CONSTRUCTION MANAGEMENT AGREEMENT

**(CM/GC)**

**BETWEEN**

**LEGAL CM FIRM NAME**

**(CM/GC)**

**AND**

# BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF GEORGIA

## (OWNER)



**For the Use and Benefit of:**

**INSTITUTION NAME**

**USING AGENCY (INSTITUTION)**

**PROJECT NO**. **PROJECT NUMBER AND DESCRIPTION**

## INCLUDES:

**Executive Summary of Contents** *Preface*

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**CM/GC Form of Contract** *Contract 1 to 4* **General Requirements Table of Contents** *GR i to vi* **General Requirements** *GR 1 to 98*

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# EXECUTIVE SUMMARY OF CONTENTS

**Basic Tenets of the Contract**

This Contract implements the “construction management” or “CM/GC” project delivery method as described in *The Regents’ Guidance*. The usual method of procurement is by solicitation of competitive sealed proposals, although other procurement methods may be utilized, as permitted by law.

The CM/GC is under contract to supply both preconstruction services and construction services to complete the project and place the Owner in occupancy of the project in a “turnkey” fashion. The Owner contracts with the Design Professional separately from the CM/GC using the Design Professional Contract for CM/GC. The design and construction progress in a coordinated fashion using one or more Component Change Orders to direct construction of a Component package (such as site work, foundations, etc.) while the design progresses toward complete Construction Documents. Once either a Guaranteed Maximum Price (GMP) or a Lump Sum Price is agreed between the Owner and the CM/GC, the CM/GC is “at risk” for project price, project schedule, and completion of all construction as set forth in the Contract Documents. The CM/GC holds all trade contracts and trade supplier contracts.

Often, the Owner will designate a Program Manager to assist the Owner in administering the Project. The Program Manager does not take on any of the responsibilities of either the Design Professional or the CM/GC. The Program Manager acts for the Owner to discharge the Owner’s obligations to the Project and coordinates the interaction of the Project Team. The Program Manager’s agreement is independently drafted to meet the particular management needs of the Project. The Request for Proposals should identify whether a Program Manager will be utilized for the Project.

The pricing and financial structure for this CM/GC Contract is the “cost-plus” method, with a fixed dollar cap on the total price of the contract (the GMP), and certain other contingencies. The sole basis for the “plus” portion of the Contract is the CM/GC’s Fee, which is defined as the CM/GC’s “gross profit” as set forth in Section 4, Part 1, Compensation. The sole basis for “cost” throughout this Contract is Actual Cost, as defined in Section 4, Part 4. In addition to the GMP, there are total cost limitations imposed on Actual Costs allowed for preconstruction, construction overhead, salary and labor costs, both as to type of cost and allowable amounts. Actual cost is the only basis for payments to the CM/GC under this Contract, unless a Lump Sum Price is agreed between the Owner and CM/GC.

There is one contingency fund under the GMP. It is the “Construction Contingency,” which is largely under the control of the CM/GC pursuant to the terms of this Contract, and subject to Owner’s approval that will be “not be unreasonably withheld.” The CM/GC’s construction contingency is eliminated if the Owner and CM/GC agree to a Lump Sum Price for the project, upon which the CM/GC is then paid based upon an agreed upon schedule of values for the remainder of the Project.

## EXECUTIVE SUMMARY OF CONTENTS

### CM/GC FORM OF AGREEMENT GENERAL REQUIREMENTS

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### SECTION 2 – PRECONSTRUCTION PHASE

Part 1 – Preconstruction Phase Services

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Part 4 – Changes To The Work Part 5 – Time

Part 6 – Correcting the Work; Inspections; Covering And Uncovering Work Part 7 – Trade Contractors; Self-Performance

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### SECTION 6 – PROJECT COMPLETION

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### SECTION 7 – CONTRACT FORMS

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Georgia Security and Immigration Compliance Act Affidavit(s) Non-Influence Affidavit

Statutory Affidavit

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### EXHIBITS

Exhibit A Using Agency’s Program and Existing Documents Exhibit B Initial Construction Budget

Exhibit C Budget Format

Exhibit D Monthly Report Format

Exhibit E CM/GC’s Proposal

Exhibit F Schedule

Exhibit G Specimen Component Change Order Exhibit H Specimen GMP Change Order Exhibit I Specimen Change Order

Exhibit J Wage Rates and Labor Cost Exhibit K Application for Payment Exhibit L Final Cost Certification

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Exhibit O Georgia-Based Materials and Products Checklist

**SUPPLEMENTARY GENERAL REQUIREMENTS**



## CONSTRUCTION MANAGEMENT CONTRACT

BETWEEN CM/GC AND OWNER

**THIS CONSTRUCTION MANAGEMENT CONTRACT** (hereinafter the “Contract”) made this Day of Month, Year (hereinafter the “Effective Date”), by and between the BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF GEORGIA (hereinafter the “Owner”), for the use and benefit of **INSTITUTION NAME** (hereinafter the “Using Agency” or “Institution”) **LEGAL CM FIRM NAME**, (hereinafter the “CM/GC”).

