

Independent Contractor Agreement for Consultant/Construction Mgr-Agent

This Agreement is made between _____ ("Client/Owner") with a principal place of business at _____ and Charley S. Snyder ("Consultant/CM-A"), with a principal place of business at 2240 Shelter Island Dr., Ste. 102 San Diego CA 92106

1. Services to be performed: Consultant agrees to perform the following services on Client's/Owner's behalf on a per project basis:

- a. To provide professional construction management services throughout the new construction process for this project as a Construction Manager-Agent (CM-A).
- b. Provide construction estimating. Construction estimating is to include and is limited to plan review, site inspections/photo's, plan take-offs, material quantities, and cost estimating.
- c. Provide contractor bid solicitation. To facilitate contractor bid solicitation Consultant may at Consultants convenience post the project information on Consultants web page and OneDrive.
- d. Provide contractor proposal review and recommendations.
- e. Contact other Project Team Members. Consultant may from time to time in the performance of Consultants service under this contract, contact other members of the project team as the Governmental Agencies, Owner, Architect, and Engineer(s)..
- f. Post Clients contact info on Consultants web "Client List".
- g. The CMA shall provide on-site administration of the contractor's construction contracts.
- h. CMA to do contractor and inspector scheduling.
- i. The CMA shall use its best efforts to obtain satisfactory performance from each Contractor.
- j. CMA to oversee contractor's(s) performance of contractor's contract with the Client/Owner and report any deficiencies
- k. CMA to process requests for information, change order request and change orders for and between the between the contractor and Client/Owner
- l. The CMA shall assist in dispute resolution between the contractors and Client/Owner.
- m. CMA to review contractor's application for payment to the Client/Owner and make recommendations.

2. Payment: In consideration for the services to be performed by Consultant, Client agrees to pay Consultant at the rate of: \$28.00 per hour negotiated on a per project basis.

3. Terms of Payment: Upon completing Consultant's services on a per project basis under this Agreement, Consultant shall submit an invoice. Client shall pay Consultant within 7 days from the date of Consultant's invoice.

4. Late Fees: Late payments by Client shall be subject to late penalty fees of an amount equal to the current inflation rate per month from the due date until the amount is paid.

5. Expenses: Client shall reimburse Consultant for the following expenses that are directly attributable to work performed under this Agreement:

- travel expenses other than normal commuting, including airfares, rental vehicles, and highway mileage in company or personal vehicles at .60 cents per mile
- printing and reproduction
- other expenses resulting from the work performed under this Agreement.

Consultant shall submit an itemized statement of Consultant's expenses. Client shall pay Consultant within 30 days from the date of each statement.

6. Materials: Consultant will furnish all materials, equipment, and supplies used to provide the services required by this Agreement.

7. Intellectual Property Ownership: Consultant grants to Client a royalty-free nonexclusive license to use anything created or developed by Consultant for Client under this Agreement ("Contract Property"). The license shall have a perpetual term and Client may not transfer it. Consultant shall retain all copyrights, patent rights and other intellectual property rights to the Contract Property.

9. Term of Agreement: This agreement will become effective when signed by both parties and is automatically renewed on a per project basis. This agreement will terminate on the earlier of:

- 180 calendar days from the last project estimate/bid date, or
- the date a party terminates the Agreement as provided below.

Independent Contractor Agreement for Consultant/Construction Mgr-Agent

10. Terminating the Agreement: With reasonable cause, either party may terminate this Agreement effective immediately by giving written notice of cause for termination. Reasonable cause includes:

- a material violation of this Agreement,
- or nonpayment of Consultant's compensation after 10 days written demand for payment. Consultant shall be entitled to full payment for services performed prior to the effective date of termination.

11. Independent Contractor Status: Consultant is an independent contractor (not a construction general contractor), not Client's employee. Consultant's employees or subcontractors are not Client's employees. Consultant and Client agree to the following rights consistent with an independent contractor relationship.

- Consultant has the right to perform services for others during the term of this Agreement.
- Consultant has the sole right to control and direct the means, manner, and method by which the services required by this Agreement will be performed.
- Consultant has the right to hire assistants as subcontractors or to use employees to provide the services required by this Agreement.
- Consultant or Consultant's employees or subcontractors shall perform the services required by this Agreement; Client shall not hire, supervise or pay any assistants to help Consultant.
- Neither Consultant nor Consultant's employees or subcontractors shall receive any training from Client in the skills necessary to perform the services required by this Agreement.
- Client shall not require Consultant or Consultant's employees or subcontractors to devote full time to performing the services required by this Agreement.
- Neither Consultant nor Consultant's employees or subcontractors are eligible to participate in any employee pension, health, vacation pay, sick pay, or other fringe benefit plan of Client.
- Consultant is not responsible for the completion of the construction project and/or any of the contractor's contracts. Consultant acts solely as an agent of the Client/Owner.

