

DRAFT 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 « » day of « » in the year «Two Thousand Twenty Four. »
(In words, indicate day, month and year.)

BETWEEN THE OWNER:

(Name, legal status, address and other information)

«City of Westland
36300 Warren Road
Westland, Michigan 48185 »

and THE CONTRACTOR:

(Name, legal status, address and other information)

«TBD »« »
« »
« »
« »

for the following PROJECT:

(Name, location and detailed description)

«City of Westland
Fire Station No. 2
7300 N. Merriman Road
Westland, Michigan 48185»

THE ARCHITECT:

(Name, legal status, address and other information)

Sidock Group, Inc.
45650 Grand River
Novi, Michigan 48374
(248) 349-4500

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.

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.

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.

TABLE OF ARTICLES

1	THE CONTRACT DOCUMENTS
2	THE WORK OF THIS CONTRACT
3	DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
4	CONTRACT SUM
5	PAYMENTS
6	DISPUTE RESOLUTION
7	TERMINATION OR SUSPENSION
8	MISCELLANEOUS PROVISIONS
9	ENUMERATION OF CONTRACT DOCUMENTS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of the Owner's Request for Proposals, dated ____, 2024, including any Addenda (collectively the "RFP"), which RFP is incorporated herein by this reference, this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings and Specifications, including any 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 faithfully, competently, and fully execute the Work described in the Contract Documents or reasonably inferable as necessary, or incidental, to produce the results intended by the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others. Except as expressly provided for in the Contract Documents to the contrary, the Contractor, at its sole cost, risk, and expense shall construct, install, equip, provide, purchase, pay for, and furnish all of the Work in accordance with the Contract Documents and governmental codes and regulations as they apply to the performance of the Work.

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 set forth in a notice to proceed issued by the Owner.

§ 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.)

[] Not later than () calendar days from the date of commencement of the Work.

[] By the following date:

[] As outlined in Exhibit F – Preliminary Project Milestone Schedule:

§ 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
<input type="text"/>	<input type="text"/>

§ 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 (\$), including all Reimbursable Expenses, 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
<input type="text"/>	<input type="text"/>

§ 4.2.2 The Contract Sum does not include the following alternates, which are described in the Contract Documents and may be accepted by the Owner in writing provided that the Contractor furnish the Owner with no less than fourteen (14) days’ prior written notice of the date upon which any of the alternates set forth below in this Section 4.2.2 must be accepted by the Owner in order for the Contractor to perform the Work covered by such alternates for the price set forth below in this Section 4.2.2 and without any adjustment to a Milestone Date or in the Contract Time. *(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*

Item	Price	Condition of Acceptance
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

Item	Price
<input type="text"/>	<input type="text"/>

§ 4.4 Unit prices, if any, are set forth in the "Schedule of Unit Prices" attached hereto and made part of this Agreement as Exhibit C. Such Unit prices are considered complete and include: (i) all materials, equipment, labor, delivery, installation, overhead, and profit; and (ii) any and all other costs or expenses in connection with, or incidental to, the performance of that portion of the Work to which such unit prices apply.

§ 4.5 Liquidated Damages (NOT USED)

§ 4.5.1 § 4.5.4 NOT USED

§ 4.6 For any adjustments to the Contract Sum that are based on pricing other than a unit price method, the Contractor agrees to charge and accept a mark-up of not more than percent () on the Cost of the Work for the Work

covered by the Change Order as the sole mark-up for the Contractor's overhead and profit. Mark-up for all subcontractor overhead and profit for Change Orders shall not exceed ~~«five»~~ percent (~~«5»%~~) of their direct cost.

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment, including all supporting documentation, submitted to the Owner and the Architect by the Contractor and Certificates for Payment properly issued by the Architect and not objected to by the Owner, 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.

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the ~~last~~ day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the ~~last~~ day of the ~~following~~ month. Unless otherwise required by law, 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 ~~forty-five~~ (45) days after the Architect receives the Application for Payment.

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

§ 5.1.3.1 Notwithstanding payment provision in Section 5.1.3 above, if the Project funding is through a direct loan or grant or financing from a government agency, lender, or a foundation, and the government agency, lender, or foundation is required to review and/or approve such Application for Payment before Owner can make payment of the certified amount to the Contractor, the Owner shall make payment of the certified amount to the Contractor no later than five (5) business days after receiving approval or payment from the government loan or grant agency or foundation.

