

REHABILITATION CONTRACT

SAMPLE AGREEMENT

CASE NO. «case status»-«case no»

This Agreement, entered into this _____ day of _____, 2013 by and between «contractor_name_proper», a Michigan limited liability company ("the CONTRACTOR") whose address is «contractor_address_proper», «contractor_city_state_zip_proper» and «legal_name» ("the OWNER") whose address is «Address», «city_state_zip».

Upon consideration of the mutual promises and covenants of the parties, the OWNER and CONTRACTOR agree as follows:

1. BACKGROUND

The City of Warren is administering a Rehabilitation Program in which HOME Investment Partnership funds from the United States Department of Housing and Urban Development are loaned to residents of the City of Warren for the purpose of rehabilitating residential structures. The OWNER is a loan recipient under the Rehabilitation Program for certain work to be performed at OWNER'S home at «Address», «city_state_zip». CONTRACTOR selected was selected by OWNER to perform the work pursuant to the City of Warren Community Development Residential Rehabilitation procedures. In order to assure that such loan will inure to the benefit of eligible recipients, this Agreement is executed.

2. WORK DESCRIPTION; CONTRACT PRICE

The CONTRACTOR agrees to perform all of the work described in the bids, plans, and specifications in connection with the City of Warren Community Development Residential Rehabilitation Case No. DH-«case_no» and all of which are incorporated by reference and made part of this Agreement. The work shall be performed at the property located at «Address», Warren, Michigan. The legal description of the property is «Legal_Description», as recorded in Liber «Liber», Pages «Page», Macomb County Register of Deeds. Payment shall be based upon actual labor and materials provided in accordance with this Contract, the bids, specifications and plans. All work shall be performed in a good and workmanlike manner. The OWNER shall pay to CONTRACTOR the sum of «contract_amt_written» Dollars («contract_amount») in accordance with this Contract and City of Warren Community Development Rehabilitation Program.

3. CITY OF WARREN COMMUNITY DEVELOPMENT PROGRAM OVERSIGHT

The CONTRACTOR and OWNER agree and understand that the City of Warren is involved in the administration of this Agreement to ensure the proper implementation of the Community Development Block Grant Program objectives and to ensure proper expenditure of funds on rehabilitation work that satisfies federal and local Community Development Block Grant standards. The CONTRACTOR and OWNER agree that any involvement, direction or inspection by or from the City shall not be construed as creating any liability on the part of the City of Warren for defective work or materials or for any act or omission committed by either the OWNER or CONTRACTOR.

CONTRACTOR and OWNER agree to, and will comply with, any oversight, decision or discretion exercised by the City of Warren as provided in this agreement.

4. MATERIAL, LABOR AND APPLIANCES

Unless otherwise stipulated, the CONTRACTOR shall provide and pay for all materials, labor, tools and equipment necessary for the completion of the work. The OWNER will permit the CONTRACTOR, at no cost, to use existing utilities such as light, heat, power, and water necessary to the carrying out and completion of the work. The CONTRACTOR represents that all persons performing services on the property shall be authorized and/or permitted under federal, state, or local law, and shall be fully trained, competent and licensed to perform such work. The CONTRACTOR shall be responsible for paying all laborers, subcontractors, and suppliers, and shall take all action necessary to protect the OWNER from any claims or liens that may be made by such subcontractors, laborers, and suppliers. The OWNER is responsible for providing access to CONTRACTOR during weekday business hours, and as necessary for the performance of the work and for the movement of appliances as needed.

5. TIME FOR PERFORMANCE

The CONTRACTOR shall begin work within thirty (30) calendar days of the written Notice to Proceed signed by the OWNER, and shall satisfactorily complete all work within ninety (90) days of the issuance of the Notice to Proceed. All time limits in this Agreement are of the essence, and the failure of the CONTRACTOR to Comply with the stated times may result in termination of this Agreement.

The City Rehabilitation Inspector may grant one extension of time for an additional period not to exceed ninety (90) days with the OWNER's written consent and if the delay is due to weather or other valid reasons.

If the City Inspector denies an extension or if the work is not commenced or completed within the time allowed by the extension, the case shall be presented to the City of Warren Community Development Committee. The Committee may

either grant an extension or determine that the contract has been abandoned. If the Committee determines that the contract has been abandoned, the OWNER may contract with another contractor for completion of the work. The cost of completing the work will be deducted from the Contract Amount specified herein.

6. CODE, PERMITS, AND REGULATIONS

The CONTRACTOR shall obtain and pay for all permits and licenses and shall give all notices, pay all fees, and comply with all applicable laws, ordinances, rules and regulations at all times in the performance of this agreement. If the work of the CONTRACTOR shall be done contrary to such laws, ordinances, rules or regulations, the CONTRACTOR shall bear all costs arising there from.

