
TYPES OF AGREEMENTS

11.1 AGREEMENTS WITH OWNERS

Contract should reflect the goals and expectations of the both parties and establish the conditions for working together:

- Services
- Compensation
- Any risks and provides
- Method for resolving disputes.
- Manage exposure to legal liability and business risks

Responding to Request for Proposals

Sometime after making the short list, a fee proposal may be asked for.

This should include: what the owner and architect will and will not do, the timing of services, and compensation.

Proposals as Offers

An offer proposed that includes a scope of services

Oral Agreements and Letters of Intent

What types of agreement make sense?

There are typically three types of agreements:

- 1- owner generated contract**
- 2- a professional owner- architect contract, other than the AIA**
- 3- AIA standard form agreement (most commonly used)**

Characteristics of the Owner- "hardest to understand participant"
less experience, unfunded, represented by boards or committee, litigious

Characteristics of the Project
litigation history, design and construction characteristics, budget & schedule

Selecting the Delivery System
How to proceed with the project: design-bid-build, design-negotiate-build,
design-build, etc.

Understanding Risk

Key Concerns in Owner-Generated Agreements

-provisions and concepts typical of owner-generated agreements that potentially present the architect with the most far reaching implications. Here the architect is looking to minimize and manage risks and potential liability exposure.

Indemnities

-an agreement for one party to assume the liability of the another in the event of a loss. Things to consider: What event trigger the indemnification obligation? Who is owner asking the architect to indemnify?

Unreasonable Risk Exposure

-areas of increasing risk and liability exposure though consequential damages and standard of care.

Ownership of Documents

Pitfalls within Basic Services Provisions

-the business part of the owners contract agreement on scope, fee and schedule.
-things to consider: time and schedule, cost estimating, submittal review and payment amounts

Additional Consideration- Missing Provisions

No Responsibility for Construction Means	Methods, Techniques, and Safety
No Responsibility for Hazardous Materials	Termination and Suspension of Services
Owner Provided Information	The AIA Document A201 Indemnity Clause

11.3 PROJECT DESIGN TEAM AGREEMENTS

Contracts/ agreements with other professionals provide assistance in other areas of expertise, such as engineering, building types or special design issues.

- The architect is responsible to the client for additional professional services.
- There are many owners that perform to structure and coordinate their own project teams. In this case the owner select their own architect, project manager and contractors.

The architect should never assume the responsibility for the internal coordination of any other design professional document.

11.3 PROJECT DESIGN TEAM AGREEMENTS (cont.)

Architect & Consultant Relationships

Consultant Services and Responsibilities

- The services applied to a project are outlined in the architect- consultant agreement. Here the consultant makes a commitment of services, scope, schedule and fee.
- Page 604-605 charts shows the format for allocating responsibilities.
- The architect is responsible for accuracy and the completeness.

Architect- Consultant Agreement

- The agreement covers two major issues:
 - 1-It passes to the consultant the architect's right and responsibilities to the owner
 - 2- It shares the risks and rewards of the project
- Compensation is usually stated in the agreement as a "pay-when- paid" clause.
- Protocols are established on communication, sharing of information and documents and forbidding information modeling.

Owner- Retained Consultants

What if the owner retains his own consultants for the project?
The architect may or may not have contractual responsibility depending on the agreement.

11.3 PROJECT DESIGN TEAM AGREEMENTS (cont.)

Joint Ventures

A contractual union between two or more firms on a project which usually functions as a partnership.

Agreement details on:

Who will do what	Compensation
Risk & Responsibilities	Profit sharing

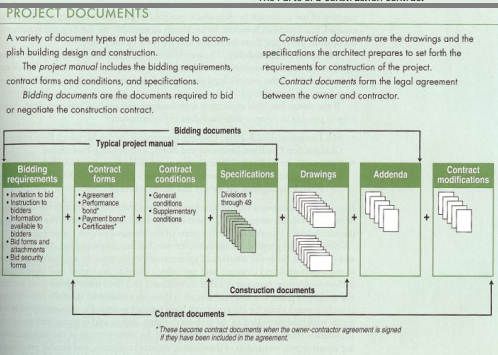
Firms are individually and jointly liable to the client and others for the services offered .

