

USDA RURAL DEVELOPMENT ATTACHMENT TO THE AGREEMENT BETWEEN OWNER AND ARCHITECT

For projects **without** new USDA Rural Development Direct Funding
For use with AIA Contract Documents or other USDA approved contract documents

The provisions contained herein will supersede any conflicting provisions of the Agreement dated _____

between _____ (Owner)

and _____ (Architect)

for _____ (Project Name).

The term "Agency," as used in this document, shall mean the United States of America, acting through the United States Department of Agriculture. Neither the United States nor any of its departments, agencies, or employees is or will be a party to this Contract or any Subcontract.

INITIAL INFORMATION

The planning, bidding, contracting, and construction must comply any applicable State laws and requirements imposed by local, county, State or Federal agencies.

Accelerated or fast-track construction methods are not permissible shall not be used. The Agency shall review and concur in final plans and specifications prior to bidding or negotiation.

SCOPE OF ARCHITECT'S BASIC SERVICES

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

The Architect shall provide the Owner with the appropriate Design Documentation and the estimated project cost for review by the Agency.

Construction Documents Phase Services

The Architect will:

1. Prepare the working drawings and specifications and set forth in detail the requirements for the construction of the entire project in accordance with applicable regulations and codes; for example, necessary bidding information, assistance in preparing bidding forms, conditions of the construction contract, and the form of agreement between Owner and Contractor.
 - a. The type and kinds of drawings should be in accordance with acceptable industry standards and local, state and federal requirements.
 - b. The drawings must be clear, accurate, with adequate dimensions and of sufficient scale for estimating purposes.
 - c. Construction sections and large-scale details sufficient for accurate bidding and for the purpose of correlating all parts of the work should be part of the general drawings.
 - d. Mechanical and electrical work should be shown on separate plans.
 - e. Schedules should be provided for doors, windows, finishes, electrical fixtures, finish hardware, and any other specialty items necessary to clarify drawings.
 - f. Trade-type specifications (specifications divided into sections for various trades) should be used. The specifications should be complete, clear, and concise, with

adequate description of the various classes of work shown under the proper sections and headings. Maximum Open and Free Competition should be maintained.

2. Submit a final and more comprehensive statement of probable development cost. It should show a breakdown of the estimated total development cost of the project and the various trades in enough detail for an adequate review.
3. Obtain the acceptance of the Owner and the Agency for contract documents, including approval of the final drawings and specifications and authorization to proceed.
4. Discuss with the Owner various items as they develop.

The Architect shall certify in writing using Form 1924-25 Plan Certification or comparable certification, to the best of the Architect's knowledge, information and belief, that the Drawings and Specifications are in conformance with Agency requirements or standards, applicable building codes, accessibility standards, other federal, state and local laws, or any other regulatory requirement.

The Architect shall provide Construction 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 Owner shall obtain Agency concurrence with the Construction Documents, estimated Project costs, and authorization to proceed in writing prior to advertisement for bids or executing a negotiated contract.

Procurement Phase Services

All construction procurement actions, whether by sealed bid or by negotiation, must be conducted in a manner that provides maximum open and free competition.

Construction Phase Services

This phase includes the administration of the construction contract. It will commence with the award of the construction contract and terminate at the expiration of the warranty period described in the Contract for Construction. 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 will:

1. Attend the preconstruction conference, complete Form RD 1924-16 Record of Preconstruction Conference (or similar), obtain signatures of all attendees, and distribute to Owner, Agency, and Contractor.
2. Advise and consult with the Owner and the Agency and issue the Owner's instructions to the contractor.
3. Prepare change orders.
4. Interpret the contract documents and have the authority to reject all work and materials which do not comply.
5. Review and approve shop drawings, samples, and other submissions of the contractor for conformance with the design concept and for compliance with the contract documents.

6. The Architect shall advise the Owner and the Agency of required tests, inspections, and test results. Copies of tests results shall be furnished upon request to the Owner, and the Agency.
7. Conduct periodic inspections of all phases of construction to determine compliance with the contract documents and certify as to the amount that is in place and materials suitably stored on site for partial payment estimates. These inspections will be augmented, when necessary, by inspections performed by structural, mechanical, and electrical representatives. Periodic inspections should be made no less than once a month and as frequently as is necessary to verify that the work conforms with the intent of the contract documents and that a high quality of workmanship is maintained.
8. The Agency may require Resident Inspection when in the opinion of the Agency there is a need for such inspection. The term "Resident Inspector," as used in this document, shall mean the Owner's Inspector – an individual approved by the Owner, Architect, and Agency - who assists the Owner in Construction Contract Administration by preparing daily inspection reports, verifying compliance with BABAA, and participating in the preconstruction conference, construction coordination meetings, pre-final inspection and final inspection. The selection of the Resident Inspector shall be concurred in by the Agency.
 - a. The Resident Inspector will be independent from the Contractor. Prior to the preconstruction conference, the Owner must submit a resume of the representative's qualifications to the project architect/engineer and the Agency for acceptance in writing. If the consulting architect/engineer provides the project representative, the architect/engineer will submit a resume of qualifications of the project representative to the Owner and Agency for acceptance in writing. The Resident Inspector will attend the preconstruction conference where duties and responsibilities will be fully discussed. The Resident Inspector will work under the general supervision of the architect/engineer.
9. On-site pay/progress meetings shall occur no less than once a month during the periods of active construction. Progress meetings and the Architect's visits to the site shall be documented in writing on forms acceptable to the Owner and the Agency. Meeting minutes and observation reports shall be distributed promptly to the Owner, Contractor and the Agency. This paragraph is not applicable to 538 Option 1 Guaranteed Loans.
10. Determine, based on the inspections, the dates of substantial completion and final completion; receive on the Owner's behalf all written guarantees and related documents assembled by the contractor; and issue a final certificate for payment.
 - a. Substantial Completion: The Architect, Owner, Resident Inspector (if applicable) and the Agency (if available) 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 the inspection allowing reasonable time for the Agency's representative to attend. The Agency will not attend substantial completion inspections for 538 Option 1 Guaranteed Loans.
 - b. Final Completion: Prior to submitting the final Certificate for Payment, the Architect shall; 1) conduct an inspection with the Owner, Resident Inspector (if

applicable) and the Agency (if available) 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.

SUPPLEMENTAL AND ADDITIONAL SERVICES

The Architect shall be responsible for the following supplemental services:

1. On-site project representation, if required: When required, the Resident Inspector should be provided by the Architect.

OWNER'S RESPONSIBILITIES

The 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.

MISCELLANEOUS PROVISIONS

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.

BUILD AMERICA, BUY AMERICA ACT

When the project is not subject to the Build America, Buy America Act the provisions of this section do not apply.

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. 117-58. 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](#).

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. 117-58. 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 part 200, 2 CFR part 184) on the application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure.

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.

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, the Agreement

dated _____

between _____ (Owner)

and _____ (Architect)

for _____ (Project Name)

on the respective dates indicated below.

OWNER:

By _____

Type Name _____

Title _____

Date _____

ATTEST: _____

Type Name _____

Title _____

Date _____

ARCHITECT:

By _____

Type Name _____

Title _____

Date _____

ATTEST: _____

Type Name _____

Title _____

Date _____