

12/18/24

**CONTRACT BETWEEN
COUNTY OF GLOUCESTER
AND
GLOUCESTER COUNTY HABITAT FOR HUMANITY, CHDO, INC.**

THIS CONTRACT is made this 18th day of December, 2024, by and between the **COUNTY OF GLOUCESTER**, a body politic and corporate, with offices in Woodbury, New Jersey, hereinafter referred to as "County," and **GLOUCESTER COUNTY HABITAT FOR HUMANITY, CHDO, INC.**, a nonprofit corporation, with offices at 425 South Broadway, Pitman, New Jersey 08071, hereinafter referred to as "Contractor".

RECITALS

WHEREAS, the County of Gloucester has determined that there is a need to provide affordable housing within the County of Gloucester through the Home Investment Program, as per RFP-24-043; and

WHEREAS, this contract is awarded pursuant to and consistent with Gloucester County's fair and open procurement process and the terms and provisions of N.J.S.A. 19:44A-20.4; and

WHEREAS, Contractor represents that it is qualified to perform said services and desires to so perform pursuant to the terms and provisions of this Contract.

NOW, THEREFORE, in consideration of the mutual promises, agreements and other considerations made by and between the parties, the County and the Contractor do hereby agree as follows:

TERMS OF AGREEMENT

1. **TERM.** The term of the contract shall be from December 18, 2024 to December 17, 2025.
2. **COMPENSATION.** Contractor shall be compensated in the total amount of \$150,000.00, pursuant to the rates submitted by the Contractor in the proposal, dated September 11, 2024, and/or in accordance with Attachment A attached hereto.

Contractor shall be paid in accordance with this Contract document upon receipt of an invoice and a properly executed voucher. After approval by County, the payment voucher shall be placed in line for prompt payment.

Each invoice shall contain an itemized, detailed description of all work performed during the billing period. Failure to provide sufficient specificity shall be cause for rejection of the invoice until the necessary details are provided.

It is also agreed and understood that the acceptance of the final payment by Contractor shall be considered a release in full of all claims against the County arising out of, or by reason

of, the work done and materials furnished under this Contract.

3. DUTIES OF CONTRACTOR. The specific duties of the Contractor shall be as set forth in the County's RFP-24-043, Contractor's responsive proposal dated September 11, 2024, which are incorporated in their entirety by reference and made part of this Contract and Attachment A of this Contract. Should there occur a conflict between this form of contract and RFP-24-043, this contract shall prevail.

Contractor agrees that it has or will comply with, and where applicable shall continue throughout the period of this Contract to comply with, all of the requirements of the proposal documents.

4. FURTHER OBLIGATIONS OF THE PARTIES. During the performance of this Contract, the parties agree as follows, where applicable:

The Contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of gender, age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation and gender identity or expression, disability, nationality, sex, veteran status or military service. Except with respect to affectional or sexual orientation and gender identity or expression, the Contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation and gender identity or expression, disability, nationality, sex, veteran status, or military service. Such equal employment opportunities 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 Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this non-discrimination clause.

The Contractor or subcontractor, where applicable, will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to gender, age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality, sex, veteran status or military service.

The Contractor or subcontractor, where applicable, will send to each labor union with which it has a collective bargaining agreement, a notice, to be provided by the Agency Contracting Officer advising the labor union of the Contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The Contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The Contractor or subcontractor, where applicable, agrees to make good faith efforts to meet targeted employment goals established in accordance with N.J.A.C. 17:27-5.2.

5. LICENSING AND PERMITTING. If the Contractor or any of its agents is required to maintain a license, or to maintain in force and effect any permits issued by any governmental or quasi-governmental entity in order to perform the services which are the subject of this Contract, then prior to the effective date of this Contract, and as a condition precedent to its taking effect, Contractor shall provide to the County a copy of all current licenses and permits required to operate in the State of New Jersey, which license and permits shall be in good standing and shall not be subject to any current action to revoke or suspend, and shall remain so throughout the term of this Contract.