Process in Forming Joint Ventures

Required Skills	Background & Knowledge
Staffing	Geography
Financing	Insurance
Licensing & Registration	Management

NOTES:

The Parts of a Construction Contract



BASIS OF PAYMENT

Stipulated Sum

Contractor agrees to do scope of work for stated fixed amount

Cost plus Fee

Owner reimburses contractor for cost of labor + fee (fixed sum or percentage)

Guaranteed Maximum Price

Contractor assumes the risk that the of construction cost will not exceed a certain amount.

Unit Price

Contractor will be paid a fixed amount for a specific unit of material or service.



General Conditions

A 201

COMMENTARY	A201-2007 TEXT
TITLE	
	General Conditions of the Contract for Construction
COVER PAGE	
	for the following PROJECT: <i>(Name and location or address)</i>
	THE OWNER: <i>(Name and address)</i>
	THE ARCHITECT: <i>(Name and address)</i>
TABLE OF ARTICLES	
	1 GENERAL PROVISIONS
	2 OWNER
	3 CONTRACTOR
	4 ARCHITECT
	5 SUBCONTRACTORS
	6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
	7 CHANGES IN THE WORK
	8 TIME
	9 PAYMENTS AND COMPLETION
	10 PROTECTION OF PERSONS AND PROPERTY
	11 INSURANCE AND BONDS
	12 UNCOVERING AND CORRECTION OF WORK
	13 MISCELLANEOUS PROVISIONS
	14 TERMINATION OR SUSPENSION OF THE CONTRACT
	15 CLAIMS AND DISPUTES

Terms in "Capital Letters" are definitions explained in A201

COMMENTARY	A201-2007 TEXT
ARTICLE 1 GENERAL PROVISIONS	
<u>§ 1.1 BASIC DEFINITIONS</u>	
<p>The <i>Contract Documents</i> include the listed elements, as appropriate for the project. A201 provides the <i>General Conditions</i>. It may be amended with <i>Supplementary Conditions</i>. <i>Other Conditions</i> refers to federal, state, local or private contract conditions; these are usually prescribed by the owner. For example, see AIA Document A201/SC, Federal Supplementary Conditions of the Contract for Construction.</p> <p>The definitions used in AIA Document A201-2007 are capitalized under the conventions described in Section 1.3. They are incorporated into many of the other related AIA documents by reference to AIA Document A201-2007. These documents include owner-contractor, owner architect, contractor-subcontractor and architect-consultant agreements.</p> <p>The <i>Contract Documents</i> defined here generally apply to the owner-contractor contract. In addition, specific parts of the contract documents, mainly the <i>General Conditions</i> (i.e., A201) are adopted (usually by reference) into other contracts. This serves to coordinate the legal relationships</p>	<p>§ 1.1.1 THE CONTRACT DOCUMENTS</p> <p>The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the 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 Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding requirements.</p>
<p>One effect of the words <i>entire and integrated agreement</i> is that everything discussed as part of contract negotiations that conflicts with, is inconsistent with, or is omitted from, the written agreement is not part of the contract.</p> <p>AIA Document A201-2007 and its related family of AIA documents is based on the premise that legal relationships on a construction project are comprised of two-party contractual arrangements. Thus, there are the owner-contractor contract, owner-architect contract, contractor-subcontractor contracts and architect-consulting engineering contract(s). Each party to those respective contracts is deemed to be in privity only with the other party to the contract.</p> <p>There is no direct contractual relationship between the architect and the contractor. The architect is in some instances entitled to enforce certain obligations of the contractor (such as indemnifying the architect for certain risks, performing warranty obligations, providing certain types of insurance and affording the architect access to the work). The architect has the right to enforce these obligations directly against the contractor regardless of whether the owner does so on its own behalf.</p>	<p>§ 1.1.2 THE CONTRACT</p> <p>The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.</p>

