

AGREEMENT BETWEEN OWNER AND ARCHITECT

Made of the **27th day of April** in the year **two thousand twenty-two**
BETWEEN the Architect's client identified as the Owner:

Mr. Andy Ogles, Honorable County Mayor
Maury County Government
41 Public Square
Columbia, Tennessee 38401

and the Architect:

Nuber Architecture LLC
1069 Rolling Fields Circle
Columbia, Tennessee 38401

for the Project listed below:

PRELIMINARY DESIGN/DESIGN DEVELOPMENT EXPANSION SERVICES FOR THE ARCHIVES BUILDING, 201 East 6th Street, Columbia, Tennessee, Project #2022003

The above listed project will constitute developing preliminary design and design development drawings for a proposed renovation to an existing 8,900 s.f. Archive's facility and proposed addition which will meet the intent of the Owner's needs. The expansion size is not fully determined as of the date of this contract, but the Architect will meet with Archive's staff representatives to ascertain the exact size and configuration of the proposed spaces to be added to the existing renovated facility. The Architect has included field measuring services of the existing facility floor layout plan and provide field measuring services of the exterior building elevations for the purposes of documenting in CAD form a new floor layout plan and proposed building elevations. Additional information is as stated in the following section I of this agreement.

INITIAL PROJECT INFORMATION

- I.1 This Agreement is based on the information stated below and assumptions made prior to executing the project documents.
- I.2 The Architect will provide the following services under its agreement with the Owner as follows:

PRELIMINARY DESIGN/DESIGN DEVELOPMENT PHASE

1. Time and travel to field verify the existing facility floor layout plan and develop the record document plan in CAD for use in preparing new design documentation. Additional documentation of the exterior building elevations, additionally included in this agreement, will be prepared for the purposes of developing accurate as-builts in CAD and to prepare renovated facility designs.
2. Programming meetings with the Owner (Archive's staff representatives) to discuss the interior renovation/expansion improvements and exterior modifications necessary to complete the scope of work.
3. Prepare proposed floor layout plans of the scope of work based on programming meetings. Proposed building elevations will be additionally included to document the renovated facility and building expansion to meet the expansion needs of the Owner.

4. Prepare door and finish schedule and storefront designs for Contractor pricing of all areas to be renovated.
5. Prepare (3-4) wall sections to document the expansion construction and provide information for the Contractor pricing the project.
6. Provide a new site layout plan to accommodate any proposed additions and address onsite parking needs. The site layout design will include proposed grading analysis and depict existing/proposed facility improvements, parking layouts, vehicular circulation, landscape areas, and additional site features. The Owner is under separate contract to provide a topographic survey in CAD and PDF formats and will present it to the Architect for their use in the site design process. The Owner will be required to have the completed survey prior to the Architect initiating the site and building design due to key issues pertaining to the existing site conditions.
7. Provide mechanical, plumbing, and electrical consultation of the proposed building renovation and establish narratives which can be used for preliminary pricing of the proposed phase work.
8. The Architect will include a computerized digital rendering of the renovated/proposed facility for visualization purposes of the final preliminary design. This rendering can be used by the Owner royalty free.
9. The Architect has included time to meet with Hewlett Spencer LLC, who will be commissioned by the Owner to manage the project and prepare preliminary construction estimates for review and approval by the Owner. The Architect will report to Hewlett Spencer during all phases pertaining to this agreement and receive instructions pertaining to the progress of the work and issues addressed by the Owner..
10. The Architect has included services for a structural engineer to provide schematic structural design and framing analysis for the proposed building addition. This work is provided for the purposes of documenting key structural components necessary to facilitate the design and provide information for Contractor pricing.

