

**NORTH BRUNSWICK HOUSING REHABILITATION PROGRAM (HRP)  
Administered by the North Brunswick Housing Corporation (NBHC)**

**CONSTRUCTION CONTRACT**

THIS CONTRACT, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between:

**BETWEEN**

\_\_\_\_\_

\_\_\_\_\_

North Brunswick, New Jersey 08902

referred to as the "Owner",

**AND**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

referred to as the "Contractor".

**WHEREAS**, the **North Brunswick Housing Corporation** (hereinafter referred to as "NBHC") has been selected by the **Township of North Brunswick** (hereinafter referred to as "Township") to administer the **North Brunswick Housing Rehabilitation Program** (hereinafter referred to as "HRP"); and

**WHEREAS**, the **NBHC** has retained **PRC Management Co. Inc.**, (hereinafter referred to as "PRC") to act on its behalf to provide all clerical, administrative, professional and construction-related services necessary to administer the program; and

**WHEREAS**, **PRC** prepared a detailed Work Write-Up and Cost Estimate for renovation work to be accomplished on the property; and

**WHEREAS**, **PRC** reviewed the Work Write-Up and Cost Estimate with the **Owner** who formally approved the Work Write-Up and Cost Estimate; and

**WHEREAS**, **PRC** has duly solicited proposals for goods and or services contracted for herein on behalf of the **Owner** in accordance with **HRP** guidelines; and

**WHEREAS**, the **Contractor** has filed a proposal with **PRC** on the official Proposal Form; and

**WHEREAS**, **PRC** has issued an Award of Contract letter on behalf of the **Owner**

W I T N E S S E T H

NOW, THEREFORE in consideration of the foregoing and the mutual covenants hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the **Owner** and the **Contractor**, the Parties hereby agree as follows:

1. **Scope of Work.** The **Contractor** shall furnish all labor, equipment and materials necessary for the performance of this Contract in accordance with the Scope of Services attached hereto as Appendix "A" (the "Work") and made a part hereof, subject to any modifications, general conditions or specifications that may be issued in writing by **PRC**. The Work includes the provision and delivery of all such tools, materials, supplies, equipment, labor and plans, as may be required to properly complete the Work described herein unless otherwise indicated. All Work shall be performed in accordance with the specifications set forth in Appendix "A" and in accordance with all applicable governmental requirements and regulations, as well as all standard practices and procedures. No substitutions shall be allowed for any materials unless approved in writing by **PRC**. All Work shall be performed in a good and workmanlike manner.

**Contractor** shall furnish the Work upon the property located at \_\_\_\_\_ (the "Property").

2. **No Additional Work.** The **Owner** shall not ask the **Contractor**, nor contract with any other contractor, to perform any additional work beyond what is specified in the Scope of Services and any approved change orders.
3. **Commencement and Completion of the Work.** **PRC** shall be responsible for the filing and paying for all applicable Construction Permits. The **Contractor** agrees to submit information as may be reasonably required by **PRC** within three (3) days of the Pre-Construction Conference. The **Contractor** shall commence the Work under this Contract within fourteen (14) calendar days from the date of the issuance of applicable Construction Permit(s), and to diligently and continuously prosecute the Work, coordinating the Work with other contractors at the project to minimize any delays. The Work shall be completed within thirty (30) calendar days from the date of commencement of the Work (the Project Commencement Date), time being of the essence. **Contractor** agrees to notify **PRC** of Project Commencement Date.
4. **Compensation and Payments.** **Contractor** agrees to perform all of the work for the lump sum price of \_\_\_\_\_ Dollars (\$\_\_\_\_\_). Payments shall be made only upon submission of a Request for Payment Form supported by invoices documenting that the Work for which payment is requested has been satisfactorily completed, and to the extent applicable, duly inspected and approved. Such payments shall not constitute acceptance of the Work. In the event of a request for an advance payment, the Contractor shall specify all goods and materials sought to be purchased using the advance payment. For purposes of this Contract, an advance payment in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) shall be made. Upon completion of all of the Work specified in the Construction Contract and any executed Change Orders, and issuance of a Certificate of Completion & Final Payment by **PRC**, **PRC** agrees to pay the remaining Contract Amount.
5. **Construction Liens and Lien Claims.** In consideration of the Final Payment, the **Contractor** shall furnish waiver of liens, in the form attached hereto as Appendix "C", for all of the Work performed and agrees not to file, and waives any right to file, in

connection therewith any lien, mechanics' notice of intention, stop notice, lien claim notice of unpaid balance and right to file lien or similar document.

