

DRAFT AIA® Document B105™ – 2017

Standard Short Form of Agreement Between Owner and Architect

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)

«South San Antonio Independent School District » «a political subdivision of the State of Texas »
«1450 Gillette Blvd »
«San Antonio, Texas 78224 »
«phone: 210-977-7000
Fax: »

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

«PBK Architects » «Inc. »
«601 NW Loop 410, Suite 400 »
«San Antonio, Texas 78216 »
«Phone: 210-829-0123 »

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

«West Campus HS Renovation»
«5622 Ray Ellison Blvd. San Antonio, Texas 78242. This is a job order project for a small scope to prepare the High School for the August 2021 School year. It will consist of 10 core curriculum classrooms, Life Skills Suite, 2 Art classrooms, 2 computer labs, and a coaches' office suite and a dance hall and replacement of 13 roof top HVAC units which all totals approx.. 6913,000 square feet »
« »

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.

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ARTICLE 1 ARCHITECT'S RESPONSIBILITIES

The Architect shall provide architectural services for the Project as described in this Agreement. The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. 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:

« »

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, which shall be set forth in drawings and other documents appropriate for the Project. 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 bids or 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™-2017, Standard Short Form of Agreement Between Owner and Contractor. If the Owner and Contractor modify AIA Document A105-2017, those modifications shall not affect the Architect's services under this Agreement, unless the Owner and Architect amend this Agreement.

The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

The Architect shall maintain a record of the Applications and Certificates for Payment.

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall be responsible to the Owner for all additional costs and damages above what the Owner would have paid in the absence of the following and resulting from (1) negligent defects in design, (2) non-workability of design details, (3) failure of the Architect to comply with the terms of this Agreement, and (4) errors and omissions of the Architect. Any designs, drawings or specifications prepared or furnished by Architect that contains errors, conflict, omissions will be promptly corrected by Architect at no additional cost to Owner. Owner's approval, acceptance use of or payment for all or any part of Architect's services shall in no way alter Architects' obligations or Owner's rights hereunder.

The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the project

Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less one million dollars ((\$1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than one million dollars (\$1,000,000.00) per claim and one million dollars (\$1,000,000.00) per aggregate..

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 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 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

Drawings, specifications and other documents prepared by the Architect are the Architect's Instruments of Service, and are for the Owner's use solely with respect to constructing the Project. The Architect shall retain all common law, statutory and other reserved rights, including the copyright. Upon completion of the construction of the Project, provided that the Owner substantially performs its obligations under this Agreement, the Architect grants to the Owner a license to use the Architect's Instruments of Service as a reference for maintaining, altering and adding to the Project. The Owner agrees to indemnify the Architect from all costs and expenses related to claims arising from the Owner's use of the Instruments of Service without retaining the Architect. 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. The Owner shall be permitted to retain copies, including those in electronic format and reproducible copies, of the Architect's and the Architects Consultants Instruments of Service for information and reference in connection with the Owner's use and occupancy of 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 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. Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause. If the Owner terminates this Agreement for its convenience the Owner shall compensate the Architect for services performed prior to termination and allowable Reimbursable Expenses incurred.

ARTICLE 5 MISCELLANEOUS PROVISIONS

This Agreement shall be governed by the law of the place where the Project is located in the State of Texas. Terms in this Agreement shall have the same meaning as those in AIA Document A105-2017, Standard Short Form of Agreement Between Owner and Contractor. 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 shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

In any adjudication or claim under this Agreement, reasonable and necessary attorney's fees that are equitable and just may be awarded to the prevailing party.

Architect shall keep all accounting and construction records on the Project for a period of at least twelve (12) years after Final Completion of the Project, and thereafter shall offer the records to the Owner in writing, in order for Owner to comply with its records retention requirements, per the Texas Government Code section 441.158 et seq. and the Texas Library and Archives Commission's Local Schedule. In the alternative, Architect may provide such records to Owner for retention at any time if Owner agrees in writing to accept such records in lieu of Architect's retention under this Section.

