

**STANDARD AGREEMENT BETWEEN OWNER AND  
CONTRACTOR FOR LUMP SUM CONSTRUCTION**

**THIS AGREEMENT** made as of \_\_\_\_\_ day of June  
In the year 2010

**Between** the Owner:  
(name, address, phone number)

Boulder Housing Partners  
4800 N. Broadway  
Boulder, CO 80304  
(720) 564-4600

and the Contractor:  
(name, address, phone number)

Contractor  
Address

**For Project described as:**  
(name, location and project no.)

Project Name

Located in the City of Boulder, Colorado as  
Defined in the Bid Documents/Project Manual

The Architect is for this Project is:  
(name, address, phone number)

Architect

The Owner and Contractor agree as follows:

## **Article 1 Contract Documents**

The Contract Documents consist of this Agreement, Drawings (if any), Specifications, Conditions of the Contract (HUD General Conditions, Supplementary and other Conditions), Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 8.

## **Article 2 The Work of this Contract**

The Contractor shall fully execute the Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

## **Article 3 Date of Commencement and Substantial Completion**

- 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a Notice to Proceed issued by the Owner.  
(Insert the date of commencement if it differs from the date of this Agreement)

As per construction start date in Notice to Proceed

- 3.2 The Contract Time shall be measured from the date of commencement.
- 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than \_\_\_\_\_ calendar days from the Notice to Proceed of commencement, or as follows:

n/a

, subject to adjustments of this Contract Time as provided in the Contract Documents.

Liquidated Damages shall be assessed at the rate of **\$100** per day pursuant to Article 33, of the General Conditions, Form HUD-5370.

## Article 4 Contract Sum

4.1.1 The Owner shall pay the Contractor the Contract Sum for the Contractor's performance of the Contract. The Contract Sum shall be \_\_\_\_\_ subject the additions and deductions as provided in the Contract Documents.

4.2.1 The Contract Sum is based upon the following bid alternates, if any, which are described in the Contract Documents and hereby accepted by the Owner:

None

4.2 Unit prices, if any, are as follows:

Not Applicable

## Article 5 Payments

5.1 Progress Payments

5.1.1 Based upon Applications for Payment submitted to the Architect, if applicable, by the Contractor and Certificates for Payment issued by the Architect, if applicable, the Owner shall make progress payments to the Contractor based upon the Contract Sum as provided below and elsewhere in the Contract Documents.

5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

n/a

5.1.3 Provided that Application for Payment is received by the Architect not later than the **10th** day of the month and certified and forwarded by the Architect to the Owner within three (3) business days, the Owner shall make payment to the Contractor not later than the **10th** day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than thirty days after the Architect certified and forwarded the Application for Payment to the Owner.

5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The Applications for Payment shall indicate the percentage of each portion of the Work as of the end of the period covered by the Application for Payment. See Article 27 of the General Conditions, Form HUD-5370.

5.1.5 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- 1) Take that portion of the Contract Sum properly allocable to completed work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of Work in the schedule of values, less retainage of ten percent (10%). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Article 27 of the General Conditions.
- 2) Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing and in accordance with Article 27 of the General Conditions), less retainage of ten percent (10%); and
- 3) Subtract the aggregate of previous payments made by the Owner.

5.1.6 The progress payment amount determined in accordance with Subparagraph 5.1.5 shall be further modified under the following circumstances:

- 1) Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect and/or Owner shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
- 2) Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with the General Conditions.

5.1.7 Reduction or limitation of retainage, if any, shall be as follows: Per Article 27 of the General Conditions, Form HUD-5370, if upon completion of 50 percent (50%) of the work, the Contracting Officer/Owner, after consulting with the Architect, determines that the Contractor's performance and progress are satisfactory; the PHA may make the remaining payments in full for the work subsequently completed. Subsequently, if Contractor's performance and progress become

unsatisfactory, the ten percent (10%) retainage will be reinstated until such time as the Contracting Officer/Owner determines that performance and progress are satisfactory.

**5.2 Final Payment**

5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

- 1) The Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in the General Conditions and to satisfy other requirements, if any, which extend beyond the final payment; and
- 2) A final Certificate for Payment has been issued by the Architect.
- 3) Final payment shall not be made to the Contractor until BHP advertises a Notice of Final Settlement at least twice in a newspaper of general circulation in Boulder County at least ten (10) days prior to the date of final settlement, pursuant to Section 38-26-107, C.R.S. (Federal Register). If no claims are filed before final settlement and if the sureties consent, BHP shall pay the advertised amount to the Contractor, after deducting all payments previously made to the Contractor under the contract and all other charges properly chargeable to the Contractor under the terms of the contract.

5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

As provided in Section 27 of the General Conditions, Form HUD-5370.

**Article 6 Termination or Suspension**

6.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 34 of the General Conditions.

6.1.2 The work may be suspended by the Owner as provided in Article 30 of the General Conditions, Form HUD-5370.

**Article 7 Miscellaneous Provisions**

7.1 Where reference is made in this Agreement to a provision of the General Conditions or another Contract Document, the reference refers to that

provision as amended or supplemented by other provisions of the Contract Documents.

- 7.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing at the place where the Project is located.

n/a

- 7.3 The Owner's representative is:  
(name, address, and other information)

Laura Sheinbaum, Assets Project Manager  
Boulder Housing Partners  
4800 N. Broadway  
Boulder, Colorado 80304  
(720) 564-4646

- 7.4 The Contractor's representative is:  
(name, address, and other information)

Contractor Representative

- 7.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days' written notice to the other party.

- 7.6 Other provisions:

Not Applicable

## **Article 8 Enumeration of Contract Documents**

- 8.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

- 8.1.1 The Agreement is for large construction projects of Boulder Housing Partners, Boulder, Colorado.
- 8.1.2 The General Conditions are the General Conditions of the Contract for Construction, Public and Indian Housing Programs, Form HUD-5370 and include Supplemental General Conditions which modify or add to Form HUD-5370.
- 8.1.3 The Supplementary and other Conditions of the Contract are those as requested in the Invitation to Bid dated May 3, 2010, and are as follows:

Document	Title	Pages
Invitation to Bid	Bidding Requirements	
Project Manual	Written Specifications and General Requirements	
Attachment B	Supplement to the Contract	

8.1.4 The Specifications are those contained in the Project Manual dated as in Paragraph 8.1.3, and are as follows:  
(Either list the Specifications here or refer to an exhibit attached to this Agreement)

Section	Title	Pages
Section A	Bidding Requirements	
Section B	General Requirements	

Summary of Work

8.1.5 The Drawings are as follows, and are dated \_\_\_\_\_ unless a different date is show below:  
(Either list the Drawings here or refer to an exhibit attached to this Agreement)

Number	Title	Date
--------	-------	------

8.1.6 The Addenda, if any, are as follows:

Number	Date	Pages
--------	------	-------

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 8.

8.1.7 Other documents, if any, forming part of the Contract Documents are as follows:

n/a

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies, of which one is to be delivered to the Contractor, one to the Architect, if applicable, for use in the administration of the Contract, and the remainder to the Owner.

---

OWNER (Signature)

---

CONTRACTOR (Signature)

Betsey Martens  
Executive Director, Contracting Officer  
Boulder Housing Partners

DRAFT