



REAL ESTATE
COUNSELORS



Small Construction Jobs

A Construction Agreement that protects a Property Owner



Peter Pokorny
Peter@RECDC.com
(703) 850-9099

Introduction – Real estate owners frequently hire contractors for small and less complex projects to construct, remodel or improve their property. Even for small jobs, a construction contract is beneficial. The contract requires both parties to reach an agreement on the scope of the project and payment before work begins and protects the owner if a dispute arises. This article discusses some key terms an owner may want to consider in a small job construction contract.

- **Pre-Work Obligations** – Before starting the project the contractor should provide the owner (i) plans and specifications showing all of the work in reasonable detail, (ii) copies of all permits required to perform the work, and (iii) evidence of comprehensive general liability insurance, worker's compensation insurance and umbrella insurance.
- **Inspection** – The owner should have the right to inspect and be present during the performance of the work to protect interest in the Property. The owner should make sure that the contractor agrees that it has no claims because of the owner's presence or inspections.
- **Completion** – The contract should specify the outside date of completion and if there are any penalties or consequences if there is a delay in completion.
- **Indemnity** - The contractor should indemnify and hold the owner harmless from any claims and damages that were caused by the contractor's breach of the agreement. In addition, the indemnity provisions should survive the expiration or termination of the agreement.



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- **Warranty** – The Contractor should guaranty its work be free from defects for a period of not less than one year from the date of completion. Further, the contractor should assign to the owner any other applicable warranties or guaranties received by the contractor from its subcontractors or suppliers with regard to the work.
- **Repair** – The contractor should restore any affected area of the property damaged during the performance of the work.
- **Termination** – The owner may want to have the right to terminate the contract and/or take over the work if contractor is not performing the work timely and properly. For even more protection, the owner may want the right to terminate, at its sole discretion, regardless of how the contractor is performing. The contractor, however, may demand some compensation to cover lost profit for any discretionary termination right.

Conclusions – Even for a small job, a well written construction agreement provides multiple benefits. An experienced business attorney can draft an agreement to address the issues discussed above and any other issues that may pertain to the specific project.



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