

ATTACHMENT TO AIA DOCUMENT B101-2017, *Standard Form of Agreement Between Owner and Architect*

The provisions of this Attachment shall delete, modify and supplement the provisions contained in the "*Standard Form of Agreement Between Owner and Architect*," AIA Document B101-2017. The provisions contained in this Attachment will supersede any conflicting provisions of the AIA Document. The term "Agency," as used in this Attachment, shall mean the United States of America, acting through the United States Department of Agriculture.

When the project is not subject to the Build America, Buy America Act the provisions in bold do not apply.

ARTICLE 1, INITIAL INFORMATION

Delete the following references from subparagraph 1.1.5:

"accelerated or fast-track scheduling"

Add the following subparagraphs and clauses to subparagraph 1.1.12:

1.1.12.1 Build America, Buy America Act

***Domestic Preference Requirements for Federal Financial Assistance to Non-Federal Entities.* Federal Financial Assistance to Non-Federal Entities, defined pursuant to 2 CFR 200.1 as any State, local government, Indian tribe, Institution of Higher Education, or nonprofit organization, shall be governed by the requirements of Section 70914 of the Build America, Buy America Act (BABAA), under Title IX of the Infrastructure Investment and Jobs Act, Pub. L. 177-58. Any requests for waiver of these requirements must be submitted pursuant to USDA's guidance available online at [USDA Buy America Waivers for Federal Financial Assistance | USDA](#).**

1.1.12.1.1 This agreement is for services related to a project that is subject to the Build America, Buy America Act (BABAA) requirements under Title IX of the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. 177-58. Absent an approved waiver, all iron, steel, manufactured products, and construction materials used in this project must be produced in the United States, as further outlined by the Office of Management and Budget's regulation (reference 2 CFR 200) on the application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure.

1.1.12.1.2 The Designer, Architect, and / or Engineer shall be responsible for:

- .1 Providing opinions of costs and revisions thereof that reflect compliance with BABAA requirements.**
- .2 Determining and certifying that to the best of Provider's knowledge and belief all iron and**

steel products, manufactured products, and construction materials referenced in any technical analysis/report; the plans, specifications, and bidding documents; any bid addenda; and change orders comply with all federal requirements, including BABAA.

- .3 Reviewing and approving or taking action with respect to shop drawings, samples, and other required Contractor submittals, including applications for payment, to ensure compliance with BABAA requirements.**
- .4 Reviewing substitutions and "or equals" for conformity with contract conditions, Rural Development (RD) regulations, and BABAA requirements.**
- .5 Obtaining and reviewing manufacturer's and contractor's certifications on compliance with BABAA requirements and maintain copies of certifications in project files.**
- .6 Assisting the Owner, if needed, in due diligence related to any BABAA waiver request.**

ARTICLE 2, ARCHITECT'S RESPONSIBILITIES

Delete the second sentence from paragraph 2.5.

ARTICLE 3, SCOPE OF ARCHITECT'S BASIC SERVICES

Add the following subparagraph to subparagraph 3.1.5:

3.1.5.1 The Architect shall consult with the Agency Architect or Engineer about the Agency's requirements and procedures.

Paragraph 3.2, SCHEMATIC DESIGN PHASE SERVICES

Add the following subparagraph to paragraph 3.2.2

3.2.2.1 The Architect shall prepare a Preliminary Architectural Report (PAR) as outlined in RD Instruction 1942-A Guide 6 "Preliminary Architectural Feasibility Report".

Add the words "and concurrence by the Agency" after "Owner's approval" at the end of the first sentence in subparagraph 3.2.5.

Delete subparagraph 3.2.7 in its entirety and substitute the following:

3.2.7 The Architect shall provide the Owner with the appropriate Schematic Design Documentation and estimated project cost to seek the concurrence of the Agency. When the Owner has accepted and the Agency has concurred on the Schematic Design Documents and

estimated project cost, the project Architect may be authorized to proceed with the Design Development Documents.

Add the following subparagraph to read as follows:

3.2.8 The Architect shall attend conferences with the Owner, representatives of the Agency, and other interested parties as may be reasonably necessary.

Paragraph 3.3, DESIGN DEVELOPMENT PHASE SERVICES

Add the words "and concurrence by the Agency" after "Owner's approval" at the end of the first sentence in subparagraph 3.3.1.

Delete subparagraph 3.3.3 in its entirety and substitute the following:

3.3.3 The Architect shall provide the Owner with the appropriate Design Development Documentation and updated estimated project cost to seek the concurrence of the Agency. When the Owner has accepted and the Agency has concurred on the Design Development Documents and updated estimated project cost, the project Architect may be authorized to proceed with the Construction Documents.

Paragraph 3.4, CONSTRUCTION DOCUMENT PHASE SERVICES

Add the words "and concurrence by the Agency" after "Owner's approval" at the end of the first sentence in subparagraph 3.4.1.

