

Construction Management Contract

This agreement is made by _____ (Contractor) and _____ (Owner) on the date written beside our signatures.

Contractor

Address _____
Address _____
City _____, _____ Zip _____
Work Phone Number: _____
Cell Phone Number: _____
Fax Number: _____
Email Address: _____
Registration Number: _____

_____ will be referred to as CM Contractor throughout this agreement.

Owner

Address _____
Address _____
City _____, _____ Zip _____
Day Phone Number: _____
Cell Phone Number: _____
Fax Number: _____
Email Address: _____

_____ will be referred to as Owner throughout this agreement.

The Construction Site

Address _____
Address _____
City _____, Rhode Island Zip _____

I. Project Description

A. For a price identified below, CM Contractor agrees to act as construction manager and consultant for Owner on the Work identified in this agreement as the Project. Anything in this agreement to the contrary notwithstanding, references to the "Work" means tasks identified under Scope of Work in this agreement and all responsibilities which can be reasonably inferred from those tasks but which are not specifically excluded from the scope of work. References to the "Contract Documents" means this Agreement and all documents incorporated by reference into this Agreement. In the context of work to be performed by others, "Contract Documents" can refer to Plans, Specifications and agreements between the property owner and contractors or suppliers for the construction of Project.

II. Contract Price

A. In addition to any other charges specified in this agreement, Owner agrees to pay CM Contractor \$111,111.11 for management services provided during completion of the Project.

B. The maximum construction cost to Owner under this agreement shall not exceed the guaranteed maximum price of \$111,111.11 plus any Change Orders approved by Owner.

C. This agreement includes a guaranteed maximum price of \$111,111.11 exclusive of any Change Orders approved by Owner. For the purposes of evaluating compliance with the guaranteed maximum price for completing the Project, the following will be considered construction costs:

1. All labor costs paid by Owner if reasonably necessary to complete the Project. Labor costs will include wages, payroll taxes and insurance based on payroll and may include benefits such as pension and profit sharing, sick pay, vacation pay, medical and dental benefits. Labor expense may include both Work performed on the Job Site and Work performed at facilities or fabrication yards away from the Job Site. Labor tasks included in the construction cost may include demolition, removal, dismantling, cleanup, repair and construction of temporary structures if required to complete the Project.

2. All material costs paid by Owner if reasonably necessary to complete the Project. Material costs may include sales or use tax on materials, charges for consumable supplies, small tools, delivery expense, duties, storage expense and insurance premiums on materials.

3. All contracts and services paid by Owner if reasonably necessary to complete the Project. Contract and service expense will include contracts, subcontracts, service agreements, property insurance and Bond premiums incurred due to construction, utility charges, fuel, reproduction services, permits, testing and Inspection fees. Contract and service expense may also include professional and consulting fees, royalties and license fees, debris hauling and tippage charges, accounting service fees and scheduling charges reasonably necessary to complete the Project. The construction management fee of CM Contractor exclusive of any premium paid for completion under the guaranteed maximum price, is a construction cost for purposes of comparing construction cost with the guaranteed maximum price. The construction cost shall be credited for any liquidated damages or Retainage assessed against a contractor or service provider. The construction cost shall not include any liability of Owner that results from death or injury to person or property or the cost of correcting damage resulting from negligence of Owner.

4. All equipment costs paid by Owner if reasonably necessary to complete the Project, including charges for rental of machinery and equipment, small tools, temporary facilities and structures, the cost of moving rented equipment and temporary facilities to and from the Job Site, the cost of installation, erecting and dismantling, and minor repairs made to equipment, machinery and temporary facilities at the Job Site.

D. Notwithstanding any other provision of this agreement, the following will not be considered construction costs when calculating compliance with the guaranteed maximum price: compensation of design professionals, the cost of buying, owning or renting land or rights-of-way, financing costs, legal fees, the cost of resolving disputes and charges imposed by private associations or government authority on the owner of land.

III. Scheduled Start of Construction

A. Work under this agreement will begin within 11 calendar days after the building site has been properly prepared by Owner.

IV. Scheduled Completion of Construction

A. Work under this agreement will be Substantially Complete within 11 calendar days after the date construction begins.

V. Documents Incorporated

A. This agreement incorporates by reference certain disclosures and notices required by federal and state law. The following documents are incorporated as though included in full as part of this agreement.

