

9/21/16

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**AGREEMENT BETWEEN
COUNTY OF GLOUCESTER
AND
HABITAT FOR HUMANITY**

THIS AGREEMENT MADE this 21st day of **September 2016**, by and between the County of Gloucester, hereinafter referred to as the "COUNTY" and Habitat for Humanity a non profit corporation hereinafter referred to as the "AWARDEE" or "CHDO" and which is located at 305 South Broadway, Pitman New Jersey: for an amount not to exceed \$96,000.00.

WITNESSETH

WHEREAS, the County is the recipient of HOME Investment Partnership Funds from the U.S. Department of Housing and Urban Development (HUD), including funds that are reserved for the use of Community Housing Development Organizations (CHDOs); and

WHEREAS, the AWARDEE has been certified with the County as a CHDO, and has submitted a proposal for use of CHDO funds for a CHDO eligible project under HOME regulations;

NOW, THEREFORE, in consideration of their mutual covenants and obligations herein contained, including the Attachments, and subject to the terms and conditions hereinafter stated, the parties hereto understand and agree as follows:

Section I – Definitions

- A. AGENCY** – is hereby defined as the Planning Division – Housing and Community Development, the HOME Program administering agency of the County of Gloucester. For the purpose of this Agreement and all administration of HOME funds the AGENCY shall act on behalf of the County in the execution and fiscal and programmatic control of this agreement. The term "Approval by the County" or like term used in this agreement shall in no way relieve the AWARDEE from any duties or responsibilities under the terms of this Agreement, obligation, State or local law or regulation.
- B. DIRECTOR** – is hereby defined as the Director of the Planning Division of the County of Gloucester.
- C. FEE** - is hereby defined as the amount of money the County agrees to pay and the AWARDEE agrees to accept as payment in full for all the professional, technical and construction services rendered pursuant to this agreement to complete the WORK as further defined in Section IV SCOPE OF PROFESSIONAL SERVICES, hereof.
- D. WORK**- is hereby defined as all the professional, technical and construction services to be rendered or provided by the AWARDEE as described here.
- E. PROJECT**- is defined in Section IV below.
- F. HOME**- is hereby defined as the HOME Investment Partnerships Program as described in 24CFR Part 92, under the authority of 42 U.S.C. 3535 (d) and 12701-12839.

Section II – Term

The terms of this agreement require the AWARDDEE to complete all work required by this agreement in accordance with the timetable set forth which is subject to change with Agency Approval.

<i>Milestone</i>	<i>Deadline</i>
Project Start State	Oct 2016
<i>Interim Milestones/Deadlines:</i>	March 2017, June 2017, Aug 2017
Final Inspections/Punch List	September 2017
<i>Project Complete (C/O issued)</i>	September 2017

In addition, this project is subject to ongoing compliance requirements of HOME for twenty years from the date of initial occupancy. During this compliance period, the AWARDDEE will assure continued compliance with HOME requirements. For homebuyer units this includes monitoring units for principal residency and resale requirements at time of resale.

Timely completion of the work specified in this agreement is an integral and essential part of performance. The expenditure of HOME funds is subject to Federal deadlines and could result in the loss of the Federal funds. By the acceptance and execution of this agreement, it is understood and agreed by the AWARDDEE that the PROJECT will be completed as expeditiously as possible and that the AWARDDEE will make every effort to ensure that the project will proceed and will not be delayed. Failure to meet these deadlines can result in cancellation of this contract and the recapture of HOME funds.

Since it is mutually agreed that time is of the essence as regards this agreement, the AWARDDEE shall cause appropriate provisions to be inserted in all contracts or subcontracts relative to the work tasks required by this agreement, in order to ensure that the project will be completed according to the timetable set forth. It is intended that such provisions inserted in any subcontracts be, to the fullest extent permitted by law and equity, binding for the benefit of the County and enforceable by the County against the AWARDDEE and its successors and assigns to the project or any part thereof or any interests therein.

