

**FORM OF DESIGN-BUILD CONSTRUCTION CONTRACT**

THIS AGREEMENT, made the \_\_\_\_ day of \_\_\_\_ in the year of 20\_\_ by and between \_\_\_\_\_ hereinafter called the Design-Builder and the State of North Carolina, through \_\_\_\_\_ hereinafter called the Owner.

**WITNESSETH:**

That the Design-Builder and the Owner herein named agree as follows:

1. Scope of Work:

- a. Time of Completion: The Design-Builder shall commence each Phase of work to be performed under this agreement as outlined below. All work shall be completed within \_\_\_\_\_ consecutive calendar days from the commencement of Design Phase work.
- b. Design Phase: The Design-Builder, in consultation with and direction from the Owner, shall furnish a complete set of design documents for the project including, but not limited to, architectural and engineering specifications and drawings (collectively, the “Design Package”). The Design Package shall be in accordance with the General Conditions of the Contract attached hereto and shall be based on the programmatic and technical requirements set forth in the Request for Qualifications document and as further determined by the Owner during the Design Phase. The Design Package shall be reviewed and approved by all parties and as outlined in the State Construction Manual. The Design-Builder shall comply with all design guidelines and criteria of the State Construction Office and those of the Owner. The Design-Builder shall provide all required testing and exploration required to produce the Design Package. The Design-Builder shall provide a detailed cost estimate to the Owner at each phase of design.

Project Name: \_\_\_\_\_  
 Interscope ID: \_\_\_\_\_  
 Project Scope: \_\_\_\_\_

The Design-Builder shall commence Design Phase work upon receipt of a fully executed copy of this agreement. All parties agree to maintain the following design schedule. Each phase of the design for the project shall be considered complete upon the State Construction Office’s approval of the submitted design documents. The Design Professional Fee will be paid according to the schedule below as each phase is completed.

Deliverable	Submission Date	Payment Schedule
Schematic Design Phase (SD)		20%
Design Development Phase (DD)		25%
Guaranteed Maximum Price (GMP)		15%
Construction Documents Phase (CD)		30%
Final Design Phase (FD)		10%

- c. Construction Phase: The Design-Builder shall furnish and deliver all materials and shall perform all the work in the manner and form as provided in the approved Design Package(s) from the Design Phase. The Design-Builder will provide construction administration and inspection services as outlined in the State Construction Manual and the General Conditions of the Contract Standard Form for Design-Build Projects (“General

Conditions of the Contract” or “General Conditions”). The Design-Builder shall provide all required testing and exploration required to complete the Construction Phase of the project. The Construction Contract between the Design-Builder and the Owner is as defined in Article 1(a) of the General Conditions of the Contract and shall include the approved Design Package(s) from the Design Phase as well as the Request for Qualifications; Instructions to Bidders; General Conditions of the Contract; Supplementary General Conditions; accepted proposal; contract; performance bond; payment bond; power of attorney; workmen's compensation; public liability; property damage and builder's risk insurance certificates; approval of attorney general, all of which are made a part hereof upon completion of design as if fully contained herein.

That the Design-Builder shall commence Construction Phase work to be performed under this agreement upon acceptance of the Guaranteed Maximum Price (“GMP”) by the Owner. Construction efforts may not begin until corresponding construction documents have been approved by the State Construction Office. Along with the GMP, the Design-Builder shall furnish to the Owner at GMP a construction schedule setting forth planned progress of the project broken down by the various divisions or part of the work and by calendar days as outlined in Article 14 of the General Conditions of the Contract. The schedule shall include the Contract Completion date. Each day in excess thereof, liquidated damages, as defined by the General Conditions of the Contract, shall be in the amount of \$\_\_\_\_\_.

2. The Owner hereby agrees to pay to the Design-Builder for the faithful performance of this agreement, subject to additions and deductions as provided in the specifications or proposal, in lawful money of the United States as follows:

Design Phase Costs:

a. Design Professional Fee (SD, DD, CD, & FD)		\$ _____
b. Design-Builder Fee		\$ _____
c. Total Design Phase Cost		\$ _____

The Design-Builder shall establish a construction GMP no later than ten (10) days after the approval of the Design Development Phase by the State Construction Office. Upon approval of the GMP by the Owner, this contract will be amended by change order to include the GMP.

Anticipated Construction Phase Costs: \$ \_\_\_\_\_

Total Project Cost Not to Exceed: \$ \_\_\_\_\_

3. In accordance with Article 31 and Article 32 of the General Conditions of the Contract, the Owner shall review, and if approved, process the Design-Builder's pay request within thirty (30) days upon receipt. The Owner, after reviewing and approving said pay request, shall make payments to the Design-Builder on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by the Design-Builder, less five percent (5%) of the amount of such estimate which is to be retained by the Owner until all work has been performed strictly in accordance with this agreement and until such work has been accepted by the Owner. The Owner may elect to waive retainage requirements after 50 percent (50%) of the work has been satisfactorily completed on schedule as referred to in Article 31.f of the General Conditions of the Contract. Retainage for early finishing trades will be managed in accordance with Article 31.g of the General Conditions of the Contract.
4. Upon submission by the Design-Builder of documentation satisfactory to the Owner that all payrolls, material bills and other costs incurred by the Design-Builder in connection with the construction of the work have been paid in full, final payment on account of this agreement

shall be made within forty-five (45) days after the completion by the Design-Builder of all work covered by this agreement and the acceptance of such work by the Owner.

5. It is further mutually agreed between the parties hereto that if at any time after the execution of this agreement and the surety bonds hereto attached for its faithful performance, the Owner shall deem the surety or sureties upon such bonds to be unsatisfactory, or if, for any reason, such bonds cease to be adequate to cover the performance of the work, the Design-Builder shall, at its expense, within five (5) days after the receipt of notice from the Owner to do so, furnish an additional bond or bonds in such form and amount, and with such surety or sureties as shall be satisfactory to the Owner. In such event, no further payment to the Design-Builder shall be deemed to be due under this agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the Owner.
6. The Design-Builder attest that it and all of its subcontractors have fully complied with all requirements of Chapter 64, Article 2, of the North Carolina General Statutes in regards to E-Verification and as required by Section 2.(c) of Session Law 2013-418, codified as N.C. Gen. Stat. § 143-129(j).

IN WITNESS WHEREOF, the Parties hereto have executed this agreement on the day and date first above written.

Witness:

\_\_\_\_\_  
Contractor: (Trade or Corporate Name)

\_\_\_\_\_  
(Proprietorship or Partnership)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

(Owner, Partner, or Corp. Pres. or Vice Pres. only)

Attest: (Corporation)

By: \_\_\_\_\_

Title: \_\_\_\_\_

(Corp. Sec. or Asst. Sec. only)

(CORPORATE SEAL)

The State of North Carolina, through

\_\_\_\_\_  
(Agency, Department or Institution)

Witness:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

# Attachments

Form of Performance Bond

Form of Payment Bond

Power of Attorney

## Insurance Certificate(s) and Endorsements

The Certificate of Insurance must state the SCO cancellation language and all policies required by contract must contain an endorsement with the same SCO cancellation language. Property Insurance (Builder's Risk/Installation Floater) for the full contract amount or greater is required on all state projects. See Article 34 of the General Conditions (Form OC-15).

SCO cancellation language: "Notwithstanding the cancellation provisions of this policy, coverages afforded under this policy will not be cancelled, reduced in any amount or eliminated during the policy period, until at least thirty (30) days after mailing written notice by certified mail, return receipt requested, to the insured and owner."