

ConsensusDOCS Goes Green



Recently, the [ConsensusDOCS](#), a set of [form documents](#) that compete with the older (though in my opinion, no more useful) [AIA](#) contract documents with which all general contractors and

subcontractors are familiar, released a [Green Building Addendum](#) (the ConsensusDOCS 310). In the interest of full disclosure, I am a member of the working group on this addendum for the [AGC](#) and ConsensusDOCS, however, these opinions are my own.

As discussed in various venues around the web, including [by my friend Stephen Del Percio](#), this document does a good job of specifically allocating the risks between and among the parties in explicit terms. Specifically, it moves all tax and financial long term consequences (i. e. the cost savings over time) into the category of consequential damages that are subject to waivers of such damages in other construction documents.

It also creates a position of "green building facilitator" to coordinate the project and take the responsibility for meeting the owner's green building goals and dealing with various project initiatives. A key point to this position is that it is *not* defined as a [LEED AP](#). ConsensusDOCS takes great pains to make this addendum rating system neutral. In my opinion, this addendum is therefore more flexible can more easily conform to an owner's sustainability and energy performance goals. The facilitator can be one of several types of construction professionals. However, the facilitator takes on certain liabilities so any candidate for this position on a project using the ConsensusDOCS 310 should read these provisions carefully.

These risk allocation provisions are in many ways music to the ears of a [construction lawyer](#) like me that represents contractors. The Addendum lets the other contract documents control many of the time horizon issues and [energy reporting issues](#) that can plague a contractor if they are not properly addressed. The simple allocation of most, if not all, of these issues to a category of damages that can be, and often are, waived by the parties is an elegant manner of addressing these issues. It puts the parties in control, and that is a good thing.

In short, I recommend reading the ConsensusDOCS 310 Green Building Addendum to contractors and construction attorneys alike. Green building and energy reporting are [here to stay](#) and this document moves a good way toward dealing with the issues inherent in such requirements.

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