In the event the AWARDDEE is unable to meet the above schedule or complete the above services because of delays resulting from Acts of God, untimely review and approval by the County and other governmental authorities having jurisdiction over the Project, or other delays that are not caused by the AWARDDEE, the County shall grant a reasonable extension of time for completion of the work. It shall be the responsibility of the AWARDDEE to notify the County promptly in writing whenever a delay is anticipated or experienced, and to inform the County of all facts and details related to the delay.

Section III – Scope of Work

The AWARDDEE, in close coordination with the County, shall perform all professional services necessary to complete the development and occupancy of the following project in full compliance with the terms of this Agreement:

Property Description:

**Township of Deptford, County of Gloucester: 878 Tanyard Road; Block 410, Lot 10;
Rehabilitation of a 3 bedroom single-family home containing 1,248 square feet of floor area**

The County will fund the Gloucester County Habitat for Humanity in an amount no to exceed **\$96,000.00** to develop the new construction of a single family, one story, and Energy Star compliant with solar panels, 3 bedroom home containing 1,248 sq. feet dwelling, in Deptford Township, New Jersey. All services will be performed within the United States of America. Construction will be developed in a manner that ensures that the home is dry, safe, well ventilated, pest free, contaminant free, clean and well maintained, in accordance with HUD's healthy homes interventions. Neither Gloucester County Habitat for Humanity nor any individuals assigned to this engagement are disbarred, suspended, or otherwise prohibited from professional practice by any federal, state, or local agency. Habitat's mission is to build safe, decent and affordable homes for low-income, working families. This is accomplished by obtaining the greatest level of donated time, money and materials possible. The new construction of the unit will be sold at cost. No profit or capital gain is realized. Zero equivalent mortgages are offered to partner families. Mortgage is held by Gloucester County Habitat for Humanity with zero percent interest charged. The buyer must participate in 350 "sweat equity" hours in the construction of the house or another Habitat house.

It is understood that the AWARDDEE will provide a specific working budget and realistic timetable as relates to: acquisition, construction/rehabilitation, soft costs, development fees and other allowable costs/activities prior to any fund usage. Said budget shall identify all sources and uses of funds, and allocate HOME and non-HOME funds to activities or line items.

The aforementioned Work tasks will be performed in essentially the manner proposed in the AWARDDEE's proposal as received by the Agency on **May 25, 2016**. The aforementioned document will be considered to be a part and portion of this agreement for reference.

Section IV – Reimbursement of Expenses

- A. Project expenses shall be paid based on vouchers for actual expenses incurred or paid. Requests for payment must be submitted by the AWARDDEE on forms specified by the County, with adequate and proper documentation of eligible costs incurred in compliance with 92.206 and necessary for HUD IDIS disbursement requirements. All such expenses shall be in conformance to the approved project budget. Budget revision and approval shall be required prior to payment of any expenses not conforming to the approved project budget.
- B. The County shall have the right to review and audit all records of AWARDDEE pertaining to any payment by the County. Said records shall be maintained for a period of five years after completion.
- C. The County reserves the right to inspect records and project site to determine that reimbursement requests are reasonable. The County also reserves the right to hold payment until adequate documentation has been provided and reviewed.
- D. The AWARDDEE may submit a final invoice upon completion. Final payment shall be made after the County has determined that all services have been rendered, files and

documentation delivered, and units have been placed in service in full compliance with HOME regulations, including submission of a completion report and documentation of eligible occupancy, property standards and long-term use restrictions.

Section V – Project Requirements

The AWARDEE agrees to comply with all requirements of the HOME Program as stated in 24CFR Part 92, including but not limited to the following.

- A. No HOME project funds will be advanced, and no costs can be incurred, until the County has conducted an environmental review of the proposed project as required under 24 CFR Part 58. The environmental review may result in a decision to proceed with, modify, or cancel the project.

Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by the County of a release of funds from the U.S. Department of Housing and Urban Development for the state of New Jersey under 24 CFR Part 58.

Further, the AWARDEE will not undertake or commit any funds to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance, and must indicate that the violation of this provision may result in the denial of any funds under the agreement.

- B. The HOME funds advanced to the Project will be secured by a note and mortgage.
- C. The AWARDEE will ensure that any expenditure of HOME funds will be in compliance with the requirements at 92.206, and acknowledges that HOME funds will only be provided as reimbursement for eligible costs incurred, including actual expenditures or invoices for work completed.
- D. If the project is to be owner-occupied, the AWARDEE will ensure that all HOME assisted units will be in compliance with 24 CFR 92.254, including documenting that the property is eligible under 92.254(a)(1) – (2), and will maintain compliance during the minimum compliance period of twenty years.
- E. The designated HOME assisted units of this Project will meet the affordability requirements as found in 24 CFR 92.254. The AWARDEE shall collect and maintain Project beneficiary information pertaining to household size, income levels, racial characteristics, and the presence of Female Headed Households in order to determine low and moderate income benefit in a cumulative and individual manner. Income documentation shall be in a form consistent with HOME requirements as stated in the HUD Technical Guide for Determining Income and Allowances under the HOME program.

- F. In the selection of occupants for Project units, the AWARDDEE shall comply with all non-discrimination requirements of 24 CFR 92.350. If the project consists of 5 or more units, the AWARDDEE will implement affirmative marketing procedures as required by 24 CFR 92.351. Such procedures are subject to approval by the Agency.
- G. The AWARDDEE shall assure compliance with 24 CFR 92.251 as relates to property standards and Housing Quality Standards (HQS), Accessibility Standards under 24 CFR 92.251(a)(3) as applicable, and Lead Based Paint Requirements as found in 24 CFR 92.355 and 24 CFR Part 35.
- H. If the PROJECT is to be owner occupied, the AWARDDEE shall assure that any NOTES and MORTGAGES recorded for homebuyers shall be in compliance with 24 CFR 92.254 and that the AWARDDEE will monitor each unit for principal residency (under 92.254(a)(3) and resale/recapture (under 92.254 (a)(4) – (5)).
- I. The AWARDDEE will provide any documentation required by the Agency regarding match as may be required to document match for purposes of the HOME program.
- J. If any project under this agreement involves the construction or rehabilitation of 12 or more HOME assisted units, the AWARDDEE shall comply with the provisions of the Davis-Bacon Act (40 U.S.C. 276 a to a-7) as supplemented by Agency of Labor regulations (29 CFR, Part 5), as amended.
- K. If the property is sold through a lease-purchase agreement, the AWARDDEE will ensure compliance with 92.254(a)(7), as modified by the 1999 Appropriations Act, Section 599B.
- L. The AWARDDEE will be monitored by the Agency for compliance with the regulations of 24 CFR 92 for the compliance period of twenty years. The AWARDDEE will provide reports and access to project files as requested by the Agency during the Project and for five (5) years after completion and closeout of the Agreement.

Section VI – Repayment of Loan

- A. All HOME funds are subject to repayment in the event the Project does not meet the Project Requirements as outlined above.
- B. It is understood that upon the completion of the Project, any HOME funds reserved but not expended under this agreement will revert to the County.
- C. If the Project is for owner-occupancy, the AWARDDEE shall lend the HOME funds to the individual buyers in an amount sufficient to make the home affordable. Any HOME funds that reduce the price of the property below the fair market rate shall be secured by a HOME note and mortgage as required in 92.254(a)(5)(ii), using the note and mortgage prescribed or approved by the Agency (and consistent with the method of recapture identified in the County's Consolidated Plan).

