of the Principal Representative to complete the Project in accordance with the Principal Representative's objectives of cost, time and quality and subject to the terms and conditions of the General Conditions of the Design/Build Lump Sum Agreement (SC-8.1).

### The Design/Build Entity shall establish on-site organization and lines of authority in order to carry out the overall plans of the Construction Team.

### The Design/Build Entity shall schedule and conduct weekly progress meetings at which the Principal Representative, Design Build Entity’s Architect/Engineer, Design Build Entity’s Architect/Engineer’s Consultants, and Design/Build Entity can discuss jointly such matters as procedures, progress, schedule, costs, quality control and problems. The Design/Build Entity shall record and distribute minutes of all construction meetings within 48 hours of the meeting.

### A contract-control/project-management software (hereafter “Project Management Software”) approved by the Principal Representative and provided by the Design/Build Entity, shall be used as a primary tool for project control, communication and documentation control by all the project participants, to include the Principal Representative, the Design/Build Entity and the Design Build Entity’s Architect/Engineer. The Design/Build Entity shall utilize the Project Management Software to implement a cost forecasting, monitoring, control and reporting system for the Project. The Project Management Software shall be maintained throughout the project, both during the pre-construction and construction phases. Cost analyses shall be based upon data analyses as developed/described within Section 2.4 and shall include analyses of all trades and Project components making a significant contribution for total Project costs. The Project Management Software shall provide for development of a Project cost model, monitoring the design process and periodic reviews of the cost estimates/forecasts to identify variances from the cost model. Additionally, the Project Management Software shall identify variances between actual and budgeted costs and the Fixed Limit of Design & Construction Cost and the Lump Sum Contract Price.

The Design/Build Entity shall use the Project Management Software for the major contract administration processes to include, but not limited to:

1. Submittals:
   1. Design/Build Entity shall create a Submittal log and Submittal schedule.
   2. Submittals shall be directly submitted to the Design Build Entity’s Architect/Engineer and Principal Representative and directly returned from the Design Build Entity’s Architect/Engineer.
2. Requests for Information:
   1. Design/Build Entity shall submit requests for information using the Project Management Software.
   2. Design Build Entity’s Architect/Engineer shall answer requests for information via the Project Management Software. Requests for Information responses that have cost impact will have corresponding Change Order Bulletin (Form SC-6.311) issued by the Architect/ Engineer.
3. Change Management: Entire change management process including Notices, and Change Orders shall be managed using the Project Management Software and utilizing Contract Amendment (Form SC-6.0), Change order (Form SC-6.31), Change Order Bulletin (Form SC-6.311), Change Order Proposal (Form SC-6.312) and Change Order Log.
4. Pay Applications: Design/Build Entity shall be responsible for creating and distributing pay application in the Project Management Software using an earned-value calculation through the CPM Schedule & utilizing Application and Certificate for Contractor’s Payment (SBP-7.2).
5. Meeting Minutes: Design/Build Entity shall be responsible for creating and distributing construction-meeting minutes in the Project Management Software.
6. Reports: Design/Build Entity shall be responsible to prepare and distribute reports in the Project Management Software.
7. Insurance Certificate: Design/Build Entity shall responsible for storing all the insurance related information of Subcontractors in the Project Management Software.
8. Punchlist: Design/Build Entity shall be responsible to update the Substantial Completion Punchlist status using the Project Management Software.
9. Construction schedule: Critical Path Method as described in Article 12 of the General Conditions of the Design/Build Lump Sum Agreement (SC-8.1).
10. All project correspondence with Principal Representative shall be in the Project Management Software.

### The Design/Build Entity shall propose and implement an approved procedure for coordinating and tracking all required Code Compliance Building Inspections as indicated on the Building Inspection Record (BIR) as provided by the State Buildings Program approved Code Review Agent at the appropriate Construction Phase(s) as described in **Exhibit H**.

## SCHEDULE AND COORDINATION

### The Design/Build Entity shall begin the construction Work upon receiving The Notice to Proceed to Commence Construction Phase (SBP-7.26), in accordance with paragraph 4.1.1. The Design/Build Entity shall schedule and coordinate the Work of all of its Subcontractors on the Project including their use of the site. The Design/Build Entity shall keep the Subcontractors informed of the Project construction schedule to enable the Subcontractors to plan and perform the Work properly. The Design/Build Entity shall carry the Work forward expeditiously with adequate forces and shall achieve Completion of the Work prior to the Substantial Completion Date specified in paragraph 4.2.1, as adjusted by Change Orders and Amendments.