§ 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 the General Conditions of the Contract for Construction, as set forth in Section 9.1 of the AIA Document A201-2017 (the "A201"), 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 the A201;
- .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 the A201; and

.5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 Unless otherwise provided by law, for each progress payment, the Owner may withhold a retainage of ten percent (10%), from the payment otherwise due. In the event the Owner is not permitted by law to withhold the specified retainage as set forth in this Section 5.1.7, then the Owner shall be entitled to withhold a retainage to the greatest extent permitted by law.

§ 5.1.7.1.1 Any reduction or release of retainage, or payment thereof shall not constitute a waiver of (i) any of the Owner's rights to retain in connection with other payments to the Contractor or (ii) any other right or remedy that the Owner has under the Contract Documents, at law or in equity.

§ 5.1.7.2 Except as otherwise provided by law, the Owner shall have the option, but not the obligation, to reduce the retainage requirements of this Agreement or release any portion of retainage prior to the date specified in the Contract Documents.

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon final 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.

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor additional amounts due, if any, under the Contract.

§ 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.

§ 5.1.10 By submitting the first Application for Payment, the Contractor warrants and represents that its sureties and insurance companies meet the requirements as stated in the A201. The Contractor's first Application for Payment is considered incomplete unless in addition to the requirements described in this Section 5.1 and the A201, all of the following completed items are also included with the Application of Payment:

- .1 Performance and Payment Bonds, if required;
- .2 Certificate of Insurance, as required (Furnish a copy of the entire insurance policy showing coverage limits, all inclusions, exclusions, etc. if the Certificate of Insurance contains the following or similar disclaimer "THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW";
- .3 CPM Schedule for the Project; and
- .4 a completed Schedule of Values for the Project for the Owner's review and acceptance.

§5.1.11 In addition to the requirements described in this Section 5.1 and the A201, all Applications for Payment shall also include:

- .1 a Schedule of Values updated with all approved Change Order amounts added and deducted, if applicable, and
- .2 an updated Construction Schedule (as defined in A201) that shows actual progress of the Work through the period covered by the current Application for Payment, and clearly identifying any portion of the Work that is behind schedule. If any portion of Work (or trade work) that is behind schedule, the Contractor shall also include with the Application for Payment a schedule recovery plan that includes Extraordinary Measures (as defined in the A201) to bring the Work back on schedule in the next thirty (30) days.

§5.1.12 The Owner shall have the right to withhold sufficient amount from the Application for Payment for unacceptable, defective, deficient, or non-conforming Work ("Disputed Work") after notifying the Contractor. The Contractor shall promptly remedy the Disputed Work. Owner shall promptly render payment for such Disputed Work after the Contractor has cured and the Owner has accepted the remedied Disputed Work.

§ 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 the A201, 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 in accordance with Section 5.1.3.

§ 5.2.3 Amounts withheld from the final payment to cover any incomplete work are not considered retainage and shall not be paid to the Contractor until the work is actually completed and accepted by the Owner. Such withholdings shall not be less than 150% of the estimated cost to complete the Work.

§ 5.2.4 The Owner shall have the right to deduct from the Final Payment due the Contractor all costs, including additional fees paid to Owner's consultants, which the Owner incurred as result of and attributed to Contractor's failure to fully complete and/or closeout the Project within sixty (60) days following Substantial Completion.

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below: Unless otherwise required by law, Zero percent (0%).

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to the A201, 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.)

§ 6.2 Binding Dispute Resolution

§ 6.2.1 Pre-Mediation. Owner and Contractor agree that they shall first submit any and all unsettled claims, counterclaims, disputes and other matters in question between them arising out of or relating to the Agreement or the breach thereof ("disputes"), to resolution by the Senior Officers of the Owner and Contractor prior to either of them initiating against the other a demand for mediation, arbitration or litigation as mutually agreed to by Owner and Contractor, unless delay in initiating mediation or arbitration would irrevocably prejudice one of the parties. (The term "Senior Officer" shall mean with respect to the Owner and Contractor, the respective party's chief executive officer, president, managing partner, partner, chief financial officer, or chief operating officer.) Requirements that a demand for mediation and/or arbitration must be filed within a reasonable time shall be suspended with respect to a dispute timely submitted to resolution by Senior Officers within that same applicable time limit and shall remain suspended until ten (10) days after the termination of Senior Officer dispute resolution.