COMMENTARY	A201-2007 TEXT
<p>The term <i>Work</i> appears throughout the A201-2007 family of documents. As a defined term and capitalized term, work is especially important (1) for describing the contractor's obligations to provide improvements to the project, (2) for defining the scope of the property insurance required under Section 11.3, and (3) for distinguishing between the contractor's efforts and the efforts of the owner's other contractor(s) who may also be on the project. As a capitalized term, the word <i>Work</i> refers only to work performed by the contractor, not to any work performed by the owner's own forces or by a separate contractor pursuant to Section 6.1.</p>	<p>§ 1.1.3 THE WORK The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.</p>
<p>The term <i>Project</i> is broader than the term <i>Work</i>, and may involve separate contractors or the owner's own forces. Each separate contract includes a scope of work that is unique to that contract.</p>	<p>§ 1.1.4 THE PROJECT The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by separate contractors.</p>
<p>The term <i>Drawings</i> does not imply representations presented only in paper format. In addition to the drawings the architect issues for bidding and/or negotiation, drawings are also found in addenda, change orders, construction change directives, minor changes in the work, other modifications in the work, or in responses to the contractor's requests for information.</p>	<p>§ 1.1.5 THE DRAWINGS The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.</p>
<p>The <i>Specifications</i> are written descriptions that qualitatively define the work. It is now common construction industry practice to organize the Specifications according to the divisions of MASTERFORMAT, a publication of the Construction Specifications Institute. Each division is further organized into a collection of custom sections which describe the general scope, products to be used and execution of the particular item of work, such as cast-in-place concrete. A library of master specification sections, known as MASTERSPEC®, a product of the AIA, is currently published and available on an annual subscription basis from www.aia.com.</p>	<p>§ 1.1.6 THE SPECIFICATIONS The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.</p>

<p>The term <i>Instruments of Service</i> refers to more than just drawings, specifications, models and other documents the architect creates in performing design services. Rather, instruments of service represent every embodiment of the professional services that the architect provides, regardless of form. This term underscores the fact that these documents, whether in printed or electronic form, cannot be separated from the services the architect provides through them and through other activities on the project.</p>	<p>§ 1.1.7 INSTRUMENTS OF SERVICE Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.</p>
<p>The term <i>Initial Decision Maker</i> refers to an individual or entity that will be responsible for providing initial decisions on claims between the owner and the contractor during the course of the project and certifying termination of the agreement. The architect has traditionally performed this service. In A201-2007, however, it is possible for another individual or entity to hold that position. In the AIA's 2007 owner-contractor agreements that incorporate A201-2007, the owner and the contractor</p>	<p>§ 1.1.8 INITIAL DECISION MAKER The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2 and certify termination of the Agreement under Section 14.2.2.</p>

	<p>§ 1.4 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE</p> <p>§ 1.51 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and will retain all common law, statutory and other reserved rights, including copyrights. The Contractor, Subcontractor, Sub-subcontractor, and material or equipment suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.</p> <p>§ 1.52 The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect's consultants.</p> <p>§ 1.4 TRANSMISSION OF DATA IN DIGITAL FORM If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents.</p>
<p>Technological advances, such as computer aided design, have and will continue to have an impact on the architect's services and the manner in which they are provided. The architect's services are reflected in instruments of service, such as drawings, specifications, electronic data or interpretive sketches which help the owner to reach the final result, a building project. Because the use or misuse of the architect's instruments of service affects specific rights and obligations affecting the owner, the construction team and the public, the architect as a licensed professional retains ownership of, control over, and responsibility for these documents.</p> <p>Through its agreement with the owner, the architect grants the owner a limited license to use the architect's instruments of service solely for use on the project. That license allows the owner, through A201, to authorize the contractor and the various subcontractors, sub-subcontractors and suppliers to use the instruments of service solely to construct the project.</p> <p>Restrictions on use of the instruments of service protect the interests of the owner, architect and architect's consultants, and also serve to protect the public from harm that may result from their misapplication.</p> <p>It is common in the construction industry today for the owner, architect and contractor to utilize various forms of technology in communicating and providing services for the project. This may be as simple as using e-mail to communicate or as complex as employing building information modeling software. Regardless of the digital technology utilized, project participants should establish protocols that will govern the use of such technology. By establishing protocols, the project participants can determine, among other things, how digital information will be transmitted, what software programs are to be utilized to transmit and read the information, and what the transmitted information can be used for.</p> <p>AIA Document E201™-2007, Digital Data Protocol Exhibit, allows contracting parties to define the necessary protocols regarding transmission and use of digital data, and to flow those protocols down to lower tier agreements, thus providing consistent protocols across the project.</p>	