- I.3 The initial time parameters will be established following the execution of this agreement and will be negotiated with the Owner. It is the intent of the Architect to begin programming discussions with the Owner following execution of this agreement. Thereafter, we estimate that the total design process, with efficient responses from the Owner, should be completed within five to eight weeks from the Owner's submitted topographic survey under separate contract. This time frame excludes preliminary construction estimating which will add an additional three to four weeks to the time duration. The Architect will perform the services stated in this agreement with reasonable diligence and expediency consistent with sound professional practices. No other commitments for time have been determined by mutual agreement at the date of this contract.
- I.4 The services provided as a part of this agreement are preliminary in nature. The Owner is to not construe the architect's instruments of services as construction documents for this phase of the agreement. Should the Owner wish for additional construction document services to be performed to obtain building permits, we will be happy to negotiate these services at a future date. The Owner is under no obligation to continue at the conclusion of this agreement and will not be penalized should they decide to not pursue improvements to this facility for any reason. These drawings are prepared for the Owner use in future construction endeavors for which the Owner has certain rights to the design.
- I.5 Certificates of liability insurance can be mailed to the Owner following the signing of this agreement if requested.
- I.6 As noted in I.2, sub-paragraph 6, the Owner will be required to provide a registered topographic

survey to address the site improvements required for the project. The survey will be required in PDF and DWG format. The Architect will work with the Owner commissioned surveyor to establish a proper scope of work for the topographic survey.

- I.7 This project may still require other planning and variance reviews by local authorities for final approval of this work scope. The final documents will be forwarded to the respective authorities for additional comment and/or revision.

II. PROJECT TEAM

- II.1 The Owner's Designated Representative is:

Mr. Steve Hewlitt
Hewlitt Spencer LLC
5543 Edmonson Pike
Nashville, Tennessee 37211

- II.2 The persons or entities, in addition to the Owner's Designated Representative, who are required to review the architect's submittals to the Owner are members of the Maury County Building Committee and staff representatives of the Archive's department and will be designated by Mr. Hewlitt Spencer on an as needed basis.

- II.3 The Architect's Designated Representative is:

Mr. George Nuber, Registered Architect
Nuber Architecture LLC
1069 Rolling Fields Circle
Columbia, Tennessee 38401

- II.4 The Consultants retained at the Architect's expense are:

CIVIL ENGINEERING (NOT APPLICABLE) - Architect to provide initial site layout plan

MECHANICAL ENGINEERING (Limited to mechanical narratives for cost evaluation)

PLUMBING ENGINEERING (Limited to plumbing narratives for cost evaluation)

ELECTRICAL ENGINEERING (Limited to electrical narratives for cost evaluation)

STRUCTURAL ENGINEERING

Mr. Mark Dunning
Ross Bryan Structural Engineers
227 French Landing Drive, Suite 500
Nashville, Tennessee 37288

III. COMPENSATION

III.1 For the services described under Section I and Terms and Conditions, compensations shall be computed as follows:

The above work shall be completed for a fixed fee of fourteen thousand six hundred twenty (\$14,620.00) dollars. The fixed fee will include site visits by the Architect as outlined in paragraph I.2, time for information collection as needed, cost of producing the reports and instruments of service, travel, coordination, and administration by the Architect per paragraph I.2, mileage and miscellaneous expenses are also included. Final documentation will be delivered in digital (PDF) form. Five hard copies of the instruments of service will also be included in this work scope.

PAYMENT SCHEDULE

III.2 An initial deposit of 15% or two thousand one hundred ninety-three (\$2,193.00) dollars shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account at final payment. Subsequent payments for services shall be made monthly, and where applicable, shall be in proportion to services performed on the basis set forth in this Agreement.

Additional information for compensation is stated in the Terms and Conditions of this Agreement.

Representative,

Printed Name and Title

Representative Signature

Date

Nuber Architecture, LLC

GEORGE NUBER, President
Printed Name and Title



Representative Signature

April 27th, 2022
Date

TERMS AND CONDITIONS

I. ACCESS TO THE SITE/JOB SITE SAFETY:

Unless otherwise stated, Nuber Architecture, LLC and its consultants, hereinafter referred to as the Consultant, will have access to the site for activities necessary for the performance of the services. The Consultant will take precautions to minimize damage resulting from these activities, but has not included in the project fee the cost of restoration of any resulting damage.

The Consultant has not been retained or compensated to provide design and construction observation services relating to the Contractor's safety precautions or to means, methods, techniques, sequences or procedures for the Contractor to perform his work. The Client understands that the Consultant is not responsible, in any way, for the means, methods, techniques, sequences, procedures, or scheduling of construction, or for job site safety. The Consultant will not be responsible for any losses or injuries that occur at the Project Site.

