



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 17 day of March in the year 2020
(In words, indicate day, month and year.)

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

City of Yakima City of Yakima Project Nos. SC509 & SW2510
129 North 2nd Street
Yakima, Washington 98901

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

POW Contracting, Inc.
1105 E. Columbia St.
Pasco, WA 99301
(509) 542-8507

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

Wastewater Collections Facility Upgrade
Yakima, WA

This project is for the renovation of the existing, single story, 19,349 square foot Wastewater Collections Department Maintenance Facility in Yakima, Washington. The renovation area is approximately 7,161 square feet. The project will be constructed to meet the requirements of Type V-B construction, Occupancy Group B and S-2 per the International Building Codes, 2015 edition. The building is not sprinklered and is not equipped with a fire alarm system. No additional square footage is added in this project.

The project houses the office and administrative functions, locker room, restrooms (Group B areas) and the workout (gym), maintenance area, and vehicle storage functions (Group S-2 areas) of the Wastewater Collections Department.

The project includes no site work except for the restriping and signing of the existing handicapped stalls to comply with current codes, and other Work indicated in the Contract Documents.

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

KDA Architecture, Inc.
1310 North 16th Avenue
Yakima, Washington 98902

KDA Project No. 201920

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.

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.

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User Notes:

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EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions, as revised), Drawings, Specifications, 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 fully execute the entire Work described in the Contract Documents, except as specifically indicated in the Contract 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:

(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 of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial and Final 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.)

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

[X] By the following date: September 27, 2020

§ 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:

(Table deleted)
(Table Deleted)

§ 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.

§ 3.3.4 After Substantial Completion the Contractor shall carry the work forward expeditiously with adequate forces and shall achieve Final Completion, satisfying all requirements necessary for the Owner's acceptance of the project, within thirty (30) calendar days after Substantial Completion. If the Contractor fails to achieve Final Completion as provided in this Section 3.3.4, 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 not exceed Six Hundred Fifty Thousand Eight Hundred Thirty Four Dollars (\$ 650,834), without written approval of the Owner, plus W.S.S.T and. subject to written additions and deductions approved in writing by the parties, as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
Alternate No. 1: Replace All Interior Lighting with New Fixtures	\$8,476.
Alternate No. 2: Provide New Door Panels & Hardware @ Doors 104.1 & 105.1	\$725.
Alternate No. 3: Tackboards/Markerboards to be in Contract	\$7,713.
Alternate No. 4: Provide New Lockers	\$14,681.
Alternate No. 5: Replace Ceiling Tiles in All Rooms	\$15,183.
Alternate No. 6: Parking Lot Restriping	\$3,619.
Alternate No. 8: Countertop at Flat File Cabinets in Office 107	\$1,512.

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
None.		

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

Item	Price
None.	

§ 4.4 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
None.		

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§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

The Owner will incur serious and substantial special, incidental, and consequential damages if the work is not completed by the date stipulated in the agreement. Therefore, liquidated damages shall be assessed as compensation to the Owner for damages incurred by the loss of the project not being completed on time, but not as a penalty to the Contractor. Liquidated damages shall be assessed as follows: (a) for each calendar day after the date fixed for Substantial Completion, the Contractor shall pay the Owner the sum of Five Hundred Dollars (\$500) per day. (b) For each calendar day after the date fixed for final completion, the Contractor shall pay the Owner the sum of Five Hundred Dollars (\$500) per day. (c) Each sum of liquidated damages can be assessed cumulatively.

§ 4.6 Other:
(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, 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, or as follows:

§ 5.1.3 The Owner will make progress payments within thirty (30) days of its receipt and approval of the Architect's Certificate for Payment.

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

§ 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 AIA Document A201™–2017, General Conditions of the Contract for Construction, 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 Article 9 of AIA Document A201–2017;

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- .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 Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Retainage shall be 5%. The retainage, its management and payment shall be in accordance with RCW 60.28. as it now exists or is hereafter amended, and in accordance with other applicable laws of the State of Washington.

§ 5.1.7.1.1

(Paragraphs deleted)

INTENTIONALLY DELETED

§ 5.1.7.2

(Paragraphs deleted)

INTENTIONALLY DELETED

§ 5.1.7.3

(Paragraphs deleted)

INTENTIONALLY DELETED

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 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.

§ 5.2 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 Article 12 of AIA Document A201–2017, 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 no later than 30 days after the issuance of the Architect’s final Certificate for Payment, or as follows:

§ 5.3 Interest

Payments due and unpaid under the 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.)

Payments due and unpaid under the Contract Documents shall bear interest as specified by RCW 39.76, not to exceed the Bank of America prime plus two percent per annum.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, 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

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows: *(Check the appropriate box.)*

- Arbitration pursuant to Section 15.3 of AIA Document A201–2017
- Litigation in a court of competent jurisdiction in Yakima County, Washington, unless the Owner and Contractor mutually agree in writing to another form of dispute resolution.
- 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.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor *(Paragraphs deleted)* as prescribed in Article 14.4 of AIA Document A201-2017.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 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 representative:
(Name, address, email address, and other information)

Dana Kallevig
Utility Project Manager
City of Yakima
2220 East Viola Avenue
Yakima, WA 98901
(509) 249-6813

§ 8.3 The Contractor’s representative:

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

Shelley Ainsworth (Corporate Secretary, VP)
Scott Seguin (Project Manager)
Chip Ainsworth (Superintendent)
POW Contracting, Inc.
1105 E. Columbia St.
Pasco, WA 99301
(509) 542-8507

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior written notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given as set forth below:
(Paragraph deleted)
Pursuant to Article 1.6 of AIA Document A201-2017.

§ 8.7 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction
- .4 This Contract, the Request for Proposals No. SC509 & SW2510, Scope of Work, conditions, addenda, and modifications and Contractor's proposal (to the extent consistent with City of Yakima documents) constitute the Contract Documents and are complementary. Specific Federal and State laws and the terms of this Contract, in that order respectively, supersede other inconsistent provisions. These Contract Documents are on file in the Office of the Purchasing Manager, 129 No. 2nd St., Yakima, WA, 98901, and are hereby incorporated by reference into this Contract.
- .5 Enumeration of Drawings – See Exhibit B
- .6 Enumeration of Specifications – See Exhibit C
- .7 Addenda, if any:

Number	Date	Pages
No. 1	February 7, 2020	18
No. 2	February 17, 2020	3
No. 3	February 19, 2020	3

(Paragraphs deleted)

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.

- .8 Other Exhibits:

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(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

Washington State Prevailing Wage Rates – See Exhibit D

The Sustainability Plan:

Title	Date	Pages
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Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
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.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™-2017 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.)

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

OWNER (Signature)

Alex Meyerhoff Interim City Manager

(Printed name and title)

CONTRACTOR (Signature)

Shelley Ainsworth Corporate Secretary, VP

(Printed name and title)