1. All net sales proceeds from the sale of units are considered to be Program Income and must be returned to the Agency as repayment of the HOME loan.
2. Prior to each closing, the AWARDEE will provide to the Agency the estimated settlement statement, along with a reconciliation statement and the draft note and mortgage. The reconciliation statement shall account for the pro-ration of HOME project funds to the individual unit, and identify those funds that are to be lent to the buyer as "Buyer subsidies" secured by the HOME note and mortgage.
3. All resale proceeds that are received from buyers as they resell the properties during the compliance period to other buyers shall be considered "Recaptured Funds" under 24 CFR 92.254(a)(5)(ii)(A)(5) and must be repaid to the County for use in eligible HOME projects as required by 24 CFR 92.503. The AWARDEE shall promptly notify the Agency of such transactions and will promptly convey any Recaptured Funds to the Agency.

Section VII – CHDO Proceeds

A. Proceeds:

1. Proceeds result from the sale of a single family property financed by the COUNTY through the HOME program.
 - a. Proceeds include both HOME funds and any other funds from any source which are realized by the sale of property assisted in any form or fashion with HOME funds.
 - b. The total HOME funds provided by the COUNTY to the CHDO for any specific project under this contract, less the actual expenses for the project, the buyer's down payment, the buyer's contribution, and any non-HOME or non-CDBG mortgages are defined as CHDO Proceeds, or Proceeds.

B. Allowable Use:

1. An eligible activity defined by either the HOME program regulations or this agreement that directly supports the creation of affordable housing in our community shall be collectively known as an "allowable use". Allowable uses are further defined and limited by this agreement.

C. Governing Law and Regulation

1. Final HOME Rule: 24 CFR Parts 91 and 92
2. CPD Notice 97-9

D. Allowable Uses of Proceeds

1. Any eligible use of HOME funds, as defined in 24 CFR Parts 91 and 92 of the Final HOME Rule shall be an allowable use under this contract, so long as the allowable use results in or supports the creation of new units of affordable single family housing for purchase by HOME qualified buyers.

E. Prohibited Uses of Proceeds

1. Proceeds may not be used to fund, finance or pay for a loan counseling, debt counseling or homebuyer counseling programs or efforts as long as the COUNTY or CHDO provides funding to any other organization or entity to provide these services.
2. Proceeds may not be used to fund any operating reserves of the CHDO.
3. Proceeds may not be utilized to make repairs, reconstruct, or rebuild any unit previously financed with HOME funds without the express written permission of the COUNTY.

F. Accounting

1. The CHDO shall retain proceeds in a separate bank account and shall provide an accounting of the use of proceeds to the COUNTY on a quarterly basis.
 - a. The accounting shall designate the project and show the flow of funds into and out of the project account until all funds in the account are expended in accordance with this agreement.
2. To facilitate proper accounting for the proceeds, the CHDO shall utilize the spreadsheet designated by the COUNTY and included here by reference.
3. The auditor of the CHDO shall, at each annual audit, review the CHDO proceeds account of the CHDO and shall include in the annual audit specific language stating whether or not the CHDO has complied with the terms of this agreement.

G. Allocation and Use of Proceeds

1. Under the CHDO's contract with the COUNTY, the COUNTY provides the CHDO with a development subsidy to assist in the development of single family housing within the COUNTY.
2. The development subsidy is expended by the CHDO to build the home.
3. Proceeds are realized upon the sale of the completed home to a qualified buyer per the definition provided above.
 - a. Proceeds are realized on the date of the close of the property with the homebuyer.
4. To facilitate the quick rollover and expenditure of proceeds, the CHDO will invest proceeds in the next available project as soon as the proceeds are realized, and before a request for additional funds for development activity from the COUNTY.

H. Draw Requests

1. Requests to the COUNTY for disbursement of funds for land acquisition, site development and/or construction financing on any subsequent project under this contract, shall include the following:
 - a. The full amount of the requested disbursement.
 - b. The amount drawn from proceeds
 - c. Including the project name or names the amount is drawn from.
 - d. The net amount of the requested disbursement.

