

RESIDENTIAL CONSTRUCTION CONTRACT (Lump Sum)

THE OWNER:

Corbel and Quoin Designs, LLC
3206 Baronne Street, New Orleans, LA 70115
New Orleans, LA 70130

THE CONTRACTOR:

Marais Design Build LLC
1229 Saint Thomas Street
New Orleans, LA 70130

PROJECT:

1820 Dumaine St.
New Orleans, LA 70116

I. THE WORK

1.1 Contractor's Duties. Contractor shall furnish the material, labor, equipment, tools, and supervision (the "Work") necessary to construct or renovate a two-family residence (the "Project") for Owner on the Property identified above, in compliance with the plans and specifications supplied by the Owner (the "Plans"). The Plans and Specifications are attached as **Exhibit A**. This Contract and all of its Exhibits, and all Change Orders after execution, are the "Contract Documents."

Contractor agrees to immediately inform Owner in writing of any discrepancies, errors, or omissions in the Plans or materially changed or unanticipated conditions and not to proceed with any work affected by such discrepancy until Owner directs Contractor to do so.

1.2 Duties Specifically Excluded From Contractor Scope of Work. Contractor is not responsible for the following duties with regard to this project:

- All surveying
- Termite control
- Window materials (window frames and sashes only)
- Backsplash tile materials (tile only)
- bathroom tile materials (tile only)
- Residential appliances materials
- Kitchen/baths cabinet materials
- Kitchen/bath countertop materials (stone only)
- Plumbing fixtures as specified in plumbing fixture selection table P-1
- Electrical fixtures
- Finish hardware materials
- Toilet and bath accessories materials

1.3 Permits. Contractor shall obtain the governmental approvals of the Plans and all permits for construction of the Project. The cost of the building permit and any other necessary permits is included in the lump sum amount. Owner is responsible for cost of only the general building permit which will be assumed from Owner by Contractor. Contractor is

responsible for all other permits and fees other necessary permits, unless covered by specific subcontractors.

II. LUMP SUM PRICE AND PAYMENT

2.1 Lump Sum Amount. Contractor shall perform the Work for the Lump Sum Price of **TWO HUNDRED SIXTY EIGHT THOUSAND AND FOUR HUNDRED DOLLARS (\$268,400)** ("Contract Price"). The Contract Price is detailed by scope and trades in the Schedule of Values at **Exhibit B**.

2.3 Progress Payments. Owner will pay Contractor on the 1st and 15th of the month for completed work. Prior to payment, Contractor shall present to Owner an Application for Payment. Each Application for Payment shall be based on the Schedule of Values at Exhibit B. The Schedule of Values shall allocate the entire Contract Price among the various portions of the Work. The Schedule of Values shall be prepared in such form (G703) and supported by such data to substantiate its accuracy as the Owner may require. The Schedule of Values shall be used as a basis for reviewing Contractor's Applications for Payment. Contractor's Applications for Payment shall show the percentage of completion of each portion of the Work as of the end period covered by the Application for Payment. Owner shall make payment to Contractor based on the percentage of the Work completed for the period covered by the Application for Payment date, less previous payments and retainage specified in Section 2.4. Owner shall make payment no later than twenty-five (25) (Twenty-Five if not filled in) calendar days from the date of receipt of each Application for Payment. With each Application for Payment, the Owner shall have the right to require Contractor to provide documentation to support the claimed percentage of the Work completed. Contractor shall apply Owner's payment only to the costs and fees of this Project.

2.4 Retainage. Owner shall withhold ten percent (10%) as retainage from each progress payment (the "Retainage"). Retainage shall be released to Contractor at the time of Final Payment. The Retainage is a fund for the protection of the Owner (i) from incomplete or defective work by Contractor; (ii) for the payment of persons who supplied materials or who worked on the Project and were not paid by Contractor; and (iii) damages incurred due to other breaches Contract.

2.5 Lien Release. Owner shall not be required to make any payment to Contractor unless and until Contractor provides Owner with an unconditional waiver and lien release form signed by Contractor and by each **primary** subcontractor who is claiming **Two Thousand Dollars (\$2,000.00)** or more in payment, verifying payment in full, less any retainage, from Owner's prior month's payment to Contractor. A form lien release is attached as **Exhibit C-1**.

