

DRAFT AIA® Document B105™ – 2007

Standard Form of Agreement Between Owner and Architect for a Residential or Small Commercial Project

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

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

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«
«

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

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«
«

for the following Project:
(Name, location and detailed description)

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The Owner and Architect 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.

State or local law may impose requirements on contracts for home improvements. If this document will be used for Work on the Owner's residence, the Owner should consult local authorities or an attorney to verify requirements applicable to this Agreement.

ELECTRONIC COPYING of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

ARTICLE 1 ARCHITECT'S RESPONSIBILITIES

The Architect shall provide architectural services for the Project as described in this Agreement in a manner consistent with locally accepted standards for professional skill and care. The Architect shall assist the Owner in determining consulting services required for the Project. The Architect's services include the following consulting services, if any:

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During the Design Phase, the Architect shall review the Owner's scope of work, budget and schedule and reach an understanding with the Owner of the Project requirements. Based on the approved Project requirements, the Architect shall develop a design. Upon the Owner's approval of the design, the Architect shall prepare Construction Documents indicating requirements for construction of the Project and shall coordinate its services with any consulting services the Owner provides. The Architect shall assist the Owner in filing documents required for the approval of governmental authorities, in obtaining proposals and in awarding contracts for construction.

During the Construction Phase, the Architect shall act as the Owner's representative and provide administration of the Contract between the Owner and Contractor. The extent of the Architect's authority and responsibility during construction is described in AIA Document A105™-2007, Standard Form of Agreement Between Owner and Contractor for a Residential or Small Commercial Project. Generally, the Architect's services during construction include interpreting the Contract Documents, reviewing the Contractor's submittals, visiting the site, reviewing and certifying payments, and rejecting nonconforming Work.

ARTICLE 2 OWNER'S RESPONSIBILITIES

The Owner shall provide ~~full~~ information about the objectives, schedule, constraints and existing conditions of the Project, and shall establish a budget that includes reasonable contingencies and meets the Project requirements. The Owner shall provide decisions and furnish required information ~~as expeditiously as~~ is reasonably necessary for the orderly progress of the Project. ~~The Architect shall be entitled to rely on the accuracy and completeness of the Owner's information.~~ The Owner shall furnish consulting services not provided by the Architect, ~~but required as~~ Owner determines necessary for the Project, such as surveying, which shall include property boundaries, topography, utilities, and wetlands information; geotechnical engineering; and environmental testing services. The Owner shall employ a Contractor, experienced in the type of Project to be constructed, to perform the construction Work and to provide price information.

ARTICLE 3 USE OF DOCUMENTS

~~The Architect assigns to the Owner, without reservation, all copyrights in all Project-related documents, models, photographs and other expressions created by the Architect, including the Drawings and Construction Documents. Owner's obligation to pay the Architect is conditioned upon Architect obtaining a written assignment of copyrights from its subcontractors or subconsultants in terms substantially similar to those applicable to Architect in this subsection. Architect, in turn, assigns such copyrights to Owner. In exchange, Owner grants Architect and its subcontractors and subconsultants a revocable, exclusive license to reproduce the documents for purposes relating directly to the Architect's performance of its obligations under this Agreement, for its archival records and for the Architect's reproduction of drawings and photographs in the Architect's marketing materials. Drawings, specifications and other documents prepared by the Architect are instruments of the Architect's service and are for the Owner's use solely with respect to this Project. The Architect shall retain all common law, statutory and other reserved rights, including the copyright. Upon completion of the Project or termination of this Agreement, the Owner's right to use the instruments of service shall cease. When transmitting copyright-protected information for use on the Project, the transmitting party represents that it is either the copyright owner of the information, or has permission from the copyright owner to transmit the information for its use on the Project.~~

ARTICLE 4 TERMINATION, SUSPENSION OR ABANDONMENT

In the event of termination, suspension or abandonment of the Project by the Owner, the Architect shall be compensated for services performed. ~~The Unless Owner in good faith disputes an invoice or a portion of an invoice from the Architect, the~~ Owner's failure to make payments in accordance with this Agreement shall be considered substantial nonperformance and sufficient cause for the Architect to suspend or terminate services. Either the Architect or the Owner may terminate this Agreement after giving no less than seven days' written notice if the Project is suspended for more than 90 days, or if the other party substantially fails to perform in accordance with the terms of this Agreement.