Contractor shall notify the County immediately in the event of suspension, revocation or any change in status (or in the event of the initiation of any action to accomplish such suspension, revocation and/or change in status) of license or certification held by Contractor or its agents and/or subcontractors.

6. TERMINATION. This Contract may be terminated as follows:

A. Pursuant to the termination provisions set forth in the RFP-24-043 which are specifically referred to and incorporated herein by reference.

B. If Contractor is required to be licensed in order to perform the services which are the subject of this Contract, then this Contract may be terminated by County in the event that the appropriate governmental entity with jurisdiction has instituted an action to have the Contractor's license suspended, or in the event that such entity has revoked or suspended said license. Notice of termination pursuant to this subparagraph shall be effective immediately upon the giving of said notice.

C. If, through any cause, the Contractor or subcontractor, where applicable, shall fail to fulfill in timely and proper manner his obligations under this Contract, or if the Contractor 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 Contractor of such termination and specifying the effective date thereof. In such event, all finished or unfinished documents, data, studies, and reports prepared by the Contractor under this Contract, shall be forthwith delivered to the County.

D. The County may terminate this Contract any time by a notice in writing from the County to the Contractor. If the Contract is terminated by the County as provided herein, the Contractor will be paid for the services rendered to the time of termination.

E. Notwithstanding the above, the Contractor or subcontractor, where applicable, 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 Contractor, and the County may withhold any payments to the Contractor for the purpose of set off until such time as the exact amount of damages due the County from the Contractor is determined.

F. Termination shall not operate to affect the validity of the indemnification provisions of this Contract, nor to prevent the County from pursuing any other relief damages to which it may be entitled, either at law or in equity.

7. **NO ASSIGNMENT OR SUBCONTRACT.** This Contract may not be assigned nor subcontracted by the Contractor, except as otherwise agreed in writing by both parties. Any attempted assignment or subcontract without such written consent shall be void with respect to the County and no obligation on the County's part to the assignee shall arise, unless the County shall elect to accept and to consent to such assignment or subcontract.

8. **INDEMNIFICATION.** The Contractor or subcontractor, where applicable, shall be responsible for, shall keep, save and hold the County of Gloucester harmless from, and shall indemnify and shall defend the County of Gloucester against any claim, loss, liability, expense (specifically including but not limited to costs, counsel fees and/or experts' fees), or damage resulting from all mental or physical injuries or disabilities, including death, to employees or recipients of the Contractor's services or to any other persons, or from any damage to any property sustained in connection with this contract which results from any acts or omissions, including negligence or malpractice, of any of its officers, directors, employees, agents, servants or independent contractors, or from the Contractor's failure to provide for the safety and protection of its employees, or from Contractor's performance or failure to perform pursuant to the terms and provisions of this Contract. The Contractor's liability under this agreement shall continue after the termination of this agreement with respect to any liability, loss, expense or damage resulting from acts occurring prior to termination.

9. **INSURANCE.** Contractor shall, if applicable to the services to be provided, maintain general liability, automobile liability, business operations, builder's insurance and Workers' Compensation insurance in amounts and with companies deemed satisfactory by County, and which shall be in compliance with any applicable requirements of the State of New Jersey. Contractor shall, simultaneously with the execution of this Contract, deliver certifications of said insurance to County, naming County as an additional insured.

If Contractor is a member of a profession which is subject to suit for professional malpractice, then Contractor shall maintain and continue in full force and effect an insurance policy for professional liability/malpractice with limits of liability acceptable to the County. Contractor shall, simultaneously with the execution of this Contract, and as a condition precedent to its taking effect, provide to County a copy of a certificate of insurance, verifying that said insurance is and will be in effect during the term of this Contract. The County shall review the certificate for sufficiency and compliance with this paragraph, and approval of said certificate and policy shall be necessary prior to this Contract taking effect. Contractor also hereby agrees to continue said policy in force and effect for the period of the applicable statute of limitations following the termination of this Contract and shall provide the County with copies of certificates of insurance as the certificates may be renewed during that period of time.