- Notice of Possible Mechanic's Lien
- Notice to Owner of Contract Requirements
- Notice of Right to Cancel under Regulation Z (in duplicate)

B. This agreement incorporates by reference certain documents which define and describe the Work to be done. The following documents are incorporated as though included in full as part of this agreement.

1. Plans

Consisting of 11 sheet(s).

Prepared by _____.

And further identified as _____.

2. Specifications

Consisting of 11 sheet(s).

Prepared by _____.

And further identified as _____.

3. _____

Defined as

_____.

VI. Scope of Work

A. Review the plans and specs.

CM Contractor will review the Plans and Specifications to ensure that the Project can be completed in compliance with applicable laws and ordinances and within the schedule and budget set for the Project. Plan review will consider availability of materials and labor and selection of alternate materials or building methods. CM Contractor will provide a written report on any problems found in the Plans and Specifications and will make a recommendation on dividing work between construction trade contractors. At the request of Owner, CM Contractor will prepare a written construction management plan, a preliminary estimate of construction costs and a proposed Construction Schedule based on the latest Plans and Specifications available.

B. Prepare bid packages and evaluate the bids.

CM Contractor will prepare Bid forms and invitations to bid which will accompany the Plans and Specifications distributed to prospective bidders. CM Contractor will solicit Bids and conduct pre-bid conferences to familiarize prospective bidders with the Project. CM Contractor will conduct the bid opening and forward all Bids received to Owner with an evaluation of each Bid and a recommendation to either reject the Bid or award the contract.

C. Review the proposed contract forms.

CM Contractor will review all proposed agreements with Contractors, Subcontractors, Suppliers and service providers and forward an evaluation of each proposal to Owner with a recommendation that Owner either reject or approve the agreement. CM Contractor will ensure that all work required to complete the Project is placed under contract, including temporary facilities and general requirements not associated with any construction trade. Owner will deliver to CM Contractor a copy of all written agreements when approved by Owner and a written summary of any oral agreements or understandings Owner reaches with Contractors, Subcontractors, Suppliers or service providers.

D. Manage construction.

CM Contractor will monitor Work on the Project both on and off the Job Site on a daily basis to ensure that construction means, methods, techniques, sequences and procedures followed by Contractors, Suppliers and service providers are in compliance with their contracts and agreements and that construction is proceeding as planned. Discrepancies and defects in the Work and safety violations will be reported in writing to Owner and resolved by CM Contractor without the intervention of Owner or design professionals whenever possible. When requested by Owner, CM Contractor will prepare or update the written cost estimate, construction management plan and project schedule. If any phase of construction is not proceeding as planned in spite of the best efforts by CM Contractor, CM Contractor will recommend steps Owner should take to ensure successful completion of the Project on time and within budget.

E. Keep Owner informed of progress.

When submitting any invoice for construction management services, CM Contractor will include a written report to Owner that (1) compares actual costs to date with estimated costs, and (2) compares actual job progress to date with scheduled job progress, and (3) notes and explains any problems encountered which might increase costs or extend the Completion Date, and (4) identifies steps being taken by CM Contractor to ensure completion of the Project as scheduled and within budget.

F. Evaluate payment requests.

CM Contractor will review, evaluate and forward to Owner each request for payment and each lien waiver received from Contractors, Suppliers, and service providers. CM Contractor will identify whether the amount requested is correct based on work completed, materials supplied and terms of the applicable contract. CM Contractor will recommend an adjustment to any request for payment which does not accurately reflect the obligation of Owner for payment. CM Contractor will include with each request for payment a summary which shows the total Contract Price, payments to date on that contract and Retainage allowed (if any).

G. Communicate with contractors and suppliers.

CM Contractor will assist in resolving project development issues which may arise with Contractors, Suppliers, service providers or government authority. Issues which can not be resolved directly by CM Contractor will be referred to Owner or a design professional for resolution. CM Contractor will establish channels and procedures which ensure prompt transmission and response to requests for information, correspondence, memoranda, clarifications, Submittals, Shop Drawings, product data and Samples required for completion of the Project. When required, CM Contractor will schedule and conduct meetings to resolve issues which affect schedule, safety, cost or project management. CM Contractor will ensure that minutes of these meetings are distributed to all concerned, including Owner.

