

CONTRACT

between Housing for Independent People Inc., San Jose, California, (Al diLudovico, Representative) hereinafter called "the Client" and the Center for Environmental Structure, Berkeley, California (Christopher Alexander, Representative) hereinafter called "the Architect," for the design of a building to be known as a Shelter for Homeless People, to be built on a site at Julian and Montgomery in San Jose, California.

ARTICLE 1 - PROJECT SUMMARY

The construction of a homeless shelter to be built by the Client is as follows:

(a) Site approximately 13,000 sf, with a portion of 5000 sf to be added.

(b) Construction of a shelter building approximately 13,000 sf, to serve 50 to 100 people.

The total budget for the new construction is outlined as follows:

(c) Total construction budget will be about \$800,000.

(d) Additional construction funds funds may be provided, either by the Client, or by other agencies, possibly increasing the construction cost up to \$1 million, or more.

(e) Both parties recognise that the final construction cost will depend on choices made by the Client during the design process, and therefore the CES is not required to deliver plans for an addition to be built at a guaranteed price.

Construction schedule planned by the Client is as follows:

(f) Construction is intended to begin in late 1986, if weather, issuance of building and planning permits, and the dictates of the planning process allow.

(g) The shelter is to be ready for occupancy as soon as possible.

(h) Fast tracking is to be used for all planning, design and construction, so as to permit early occupancy.

(i) The architect promises to work with all deliberate speed, but is not responsible for meeting any specific deadlines or dates.

ARTICLE 2 - SCOPE OF ARCHITECT'S WORK

The Architect will undertake the work as follows:

Stage 1 - Site Plan July/August 1986

(a) Preparation of site plan, at scale of 1/16th inch to 1 foot.

(b) This work will include involvement of Client, and participation of Client in decision making, including Al diLudovico, Kerry Williams, members of the client body as defined by HIP.

(c) This work will be done concurrently with final arrangements about land purchase. There is therefore some possibility of backtracking, as provided for in Article 9.

Stage 2 - Preliminary Design August 1986

(a) Preparation of individual building plans, sections and elevations at a scale of 1/8" to 1 foot.

(b) This work will also include involvement of Client, and participation of Client in decision making, including Al diLudovico, Kerry Williams, members of the client body as defined by HIP.

(c) The preliminary design will include detailed layout of buildings, with preliminary choice of building materials, and will be presented in a form suitable for planning review by Redevelopment and City Planning.

Stage 3 Working Drawings September/October 1986

(a) Preparation of working drawings and specifications. Main drawings at a scale of 1/8th to 1 foot, with details at appropriate larger scales.

(b) This work will be done concurrently during review of preliminary drawings by City agencies. There is some possibility of backtracking, as provided for in Article 9.

Stage 4 Bid Negotiation November/December 1986

With the approval of the Client, the Architect will prepare bid documents and help the client negotiate the construction contract.

Stage 5 - Supervision. December 1986 to May 1987

The Architect will supervise construction and make visits to the site as he considers necessary during construction.

Stage 6 - Subsequent construction. After occupancy. May 1987

In order to expedite the client's use of the new shelter, an arrangement may be made to take occupancy as early as possible. In this case the architect will arrange for very rapid completion of the main shell, and may then arrange completion of various lesser details of construction after occupancy, possibly under an construction arrangement different from that of the main construction contract. Payment for design and or/construction of these details is not covered by the main fee of article 3, and will be negotiated when the details become more clearly visible.

ARTICLE 3 - ARCHITECT'S FEE

(1) The design fee for the work defined in Article 2 will be 8.5% of total construction cost, or at least \$68,000, whichever is greater.

The fee will not include any of the special services defined in articles 8 and 9.

In addition, the following items are to be reimbursed upon presentation of bills to the Client:

(a) All reproductions of drawings and prints of drawings or documents, together with mail and postage charges.

(b) Telephone and mileage charges connected with the project, with mileage charged at .27.mile, from the architects office in Martinez.

(c) Materials for any models or construction mockups made by the architect to perfect the design.

ARTICLE 4 - SCHEDULE OF PAYMENTS

The fee as defined in Article 3 will be paid according to the following schedule.