7. LEAD BASED PAINT

The CONTRACTOR shall ensure that all work is performed in compliance with the Lead-Based Paint Hazard Reduction Act of 1992, and all regulations, orders and rules issued there under. The CONTRACTOR assumes responsibility for knowing the content of the Lead-Based Paint laws and regulations and what safe work practices and protections are to be observed on the property, and shall apply the same as applicable.

The OWNER will remove any item of personal property or vacate the premises or any area thereof as may be necessary for the CONTRACTOR to carry out safe work practices and perform any inspection under the Act. The OWNER understands that the work to be performed under this Agreement may not result in the complete removal of lead-based paint from the property.

8. PROTECTION OF WORK AND PROPERTY

The CONTRACTOR shall provide necessary protection and take all necessary precautions to prevent damage, injury, or loss to the work and to the OWNER's property and/or adjacent property when performing work required by the CONTRACTOR under this Agreement. The CONTRACTOR shall repair or replace any damage or injury arising from or related to the work and/or the performance of this Agreement, or shall provide reimbursement for such damage or injury or loss.

Further, it shall be the responsibility of the CONTRACTOR to remove from the premises any debris or refuse resulting from this Agreement contract, leaving the same in a neat and orderly condition. Materials and equipment that are removed and replaced as part of the work shall belong to the CONTRACTOR.

9. INSURANCE

A. Prior to the commencement of any work under this Agreement, the CONTRACTOR, and all of its subcontractors shall procure and keep in force at all times, insurance coverage in the following types and limits:

COMMERCIAL GENERAL LIABILITY:

The following coverage is part of the General Liability policy:

Policy should be on an **OCCURRENCE BASIS WITH COMBINED SINGLE LIMITS.**

General Aggregate	\$2,000,000
Products/Completed Operations Aggregate	\$1,000,000
Personal & Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000
Fire Damage-Any one fire	\$ 50,000
Medical Expense-Any one person	\$ 5,000

Per project aggregate limit, independent contractors coverage, broad form property damage and blanket contractual liability coverage.

AUTOMOBILE LIABILITY:

Automobile liability insurance coverage shall be \$1,000,000 combined single limit for any auto and include hired autos and non-owned autos.

WORKERS' COMPENSATION INSURANCE:

Workers' compensation insurance shall be statutory under the State of Michigan Worker's Compensation Act.

ASBESTOS ABATEMENT:

In addition to the above, subcontractors used by the awarded bidder for asbestos abatement services must also have:

Pollution Liability Coverage	\$1,000,000
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ASBESTOS-HAZARDOUS WASTE TRANSPORTERS:

In addition to the above, transporters of regulated hazardous waste including regulated asbestos containing materials must also have:

Truckers Pollution liability insurance in the amount of \$1,000,000 per occurrence (Pollution liability endorsement number CA99481293 available on commercial auto policies.)

B. The certificates of insurance shall be delivered to:

City of Warren
Community Development Program
One City Square, Suite 210
Warren, Michigan 48093

The CONTRACTOR shall obtain and have on file certificates of insurance for all subcontractors. These shall be made available to the City of Warren or the OWNER upon request.

C. The Certificates of Insurance (or applicable renewal certificates) in the name of the CONTRACTOR or subcontractor shall include an endorsement naming the OWNER and the following as an additional insured:

The City of Warren, City of Warren Municipal Building Authority, the 37th District Court, all elected appointed officials, employees and volunteers as individuals acting within the scope of their authority, AS AN ADDITIONAL INSURED.

D. Notice of Cancellations:

All insurance policies and certificates shall include a written provision providing 30 days prior written notice to the CITY of cancellation, non-renewal or material change or reduction of coverage. The CONTRACTOR shall cease operations on the occurrence of any such cancellation, material change or reductions, and shall not resume operations until new insurance is in force.

E. The CONTRACTOR and any of its subcontractors shall maintain adequate insurance to cover any claims arising from or related to the performance of the work under this Agreement regardless of the limits imposed in this Agreement. The CONTRACTOR further agrees that the insurance coverage pursuant to this Agreement shall in no way limit the CONTRACTOR's liabilities and responsibilities specified in this Agreement.

10. ASSIGNMENT OF CONTRACT

The CONTRACTOR may not assign the Agreement without written consent of the OWNER and concurrence of the City. The request for the assignment must be addressed to the OWNER c/o the City of Warren, One City Square, Suite 210, Warren, MI 48093.

11. RESPONSIBILITY OF CONTRACTOR

The CONTRACTOR shall be responsible for the execution of satisfactory and complete work in accordance with the true intent of the drawings and/or specifications. All

measurements in the work specifications are approximate and are meant only as a bidding aid; exact measurements are the responsibility of the CONTRACTOR. When dimensions are mentioned in the plan, the figures shall be taken in preference to measurements by scale.