### Schedule Management and Coordination

1. Schedule Modifications: If, as a result of the monthly schedule update, it appears the Project Schedule no longer represents the actual / logical progression of the Work or the Design/Build Entity’s plan for prosecution and progress of the Work, the Principal Representative shall require the Design/Build Entity to submit a revision to the Project Schedule. Such revisions to the Schedule shall not alter any of the Project Milestone dates.
2. Schedule Impacts, Schedule Delays and Time Extensions: During the course of the Project, it may be appropriate to revise the Schedule to incorporate impacts or delay issues into the Project Schedule. If the Design/Build Entity determines it has encountered schedule impacts that may warrant a time extension, the Design Build Entity shall present an Impacted Schedule in accordance with the Contract General Conditions, to the Principal Representative supporting its claim.
3. Recovery Schedule: In the event progress falls behind schedule dates, the Design/Build Entity shall prepare a recovery schedule indicating its revised plan to assure the timely completion of the Work. The recovery plan shall be subject to the Principal Representative’s approval.

## PRINCIPAL REPRESENTATIVE CONSULTANTS

### If required, the Design/Build Entityshall assist the Principal Representative in selecting and retaining the professional services including but not limited to a surveyor, geotechnical, testing and inspection and other special consultants, and coordinate these services, without assuming any responsibility or liability of or for these consultants.

## START UP

### The Design/Build Entity, with the Principal Representative's maintenance staff and/or consultant, shall direct the checkout of utilities, operations, systems and equipment for readiness and assist in their initial start-up and testing/commissioning as required in the Scope Narrative with the Subcontractors of all tiers.

### Prior to the Date of Completion of the Work or earlier date for phased occupation of the Work as requested by the Principal Representative, the Design/Build Entity shall schedule and conduct with the Principal Representative and Design Build Entity’s Architect/Engineer a complete review, commissioning, demonstration, start-up and operational testing of all equipment and mechanical and electrical systems installed by the Design/Build Entity or its Subcontractors on the Project, and shall also review the operation and maintenance of such systems with the Principal Representative’s maintenance personnel.

### Subsequent to this review, the Design/Build Entity, with reasonable promptness and at no cost to the Principal Representative shall make all adjustments or corrections required by the Principal Representative or Design Build Entity’s Architect/Engineer and shall balance all systems in order to make all equipment and systems perform as required by the Contract Documents and to reflect the actual use and occupancy of the Project. If necessary or requested by the Design Build Entity’s Architect/Engineer or Principal Representative, the Design/Build Entity shall require the Subcontractor, supplier of material supplier to make adjustments, corrections or balancing required by this process, at no additional cost to the Principal Representative.

# ARTICLE 3 PRINCIPAL REPRESENTATIVESHIP OF DOCUMENTS

## INSTRUMENTS OF SERVICE

### Drawings, specifications and other documents, including those in electronic form, prepared by the Design Build Entity’s Architect/Engineer and the Design Build Entity’s Architect/Engineer’s consultants are Instruments of Service for use solely with respect to this Project. The Design Build Entity’s Architect/Engineer and the Design Build Entity’s Architect/Engineer’s consultants shall be deemed the authors and Principal Representatives of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights.

### Upon execution of this Agreement and the contract between the Design/Build Entity and the Design Build Entity’s Architect/Engineer, the Design Build Entity’s Architect/Engineer shall grant to the State a perpetual nonexclusive license to reproduce and use, and permit others to reproduce and use for the State, the Design Build Entity’s Architect/Engineer’s Instruments of Service solely for the purposes of constructing, using and maintaining the Project for future alterations or additions to the Project. The Design Build Entity’s Architect/Engineer shall obtain similar nonexclusive licenses from the Design Build Entity’s Architect/Engineer’s consultants consistent with this Agreement. If and upon the date the Design Build Entity’s Architect/Engineer is adjudged in default, the foregoing license shall be deemed terminated and replaced by a second, nonexclusive license permitting the State to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections and additions to the Instruments of Service solely for the purposes of completing, using and maintaining the Project for future alterations or additions to the Project.