- I. Monitoring and Compliance
 1. Each year, on or before the 31st of March, the CHDO shall deliver an audit by a certified public accountant to the COUNTY.
 - a. The audit shall contain the provision noted under accounting.

 2. The COUNTY may request at any time, without prior notice, any file, financial record, or document related to any project that received any HOME funds or Proceeds.
 - a. The CHDO agrees to comply with any request within five business days of the request.

 3. The COUNTY will monitor the CHDO's use of Proceeds based on a risk assessment. Typically, the COUNTY will notify the CHDO thirty days in advance of the monitoring.

 4. Failure by the CHDO to deliver the audit, to submit the required quarterly report, segregate the Proceeds in a separate account, or to properly account for the Proceeds to the standard provided shall by this agreement, shall be a breach of contract under the terms of this Agreement.
 - a. The COUNTY, may, at the COUNTY's sole discretion, end all payments under the contract until the terms of this Agreement are met.

Section VIII – CHDO Provisions

It is understood that the AWARDEE has certified that it is and will maintain CHDO (Community Housing Development Organization) status for the term of the Project/Agreement in accordance with 24 CFR 92. AWARDEE agrees to provide information as may be requested by the agency to document its continued compliance, including but not limited to an annual board roster and certification of continued compliance.

Section IX – Procurement Standards

The AWARDEE shall establish procurement procedures to ensure that materials and services are obtained in a cost-effective manner. When procuring for services to be provided under this agreement, the AWARDEE shall comply at a minimum with the nonprofit procurement standards at 24 CFR 84.40 - 48.

Section X – Conflict of Interest Provisions

The AWARDEE warrants and covenants that it presently has no interest and shall not acquire any interest, directly or indirectly, which could conflict in any manner or degree with the

performance of its services hereunder. The AWARDEE further warrants and covenants that in the performance of this contract, no person having such interest shall be employed.

HOME conflict of interest provisions, as stated in 92.356, apply to the award of any contracts under the agreement and the selection of tenant households to occupy HOME-assisted units.

No employee, agency, consultant, elected official, or appointed official of the AWARDEE, may obtain a financial interest or unit benefits from a HOME-assisted activity, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. This prohibition includes the following:

- Any interest in any contract, subcontract or agreement with respect to a HOME assisted project or program administered by the AWARDEE, or the proceeds thereunder; or
- Any unit benefits or financial assistance associated with HOME, projects or programs administered by the AWARDEE, including:
 - Occupancy of a rental housing unit in a HOME assisted rental project;
 - Receipt of HOME tenant-based rental assistance;
 - Purchase or occupancy of a homebuyer unit in a HOME assisted project;
 - Receipt of HOME homebuyer acquisition assistance; or
 - Receipt of HOME owner-occupied rehabilitation assistance.

This prohibition does not apply to an employee or agent of the AWARDEE who occupies a HOME assisted unit as the on-site project manager or maintenance worker.

In addition, no member of Congress of the United States, official or employee of HUD, or official or employee of the Participating Jurisdiction shall be permitted to receive or share any financial or unit benefits arising from the HOME-assisted project or program.

Prior to the implementation of the HOME-assisted activity, exceptions to these provisions may be requested by the AWARDEE in writing to the Participating Jurisdiction. The AWARDEE must demonstrate and certify that the policies and procedures adopted for the activity will ensure fair treatment of all parties, and that the covered persons referenced in this policy will have no inside information or undue influence regarding the award of contracts or benefits of the HOME assistance. The Jurisdiction may grant exceptions or forward the requests to HUD as permitted by 24 CFR 92.356, 85.36 and 84.42, as they apply.

Section XI – County Responsibilities

The County shall furnish the AWARDEE with the following services and information from existing County record and County files:

- A. The County shall furnish the AWARDEE information regarding its requirements for the Project.