The CONTRACTOR shall provide, without charge, all incidental items required as part of this work, even though not particularly specified or indicated. If the CONTRACTOR has good reasons for objecting to the use of any materials, appliances, or methods of construction as shown or specified, the CONTRACTOR shall make a report of such objections to the Owner and obtain consent from the Owner.

12. PRE-CONSTRUCTION MEETING

Prior to the commencement of work, the contractor shall have a pre-construction conference with the OWNER and the City of Warren Building Department.

13. CHANGE ORDERS

Change orders may be approved in unavoidable and unanticipated situations, where the need for the item of work cannot be reasonably discovered until commencement of the rehabilitation work. The CONTRACTOR is not entitled to additional compensation for conditions that should have been anticipated or by reason of failing to become familiar with the site. Change orders must be fully documented with cost justification, signed and dated by the OWNER, Rehabilitation Inspector and CONTRACTOR, and approved by the City's Program Coordinator. Should the cost of the change orders increase the Contract Amount, the OWNER must sign a new mortgage and promissory note with the City of Warren.

14. ORDERS AND COOPERATION FROM OWNER

The OWNER shall not direct or give orders to individual subcontractors or laborers. Any orders that the OWNER wants carried out shall be transmitted to the CONTRACTOR. The OWNER will cooperate with the CONTRACTOR to facilitate the performance of the work, including the removal and replacement of rugs, coverings, and furniture as necessary. The OWNER shall confine or remove pets from the work site during work hours, remove any clutter, unsanitary conditions or debris from the work site, and shall also be responsible for any tenant's cooperation with the CONTRACTOR. OWNER agrees to provide access to property during generally accepted weekday hours to CONTRACTOR and City for their performance of their respective work or services under this Contract and documents executed in connection with this contract. The OWNER shall provide the CONTRACTOR with access to property in order for CONTRACTOR to perform work. The OWNER is responsible for moving furniture and appliances or other materials as necessary to provide the CONTRACTOR with access needed to perform the work. If, at OWNER'S request, CONTRACTOR moves such items, CONTRACTOR will not be deemed responsible for any resulting damage, unless such damage is caused by CONTRACTOR'S gross negligence.

In all dealings with the Owner, the Contractor may consult with and rely upon the decisions and guidance of _____ as the representative of the Owner (or either one of the individual owners), except that invoices and the Statement of Homeowner Satisfaction must be signed by both individual owners.

15. GUARANTEES AND WARRANTIES

Neither the final payment nor any of the retained percentage shall become due until the CONTRACTOR shall furnish the OWNER, c/o the City of Warren Community Development Block Grant Program Director, with all manufacturers' and suppliers' written guarantees and warranties covering materials and equipment furnished under the Agreement.

The CONTRACTOR must guarantee the work performed for a period of eighteen (18) months from the final acceptance of all work required by this Contract, regardless of whether the work was furnished by a subcontractor, laborer or supplier.

16. INSPECTIONS

All rehabilitation work is subject to inspection and monitoring by the City of Warren Inspectors, and an inspection by a lead-based paint risk assessor.

The CONTRACTOR and OWNER agree that the City of Warren inspectors and any lead-based paint inspector may enter the property as is necessary to perform the inspections.

In the event the City of Warren Rehabilitation Inspector determines that the work is not consistent with the bids, specifications, or City of Warren Minimum Property Rehabilitation Standards, the Inspector has the right to require correction of defective work or replacement of unsuitable materials. The CONTRACTOR shall make good such defects. The City Inspector shall also have authority to stop work whenever necessary. In such event, the case will be automatically presented for disposition to the Community Development Block Grant Committee whose decision is final.

The final payment on the Contract amount will be made only after final inspection and acceptance of all work by the City of Warren Rehabilitation Inspector and lead-based paint clearance inspector, and the CONTRACTOR has furnished to OWNER, c/o the City of Warren, Community Development Block Grant Program Director, satisfactory release of liens or claims for liens by the CONTRACTOR, subcontractors, laborers, and materials' suppliers. The CONTRACTOR is responsible for scheduling the inspections for each permit or license, and for scheduling the final inspection and the lead-based paint clearance inspection. The CONTRACTOR is responsible for having work completed at the time the inspections are made. Failure to do so will result in the need for a re-inspection at the CONTRACTOR's expense, including payment for additional clearance inspections until a passing result is achieved.

17. PROGRESS PAYMENTS

One progress payment will be made for satisfactory work, at the request of the CONTRACTOR in an amount not to exceed 50% of the contract amount provided that the value of the work satisfactorily performed is equal to at least 80% of the contract amount. To initiate processing of the progress payment, the CONTRACTOR must submit an original invoice, approved and signed by the OWNER and the Rehabilitation Inspector.