<p>Under the proper circumstances, the owner may stop the work. In this provision, the owner's right to stop work relates specifically to the contractor's failure to comply with the contract documents. This right may be exercised by the owner or the owner's designated representative under Section 2.1.1.</p>	<p>§ 2.3 OWNER'S RIGHT TO STOP THE WORK If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.</p>
<p>The owner must follow a specific procedure before undertaking and/or correcting some or all of the work under the contract. The owner must give the contractor written notice demanding correction of the problem. Upon receipt of this notice, the contractor has ten days to begin and to continue correction. If remedial action has not been undertaken by the end of this ten-day period, the owner may correct the deficiencies with the owner's own forces. Based on a literal interpretation of this section, the owner is not required to provide additional notice to the contractor beyond the ten-day period. The owner, however, may decide to notify the contractor immediately before commencing work in order to avoid jurisdictional disputes at the job site.</p> <p>Correcting the work is not intended to preclude the owner from pursuing other remedies such as arbitration or legal action for breach of contract or breach of a warranty. The owner and architect may also execute a change order or construction change directive deducting from the contract sum the cost of corrections, including compensation for the architect's services in this regard.</p>	<p>§ 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.</p>

<p>This warranty is a general representation by the contractor that materials, equipment and workmanship will conform to good quality standards and the requirements of the contract documents. This general warranty is in addition to, and not in lieu of, any additional obligations (see Section 12.2 on Correction of Work) and other warranties, such as those received from product manufacturers and fabricators and forwarded to the owner by the contractor.</p> <p>The warranty under Section 3.5 will typically commence at the date of substantial completion (see Section 9.8.4) and continue through the period of the applicable statute of limitations or repose, whichever is shorter. The one-year correction period of Section 12.2 is a separate and distinct obligation of the contractor, and should not be confused with the contractor's warranty obligation.</p>	<p>§ 3.5 WARRANTY</p> <p>The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.</p>
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<p>The purpose of these submittals is to illustrate how the contractor intends to implement the architect's design. Because the owner may not have the opportunity to agree with changes incorporated into shop drawings, product data or samples, the submittals from the contractor to the architect cannot represent the mutual agreement of the parties to the same degree as the contract documents. Occasionally, shop drawings, product data, samples or other submittals will be sent to the architect as a matter of routine even though the contract documents do not require them. In that event, the architect is not obliged to review or take other action with regard to them.</p>	<p>§ 3.12.4 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. Their purpose is to demonstrate the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.</p>
<p>The contractor is to assemble shop drawings and other required submittals from subcontractors and others, coordinate and review the submittals and, if they are found to be proper, approve them before submitting them to the architect. Subcontractors, sub-subcontractors and others should not send submittals directly to the architect. The contractor's submittals are to be made in accordance with the approved submittal schedule (refer to Section 3.10.2).</p>	<p>§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors.</p>

<p>In many jurisdictions, anti-indemnification statutes limit the validity and enforceability of indemnification provisions in contracts. Most prohibit only <i>broad-form</i> indemnification (requiring indemnification for the indemnitee's sole negligence). This section contains a <i>narrow-form</i> of indemnification, under which the indemnitor's obligation only covers the indemnitee's losses to the extent caused by the indemnitor or one for whose acts the indemnitor is responsible. The statutes and the courts' interpretations of surety provisions vary, and for this reason Section 3.18.1 should be reviewed by legal counsel.</p> <p>This provision does not cover injury or damage to the work itself nor does it cover a claim by the owner that the contractor has failed to construct the building according to the contract documents.</p> <p>The contractor's obligation to indemnify is triggered by an act or omission of the contractor or one of the contractor's agents or employees, and covers the indemnitee's loss <i>only to the extent</i> that it was caused by such act or omission. This is comparative fault language: for example, if the indemnitee and all other third parties are found to be 20 percent responsible, the contractor's obligation to indemnify would extend to 80 percent of the loss.</p> <p>In some jurisdictions, indemnification may also be available under applicable law. The last sentence section makes it clear that Section 3.18 is not meant to limit such relief.</p>	<p>§ 3.18 INDEMNIFICATION</p> <p>§ 3.18.1 To the fullest extent permitted by law the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.</p>
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Owner Architect

B Series

I. OWNER-ARCHITECT

CONSULTANTS

OWNER — ARCHITECT *

CONTRACTOR

** can be replaced by any primary consultant*

OWNER-ARCHITECT AGREEMENT

*-55 % of claims against architects are made by owners.
Clients are dissatisfied or have unclear expectations*

.....BUILDING REALISTIC EXPECTATIONS & UNDERSTAND RISK.....

