

# AIA<sup>®</sup> Document A141<sup>™</sup> – 2004

## *Standard Form of Agreement Between Owner and Design-Builder*

AGREEMENT made as of the 6th day of January in the year 2015  
(In words, indicate day, month and year.)

**BETWEEN** the Owner:  
(Name, legal status, address and other information)  
Gordon County Board of Commissioners  
201 North Wall Street  
Calhoun, Georgia 30701

and the Design-Builder:  
(Name, legal status, address and other information)

Calhoun Commercial Construction, LLC  
PO Box 2372  
Calhoun, Georgia 30701

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

Gordon County Fire Station #6  
4861 Redbud Road NE  
Calhoun, Georgia 30701

The Owner and Design-Builder 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.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

## TABLE OF ARTICLES

- 1 THE DESIGN-BUILD DOCUMENTS
- 2 WORK OF THIS AGREEMENT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 MISCELLANEOUS PROVISIONS
- 8 ENUMERATION OF THE DESIGN-BUILD DOCUMENTS

## TABLE OF EXHIBITS

- A TERMS AND CONDITIONS
- B DETERMINATION OF THE COST OF THE WORK
- C INSURANCE AND BONDS

### ARTICLE 1 THE DESIGN-BUILD DOCUMENTS

§ 1.1 The Design-Build Documents form the Design-Build Contract. The Design-Build Documents consist of this Agreement between Owner and Design-Builder (hereinafter, the "Agreement") and its attached Exhibits; Supplementary and other Conditions; Addenda issued prior to execution of the Agreement; the Project Criteria, including changes to the Project Criteria proposed by the Design-Builder and accepted by the Owner, if any; the Design-Builder's Proposal and written modifications to the Proposal accepted by the Owner, if any; other documents listed in this Agreement; and Modifications issued after execution of this Agreement. The Design-Build Documents shall not be construed to create a contractual relationship of any kind (1) between the Architect and Owner, (2) between the Owner and a Contractor or Subcontractor, or (3) between any persons or entities other than the Owner and Design-Builder, including but not limited to any consultant retained by the Owner to prepare or review the Project Criteria. An enumeration of the Design-Build Documents, other than Modifications, appears in Article 8.

§ 1.2 The Design-Build Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral.

§ 1.3 The Design-Build Contract may be amended or modified only by a Modification. A Modification is (1) a written amendment to the Design-Build Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Owner.

### ARTICLE 2 THE WORK OF THE DESIGN-BUILD CONTRACT

§ 2.1 The Design-Builder shall fully execute the Work described in the Design-Build Documents, except to the extent specifically indicated in the Design-Build 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 the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice issued by the Owner.

*(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)*

January 15, 2015

If, prior to the commencement of Work, the Owner requires time to file mortgages, documents related to mechanic's liens and other security interests, the Owner's time requirement shall be as follows:  
*(Insert Owner's time requirements.)*

§ 3.2 The Contract Time shall be measured from the date of commencement, subject to adjustments of this Contract Time as provided in the Design-Build Documents.  
*(Insert provisions, if any, for liquidated damages relating to failure to complete on time or for bonus payments for early completion of the Work.)*

§ 3.3 The Design-Builder shall achieve Substantial Completion of the Work not later than 240 days from the date of commencement, or as follows:  
*(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. Unless stated elsewhere in the Design-Build Documents, insert any requirements for earlier Substantial Completion of certain portions of the Work.)*

Portion of Work

Substantial Completion Date

#### ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Design-Builder the Contract Sum in current funds for the Design-Builder's performance of the Design-Build Contract. The Contract Sum shall be one of the following:  
*(Check the appropriate box.)*

- Stipulated Sum in accordance with Section 4.2 below;
- Cost of the Work Plus Design-Builder's Fee in accordance with Section 4.3 below;
- Cost of the Work Plus Design-Builder's Fee with a Guaranteed Maximum Price in accordance with Section 4.4 below.

*(Based on the selection above, complete either Section 4.2, 4.3 or 4.4 below.)*

#### § 4.2 STIPULATED SUM

§ 4.2.1 The Stipulated Sum shall be one million five hundred twenty one thousand seven hundred ninety five dollars. (\$1,521,795.00), subject to additions and deductions as provided in the Design-Build Documents.

§ 4.2.2 The Stipulated Sum is based upon the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:

N/A

§ 4.2.3 Unit prices, if any, are as follows:

Description	Units	Price (\$0.00)
-------------	-------	----------------

§ 4.2.4 Allowances, if any, are as follows:

*(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both)*

Allowance	Amount (\$0.00)	Included Items
Contingency (returned to Owner if unused)	\$66,165.00	
Exterior Landscaping	\$25,500.00	
Exterior Signage	\$12,000.00	
Appliances	\$10,000.00	

§ 4.2.5 Assumptions or qualifications, if any, on which the Stipulated Sum is based, are as follows:

*(Paragraphs deleted)*

*(Table deleted)*

*(Paragraphs deleted)*

*(Table deleted)*

*(Paragraphs deleted)*

#### § 4.5 CHANGES IN THE WORK

§ 4.5.1 Adjustments of the Contract Sum on account of changes in the Work may be determined by any of the methods listed in Article A.7 of Exhibit A, Terms and Conditions.