§ 6.2.1.1 For any Claim subject to, but not resolved by, mediation pursuant to the A201, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

- Arbitration pursuant to the A201
- Litigation in a court in accordance with Sections 5.2 and 5.2.5
- 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.

§ 6.2.2 Waiver of Jury Trial. OWNER AND CONTRACTOR ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH PARTY, AFTER

CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THE AGREEMENT, THE CONTRACT DOCUMENTS, THE PERFORMANCE OF THE WORK, OR THE PROJECT.

§ 6.2.3 The Owner reserves the right in its discretion, to require consolidation or joinder of any arbitration arising out of, or relating to this Agreement with another arbitration involving a person or entity not a party to this Agreement, in the event the Owner believes such consolidation or joinder is necessary in order to resolve a dispute or avoid duplication of time, expense or effort.

§ 6.2.4 With the exception of matters solely dealing with this Agreement, in the event the Owner is involved in a dispute which is not subject to arbitration involving a person or entity not a party to this Agreement, the arbitration provision of this article shall be deemed to be void and non-existent in the event Owner, in its discretion, determines the Contractor should become a party to that dispute by joinder or otherwise.

§ 6.2.5 In the event the parties resort to a court, and to the extent permitted by law, the parties hereby:

- .1 Irrevocably consent and submit to the jurisdiction of any Federal, state, county, or municipal court sitting in the State of Michigan, County of Wayne, in respect to any action or proceeding brought therein concerning any matters arising out of or in any way relating to this Agreement;
- .2 Expressly waive any rights pursuant to the laws of any other jurisdiction by virtue of which exclusive jurisdiction of the courts of any other jurisdiction might be claimed;
- .3 Irrevocably waive all objections as to venue and any and all rights it may have to seek a change of venue with respect to any such action or proceeding; and
- .4 Agree that any final judgment rendered in any such action or proceeding shall be conclusive and may be entered in any other jurisdiction by suit on the judgment or in any other manner provided by law and expressly consent to the affirmation of the validity of any such judgment by the courts of any other jurisdiction so as to permit execution thereon.

§6.2.6 Unless precluded by law of the state where the Project is located, this Agreement shall be governed by the laws of the State of Michigan without regard to any conflict of law principles.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in the A201.

§ 7.2 The Work may be suspended by the Owner as provided in the A201.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of the A201 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 Designated Representative.

The Owner identifies the following individual as its Owner's Designated Representative. The Owner may change its Designated Representative upon written notice to the Architect; and the Owner may modify the scope of authority of its Designated Representative in like manner. The Owner and/or the Owner's Designated Representative have the sole right to make decisions in matters regarding the Project. The Owner's Designated Representative for this Project is:

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

«Darrell Stamper, Fire Chief»
«City of Westland
Fire Station No. 2
7300 N. Merriman Road
Westland, Michigan 48185»

§ 8.2.1 The Owner's Representative Consultant. The Owner has engaged Plante Moran Realpoint, LLC ("PMR") as an Owner's Representative Consultant and on the Project. The Contractor shall keep the Owner and PMR informed in matters regarding the Project. Unless otherwise provided in this Agreement specifically authorized by the Owner, the

Owner's Representative Consultant is not authorized to commit the Owner in matters regarding the Work, regarding changes in the Work, Construction Schedule, or grant approval on behalf of the Owner. The Owner's Representative Consultant for this Project is:

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

«Lisa M. Pitt »
 «Plante Moran Realpoint, LLC »
 «3000 Town Center, Suite 100 »
 Southfield, MI 48075
 «lisa.pitt@plantemoran.com; (248) 603-5271 »

§ 8.3 The Contractor's representative:

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

« »
 « »
 « »

§ 8.4 Neither the Owner's Representative Consultant nor the Contractor's representative shall be changed without ten (10) days' prior notice to the other party.