6. **Indemnification and Insurance.** Contractor agrees to indemnify and hold the **NBHC**, the **Township** and **PRC**, and all of the officials, officers, agents, servants, representatives, and employees of the **NBHC**, the **Township** and **PRC**, harmless from and against any claim, liability, cost or expense of every kind and nature arising from **Contractor's** performance of the **Contractor's** obligations pursuant to this Contract, the failure by **Contractor** to perform such obligations, any action or failure to act by the **Contractor** with respect to the project to which this Contract is applicable or in connection with any allegation of any of the foregoing. Such indemnification and/or hold harmless obligation shall extend not only to any damages but to costs and expenses of litigation, including but not limited to expenses and fees in connection with the engagement or utilization of any fact or expert witnesses as well as reasonable attorney's fees. When requested by the **NBHC**, the **Contractor** agrees to aid and defend the **NBHC**, the **Township**, **PRC** and all of the officials, officers, agents, servants, representatives and employees of the **NBHC**, the **Township** and **PRC** in the event any or all of same are named as a defendant or defendants in any action relating to the activities or obligations of the **Contractor** arising under this Contract or in connection with the project to which this Contract applies.

The **Contractor** shall maintain, until completion of the Work and receipt of Final Payment, commercial general liability insurance for \$500,000 per occurrence and shall add the **Owner**, **NBHC**, the **Township**, and **PRC** as additional insureds. A copy of this insurance certificate is attached as Appendix "B."

7. **Representations and Warranties.** The **Contractor** expressly represents and warrants:
- (a) That Contractor is financially solvent and experienced and competent to perform the type of work, and to furnish the materials, supplies and equipment, to be so performed or furnished in accordance with this Contract;
  - (b) That if the Contractor is a business entity (corporation or limited liability company) such entity was duly created and organized in the State of New Jersey and is in good standing under the laws of New Jersey and has the power and authority to enter into and perform its obligations under the within Agreement.
  - (c) That Contractor is familiar with all federal, state, county, and municipal laws, ordinances and regulations which may in any way affect the Work or those employed therein, including, but not limited to, any special acts relating to the Work under this Contract;
8. **Inspection.** **PRC** has the right at all times to inspect or otherwise evaluate completed Work or Work being performed and the premises on which such Work is being performed. If an inspection or evaluation is to be made by **PRC**, the **Contractor** shall provide, or require his subcontractors to provide, all reasonable facilities and assistance for the safety and convenience of **PRC's** representatives in the performance of their duties. **PRC**, its representatives, consultants, employees or agents, shall not supervise, direct or have control over the **Contractor's** Work during such observations, nor shall they have authority over or responsibility for the means, methods, techniques, sequences or procedures selected by the **Contractor** for safety precautions and programs incident to the work of the **Contractor** or for any failure of the **Contractor** to comply with applicable laws, rules, regulations, ordinances, codes or orders.

