

HOMEOWNER / CONTRACTOR AGREEMENT
203K STANDARD LOAN PROGRAM

Owner's Name(s)

Owners Name: _____ FHA Case#: _____

Address: _____ City _____ State _____ Zip Code _____

Cell Phone #: _____ Email: _____

Home Telephone #: _____ Fax#: _____

Contractor's Name

Contractor Business Name: _____

Contractor's Name: _____ License # _____

Address: _____ City _____ State _____ Zip Code _____

Cell Phone #: _____ Email: _____

Home Telephone #: _____ Fax#: _____

THIS AGREEMENT ("Agreement") made this ____ day of _____, 20____, by and between Homeowner and Contractor is for the rehabilitation of the property located at:

_____ ("Property") that has applied for an FHA mortgage under Section 203(K) of the National Housing Act by FHA approved Lender, On Q Financial Inc. (Lender) and its successors or assigns (collectively herein referred to as the "Lender").

The Borrower agrees to pay the Contractor the sum of \$ _____, which includes all sales tax due by law, for completion of all work and the supply of all materials included in this Agreement ("Work"), together with such increase or decreases in the contract price and scope of Work as may be approved in writing by the Lender ("Change Order"), and in accordance with all terms and conditions of this Agreement. Contractor agrees to perform and complete the Work and that the Work shall begin on _____, or as soon as practical, but in no event later than thirty (30) days from the loan closing; and will be completed by _____, but in no event later than 180 days (6 months) from the loan closing. The Agreement documents consist of the materials as described below, and include but are not limited to, the Contractor's Estimate, any Drawings and any additional Documents, all attached as Schedule "A":

General Provisions:

1. **Agreement Documents:** Work not covered by this Agreement will not be required unless it is required by reasonable inference as being necessary to produce the intended result. Notwithstanding the foregoing and for the sake of clarity, given Contractor's greater knowledge and skill by comparison to Borrower, if a reasonable person would understand

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material or work to be included or contemplated within the scope of the Work that is specifically included herein, although not specifically set forth, it shall be deemed included and Contractor accepts responsibility for all such items and apprising Borrower of same. By executing this Agreement, Contractor represents that he/she has visited the Property and understands local conditions, including state and local building regulations and conditions under which the Work is to be performed. If Borrower and Lender do not close on the loan contemplated herein, this Agreement shall be null and void and of no force or effect.

2. **Borrower:** Unless otherwise provided for in this Agreement, the Borrower shall secure and pay for necessary easements, exceptions from zoning requirements, or other actions which must precede the approval of a permit for this project. If Borrower fails to do so, then this Agreement is void and of no effect. If the Contractor fails to correct defective work or persistently fails to carry out the Work in accordance with this Agreement, the Borrower may order the Contractor in writing to stop such Work, or a part of the Work until the cause for the order has been eliminated.

3. **Contractor:** The Contractor shall perform and supervise and direct all aspects of the Work, including but not limited to the Work performed by any subcontractors. He/she shall use the best skill and attention and shall be solely responsible for all construction methods and materials and for coordinating all portions of the Work. Unless otherwise specified in this Agreement, the Contractor will provide for and/or pay for all labor, materials, equipment, tools, machinery, transportation, and other goods, facilities, and services necessary for the proper execution and completion of the Work, subject only to the payments to be made to the Contractor as provided for herein. The Contractor shall maintain order and discipline among employees and subcontractors and shall not assign anyone unfit for the task. The Contractor warrants to the Borrower that all materials and equipment incorporated are new and that all Work shall be of good quality and free of defects or faults. The Contractor shall pay all sales and all other taxes related to the Work and shall secure and pay for building permits, fees, inspections and licenses necessary for the completion of the Work unless otherwise specified in this Agreement. The Contractor shall indemnify and hold harmless the Borrower and Lender from and against all claims, damages, losses, expenses, legal fees or other costs arising or resulting from the Contractor's performance of the Work or provisions under this Agreement. The Contractor is responsible for, and indemnifies the Borrower and Lender against, acts and omissions of employees, subcontractors and their employees, or others performing the Work under this Agreement with the Contractor. The Contractor shall comply with all rules, regulations, laws, ordinances and orders of any public authority or HUD inspector bearing on the performance of the Work. The Contractor shall provide shop drawings, samples, product data or other information provided for in this Agreement, where necessary or reasonable to do so.

4. **Subcontractor:** Any and all necessary or desired subcontractors needed to adequately perform under this Agreement shall be selected and contracted by the Contractor, except that the Contractor shall not employ any subcontractor to whom the Borrower or Lender may have a reasonable objection, nor will the Contractor be required by the Borrower to employ any subcontractor to whom the Contractor has a reasonable objection. All

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subcontractors shall be duly licensed and bonded to perform that portion of the Work required of them.