- B. The County will provide the AWARDDEE with any changes in HOME regulations or program limits that affect the project, including but not limited to income limits, property value limits and rent limit.
- C. The County will conduct progress inspections of work completed to protect its interests as lender and regulatory authority for the project, and will provide information to the AWARDDEE regarding any progress inspections or monitoring to assist it in ensuring compliance.
- D. The County will certify income for all applicants referred by the AWARDDEE.

The County's review and approval of the WORK will relate only to overall compliance with the general requirements of this Agreement and HOME regulations, and all County regulations and ordinances.

Nothing contained herein shall relieve the AWARDDEE of any responsibility as provided under this Agreement.

Section XII – Equal Employment Opportunity

During the performance of this contract, the AWARDDEE agrees as follows:

- A. The AWARDDEE will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin(s). The AWARDDEE will take affirmative action to ensure the applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin(s). Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The AWARDDEE agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer of the County setting forth the provisions of this nondiscrimination clause.
- B. The AWARDDEE will, in all solicitations or advertisements for employees placed by or on behalf of the AWARDDEE, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- C. The AWARDDEE will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the County's contracting officer, advising the labor union or worker's representative of the AWARDDEE's commitments under Section 202 of Executive Order No 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The AWARDDEE will comply with all provisions of Executive Order 11246 of September 24, 1965 and of the rules, regulations, and relevant orders of the Secretary of Labor.

- E. The AWARDEE will furnish all information and reports required by Executive Order 11246 of September 24, 1965 and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and order.
- F. In the event the AWARDEE is found to be in noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the AWARDEE may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965 or by rule, regulations, or order of the Secretary of Labor or as otherwise provided by law.
- G. The AWARDEE will include the provisions of paragraphs (a) through (g) of this agreement in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The AWARDEE will take such action with respect to any subcontract or purchase order as the Agency may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event the AWARDEE becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the Agency the AWARDEE may request the United States to enter into such litigation to protect the interest of the United States.

Section XIII – Labor, Training and Business Opportunity

The AWARDEE agrees to comply with the federal regulations governing training, employment and business opportunities as follows:

- A. It is agreed that the work to be performed under this agreement is on a project assisted under a program providing direct Federal financial assistance from the US Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 as amended, 12 U.S.C. 1701 u, as well as any and all applicable amendments thereto. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given low and moderate income residents of the project area, and that 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 project area.
- B. The AWARDEE shall comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 Code of Federal Regulations and all applicable rules and orders of the Agency of Housing and Urban Development issued thereunder as well as any and all applicable amendments thereto prior to the execution of this contract as well as during the term of this contract. The AWARDEE certifies and agrees that it is under no contractual or other disability, which would prevent it from complying with these requirements as well as any and all applicable amendments thereto.

- C. The AWARDEE will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the County, take appropriate action pursuant to the subcontractor upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, in 24 Code of Federal Regulations. The AWARDEE will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 code of Federal Regulations and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with these requirements as well as with any and all applicable amendments thereto.
- D. Compliance with the provisions of Section 3, the regulations set forth in 24 Code of Federal Regulations and all applicable rules and orders of the Agency of Housing and Urban Development issued thereunder prior to the execution of the contract shall be a condition precedent to federal financial assistance being provided in the Project as well as a continuing condition, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the AWARDEE or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by 24 Code of Federal Regulations as well as with any and all applicable amendments thereto.

Section XIV – Compliance with Federal, State & Local Laws

The AWARDEE covenants and warrants that it will comply with all applicable laws, ordinances, codes, rules and regulations of the state, local, and federal governments, and all amendments thereto, including, but not limited to; Title 8 of the Civil Rights Act of 1968 PL.90-284; Executive Order 11063 on Equal Opportunity and Housing Section 3 of the Housing and Urban Development Act of 1968; Housing and Community Development Act of 1974, as well as all requirements set forth in 24 CFR 92 of the HOME Investment Partnership Program. The AWARDEE covenants and warrants that it will indemnify and hold the COUNTY forever free and harmless with respect to any and all damages whether directly or indirectly arising out of the provisions and maintenance of this contract.