10. **SET-OFF.** Should Contractor either refuse or neglect to perform the service which Contractor is required to perform in accordance with the terms of this Contract, and if expense is

incurred by County by reason of Contractor's failure to perform, then and in that event, such expense shall be deducted from any payment due to Contractor. Exercise of such set-off shall not operate to prevent County from pursuing any other remedy to which it may be entitled.

11. **PREVENTION OF PERFORMANCE BY COUNTY.** In the event that the County is prevented from performing this Contract by circumstances beyond its control, then any obligations owing by the County to the Contractor shall be suspended without liability for the period during which the County is so prevented.

12. **METHODS OF WORK.** Contractor agrees that in performing its work, it shall employ such methods or means as will not cause any interruption or interference with the operations of County or infringe on the rights of the public.

13. **NON-WAIVER.** The failure by the County to enforce any particular provision of this Contract, or to act upon a breach of this Contract by Contractor, shall not operate as or be construed as a waiver of any subsequent breach, nor a bar to any subsequent enforcement.

14. **PARTIAL INVALIDITY.** In the event that any provision of this Contract shall be or become invalid under any law or applicable regulation, such invalidity shall not affect the validity or enforceability of any other provision of this Contract.

15. **CHANGES.** This Contract may be modified by approved change orders, consistent with applicable laws, rules and regulations. The County, without invalidating this Contract, may order changes consisting of additions, deletions, and/or modifications, and the contract sum shall be adjusted accordingly. This Contract and the contract terms may be changed only by change order. The cost or credit to the County from change in this Contract shall be determined by mutual agreement before executing the change involved.

16. **NOTICES.** Notices required by this Contract shall be effective upon mailing of notice by regular and certified mail to the addresses set forth above, or by personal service, or if such notice cannot be delivered or personally served, then by any procedure for notice pursuant to the Rules of Court of the State of New Jersey.

17. **GOVERNING LAW, JURISDICTION AND VENUE.** This agreement and all questions relating to its validity, interpretation, performance or enforcement shall be governed by and construed in accordance with the laws of the State of New Jersey. The parties each irrevocably agree that any dispute arising under, relating to, or in connection with, directly or indirectly, this agreement or related to any matter which is the subject of or incidental to this agreement (whether or not such claim is based upon breach of contract or tort) shall be subject to the exclusive jurisdiction and venue of the state and/or federal courts located in Gloucester County, New Jersey or the United States District Court, District of New Jersey, Camden, New Jersey. This provision is intended to be a "mandatory" forum selection clause and governed by and interpreted consistent with New Jersey law and each waives any objection based on forum non conveniens.

18. **INDEPENDENT CONTRACTOR STATUS.** The parties acknowledge that Contractor is an independent Contractor and is not an agent of the County.

19. **CONFIDENTIALITY.** Contractor agrees not to divulge or release any information, reports, or recommendations developed or obtained in connection with the performance of this Contract, during the term of this Contract, except to authorized County personnel or upon prior approval of the County.

20. **BINDING EFFECT.** This Contract shall be binding on the undersigned and their successors and assigns.

21. **CONTRACT PARTS.** This contract shall consist of this document, the specifications of RFP-24-043 issued by the County, and Contractor's responsive proposal, dated September 11, 2024. If there is a conflict between this contract and the specifications or the Contractor's proposal, then this contract and the specification shall control.

THIS CONTRACT shall be effective the 18 day of Dec., 2024.

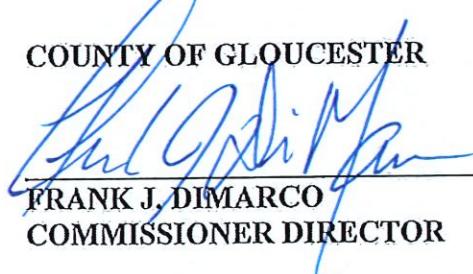
IN WITNESS WHEREOF, the County has caused this instrument to be signed by its Director and attested by the Board Clerk pursuant to a Resolution passed for that purpose, and Vendor has caused this instrument to be signed by its properly authorized representative and its corporate seal affixed the day and year first above written.

