

ADDENDUM TO AND AMENDMENT OF

Standard Form of Agreement between Owner and Contractor
(AIA Document A101-2007)

Dated June 10, 2016

By

The Public Cultural and Entertainment Facilities Cooperative District
Of the City of Foley, Alabama
And
Dunn Building Company, LLC

Effective Date: June 10, 2016

This Agreement is made and entered as of the above Effective Date by:

City: City of Foley, Alabama

Contractor: Dunn Building Company, LLC, and its successors and assigns.

District: The Public Cultural and Entertainment Facilities Cooperative District of the City of Foley, Alabama, and its successors and assigns.

The City, the District and the Contractor hereby agree and covenant as follows:

Recitals

The District has heretofore issued the following revenue bonds (the "Bonds") pursuant to Trust Indenture dated December 1, 2015 (the "Indenture") by the District and Regions Bank, as trustee (the "Trustee"), to provide funds to pay the costs of public cultural and entertainment facilities more particularly described in the Indenture as the "Project":

Cultural and Entertainment Facilities Revenue Bonds, Series 2015

The Bonds are limited obligations of the District payable solely from and secured by a pledge of the moneys payable by the City pursuant to Funding Agreement dated as of December 1, 2015 (the "Funding Agreement") by the City, the District and the Trustee. The amounts payable by the City pursuant to the Funding Agreement are general obligations of the City.

The City has delivered the Funding Agreement pursuant to, and in compliance with, Amendment No. 772 of the Code of Alabama 1975.

The applicability to the City of, and the compliance of the Funding Agreement with, Amendment No. 772, and the terms and provisions of, and the agreements and obligations of the City and the District pursuant to, the Bonds, the Indenture and the Funding Agreement, were validated and confirmed by the Circuit Court of Baldwin County, Alabama, pursuant to Findings of Fact, Conclusions of Law, and Final Judgment dated and entered on December 7, 2015.

The proceeds of the Bonds were deposited in the Bond Proceeds Fund under the Indenture to pay the costs of the Project as such costs became due.

The City has authority under the Indenture to authorize the disbursement of proceeds of the Bonds for the payment of costs of the Project.

In that the proceeds of the Bonds are the sole source of funds of the District to pay the costs of the Project, and the Bonds are payable solely from the general funds and revenues of the City, the general funds and revenues of the City are the sole and ultimate source of payment of the costs of the Project. The City is exempt from state taxation under Section 40-23-4(11) of the Code of Alabama 1975.

The District and the Contractor have heretofore entered into that certain Standard Form of Agreement between Owner and Contractor (AIA Document A101-2007) dated June 10, 2016 (the "Original Agreement") with respect to a portion of the Project. All amounts due under the Original Agreement shall be paid from the proceeds of the Bonds.

In that the City has authority to disburse funds to pay amounts due under the Original Agreement, and the City is the sole source of payment of such funds, it is necessary and desirable to add the City as a party to the Original Agreement as an "Owner" thereunder.

The City, the District and the Contractor have executed and delivered this Agreement for such purpose.

Agreement

Now Therefore, in consideration of the mutual agreements in the Original Agreement and this Agreement, and of the financial benefits to the District and the City from the delivery of this Agreement, the City, the District and the Contractor hereby covenant and agree as follows:

Section 1. Recitals

The Recitals to this Agreement are true and correct.

Section 2. City as "Owner" under Original Agreement

- (a) The City is hereby added as an "Owner" under the Original Agreement.
- (b) The term "Owner" in the Original Agreement shall mean and include the City.
- (c) The City hereby agrees to observe and perform all agreements and obligations of the "Owner" under the Original Agreement, as hereby amended.

Section 3. Agreement of District

The District agrees to observe and perform all agreements and obligations of the "Owner" under the Original Agreement as hereby amended.

Section 4. Agreements of Contractor

- (a) Invoices for payments of amounts due under the Original Agreement shall be submitted jointly to the City and the District.
- (b) The Contractor agrees to accept performance of the obligations of the "Owner" under the Original Agreement, as hereby amended, by the City or the District.

Section 5. General Agreements

The City, the District and the Contractor covenant and agree:

- (a) The Original Agreement, as amended hereby, shall constitute part of the Contract Documents for all purposes thereof.
- (b) Except as provided herein, all terms and provisions of the Original Agreement shall be the same from and after the date hereof.
- (c) The Original Agreement, as hereby amended, is hereby ratified and confirmed in all respects.

IN WITNESS WHEREOF, the City, the District and the Contractor have each caused this Agreement to be executed in its name and on its behalf, under seal, by an officer thereof duly authorized thereto as of the Effective Date first above written.

CITY OF FOLEY, ALABAMA

By _____

Its _____

**THE PUBLIC CULTURAL AND ENTERTAINMENT
FACILITIES COOPERATIVE DISTRICT OF THE CITY
OF FOLEY, ALABAMA**

By _____

Its _____

DUNN BUILDING COMPANY, LLC

By  _____

Andrew E. Edwards

Its _____ President _____