- (1) 10% of the fee to be paid immediately, as a retainer.
- (2) 5% of the fee to be paid for completion of the site plan, as defined in stage 1.
- (3) 20% of the fee for the preliminary designs defined in stage 2, 10% on demand, and 10% when preliminary designs are completed.
- (4) 40% of the fee for the working drawings defined in stage 3, three payments of 10% each on demand during the progress of the work, and 10% when working drawings are completed.
- (5) 5% of the fee for completion of bid negotiation, as defined in stage 4.
- (6) 20% of the fee to be paid in stages, for supervision of the construction. 7% when foundations are in, 7% when the roof is on, and 8% after occupancy.

ARTICLE 5 - MINOR MODIFICATIONS IN SCHEDULE OF PAYMENTS

If there is a delay in the completion of any stage as a result of the the actions of the client, then the Architect may request partial payment for that stage, based on the percentage of completion, and the Client will pay it.

ARTICLE 6 - CHANGE IN SCOPE OF WORK, AND IN PROGRESS ADJUSTMENTS OF THE BILL FOR FEES.

The fee of 8.5% of construction is based on the assumption that the Client will build a building of the size and cost defined in article 2 of this contract, and that the client will not make any changes after completion of the preliminary designs. The following adjustments will be made in the event of any changes in these assumptions:

(a) If, during the development of the project, the amount of construction (measured by dollars of construction) should increase, it is then understood that the total fee will be increased in direct proportion to the total cost of construction and the individual payments will be prorated accordingly on the basis of 8.5% of the construction cost.

(b) If the Client wishes to make any fundamental changes in the design, after completion of the preliminary design phase, the CES shall be entitled to receive an additional payment for revised preliminary designs, and reimbursement for all work on working drawings which is rendered unusable.

(c) If the Client elects not to build the building, the CES shall be entitled to the full fee for whatever work has been completed, prorated in a fair fashion for any work partially completed.

(d) In progress adjustments of the bill. If the foreseen construction cost changes repeatedly during the design phase of the project, then the architects in-progress bills submitted will reflect all increments in expected construction cost, and will include retroactive payments for items previously billed on the basis of lower costs, so that the total fees paid up to any stage reflect the best possible current estimate of expected construction cost at the time of billing.

(e) If the project is delayed, the architect, in principle, has no right to claim any fee which exceeds the amount specified in Article 3, with the exception that in the event of a substantial delay, the parties agree to negotiate for a reasonable adjustment of the fees in light of the cause and the period of such delay.

ARTICLE 7. CLIENTS OBLIGATIONS.

The Client will provide the following services as needed, when appropriate said services to be performed by professionals selected by the CES, and approved by the Client:

(a) A detailed survey of the land in the vicinity of the house, with information about positions of services, and with contours drawn at one or two foot intervals.

(b) A rough survey of the existing building and exterior structures, if needed, drawn at 1/8" to 1 foot. In the event of a complex design, requiring unusual connections with the existing building, it is possible that before the working drawing phase, a more detailed survey of the existing structural conditions of the present building may be required.

(c) Soils survey with foundation design.

(d) Payment of any and all fees, including legal fees, required to obtain permits.

(e) Visits, meetings and arrangements which pertain to the obtaining of permits, and/or coordination with any city or county agencies involved.

(f) Organisation of meetings, information with client groups, and any actions needed to expedite the clients involvement in the design.

(g) Obtaining free materials, or other special favors which will benefit the project in any way.

ARTICLE 8 - SPECIAL SERVICES

The following services, if called for, will require special work by consultants, and are not included in the architects fee. These fees will be charged to the client at cost.

(a) Special landscaping consultant, if required to satisfy the city.

(b) Any design work required for modifying and/or repairing existing structures on the site. If any work of this type should arise, the scope and fee will be negotiated separately.

(c) Time taken for special presentations, press conferences, boards of appeals etc.

(d) Special structural engineering, if required by the building design.

(e) Heating, mechanical and solar engineering, as required.

(f) Presentation models, if required by the client.

(g) Professional estimating.

(h) Any construction management.

(i) Any purchase or preparation of actual construction items.