### Any unilateral use by the State of the Instruments of Service for completing, using, maintaining, adding to or altering the Project or facilities shall be at the State’s sole risk and without liability to the Design Build Entity’s Architect/Engineer and the Design Build Entity’s Architect/Engineers consultants; provided, however, that if the State’s unilateral use occurs for completing, using or maintaining the Project as a result of the Design Build Entity’s Architect/Engineer’s default, nothing in this Article shall be deemed to relieve the Design Build Entity’s Architect/Engineer of liability for its own acts or omissions or default.

## AS-BUILT DRAWINGS/RECORD DRAWINGS

### The Design Build Entity’s Architect/Engineer and its consultants shall, upon completion of the Construction Phase, receive redline As-Built Drawings from the Design/Build Entity. These redline changes shall describe the built condition of the Project. This information and all of the incorporated changes directed by Bidding Addenda, Change Order/Amendment or Design Build Entity’s Architect/Engineer’s Supplementary Instructions shall be incorporated by the Design Build Entity’s Architect/Engineer and its consultants into a Record Drawings document provided to the Principal Representative in the form of an electro-media format and a reproducible format as agreed between the parties. The Design Build Entity’s Architect/Engineer shall also provide the Principal Representative with the As-Built Drawings as received from the Design/Build Entity.

# ARTICLE 4 TIME OF COMMENCEMENT AND COMPLETION

## COMMENCEMENT

### The Contract Time shall commence on the Effective Date of this Agreement but no work shall be performed prior to the Principal Representative issuing a Notice to Proceed to Commence Design Phase contingent upon the delivery of all bonds, and insurance certificates as required to be furnished by the Design/Build Entity and described on the Notice of Award.

### The Construction Phase shall commence on the date of first Notice to Proceed to Commence Construction Phase as issued by the Principal Representative.

## COMPLETION

### The Design/Build Entity agrees to Substantially Complete the Project within       calendar days from the date of the Notice To Proceed to Commence Design Phase (SBP-7.26), in addition, the Contractor agrees to finally complete the Project from Substantial Completion to Final Acceptance within       calendar days for a total time of completion of the entire Project of      calendar days. The Contractor shall perform the Work with due diligence to completion.

# ARTICLE 5 CONTRACT SUM

## LUMP SUM CONTRACT PRICE

### The Design/Build Entity will be paid for the performance of this Agreement, subject to any additions and deductions as provided for in Article 32, 34 and 35 of the General Conditions of the Design/Build Lump Sum Agreement (SC-8.1) the Lump Sum Contract Price of Insert Dollar Value In Written Words dollars and no/100 $      (the “Lump Sum Contract Price”).

## CONDITION PRECEDENT

### FUTURE APPROPRIATIONS

Financial obligations of the Principal Representative payable after the current fiscal year are contingent upon funds for the purpose being appropriated, budgeted, and otherwise made available.

### OBLIGATIONS

(At the time of the execution of this Agreement, there are sufficient funds budgeted and appropriated to compensate the Construction Manager only for performance of the Work through and including Insert the phases funded. Therefore, it shall be a Condition Precedent to the Construction Manager’s performance of the remaining Work specified in (parts of Article 3) and the State’s liability to pay for such performance, sufficient funding must be made available to the Principal Representative for the Project prior to       and, as a further Condition Precedent, a written Amendment to this Agreement is entered into in accordance with the State of Colorado Fiscal Rules, stating that additional funds are lawfully available for the Project. If either Condition Precedent is not satisfied by      , the Construction Manager’s obligation to perform Work for (scope of work) and the State obligation to pay for such Work is discharged without liability to each other. If funding is eventually made available after      , the Construction Manager has no right to perform the Work under (parts of Article 3) of this Agreement and the State has no right to require the Construction Manager to perform said Work.)

# ARTICLE 6 OPTIONAL PROVISIONS AND ELECTIONS

The provisions of this Article 6 alter or enlarge upon the following Articles of the General Conditions of the Design/Build Agreement SC-8.1):

## MODIFICATION OF ARTICLE 2. EXECUTION, CORRELATION, INTENT OF DOCUMENTS, COMMUNICATION AND COOPERATION

If the box below is marked, certification of apprenticeship utilization is required for all mechanical, sheet metal, fire suppression, sprinkler fitting, electrical and plumbing work on the project.

\_\_\_\_\_\_\_ Principal Representative initials.

