

AIA[®] Document A105[™] – 2017

Standard Short Form of Agreement Between Owner and Contractor

AGREEMENT made as of the 15th day of May in the year 2019

(In words, indicate day, month and year.)

BETWEEN the Owner:

(Name, address and other information)

Spring Creek Oaks Community Improvement Association
6002 Bur Oak Drive
Spring, Texas 77379

and the Contractor:

(Name, address and other information)

Aber Fence & Supply Company, Inc.
12239 Mosiellee St.
Houston, Texas 77086

for the following Project:

(Name, location and detailed description)

. Spring Creek Oaks Common Area Fence Construction

The Architect:

(Name, address and other information)

None – substitute “Association’s Representative” everywhere “Architect” occurs in this agreement.

Article 9 is deleted completely.

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

Init.

.3 addenda prepared by the Architect as follows:

Number	Date	Pages
None		

(Table Deleted)

.4 written orders for changes in the Work issued after execution of this Agreement; and

.5 other documents, if any, identified as follows:

Aber Fence & Supply Company, Inc. proposal dated May 21, 2019 shall serve to define the scope included in this agreement.

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

The number of calendar days available to the Contractor to substantially complete the
(Paragraph Deleted)

Ⓟ

Work is the Contract Time. The date of commencement of the Work shall be the date of this Agreement unless otherwise indicated below. The Contractor shall substantially complete the Work, no later than 300 (200) calendar days from the date of
(Paragraph Deleted)

Ⓟ

commencement, subject to adjustment as provided in Article 10 and Article 11.
(Insert the date of
(Paragraph Deleted)

commencement, if it differs from the date of this Agreement.)

Date of commencement to be 10 days after notice to proceed

ARTICLE 3 CONTRACT SUM

§ 3.1 Subject to additions and deductions in accordance with Article 10, the Contract Sum is:

One million, one hundred sixty two thousand, seven hundred twenty one dollars (\$ ~~1,162,721.00~~) 1,138,003.00 Ⓟ JT

§ 3.2 For purposes of payment, the Contract Sum includes the following values related to portions of the Work:
(Itemize the Contract Sum among the major portions of the Work.)

Portion of Work
See attached Schedule of Values
(Table Deleted)

Value
~~\$1,162,721.00~~
\$ 1,138,003.00 Ⓟ JT

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

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

Item	Units and Limitations	Price per Unit
AFTEC Pre-Cast Wall		\$130.00/LF
Tear & haul existing brick columns		\$100.00 Each
Tear & haul existing wood fence		\$1.00/LF 2.15
Install and remove temporary fencing		\$1.00/LF
Hydro-excavation		\$318.00 Each Ⓟ JT
Painting of monuments		\$1,000.00 Each
TRAFFIC CONTROL		10.00 2/F

§ 3.4 Allowances included in the Contract Sum, if any, are as follows:

(Paragraph Deleted)

requirements and limits.)

Type of insurance
See Exhibit 'B'
(Table Deleted)

Limit of liability (\$ 0.00)

§ 5.2 The Owner shall provide property insurance to cover the value of the Owner's property, including any Work provided under this Agreement. The Contractor is entitled to receive an increase in the Contract Sum equal to the insurance proceeds related to a loss for damage to the Work covered by the Owner's property insurance.

§ 5.3 The Contractor shall obtain an endorsement to its general liability insurance policy to cover the Contractor's obligations under Section 8.12.

§ 5.4 Each party shall provide certificates of insurance showing their respective coverages prior to commencement of the Work.

§ 5.5 Unless specifically precluded by the Owner's property insurance policy, the Owner and Contractor waive all rights against (1) each other and any of their subcontractors, suppliers, agents and employees, each of the other; and (2) the Architect, Architect's consultants and any of their agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance or other insurance applicable to the Work.

ARTICLE 6 GENERAL PROVISIONS

§ 6.1 THE CONTRACT

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification in accordance with Article 10.

§ 6.2 THE WORK

The term "Work" means the construction and services required by the Contract Documents, and includes all other labor, materials, equipment and services provided, or to be provided, by the Contractor to fulfill the Contractor's obligations.

§ 6.3 INTENT

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all.

