

 **AIA**[®] Document A101[®] – 2017

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

AGREEMENT made as of the twenty first (21st) day of February in the year 2023
(In words, indicate day, month and year.)

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

City of Spring Hill
199 Town Center Parkway
Spring Hill, TN 37174

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

Hensel Phelps
1600 Division Street
Suite 220
Nashville, TN 37203

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

City of Spring Hill Police Department Headquarters
Hathaway Boulevard
Springhill, TN 37174

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

TMPartners, PLLC
211 Franklin Rd.
STE 200
Brentwood, TN 37027

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. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

The parties should complete A101@–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201@–2017, 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:

(Check one of the following boxes.)

- The date of this Agreement.
- A date set forth in a notice to proceed issued by the Owner.
- Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

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

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

From the date of the Notice to Proceed/Date of Commencement. Not later than five hundred fifty (550) calendar days as defined in 8.7 herein from the date of commencement of the Work.

By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work

Substantial Completion Date

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be thirty six million, nine hundred twenty nine thousand (\$ 36,929,000.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
ALT. NO. 1	\$591,000.00
ALT. NO. 2	\$99,000.00
ALT. NO. 3	\$122,000.00

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. *(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*

Item	Price	Conditions for Acceptance
N/A		

§ 4.3 Allowances, if any, included in the Contract Sum: *(Identify each allowance.)*

Item	Price
ALLOW. NO. 1	\$625,360.00
ALLOW. NO. 2	\$40,000.00
ALLOW. NO. 3	\$100,000.00
ALLOW. NO. 4	\$136,000.00
ALLOW. NO. 5	\$41,000.00

§ 4.4 Unit prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
N/A		

§ 4.5 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

\$400 per day for everyday after the 550th calendar day that the project has not reached substantial completion as defined herein.

§ 4.6 Other:

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(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

N/A

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

N/A

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the fifth (5th) day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the last day of the month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than () days after the Architect receives the Application for Payment.

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

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

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(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

5%

§ 5.1.7.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

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

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

N/A

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage upon Substantial Completion.)

N/A

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 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 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor’s responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner’s final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect’s final Certificate for Payment, or as follows:

N/A

§ 5.3 Interest

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.)

N/A %

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the 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 Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

- Arbitration pursuant to Section 15.4 of AIA Document A201–2017
- Litigation in a court of competent jurisdiction
- Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, 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. The substantially prevailing party shall be entitled to recover their reasonable attorney fees and costs expended in prosecuting the dispute.

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 A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner’s convenience.)

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner’s representative:

(Name, address, email address, and other information)

Office of the City Administrator
199 Town Center Parkway
Spring Hill, TN 37174

Pamela S. Caskie (pcaskie@springhilltn.org)

Copy to: Patrick Carter, City Attorney
809 South Main Street
Columbia, TN 38401

§ 8.3 The Contractor’s representative:

(Name, address, email address, and other information)

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Hensel Phelps
Attn: Justin Starnes
6557 Hazeltine National Drive
Orlando, FL 32822

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents. Having satisfied all conditions of award as set forth elsewhere in these documents, the successful bidder shall, within the period specified above, furnish bond(s) in a penal sum of at least the full amount of the contract as awarded, in the form included in the specifications, which secured the faithful performance of the contract, and for the payment of all persons, firms or corporations to whom the Contractor may become legally indebted for labor, materials, tools, equipment, or services, of any nature, employed or used by him in performing the work. Such bond(s) shall bear the same date as, or a date subsequent to, the date of the contract. On each bond, the rate of premium shall be stated, together with the total amount of the premium charged. The current power of attorney for the person who signs for any surety company shall be attached to such bond. Names of sureties must appear in most current U.S. Department of the Treasury Circular 570, "Surety Companies Acceptable on Federal Bonds", and must be licensed to do business in the State of Tennessee.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

The Owner shall pay the Contractor the contract sum for the Contractor's performance of work. The contract sum will be Thirty-Six Million Nine Hundred Twenty-Nine Thousand (\$36,929,000.00), subject to additions and/or deductions that may occur during construction, which represents the base bid and all alternates included.

- a. If a change order is required, the Contractor must submit all documentation, to include pricing verification, to the Owner in writing. The Owner will review and subsequently submit for consideration of approval to the City's Board of Mayor and Aldermen.
- b. The Contractor shall perform value engineering throughout the construction period to determine if any savings are appropriate and applicable.
- c. If savings are deemed applicable, the Owner and Contractor shall share the cost savings with an equitable cost split determined at the time savings are identified.
- d. The Owner will perform certain services itself and compensate vendors directly in lieu of services performed by the Contractor. These services include, but are not limited to, application of final asphalt topping to the parking areas and exterior landscaping.

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e. The term of the contract ("Construction Period") shall be five hundred-fifty (550) calendar days from the commencement date, excluding holidays which work cannot be performed, as set forth in City Ordinance 16-13, An Ordinance to Amend Ordinance 14-07 and the Spring Hill Municipal Code, Title 11, Chapter 4, Section 11-402, Subsection (J) Offenses Against the Peace and Quiet of the City of Spring Hill.

"(j) Construction or repairing of buildings. The erection (including excavation), construction, demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays (7:00 a.m. to 8:00p.m., June 1-August 30), and from 9:00 A.M. to 6:00 P.M. on Saturday. Work may also begin on Saturdays at 7:00 A.M. if it would not result in any loud, disturbing, or unnecessary noise that would otherwise violate this chapter. No work shall be performed on New Years, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas holidays that would result in any loud, disturbing, or unnecessary noise that would otherwise violate this chapter, and shall be considered as a Sunday for purposes of this section. An exception to this section is work that is inherently creates no detectable noise from beyond the property boundary including loud voices or radios (i.e. painting with brushes and rollers not attached to pumps, tile or carpet work where no use of hammers, saws or other noise producing equipment is utilized). This section shall not apply to homeowners and occupants performing exterior work at or on their principal place of residents after 7:00 A.M. and before 6:00 P.M.

If the City Administrator or his designee should determine that the interest of the public health and safety are served by the erection, demolition, alteration, or repair of any building or the excavation of streets or highways, outside the hours stated above and if he shall determine that any loss or inconvenience that might result is outweighed by the public's interest in its safety and welfare, he may grant permission for a permit not to exceed (30) days for such work to be done outside the hours stated above, upon application being made.

f. Progress meetings will be held with representatives from the Owner and the Contractor in attendance. Frequency of progress meetings will be set during the pre-construction meeting and may change throughout the course of the Project.

g. The Contractor must not hold the Owner liable for any personal injuries or personal property damaged sustained by the Contractor or his/her Subcontractors while on City property absent grossly negligent or intentional acts by the Owner or the Owners representatives that cause such personal injuries or personal property damage. Additionally, the Contractor agrees to indemnify and hold Owner harmless for any such personal injuries or personal property damage absent those that are the result of grossly negligent or intentional acts by the Owner.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™-2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .4 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this Agreement.)

- .5 Drawings

Number	Title	Date
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- .6 Specifications

Section	Title	Date	Pages
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- .7 Addenda, if any:

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User Notes:

Number **Date** **Pages**

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

.8 Other Exhibits:
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

The Sustainability Plan:

Title	Date	Pages
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Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
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.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

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

OWNER *(Signature)*

Jim Hageman, Mayor

(Printed name and title)

CONTRACTOR *(Signature)*

Justin Starnes Southeast Vice President/District
Manager

(Printed name and title)

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