

# CENTER FOR ENVIRONMENTAL STRUCTURE

ARCHITECTS • ENGINEERS • CONTRACTORS

2701 SHASTA ROAD • BERKELEY, CALIFORNIA 94708  
TELEPHONE 415/841-6166

## AGREEMENT

THIS AGREEMENT is made on this 21<sup>st</sup> day of February 1986, between Mr Daniel Potash and Ms Maureen McCabe, husband and wife, of 1341 Butterfield, San Anselmo, California 94960 (henceforth known as the Client) and the Center for Environmental Structure, 2701 Shasta Road, Berkeley, California (henceforth known as the CES), according to which the CES will design a house extension for the Client, on their site at 1341 Butterfield Road, San Anselmo, upon the terms and conditions hereinafter set forth.

### ARTICLE 1. DEFINITION OF PROJECT

The Client requires a one and two storey addition to their existing house, to include accomodation for a kitchen-family room, an extra bedroom, bathroom, music room, front door, storage area, root cellar, workshop, and childrens playroom, together with various other indoor and outdoor spaces, and including a rehabilitation of the back garden to create a beautiful connection to the rear part of the garden where the orchard is.

The total area of the addition is to be about 1200 sf. It is anticipated that construction price should be in the range \$125,000 to \$150,000, of which at least \$20,000 will spent on the rebilitation of the garden.

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 stated price. The design work is to be done during the first part of 1986, so that construction can be started in the summer of 1986, and completed by the end of 1986, provided that weather, city permits and other factors allow it.

## ARTICLE 2. SCOPE OF WORK

CES will undertake the work in three phases.

Phase 1. Preliminary design. In this phase, the CES shall work with the Client to reach a thorough understanding of the family's needs, will make a preliminary layout of the addition with the Client, and will then prepare rough drawings of the proposed design at 1/8th inch scale.

It is agreed by both parties that the process of obtaining a preliminary design is expected to proceed by reasonably smooth steps in a single process. If the Client wishes to explore a large number of alternative design solutions during this stage, the CES shall be entitled to additional compensation according to time spent.

Phase 2. Working drawings. In this phase, the CES shall prepare detailed working drawings sufficient to obtain final construction estimates, and to provide a basis for construction.

Phase 3. Construction supervision. At this stage, both the Client and the CES envisage that the Center for Environmental Structure will be the general contractor for construction of the project. In this case, the CES shall provide supervision of construction at no extra cost to the Client. If the construction contract is not awarded to the CES, CES will then charge at hourly rates, for construction supervision.

ARTICLE 3. DESIGN FEE AND SCHEDULE OF PAYMENTS.

The design fee for the work defined in article 2 is to be \$19,200, to be paid in the following installments:

(a) Retainer of 33%, to be paid upon signing of this agreement.

\$6,400

(b) Payment of 16.5% to be paid one month after the start of preliminary design.

\$3,200

(c) Payment of 16.5% to be paid when preliminary design is completed.

\$3,200

(d) Payment of 16.5% to be paid when working drawings phase begins.

\$3,200

(e) Payment of 16.5% to be paid when working drawings are completed.

\$3,200

(e) Supervision of construction: as provided in Article 2, phase 3.

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.

(b) Telephone and mileage charges connected with the project.

(c) Materials for any construction mockups during phases 1 and 2.

## ARTICLE 4. CHANGE OF SCOPE

The fixed fee is based on the assumption that the Client will build an extension of the approximate size and cost defined in this contract, and 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 the square foot area of the house addition or associated buildings increases above the figure mentioned in article 1, then the fee will be increased in direct proportion to the area.

(b) If the construction price, as reflected in the bid, increases above the figure mentioned in article 1, then the fee will be increased and prorated on the basis of 13.5% of expected total construction cost.

(c) 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.

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

## ARTICLE 5. CLIENTS OBLIGATIONS.

The Client will pay for the following services as needed, 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 survey of the existing house and exterior structures, drawn at 1/8" to 1 foot. If the client wishes it, this survey can be provided by CES, for a small charge to be determined.

(c) In the event of a complex design, requiring unusual connections with the existing house, it is possible that before the working drawing phase, a more detailed survey of the existing structural conditions of the present house may be required.

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

(e) Soils survey and foundation design.

(e) Special structural engineering, if required.

(f) Heating, mechanical and solar engineering, if required.

#### ARTICLE 6. CONSTRUCTION CONTRACT.

It is expected by both the Client and the CES, that the construction contract for the new construction will be awarded to the Center for Environmental Structure. CES will obtain the necessary building permits and start construction work immediately after signing of a construction contract.

Within the framework of this understanding, both parties recognise that CES will begin preparation and organisation for construction, during the latter part of the design period described in this contract. In the case that construction of the house does not begin within two months after issuance of a building permit, if this delay is caused by the client the client agrees to pay a reasonable cost over and above the fees defined earlier in this contract, to compensate CES for additional time and trouble in preparing for construction.

## ARTICLE 7. ARBITRATION.


Should any controversy or dispute arise with respect to the provisions of this Agreement, the parties agree that it will be resolved as follows.

(a) 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, and all rights or remedies of the parties to the contrary are hereby expressly waived. Prior arbitration pursuant to the provisions of this paragraph and an award pursuant thereto shall be a condition precedent to the bringing of any action, suit, or proceeding under this Agreement.

(b) The prevailing party in any arbitration proceeding pursuant to this Agreement shall be entitled to receive from the other party all of such prevailing party's expenses, including all legal fees and expenses in connection therewith.

(c) 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.

  
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For THE CENTER FOR ENVIRONMENTAL STRUCTURE

  
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MR DANIEL POTASH

  
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MRS MAUREEN MCCABE