

**Kentucky Department of Education Version of AIA
Document A101-2007
Standard Form of Agreement Between Owner and Contractor
where the basis of payment is a Stipulated Sum**

AGREEMENT made as of the 29th day of July in the year 2025
(In words, indicate day, month and year.)

BETWEEN the Owner:

(Name, legal status, address and other information)

Covington Independent Board of Education
25 E. 7th Street
Covington, KY 41011

and the Contractor:

(Name, legal status, address and other information)

HGC Construction Co.
2814 Stanton Avenue
Cincinnati, Ohio 45206

for the following Project:

(Name, location and detailed description)

Holmes High School Softball Field
501 W. 19th Street
Covington, KY 41014

Design Partners:

(Name, legal status, address and other information)

Architect: SHP

Geotech: UES

Field: Kleingers

The Owner and Contractor agree as follows.

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ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Owner Direct Purchase Orders, 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 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 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 to proceed 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.)

A notice of intent will be issued.

If, prior to the commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner's time requirement shall be as follows:

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

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than as listed on the Project Schedule 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. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

See Exhibit B- Holmes Softball Complex Master Schedule dated 5.13.25 »

Portion of Work

Substantial Completion Date

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

Liquidated damages: None

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Three Million Four Hundred Thirty Six Thousand Nine Hundred Four Dollars and Thirty Two Cents (\$ 3,436,904.32), subject to additions and deductions as provided in the Contract Documents.

(List the base bid amount, sum of accepted alternates, total construction cost (the sum of base bid amount plus sum of accepted alternates), sum of Owner's direct Purchase Orders. The Contract Sum shall equal the sum of Total Construction Cost, less Owner direct Purchase Orders. Either list this information here or refer to an exhibit attached to this Agreement.)

Base Bid: \$3,299,199.32

Sum of Accepted Alternates: \$137,705

Total Construction Cost (the sum of the base bid amount plus sum of accept alternates): \$3,436,904.32

Sum of Owner's direct Purchase Orders: \$0

Contract Sum (total construction cost less Owner direct Purchase Orders) \$3,436,904.32

§ 4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

«See attached Exhibit A- Enumeration »

§ 4.3 Unit prices, if any:

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

As listed in the Form of Proposal

§ 4.4 Allowances included in the Contract Sum, if any:

(Identify allowance and state exclusions, if any, from the allowance price.)

Item

Price

See attached Exhibit A- Enumeration

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:

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§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 25th day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the 30th day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than sixty (60) days after the Architect receives the Application for Payment. *(Federal, state or local laws may require payment within a certain period of time.)*

State law (KRS 371.405) requires the Owner to pay undisputed Applications for Payment within forty-five (45) business days following receipt of the invoices. If the Owner fails to pay the Contractor with forty-five (45) business days following receipt of an undisputed Application for Payment, state law requires the Owner shall pay interest to the Contractor beginning on the forty -sixth (46) business day after receipt of the Application for Payment, computed at the rate required by state law.

§ 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, unless objected to by the Architect, 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 Subject to other provisions of the Contract 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%). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201™–2007, General Conditions of the Contract for Construction- KDE Version;
- .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 Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201–2007- KDE Version.

§ 5.1.7 The progress payment amount determined in accordance with Section 5.1.6 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 Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
(Section 9.8.5 of AIA Document A201–2007- KDE Version 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 Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201–2007- KDE Version.

§ 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:

When Owner direct Purchase Orders are used, retainage that would otherwise be held on materials and equipment shall transfer to the Contractor, and the material suppliers shall be paid the full amount of their invoices. The Owner shall retain ten percent (10%) from each Application for Payment, and an amount equal to ten percent (10%) of approved Purchase Order payments, up to fifty percent (50%) completion of the Work, then provided the Work is on schedule and satisfactory, and upon written request of the Contractor together with consent of surety and the recommendation of the Architect, the Owner shall approve a reduction in Retainage to five percent (5%) of the current Contract Sum plus Purchase Orders. No part of the five percent (5%) retainage shall be paid until after Substantial Completion of the Work, as defined in the General Conditions of the Contract for Construction. After Substantial Completion, if reasons for reduction in retainage are certified in writing by the Architect, a reduction to a lump sum amount less than five percent (5%) retainage may be approved by the Owner when deemed reasonable. The minimum lump sum retainage shall be twice the estimated cost to correct the deficient or incomplete work.

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§ 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 Section 12.2.2 of AIA Document A201–2007- KDE Version, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 a final Certificate for Payment has been issued by the Architect; and
- .3 the Contractor provides the Owner with affidavits that all payrolls, bills for materials, supplies and equipment, and other indebtedness connected with the Work have been paid or otherwise satisfied, and with Consent of Surety for final payment.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 INITIAL DECISION MAKER

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007- KDE Version, unless the parties appoint below another individual, not a party to this Agreement, to serve as 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.)

Mr. Eric Neff
Covington Independent Schools
25 East 7th Street
Covington, KY 41011
Email: eric.neff@covington.kyschools.us

§ 6.2 BINDING DISPUTE RESOLUTION

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A201–2007, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Contractor do not select a method of binding dispute resolution below, 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.)

☐ Arbitration pursuant to Section 15.4 of AIA Document A201–2007

☐ Litigation in a court of competent jurisdiction

☒ Other *(Specify)*

Non binding mediation followed by litigation in a court of competent jurisdiction where the Project is located.

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 A201–2007- KDE Version.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007- KDE Version.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2007- KDE Version or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 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.)

§ 8.3 The Owner's representative:

(Name, address and other information)

Mr. Eric Neff

Covington Independent Schools

25 East 7th Street

Covington, KY 41011

Email: eric.neff@covington.kyschools.us

§ 8.4 The Contractor's representative:

(Name, address and other information)

HGC Construction Co.

Attn: Bill Bromback

2814 Stanton Avenue

Cincinnati, OH 45206

Email: bbromback@hgconstruction.com

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

§ 8.6 Other provisions:

§ 8.6.1 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner before conditions are disturbed and in no event later than 5 days after first observance of the conditions. The Owner will promptly investigate such conditions and, if the Owner determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Owner shall promptly notify the

Contractor, stating the reasons. If the Contract disputes the Owner's determination or recommendation, that party may submit a Claim as provided in Article 15.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A101–2007, Standard Form of Agreement Between Owner and Contractor- KDE Version.

§ 9.1.2 The General Conditions are AIA Document A201–2007, General Conditions of the Contract for Construction- KDE Version.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

§ 9.1.4 The Specifications:

(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

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Section	Title	Date	Pages

§ 9.1.5 The Drawings:

(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

«Holmes Softball Complex drawings prepared by SHP dated »

Number	Title	Date

§ 9.1.6 The Addenda, if any:

Number	Date	Pages

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents:

- ~~AIA Document E201™ 2007, Digital Data Protocol Exhibit, if completed by the parties, or the following:~~ Not Used

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- Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2007 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

- HGC Clarifications and Assumptions dated 5/13/2025

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201–2007- KDE Version.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201–2007- KDE Version.)

Type of insurance or bond	Limit of liability or bond amount (\$0.00)
Refer to Exhibit I	
Builders Risk – By Owner	

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

OWNER *(Signature)*

« »« »

(Printed name and title)

CONTRACTOR *(Signature)*

Adam Kuehe, President

(Printed name and title)