## MODIFICATION OF ARTICLE 13: Shop Drawings, Product Data and Samples

If the box is marked, the Buy Clean Colorado Act shall be applicable to the Project. The contractor is responsible for submitting Environmental Product Declaration (EPD) information for all eligible materials to be used on the project.

\_\_\_\_\_\_ Principal Representative initial

## MODIFICATION OF ARTICLE 45. GUARANTEE INSPECTIONS AFTER COMPLETION

If the box below is marked the six month guarantee inspection is not required.

\_\_\_\_\_\_\_ Principal Representative initials.

## MODIFICATION 1 OF ARTICLE 27. LABOR AND WAGES

If the box is marked the Federal Davis-Bacon Act shall be applicable to the Project. The minimum wage rates to be paid on the Project shall be furnished by the Principal Representative and included in the Contract Documents.

\_\_\_\_\_\_\_ Principal Representative initials.

## MODIFICATION 2 OF ARTICLE 27. LABOR AND WAGES

If the box is marked, the State prevailing wage statute shall be applicable to the Project. The minimum wage rates to be paid on the Project shall be furnished by the Principal Representative and included in the Contract Documents.

\_\_\_\_\_\_ Principal Representative initials.

## MODIFICATION OF ARTICLE 39. NON-BINDING DISPUTE RESOLUTION – FACILITATED NEGOTIATIONS

If the box is marked, and initialed by the State as noted, the requirement to participate in facilitated negotiations shall be deleted from this Agreement. Article 39, Non-Binding Dispute Resolution – Facilitated Negotiations, shall be deleted in its entirety and all references to the right to the same where ever they appear in the Agreement shall be similarly deleted. The box may be marked only for projects with an estimated value of less than $500,000.

\_\_\_\_\_\_ Principal Representative initials.

## MODIFICATION OF ARTICLE 46. TIME OF COMPLETION AND LIQUIDATED DAMAGES

If an amount is indicated immediately below, liquidated damages shall be applicable to this Project as, and to, the extent shown below. Where an amount is indicated below, liquidated damages shall be assessed in accordance with and pursuant to the terms of Article 46, Time of Completion and Liquidated Damages, in the amounts and as here indicated. The election of liquidated damages shall limit and control the party’s right to damages only to the extent noted.

1. For the inability to use the Project, for each day after the number of calendar days specified in the Design/Build Entity’s proposal for the Project and the Agreement for achievement of Substantial Completion, until the day that the Project has achieved Substantial Completion and the Notice of Substantial Completion is issued, the Design/Build Entity agrees that an amount equal to       Dollars ($     ); shall be assessed against Design/Build Entity from amounts due and payable to the Design/Build Entity under the Agreement, or the Design/Build Entity and the Design/Build Entity’s Surety shall pay to the Principal Representative such sum for any deficiency, if amounts on account thereof are deducted from remaining amounts due, but amounts remaining are insufficient to cover the entire assessment.
2. For damages related to or arising from additional administrative, technical, supervisory and professional expenses related to and arising from the extended closeout period, for each day in excess of the number of calendar days specified in the Design/Build Entity’s proposal for the Project and the Agreement to finally complete the Project as defined by the issuance of the Notice of Final Acceptance) after the issuance of the final Notice of Substantial Completion, the Design/Build Entity agrees that an amount equal to      Dollars ($     ); shall be assessed against Design/Build Entity from amounts due and payable to the Design/Build Entity under the Agreement, or the Design/Build Entity and the Design/Build Entity’s Surety shall pay to the Principal Representative such sum for any deficiency, if amounts on account thereof are deducted from remaining amounts due but amounts remaining are insufficient to cover the entire assessment.

# ARTICLE 7 NOTICE IDENTIFICATION

All Notices pertaining to this Agreement and the General Conditions (sc-8.1) or otherwise required to be given shall be transmitted in writing, to the individuals at the addresses listed below, and shall be deemed duly given when received by the parties at their addresses below or any subsequent persons or addresses provided to the other party in writing.

