



## CONSTRUCTION SUBCONTRACTOR AGREEMENT

### **PARTIES:**

Prairie View Homes, LLC  
P O Box 699  
Lake Oswego, OR 97034  
("Contractor")

and

("Subcontractor")

### **RECITALS:**

- A. Contractor has commenced a construction project on real property located at \_\_\_\_\_ for the construction of a single family home, pursuant to certain plans and specifications, all of which have been examined by Subcontractor.
- B. Subcontractor agrees to perform a portion of the work required to be performed pursuant to the plans and specifications and is qualified to perform such work.

### **AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing Recitals which by this reference are incorporated herein as if set forth in full, and of the mutual covenants, conditions and obligations on the part of each party to be kept and performed, it is hereby agreed as follows:

1. **SCOPE OF WORK.** Subcontractor agrees to perform the work described on Exhibit A (Statement of Work) attached hereto and made a part hereof, in accordance with the plans and specifications incorporated in this Agreement by reference and Subcontractor shall furnish all labor, material, equipment and services necessary therefore, and all incidental work reasonably necessary to complete this Subcontract. The performance of the work and the materials provided shall be satisfactory to Contractor. All plans and specifications shall remain the property of Contractor.
2. **REPRESENTATIONS AND WARRANTIES OF SUBCONTRACTOR.** Subcontractor represents and warrants to Contractor as follows:
  - 2.1 The work performed hereunder shall be free from any defects due to faulty materials or workmanship, or any violation of this Agreement for one year from the date of substantial completion.
  - 2.2 All work shall be performed in compliance with the terms and conditions of this Agreement and the plans and specifications, the receipt of which are hereby acknowledged by Subcontractor.
  - 2.3 Subcontractor shall fulfill any special warranties of material or equipment installed and shall repair or replace any part of the materials or work performed by Subcontractor which proves defective in workmanship or material within one year from the date of substantial completions.
  - 2.4 Subcontractor shall not further subcontract for any labor or materials to be performed hereunder without obtaining the prior written approval of Contractor. In any approval, Contractor shall not excuse Subcontractor from any responsibility for the work performed by another.
  - 2.5 Subcontractor shall provide at its expense, all guarantees, bonds, and other licenses and permits required by Subcontractor for any of the work performed hereby.



Prairie View Homes, LLC  
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2.6 Subcontractor shall maintain the premises free from the accumulation of waste materials and rubbish resulting from Subcontractor's work and upon completion shall clean the premises in a manner satisfactory to Contractor.

2.7 At all material times, Subcontractor shall have appropriate liability and general business insurance policies in reasonable and customary amounts. Upon the request of Contractor, Subcontractor agrees to provide Certificates of Insurance and appropriate policies for Contractor's inspection and approval.

2.8 Subcontractor acknowledges and agrees that Subcontractor is not an employee of Contractor and Subcontractor's employees are employees of Subcontractor and not Contractor. Subcontractor agrees to indemnify and save and hold Contractor harmless from any loss, cost, damage or claims from Subcontractor's employees or third parties or governmental agencies claiming Subcontractor's employees are employers of Contractor.

2.9 Subcontractor hereby waives any rights it has or may have to file or record a lien against the project for any cause or reason.

2.10 Subcontractor shall procure all permits necessary for carrying on the work performed hereunder and shall comply with all regulations, directives, ordinances and laws relating to the work to be performed hereunder.

2.11 Subcontractor shall comply with the provisions of any Social Security or Unemployment Insurance laws, State or Federal, as may be now or hereafter in force. Subcontractor accepts exclusive liability and will hold Contractor harmless from and against any demands for contributions or taxes with respect to the work. Subcontractor shall be qualified under the Workers' Compensation laws of the State of Oregon and shall fully and completely comply with all employer obligations imposed by the State of Oregon and the United States.

**3. COMPLETION.** Subcontractor shall substantially complete the work to the satisfaction of Contractor on or before dates prescribed in Exhibit A-Statement of Work. Time is of the essence. Subcontractor shall furnish all required labor materials, equipment and supplies in such quantities and at such time to accomplish the completion of the work by the date described at Subcontractor's expense.

