

CONSTRUCTION CONTRACT FOR WHIDBEY ISLAND HOME
OF ANN MEDLOCK AND JOHN GRAHAM

This contract is made on this 23rd day of January 1987, between Ms Ann Medlock and Mr John Graham, husband and wife, of 120 Second Street and PO Box 759, Langley, WASHINGTON 98260 ("Owner") and CES/Dow, 4207 Arthur Road, Martinez, California ("Contractor"), according to which the CES/Dow will build a house for the Client, on their site at the southern end of Whidbey Island, Washington State, upon the terms and conditions hereinafter set forth.

Ann JW

ARTICLE 1. THE WORK.

The house to be built is shown on the drawings prepared by the Center for Environmental Structure, that are attached to this contract as Appendix 1, and specified by the eleven construction operations attached to this contract as Appendix 2.

The following aspects of the house will be built exactly as specified in the drawings:

- a. Siting of the house, as shown on site plan sheet.
- b. Overall dimensions and configurations of the house as shown on floor plan sheets. Interior partitions will not necessarily be placed as shown on floor plan sheets.

ARTICLE 2. CONTRACTOR

The contractor, CES/Dow, is a partnership between the Center for Environmental Structure (A California Corporation) and Dow construction Corporation (A Washington corporation). The CES/Dow partnership has been formed for the purpose of this construction project according to the agreement which is attached as Appendix 3. The agreement of Appendix 3 precisely defines the division of responsibility between the partners, and the parties of this construction contract hereby explicitly recognise and accept those provisions.

Specifically, the owner agrees to hold CES harmless for faults in construction, and agrees to hold Dow harmless for errors in cost management.

ARTICLE 3. COST REDUCTION

At the time of signing this contract, because of financial limitations, the client is presently able to spend \$150,000 on the house.

So that this greatly reduced cost, does not lead to any misunderstandings, we herein quote in full, one sentence from the design agreement of February 1985, between the owner and CES.

QUOTE: "The total area of the house is to be in the range of 3000 sf. According to the client's information, construction price should be in the range \$65 to \$80 per square foot, with a hoped-for construction cost of about \$220,000."

Since the house now contemplated has 2700 sf of area, and the available funds are only \$150,000, this represents a cost of \$55/sf, far below the amount originally contemplated. It is therefore accepted by all parties, that the level of completion will necessarily be greatly reduced.

In addition, the "Giraffe project area" representing a second part of the house of about 920 square feet, cannot be included in the construction project at this stage.,

However, through the efforts of the client, extra funds, materials, and labor are being sought to make it possible to complete the house at an improved level.

ARTICLE 4. PAYMENT.

The work will be performed in twelve operations which are listed below. Each of these operations will be completed at the prices shown. The items performed in each operation, which define the exact work to be done, are specified in detail in Appendix 2.

<i>PAID</i>	1. Planning and preparation to build	\$ 3,857.00	<i>OK</i>
<i>PAID</i>	2. Site preparation and set up	3,916.00	<i>OK</i>
<i>PAID</i>	3. Foundations	13,409.00	<i>spring ?</i>
<i>PAID</i>	4. Terrace and Fireplace	-	<i>add fireplace foundation</i>
<i>PAID</i>	5. Lumber purchase	18,499.00	
<i>PAID</i>	6. Erect superstructure	19,258.00	
	7. Interior and exterior walls	44,490.00	
	8. Roofing	3,324.00	

Taxes not included in totals as listed

9. Windows and doors	18,986.00
10. Built-ins	5,577.00
11. Interior finishes	8,188.00
12. Exterior complete	-
	TOTAL \$139,505.00

In addition, the Washington state taxes which are due on the construction, will be paid by the client (see appendix 2, page 29).

Washington State Taxes	\$ 10,103.00
	TOTAL \$149,608.00

ARTICLE 5. COMMENCEMENT OF EACH OPERATION.

At the time the owner wishes the contractor to begin work on any given operation, he will so indicate by initialling the operation on the space provided on page 9 of this contract.

ARTICLE 6. SCHEDULE AND METHOD OF PAYMENTS.

The payment for each operation will then be made in three stages, as follows.

50% of the price of the operation will be paid at the moment when the owner instructs the contractor to begin that operation.

35% of the price of the operation, on demand, when a reasonable portion of the work has been completed.

15% of the price, when the operation is completed.

Payments will be made by check sent to the Center for Environmental Structure, 2701 Shasta Road, Berkeley, California. CES will then administer disbursements to Dow.

ARTICLE 7. CHANGES IN CONSTRUCTION.

If the owner wishes to include any items of construction, not already included in the list of items given in Appendix 2, then for each such item, an order with a fixed price, will be signed by both parties, and attached to Appendix 2, as an extra in the appropriate operation, and will then be carried out as part of this operation. Necessary adjustments will then be made in the appropriate payment.