H. Assist with change orders.

CM Contractor will respond to each request for a Change Order by ensuring that the form of the request complies with the contractor's agreement. When in compliance, CM Contractor will forward the request for a Change Order to Owner with a recommendation to either approve or reject the requested change. When a Change Order is approved, CM Contractor will assist in preparing documentation for the change.

I. Assist with construction claims.

CM Contractor will assist in resolving construction disputes by evaluating Claims, negotiating settlements when possible and forwarding complete documentation for any unresolved claim to Owner with a recommendation for acceptance or rejection. CM Contractor will recommend any action Owner should take after termination or default of any Contractor, Supplier or service provider. If arbitration or a legal action is required to resolve a construction dispute, CM Contractor agrees to prepare documentation, attend hearings or conferences and offer testimony which may tend to support the position of Owner in denying the Claim, unless the Claim is on behalf of CM Contractor.

J. Evaluate insurance coverage.

CM Contractor will review insurance coverage and Bonds provided by Contractors, Suppliers and service providers and advise Owner of any coverage that does not meet Contract Requirements. In the event of an insured loss, CM Contractor will advise Owner on the appropriate response.

K. Manage project closeout.

CM Contractor will use best efforts to ensure that each phase of the Project is completed according to the Contract Documents. CM Contractor will conduct an inspection when any contractor, subcontractor or vendor claims their Work is Substantially Complete and forward to Owner a report on that Inspection with a Punchlist noting items not completed or requiring rework. CM Contractor will manage final testing, start-up and completion of Punchlist items and inform Owner when it is time to conduct the final Inspection. CM Contractor will assist in that final Inspection and advise Owner when it is appropriate to acknowledge Final Completion and file a notice of completion. During any warranty or call-back period, CM Contractor will assist Owner in resolving Claims against Contractors, Suppliers and service providers and monitor any required remedial Work.

L. Scope of Work - Disclaimer

1. Nothing in this contract should be interpreted to require CM Contractor to perform architectural, engineering, accounting or legal services. All tests, Inspections, surveys, reports and investigations required to complete the Project are the responsibility of Owner.

2. CM Contractor will perform no Work on the construction Site other than to observe progress, communicate with Contractors, Suppliers and service providers and report progress to Owner. Construction means, methods, techniques, sequences, procedures and safety on site are the sole the responsibility of Contractors, Suppliers and service providers working for Owner. CM Contractor will make best efforts to ensure successful completion of Project on schedule and within budget but is not responsible for failure of any Contractor, Supplier or service provider to complete Work as agreed. CM Contractor takes no responsibility for acts or omissions of any Contractor, Supplier or service provider other than those employed by CM Contractor.
3. CM Contractor has no liability for payments due Contractors, Subcontractors, tradespeople, Suppliers, service providers or government authorities. There will be no contractual relationship between CM Contractor and any Contractor, Subcontractor, tradespeople, Supplier or service provider on the Project.
4. Nothing in this contract should be interpreted as giving CM Contractor the authority to obligate Owner to pay any amount to a third party or perform any act for a third party or waive any obligation of a third party.
5. Owner reserves the right to use one or more Separate Contractors on the Job Site or on adjacent sites while Work is being done under this agreement. This right shall extend to portions of the Work which have been deleted from this contract by Change Order.

VII. Permits and Fees

- A. CM Contractor shall secure all permits, licenses and renewals required by government authority to complete construction of the Project. If permits are required for Subcontracted Work, Subcontractors will secure those permits. Owner shall assist CM Contractor in responding to requests for information from the permit-issuing authority. CM Contractor shall provide Owner a copy of each permit, license and renewal issued by government authority for the Project.
- B. Owner will pay the building permit fee, Plan check fee, and charges levied by government for testing, Inspection and Re-Inspection of the Project.

VIII. Payment Plan

- A. Owner will pay to CM Contractor the Contract Price in installments consisting of progress payments and a final payment on completion of the Work.

IX. Progress Payments

A. Schedule of Progress Payments

1. Each progress payment will cover Work done during the pay period. If a progress payment would be due on a legal holiday, the payment will be made on the last business Day before that holiday.
2. Progress payments will be made twice a month on the 1st Friday and the 3rd Friday of the month.

B. Processing of Progress Payments

1. No less than 2 calendar days before each progress payment is due under the terms of this contract, CM Contractor shall provide Owner with an application for payment (invoice) in a form

which complies with generally accepted trade practice.