2.6 Final Payment. Within ten (10) days after Contractor notifies Owner that the Work is Substantially Complete, Owner shall inspect the Work with Contractor and deliver to Contractor a comprehensive list of items to be completed or corrected prior to Final Payment (the "Punch List"). The Punch List and other Work shall be finished by Contractor within (21) [Twenty-One if not filled in] days of Contractor's receipt of the Punch List. Final Payment shall be due fourteen (14) days after Contractor (1) completes the Work in accordance with the Contract Documents; (2) provides Owner with final lien releases from Contractor and all subcontractors and suppliers, conditioned only on receipt of Final Payment attached as

Exhibit C-2; and (3) makes available the cost records supporting the final Cost of the Work if requested by Owner. "Substantially Complete" or "Substantial Completion" means the stage in the progress of the Work when Owner has legal occupancy and full and unrestricted use and benefit of the Project for its intended purpose with only minor incidental work or correction or repair remaining to be performed by Contractor.

2.7 Failure of Payment. If Owner fails to pay Contractor amounts due within fourteen (14) days time required by Section 2.3, Contractor may, upon providing seven (7) days written notice to Owner, suspend the Work until the amounts due have been received. If the failure of payment remains uncured for fourteen (14) days after the first written notice, Contractor may terminate the Contract. Payments due and unpaid under the Contract Documents shall bear interest at the rate of eight percent (8%) per annum from the date payment was due until paid.

III. CHANGES

3.1 Nature of Change. If Owner or Contractor requests, or one of the parties believes that a change is necessary, (a "Change "), then the parties shall comply with the following procedure to reflect a Change in the Work:

- a. The Party requesting or noting the Change shall write a description of the Change and give the other Party that writing (the "Change Notice") or **by use of G701 form.**
- b. Before proceeding with the changed work, unless excused by an emergency involving safety or property damage, the Contractor shall provide Owner with a fixed-price written estimate of the cost and time impact of the requested Change;
- c. Owner and Contractor shall execute a Change Order confirming their agreement with the Change, the fixed-price cost, and the extension Substantial Completion date, if any. If the Change cannot be performed on a fixed-price basis, the Change Order shall identify the agreed method of compensation.

3.2 Change Order Format. A blank Change Order form is included in this Contract as **Exhibit D or a G701 form.**

IV. SCHEDULE

4.1 Commencement and Completion Work. Contractor shall commence the Work within ten (10) calendar days of receipt of a building permit. Subject to the permitted extensions and delays provided herein, Contractor shall Substantially Complete the Work within **one hundred eighty (180)** calendar days after the commencement date. With its first Application for Payment, Contractor shall provide a schedule indicating proposed subcontractors' activity sequences and durations, deadlines for Owner's decisions on material selections, and milestones for delivery of materials. The schedule is included in this Contract as **Exhibit E.**

4.2 Construction Time and Liquidated Damages. Contractor agrees that the time in Section 4.1 to reach Substantial Completion, as reflected by Contractor's schedule, provides sufficient time for the expeditious and practical execution Work. If Contractor fails to achieve Substantial Completion of the Work by the date set forth in Section 4.1, Owner will suffer substantial damages that are both extremely difficult and impractical to determine. Owner and Contractor agree that if Contractor fails to meet the Substantial Completion date, then *Contractor shall pay Owner liquidated damages at a daily rate of **five dollars (\$5)***. The parties agree that liquidated damages are not a penalty, but rather a reasonable estimate of the amount of damages Owner will suffer in the event of delay. Owner shall have the right to withhold the amount of liquidated damages from any sums due to Contractor.

4.3 Delay. If the Project is delayed by the act, neglect or default of Owner, Owner's agent, Owner's design professional, Owner's lender, governmental action or inaction, any contractor employed by Owner, any materials supplier acting for Owner, or any other reason or reasons beyond Contractor's reasonable control, including without limitation damage caused by fire or other casualty, strikes, force majeure, shortage of materials or labor, transportation delays, weather conditions, change orders, or deficiencies in the Contract Documents (the "Excusable Delay"), then the Substantial Completion date shall be extended for a period reasonably equivalent to the time lost by reason of such delay.

V. INSURANCE

Before commencing the Work and as condition of payment, and as part of the Lump Sum Amount, Contractor shall purchase and maintain insurance as described below from an insurer admitted to do business in Louisiana with an A.M. Best financial strength rating of A-1 or better, that will protect it from bodily injury or property damage claims arising out of its operations under this Contract, whether the operations are by Contractor, Contractor's consultants or subcontractors, anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

1. Commercial General Liability (CGL) insurance providing bodily injury liability and property damage liability with combined single limits of not less than \$1,000,000 per occurrence, and \$2,000,000 general aggregate limits, and Products/Completed Operations aggregate limits of \$2,000,000, written on an occurrence form.
2. Workers Compensation insurance in the amounts of \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate.
3. Automobile liability insurance with a minimum limit of liability of not less than \$300,000 per occurrence for all owned, non-owned and hired automobiles.
4. Owner shall be included as an additional insured under the CGL policy.