18. FINAL PAYMENT

Final payment will be made at the request of the CONTRACTOR within 30 days after all of the following conditions are met:

1. After work is completed to the satisfaction of the OWNER, the OWNER signs a "Statement of Homeowner Satisfaction." Both property owners must execute the statement.
2. CONTRACTOR submits fully executed change orders, executed unconditional waivers of lien from laborers, suppliers, and subcontractors, and notarized executed sworn statement from the CONTRACTOR that all labor and material costs have been paid in full.
3. Approval of the rehabilitation work, final clean-up of work site and repairs to property damage, evidenced by a "Final Inspection Certificate", signed by the City of Warren Rehabilitation Inspector.
4. Final completions issued by the City of Warren Building Department for each trade.
5. A lead-based paint clearance inspection report with a passing result.

The CONTRACTOR agrees and understands that it is the CONTRACTOR's obligation to fulfill all of the above conditions, and the failure to comply with any of the above conditions shall result in the withholding of payment by the City of Warren pending resolution.

19. INDEMNITY AND HOLD HARMLESS AGREEMENTS

The CONTRACTOR agrees to indemnify and hold harmless OWNER from and against all claims, damages, losses, and expenses, including reasonable attorney's fees or any injury or damage that may arise out of or relate to the performance of this agreement, any negligent act or omission of the CONTRACTOR or Subcontractor, or that of anyone employed by them or for whose acts CONTRACTOR or Subcontractor may be liable. The CONTRACTOR and/or OWNER agree to hold harmless and indemnify the City of Warren, and any of its officers, employees, commissions, boards and agents, including the City of Warren Community Development Committee, for and from any liability, claim,

suit, demand, cost or expenses that the City of Warren may be subject to as a result of the performance or administration of this Agreement, or any inspection or monitoring of the work.

20. RESOLUTION OF DISPUTES

The OWNER and CONTRACTOR agree that any dispute between the OWNER and CONTRACTOR or any SUBCONTRACTOR will be mediated by the City of Warren CDBG Committee at the request of either party. Such mediation shall cause the items to be put on hold until the dispute is settled. Each party will be given reasonable notice by the City of Warren Community Development Program of the time and place of such mediation. The OWNER and CONTRACTOR agree to abide by the decision of the Committee. The City of Warren shall not be liable for any sum paid as a result of the decision of the Committee. This provision shall not limit the right of either party to pursue legal remedies if mediation fails to result in a satisfactory resolution.

21. NON DISCRIMINATION

Each CONTRACTOR must abide by Federal and local regulations pertaining to equal employment as set forth in Executive Order 11246 if applicable. During this contract, each CONTRACTOR agrees they will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin, age, height, weight, marital status, familial status or handicap. The CONTRACTOR will take affirmative action to ensure non discrimination in 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. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provision of this nondiscrimination clause.

The OWNER shall not discriminate based upon race, color, religion, sex, national origin, age, height, weight, marital status, familial status or handicap in the sale, lease, rental, use or occupancy of the property designated in this Contract.

22. HEADINGS

The headings of the sections in this Agreement are for convenience only and are not intended to limit or interpret the scope of the section.

23. SEVERABILITY

If any provision of this Agreement is found to be invalid, that provision shall be severable, and the balance of the Agreement shall remain in full force and effect.

24. GOVERNING LAW

This Agreement shall be governed by, interpreted, and enforced in accordance with the laws of the State of Michigan, and in any court having jurisdiction over the property which is located in or whose district includes Macomb County, Michigan.

This AGREEMENT shall be binding upon the parties hereto and upon their respective heirs, executors, administrators, or assigns.

IN WITNESS WHEREOF, the parties have set their hand and seals this _____ day of _____, 2013.

IN THE PRESENCE OF: OWNER(S): «legal_name»:

SIGNATURE OF OWNER(S)

_____ _____
«title_holder_one»

_____ _____
«title_holder_two»

State of Michigan)
) ss.
County of Macomb)

On this _____ day of _____, 2013, before me, a Notary Public in and for said County, personally appeared «legal_name» known to me to be the persons described in and who executed on behalf of the Owner.

Notary Public
Macomb County, MI
My Commission Expires:
Acting in the County of Macomb

CONTRACTOR:
«contractor_name_proper», a Michigan
limited liability company:

President

By: «Contractor_Owners_Name»,

State of Michigan)
) ss.
County of Macomb)

Acknowledged before me in Macomb County, Michigan on _____,
2013 by«Contractor_Owners_Name», President of «contractor_name_proper»,
a Michigan limited liability corporation, on behalf of the limited liability
corporation.

Notary Public
_____ County, MI
My Commission Expires:
Acting in the County of Macomb