

## INVESTOR-OWNER/CONTRACTOR AGREEMENT

This Contract is between Habitat for Humanity of Greater Jonesboro (referred to in this contract as the "Owner" and "HFH") and \_\_\_\_\_ (referred to in this contract as the "Contractor") warranting itself to be licensed and qualified to perform the work specified herein. This Contract is for the new construction of property located at \_\_\_\_\_ (referred to in this contract as the "property").

IN CONSIDERATION OF THEIR MUTUAL PROMISES, THE PARTIES AGREE AS FOLLOWS:

### PART I - Specific Terms

- (1) **EFFECTIVE DATE:** This document shall have no force or effect unless and until executed by the Owner and Contractor. The contractor shall not be compensated under this contract for work commenced or materials delivered to the property before the Effective Date unless authorized by the Owner.
- (2) **THE CONTRACT.** This Contract consists only of this Part I (Specific Terms). Part II (Standard Terms), bid package number HFH-001 and the following attachments:
  - A. Specifications;
  - B. Payment (Draw) Schedule
  - C. House Plans
  - D. Plot Plans
- (3) **TIME FOR COMMENCEMENT AND COMPLETION.** The contractor agrees to commence or cause to be commenced, the actual work described in the scope of work within 10 days after Effective Date. The contractor agrees to complete, free of liens or rights of liens of contractors, mechanics, materialmen or laborers all work listed above within (150) days after the Effective Date of this contract, subject to extensions approved by the Owner for the period of excusable delays (including strikes, acts of God or other reasons beyond the control of the Owner or Contractor). The contractor agrees that time is of the essence of this contract.

If work has not been completed by the date herein, the contractor shall be assessed liquidated damages in favor of the Owner in the amount of \$150 per day per house for each calendar day in excess of the number of days, as provided herein, unless and act from a source, as determined by the Owner, is found to be beyond the contractor's control caused such delay in completing the project.
- (4) **CONTRACT PRICE.** The Contractor agrees to accomplish work as described in the Scope of Work in accordance with each and every term and condition of this Contract, for a total contract price of \$ \_\_\_\_\_ per house. The price of specific items of work is stated in the Specifications.

(5) **PROGRESS PAYMENTS.** The Contractor agrees that the total contract price shall be paid in four (4) progress payments. Such progress payments shall be disbursed at the time and in the amounts specified in the Payment (Draw) Schedule (Attachment B), after inspection and approvals of the work by Owner. Final payment shall be due upon satisfactory completion and acceptance, by the Owner, permit sign-off, issuance of Certificate of Occupancy, submission of all warranties and guarantees. Except for Owner reimbursements for material purchases as explained in the attached bid package number HFH-001, the Owner shall not withhold payment to the Contractor except for noncompliance with the terms of this Contract, and shall not request the Contractor to perform work outside the scope of this Contract as a condition of receiving payment.

Contractor agrees to a 10% cumulative retainage on all requested draws and will be retained until the project is completed to the approval of the Owner and all approving agents as stipulated in the attached bid package number HFH-001.

The Contractor acknowledges that it is a material breach of this Contract to request or accept a progress or final payment which is in excess of the price of the work completed at the time such payment is requested, less the required holdback.

(6) **WARRANTY.** The Contractor warrants that all improvements, hardware and fixtures of whatever kind of nature to be installed or constructed on the property by the Contractor or the Contractor's subcontractors will be of good quality, suitable for their purpose and free from defects in workmanship or materials, or other deficiencies. This is a full warranty extending to the Owner and subsequent owners of the property; provided, however, that the warranty set forth in this paragraph shall apply only to deficiencies and defects about which the owner or subsequent owner(s) shall have notified the Contractor at the address stated above within one year, except for any longer warranty periods specified below:

(a) \_\_\_\_\_ years for \_\_\_\_\_  
\_\_\_\_\_

(b) \_\_\_\_\_ years for \_\_\_\_\_  
\_\_\_\_\_

(7) **PARTIES TO CONTRACT.** The Owner and Contractor agree that they are the sole parties to this Contract and are solely responsible for its performance. The parties agree that the Arkansas Development Finance Authority nor the United States Department of Housing and Urban Development assumes any liability or responsibility whatsoever for the performance of any item of this Contract.

**TRAINING AND EMPLOYMENT OF LOWER INCOME RESIDENTS OF PROJECT AREA.**

A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

- B. The parties to this contract will comply with the provisions of said Section 3 (refer to Part II, Standard Terms) and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability that would prevent them from complying with these requirements.
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\_\_\_\_\_  
Habitat for Humanity of Greater Jonesboro – Executive Director Michael Sullivan

\_\_\_\_\_  
Date

\_\_\_\_\_  
Copntractor – authorized signature

\_\_\_\_\_  
Date

## PART II - Standard Terms

- (1) INSURANCE. During the continuance of the work under this Contract, the Contractor and all subcontracts shall:
- A. Maintain worker's compensation and employers' liability insurance in amounts sufficient to protect themselves and the owner from any liability or damage for injury (including death) to any of their employees, including any liability or damage which may arise by virtue of any statute or law in fo
  - B. Maintain public liability insurance in amounts sufficient to protect themselves and the Owner against all risks of damage or injury (including death) to property or persons wherever located, resulting from any action or operation under this Contract or in connection with the work and in accordance with the bid package minimum requirements.