*-Contracts can be used to communicate, educate, create
right expectations.*

*For example: Programming. Clients believe programming is
included in scope of services.*

ORAL AGREEMENTS & LETTER OF INTENTS

*Are oral agreements valid? In general they are the problem
is how too document it.*

*Case: Libeskind in WTC vs. Silverstein (developer)
If client does not sign formal agreement try interim
agreement*

OWNER-ARCHITECT AGREEMENT

CLIENTS

- Less experienced: expectations, need education, budget*
- Underfunded: budget, get paid in advance, retainer*
- Boards, committees, public agencies: open, consensus, ask for one representative*
- Litigious: check records, understand scope, understand how client selects arch.*
- CMIPM*

PROJECT TYPES

- Litigious project types: Condos, Hospitals, schools. Owner is not end user*
- Jurisdictional factors: courts will not recognize claims if not met*
- Design & Construction characteristics: experimental, with approval process, contracts should be flexible*
- Budgets & schedules: construction vs. project cost, schedule with phrases such as "60 days after municipal approval"*
- There are many unknowns that affect projects create buffers in scheduling & budgeting*

OWNER-ARCHITECT AGREEMENT

TYPE OF AGREEMENTS

- 1. Owner-generated contract: large companies with significant building programs**
- 2. Owner-Architect agreement by professional association (non AIA)**
- 3. AIA standard agreements**
- 4. AIA adapted agreements (short agreements)**

TYPE OF AGREEMENTS

4. AIA adapted agreements (short agreements)

They usually have the following parts:

1. Clients name and Intro letter
2. Date
3. SCOPE OF WORK
4. SCOPE OF SERVICES
5. ADDITIONAL & EXCLUDED SERVICES, PROVISIONS
4. BASIS OF COMPENSATION (fee, reimbursable, schedule of payment)
- 6 Notes on legal actions etc.

Reduced Contract

F ARCHITECTS

Address

Date ← DATE THAT WORK DESIGN ①

RE: Construction Drawings for Phase One,
SUII CHARTER SCHOOL ← INFO ②
Tract 40, Cooper City, FL
C&A No. 2002.4

Dear Mr. H. Swenson, Principal, Representative, SUII CHARTER SCHOOL, ← INTRO

Enclosed please find the proposal of services provided by F ARCHITECTS to SUII CHARTER SCHOOL for the above referenced project.

Scope of Work: ← ③ SCOPE OF WORK

F ARCHITECTS will provide architectural services for the Construction Documents of Phase One for the SUII CHARTER SCHOOL as described in the Site Plan DRC documents dated September 19, 2003. This project is to be located on Tract 40, in the Town of Cooper City, Florida. Phase One consists of an approximately 25,000 square foot CHARTER SCHOOL for 500 students, grades Kindergarten to Fourth grade. This building will be a one-story series of structures to be built out of reinforced concrete block walls with prefabricated wood trusses.

Reduced Contract

Basic Services

← SCOPE OF SERVICES (4)

- 1.1 Construction Documents Phase
 - 1.1.1 F ARCHITECTS will work with the Owner to select the finish materials and fixtures for both the exterior and interior of the school.
 - 1.1.2 F ARCHITECTS will prepare layout plans and elevations for major rooms.
 - 1.1.3 F ARCHITECTS will prepare construction documents consisting of drawings and specifications setting forth in detail the requirements of the necessary construction work for the project.
 - 1.1.4 F ARCHITECTS will coordinate his drawings with all required engineering (mechanical, plumbing, electrical, fire protection, civil and structural) and landscape drawings to be furnished by others.
 - 1.1.5 F ARCHITECTS will advise the owner in the selection of a plan's expediter for the purpose of obtaining a building permit. The Owner shall be responsible for paying all required permit and impact fees.