II. INDEMNIFICATION:

The Consultant agrees, to the fullest extent permitted by law, to indemnify and hold the Client harmless from any damage, liability or cost (including reasonable attorney's fees and costs of defense) to the extent caused by the Consultant's negligent acts, errors, or omissions in the performance of professional services under this Agreement and those of his or her sub-consultants (or anyone for whom the Consultant is legally liable).

The Client agrees to the fullest extent permitted by law, to indemnify and hold the Consultant harmless from any damage, liability or cost (including reasonable attorney's costs of defense) to the extent caused by the Client's negligent acts, errors or omissions and those of his or her contractors, subcontractors or consultants (or anyone for whom the Client is legally liable)

The Consultant is not obligated to indemnify the Client in any manner whatsoever for the Client's own negligence.

III. INSURANCE:

The Consultant shall secure and will maintain such insurance as will protect the Client from claims of negligence, bodily injury, death, or property damage that may arise out of the performance of the Consultant's services under this agreement.

IV. RISK ALLOCATION/LIMITATION OF LIABILITY:

In recognition of the relative risks, rewards, and benefits of the Project to both the Client and the Consultant, the risks have been allocated such that the Client agrees that, to the fullest extent permitted by law, the Consultant's total liability to the Client for any and all injuries, claims, losses, expenses, damages, or claims expenses (including attorney's fees), arising out of this Agreement, from any cause or causes, shall not exceed the total amount of the Consultant's fee for any claim arising out of the Consultant's negligence.

V. TERMINATION OF SERVICES:

This Agreement may be terminated by the Client or by the Consultant upon not less than seven days written notice should the other party fail to substantially perform in accordance with the terms of this Agreement through no fault of the party initiating termination. If this Agreement is terminated by the Client, the Consultant shall be paid for services performed to the termination notice date. Should the Consultant's services be terminated through no fault or failure to faithfully & competently perform the services agreed to, the following is applicable:

- A. The Client may terminate this agreement if, through inability to fund the project, the Client can no longer continue with the project.
- B. The Client understands that the design is copyrighted & will not be transferred to another Consultant unless agreed upon in writing or death of the original Consultant has occurred.

VI. REIMBURSABLE EXPENSES:

Reimbursable expenses include actual expenditures made by the Consultant, his employees, or his Sub-Consultants on behalf of the Project. Reimbursable expenses include, but are not necessarily limited to, the following: (a) fees paid for testing and/or for securing approval of authorities having jurisdiction over the Project; (b) expenses of printing, reproduction, postage and handling of drawings and specifications above the allotted five (5) final sets the Consultant will provide in the Project (The Consultant will include all preliminary prints and postage under the normal agreement. Special requests for advanced plots will be at an extra charge); (c) expenses related to Sub-Consultants and specialists when authorized by the Client; (d) expenses related to special travel arrangements

for visiting other projects, lodging, and special meetings not normally included in the Project but requested by the Client; (e) authorized requests by the Client for mounted drawings, special printing, renderings, models, etc. Reimbursable expenses shall be billed as a multiple of 1.1 times the cost incurred by the Consultant.

Included expenses under this agreement are the following: (a) long distance calls related specifically to the Project; (b) transportation expenses related to the Project; (c) preliminary plots and reproduction expenses as part of the normal development of the design (Changes in scope of work will be at an extra charge); (d) overnight mail for schematic, final approval, and delivery of Client review and/or permitting by the authority having jurisdiction.

VII. DISPUTE RESOLUTION:

All claims, counterclaims, disputes, and other matters in question between the parties hereto arising out of or relating to this Agreement or breach thereof shall be presented to non-binding mediation, subject to the parties agreeing to a mediator.

VIII. USE OF DOCUMENTS:

It is understood by and between the parties to this Agreement that all drawings, specifications and other work products of the Consultant (documents) for this Project shall remain and are instruments of the service for this Project. Any other use of the documents by the Client beyond this Project must be by the express written consent the Consultant. Any reuse or adaption of the documents on other projects shall entitle the Consultant to additional compensation in an amount to be agreed upon by the Client and the Consultant. If an amount cannot be agreed upon by the parties, then in an amount set by a court of law.