§ 4.5.2 Where the Contract Sum is the Cost of the Work, with or without a Guaranteed Maximum Price, and no specific provision is made in Sections 4.3.2 or 4.4.2 for adjustment of the Design-Builder's Fee in the case of Changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment will cause substantial inequity to the Owner or Design-Builder, the Design-Builder's Fee shall be equitably adjusted on the basis of the Fee established for the original Work, and the Contract Sum shall be adjusted accordingly.

#### ARTICLE 5 PAYMENTS

##### § 5.1 PROGRESS PAYMENTS

§ 5.1.1 Based upon Applications for Payment submitted to the Owner by the Design-Builder, the Owner shall make progress payments on account of the Contract Sum to the Design-Builder as provided below and elsewhere in the Design-Build 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:

§ 5.1.3 Provided that an Application for Payment is received not later than the twenty fifth day of month, the Owner shall make payment to the Design-Builder not later than the tenth day of the following month. If an Application for Payment is received by the Owner after the application date fixed above, payment shall be made by the Owner not later than fifteen ( 15 ) days after the Owner receives the Application for Payment.

§ 5.1.4 With each Application for Payment where the Contract Sum is based upon the Cost of the Work, or the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Design-Builder on account of the Cost of the Work equal or exceed (1) progress payments already received by the Design-Builder, less (2) that portion of those payments attributable to the Design-Builder's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ 5.1.5 With each Application for Payment where the Contract Sum is based upon a Stipulated Sum or Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit the most recent schedule of values in accordance with the Design-Build Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. Compensation for design services shall be shown separately. Where the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder's Fee shall be shown separately. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule of values, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ 5.1.6 In taking action on the Design-Builder's Applications for Payment, the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Design-Builder and shall not be deemed to have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Sections 5.1.4 or 5.1.5, or other supporting data; to have made exhaustive or continuous on-site inspections; or to have made examinations to ascertain how or for what purposes the Design-Builder has used amounts previously paid on account of the Agreement. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's accountants acting in the sole interest of the Owner.

§ 5.1.7 Except with the Owner's prior approval, the Design-Builder shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

## § 5.2 PROGRESS PAYMENTS - STIPULATED SUM

§ 5.2.1 Applications for Payment where the Contract Sum is based upon a Stipulated Sum shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.2.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of ten percent ( 10 %) on the Work, other than services provided by design professionals and other consultants retained directly by the Design-Builder. Pending final determination of cost to the Owner of Changes in the Work, amounts not in dispute shall be included as provided in Section A.7.3.8 of Exhibit A, Terms and Conditions;
- .2 Add 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), less retainage of ten percent ( 10 %);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Owner has withheld payment from or nullified an Application for Payment as provided in Section A.9.5 of Exhibit A, Terms and Conditions.

§ 5.2.3 The progress payment amount determined in accordance with Section 5.2.2 shall be further modified under the following circumstances:

- .1 add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Owner shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and  
*(Section A.9.8.6 of Exhibit A, Terms and Conditions requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)*
- .2 add, if final completion of the Work is thereafter materially delayed through no fault of the Design-Builder, any additional amounts payable in accordance with Section A.9.10.3 of Exhibit A, Terms and Conditions.

§ 5.2.4 Reduction or limitation of retainage, if any, under Section 5.2.2 shall be as follows:

*(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.2.2.1 and 5.2.2.2 above, and this is not explained elsewhere in the Design-Build Documents, insert here provisions for such reduction or limitation.)*

*(Paragraphs deleted)*

## § 5.5 FINAL PAYMENT

§ 5.5.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Design-Builder no later than 30 days after the Design-Builder has fully performed the Design-Build Contract, including the requirements in Section A.9.10 of Exhibit A, Terms and Conditions, except for the Design-Builder's

responsibility to correct non-conforming Work discovered after final payment or to satisfy other requirements, if any, which extend beyond final payment.

#### ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 The parties appoint the following individual to serve as a Neutral pursuant to Section A.4.2 of Exhibit A, Terms and Conditions:

*(Insert the name, address and other information of the individual to serve as a Neutral. If the parties do not select a Neutral, then the provisions of Section A.4.2.2 of Exhibit A, Terms and Conditions, shall apply.)*

§ 6.2 If the parties do not resolve their dispute through mediation pursuant to Section A.4.3 of Exhibit A, Terms and Conditions, the method of binding dispute resolution shall be the following:

*(If the parties do not select a method of binding dispute resolution, then the method of binding dispute resolution shall be by litigation in a court of competent jurisdiction.)*

*(Check one.)*

Arbitration pursuant to Section A.4.4 of Exhibit A, Terms and Conditions

Litigation in a court of competent jurisdiction

Other *(Specify)*

*(Paragraphs deleted)*

#### ARTICLE 7 MISCELLANEOUS PROVISIONS

§ 7.1 The Architect, other design professionals and consultants engaged by the Design-Builder shall be persons or entities duly licensed to practice their professions in the jurisdiction where the Project is located and are listed as follows:

*(Insert name, address, license number, relationship to Design-Builder and other information.)*

Name and Address	License Number	Relationship to Design-Builder	Other Information
Andy Carlson Carlson – Jones Architects 107 N. Pentz Street Dalton, Ga 30720	RA 010328	Consultant	

§ 7.2 Consultants, if any, engaged directly by the Owner, their professions and responsibilities are listed below:

*(Insert name, address, license number, if applicable, and responsibilities to Owner and other information.)*

Name and Address	License Number	Responsibilities to Owner	Other Information
------------------	----------------	---------------------------	-------------------

§ 7.3 Separate contractors, if any, engaged directly by the Owner, their trades and responsibilities are listed below:

*(Insert name, address, license number, if applicable, responsibilities to Owner and other information.)*

Name and Address	License Number	Responsibilities to Owner	Other Information
------------------	----------------	---------------------------	-------------------

§ 7.4 The Owner's Designated Representative is:  
*(Insert name, address and other information.)*

Mr. Martin Vaughn  
 Gordon County Purchasing Director  
 Gordon County Board of Commissioners  
 209 North Wall Street  
 Calhoun, Georgia 30701

§ 7.4.1 The Owner's Designated Representative identified above shall be authorized to act on the Owner's behalf with respect to the Project.

§ 7.5 The Design-Builder's Designated Representative is:  
*(Insert name, address and other information.)*

Mr. Dan Bumgardner  
 Calhoun Commercial Construction, LLC  
 PO 2372  
 Calhoun, Georgia 30701

§ 7.5.1 The Design-Builder's Designated Representative identified above shall be authorized to act on the Design-Builder's behalf with respect to the Project.

§ 7.6 Neither the Owner's nor the Design-Builder's Designated Representative shall be changed without ten days written notice to the other party.

§ 7.7 Other provisions:

§ 7.7.1 Where reference is made in this Agreement to a provision of another Design-Build Document, the reference refers to that provision as amended or supplemented by other provisions of the Design-Build Documents.

§ 7.7.2 Payments due and unpaid under the Design-Build 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.)*

percent ( %)

*(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Design-Builder's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)*

**ARTICLE 8 ENUMERATION OF THE DESIGN-BUILD DOCUMENTS**

§ 8.1 The Design-Build Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

§ 8.1.1 The Agreement is this executed edition of the Standard Form of Agreement Between Owner and Design-Builder, AIA Document A141-2004.

§ 8.1.2 The Supplementary and other Conditions of the Agreement, if any, are as follows:

Init.

(Either list applicable documents below or refer to an exhibit attached to this Agreement.)

Document	Title	Pages
See Exhibit "E"	Index of Drawings	

§ 8.1.3 The Project Criteria, including changes to the Project Criteria proposed by the Design-Builder, if any, and accepted by the Owner, consist of the following:  
(Either list applicable documents and their dates below or refer to an exhibit attached to this Agreement.)

Title	Date
-------	------

§ 8.1.4 The Design-Builder's Proposal, dated November 3, 2014, consists of the following:  
(Either list applicable documents below or refer to an exhibit attached to this Agreement.)

Exhibit "D"

§ 8.1.5 Amendments to the Design-Builder's Proposal, if any, are as follows:  
(Either list applicable documents below or refer to an exhibit attached to this Agreement.)

N/A

§ 8.1.6 The Addenda, if any, are as follows:  
(Either list applicable documents below or refer to an exhibit attached to this Agreement.)

N/A

Number	Date	Pages
--------	------	-------

§ 8.1.7 Exhibit A, Terms and Conditions.  
(If the parties agree to substitute terms and conditions other than those contained in AIA Document A141-2004, Exhibit A, Terms and Conditions, then identify such terms and conditions and attach to this Agreement as Exhibit A.)

See Exhibit A

(Paragraphs deleted)

§ 8.1.9 Exhibit C, Insurance and Bonds, if applicable.  
(Complete AIA Document A141-2004, Exhibit C, Insurance and Bonds or indicate "not applicable.")

See Exhibit C

§ 8.1.10 Other documents, if any, forming part of the Design-Build Documents are as follows:  
(Either list applicable documents below or refer to an exhibit attached to this Agreement.)

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

\_\_\_\_\_  
OWNER (Signature)

\_\_\_\_\_  
Gordon County Board of Commissioners  
(Printed name and title)

  
\_\_\_\_\_  
DESIGN-BUILDER (Signature)

\_\_\_\_\_  
Dan Bumgardner  
(Printed name and title)