2. Except as provided otherwise in this agreement, Owner shall pay the amount due within 2 calendar days after approval of any application for progress or final payment.

X. Audit of Records

A. All accounting records of Owner relating to the Project shall be available for inspection and copying by CM Contractor or a person authorized by CM Contractor during normal working hours at a place designated by Owner. Records made available shall include both electronic and paper versions of accounting records including invoices, statements, receipts, vouchers, purchase orders, contract files, original Bids, estimating worksheets, correspondence, Change Order files (including documentation on negotiated settlements), payroll ledgers, and other documents which relate to the cost of the Work.

XI. Final Payment

A. CM Contractor will submit an application for final payment to Owner when the Work has been completed in compliance with the Contract Documents. If Owner agrees that Work has been completed, payment is due CM Contractor for the entire unpaid balance of the contract amount.

XII. Insurance

A. General Requirements

1. CM Contractor shall carry workers' compensation insurance and public liability insurance as required by Law and regulation for the protection of CM Contractor and Owner during progress of the Work.
2. CM Contractor affirms that all insurance coverage required by Rhode Island law is in effect for the Project.

Notice of Possible Mechanic's Lien

To: _____,

The undersigned is about to perform work and/or furnish materials for the construction, erection, alterations or repair upon the land at Address _____ Address _____ under contract with you. This is a notice that _____ and any other persons who provide labor and materials for the improvement under contract with _____ may file a mechanic's lien upon the land in the event of nonpayment to them. It is your responsibility to assure yourself that those other persons under contract with _____ receive payment for their work performed and materials furnished for the construction, erection, alteration or repair upon the land. Failure to adhere to the provisions of this subsection may result in a one thousand dollar (\$1,000) fine against the contractor and shall not affect the right of any other person performing work or furnishing materials of claiming a lien pursuant to Chapter 34-28. However, such person failing to provide such notice shall indemnify and hold harmless any owner, lessee or tenant, or owner of less than the fee simple from any payment or costs incurred on account of any liens claims by those not in privity with them, unless such owner, lessee or tenant, or owner of less than the fee simple shall not have paid such person.

Notice Required by Rhode Island General Laws Section 5-65-3(o)

This summary of Rhode Island General Laws Title 5, Chapter 65 has been prepared by the Rhode Island Contractors' Registration and Licensing Board. Rhode Island General Laws Chapter 5-65-3(k) requires that this summary be delivered by CM Contractor to Owner when CM Contractor begins work. The Rhode Island Contractors' Registration and Licensing Board can be reached at (401) 222-1268 or at their Web site: www.crb.state.ri.us. Under Rhode Island General Laws Section 5-65-24, contractors usually DO NOT build, improve or repair residential structures of four units or less are not required comply with Rhode Island General Laws Chapter 5-65-3(k).

Contractor Registration

Rhode Island state law requires anyone who is in the business of home construction, alterations, remodeling, or repair to a residential structure to be registered with the state. This includes partnerships, corporations, and self employed individuals, whether working by the hour, week, job, or "cost plus", whether by a written contract or oral agreement. The law also applies to anyone advertising, bidding, or otherwise offering or arranging to do or have such work performed including painting, roofing, floor covering, framing, finish carpentry, and many more building specialties. Violations of the law can result in penalties of up to \$10,000.00 per offense as well as criminal prosecution for non-compliance of final orders issued by the board.