ATTEST:



LAURIE J. BURNS,
CLERK OF THE BOARD

COUNTY OF GLOUCESTER



FRANK J. DIMARCO
COMMISSIONER DIRECTOR

ATTEST:

GLOUCESTER COUNTY HABITAT
FOR HUMANITY, INC.



By: ASHLEY GRIFFITHS
Title: EXECUTIVE DIRECTOR

ATTACHMENT A

**AGREEMENT BETWEEN
COUNTY OF GLOUCESTER
AND
GLOUCESTER COUNTY HABITAT FOR HUMANITY, INC.**

THIS AGREEMENT made this 18 day of Dec. 2024, by and between the **COUNTY OF GLOUCESTER**, hereinafter referred to as the "County" and **GLOUCESTER COUNTY HABITAT FOR HUMANITY, INC.**, a nonprofit corporation hereinafter referred to as the 'Awardee" or "CHDO", located at 425 South Broadway, Pitman, New Jersey 08071.

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 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 these funds in the amount of **\$150,000.00** 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 Office of Housing and Community Development within the Department of Economic 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 Department of Economic Development 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 24 CFR 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 Awardee to complete all work required by this Agreement in accordance with the timetable described in the Awardee's proposal and summarized below.

<i>Milestone</i>	<i>Deadline</i>
Project Start State	December 2024
Final Inspections/Punch List	May 2025
<i>Project Complete (C/O issued)</i>	June 2025

In addition, this project is subject to ongoing compliance requirements of HOME for *thirty* (30) years from the date of initial occupancy. During this compliance period, the Awardee 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 Awardee that the PROJECT will be completed as expeditiously as possible and that the Awardee 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 Awardee 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 Awardee and its successors and assigns to the PROJECT or any part thereof or any interests therein.

In the event the Awardee 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 Awardee, the County shall grant a reasonable extension of time for completion of the work. It shall be the responsibility of the Awardee 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 – Use of Funds

The Awardee, 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:

Borough of Glassboro, County of Gloucester: 145 S. Academy Street; Block 52,
Lot 16.03; Construction of a three (3) bedroom single-family, Energy Star compliant home
containing 1,248 square feet of floor area

The County will fund the Awardee a total amount of **\$150,000.00** to develop the new PROJECT of construction of a single-family, one-story, and Energy Star compliant, three (3) bedroom home containing 1,248 sq. feet dwelling in the Borough of Glassboro, 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 the Awardee, nor any individuals assigned to this engagement are disbarred, suspended, or otherwise prohibited from professional practice by any federal, state, or local agency. The Awardee'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 an affordable price determined by the household size and household income, and will remain affordable through deed restriction on the unit. The buyer must participate in 300 "sweat equity" hours in the construction of the house or another Habitat house.

It is understood that Awardee 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 set forth in the Awardee's proposal as received by the AGENCY on **September 11, 2024**. 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 Awardee 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 with the approved PROJECT budget. Budget revision and approval shall be required prior to payment of any expenses not conforming to the approved budget.
- B. The County shall have the right to review and audit all records of the Awardee pertaining to any payment by the County. Said records shall be maintained for a period of five (5) 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 Awardee 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 24 CFR Part 92, 2 CFR 200, 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 and Deed Restriction.