I

§ 8.5 Insurance and Bonds

§ 8.5.1 The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of the A201, as amended for the Project, and in the limits set forth below:

Type of insurance	Limit of liability (\$0.00)
Workers' Compensation	Statutory
Employer's Liability:	
Bodily Injury by Accident:	\$1,000,000.
Bodily Injury by Disease, Policy Limit	\$1,000,000.
Bodily Injury by Disease, Each Employee	\$1,000,000.
General Liability:	
Each Occurrence (Bodily Injury and Property Damage)	\$1,000,000.
Personal & Advertising Injury	\$1,000,000.
Medical Payments Coverage	\$5,000.
Fire Damage Liability	\$100,000.
General Aggregate	\$2,000,000.
Products & Completed Operations Aggregate	\$2,000,000.
Excess Umbrella Liability:	
Each Occurrence	\$4,000,000.
General Aggregate	\$4,000,000.
Automobile Liability:	
a. Bodily Injury: Each Person	\$1,000,000.
Each Accident	\$1,000,000.
b. Property Damage: Each Accident	\$1,000,000.
or	
c. Combined Single Limit – Each Accident	\$2,000,000.
(Bodily Injury and Property Damage)	
Professional Liability Insurance	
Each Wrongful Act	\$2,000,000.
Policy Aggregate	\$2,000,000.
Pollution Liability	
Each Pollution Event	\$1,000,000.

§ 8.5.2 Insurance coverage and surety bond required under the Agreement shall be written with insurance and surety carriers authorized to do business in the state of Michigan. Insurance coverage and surety bonds shall be in a form and provided by an insurer acceptable to the Owner with an A.M. Best rating of A, XII or better and shall name the Owner and their respective directors, officers and employees, the Architect, Owner's Representative Consultant, Owner's consultants, and all applicable Construction Team members as "additional insureds". Unless the Owner agrees to an exception in writing due to a lack of commercially available compliant policies, the Contractor shall provide insurance which includes the following terms and conditions:

.1 General Liability

- Owner, its consultants and their respective directors, officers and employees shall be additional insureds for operations per ISO CG 20 10 10 01, or its equivalent.
- Owner, its consultants and their respective directors, officers and employees shall be additional insureds for completed operations per ISO CG 20 37 10 01, or its equivalent.
- Contractor shall have its insurer amend the policy to provide that Contractor's general liability shall be primary and without contribution from each additional insured's insurance policies.
- Contractor and its insurers shall provide a Waiver of Subrogation as to each additional insured.
- Completed operations insurance and additional insured status shall be maintained for a period of no less than three (3) years after final completion of the work under this Agreement.

.2 Umbrella / Excess Liability

- Owner, its consultants and their respective directors, officers and employees shall be additional insureds for operations.
- Owner, its consultants and their respective directors, officers and employees shall be additional insureds for completed operations.
- Contractor and its insurers shall provide a Waiver of Subrogation as to each additional insured.
- Completed operations insurance and additional insured status shall be maintained for a period of no less than three (3) years after final completion of the work under this Agreement.

.3 Automobile Liability

- Insurance shall apply to all owned, non-owned, hired and borrowed vehicles.
- Owner, its consultants and their respective directors, officers and employees shall be additional insureds.
- Contractor and its insurers shall provide a Waiver of Subrogation as to each additional insured.

.4 Professional and Pollution Liability

- Contractor may combine these insurance requirements into one shared limit of liability of no less than \$2,000,000
- Contractor shall notify Owner of any material impairment of limits available under the policies.

.5 Additional Requirements. Contractor shall require all contractors, subcontractors and/or their agents to maintain the insurance requirements set forth between Owner and Contractor except

- Professional Liability is not required unless Contractor or agent is an architect, engineer or similar consultant.
- Pollution liability is not required unless Contractor, Subcontractor or engineer/consultant provides services related to environmental, including, but not limited to, asbestos, lead, or mold remediation.

§ 8.5.3 The Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds may be obtained through the Contractor's usual source, and the cost thereof shall be included in the Cost of the Work. The amount of each bond shall be equal to one hundred percent (100%) of the Contract Sum. The Contractor shall deliver the required bonds to the Owner upon execution of the Agreement and updates and amendments to the bonds as required by the Owner during the Project's Construction. The Contractor shall only subcontract with Subcontractors that are trustworthy, financially able, and have a track record in successfully completing trade works of similar size and complexity.