9. **Safety.** Where applicable, the **Contractor** shall be solely and completely responsible for providing and maintaining safe conditions at the work site, including the safety of all persons and property during performance of the Work. This requirement shall apply continuously and shall not be limited to normal working hours. The **Contractor** shall take all safety precautions as shall be necessary to comply with all applicable laws and to prevent injury to persons and damage to property.
10. **Discrimination.** During the performance of this Contract, the **Contractor** agrees The **Contractor** or Subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The **Contractor** will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. 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.
11. **Cleaning.** **Contractor**, at its own expense, shall keep the Property and surrounding area free from accumulation of waste materials or rubbish caused by performance of the Work on a daily basis and at completion of the job. In the event **Contractor** shall fail to remove any of the foregoing upon direction of **PRC**, **PRC** shall have the right to remove any of the foregoing at the sole cost and expense of the **Contractor** and **PRC** shall have the right to offset such cost and expenses against any outstanding amount due the **Contractor**.
12. **Guarantee.** The **Contractor** shall repair, replace or correct, at the **Contractor's** sole cost and expense, any defects in workmanship or materials discovered within one year of the issuance of a Certificate of Completion and Final Payment by **PRC**. If **Contractor** fails to complete any repair or replacement within a reasonable period of time after written notification to do so, **PRC** may proceed to arrange for the completion of such Work. The **Contractor** shall be required to pay the cost of such Work within thirty (30) days following completion of such repair or replacement.
13. **Conflicts of Interest.** The **Contractor** covenants that he has no interest, direct or indirect, which would conflict with the performance of any of the Work or other services required to be performed under this Contract and while so performing, shall not acquire any such interest. The **Contractor** further covenants that, in the performance of his duties under this Contract that he will not employ any person having such an interest.
14. **Independent Contractor.** While engaged in carrying out and complying with the terms and conditions of this Contract, the **Contractor** is an independent contractor and not an officer, employee or agent of the **NBHC** or **PRC**. The **Contractor** shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of the **NBHC** or **PRC**.
15. **Liquidated Damages.** The **Contractor** agrees that if he should neglect, fail, or refuse to complete the work or supply goods in accordance with the Contract Documents within the time specified, he shall pay the **NBHC** One Hundred Dollars (\$100.00) per day, not as a penalty, but as liquidated damages for such breach of Contract as hereinafter set forth, for each and every calendar day that the **Contractor** shall exceed the time stipulated in the Contract Documents for completing the Work or supplying the goods. The amount to be paid is fixed and agreed upon by and between the **Contractor** and the

**Owner** because of the impracticability and extreme difficulty of fixing and ascertaining the true value of the damages which the **Owner** will sustain by failure of the **Contractor** to complete the Work or supply the goods on time and in accordance with this Contract. Said amount is agreed to be the amount of damage which the **Owner** will sustain and said amount shall be recovered by having **PRC** deduct the same out of any monies due or that may become due the **Contractor**. If said monies are insufficient to cover said damages, then the **Contractor** shall pay the amount of the difference.

It is also understood and agreed that if the **Contractor**, without fault, is unable to complete the Contract within the time specified, he may apply to **PRC** for a reasonable time extension. If **PRC** determines that the **Contractor** is without fault and that the **Contractor's** reasons for requesting a time extension are acceptable, **PRC** has the right to grant said extension, and liquidated damages will be charged from the end of such extension period to the completion of the Work.

16. **Controlling Law.** All controversies, disputes or questions concerning the construction, validity and interpretation of this Agreement shall be governed by and construed in accordance with the domestic laws of the State of New Jersey, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New Jersey or any jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of New Jersey. The parties consent to the filing of an action in, and hereby submit to the jurisdiction of, the State courts located in the State of New Jersey, County of Middlesex, and further agree that such Courts shall be exclusive courts of jurisdiction and venue for any litigation arising under this agreement.
17. **Waiver.** Modification or waiver of any of the provisions of this Contract shall be effective only if made in writing, and executed with the same formality as this Contract. The failure of either party to insist upon strict performance of any of the provisions of this Contract shall not be construed as a waiver of any subsequent default of the same or similar nature.
18. **Severability.** In the event that any one or more of the terms and conditions contained in this Agreement shall be deemed invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining terms and conditions contained herein shall not in any way be affected or impaired thereby.
19. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto and supersedes all prior and contemporaneous agreements, understanding, negotiations and discussions, either oral or executed in writing by the parties to be bound thereby. Any oral representations or modifications concerning this Agreement shall be of no force and effect, excepting a subsequent modification in writing, signed by both parties.
20. **Assignment.** No assignment of this Agreement may be made by either party except by mutual written consent signed by both parties.

[SIGNATURE PAGE FOLLOWS]

WITNESS/ATTEST:

CONTRACTOR

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WITNESS/ATTEST:

OWNER

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#### NOTICE TO CANCEL

YOU MAY CANCEL THIS CONTRACT AT ANY TIME BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER RECEIVING A COPY OF THIS CONTRACT. IF YOU WISH TO CANCEL THIS CONTRACT YOU MUST EITHER:

1. SEND A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED; OR
2. PERSONALLY DELIVER A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION TO:

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*(Name of Contractor)*

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*(Address of Contractor)*

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*(Telephone Number of Contractor)*