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 Awardee shall comply with all non-discrimination requirements of 24 CFR 92.350. If the PROJECT consists of five (5) or more units, the Awardee will implement affirmative marketing procedures as required by 24 CFR 92.351. Such procedures are subject to approval by the AGENCY.
- G. The Awardee 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 Awardee shall assure that any NOTES and MORTGAGES recorded for homebuyers shall be in compliance with 24 CFR 92.254 and that the Awardee will monitor each unit for principal residency (under 92.254(a)(3) and resale/recapture (under 92.254 (a)(4) – (5).
- I. The Awardee 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 Awardee 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 Awardee will ensure compliance with 92.254(a)(7), as modified by the 1999 Appropriations Act, Section 599B.
- L. The Awardee will be monitored by the County for compliance with the regulations of 24 CFR 92 for the compliance period of thirty years. The Awardee 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 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 Awardee 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 AGENCY 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.
 - 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 herein 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.
 - 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.
 - 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.
 - 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.
 - 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 24 CFR 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 participating 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 Awardee 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 Awardee regarding any progress inspections or monitoring to assist it in ensuring compliance.
- D. The County will certify income for all applicants referred by the Awardee.

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 Awardee of any responsibility as provided under this Agreement.

Section XII – Equal Employment Opportunity

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

- A. The Awardee will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin(s). The Awardee 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 Awardee 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 Awardee will, in all solicitations or advertisements for employees placed by or on behalf of the Awardee, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- C. The Awardee 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 Awardee'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 Awardee 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 the 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 the 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 the 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 the 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 the 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 Awardee shall fail to fulfill in timely and proper manner its obligations under this contract, or if the Awardee 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 Awardee of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, the Awardee 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 Awardee 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 Awardee and the County may withhold any payments to the Awardee for the purpose of setoff until such time as the exact amount of damages due the County from the Awardee 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 Awardee. 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 Awardee 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 Awardee 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 Awardee 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 Awardee 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 Awardee shall be in default and notice in writing shall be given to the Awardee of such default by the AGENCY or an agent of the AGENCY. If the Awardee fails to cure such default within such time as may be required by such notice, the AGENCY may, at its option, terminate and cancel the contract.

In the event of such termination, all grant funds awarded to the Awardee 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 Awardee 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 Awardee 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 Economic Development
Office of Housing and Community Development
1480 Tanyard Road
Sewell, NJ 08080
Attn: Christina Velazquez, Director

Awardee Address:

Gloucester County Habitat for Humanity Inc.
425 South Broadway
Pitman, NJ 08071
Attn: Ashley Griffiths, Executive Director

B. Title and paragraph headings are for convenient reference and are not a part of this Agreement.

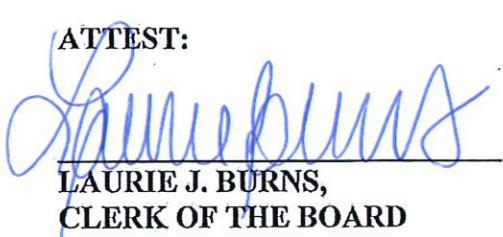
- C. In the event of conflict between the terms of this Agreement and any terms or conditions contained in any attached documents, the terms in this Agreement shall rule.
- D. No waiver or breach of any provision of this Agreement shall constitute a waiver of a subsequent breach of the same or any other 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 (40 U.S.C.327-330) as supplemented by Agency of Labor Relations (29 CFR, 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.

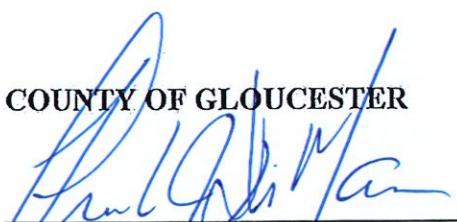
IN WITNESS WHEREOF, the County and the Awardee have executed this Agreement on the day and year first written above.

ATTEST:



LAURIE J. BURNS,
CLERK OF THE BOARD

COUNTY OF GLOUCESTER

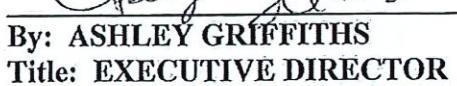


Frank J. DiMarco

Frank J. DiMarco, Director

ATTEST:

**GLOUCESTER COUNTY HABITAT
FOR HUMANITY, INC.**



By: ASHLEY GRIFFITHS

Title: EXECUTIVE DIRECTOR