Prior to starting work, Contractor shall provide a copy of the actual additional insured

endorsement or blanket additional insured policy wording to the CGL policy that documents the Owner's additional insured status.

Unless otherwise agreed, Owner shall secure and maintain property insurance upon the Work to its full insurable value (replacement cost) including the peril of theft and, including materials delivered to the Property (whether those materials are actually incorporated into or adjacent to the Work), miscellaneous materials and supplies incidental to the Work and temporary structures. If work is to be performed on an existing residential structure, the Owner may retain an all risk homeowner's policy and delete any exclusion to theft of building materials. Owner's policy limit must be increased to contemplate the value of the existing structure and improvements to be added.

Owner and Contractor hereby waive their rights of subrogation against one another for any losses covered by the required insurance policies except that Contractor shall be liable for the property insurance deductible if a claim is made against such property insurance and that claim arises out of Contractor's negligence.

5.1 Performance and Payment Bonds. Contractor shall or **shall not X** be required to furnish and pay for a Performance Bond and Payment Bond. If the Contractor is required to furnish the bonds, they must be written by a company licensed to do business in the state of Louisiana, which shall be signed by the Surety's agent or attorney-in-fact, each in an amount equal to 100% of the Contract amount.

5.2 Recordation of Contract and Bond. The Contractor shall record within thirty (30) days of commencement of the Work, the Contract Between the Owner and Contractor and any applicable Performance and Payment Bonds with the Clerk of Court in the Parish in which the work is to be performed. The Contractor shall provide written evidence of such recordation to the Owner. Should the Contractor fail to do so, the Owner may do so at the Contractor's expense.

VI. CONTRACTOR'S WARRANTY

6.1 Contractor's Warranty. Contractor warrants that the Work shall be in accordance with the Contract Documents and free from material structural defects and shall return and repair any Work not in accordance with the Contract Documents for a period of one (1) year from the date of Substantial Completion of the Work (the "Warranty Period"). All product warranties, if any, are deemed assigned from Contractor to Owner.

6.2 Cure of Defect. If a defect is discovered within the Warranty Period, then Owner must promptly notify Contractor in writing following the discovery of that defect (the "Warranty Defect Notice") and must provide Contractor with an opportunity to inspect and an opportunity to either cure the defect in a manner customary in the industry or to pay to Owner the cost of repair or replacement of the defect as estimated by Contractor. This Warranty Defect Notice shall serve as the written notice of claim described in the following paragraph. In no event shall Contractor's liability exceed the fair and reasonable cost of repair or replacement of the warranted defect. Contractor shall not be liable for any cost or expense incurred by Owner in remedying any warranted defects unless Contractor has been notified in writing and has been afforded the opportunity to cure the claimed defect or to pay the sums

specified herein. Nothing contained in this section shall be construed to establish a period of limitation with respect to Contractor's other obligations under the Contract Documents.

VII. SAFETY

Contractor and its subcontractors shall take all reasonably necessary safety precautions, including compliance with applicable laws, ordinances, regulations, and orders issued by a public authority, whether federal, state, or local. Contractor shall at all times be responsible for providing a safe job site and be responsible for the work performance and safety of all employees, personnel, equipment, and materials within the care, custody, or control of Contractor or its subcontractors of any tier. Contractor and its subcontractors shall furnish all required safety equipment and ensure all of its employees and lower-tier subcontractors' employees have and wear personal protective equipment in compliance with applicable safety requirements. Contractor shall promptly provide Owner with written notice of safety hazard(s) or violation(s) found on the job site or of any injury to its or its subcontractors' workers incurred on the job site.

VIII. INDEMNITY

8.1 Indemnity Duty. To the fullest extent permitted by law the Contractor shall indemnify and hold harmless the Owner, its agents and employees from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section.

8.2 In claims against any person or entity indemnified under this Section by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 7.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

8.3 Failure to Perform Work. The Contractor shall be liable to the Owner for all costs and/or damages that the Owner incurs as result of the Contractor's failure to perform the Work, or part thereof, in accordance with Contract Documents. Contractor's failure to perform shall also include, but not be limited to, the failure of its subcontractors and/or suppliers of any tier to perform. The Contractor's liability to the Owner shall include, but shall not be limited to (1) the increase costs of performance, including services of the Architect, the Owner's representative and other consultants, resulting from the Contractor's failure to comply with the Contract Documents; (2) costs of removal of defective or noncompliant work, (3) costs of

corrective or warranty work; (4) costs of any Owner liability to third parties caused by Contractor's failure to perform the Work, or any part thereof; (4) costs of re-procurement; (5) attorney fees and related costs, including costs incurred in enforcing Owner's rights under the Contract Documents; and (6) liquidated and/or stipulated damages.