ARTICLE 9 - FAST TRACKING

(a) If, as a result of fast tracking, or for any other reason, caused by the client, or by city procedures beyond the architects control, the architect is required to redo any portion of the work, then the portion which has to be redone will be paid extra, at the same rates as those defined in this contract (article x) with appropriate amounts prorated in a fair manner.

(b) In addition, in view of the complex nature and responsibilities of the client, it is possible that a decision about any stage of the plans might be taken, approved or tentatively approved by the client, but later reversed by one or another of the supervising agencies, including the Redevelopment Agency of San Jose, San Jose City planning, or Building permits and inspections, and/or City Council, and/or others not yet foreseen. To protect the architect against unfair demands placed him by the complex nature of this multiple decision making process, it is agreed that any unusual backtracking requiring the architect to perform extra services to cope with these contingencies, will be reimbursed at hourly rates, over and above the fees.

ARTICLE 10 - ARCHITECT'S CONSULTANT

The Architect's local consultant in San Jose, will be Mr. Jim Lyle.

(a) Arrangement A. For work which may be seen as an extension of the Clients obligations (article 7) or as a provision of special services not covered by the architect's fee, (article 8), Mr Lyle will be paid by the Client, from funds separate from the architect's fee. In these two cases control of the consultant's work will be in the hands of the Architect, and payments to the consultant will be made directly to the consultant, by the client, on the basis of bills submitted to the architect, approved by him, and then passed on to the client.

(b) Arrangement B. For architectural work which is included in the scope of the architects obligations according to this contract, the consultant will be paid by the Architect.

(c) In general any work requested of Mr Lyle by the architect, will be ordered by the architect, with the approval of the client, and will be assumed to be covered by the arrangement A, unless it is explicitly agreed that it falls under arrangement B.

ARTICLE 11 - CLIENT'S RIGHT OF REVIEW

(a) The Client always reserves the right to review the Architect's work in progress.

(b) The Client may terminate this Contract with the Architect if the Client indicates that the work is not satisfactory to the Client at the time of the completion of Stage 2 described in Article 2.

(c) If the Client wishes to terminate the contract at the end of Stage 2, he will notify the Architect in writing.

(d) If the Client desires to terminate the contract at the end of Stage 2, he will then be obliged to pay the fee up to the completion of Stage 2 as described in Article 4, together with any additional amounts owing for work begun on other stages.

ARTICLE 12. OWNERSHIP OF PLANS

The plans made by the architect shall belong to the architect. Neither the client, nor any other party, may cause another architect to build a building at the Julian-Montgomery site, or on any other site, according to these plans or any version of them, without the permission of the architect in writing.

ARTICLE 13 - ADDENDA

The Client and the Architect agree that when matters not described in the contract or unexpected situations arise, they will then deliberate together in good faith each time to solve it.

All the particulars agreed upon after deliberation will be drawn up as an addendum to this contract and signed by both parties.

The addenda as one body with the contract will make a binding commitment for both Client and Architect.

ARTICLE 14. DISSOLUTION OF THE CLIENT

If the client (Homes for Independent People) is in any way modified, or dissolved, or if its organisation or directorship are in any way altered, thus causing a failure or inability to pay the fees defined in this contract, the Redevelopment Authority of San Jose will assume all responsibilities for payment which are defined in this contract.

ARTICLE 15. ARBITRATION.

Any controversy or claim arising out of or relating to this Agreement, or the actual or alleged breach hereof, or the rights, duties or obligations of the parties hereto, shall be settled by arbitration conducted in the City of San Francisco in accordance with, and by an arbitrator appointed pursuant to, the rules of the American Arbitration Association in effect at the time, and judgement upon the award rendered pursuant thereto may be entered in any court having jurisdiction thereof.

ARTICLE 16. ATTORNEYS FEES.

In the event of arbitration, or in the event that either party files suit to enforce the provisions of this contract, the prevailing party shall be entitled to a reasonable attorney's fee as cost of suit, to be fixed by the Court.

ARTICLE 17 - JURISDICTION

The Client and the Architect agree that the jurisdiction will be in San Francisco for all disputes arising from this contract.

Dated: August 14 1986

Signed: Homes for Independent People



Al diLudovico Representative

Center for Environmental Structure



Christopher Alexander Representative