§

(Paragraph Deleted)

6

(Paragraphs Deleted)

ARTICLE 7 OWNER

§ 7.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 7.1.1 If requested by the Contractor, the Owner shall furnish all necessary surveys and a legal description of the site.

§ 7.1.2 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, the Owner shall obtain and pay for other necessary approvals, easements, assessments and charges.

Init.

§ 8.5 WARRANTY

The Contractor warrants to the Owner and Architect that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents.

§ 8.6 TAXES

The Contractor shall pay sales, consumer, use and similar taxes that are legally required when the Contract is executed.

§ 8.7 PERMITS, FEES AND NOTICES

§ 8.7.1 The Contractor shall obtain and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work.

§ 8.7.2 The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the Architect in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules and regulations.

§ 8.8 SUBMITTALS

The Contractor shall promptly review, approve in writing and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents. Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents.

§ 8.9 USE OF SITE

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents and the Owner.

§ 8.10 CUTTING AND PATCHING

The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

§ 8.11 CLEANING UP

The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery and surplus material; and shall properly dispose of waste materials.

§ 8.12 INDEMNIFICATION

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.

ARTICLE 9 ARCHITECT

§ 9.1 The Architect will provide administration of the Contract as described in the Contract Documents. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 9.2 The Architect will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work.

Agreement. Such Application shall be supported by data substantiating the Contractor's right to payment as the Owner or Architect may reasonably require. Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing.

§ 12.2.2 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or other encumbrances adverse to the Owner's interests.

§ 12.3 CERTIFICATES FOR PAYMENT

~~The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part.~~ (4/8) JT

§ 12.4 PROGRESS PAYMENTS

§ 12.4.1 ~~After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner provided in the Contract Documents.~~ (4/8) JT

§ 12.4.2 The Contractor shall promptly pay each subcontractor and supplier, upon receipt of payment from the Owner, an amount determined in accordance with the terms of the applicable subcontracts and purchase orders.

§ 12.4.3 Neither the Owner nor the Architect shall have responsibility for payments to a subcontractor or supplier.

§ 12.4.4 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.

§ 12.5 SUBSTANTIAL COMPLETION

§ 12.5.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

§ 12.5.2 When the Work or designated portion thereof is substantially complete, the ~~Architect~~ ^{Owner} will make an inspection to determine whether the Work is substantially complete. When the ~~Architect~~ ^{Owner} determines that the Work is substantially complete the ~~Architect~~ ^{Owner} shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, shall establish the responsibilities of the Owner and Contractor, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. (4/8)

§ 12.6 FINAL COMPLETION AND FINAL PAYMENT

§ 12.6.1 Upon receipt of a final Application for Payment, the ~~Architect~~ ^{Owner} will inspect the Work. When the Architect finds the Work acceptable and the Contract fully performed, the ~~Architect~~ ^{Owner} will promptly issue a final Certificate for Payment. (4/8)

§ 12.6.2 Final payment shall not become due until the Contractor submits to the Architect releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests or encumbrances arising out of the Contract.

§ 12.6.3 Acceptance of final payment by the Contractor, a subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

- .1 take possession of the site and of all materials thereon owned by the Contractor, and
- .2 finish the Work by whatever reasonable method the Owner may deem expedient.

§ 16.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 16.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 16.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Contract.

§ 16.3 TERMINATION BY THE OWNER FOR CONVENIENCE

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

ARTICLE 17 OTHER TERMS AND CONDITIONS

(Insert any other terms or conditions below.)

JUNE 25, 2019

Reference Aber Fence & Supply Company, Inc. proposal dated ~~May 15, 2019~~ page 2 Items "A,B,C,D,E,F" and page 3 "Clarifications, Exceptions, Exclusions". Additional hydroexcavations, may be necessary and will be done as Contractor may determine. Owner will be obligated to pay for those excavations at the rate stated in the Contract Documents.

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

(If required by law, insert cancellation period, disclosures or other warning statements above the signatures.)

J THOMAS for SCOCIA

OWNER (Signature)

CONTRACTOR (Signature)

(Printed name, title and address)

(Printed name, title and address)

(Table Deleted)

LICENSE NO.:
JURISDICTION: