



Contract Review Services Case Study

State University
Mid-west Region

Summit Consulting Services, along with the law firm of Dickstein, Shapiro, Morin & Oshinski, were engaged by a major, mid-west University to review existing Construction and Professional Services contract language and develop more stringent performance and liability provisions for those documents.

Summit Consulting researched the liability provisions incorporated into other state university and state agency contracts, developed a database of potential changed language alternatives and ultimately produced draft copies of "model contracts" to be considered for future project design and construction performance.

Summit developed language for use in the Architect's Professional Services Agreement that addressed liability for excessive errors and omissions (E&O). The Architect's contract revisions also included a shifting of as-built documentation requirements from the Contractor to the Architect: while the Contractor remains responsible for the upkeep of a field version of the design and a record of how that design has been constructed, our revised language recognized the controlling role the Architect plays in the continued development of the design, and in recognition of that control, proscribes that the Architect maintain the official as built documents package. The Contractor must also, per the revised language, make as-built documentation a line item in their schedule of values, to be checked by the Architect on a monthly basis for upkeep and accuracy in order for the Contractor to invoice the as-built line item.

Summit's language revisions also provide, in recognition of a Construction Manager's on-going review of the project plans throughout the design process, that the CM share in the responsibility for excessive Errors and Omissions change orders awarded to Contractors during construction.

The revised language also addressed the issue of Project Efficacy Insurance. All too often, as projects turn to Problem Projects, Owners have found that damages far exceed the liability limits required within existing Professional Services Agreements. Our revised language addresses that issue by providing a case by case (project by project) evaluation technique for the establishment of project-specific insurance limits and requirements.

Numerous other provisions were developed to address and provide for more strict liability provisions for the Architect, Construction Manager and Contractor. If you have interest in similar contract provisions, please contact us.

Project Description:
Model Contract Revisions
for Professional Services and
Contractor Agreements

Owners:
confidential