Delete subparagraph 3.4.5 in its entirety and substitute the following:

3.4.5 The Architect shall provide the Owner with the appropriate Construction Documents and updated estimated project cost to seek the concurrence of the Agency. When the Owner has accepted and the Agency has concurred on the Construction Documents and updated estimated project cost, the project Architect may be authorized to proceed with the Bidding and Contract Documents.

Add the following subparagraphs:

3.4.6 The Architect shall certify in writing, to the best of the Architect's knowledge, information, and belief, that the Drawings and Specifications are in conformance with the applicable development standard, as defined in Agency regulations furnished by the Owner under subparagraph 5.16.

3.4.7 Prior to advertisement for bids, the Architect shall provide _____ sets of the Bidding and Contract Documents for use by the Owner, the Agency, and the appropriate Federal, State, and local agencies from whom approval of the project must be obtained. The reproduction cost of such Documents shall be included in the compensation paid to the Architect. The Owner shall obtain Agency concurrence with the Bidding and Contract Documents, estimated project costs, and written authorization to proceed prior to advertisement for bids as applicable.

Paragraph 3.5, PROCUREMENT PHASE SERVICES

Add the following clause to subparagraph 3.5.2.2:

- .5 furnishing additional copies of the Construction Documents as requested by the prospective bidders, and other interested parties, and owner may charge them a reasonable cost for such copies.

Paragraph 3.6, CONSTRUCTION PHASE SERVICES

Add the words ", and the conditions of RD Instruction 1942-A, Guide 27, Attachment 4." after "Contract for Construction" in subparagraph 3.6.1.1.

Delete the first sentence of subparagraph 3.6.1.2 and substitute the following:

"The Architect shall be a representative of and shall advise and consult with the Owner during construction until final payment to the Contractor is paid, and at the Owner's direction during the period of correction of the Work described in the Contract for Construction. The Architect shall furnish architectural services and consultations necessary to correct minor construction defects encountered during such correction period. The Architect shall assist the Owner in performing a review of the project during the 11th month after the date of substantial completion. Such services shall be furnished without additional charge except for travel and subsistence costs".

Delete the following, "on the date the Architect issues the final Certificate for Payment", and replace it with, "at the expiration of the warranty period described in the Contract for Construction.", in subparagraph 3.6.1.3.

Add the following subparagraphs to paragraph 3.6:

3.6.1.4 Upon award of the construction contract, the Architect shall furnish to the Contractor _____ sets of Construction Contract Documents for execution of the work. The costs of these sets shall be included in the compensation to the Architect notwithstanding subparagraph 11.8.

3.6.1.5 The Architect shall participate in the Preconstruction Conference prior to the start of construction and shall advise and consult with the Owner and the Agency.

3.6.1.6 On-site pay/progress meetings no less than once a month during the periods of active construction. Meeting minutes must be distributed promptly to the Owner, the Contractor, and the Agency.

Add the following after the first sentence of subparagraph 3.6.2.1

"Such visits to the site shall be documented in writing on inspection report forms acceptable to the Owner and the Agency.

Copies shall be furnished to the Owner, the Contractor or Construction Manager, and the Agency."

Add the following to subparagraph 3.6.2.5 after the words "AIA Document A201-2017": "with RD Instruction 1942-A, Guide 27, Attachment 4."

Add the following subparagraph to paragraph 3.6:

3.6.2.6 The Architect shall advise the Owner and the Agency of required tests, inspections, and test results; and shall advise the Owner and the Agency of the results of same. Copies of tests results shall be furnished upon request to the Owner and the Agency.

Add the following subparagraphs to paragraph 3.6:

3.6.3.4 All Certificates of Payment shall receive Agency concurrence before payment is made.

Delete the words ", Construction Change Directives" and add the words "and Agency concurrence" after the words "Owner's approval" in subparagraph 3.6.5.1.

Add the following to the end of the subparagraph 3.6.5.1: "Preparation of Change Orders which do not substantially affect the Project shall be included in the compensation computed in paragraph 11.1. The Owner, with the assistance of the Architect, shall obtain Agency concurrence in writing for all change orders prior to the performance of the Work."

Delete subparagraph 3.6.6.1 and associated clauses in its entirety and substitute the following:

3.6.6.1 The Architect shall conduct an inspection prior to the issuance of the Certificate of Substantial Completion and shall submit a written report of work to be completed to the Owner, the Agency and the Contractor prior to final acceptance. The Architect shall notify the Agency about inspection allowing reasonable time for the Agency's representative to attend. Such services shall be coordinated with the Agency. Prior to submitting the final Certificate for Payment, the Architect shall; 1) conduct an inspection to determine compliance with the requirements of the Contract Documents, and 2) receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor.