CES/Dow will have freedom to make changes without consultation with the client, so long as these changes do not increase the cost. In any case where a desired change will increase the cost, a change order with a fixed price will be signed by both parties, before proceeding.

ARTICLE 8. CLIENTS ATTITUDE AND RESPONSIBILITY WITH REGARD TO PROJECT PRICE.

Both CES and Dow maintain high standards and CES/Dow seeks, above all, to build a beautiful house for the client. In order to build a house of the desired quality and beauty, within the stated price, CES/Dow will therefore have the freedom and jurisdiction to move money from category to category within the construction budget, both during construction and design, and thus to find a way of compensating for beautiful and luxurious items, with other items of extreme simplicity and reduced price. It is only this crucial balancing procedure, which makes it possible for CES/Dow to deliver a beautiful house, at the stated price.

The client therefore accepts the responsibility for maintaining the attitude of extreme reasonableness which they have already shown, both during the design stage, and during construction.

Both CES/Dow and client agree that throughout the project, they will work together to arrive at realistic trade-offs in items and budget. The client understands and agrees that the more expensive design and/or construction features will require adjustments or reductions in other areas.

CES/Dow agrees to include the clients in discussions of materials to be purchased, coordinating purchases with the client's efforts to get contributions.

To make this process possible, and to protect the client, the construction book-keeping will be open to the client's inspection on demand. At the same time the clients also commit themselves to pay attention, at all times, to the realistic cost problems presented by the CES/Dow, and to make choices that are consistent with the reality of a limited budget.

ARTICLE 9. OWNER'S LABOR AND OTHER DONATED LABOR AND MATERIALS.

It is agreed that the owner may donate some part of the labor needed for construction, and that the owner may also find other donated labor or materials from various sources to contribute to the construction.

In all cases, these donations will be credited towards the price of the contract, according to the quantity of work performed, subject to the following conditions.

(a) The donated labor must always complete full items of work, as identifiable "pieces". Donated labor cannot be credited if it is part of ongoing construction operations performed by the contractor, since this will be too burdensome on the management process.

(b) If the donated labor or materials fall in any items not included in the present contract, and are therefore providing extras to the construction project, then a management fee of 18.67% of the estimated value of the donation, will be paid to CES/Dow for their work in supervising and managing these extra operations. If the actual management cost is clearly less, it will be negotiated in a fair manner by mutual agreement. However, the client is aware that management cost of supervising donations imposes additional burdens beyond the usual ones on the process of obtaining materials.

(c) For any other item shown as an extra, a management fee of 18.67% will also be paid to CES/Dow.

(d) All volunteer labor will have a fixed cost of \$1.60/ hour for workmen's compensation. This will be paid by the client to Dow, as a reimbursement for their workmen's compensation insurance, except for those items specified in addendum 2b.

ARTICLE 10. TELEPHONE CALLS, TRAVEL EXPENSES, AND FAX MACHINE

Both parties recognise that good communication between CES and Dow, is essential to the quality of construction on this project. The owner will therefore provide payment for all phone calls between CES and Dow, will provide line charges and transmission charges for FAX transmissions from Seattle to CES, and will pay for all express mail packages sent between Seattle and CES. These costs are to be borne by the owner, and are not to be subtracted from the construction costs defined in this contract.

The owner will also pay all travel and accomodation expenses for trips made by CES to the building site. Method of travel to be chosen by CES. When possible CES will choose low budget fares, but the client recognises that the demands of construction schedules will make this impossible in many cases, and CES does not promise to do it.

ARTICLE 11. INSURANCE.

The owner will carry all necessary general liability, fire and ~~earthquake~~ insurance, and the insurance will include CES, Dow, CES/Dow and all their agents and representatives as insured parties. Certificates of insurance are to be furnished, prior to start of construction.

PS am JD

Dow will provide workmen's compensation insurance for all workmen on the site, including unpaid labor.

ARTICLE 12. 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.

Disputes between Client and Dow, not involving CES, may be settled in Washington.

ARTICLE 13. 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 14. GOVERNING LAW.

California law shall govern in any and all disputes arising out of this contract, except as noted in the second paragraph of Article 12, above.

js am JD

Signed:

Ann Medlock
Ann Medlock
John Graham
John Graham

for Center for Environmental Structure

Jim Dow

for Dow Construction Corporation

We hereby authorize the contractor to proceed with the following operations:

- 1 *js am*
- 2 *js am*
- 3 *js am*
- 4 -----
- 5 -----
- 6 -----
- 7 -----
- 8 -----
- 9 -----
- 10 -----
- 11 -----
- 12 -----

ADDENDA TO THE MAIN CONTRACT BETWEEN CES/DOW
AND ANN MEDLOCK AND JOHN GRAHAM.