12. Local, State, and Federal Taxes: Consultant shall pay all income taxes and FICA (Social Security and Medicare taxes) incurred while performing services under this Agreement. Client will not:

- withhold FICA from Consultant's payments or make FICA payments on Consultant's behalf
- make state or federal unemployment compensation contributions on Consultant's behalf, or
- withhold state or federal income tax from Consultant's payments.

The charges included here do not include taxes. If Consultant is required to pay any federal, state, or local sales, use, property, or value added taxes based on the services provided under this Agreement, the taxes shall be separately billed to Client. Client shall be responsible for paying any interest or penalties incurred due to late payment or nonpayment of any taxes by Client.

13. Exclusive Agreement: This is the entire Agreement between Consultant and Client.

14. Modifying the Agreement: Client and Consultant recognize that:

- Consultant's original cost and time estimates may be too low due to unforeseen events or to factors unknown to Consultant when this Agreement was made
- Client may desire a mid-project change in Consultant's services that would add time and cost to the project and possibly inconvenience Consultant, or
- other provisions of this Agreement may be difficult to carry out due to unforeseen circumstances. If any intended changes or any other events beyond the parties' control require adjustments to this Agreement, the parties shall make a good faith effort to agree on all necessary particulars. Such agreements shall be put in writing, signed by the parties, and added to this Agreement.

15. Resolving Disputes: If a dispute arises under this Agreement, the parties agree to first try to resolve the dispute with the help of a mutually agreed-upon mediator in San Diego County in the State of California. Any costs and fees other than attorney fees associated with the mediation shall be shared equally by the parties. If it proves impossible to arrive at a mutually satisfactory solution through mediation, the parties agree to submit the dispute to a mutually agreed-upon arbitrator in San Diego County in the State of California. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction to do so. Costs of arbitration, including attorney fees, will be allocated by the arbitrator.

16. Limited Liability: This provision allocates the risks under this Agreement between Consultant and Client.

Independent Contractor Agreement for Consultant/Construction Mgr-Agent

Consultant's pricing reflects the allocation of risk and limitation of liability as follows: Consultant's total liability to Client under this Agreement for damages, costs, and expenses shall not exceed \$300.00 or the compensation received by Consultant on a per project basis under this Agreement, whichever is less. However, Consultant shall remain liable for bodily injury or personal property damage resulting from grossly negligent or willful actions of Consultant or Consultant's employees or agents while on Client's premises to the extent such actions or omissions were not caused by Client.

NEITHER PARTY TO THIS AGREEMENT SHALL BE LIABLE FOR THE OTHER'S LOST PROFITS OR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF THE PARTY HAS BEEN ADVISED BY THE OTHER PARTY OF THE POSSIBILITY OF SUCH DAMAGES.

17. Notices: All notices and other communications in connection with this Agreement shall be in writing and shall be considered given as follows:

- when delivered personally to the recipient's address as stated on this Agreement
- three days after being deposited in the United States mail, with postage prepaid to the recipient's address as stated on this Agreement, or
- when sent by fax or electronic mail, such notice is effective upon receipt provided that a duplicate copy of the notice is promptly given by first class mail, or the recipient delivers a written confirmation of receipt.

18. Confidentiality: Contractor acknowledges that it will be necessary for Client to disclose certain confidential and proprietary information to Contractor in order for Contractor to perform duties under this Agreement. Contractor acknowledges that any disclosure to any third party or any misuse of this proprietary or confidential information would irreparably harm Client. Accordingly, Contractor will not disclose or use, either during or after the term of this Agreement, any proprietary or confidential information of Client without Client's prior written permission except to the extent necessary to perform services on Client's behalf.

Proprietary or confidential information includes:

- the written, printed, graphic, or electronically recorded materials furnished by Client for Contractor to use
- any written or tangible information stamped "confidential," "proprietary," or with a similar legend or any information that Client makes reasonable efforts to maintain the secrecy of
- business or marketing plans or strategies, customer lists, operating procedures, trade secrets, design formulas, know-how and processes, computer programs and inventories, discoveries and improvements of any kind, sales projections, pricing information
- information belonging to customers and suppliers of Client about whom Contractor gained knowledge as a result of Contractor's services to Client.

Contractor shall not be restricted in using any material that is publicly available, already in Contractor's possession, known to Contractor without restriction, or rightfully obtained by Contractor from sources other than Client.

19. No Partnership: This Agreement does not create a partnership relationship, although, the Client/Owner authorizes the Consultant to enter into contracts on the Client/Owner's behalf, given Client's prior approval of the contracts. Client does not have the authority to enter in contracts on the Consultants behalf.

20. Applicable Law: This Agreement will be governed by the laws of the state of California.

21. Assignment and Delegation: Either Consultant or Client may assign its rights or may delegate its duties under this Agreement.

Signatures

Client/Owner:

By: _____ Date _____

Typed or Printed Name: _____ Title: _____

By: _____ Date _____

Typed or Printed Name: _____ Title: _____

Consultant: Charley S. Snyder

By: _____ Date _____

Charley S. Snyder, Sole Proprietor Taxpayer ID Number: _____