



**CONSTRUCTION AGREEMENT BETWEEN OWNER AND CONTRACTOR**

The Roman Catholic Diocese of Charlotte, as its interests may appear, ("OWNER"), agrees to pay \_\_\_\_\_ ("CONTRACTOR"), the sum of \$\_\_\_\_\_ for the improvement/service/product/work ("Work") as indicated on Exhibit A.

The parties agree as follows;

- 1. Exhibit A is incorporated herein and made a part hereof. Provided that, in the event any language in Exhibit A conflicts with the language in this document, the language in this document shall control, and the conflicting language in Exhibit A shall be null and void and of no force or effect.
- 2. The CONTRACTOR agrees to perform all of the Work as referenced in Exhibit A in a workmanlike manner according to the industry norms and in compliance with all Federal, State and local laws and requirements.
- 3. The OWNER agrees to pay said sum as follows: (Please choose one of the following)
  - a. \_\_\_\_\_ Upon completion.
  - b. \_\_\_\_\_ Partial payment requests will be considered based on a maximum of 90% of materials on the job or in place and labor already accomplished.
  - c. \_\_\_\_\_ Other:  
\_\_\_\_\_  
\_\_\_\_\_

- 4. The Work should be completed by \_\_\_\_\_ . ("Date of Completion").
- 5. The CONTRACTOR shall provide any warranties or other related documents prior to payment. Unless the CONTRACTOR provides a longer period, the CONTRACTOR hereby agrees to warrant and guarantee any and all Work performed, including the cost of any material, product and/or labor necessary to correct any defect, for a period of one (1) year from the date of completion. For purposes of this paragraph the date of completion shall be the date of completion as referred to herein or the date that final payment to the CONTRACTOR is issued, whichever is later.
- 6. The CONTRACTOR should begin the Work within seven (7) days of the date of this contract unless other provisions have been made.
- 7. The CONTRACTOR shall carry the Work forward expeditiously with adequate, qualified workers and should achieve substantial completion within the contract time.
- 8. No payment and/or use of the product and/or improvement by the OWNER should constitute an acceptance thereof, or relieve the CONTRACTOR of liability in respect to any express warranties or faulty workmanship/materials within a period of one year.
- 9. The CONTRACTOR shall indemnify and hold harmless the OWNER, its agents, and employees from and against all claims, damages, losses, and expenses, including, but not limited to, attorneys' fees arising out of or resulting from the performance of the Work, which is caused in whole or in part by the negligent act or omission of the CONTRACTOR, any Sub-CONTRACTOR, or anyone directly or indirectly employed and/or associated by any of them, without exception. In case any action is brought therefore against the OWNER or any of its agents, employees or Sub-CONTRACTORS, the CONTRACTOR should assume full responsibility for the defense thereof; upon CONTRACTOR's failure to do so on proper notice, the OWNER reserves the right to defend such action and to charge all costs thereof to the CONTRACTOR. The carrying of the insurance required herein should not relieve the CONTRACTOR of the duty of indemnity in the event that such insurance should be inadequate, for any reason, to protect the OWNER in full.

10. The CONTRACTOR (or the OWNER as indicated) shall at all times carry the following insurance coverage:  
**BUILDER'S RISK INSURANCE:** Builder's Risk and Boiler and Machinery Coverage will be obtained by OWNER to cover the project. Any payment under Builder's Risk or Boiler and Machinery Coverages will be made jointly to OWNER and CONTRACTOR. Further, OWNER and CONTRACTOR agree that any payment under Builder's Risk or Boiler and Machinery Coverages will be placed into a joint account until such funds are reinvested in the construction project.



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**COMMERCIAL GENERAL LIABILITY INSURANCE:** CONTRACTOR will maintain commercial general liability insurance in the amount of not less than two million dollars (\$2,000,000) per occurrence. The CONTRACTOR shall issue a Certificate of Insurance stating that **“Bishop Peter J. Jugis and, in addition, the Roman Catholic Diocese of Charlotte, as its interests may appear, are additional insured”** before starting the Work. Coverage must remain in place for the duration of the contract and a current Certificate of Insurance must be on file with the OWNER at all times. CONTRACTOR must verify its liability insurance policy is primary in the event of a covered claim or cause of action against the Diocese.