ADDENDUM 1. DONATED MATERIALS

Whenever the client obtains materials as donations towards the project, and these donations are replacements for materials already included in the contract price, full credit for these donated materials will be given. However, changes in labor cost, caused by difference of materials, and management fees based on 18.67% of the cost of the operation, will also be included in the crediting calculation. If donated materials do not merit a full prorated increase of management costs compared with previously specified materials, the management cost will be fairly settled between us.

Caution. In some cases, where elaborate materials are donated in place of inexpensive systems, the donation may actually result in a net increase in cost, because of substantial differences in ancillary structures, labor etc, that necessarily have to be associated with the more expensive material.

ADDENDUM 2. VOLUNTEER LABOR

According to our mutual understanding, there will be a considerable pool of volunteer labor working on the project. This volunteer labor may fall into one of three categories.

(a) In some cases, the volunteer labor will be used simply and directly, to undertake work which would otherwise be performed under the present contract. In this case, the client will receive credit for the work done. This credit will not be based on hours worked, but will be assigned solely according to the discretion of the contractor, who will make a fair estimate of the cost that such work would entail, if performed by the contractor's own crews.

(b) In other cases, the client will make volunteer labor available to CES/Dow, simply in order to help CES/Dow in the performance of a contract operation, but without receiving credit for the labor, and as a gentleman's agreement. In these cases, Dow will pay the workmens compensation on the labor so donated.

(c) Cases where volunteer labor is assigned to tasks which are NOT included in the main contract items. In these cases, CES/Dow will receive a management fee which is 18.67 of the estimated value of the work done (labor and materials). Cost of materials involved in these types of projects will be charged as an extra. In complicated situations, the management fee for these extra items may be negotiated up or down, by mutual agreement.

(d) In some cases, volunteer labor will also be used to help in construction of contract items, not replacing existing work to be performed by the contractor's crew, but used in such a way that CES/Dow can do a more elaborate job than originally contemplated. In this case, the work will be handled in the same fashion as under (c) above.

Most work done by either of the clients themselves will not be given monetary credit, since we assume that the work and goodwill the clients do on their own house is part and parcel of this arrangement. However, in cases where items of major work are done under category (a), credit will then be given by the same arrangement described in (a).

ADDENDUM 3. EXTRA WORK

The contractor will, at all times, make a maximum effort to do beautiful work, to the limit of what is called for in the contract. In cases where the overall balance of profit and loss is comfortable, the contractor will spend the extra money left in the project in such a way as to contribute to extra labor provided by the contractors crews, to assure the performance of a beautiful work.

This type of extra will not be subject to calculation, and will not be subject to financial scrutiny by the client. It will be performed at the contractors discretion, as and when the contractor believes it to be feasible.

Further, the provision of any unusual level of work, will always be contingent on a satisfactory balance, in the profits and losses of previous operations. Making up losses in previous operations will always take precedence over every other extra.

Accepted:



Ann Medlock

Date: 1-23-87



John Graham

for Center for Environmental Structure
Date:



for Dow Construction Corporation

APPENDIX 2

ITEMS OF CONSTRUCTION

for

WHIDBEY HOUSE

1. PLANNING AND PREPARATION TO BUILD

1. Set up crews		
2. Secure subcontractors bids		
3. Schedule the work		
4. Correspond with building department		
5. Prepare legal documents		
6. Special foundation permits		
7. etc.		
	Subtotal	\$3,250.00
8. Management fee		607.00

	Total	\$3,857.00

2. SITE PREPARATION AND SETUP

1. Grading, stump removal and trenching	\$1,350.00
2. Backfill	750.00
3. Gravel for footing drain	600.00
4. Drain tile	600.00
Subtotal	\$3,300.00
5. Management fee	616.00

TOTAL	\$3,916.00

3. FOUNDATIONS

1. Layout		
2. Ground preparation, forming and cages		
3. Plumbing and electrical channels		
4. Steel reinforcing bar and mesh		
5. Concrete		
6. Remove forms		
	Subtotal	\$11,300.00
7. Management fee		2,109.00

	TOTAL	\$13,409.00
EXTRAS		
1. Fireplace foundation		900.00

4. FIREPLACE

Nothing included in base contract

TOTAL 00.00

EXTRAS

1. Form and pour firebox (count Rumford)	\$1,900.00
2. Form and pour fireplace	2,700.00
3. build chimney	1,090.00
Subtotal	\$5,690.00
4. Management fee	1,138.00

Total	\$6,828.00

NOTE: SECOND FIREPLACE NOT INCLUDED IN THE ABOVE.