8.4 Liens. In the event a Lien is filed by anyone in relation to the Work, the Owner shall have the right (1) to require the Contractor to furnish to the Owner a release of a Lien or claim that has been recorded by the person or entity filing the claim; (2) to require the Contractor to discharge the Lien by posting a bond with the Clerk of Court for the Parish of Orleans within five (5) calendar days of notice by the Owner to the Contractor; and/or (3) to retain out of any payment due or thereafter to become due an amount sufficient to indemnify the Owner against any Lien or claims of a Lien, including bond premiums and attorney fees, and to apply the same in such manner as Owner deems necessary to satisfy such claims and Liens.

8.5 In the event such Lien is not discharged, the Contractor at its sole cost and expense, including attorneys fees, shall hold harmless and defend the Owner of and from any and all claims, lawsuits, causes of actions and demands of any person or entity asserting or claiming any right as a result of any Lien or claim, recorded or unrecorded, against the Contract Funds or the Owner's property. In the event such Lien is not discharged, the Contractor shall be deemed in default and the Owner shall have the right to terminate the Contract for said default. The Owner shall also have the right, but not the obligation, to bond said Lien (s), and Contractor shall be responsible for all costs incurred as a result thereof, including but not limited to, bond premiums and attorney fees.

8.6 Prior to the receipt of any partial payment, or of Final Payment, Contractor shall provide the Owner a partial release or a final release, as appropriate, of all Liens and claims of any persons furnishing labor and/or materials to the Work. Contractor shall not receive Final Payment before providing to the Owner satisfactory evidence that there are no other Liens or claims whatsoever outstanding against the Work or Contract.

IX. TERMINATION

9.1 Termination by Owner for Cause. Owner may, after giving Contractor seven (7) days written notice and an opportunity to commence and continue to cure the alleged cause, terminate the Contract if Contractor violates any material provision of this Contract or:

- (a) refuses or fails to supply enough properly skilled workers or proper materials; or
- (b) fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between Contractor and the subcontractors; or
- (c) persistently disregards laws, ordinances, rules, regulations or orders of public authorities having jurisdiction; or
- (d) fails to provide Owner, upon request, reasonable evidence that the

Work will be completed by the date of Substantial Completion.

When termination based on any above reasons occurs, Owner may, without prejudice to any other rights or remedies:

- (a) take possession of the site and of all materials, equipment, and machinery thereon owned by Contractor;
- (b) accept assignment of subcontracts;
- (c) finish the Work using reasonable methods. Upon Contractor's request, Owner shall furnish to Contractor a detailed accounting of the costs Owner incurs in finishing the Work; and
- (d) charge Contractor the costs of completion in excess of the amounts due to Contractor.

9.2 Termination by Owner for Convenience. Owner may terminate the Contract for Owner's convenience. Upon receipt of written notice from Owner of such termination, Contractor shall:

- (a) cease operations as directed by Owner in the notice;
- (b) take actions necessary, or that Owner may direct, for the protection and preservation of the Work; and
- (c) except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

In case of Termination by Owner for Convenience, Contractor shall be entitled to receive payment for Work executed to the effective date of termination, based on the percentage of the Work completed compared to the Schedule of Values at **Exhibit B**, plus those costs necessary to satisfy the obligations incurred as a result requirements of subsections (a)-(c), above.

9.3 Termination by Contractor for Cause. In addition to Contractor's right to terminate the Contract pursuant to Section 2.7, the Contractor may terminate the Contract for cause if the Owner breaches any material provision of the Contract Documents. Prior to terminating the Contract for cause under this Section, Contractor shall first provide Owner seven (7) days written notice of the alleged breach. If Owner fails to cure the breach within seven (7) days of receipt of such notice, or fails to commence and diligently continue with cure efforts if the breach cannot reasonably be cured within seven (7) days, the Contractor may terminate the Contract.

X. MEDIATION

CONTRACTOR:

By: marais design build llc



Printed Name:

_____ jared watson _____

Title:

_____ member _____

E-mail:

_____ jared@maraisdesignbuild.com _____

Fax:

Address:

_____ 1229 St thomas _____
_____ new orleans, la 70130 _____

OWNER:

By: corbel and quoin designs llc



Printed Names:

_____ joe robert _____

Title:

_____ member _____

E-mail:

_____ joe@reverealtors.com _____

Fax:

Address:

_____ 3206 Baronne St. _____
_____ new orleans, la 70130 _____

Contractor Registration No.: 887111

- Exhibits:
- A-Plans and Specifications
 - B- Schedule of Values
 - C-1 Unconditional Lien Release Form
 - C- 2 Conditional Lien Release On Final Payment Form
 - D- Change Order Form
 - E- Project Schedule

EXHIBIT A

PLANS AND SPECIFICATIONS

Plans and Specifications created by Marais Architects will be a separate document but considered a part of the “contract”, and the contractor shall be responsible for all measures set forth inside this contract.