IX. GOVERNING LAW:

Unless otherwise specified within this Agreement, this Agreement shall be governed by the law of the State of Tennessee. In the event any provisions of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provisions, terms, conditions, or covenant shall not be constructed by the other party as a waiver of a subsequent breach of the same by the other party.

X. BILLINGS AND PAYMENTS:

Invoices for services shall be submitted, at Consultants option, either upon completion of such services or on a monthly basis, unless otherwise stated. Invoices are due when rendered and shall be considered past due if not paid within thirty (30) days after issue date. If the invoice is not paid within thirty (30) days, Consultants may, without waiving claims or right against Client, and without liability whatsoever to the Client, terminate the performance of services. Retainers or initial payments shall be credited on final invoices.

XI. LATE PAYMENTS

Unpaid accounts may be subject to a monthly service charge of 1.5% of the then unpaid balance (18.0% true annual rate), at the sole discretion of the Consultant. In the event the account or any portion thereof remains unpaid sixty (60) days after billing, the Client shall pay all costs of collection, including reasonable attorney's fees.

XII. CLIENT'S RESPONSIBILITIES:

The Client shall designate a person to act with authority on his behalf in respect to all aspects of the Project, shall examine and respond promptly to Consultant's submissions, and shall give prompt written notice to the Consultant whenever he observes or otherwise becomes aware of any defect in or problem with the Project.

The Client shall also provide to the Consultant all criteria and full information as to his requirements for the Project, and shall:

Guarantee access to and make all provisions for the Consultant to enter upon public and private properties as necessary to accomplish work;

Provide such legal, accounting, independent cost estimating, and insurance counseling services as may be required for the Project.

Furnish approvals and permits from all governmental authorities and/or agencies having jurisdiction over the Project;

Provide the Consultant with escorts and means of access to all areas of the Project; this being necessary for the orderly progress of the work. The Consultant shall be entitled to rely upon the efficiency and completeness thereof; and compensate the Consultant for services rendered under this Agreement and pay all costs incidental to Client furnished items.

XIII. EXTENT OF AGREEMENT:

This Agreement represents the entire and integrated Agreement between the Client and the Consultant and supersedes all prior negotiations, or agreements, either written or oral. This Agreement may be amended only by written instruments signed by both the Client and the Consultant.

The Consultant intends to render services under the terms of this Agreement in accordance with generally accepted professional practices consistent with the intended use of the Project and makes no warranty either expressed or implied.

Any *opinion of construction* cost prepared by the Consultant represents his judgement as a design professional and is supplied for the general guidance of the Client. Since the Consultant has no control over the cost of labor and material, competitive bidding, or market conditions, the Consultant does not guarantee the accuracy of such opinions as compared to Contractor bids or actual cost to the Client.

XIV. CHANGES IN THE SCOPE OF SERVICES:

The Client may request changes in the *Scope of Services* of the Agreement to be performed hereunder. Such changes, including any increase or decrease in the amount of the Consultant's compensation, which are mutually agreed upon by and between the Client and the Consultant, shall be incorporated into this Agreement by written amendment. Any changes made to the construction documents by the Client, or by the Client's representative's, are strictly prohibited without the knowledge and written consent of the Consultant. The Consultant shall be released from any liability resulting from damages, injuries, and/or death resulting from the unauthorized alteration of construction documents.

XV. EXISTING AND/OR HIDDEN CONDITIONS:

A condition is hidden if it is concealed by existing finishes or features or if it cannot be investigated by reasonable visual observation. If the Consultant has reason to believe that such a condition may exist, the Consultant will notify the Client who then shall authorize and pay for all costs associated with the investigation of such a condition and, if necessary, all costs necessary to correct said condition. If (1) the Client fails to authorize such investigation to correction after due notification, or (2) the Consultant has no reason to believe that such a condition exists, the Client is responsible for all risks associated with this condition, and the Consultant shall not be responsible for the existing condition nor any resulting damages to persons or property. Further, the Consultant will not be required to execute any document that would result in certifying, guaranteeing or warranting the existence of conditions the Consultant cannot reasonably ascertain.

END OF TERMS AND CONDITIONS