§ 8.5.4 Contractor shall require all contractors, subcontractors and/or their agents to name the Owner and their respective directors, officers and employees, the Architect, Owner's Representative Consultant, Owner's consultants, and all applicable Construction Team members as "additional insureds" as forth in insurance requirements between Owner and Contractor.

§ 8.6 NOT USED

§ 8.7 Other Provisions.

§ 8.7.1 In the event of any conflict, inconsistency, or ambiguity between this Agreement and the A201, as amended for this Project, the terms that requires a higher standard of performance by the Contractor shall prevail.

§ 8.7.2 The Contractor shall inspect the Work as it is being performed until final completion and acceptance of the Project by the Owner to assure that the Work performed and the materials furnished are in accordance with the Contract Documents and that Work on the Project is progressing on schedule. In the event that the quality control testing should indicate that the Work, as installed, does not meet the requirements of this Project, the Architect shall determine the extent of the Work that does not meet the requirements and the Contractor shall take appropriate corrective action, and advise the Owner of the corrective action.

§ 8.7.3 The Contractor shall provide daily full-time, on-site field supervision during the entire Construction Phase. The Contractor agrees to assign the following listed Project Team members, as listed in their respective capacities to the Project:

Staff Name	Assignment	Contact Information – Mobile Phone & e-Mail
------------	------------	---

The services of the Contractor are deemed to be personal in nature as to these key team members and that the continuity in the Project's team is valuable to the Owner and that damages due to the disruption to the continuity of the Project Team is extremely difficult if not impossible to ascertain. The Contractor shall promptly notify the Owner if the services of any one of the listed Project Team members become unavailable due to circumstances beyond the Contractor's control – e.g., extended illness or disability, death, or termination of employment, etc. The Owner shall have the right to interview and select alternate Project Team member(s) employed by the Contractor to replace the unavailable Project Team member. The Contractor shall agree to provide the services of the alternate Project Team member(s) selected by Owner without additional compensation or time for any such substitution(s) of the Project Team members

§ 8.7.4 As part of Basic Services, the Contractor shall conduct a post-occupancy audit eleven (11) months following the Date of Substantial Completion and thereafter provide call-back services for a period of twenty three (23) months.

§ 8.7.5 The Contractor shall develop a plan and to administer an effective labor relations program for the Project in order to ensure labor harmony and to avoid labor disputes during construction.

§ 8.7.6 Notwithstanding anything regarding Hazardous Materials provided in the A201, the Contractor acknowledges and fully understands that the scope of this Work includes the proper removal and proper disposal of all Hazardous Materials, including but not limited to any construction debris containing asbestos, PCBs, etc., as required by Applicable Laws.

§ 8.7.7 Assignment.

The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in the A201, neither party shall assign the Contract in whole or in part without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§8.7.8 Public Projects

§ 8.7.8.1 The Owner is a not-for-profit entity/government unit and therefore procuring building materials and services may be exempt from federal, state, and local sales taxes. For tax exempt Projects such taxes shall not be included in the Contract Sum. Contractor shall verify with Owner in writing concerning the tax-exempt status of each Project. In the event Owner's tax-exempt status changes during the course of the Project, Owner shall be liable for any sales taxes relating to the Project imposed upon Contractor or Owner as a result of such change in Owner's tax status.

§ 8.7.8.2 The Owner, being a public body, shall render required decisions within a reasonable time after being requested to do so by the Contractor. The Contractor, assisted by the Architect, shall prepare and submit all recommendations

for which approval is required by Owner as soon as reasonably possible unless another schedule is agreed to by the Owner, in writing. The Contractor shall not cause unreasonable delays in the orderly progress of work.

§ 8.7.8.3 Government Immunity. Notwithstanding any provisions within the Contract Documents, no provisions shall be deemed a waiver of any immunity granted the Owner, being a governmental unit.

§ 8.7.9 Program Management Software. The Owner plans to utilize a web-based collaborative program management project software to assist in the efficient communication of all Project information to pertinent team members. The selected e-Builder platform will be utilized for storage of all pertinent Project correspondence (Meeting Minutes, RFI's, Submittals, Drawing set issuances, Bulletins, etc.), as well as for payment application and invoice processing, and change management approvals. All firms will be required to participate in e-Builder platform training and subsequent utilization of the software for their role and information transfer throughout the Project.