ARTICLE 5 MISCELLANEOUS PROVISIONS

This Agreement shall be governed by the law of the place where the Project is located. Terms in this Agreement shall have the same meaning as those in AIA Document A105–2007, Standard Form of Agreement Between Owner and Contractor for a Residential or Small Commercial Project. Neither party to this Agreement shall assign the contract ~~as a whole~~ without written consent of the other.

Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or the Architect.

The Architect and Architect's consultants shall have no responsibility for the identification, discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials in any form at the Project site.

Architect warrants that it will comply with all laws relating to the performance of Architect's obligations under this Agreement. Architect warrants that it will be qualified, professionally competent and duly licensed to perform the work and services at all times during the term of this Agreement.

In providing the services contemplated by this Agreement, Architect will comply with ORS 279B.220 (conditions concerning payment, contributions, liens and withholdings), 279B.230 (conditions concerning payment for medical care and providing workers' compensation) and 279B.235 (conditions concerning hours of labor). Architect warrants that it not delinquent in the filing or payment of any Oregon income taxes, Oregon personal property taxes, Oregon municipal taxes, or Oregon real property taxes and that it has otherwise complied with all Oregon tax laws and all tax laws of those Oregon municipalities to which Architect is subject.

Architect will obtain prior to beginning any work under this Agreement and will maintain in full force and effect for the term of this Agreement, at Architect's expense, comprehensive general liability and automobile insurance policies for bodily injury, including death, and property damage, including coverage for owned, hired or non-owned vehicles, as applicable, for the protection of Architect and Owner, its elected and appointed officials, officers, agents, employees and volunteers as additional insureds. The policies will be primary policies, issued by a company authorized to do business in the State of Oregon, written on an occurrence basis and providing single limit general liability coverage of \$1,000,000 and separate automobile coverage of \$1,000,000 or the limit of liability contained in ORS 30.260 to 30.300, whichever is greater. Architect must provide Owner with no less than thirty (30) days' written notice of cancellation or material modification of an insurance policy required by this Agreement. Architect will provide certificates of insurance required by this Agreement to Owner prior to commencement of any work under this Agreement and, at Owner's request, will provide Owner with complete copies of an insurance policy required by this Agreement. Architect is financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

In addition to other insurance requirements stated above, Architect will obtain prior to beginning any work under this Agreement and will maintain in full force and effect for the term of this Agreement, at Architect's expense, professional liability insurance (i.e. E&O insurance) in the amount of not less than \$1,000,000 combined single limit. Architect must maintain the professional liability policy for at least two years after Owner's final payment to Architect.

Architect will indemnify, defend, save and hold harmless the Owner, its elected and appointed officials, officers, agents, employees and volunteers against all liability, claims, suits or actions of whatever nature, loss or expenses, including attorney fees, and against all claims, actions, judgments based upon or arising out of damage or injury or death to persons or property, but only to the extent caused by a negligent act or omission by the Architect and anyone acting on Architect's behalf in connection with, or incidental to, this Agreement or the work to be performed relative to the Project hereunder; provided, however, that nothing herewith shall be construed to require indemnification of Owner attributable to its sole negligence.

ARTICLE 6 PAYMENTS AND COMPENSATION TO THE ARCHITECT

The Architect's Compensation shall be:

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The Owner shall pay the Architect an initial payment of « » (\$ «0.00 ») as a minimum payment under this Agreement. The initial payment shall be credited to the final invoice.

The Owner shall reimburse the Architect for expenses incurred in the interest of the Project, plus « » percent (« 10% » %).

Payments are due and payable upon receipt of the Architect's monthly invoice. Amounts unpaid « » (« 30 ») days after the invoice date shall bear interest from the date payment is due at the rate of « » percent (« » %) «1.5% », or in the absence thereof, at the legal rate prevailing at the principal place of business of the Architect.

At the request of the Owner, the Architect shall provide services not included in Article 1 for additional compensation. Such services may include providing or coordinating services of consultants not identified in Article 1; revisions due to changes in the scope, quality or budget; evaluating changes in the Work and Contractors' requests for substitutions of materials or systems; and services not completed within « » (« ») months of the date of this Agreement through no fault of the Architect.

ARTICLE 7 OTHER PROVISIONS

(Insert descriptions of other services and modifications to the terms of this Agreement.)

« See Exhibit A »

This Agreement entered into as of the day and year first written above.

OWNER

(Signature)

« »«Clackamas Community College »

(Printed name and title)

ARCHITECT

(Signature)

« »

(Printed name and title)