Any notice required by or permitted under this Agreement must be in writing unless otherwise provided herein. Any notice required by this Agreement will be deemed to be delivered (whether received or not) when deposited with the United States Postal Service, certified mail, return, receipt requested, and addressed to the intended recipient at the address shown in this Agreement. Notice may also be given by personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when received. Any address for notice may be changed by written notice delivered as provided herein.

The Owner shall have the right to examine, copy and/or audit the books and other records of the Architect relating solely to this Agreement upon seven (7) days request to the Architect.

Any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future law or regulation such provision shall be fully severable and this Agreement shall continue in force. The remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance here from. However, the Owner and the Architect will, in good faith, attempt to replace an invalid or unenforceable provision with one that is valid and enforceable, and which comes as close as possible to expressing the intent of the original provision.

In the preparation of design, drawings and specifications, errors, and omissions may inadvertently be made by the Architect. Any error or omission by the Architect discovered prior to commencement of construction shall be corrected by the Architect on the documents at no additional cost to the Owner. If construction has commenced based upon the documents, and errors in the documents require additional construction work is required to demolish and/or reconstruct portions of the Work, the Architect shall be responsible to the Owner for payment of such costs

Pursuant to Texas Government Code, Chapter 2270 the Architect represents and warrants to the Owner that the Architect does not boycott Israel and will not boycott Israel during the term of this Agreement.

Pursuant to Texas Government Code, Chapter 2270, the Architect represents and warrants that it is not a foreign terrorist organization as identified on the list prepared and maintained by the Texas Comptroller of Public Accounts. If Architect has misrepresented its inclusion on the Comptroller's list such omission or misrepresentation will void this Agreement.

ARTICLE 6 PAYMENTS AND COMPENSATION TO THE ARCHITECT

The Architect's Compensation shall be:

« FORTY-FIVE ONE HUNDRED AND SIXTEEN THOUSAND DOLLARS AND 00/100 CENTS (\$116,000.00) »

The compensation for each phase of services shall be as follows:

Schematic design	thirty percent (30%)
Design Development Phase	forty percent (40%)
Construction Phase	thirty percent (30%)

The Owner shall pay the Architect an initial payment of « » (\$ « ») 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, which include the following: plus « » percent (« » %).

1. State Agency incurred fees:	
2. Reproduction & other reimburseables	\$500.00
3. TAS Plan Review	\$575.00
4. TAS site Inspection	\$675.00
5. TDLR Registration fee	\$200.00
6. Permitting fees	\$9,000.00 - \$11,000.00 (estimate)
7. Commissioning	\$7,000.00
8. Structural Engineer	\$16,250.00.00
TOTAL	\$36,200.00

Payments are due and payable upon receipt of the Architect's monthly invoice. Amounts unpaid « » (« ») days after the invoice date shall bear interest from the date payment is due at the rate of « » percent (« » %) « » , or in the absence thereof, at the legal rate prevailing at the principal place of business of the Architect shall bear interest pursuant to 2251.025 of the Texas Government Code.

At the request of the Owner, the Architect shall provide additional services not included in Article 1 for additional compensation. Such additional services may include, but not be limited to, providing or coordinating services of consultants not identified in Article 1; revisions due to changes in the Project scope, quality or budget, or due to Owner-requested changes in the approved design; evaluating changes in the Work and Contractors' requests for substitutions of materials or systems; providing services necessitated by the Contractor's failure to perform; and the extension of the Architect's Article 1 services beyond « » (« ») 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.)

«this Agreement is comprised of the proposal by the Architect dated June 7, 2021 and if there is conflict between the documents B105-2017 shall control »

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

OWNER (Signature)

« » « »

(Printed name and title)

ARCHITECT (Signature)

« » « »

(Printed name, title, and license number, if required)