- **Does the contract have the contractor's registration number listed?**
- **What are the terms of cancellation?** Contracts entered into must contain a notice of rescission as stipulated in all pertinent Rhode Island consumer protection laws, pursuant to Rhode Island General Laws 5-65-3 (h) (iii). If signed outside of the place of business, Rhode Island General Laws 6-28-4, clearly states that no agreement of the buyer in a door-to-door sale shall be effective unless it is signed and dated by the buyer and unless it contains the following in **ten (10) point bold face** type or larger directly above the space reserved in the agreement for the signature of the buyer: **Notice to buyer: (1)** Do not sign this agreement if any of the spaces intended for the agreed terms to the extent of then available information are left blank. **(2)** You are entitled to a copy of this agreement at the time you sign it. **(3)** You may at any time pay off the full unpaid balance due under this agreement, and in so doing you may be entitled to receive a partial rebate of the finance and insurance charges. **(4)** The seller has no right to unlawfully enter your premises or commit any breach of the peace to repossess goods purchased under this agreement. **(5)** You may cancel this agreement if it has not been signed at the main office or a branch office of the seller, provided you notify the seller at his or her main office or branch office shown in the agreement by registered or certified mail, which shall be posted not later than midnight of the third calendar day after the day on which the buyer signs the agreement, excluding Sunday and any holiday on which regular mail deliveries are not made. **(See Rhode Island General Laws Section 6-28 for more information regarding this law)**
- **Insurance!** The Rhode Island contractors' registration law requires contractors to maintain a minimum of \$500,000.00 in liability insurance. In addition, contractors with employees are required to maintain workers' compensation insurance. Insist that a current certificate of the company's insurance policy be sent directly to you from their insurance carrier / agent with your name and address on it listing you as a certificate holder before any work begins.
- **What are the payment terms?** Payments should be made pursuant to the terms of the written contract. Consider and question the amount of the deposit which can vary depending on type of work. (i.e. Special orders, etc.)

- **What is the time frame?** Provide start date, finish date? Maybe a reward or penalty clause should be included if time is of the essence.
- **Is there an arbitration clause in the contract?** Who is paying for that service? Read the fine print and make sure you know the terms.
- **Permits?** Is this included in your contract, or are you taking care of it? This is for your safety!
- **Contracts:** All contracts exceeding \$1,000.00 in value must be in writing.
- **Disclaimer:** The above information is provided by the board pursuant to 5-65-3 and does not encompass all the recent amendments to the general law, for additional information please contact the Board or visit our website.

NOTICE OF RIGHT TO CANCEL UNDER REGULATION Z

(12 CFR 226.15(b) requires that each owner receive two copies of this notice.)

To: Owner

Re: Your right to cancel Project

You are entering into a transaction that will result in a security interest being placed on your home. You have a legal right under federal law to cancel this transaction, without cost, within three business days from whichever of the following events occurs last:

- (1) The date of the transaction, which is _____, or
- (2) The date you receive your Truth in Lending disclosures, or
- (3) The date you receive this notice of your right to cancel.

If you cancel this transaction, the security interest is also cancelled. Within 20 calendar days after we receive your notice, we must take the steps necessary to reflect the fact that the security interest on your home has been cancelled, and we must return to you any money or property you have given us or to anyone else in connection with this transaction.

You may keep any money or property we have given you until we have done the things mentioned above, but you must then offer to return the money or property. If it is impractical or unfair for you to return the property, you must offer its reasonable value. You may offer to return the property at your home or at the location of the property. Money must be returned to the address below. If we do not take possession of the money or property within 20 calendar days of your offer, you may keep it without further obligation.

How to cancel:

If you decide to cancel this transaction, you may do so by notifying us in writing at:

Address _____

Address _____

City _____, _____ Zip _____

You may use any written statement that is signed and dated by you and states your intention to cancel, or you may use this notice by dating and signing below. Keep one copy of this notice because it contains important information about your rights.

If you cancel by mail or telegram, you must send the notice no later than midnight of _____ (midnight of the third business day following the latest of the three events listed above). If you send or deliver your written notice to cancel some other way, it must be delivered to the above address no later than that time.

I WISH TO CANCEL.

Signature Date

See the next page for important information about what happens if this agreement is cancelled.

Notice Required by 12 Code of Federal Regulation Section 226.15(d), Effects of Rescission

- (1) When a consumer rescinds a transaction, the security interest giving rise to the right of rescission becomes void, and the consumer shall not be liable for any amount, including any finance charge.
- (2) Within 20 calendar days after receipt of a notice of rescission, the creditor shall return any money or property that has been given to anyone in connection with the transaction and shall take any action necessary to reflect the termination of the security interest.
- (3) If the creditor has delivered any money or property, the consumer may retain possession until the creditor has met its obligation under paragraph (d)(2) of this section. When the creditor has complied with that paragraph, the consumer shall tender the money or property to the creditor or, where the latter would be impracticable or inequitable, tender its reasonable value. At the consumer's option, tender of property may be made at the location of the property or at the consumer's residence. Tender of money must be made at the creditor's designated place of business. If the creditor does not take possession of the money or property within 20 calendar days after the consumer's tender, the consumer may keep it without further obligation.

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Address _____

Address _____

City _____, _____ Zip _____

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