The Contractor agrees to provide evidence to the Owner of such insurance with Owner listed as additional insured prior to commencement of work. Failure to provide adequate evidence of insurance or failure to maintain the insurance as required by this paragraph shall be grounds for terminating this Contract at the option of the Owner.

- (2) ASSIGNMENT. The Contractor agrees not to assign this Contract without written consent by the Owner.
- (3) CHANGE ORDERS. The Contractor agrees not to make any changes in the Scope of Work or the Specifications without written authorization by the Owner. Scope of work changes differing from the original bid work will be contingent on owner approval.
- (4) PERMITS AND CODES. The Contractor agrees to secure and pay for all necessary permits and licenses required for the Contractor's performance of this Contract in compliance with applicable local requirements, including local building and housing codes, where applicable, whether or not specified in the Schedule of Work or Specifications.
- (5) HOLD HARMLESS. The Contractor agrees to defend, indemnify, and hold the Owner harmless from any liability or claim for damages because of bodily injury, death, property damage, sickness, disease or loss and expense arising from the Contractor's performance of this Contract. Each contractor and subcontractor is acting in the capacity of an independent contractor with respect to the Owner. The Contractor further agrees to protect, defend and indemnify the Owner from any claims by laborers, subcontractors or materialmen for unpaid work or labor performed, or materials supplied in connection with this Contract.
- (6) ELIGIBILITY. the Contractor represents that he or she is not listed on the Disbarred and Suspended Contractors List of the U.S. Department of Housing and Urban Development, and further agrees not to hire or utilize as a subcontractor or supplier any person or firm that is so listed.
- (7) FEDERAL LABOR STANDARDS. If this Contract (i) concerns the rehabilitation of residential properties containing 12 or more units or (ii) calls for a price of \$2,000 or more for the rehabilitation, in whole or in part, of nonresidential property or the nonresidential portion of a mixed-use property the Contractor agrees to abide by the Federal Labor Standards provisions contained in form HUD-4010A.
- (8) CONDITION OF PREMISES. The Contractor agrees to keep the premises broom clean and orderly and remove all debris as needed during the course of the work, in order to maintain work conditions which do not cause health or safety hazards.
- (9) LEAD BASED PAINT. The Contractor agrees to use no lead based paint in the Contractor's performance of this Contract, including the performance of any subcontractor. "Lead Based Paint" means any paint containing more than six one-hundredths of one percentum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint or the equivalent measure of lead in the dried film of paint already applied.
- (10) TERMINATION. The Contractor agrees that the Owner shall have the right to declare the Contractor in default if the contractor fails to furnish materials or perform work in accordance with the provisions of

this Contract. In such event, the Owner shall be responsible for providing written notice to the Contractor by registered mail of such default. If the Contractor fails to remedy such default within fifteen (15) days of such notice, the Owner shall have the right to select one or more substitute contractors. If the expense of finishing the work exceeds the balance not yet paid to the Contractor on this Contract, the contractor shall pay the difference to the Owner.

- (11) INSPECTION. The U.S. Government, the City, and the Owner shall have the right to inspect all work performed under this Contract. The Contractor and Owner will take all steps necessary to assure that the Government, and the City permitted to examine and inspect the property, and all contractors, materials, equipment, payrolls and conditions of employment pertaining to the work, including all relevant data and records. By such inspection, the US. Government, ADFA and the City assume no responsibility to the Owner for defective material or work under this Contract or to either party for any breach of this Contract to the other.
- (12) INTEREST OF FEDERAL, STATE OR CITY PERSONNEL. The Contractor agrees that none of the following shall have any interest or benefit, direct or indirect, in this Contract:
- A. Any officer or employee of the City or State who exercises any function or responsibility in connection with administration of the HOME Program or any member of the governing body of the City or State.
  - B. Any member of or delegate to the Congress of the United States
  - C. Any Resident Commissioner
  - D. Any person employed by HUD at a grade level of GS-9 or above.
- (13) EQUAL OPPORTUNITY. The Contractor agrees to abide by all Federal, State or local regulations relative to equal opportunity to all persons, without discrimination as to race, color, creed, religion, national origin, sex, marital status, age, and status with regard to public assistance or disability.

#### TRAINING AND EMPLOYMENT OF LOWER INCOME RESIDENTS OF PROJECT AREA

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.
- B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability that would prevent them from complying with these requirements.