ARTICLE 4, SUPPLEMENTAL AND ADDITIONAL SERVICES

Insert the word "Architect" under the heading "Responsibility" for line items 4.1.1.12, 4.1.1.13, and 4.1.1.16 in the chart.

Add the following subparagraphs to paragraph 4.1.2 below the chart:

4.1.2.1.1 The Architect shall provide a cost estimate based on Construction Contract Documents. The estimate shall show a breakdown of the project cost in accordance with Rural Development requirements and procedures.

4.1.2.1.2 The selection and compensation of the Project Representative, if required, shall be concurred in by the Agency.

4.1.2.1.3 Provide Record Drawings of the project to the Owner. The costs of these sets shall be included in the compensation to the Architect notwithstanding Subparagraph 11.8.

ARTICLE 5, OWNER'S RESPONSIBILITIES

Add the following subparagraph to Article 5:

5.16 Owner shall provide Agency design and construction document regulations and guides to the Architect, upon request. The Owner shall provide information on requirements and procedures of the Agency.

ARTICLE 8, CLAIMS AND DISPUTES

Delete the words "unless the parties mutually agree otherwise" and substitute the words "if the parties mutually agree" in the first sentence of subparagraph 8.3.1.

ARTICLE 9, TERMINATION OR SUSPENSION

Delete the second sentence in subparagraph 9.2 and substitute the following:

When the Project is resumed, the Architect's compensation may be equitably adjusted, as mutually agreed, to provide for expenses incurred in the interruption and resumption of the Architect's services.

Insert the words "as mutually agreed " after "Owner shall compensate the Architect" in subparagraph 9.6.

ARTICLE 10, MISCELLANEOUS PROVISIONS

Add the following to subparagraph 10.2 after the words "AIA Document A201-2017": "with RD Instruction 1942-A, Guide 27, Attachment 4."

Add the following subparagraphs:

10.10 This agreement and any amendments to this agreement shall not be in full force and effect until concurred with in writing by a duly authorized representative of the Agency. The concurrence so evidenced by the Agency shall in no way commit the Agency to render financial assistance to the Owner and is without liability to the Agency for any payment thereunder, but in the event such assistance is provided, the concurrence shall signify that the provisions of this Agreement and any amendments to this Agreement are consistent with Agency requirements.

10.11 If applicable, the Architect shall comply with section 319 of Public Law 101-121, as supplemented by the Department of Agriculture regulations (2 CFR part 418). This statute pertains to restrictions on lobbying and applies to the recipients of contracts and subcontracts that exceed \$100,000 at any tier under a Federal loan that exceeds \$150,000 or a Federal grant that exceeds \$100,000. If applicable, the Architect must complete a certification form on lobbying activities related to a specific Federal loan or grant that is a funding source for this Contract. The certification and disclosure forms shall be provided by the Owner.

10.12 The Architect agrees to abide by the requirements under Executive Order 12549, which pertains to the debarment or suspension of a person from participating in a Federal program or activity.

ARTICLE 11, COMPENSATION

Delete subparagraph 11.1, clause .2 in its entirety.

Add the words "and the Agency" after the words "Owner" in subparagraph 11.10.2.3.

Add the following subparagraph to subparagraph 11.10.2:

11.10.2.4 The Architect shall provide a detailed cost estimate for Reimbursable Expenses as defined in subparagraph 11.8.1, which shall be attached and made a part of this Agreement. The cost estimate must be approved in writing by the Owner and shall be concurred with in writing by the Agency before the services are rendered. The billings for reimbursable services shall not exceed the budgeted amount without prior approval of the Owner with the concurrence of the Agency. The Agency may not concur in requests for payments which exceed the budgeted amount unless it is established that funds are available for such expenditures.

ARTICLE 12, SPECIAL TERMS AND CONDITIONS

Add the following subparagraph 12.1:

12.1 This Agreement is modified and supplemented by RD Instruction 1942-A, Guide 27, Attachment 1.

ARTICLE 13, SCOPE OF THE AGREEMENT

Delete "both the Owner and the Architect" from the end of the second sentence in subparagraph 13.1 and replace with "the Owner, the Architect, and concurred in by the Agency".

OWNER AND ARCHITECT SIGNATURE PAGE

Delete the signature block and replace with the following:

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate on the respective dates indicated below:

OWNER:

ATTEST: _____	By _____
Type Name _____	Type Name _____
Title _____	Title _____
Date _____	Date _____

ARCHITECT:

ATTEST: _____	By _____
Type Name _____	Type Name _____
Title _____	Title _____
Date _____	Date _____

AGENCY CONCURRENCE:

By _____

Type Name _____

Title _____

Date _____

The concurrence so evidenced by the Agency shall in no way commit the Agency to render financial assistance to the Owner and is without liability to the Agency for any payment hereunder, but in the event such assistance is provided, the concurrence shall signify the provisions of this Agreement are consistent with Agency requirements.

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