5. LUMBER PURCHASE

1. 2"x10" studs		\$2,680.00	
2. Plywood monocoques	<i>high</i>	3,024.00	<i>28% (some savings)</i>
3. Bracing		324.00	
4. Plywood benches and counters		656.00	
5. Plywood diaphragms		1,170.00	
6. Pressure treated 2"x4"		54.00	
7. Joists		1,935.00	
8. Plates and blocking		710.00	
9. Interior wall framing	<i>high</i>	3,572.00	<i>3000</i> <i>75%</i>
10. Porch lumber		350.00	<i>20</i>
11. Stair lumber		400.00	
12. Window and door frames		435.00	<i>80%</i>
13. Plywood (shear walls)		279.00	
	Subtotal	\$15,589.00	
13. Management fee		2,910.00	

	Total	18,499.00	

Credits*check
for
form*

6. ERECT SUPERSTRUCTURE

1. Erect studs	<i>high</i> \$7,464.00
2. Connections	2,000.00
3. Place 2"x12" flooring joists	1,792.00
4. Place plywood flooring	896.00
5. Rough Stairs	488.00
6. Place bracing	896.00
7. Place fireblocking	896.00
8. Square, plumb and line	896.00
9. Build porch	900.00
	Subtotal \$16,228.00
10. Management fee	3,030.00

	Total \$19,258.00

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no

7. INTERIOR AND EXTERIOR WALLS

1. Place monocoque ribs (exterior walls + 1/2 interior)	\$3,600.00	<i>high</i>
2. Rough window and door openings	600.00	✓
3. Rough electrical	3,600.00	<i>no</i>
4. Rough plumbing	2,500.00	
5. Insulation (10" blown in exterior walls, Batts in floor and ceiling to code)	5,831.00	
6. Tyveck water proofing membrane	490.00	
7. 1x6 Cedar siding, with 3x6 decorative bands.	16,642.00	
8. Scaffolding	2,000.00	<i>?</i>
9. Interior shear walls	2,227.00	<i>Done</i>
	Subtotal	
	\$37,490.00	
10. Management fee	6,999.00	

	Total	
	44,489.00	

EXTRAS

1. Paint exterior walls

8. ROOFING

1. Building paper

2. Flashing

3. Composition shingles

Subtotal \$2,800.00

4. Management fee

524.00

Total \$3,324.00

9. WINDOWS AND DOORS

1. Wooden window frames (40) (No casing)	3,420.00
2. Wooden door frames (14) (No casing)	625.00
4. Wooden sash with glazing (40) Single glazed = 4,800.00 Double glazed = 12,000.00	7,655.00
5. Hardware (15 wind, 12 drs)	1,100.00
6. Install windows and doors	2,000.00
7. Interior doors (10 H.C.)	500.00
8. Exterior doors (2)	700.00
Subtotal	\$16,000.00
9. Management fee	2,986.00

Total	\$18,986.00

EXTRAS

1. Casing around doors and windows	1,920.00
2. Paint windows and doors	
3. Double pane windows throughout	4,345.00

10. BUILT-INS

1. Kitchen counter	1,600.00
2. Finish electrical (includes \$100.00 for ceramic light fixtures)	1,400.00
3. Finish plumbing (kitchen + 1 bath)	1,700.00
	Subtotal
	\$4,700.00
4. Management fee	877.00

	Total
	5,577.00

EXTRAS

1. Closets
2. Bookshelves
3. Bath vanities
4. Pantry shelves

11. INTERIOR FINISHES

The following items pertain only to the living room, foyer, dining, and kitchen, and are installed, but not painted or finished.

1. Pine ceiling	\$1,312.00	<i><1712></i>
2. Pine benches + wainscot	2,035.00	<i>Substitute Almond</i>
3. Drywall above benches	1,075.00	
4. Pine floors	1,593.00	
5. Casing	885.00	
	Subtotal	\$6,900.00
6. Management fee	1,288.00	

	Total	8,188.00

EXTRAS

1. Finish entry hall
2. Finish upstairs walls, ceilings and floors
3. Baseboards and mouldings
4. Finish Stairs
5. Painting

12. EXTERIOR COMPLETE

Nothing included in base contract

TOTAL -----
00.00

EXTRAS

1. Clean-up
2. Arcade walk
3. Porch terrace
4. Parking pad
5. Surface on outside entry

13. ESTIMATE OF WASHINGTON STATE TAXES

In addition, the Washington state taxes which are due on the construction, will be paid by the client. The following estimate of taxes, is based on the items included in this contract. If the items increase during construction, the tax will also increase proportionally.

1. Net costs	\$117,557.00
2. 10.18% Management fee to Dow	11,967.00
Subtotal	129,524.00
3. Washington state tax (7.8% x \$129,524.00)	10,103.00
4. 8.49% Management fee to C.E.S. (not taxable)	9,981.00
Total currently anticipated cost	\$149,608.00