Chpt. 10 CONTRACTS & AGREEMENTS

I. OWNER-ARCHITECT

Reduced Contract

2. Compensation
 - 2.1 Basis for Compensation
 - 2.1.1 For Basic Services through the Bidding Phase as described in Section 1, compensation shall be a fixed fee of twenty-three thousand (\$20,000.00). For the Construction Phase, the Architect's time will be billed at an hourly rate. (See section 3.1)
 - 2.2 Reimbursable Expenses
 - 2.2.1 Printing: F ARCHITECTS shall provide, at no additional cost to the owner, two sets of drawings at the end of each phase described in Section 1. Additional sets requested by the Owner or governing agencies shall be billed to the client at cost.
 - 2.2.2 Any fees paid in connection with this project to government agencies by the F ARCHITECTS on behalf of the Owner shall be reimbursed at cost.
 - 2.3 Schedule of Payments
 - 2.3.1 Payments for Basic Services shall be made according to the following schedule:

Initial Retainer	\$	12,500.00
50% Completion of Construction Documents	\$	12,500.00
100% Completion of Construction Documents	\$	25,000.00
Total	\$	50,000.00

(Fees for the Construction Phase and any other reimbursable expenses or additional services will be billed monthly.)

Reduced Contract

3. Additional Services

- 3.1 The Owner shall approve all Additional Services prior to F ARCHITECTS performing services. All Additional Architectural Services shall be billed on a time basis at a rate of \$ 100.00 per hour and travel time, \$50.00 for drafting. Additional Services are those not listed in Section 1, Basic Services, such as but not limited to:
- a. Construction Phase:
 - a.1 F ARCHITECTS shall be a representative of and shall advise and consult with the Owner during the construction until final payment to the (sub)contractor is made.
 - a.2 During the course of construction, F ARCHITECTS shall make visits to the site, at intervals appropriate to the stage of construction, to become familiar with the progress and quality of the work and to determine if the work is being carried out in accordance with the Contract Documents.
 - a.3 F ARCHITECTS shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the work, since these are solely the contractor's responsibility. F ARCHITECTS shall not be responsible for the contractor's schedule or failure to carry out the work in accordance to the Contract Documents.
 - a.4 F ARCHITECTS shall have authority, upon written agreement from the Owner, to reject work which does not conform to the Contract Documents or require additional inspection of the work in accordance with the provisions of the Contract Documents. Neither this authority, nor a decision made in good faith to exercise or not exercise such authority shall give rise to a duty or responsibility of F ARCHITECTS to the Contractor.
 - b. Making revisions to the plans that are inconsistent with approvals or instructions previously given by the Owner, including revisions made necessary by adjustments in the Owner's program or Project Budget or Town comments after the commencement of contract.
 - c. Preparing separate plans for phased construction.
 - d. The Fee for basic services assumes necessary utilities are located in the right of way adjacent to the property.

Reduced Contract

Please note: Unless otherwise stated, any charges made on an open account are due in full within (14) days of rendition of services. Past due accounts will be charged a one percent service charge a month, including post judgment interest. All expenses of collection, including reasonable attorney's fees, shall be an additional charge. Upon acceptance of this proposal by the client or its agent as evidenced from his or her signature herein, the client acknowledges these terms. In the event of litigation becomes necessary in regard to collection or any other dispute that may arise as a result of this transaction; Dade County, Florida will be the proper venue for such legal action.

Please sign below if you approve this proposal and return one copy by mail to the address on the letter.

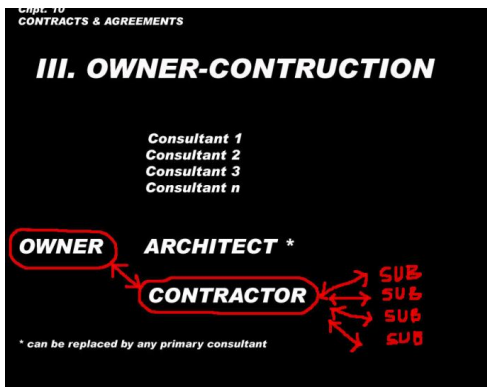
Sincerely,

F ARCHITECTS

SUII CHARTER SCHOOL L.L.C.