5. **Work By Owner or Other Contractor:** The Borrower reserves the right to perform work related to his home, but which is not a part of this Agreement, and to award separate contracts in connection with other portions of another project not detailed in this Agreement. All contractors and subcontractors will be afforded reasonable opportunity for the storage of materials and equipment by the Borrower and by each other. Any costs arising by defective or ill-timed work or storage will be borne by the responsible party.
6. **Binding Arbitration:** Claims or disputes relating to this Agreement shall be resolved by the Construction Industry Arbitration Rules of the American Arbitration Association (AAA) unless both parties mutually agree to other methods. The notice of the demand for arbitration must be served on and filed in writing with the other party to this Agreement and with the AAA and must be made in a reasonable time after the dispute has arisen. The award rendered by the arbitrator(s) will be considered final and judgment may be entered upon it in accordance with applicable law in any Court having jurisdiction thereof.
7. **Cleanup and Trash Removal:** The Contractor shall keep the owner's residence free from waste or rubbish resulting from the Work. All waste, rubbish, tools, construction materials, and machinery will be removed promptly after completion of the Work by the Contractor.
8. **Time: With respect to the scheduled completion of the Work, TIME IS OF THE ESSENCE.** If the Contractor is delayed at any time in the progress of the Work by approved Change Orders, as defined hereinafter, fire, labor disputes, acts of God or other causes beyond the Contractor's control, the completion schedule for the Work or affected parts of the Work may be extended by the same amount of time caused by the delay with an approved Change Order. The Contractor must begin Work as soon as practical but in no event later than thirty (30) days after loan closing and will not cease Work for more than thirty (30) consecutive days. All Work must be completed by _____, but in no event later than within 180 days (6 months) from the closing of the loan.
9. **Time to complete:** A final Compliance Inspection Report from the approved Appraiser stating all Work has been satisfactorily completed, Contractor's Lien Release and the Borrower's Letter of Completion must be received by the Lender within two weeks of completion or ninety (90) days of the date of the note, whichever is earlier. If, for whatever reason, the final inspection verifying that all Work is completed is not received within 180 days (6 months) of the date of the note, the Lender has the right to make a principal reduction payment with the funds being held in escrow. **If the funds held in escrow are used to make a principal reduction, the final payment to the Contractor will not be available from the Lender unless the Lender has agreed in writing through an approved Change Order to extend such time.**
10. **Payments and Completion:** Funds for the renovation are released only upon satisfactory draw inspections by the HUD Consultant. **No funds** will be released at the initial funding of

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the loan. All draws will be released within a reasonable amount of time after Lender's receipt and approval of a Draw Request from the HUD Consultant (minus a 10% holdback reserve to ensure full completion of the work), a Contractor's signed Lien Waiver and Release, and a satisfactory inspection with photos. All funds will be provided in a joint check made payable to the Owner (borrower) and Contractor. All requests for funds should be submitted to the lender's Construction Loan Administration vendor Land Gorilla. All requests should be submitted via e-mail to: 203k@LandGorilla.com. They can be contacted at 805-250-1978 or by using the department's e-mail.

11. **Withholding of Funds:** Payments may be withheld because of: (1) defective Work not remedied; (2) failure of Contractor to make proper payments to subcontractors, workers, or suppliers; (3) persistent failure to carry out Work in accordance with this Agreement or these general conditions, or (4) legal claims. Final payment will be due only upon release of any and all liens arising out of the Agreement or submission of receipts or other evidence of payment covering all subcontractors or suppliers who could file such a lien. The Contractor agrees to indemnify the Borrower and Lender against such liens and will refund all monies including costs and reasonable attorney's fees paid by the Borrower and/or Lender in discharging the liens. A ten (10) percent "Holdback" reserve is required by the Lender to assure the Work has been properly completed and there are no liens on the Property.
12. **Protection of Property and Persons:** The Contractor is responsible for initiating, maintaining, and supervising all necessary or required safety programs. The Contractor must comply with all applicable laws, regulations, ordinances, orders or laws of federal, state, county or local governments. The Contractor will indemnify the owner for all property loss or damage to the Borrower caused by his/her employees or his/her direct or indirect subcontractors.
13. **Insurance:** The Contractor shall purchase and maintain insurance necessary to protect the Contractor and Borrower from claims under negligence, workers compensation and from any damage to the Borrower's property resulting from the conduct of this Agreement, and name Borrower as an additional named insured.
14. **Changes in the Agreement:** The Borrower may order changes, additions or modifications (using form HUD-92577) without invalidating the Agreement. Such changes must be in writing and signed by the Borrower and accepted by the Lender. Not all Change Order requests may be accepted by the Lender; therefore, the Contractor proceeds at his/her own risk if Work is completed and/or proceeded on without a Change Order accepted in writing by Lender.
15. **Correction of Deficiencies:** The Contractor must promptly correct any Work of his/her own or his/her subcontractors found to be defective or not complying with the terms of the Agreement.
16. **Warranty:** The Contractor shall provide a one-year warranty on all labor and materials provided hereunder. This warranty must extend one year from the date of the completion of the Work or longer if prescribed by law unless otherwise specified by other terms of this