Notice to Principal Representative:

Insert Name of Individual acting on the PR behalf

Insert Street Address

City, State Zip Code

Insert email address

With copies to State Buildings Program (or Delegate):

Insert Name of Individual acting on OSA/SBP behalf

Insert Street Address

City, State Zip Code

Insert email address

Notice to Contractor:

Insert Name of Individual acting on the contractor behalf

Insert Street Address

City, State Zip Code

Insert email address

With copies to:

File

**STATE OF COLORADO**

**OFFICE OF THE STATE ARCHITECT**

**STATE BUILDINGS PROGRAM**

**DESIGN/BUILD LUMP SUM (LS) AGREEMENT**

(STATE FORM SC-8.0)

EXHIBIT A: TECHNICAL PROPOSAL AND LABOR BURDEN

Design/Build Entity’s Technical Proposal and Labor Burden (Sbp-6.18) All Appendices, Addenda and Clarifications

**STATE OF COLORADO**

**OFFICE OF THE STATE ARCHITECT**

**STATE BUILDINGS PROGRAM**

**DESIGN/BUILD LUMP SUM (LS) AGREEMENT**

(STATE FORM SC-8.0)

EXHIBIT B: COST PROPOSAL

Design/Build Entity’s Cost Proposal, All Appendices, Addenda and Clarifications

**STATE OF COLORADO**

**OFFICE OF THE STATE ARCHITECT**

**STATE BUILDINGS PROGRAM**

**DESIGN/BUILD LUMP SUM (LS) AGREEMENT**

(STATE FORM SC-8.0)

EXHIBIT C: SCOPE NARRATIVE

Design/Build Entity’s Scope Narrative

**STATE OF COLORADO**

**OFFICE OF THE STATE ARCHITECT**

**STATE BUILDINGS PROGRAM**

**DESIGN/BUILD LUMP SUM (LS) AGREEMENT**

(STATE FORM SC-8.0)

EXHIBIT D: REQUEST FOR PROPOSAL DOCUMENTS

The Request for Proposals Document, All Appendices, Addenda and Clarifications

**STATE OF COLORADO**

**OFFICE OF THE STATE ARCHITECT**

**STATE BUILDINGS PROGRAM**

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(STATE FORM SC-8.0)

EXHIBIT E: PERFORMANCE BOND

Performance Bond (Form SC-6.22)

**STATE OF COLORADO**

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(STATE FORM SC-8.0)

EXHIBIT F: LABOR AND MATERIAL PAYMENT BOND

Labor and Material Payment Bond (Form SC-6.21)

**STATE OF COLORADO**

**OFFICE OF THE STATE ARCHITECT**

**STATE BUILDINGS PROGRAM**

**DESIGN/BUILD LUMP SUM (LS) AGREEMENT**

(STATE FORM SC-8.0)

EXHIBIT G: INSURANCE CERTIFICATES

Insurance Certificates(Including professional errors and omissions liability insurance)

**STATE OF COLORADO**

**OFFICE OF THE STATE ARCHITECT**

**STATE BUILDINGS PROGRAM**

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(STATE FORM SC-8.0)

EXHIBIT H: BUILDING CODE COMPLIANCE POLICY

Refer to the Office of the State Architect State Buildings Building Codes Webpage for:

*Building Code Compliance Policy* (Rev.      ); and

*Approved State Building Codes* (Rev.      ), which is Exhibit A to the *Building Code Compliance Policy*.

The State Architect Office’s Building Codes Webpage is available at:

https://osa.colorado.gov/state-buildings/building-codes

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**DESIGN/BUILD LUMP SUM (LS) AGREEMENT**

(STATE FORM SC-8.0)

EXHIBIT J STATE SALES AND USE TAX FORMS

State Sales and Use Tax Forms

**STATE OF COLORADO**

**OFFICE OF THE STATE ARCHITECT**

**STATE BUILDINGS PROGRAM**

**DESIGN/BUILD LUMP SUM (LS) AGREEMENT**

(STATE FORM SC-8.0)

EXHIBIT K: APPLICABLE PREVAILING WAGE DETERMINATIONS AND APPRENTICESHIP CONTRIBUTION RATES

**Applicable Prevailing Wage Determinations and Apprenticeship Contribution Rates**

(If applicable)

**STATE OF COLORADO**

**OFFICE OF THE STATE ARCHITECT**

**STATE BUILDINGS PROGRAM**

**DESIGN/BUILD LUMP SUM (LS) AGREEMENT**

(STATE FORM SC-8.0)

EXHIBIT L: APPRENTICESHIP UTILIZATION CERTIFICATIONS

Apprenticeship Utilization Certifications (SBP-6.17) If applicable