

Following Along With Forms



Without written agreements, parties involved in construction projects are vulnerable to a variety of risks. The contractor, owner and architect may have differing expectations about the performance obligations of the other parties. The more varied the performance expectations, the greater the potential for conflict. This may ultimately result in payment issues or legal action – the larger or more complex the project, the greater the chance for varying expectations.

To help protect his or her business from the financial and other costs associated with conflict and litigation, each party on a project should make sure his or her obligations are memorialized in a written agreement. These written agreements should include, at a minimum, a scope of work or services, payment terms and conditions, a project timeline, insurance considerations, terms associated with correction of work and terms associated with changes in scope of work or services.

To this end, construction industry organiza-

tions such as the American Institute of Architects (AIA) have developed standard form agreements with widely recognized and accepted contract language, so the parties will have a shared, clear understanding of their roles and responsibilities.

The AIA Contract Documents® program recently released new documents for use in regional and urban planning, residential development and multifamily residential or mixed-use construction projects.

Urban Planning Guidelines

The first of these new documents, AIA document B212™-2010, “Standard Form of Architect’s Services: Regional or Urban Planning,” was developed for use in the delivery of regional or urban planning services for public and private projects. This scope of services document provides flexibility and allows for selection from a wide range of potential services that an owner might require.

The potential services were developed around two themes unique to regional and urban planning – cultural factors and natural factors. The services are grouped into four phases in a table format: inventory and data gathering, analysis and judgment, preparation of design alternatives and finalization of preferred plan. Specific services are listed in each phase and described in the text of the document. The owner and architect designate on the table which services are to be provided by the architect.

IN THIS SECTION



In this way, the parties develop a unique and project-specific scope of services upon consideration of a wide array of potential services that may be applicable to a regional or urban planning project. This selection process, in conjunction with descriptive text in the document or otherwise provided by the parties, helps to ensure the parties have a clear understanding of the services to be provided.

This document is a scope of services document only, and must be paired with a terms and conditions document to form a complete agreement. For private projects, B212 can be paired with AIA Document B102™-2007, which contains terms and conditions only, or with another owner-architect agreement. The form also can be paired with owner-required terms and conditions documents for use on public projects.

Housing Agreements

With respect to housing, the AIA published two documents that address widely divergent areas. For developer-built residential housing, the AIA released document B107™-2010, "Standard Form of Agreement Between Developer-Builder and Architect for Prototype(s) for Single Family Residential Projects."

This document uses the term "developer-builder" rather than "owner" to reinforce the type of client that is envisioned: a developer-builder experienced with residential building codes, selection of materials and systems, and methods of installation and construction. This document anticipates that the developer-builder will have extensive control over the management of the project, acting in the capacity of a developer or speculative builder of a housing project.

The architect's services are very limited, consisting of development of permit set documents and performing limited site visits and submittal review. The developer-builder implements the work reflected in the permit set documents through project completion. The developer-builder provides engineering services, administers payment to contractors and specifies products and finishes. In addition, this document allows the developer-builder, at its sole risk, to reuse the permit set documents on a subsequent project or development, provided that the developer-builder pays a licensing fee to the architect for continued use of the architect's instruments of service.

For multifamily or mixed-use residential projects, AIA Document B109™-2010, "Standard Form of Agreement Between Owner and Architect for a Multi-Family Residential or Mixed Use Residential Project," is a new document that contains terms and conditions that are unique to these types of projects. The form also specifies a pre-design phase scope of services for the architect that includes assessment of project feasibility and layout and regulatory requirements. The architect attends preliminary meetings with regulatory entities and interested stakeholders such as community groups. The archi-



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tect develops preliminary studies illustrating site development concepts, unit types, unit sizes, and the mix and number of unit types, and presents those pre-design options to the owner for review.

Document B109–2010 is not intended for use on projects that include residential condominiums. In the event that the parties do wish to use B109 for a residential condominium project, the AIA developed AIA Document B509™–2010, "Guide for Supplementary Conditions to AIA Document B109™–2010." This guide, available for free at www.aia.org/contractdocs/reference, includes a discussion of potential risks that may be inherent in residential condominium construction and offers model language that may be used to modify B109 to address and allocate those risks.

All of these standard form documents take into account considerations that are unique to these types of projects. They provide a clear delineation of the roles and responsibilities of the parties with respect to the scope of services and the applicable business terms and conditions. Use of such documents enables the parties to limit disputes and facilitates smoother development and completion of the project than would be the case without them. ♦

KEN COBLEIGH is senior director and associate counsel of AIA Contract Documents, where he works with the AIA documents committee in the development of contract documents, manages their production in paper and in AIA software, and directly supervises the customer support provided to AIA contract document users. For more information, visit www.aia.org.