Owner Contractors

A Series



PATTERNS of AIA DOCs OWNER-CONTRACTOR AGREEMENTS

6. Contract compensation (Alternatives):

6.1 Stipulated Sum-contracts:

fixed-price, lump sum agreement (competitive bid)

6.2 Cost-plus-fee:

- Reimburse contractor for direct expenses, cost subcontractors, labor & materials + fixed or % fee
- Used in: short deadline, deadline more important than cost, high quality
- Disadvantage is that cost is not known.
- Cost-plus fee are sometimes limited: A. Target price without incentive; B. Partial-cost guarantee; C. Cost-plus-fee w. Guaranteed Maximum Price (GMP: cost cap and there may be incentives to share reduced savings)

6.3 Unit-price contracts.

When it is impossible to establish quantities of materials and equipment. Contractors provide price per unit (sq. yr. carpet, cubic yard of rock)

***Note: owner can request changes, order extra work, can keep same contract with modifications**

PATTERNS of AIA DOCs OWNER-CONTRACTOR AGREEMENTS

CONTRACTOR-SUBCONTRACTS

-80 % or more of construction work is done by subcontractors.

-A201 requires contractor to submit a list of principal subcontractors & suppliers.

-Pass-through clauses: Subcontractor should have same rights and duties contractor has with owner and prime contract is incorporated into subcontract.

-A401 is used then there is consistency. Pay-when-due vs. Pay-when-paid.

-Owners may require contractor that subcontractor to require mechanics' lien waivers

-Some owners want "provisions" to pay directly subcontractors

-Contracts can contain clauses in which owners can replace contractor if the contractor defaults.

CM-at-risk

-Client hires a CM to manage a construction project for a FLAT/FIXED fee.

-CM hired during design phase

-CM works with Architect to keep the project within budget

-Bids the construction to subcontractors

-Gives a guaranteed maximum price (GMP) to the client

-Provides a bond and builds the project

-Fee for a CMIPM firm ranges from 2 % to 6 % of construction cost

-No relation to const cost...the fee is fixed

-Fee should be for services provided, nothing more.

Architect
Consultant

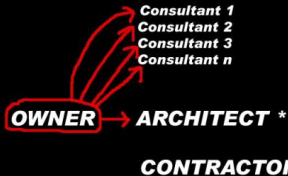
C Series

II. ARCHITECT-CONSULTANT



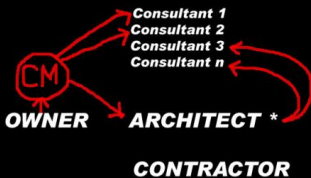
** can be replaced by any primary consultant*

II. ARCHITECT-CONSULTANT



** can be replaced by any primary consultant*

II. ARCHITECT-CONSULTANT



* can be replaced by any primary consultant



-ARCHITECT (LArch or ID)* as PRIMARY CONTRACTOR

- Primary responsibility in completeness of work
- Liable for work developed by consultant
- Need to develop clear agreements with consultants
- If clients does not pay, primary consultant is liable except if agreed in agreement
- It is common to incorporate the owner-architect agreement into the architect-consultant agreement
- Scope of services between primary contractor-owner & primary contractor-consultant should match



-OWNERS RETAINING CONSULTANTS

- Occurs in many cases: CM, long-standing relationship, etc...*
- Advantages: payments, owner is responsible for coordination*
- Disadvantages: less control, contracts should be clear that it is owners responsibility to provide other contractors data. For example AIA doc B141 specifies that it is the owner responsibility to provide land surveying & geotechnical data.*
- Someone has to coordinate. Owner must do it, hire somebody or include in the scope of services of one of the consultants.*

-JOINT VENTURES

Firms that want to associate have 2 choices: joint venture, contractor-subcontractor agreement:

-Contractual union of 2 or more firms for a specific job.

-Functions like a partnership. Tax liability: does not pay tax, profit or loss is passed to the firms forming it.

-Reasons: are technical, political

-Contracts should have clear divisions of responsibility and a clear understanding of project & client.

-Understand: skills, background, staff, geography, insurance, financing, management.