1. **CM/GC’s FEIN or Tax Identification Number:**
2. **CM/GC’s Georgia License Type and Number:**
3. **CM/GC’s Federal Employment Verification Certification:**

The CM/GC is registered with, authorized to use, is using and will continue to use, the federal work authorization program throughout the term of the contract, and holds the following authorization:

User Identification Number:

Date of Authorization: **Date**

*See also* certification requirements in General Requirements Paragraph 1.7.1.7 and Section 7, Forms.

WITNESSETH, that the CM/GC and the Owner, for the consideration set forth herein, the adequacy and sufficiency of which is hereby acknowledged by each party, agree as follows:

**PROJECT NO. Project Number**

**PROJECT NAME AND DESCRIPTION: PROJECT NAME AND DESCRIPTION** (hereinafter the “Project”).

1. **Existing Documents**. The Using Agency’s Program and Existing Documents, which the CM/GC has reviewed and taken into consideration in preparing his proposal for fees and general conditions, are set forth on Exhibit A.
2. **Notice**. Notice in accordance with Section 1.1.5 shall be given to the following addresses:

**CM/GC**: LEGAL CM Firm Name

Physical Address, NO P.O. Boxes City, State Zip

Attention: CM-POC, Title

Phone Number: CM-POC Phone Email: CM-POC Email address

**OWNER:** Board of Regents of the University System of Georgia Attention: Sandra Lynn Neuse, Vice Chancellor for Real Estate & Facilities

270 Washington Street, SW

Atlanta, Georgia 30334

Phone Number: 404-962-3155

**USING AGENCY (Institution):** Institution Name

Physical Address, NO P.O. Boxes City, State Zip

Attention: Project POC, Title

Phone Number: Project POC Phone Email: Project POC Email Address

**DESIGN PROFESSIONAL:** LEGAL DP Firm Name

Physical Address, NO P.O. Boxes City, State Zip

Attention: DP-POC, Title

Phone Number: DP-POC Phone Email: DP-POC Email Address

**PROGRAM MANAGER:** LEGAL PM Firm Name

(If Applicable) Physical Address, NO P.O. Boxes City, State Zip

Attention: PM-POC, Title

Phone Number: PM-POC Phone Email: PM-POC Email Address

1. **Owner’s Representative:** All notices sent to the Owner at the above address shall also be sent to the Owner’s Representative. The Owner’s Representative for this project shall be:

**OWNER’S REPRESENTATIVE:** Board of Regents of the University System of Georgia

270 Washington Street, SW

Atlanta, Georgia 30334

Attention: Choose One

Phone Number: BOR-PM Phone Email: Choose Appropriate Email

1. **GMP Cost Limitation (Total CM/GC Contract Cost Limitation):** The maximum amount allowable for the Guaranteed Maximum Price shall in no event exceed the following amount:

**AND /100 DOLLARS ($ )**

1. **CM/GC Fee.**
   1. *Preconstruction Fee*: The Preconstruction Fee component of the CM/GC Fee shall in no event exceed the following amount:



**AND /100 DOLLARS ($ )**

amount:

* 1. *Construction Fee*: The Construction Fee component of the CM/GC Fee shall in no event exceed the following

**AND /100 DOLLARS ($ )**

1. **CM/GC Overhead Costs and Expenses:** The amount allowable for the CM/GC’s Overhead Costs and Expenses (Preconstruction and Construction COMBINED) shall in no event exceed the following amount:

**AND /100 DOLLARS ($ )**

* 1. *Preconstruction Costs & Expenses*: The Preconstruction Costs & Expenses component shall in not event exceed the following amount:

**AND /100 DOLLARS ($ )**

* 1. *Construction Overhead Costs*: The Construction Overhead Costs component shall in no event exceed the following amount:

