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 **26th** day of **September** in the year **2016**
(In words, indicate day, month and year.)

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

Rowan County
130 West Innes Street
Salisbury, NC 28144

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

Cresent Construction Company, Inc.
990 Lee Ann Drive
Concord, NC 28025

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

Rowan County – Rockwell EMS Station
Corner of East Main Street (US Hwy 52) / North Trexler Avenue
Rockwell, NC 28138

The project is a 2,100 square foot Emergency Medical Services Station. Construction is exterior brick veneer (per the accepted alternate) over wood stud and CMU walls, and pre-engineered wood trusses with a shingled roof. Site work includes grading, utilities (power, water and sewer), storm drain system, sidewalks, paving and landscaping.

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

Ramsay Burgin Smith Architects, Inc.
225 North Main Street – Suite 501
Salisbury, NC 28144

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.

AIA Document A201™–2007, 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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ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), 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.)

Notice to Proceed and commencement of the Work will be dated October 12, 2016

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:

§ 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 **One Hundred – Eighty Two** (**182**) 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.)

Portion of Work **Substantial Completion Date**

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, 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.)

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 **Five Hundred Thirty One Thousand – Two Hundred Fifty Dollars and No/100** ($ **531,250.00**), subject to additions and deductions as provided in the Contract Documents.

§ 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.)

Base Bid	**$ 513,000.00**
Alternate #1 – Exterior Brick Veneer	**$ 18,250.00**
TOTAL CONTRACT AMOUNT	**$ 531,250.00**

§ 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.)

Item	Units and Limitations	Price Per Unit ($0.00)
Unit Price #1 – Undercut and Fill*	**Cubic Yard**	**$27.50**
Excavating Undercut Soil on Site	**Cubic Yard**	**$ 5.00**
Hauling and Legally Disposing Soil	**Cubic Yard**	**$ 8.00**
Hauling Structural Quality Soil to Site	**Cubic Yard**	**$11.50**
Compacting Structural Quality Soil	**Cubic Yard**	**$ 3.00**
Unit Price #2 – Undercut w/ABC Stone	**Cubic Yard**	**$53.00**
Excavating Undercut Soil on Site	**Cubic Yard**	**$ 5.00**
Hauling and Legally Disposing Soil	**Cubic Yard**	**$ 8.00**
Hauling ABC Stone to Site	**Cubic Yard**	**$36.00**
Compacting ABC Stone	**Cubic Yard**	**$ 4.00**

***The project includes an allowance of 200 cubic yards of undercut and fill, which calculates to $5,500.00.**

§ 4.4 Allowances included in the Contract Sum, if any:
(Identify allowance and state exclusions, if any, from the allowance price.)

Item	Price
Contingency Allowance	**$ 10,000.00**
Undercut and Fill Allowance (200 cy)	**$ 5,500.00**
Testing Allowance	**$ 4,000.00**
Water Tap Fee Allowance (per Addendum #5)	**$ 5,000.00**

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 **First** day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the **Thirtieth (30th)** day of the **same** 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 **Thirty** (**30**) days after the Architect receives the Application 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, 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 **Five** percent (**5** %). 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; **See Reduction Method 5.1.8**

.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 **Five** percent (**5** %); **See Reduction Method 5.1.8**

.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.

§ 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 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.

§ 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:
(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

Prior to reaching a maximum retainage of two and one half percent (2.5%) of the total contract amount, the Owner will pay ninety-five percent (95%) of the amount due on the Contractor's monthly application for payment. Thereafter the Owner will pay one hundred percent (100%) of the Contractor's monthly application for payment amount, holding the 2.5% maximum retainage as a fixed amount until substantial completion is certified. The following conditions must be met to qualify for contractual retainage reduction: The project must be on or ahead of schedule.

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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, 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:

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, 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.)

§ 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

[**X**] Litigation in a Superior Court in Rowan County

[ ] Other *(Specify)*

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.

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

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2007 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.)

6 % **Six percent annually, compounded monthly or the maximum allowed by law, whichever is less**

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§ 8.3 The Owner's representative:
(Name, address and other information)

Mr. Aaron Church, County Manager
Rowan County
130 West Innes Street
Salisbury, NC 28144

§ 8.4 The Contractor's representative:
(Name, address and other information)

Mr. Keith Gabriel, President
Cresent Construction Company, Inc.
990 Lee Ann Drive
Concord, NC 28025

§ 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:

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.

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

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
Specifications	**Invitation to Bid**	**August, 2016**	**2**
	Instructions to Bidders	**August, 2016**	**2**
	Table of Contents	**August, 2016**	**3**
	Form of Proposal	**August, 2016**	**4**
	RBSA Office Rate Sheet	**January, 2015**	**1**
	General Conditions	**August, 2016**	**7**
	Supplementary General Conditions	**August, 2016**	**10**

§ 9.1.4 The Specifications:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)
SEE ATTACHMENT "A" TABLE OF CONTENTS

Section	Title	Date	Pages

§ 9.1.5 The Drawings:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)
SEE ATTACHMENT "B" – SCHEDULE OF DRAWINGS

Number	Title	Date

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§ 9.1.6 The Addenda, if any:

Number	Date	Pages
1	8/22/16	1
2	8/30/16	9
3	8/31/16	1
4	9/6/16	1
5	9/7/16	1

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:

.1 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed by the parties, or the following:

.2 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.)

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

Type of insurance or bond	Limit of liability or bond amount ($0.00)
See Supplementary General Conditions Article 11: Insurance and Bonds	

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

ROWAN COUNTY	**CRESENT CONSTRUCTION CO., INC.**
OWNER *(Signature)*	**CONTRACTOR** *(Signature)*
Aaron Church, County Manager	**Keith Gabriel, President**
(Printed name and title)	*(Printed name and title)*

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Additions and Deletions Report for

AIA® Document A101™ – 2007

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PAGE 1

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Ramsay Burgin Smith Architects, Inc.
225 North Main Street – Suite 501
Salisbury, NC 28144

PAGE 2

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PAGE 4

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the **First** day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the **Thirtieth (30th)** day of the **same** 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 **Thirty** (**30**) days after the Architect receives the Application for Payment.

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.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 **Five** percent (**5** %). 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; **See Reduction Method 5.1.8**

.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

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...

Prior to reaching a maximum retainage of two and one half percent (2.5%) of the total contract amount, the Owner will pay ninety-five percent (95%) of the amount due on the Contractor's monthly application for payment. Thereafter the Owner will pay one hundred percent (100%) of the Contractor's monthly application for payment amount, holding the 2.5% maximum retainage as a fixed amount until substantial completion is certified. The following conditions must be met to qualify for contractual retainage reduction: The project must be on or ahead of schedule.

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[**X**] Litigation in a ~~court of competent jurisdiction~~Superior Court in Rowan County

...

6 % **Six percent annually, compounded monthly or the maximum allowed by law, whichever is less**

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Mr. Keith Gabriel, President
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3	**8/31/16**	**1**
4	**9/6/16**	**1**
5	**9/7/16**	**1**

...

See Supplementary General Conditions
Article 11: Insurance and Bonds

...

ROWAN COUNTY	**CRESENT CONSTRUCTION CO., INC.**
_____	_____

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Aaron Church, County Manager	**Keith Gabriel, President**

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