3.1 In the event Subcontractor is delayed in completing the work by the act, neglect, delay or default of Contractor, or for reasons beyond the control of Subcontractor, then the time fixed for completion of the work shall be extended for a period equivalent to the time lost provided that no extension shall be granted, unless Subcontractor provides written notice to Contractor within five days from the commencement of such delay that Subcontractor's work will be delayed and Subcontractor's belief as to the reason and cause for the delay other than Subcontractor. The extension of time herein provided for shall be the Subcontractor's exclusive remedy in the event of such delay, no matter how or by whom such delay is caused. Delays caused by the act, neglect, delay or default of Subcontractor shall be the responsibility of Subcontractor and Subcontractor agrees to pay to Contractor, as liquidated damages, the sum of **<Delay Penalty> \$1000.00** per day, for each day of delay caused by Subcontractor. Such liquidated damages shall commence immediately upon written notice by Contractor to Subcontractor describing the delay and the cause for such delay, and further providing that liquidated damages in the above-described amount shall commence on the day following the date of the notice.

3.2 In the event of delays caused by Subcontractor, Contractor reserves the right to terminate Subcontractor's rights pursuant to this Agreement and employ substitute parties or subcontractors to complete Subcontractor's work and charge Subcontractor for such expenses incurred by Contractor, including administrative and overhead and profit amounts.

**4. PLANS AND SPECIFICATIONS.** Subcontractor acknowledges and agrees that Subcontractor has received all necessary plans and specifications necessary for Subcontractor to complete Subcontractor's work as described on Exhibit A. The parties acknowledge and agree that such plans and specifications shall not be changed and may not be changed except by a written change order signed by Subcontractor and Contractor prior to the completion of the work the subject of such change order. In the event of any such change order, the price shall be adjusted based upon the increase or decrease in the amount of work and materials necessary.

4.1 Contractor shall not be obligated to pay Subcontractor for any claims for additional or extra or different work performed without a prior written change order.





5. **SUBCONTRACT PRICE.** Contractor agrees to pay to Subcontractor and Subcontractor agrees to accept from Contractor for the work the subject hereof, the sum described on Exhibit A (Statement of Work) attached hereto.

6. **PAYMENT.** Contractor agrees to pay such price to Subcontractor as follows:

6.1 Contractor will pay <Deposit> 15% of the fixed bid price as a deposit against the final amount owed prior to work beginning.

6.2 From the point of 100% completion and contractual execution of all liability release waivers, Subcontractor to provide Contractor 'final invoice.' Invoices received by the 10<sup>th</sup> of the month will be paid by the Contractor on the 15<sup>th</sup> of the month or the closest business day after these dates.

6.2 Notwithstanding any other payment provisions, Contractor shall be entitled to retain and holdback <Remaining Balance Owed> 85% of such total contract price until such time as Subcontractor has provided to Contractor all lien releases and confirmation of payments to avoid and prevent any liens attaching to the property. In the event Subcontractor fails to provide such confirmation to Contractor, Contractor shall be authorized to pay and distribute sums due and owing to Subcontractor directly to suppliers and creditors of Subcontractor and credit such amounts to the contract price described herein.

7. **INSPECTION.** Contractor shall have the right to inspect the work in Subcontractor's shop or places other than the site of the work and confirm the compliance with the plans and specifications.

8. **TERMINATION.** In the event Contractor elects to cease or postpone the completion of the project, Contractor may terminate this Agreement by written notice to Subcontractor. Such termination shall be effective in the manner specified in the notice and shall be without prejudice to any claims which owner may have against Subcontractor. Upon receipt of such notice, Subcontractor shall immediately discontinue work and the placing of orders for materials, facilities and supplies in connection with the performance of the work. All materials ordered by Subcontractor prior to the date of termination shall be for the benefit of Contractor. Upon termination, Subcontractor shall thereafter do only such work as may be necessary to preserve and protect work in progress and to protect materials, plant or equipment.

9. **ASSIGNMENT.** Subcontractor shall not assign this agreement or any of the payments to become due hereunder, nor shall Subcontractor sublet any part of the work to be performed hereunder except with the written consent of Contractor which consent may be withheld for any or no reason by Contractor.

10. **ENTIRE AGREEMENT.** This Agreement embodies the entire agreement and understanding of the parties to the agreement regarding the subject matter contained in it. There are no restrictions, promises, representations, warranties, covenants, or undertakings other than those expressly set forth or referred to in such documents. This Agreement and such documents supersede all prior agreements and understandings among the parties regarding the subject matter hereof.

11. **ATTORNEY FEES.** In the event either party defaults or breaches this Agreement, such party shall reimburse all reasonable costs and attorney fees incurred by the other in connection with the default or breach. In the event of any litigation or other proceeding, including any action or participation in connection with a case or proceeding under any chapter of the Bankruptcy Code or any successor statute, between the parties to declare or enforce any provision of this Agreement, the prevailing party or parties shall be entitled to recover from the other party or parties, in addition to any other recovery and cost, reasonable attorney fees incurred in such litigation, and other proceeding, in both the trial and in all appellate courts and reasonable post-judgment collection costs, including attorney fees.