§8.7.10 The Contractor shall notify the Owner in the event of a potential or actual: (a) material change in ownership of the Contractor; (b) intent to dissolve; or (c) intent to otherwise cease active participation in the Project's local marketplace (collectively a "Material Change in Circumstances"). A Material Change in Circumstances shall include any other change that could reasonably give rise to concern on behalf of the Owner regarding the Contractor's ability or willingness to fulfill any of its obligations under this Agreement. In the event of a Material Change in Circumstances, the Contractor shall provide any reasonable assurance or guarantee requested by Owner. Owner shall have the right to terminate this Agreement for cause in the event of a Material Change in Circumstances.

§8.7.11 The Contractor represents and warrants the following to the Owner (in addition to any other representations and warranties contained in the Contract Documents), as inducement to the Owner to execute this Agreement, which representations and warranties shall survive the execution and delivery of this Agreement, any termination of this Agreement and the final completion of the Work:

- .1 that it, and its subcontractors, are financially solvent, able to pay all debts as they mature, and possess sufficient working capital to complete the Work and perform all obligations hereunder;
- .2 that it is able to furnish the plant, tools, materials, supplies, equipment, and labor required to complete the Work and perform its obligations hereunder;
- .3 that it is authorized to do business in the State of Michigan and properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over it and over the Work and the Project;
- .4 that its execution of this Agreement and its performance thereof is within its duly authorized powers;
- .5 that its duly authorized representative has visited the site of the Project, become familiar with the local and special conditions under which the Work is to be performed, and correlated its observations with the requirements of the Contract Documents; and
- .6 that it possess a high level of experience and expertise in the business administration, construction, construction management, and superintendence of projects of the size, complexity, and nature of this Project, and that it will perform the Work with the care, skill, and diligence of such a contractor.

§ 8.7.12 Protected Health Information (NOT USED)

§ 8.7.13 The Owner and Contractor acknowledge and agree that each have participated fully in the negotiation and preparation of this Agreement and that this Agreement shall not be more strictly construed against either party.

§ 8.7.14 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

§ 8.8 INDEPENDENT CONTRACTOR. This Agreement shall not render Contractor or any of its personnel an employee, partner, agent, or joint venturer with Owner for any purpose. Contractor is, and will remain, an independent contractor in its relationship to the Owner. The Owner shall not be responsible for withholding taxes with respect to the compensation of the Contractor. The Contractor shall have no claim against the Owner hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement represents the entire and integrated agreement between the Owner and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Contractor. This Agreement is comprised of the following documents identified below:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor, as modified for the Project;
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction, as modified for the Project;
- .4 All Drawings, issued by the Architect for construction, attached hereto by reference, and including (but not necessarily limited to) the following:

Section	Title	Date	Pages

- .5 All Specifications, issued by the Architect for construction, attached hereto by reference, and including (but not necessarily limited to) the following:

Section	Title	Date	Pages

- .6 Addenda, if any:

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.

- .7 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

[] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

- .8 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. The A201 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.)

- Exhibit A – Not Used (see 9.1.2)
- Exhibit B – Schedule of Values
- Exhibit C – Schedule of Unit Prices
- Exhibit D – Allowances included in the Contract Sum
- Exhibit E – List of Subcontractors and Suppliers
- Exhibit F – Project Preliminary Major Milestone Schedule
- Exhibit G – Contractor’s Certificate of Insurance and Bonds

This Agreement is entered into as of the day and year first written above but shall not be effective unless and until it is signed by the Owner and Contractor. To facilitate execution of this Agreement, the parties may execute this Agreement in counterpart and exchange signatures by facsimile transmission or by electronic delivery of a PDF copy of the executed Agreement, which facsimile or PDF copy shall be deemed valid and binding.

CITY OF WESTLAND

OWNER (Signature)

Mayor, City of Westland &/or City Clerk, City of Westland

(Printed name and title)

(date)

CONTRACTOR (Signature)

« »

(Printed name and title)

(date)