EXHIBIT B

SCHEDULE OF VALUES Under Beam 2,090 sf

Category	Finish Material	Owner's Allowance	Notes
Site/Demo/Dumpster/Portolet		\$5,000.00	
Plumbing		\$15,000.00	
Electrical		\$15,000.00	
Mechanical or HVAC		\$17,500.00	
Foundation		\$21,500.00	
Framing		\$56,000.00	
Flat work		\$3,500	
Roofing shingles		\$9,500.00	
Gutters		\$3,200.00	
Siding and Exterior Carpentry		\$16,500.00	
Insulation batt walls / ceiling		\$3,200.00	
Insulation		\$2,600.00	
Drywall:		\$13,000.00	
Interior Trim Carpentry		\$11,000	
Interior Paints/Staining and Coatings		\$11,000	
Exterior Paint		\$13,500.00	
Exterior Rails:		\$2,500.00	
Windows		\$2,200.00	
Exterior Doors		\$2,500	
Interior Doors		\$6,000.00	

Landscaping		\$2,500.00
Tile	(labor and material)	\$7,500
Bathroom vanities		\$3,000.00
Kitchen Cabinets		\$8,500
Countertops		\$4,200
Finish Hardware door handles		\$2,500
Appliances KI/WD/WH		\$5,000
Plumbing Fixtures		\$2,500
Electrical Fixtures		\$2,500

Build total: **\$268,400**

EXHIBIT C-1

CONDITIONAL WAIVER AND RELEASE
UPON PROGRESS PAYMENT

The undersigned has been paid and has received a progress payment in the sum of \$_____ for labor, services, equipment, or material furnished to _____ (Maker of Check) on the job of _____ (Owner) located at _____ (Job Description) and when the check has been properly endorsed and has been paid by the bank upon which it is drawn, the undersigned does hereby release any mechanic's lien, stop notice, or bond right that the undersigned has on the above referenced job to the following extent. This release covers a progress payment for labor, services, equipment, or materials furnished to only and does not cover any retentions retained before or after the release date; extras furnished before the release date for which payment has not been received; or extras or items furnished after the release date. Rights based upon work performed or items furnished under a written change order which has been fully executed by the parties prior to the release date are covered by this release unless specifically reserved by the claimant in this release. This release of any mechanic's lien, stop notice, or bond right shall not otherwise affect the contract rights, including rights between parties to the contract based upon rescission, abandonment, or breach contract, or the right undersigned to recover compensation for furnished labor, services, equipment, or material covered by this release if that furnished labor, services, equipment, or material was not compensated by the progress payment.

Dated: _____

(Contractor)

By: _____

(Print Name)

(Title)

EXHIBIT C-2

**CONDITIONAL WAIVER AND RELEASE UPON
FINAL PAYMENT**

Upon receipt by the undersigned of a check from _____ in the

(Maker of Check)

sum of \$ _____ payable to _____ and when the check

(Payee)

has been properly endorsed and has been paid by the bank upon which it is drawn, this document shall become effective to release any mechanic's lien, stop notice, or bond right the undersigned has on the job of _____ located at _____.

(Owner)

(Job Description & Address)

This release covers the final payment to undersigned for all labor, services, equipment, or material furnished on the job. Before any recipient of this document relies on it, the party should verify evidence of payment to the undersigned.

Dated:

(Contractor)

By

(Print Name)

(Title)

EXHIBIT D

CHANGE ORDER

Company:

Date:

1229 St Thomas Street
New Orleans, LA 70130

Contractor: _____

Subcontractor:

Project:

Change Order #:

You are directed to make the following changes in this contract:

Original contract date:

Original contract sum:

\$ _____

Net amount of previous change orders:

\$ _____

Total original contract amount plus or minus net change orders: \$ _____

Total amount of this change order:

\$ _____

The new contract amount including this change order will be: \$ _____

The contract time will be changed by the following number of days: () Days

The date of completion as of the date of this change order is:

Company:
Subcontractor:

Contractor or

Name _____

Name

1229 St Thomas Street

Address _____

Address

New Orleans, LA 70130

Date _____

Date

Signature _____

Signature

EXHIBIT E

PROJECT SCHEDULE