The AWARDEE agrees to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 USC 1857 (h)), section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

The AWARDEE further warrants and agrees to include or cause to be included the criteria and requirements of this section in every non-exempt subcontract in excess of \$100,000. The AWARDEE also agrees to take such action as the federal, state or local government may direct to enforce aforesaid provisions.

Section XV – Suspension and Terminations

In accordance with 24 CFR 85.43, suspension or termination may occur if the AWARDEE materially fails to comply with any term of the award, and that the award may be terminated for convenience with 24 CFR 85.44.

If through any cause, the AWARDDEE shall fail to fulfill in timely and proper manner its obligations under this contract, or if the AWARDDEE shall violate any of the covenants, agreements, or stipulations of this contract, the County shall thereupon have the right to terminate this contract by giving written notice to the AWARDDEE of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, the AWARDDEE shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder to the date of said termination. Notwithstanding the above, the AWARDDEE shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the contract by the AWARDDEE and the County may withhold any payments to the AWARDDEE for the purpose of setoff until such time as the exact amount of damages due the County from the AWARDDEE is determined whether by court of competent jurisdiction or otherwise.

Section XVI – Termination for Convenience of the County of Gloucester

The County may terminate for its convenience this contract at any time by giving at least thirty (30) days notice in writing to the AWARDDEE. If the contract is terminated by the County, as provided herein, the County will reimburse for any actual and approved expenses incurred, including those costs involved in terminating the contracts and shutting down the work as of the date of notice, and the AWARDDEE will be paid as a FEE an amount which bears the same ratio to the total compensation as the services actually performed bear to the service of the AWARDDEE covered by this contract, less payments of compensation previously made. Claims and disputes between the parties will be submitted to the American Arbitration Association for resolution. Award or judgment may be entered in any court having jurisdiction thereof.

Section XVII – Default-Loss of Grant Funds

If the AWARDDEE fails in any manner to fully perform and carry out any of the terms, covenants, and conditions of the agreement, and more particularly if the AWARDDEE refuses or fails to proceed with the work with such diligence as will insure its completion within the time frame fixed by the schedule set forth in Attachment C of this agreement, the AWARDDEE shall be in default and notice in writing shall be given to the AWARDDEE of such default by the Agency or an agent of the Agency. If the AWARDDEE fails to cure such default within such time as may be required by such notice, the County, acting by and through the Agency, may, at its option, terminate and cancel the contract.

In the event of such termination, all grant funds awarded to the AWARDDEE pursuant to this agreement shall be immediately revoked and any approvals related to the Project shall immediately be deemed revoked and canceled. In such event, the AWARDDEE will no longer be entitled to receive any compensation for work undertaken after the date of the termination of this agreement, as the grant funds will no longer be available for this project.

Such termination shall not effect or terminate any of the rights of the County as against the AWARDDEE then existing, or which may thereafter accrue because of such default, and the foregoing provision shall be in addition to all other rights and remedies available to the County under the law and the note and mortgage (if in effect) including but not limited to compelling the

AWARDEE to complete the project in accordance with the terms of this agreement, in a court of equity.

The waiver of a breach of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition hereof.

Section XVIII – Inspection, Monitoring & Access to Records

The County reserves the right to inspect, monitor, and observe work and services performed by the AWARDEE at any and all reasonable times.

The County reserves the right to audit the records of the AWARDEE any time during the performance of this Agreement and for a period of five years after final payment is made under this Agreement.

If required, the AWARDEE will provide the Agency with a certified audit of the AWARDEE's records representing the Fiscal Year during which the Project becomes complete whenever the amount listed in SECTION VII is at or exceeds \$300,000, pursuant to the requirements of OMB Circular A-133.