**AND /100 DOLLARS ($ )**

1. **The Material Completion and Occupancy Date is** .
2. **The agreed daily amount for Liquidated Damages is** $ per day.
3. **Energy Efficiency and Sustainable Construction Act of 2008.** This project [is] [is not] subject to the Energy Efficiency and Sustainable Construction Act of 2008 (“Energy Act”). Projects subject to the Energy Act require commissioning, water- use reduction, and use of not less than 10% of Georgia products. *[Strike inapplicable term.]*
4. **Scope Of Basic Services And The Work.** The CM/GC shall perform all of the Basic Services and furnish all of the materials and perform all of the Work described in the Contract Documents and shall do everything required by the Contract Documents.
5. **Schedule And Completion.** The Work to be performed under the Contract Documents shall be commenced upon execution of this Contract and shall be completed in accordance with the approved Overall Project Schedule not later than 30 days after the Material Completion and Occupancy Date set forth above.
6. **The Guaranteed Maximum Price (GMP).** A GMP will be established in accordance with Section 3, Part 3 of the General Requirements. The GMP may be replaced by a Lump Sum Price as set forth in Article 3.3.7 of the General Requirements.
7. **Payments.** Payments on account of the Contract shall be made in accordance with Section 4 of the General Requirements. The Payment for Material Completion shall be made by a check payable jointly to the CM/GC and Surety and shall be mailed to the Surety.
8. **Final Payment.** Final payment will be made in accordance with Section 6, Part 5 of the General Requirements, provided that all other requirements of the Contract Documents shall have been met in full.
9. **The Contract Documents**. The Contract Documents include the executed Contract, any Component Construction Documents, the Construction Documents, and all Change Orders as defined in the General Requirements. (*See* Article 1.1.9)*.*
10. **Surety Bonds.** The CM/GC shall furnish both a performance bond and a payment bond specified in the General Requirements and shall pay the premiums thereon as a Cost of the Work. The performance bond shall guarantee the full performance of the Contract and Contract Documents.
11. **Full Performance.** The Owner and the CM/GC hereby agree to the full performance of the Basic Services and the Work, including all the requirements, conditions and stipulations contained in the Contract Documents.
12. **Applicable Law**. This Contract and all rights, privileges and responsibilities shall be interpreted and construed according to the laws of the State of Georgia.
13. **No Conflict Of Interest.** The CM/GC covenants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance required under this Contract. The CM/GC further covenants that, in the performance of this Contract, no person having any such interest shall be employed or contracted with.
14. **Transactions With State Officials.** The parties hereto certify that the provisions of law contained in the Act prohibiting full-time appointive officials and employees of the State from engaging in certain transactions affecting the State as defined in O.C.G.A. Sections 45-10-20 through 45-10-26 have not and will not be violated in any respect in regard to this Contract**.**
15. **No Assignment.** This Contract and the proceeds of this Contract may not be assigned nor may the performance thereunder be assigned, without the prior written consent of the Owner.
16. **No Waiver.** The failure of the Owner at any time to require performance by the CM/GC of any provision hereof, shall in no way affect the right of the Owner thereafter to enforce any provision or any part of the Contract, nor shall the failure of the Owner to enforce any breach of any provision hereof to be taken or held to be a waiver of such provision, or as a waiver, modification or recession of the Contract itself.
17. **Severability.** If any term or provision of this Contract or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Contract, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Contract shall be valid and enforced to the fullest extent permitted by law.
18. **Full Agreement.** The Contract Documents supersede all prior negotiations, discussion, statements, and agreements between Owner and CM/GC and constitute the full, complete, and entire agreement between Owner and CM/GC. There can be no changes to this Contract by oral means, nor by course of conduct of the parties, nor by custom of the trade.

No changes to this Contract will be binding on either party hereto unless such change is properly authorized, in writing, in accordance with Section 3 of the General Requirements.

**IN WITNESS WHEREOF** the parties hereto have executed this Contract the day and year first written above.

### CM/GC:

**LEGAL GC FIRM NAME**

\_ PRINT NAME, TITLE

### APPROVED BY USING AGENCY:

**INSTITUTION NAME (A UNIT OF THE UNIVERSITY SYSTEM OF GEORGIA)**

PRINT NAME, PRESIDENT

PRINT NAME AND TITLE

### OWNER:

**BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF GEORGIA**

SANDRA LYNN NEUSE, VICE CHANCELLOR FOR REAL ESTATE & FACILITIES

Samson Oyegunle, Assistant Vice Chancellor for

Design & Construction

Attachments:

1. General Requirements, Forms and Exhibits
2. Supplementary General Requirement