

DRAFT AIA® Document A101™ - 2007

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the « » day of «May» in the year 2012»
(In words, indicate day, month and year)

BETWEEN the Owner:
(Name, legal status, address and other information)

County of Hidalgo
3100 South Business Highway 281, Suite D
Edinburg, Texas 78539
(956)289-7850

as Grantee for
Hidalgo County Head Start Program
1901 West Highway 107
McAllen, Texas 78504 and the Contractor:
(Name, legal status, address and other information)

« » « »
« »
« »
« »

for the following Project:
Hidalgo County Palmview III Head Start Center located at 1208 Paula Drive (Rear),
Palmview, Texas 78572 Building Roof Repairs

The Architect:
(Name, legal status, address and other information)

Mr. Ricardo Hinojosa
Hinojosa Engineering, Inc.
108 West 18th Street
Mission, Texas 78572

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™-2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.
(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

« Date of commencement to be stated in the Notice to Proceed. »

If, prior to the commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner's time requirement shall be as follows:

« »

3.1.1 Liquidated Damages: Owner and Contractor recognize that time is of the essence in this Agreement and that Owner will suffer financial loss if the Work is not completed within the time specified in this Article 3 above, plus any extension thereof allowed in accordance with Article 8 of the General Conditions. Owner and Contractor also recognize the delays, expense and difficulties involved in providing in a legal proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, Owner and Contractor agree that as liquidated damages for delay (but not as penalty) Contractor shall pay Owner, One Thousand and NO/100 Dollars (\$1000.00) for each day that expires after the time specified in Paragraph 3.1 for Substantial Completion until the work is substantially complete.

§ 3.2 The Contract Time shall be measured from the date of commencement.

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than « » () days from the date of commencement, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

« »

Portion of Work

Substantial Completion Date

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

See 3.1.1 above.

ARTICLE 4 CONTRACT SUM

§ 4.1 Pursuant to that Compromise Settlement Agreement and Mutual Release, entered into between the Owner and the Contractor, dated May __, 2012 (the "Release"), the Contractor has agreed to pay the Contract Sum in full for the Contractor's performance of the Work. The Contract Sum shall be « » (\$ « »), subject to additions and deductions as provided in the Contract Documents. The Owner shall in no event be responsible for any payment to the Contractor for any portion of the Work the Contractor has agreed to perform pursuant to the Release and the Contract Documents. Notwithstanding any other provision in the Contract Documents to the contrary, in no event shall Owner be responsible for any payments to the Contractor for Contractor's performance of the Work to be performed by the Contractor pursuant to the Release and the Contract Documents.

§ 4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

« »

§ 4.3 Unit prices, if any:

(Identify and state the unit price; state quantity limitations, if any, to which the unit price will be applicable.)

Item

Units and Limitations

Price Per Unit (\$ 0.00)

§ 4.4 Allowances included in the Contract Sum, if any:

(Identify allowance and state exclusions, if any, from the allowance price.)

Betterment Allowance

TOTAL AMOUNT	

4.5 Commitment of Current Revenues Only. In the event that, during any term hereof, the Owner does not appropriate sufficient funds to meet the obligations of such party under this Agreement, then the Owner may terminate this Contract upon ninety (90) days written notice to the other party. The Owner, agrees, however, to use its best efforts to secure funds necessary for the continued performance of this Contract. The parties intend this

provision to be a continuing right to terminate this Agreement at the expiration of each budget period of the Owner hereto pursuant to the provisions of Tex. Loc. Govt. Code Ann. ' 271.903.

ARTICLE 5 PAYMENTS

§ 5.1 PROGRESS PAYMENTS

§ 5.1.1 DELETED.

§ 5.1.2 DELETED.

« »

§ 5.1.3 DELETED.

(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 DELETED.

§ 5.1.5 DELETED.

§ 5.1.6 DELETED.

§ 5.1.7 DELETED.

§ 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

Not Applicable

§ 5.1.9 Except with the Owner’s prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 FINAL PAYMENT

§ 5.2.1 DELETED.

§ 5.2.2 The Architect’s Certificate of Final Completion shall not be given by the Architect until satisfactory evidence has been given by the Contractor to the Owner that all his bills have been paid and the entire project is free from liens.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 INITIAL DECISION MAKER

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007, **as modified by Owner and attached hereto as Exhibit “A”**, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

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§ 6.2 BINDING DISPUTE RESOLUTION

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A201–2007, **as modified by Owner and attached hereto as Exhibit “A”**, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Contractor do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

Arbitration pursuant to Section 15.4 of AIA Document A201–2007

Litigation in a court of competent jurisdiction

Other (Specify)

« »

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2007.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2007 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

« » « »

§ 8.3 The Owner’s representative:
(Name, address and other information)

Hidalgo County Commissioner’s Court, as referenced in the AIA A201-2007 General Conditions, as modified by the Owner in Section 2.1.1. as authorized representatives.

§ 8.4 The Contractor’s representative:
(Name, address and other information)

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§ 8.5 Neither the Owner’s nor the Contractor’s representative shall be changed without ten days written notice to the other party.

§ 8.6 Other provisions:

« »

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A101–2007, Standard Form of Agreement Between Owner and Contractor, as modified by Owner and attached hereto as Exhibit “A”,

§ 9.1.2 The General Conditions are AIA Document A201–2007, General Conditions of the Contract for Construction, **as modified by Owner and attached hereto as Exhibit “A”**.

§ 9.1.3 The Supplementary and other Conditions of the Contract: Not Applicable.

Document	Title	Date	Pages

§ 9.1.4 The Specifications:

(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

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Section	Title	Date	Pages

§ 9.1.5 The Drawings:

(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

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Number	Title	Date

§ 9.1.6 The Addenda, if any: Not Applicable.

Number	Date	Pages

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents:

- .1 AIA Document E201™–2007 Digital Data Protocol Exhibit, if completed by the parties, or the following:

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- .2 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2007 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor’s bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

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1. Exhibit ‘A’ – AIA A201-2007, as modified by the Owner.
2. Exhibit ‘B’ Drawings & Specifications
3. Exhibit ‘C’ Notice to Proceed
4. Exhibit ‘D’ Certificate of Insurance
5. Exhibit ‘E’ Performance and Payment Bonds

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201–2007, **as modified by Owner and attached hereto as Exhibit “A”**,

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201-2007,,as modified by Owner and attached hereto as Exhibit “”).

Type of insurance or bond

Limit of liability or bond amount (\$ 0.00)

This Agreement entered into as of the day and year first written above and is executed in three (3) original copies, of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.

OWNER (Signature)

By: Ramon Garcia, County Judge
(Printed name and title)

**APPROVED AS TO FORM:
ATLAS, HALL & RODRIGUEZ, LLP**

(Signature)

By: Stephen L. Crain
(Printed name and title)

**APPROVED AS TO FORM:
OXFORD & GONZALEZ, LLP**

(Signature)

By: Ricardo Gonzalez
(Printed name and title)

CONTRACTOR (Signature)

By: « »
(Printed name and title)

ATTEST:

(Signature)

By: Arturo Guajardo Jr., County Clerk
(Printed name and title)

**APPROVED AS TO FORM:
HIDALGO COUNTY HEAD START PROGRAM**

(Signature)

By: Teresa Flores, Executive Director
(Printed name and title)