AGREED:

John P. Wagnon, President  
Prairie View Homes, LLC  
(Contractor)

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

(Subcontractor)





**EXHIBIT A -- STATEMENT OF WORK <SOW Number> #0001**

This Work Statement ("Statement") is a part of and incorporates the terms and conditions of the Independent Contractor Agreement between Prairie View Homes, LLC, an Oregon limited liability company and <Company Name> Backyard Excavation an <Entity Type> Oregon corporation <Entity Type> individual ("Contractor").

**1. Term of Work Statement.**

Commencement Date:

<Commencement Date> Month, Date, Year

Terminates:

30 days following the commencement date unless renewed verbally or in writing by Prairie View.

**2. Description of Services, Deliverables and Delivery Dates.** Contractor shall provide Services as may be necessary to complete the following tasks and deliver to Prairie View the following Deliverables:

Summary: <SOW Summary> TEXT FRAME

- Tear down and Dispose existing garage that measures approximately 18' by 20' located on 4936 SE Knapp (Lots 1-2)
- Remove approximately 300' of Chain link fence including posts (Lots 1-4)
- Remove 5 bushes around existing house.
- Remove pear tree in back of existing house.
- Remove 3 stumps in adjacent lots 3 & 4 (1-4', 1-3' and 1-1' in diameter)
- Excavate for two foundations 15'x 67'

Delivery Dates:

<Delivery Date> Month, Date, Year

**3. Acceptance.** During the two week period following receipt of each Deliverable specified above, Prairie View may inspect the Deliverable to determine whether it meets Prairie View's requirements. Any discrepancies discovered by Prairie View will be reported to Contractor and Contractor will be permitted a reasonable opportunity to make any necessary corrections, without additional charge to Prairie View. Unless Prairie View informs Contractor to the contrary within the acceptance period, or any mutually agreeable extension thereof, the Deliverable shall be deemed accepted as of the end of such period.

**4. Fees Payable.** The fee payable for Services satisfactorily performed by Contractor pursuant to this Work Statement is set forth below. In no event shall Prairie View be liable for any amount greater than the maximum fee specified below. Contractor shall issue an invoice for Services rendered under this Work Statement at the end of the calendar month in which such Services were rendered.

<Fee Description> TEXT FRAME

**5. Out-of-Pocket Expenses.** Prairie View will reimburse Contractor for reasonable, necessary and actual out-of-pocket expenses incurred by Contractor in order to perform the Services and shall include travel and lodging, but shall not include any overhead costs, administrative expenses or other mark-up ("Out-of-Pocket Expenses"). All Out-of-Pocket Expenses must be (i) estimated in the Work Statement accepted by Prairie View or submitted to Prairie View for its prior written consent prior to incurring any such expenses; and (ii) supported by documentation reasonably acceptable to Prairie View. It is understood that Prairie View shall not reimburse Contractor for commuting expenses under any circumstances or for travel and living expenses incurred by Contractor in performing Services at a Prairie View facility located in the same metropolitan area as that of Contractor personnel's home. It is also understood that any air transportation reimbursable hereunder shall be coach/economy and that entertainment by or on behalf of Contractor shall be at no cost to Prairie View.





6. **Liaison for Prairie View.** The liaison for Prairie View under this Work Statement will be:

Name: Jack Wagon  
Title: President  
Telephone: 503.730.1864  
Fax: 503.699.1099  
Email: [jack@prairieviewhomes.net](mailto:jack@prairieviewhomes.net)

7. **Termination.** Contractor's performance under this Work Statement may be terminated by Prairie View at any time upon notice to Contractor and payment by Prairie View for work performed satisfactorily to date. Upon termination or completion of Contractor's performance under this Work Statement, Contractor shall deliver to Prairie View the results of such performance through the date of termination or completion.

**This Work Statement is good only for the term indicated above, and does not imply ongoing requests for work. Each request for services outside the scope of work in this Work Statement requires issuance by Prairie View, and acceptance by Contractor, of a new Work Statement prior to commencement of new services, pursuant to Item 1 of the Agreement.**

**AGREED:**

*John P. Wagon, President*

Prairie View Homes, LLC  
(Contractor)

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

(Subcontractor)



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