Access shall be immediately granted to the County, HUD, the Comptroller General of the United States or any of their duly authorized representatives to any books, documents, papers, and records of the AWARDEE or its contractors which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

Section XIX – General Conditions

- A. All notices or other communication which shall or may be given pursuant to this Agreement shall be in writing and shall be delivered by personal service, or by registered mail addressed to the other party at the address indicated herein or as the same may be changed from time to time. Such notice shall be deemed given on the day on which personally served; or, if by mail, on the fifth day after being posted or the date of actual receipt, whichever is earliest.

County Address:

Department of Public Works – Planning Division
Housing and Community Development
1200 N. Delsea Drive
Clayton, NJ 08312

AWARDEE Address:

Habitat for Humanity
305 South Broadway
Pitman NJ 08071
Attn: Tony Isabella, Executive Director

- B. Title and paragraph headings are for convenient reference and are not a part of this Agreement.
- C. In the event of conflict between the terms of this Agreement and any terms or conditions contained in any attached documents, the terms in this Agreement shall rule.
- D. No waiver or breach of any provision of this Agreement shall constitute a waiver of a subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.
- E. The parties hereto agree that this Agreement shall be construed and enforced according to the laws of the State of New Jersey.
- F. Should any provisions, paragraphs, sentences, words or phrases contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of New Jersey, such provisions, paragraphs, sentences, words or phrases shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable to conform with such laws, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect.
- G. The AWARDEE shall comply with the provisions of the Copeland Anti-Kick-Back Act (18 U.S.C.874) as supplemented in the AGENCY of Labor Relations (29 CFR Part 3) as amended.
- H. The AWARDEE shall comply with the provisions of sections 103 and 107 of the Contract Work Hours and Safety Standard Act (40U.S.C.327-330) as supplemented by AGENCY of Labor Relations (29CFR, Part 5), as amended.
- I. The AWARDEE further warrants and agrees to include or cause to be included the criteria and requirements of paragraphs (G) through (H) of this section in every nonexempt subcontract. The AWARDEE also agrees to take such action as the federal, state or local government may direct to enforce aforesaid provisions.
- J. The obligations undertaken by AWARDEE pursuant to this Agreement shall not be delegated or assigned to any other person or agency unless County shall first consent to the performance or assignment of such service or any part thereof by another person or agency.
- K. The Agreement shall be binding upon the parties hereto, their heirs, executors, legal representative, successors and assigns.
- L. AWARDEE shall indemnify and save County harmless from and against any negligent claims, liabilities, losses and causes of action which may arise out of AWARDEE's activities under this agreement, including all other acts or omissions to act on the part of the AWARDEE including any person acting for on its behalf, and, from and against all costs,

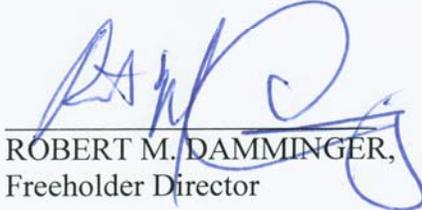
attorneys fees, expenses and liabilities incurred in the defense of any such claims, or in the investigation thereof.

- M. AWARDEE and its employees and agents shall be deemed to be independent contractors, and not agents or employees of the County, and shall not attain any rights or benefit under the civil service or pension ordinances of the County, or any rights generally afforded classified or unclassified employees; further they shall not be deemed entitled to state Compensation benefits as an employee of the County.
- N. Funding for this Agreement is contingent on the availability of funds and continued authorization for program activities and is subject to amendment or termination due to lack of funds, or authorization, reduction of funds, and/or changes in regulations.

IN WITNESS WHEREOF,

The County of Gloucester and Habitat for Humanity have caused their signatures to be hereunto affixed and duly attested

GLOUCESTER COUNTY BOARD
OF CHOSEN FREEHOLDERS


ROBERT M. DAMMINGER,
Freeholder Director

GLOUCESTER COUNTY
HABITAT FOR HUMANITY


DANNY SULPIZIO,
Board President

WITNESSED:


CHAD M. BRUNER,
Administrator/Clerk of the Board