**AUTOMOBILE LIABILITY INSURANCE:** CONTRACTOR will maintain automobile liability insurance for any owned autos, hired autos or non-owned autos used in connection with the CONTRACTOR's business. Automobile liability coverage will be maintained by the CONTRACTOR in the minimum amount of two million dollars (\$2,000,000) combined single limit.

**WORKER'S COMPENSATION INSURANCE:** CONTRACTOR will maintain worker's compensation insurance as required by law.

**SUBCONTRACTORS:** CONTRACTOR is required to verify that all sub-CONTRACTORS maintain general liability insurance, worker's compensation insurance and automobile liability insurance. Furthermore, CONTRACTOR agrees to indemnify and defend the Diocese for any claim or cause of action, whatsoever which was caused by the negligence, or other actionable fault of an uninsured sub-CONTRACTOR.

**NO WAIVER OF SUBROGATION.** OWNER does not waive or limit any rights of recovery against the CONTRACTOR, sub-CONTRACTOR or sub-sub-CONTRACTOR for any damages. OWNER and CONTRACTOR, sub-CONTRACTOR and sub-sub-CONTRACTOR do waive the right of recovery against each other for any damages covered under Property, Builders Risk or Boiler and Machinery coverage for which either party is responsible if that party does not have liability insurance to cover such damages and liability insurance has been maintained as required by this document.

11. In the event that said Work requires the CONTRACTOR to have access to information of the OWNER that is confidential in nature, the CONTRACTOR hereby agrees to protect said information as necessary to insure that no one other than the CONTRACTOR has access to said information, unless necessary on a temporary basis in order to complete the Work, and to take necessary and appropriate steps to destroy any such information that remains in their possession after completion of the Work unless necessary to protect the interests of the OWNER.
12. If any portion of this Agreement is deemed or is determined to be in conflict with local or state or national statutes, both CONTRACTOR and OWNER agree that the portion of the Agreement which is in conflict with the statute will be stricken from the Agreement with the remainder of the Agreement remaining binding for both parties.
13. The OWNER may terminate this agreement, for any reason or no reason, by providing ten (10) days' written notice to the CONTRACTOR. In the event the OWNER terminates this Agreement the CONTRACTOR shall be reimbursed any reasonable sums expended, provided that the CONTRACTOR can show written proof of said expenditures to the satisfaction of the OWNER. Under no circumstances shall the OWNER be liable for any ancillary and/or the consequential damages of the CONTRACTOR.
14. The OWNER may terminate this agreement for cause if the CONTRACTOR (1) refuses or fails to supply enough skilled workers or proper materials; (2) fails to make payment to sub-CONTRACTOR(s) or suppliers in accordance with the respective agreements between CONTRACTOR and the sub-CONTRACTOR(s) or suppliers; (3) disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders or a public authority; or (4) otherwise is in breach of this agreement as determined by the OWNER.
  - a. When any one or more of the reasons described above exist, as determined by the OWNER, the OWNER may, without prejudice to any other rights or remedies of the OWNER, after providing seven days' notice to CONTRACTOR:
    - i. Exclude the CONTRACTOR, and any related sub-CONTRACTOR(s), from the site and take possession of all materials, equipment, tools, and construction equipment and machinery owned by the CONTRACTOR, in the event said action occurs, the CONTRACTOR hereby assigns any and all interests they may have regarding said items to the OWNER, without restriction;
    - ii. Finish the Work by whatever method the Owner may deem expedient.
  - b. In the event the OWNER terminates the Contract for one or more of the reasons described above, the CONTRACTOR shall not be entitled to receive further payment until the Work is finished.
  - c. If the unpaid balance of the Contract Sum exceeds the cost of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the OWNER and not expressly waived, such excess shall be paid to the CONTRACTOR. If such costs and damages exceed the unpaid balance, the CONTRACTOR shall pay the difference to the OWNER within thirty days of invoice. This obligation for payment shall survive termination of the Contract.
15. The CONTRACTOR should be responsible for initiating, maintaining, planning, and supervising all safety precautions and programs in connection with the Work, including but not limited to, taking any and actions necessary to assure that the project, and all participants, are proceeding according to applicable Federal, State and local laws.



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16. The CONTRACTOR will not discriminate against any employee, applicant for employment, or Sub-CONTRACTOR because of race, creed, color, sex, handicap, or national origin.

Signed and agreed to:

\_\_\_\_\_  
CONTRACTOR Printed Name

\_\_\_\_\_  
CONTRACTOR Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
OWNER

\_\_\_\_\_  
Date