

FIRST AMENDMENT  
TO  
CONSTRUCTION AGREEMENT

THIS First AMENDMENT to the Construction Agreement dated December 5, 2017, is made and entered into on March 7, 2018 (the "First Amendment") between Richmond Construction Inc., having an office located at 98 Jewett Avenue, Staten Island, NY 10302 ("Contractor"), and the HOUSING TRUST FUND CORPORATION, having its principal office at 38-40 State Street, Albany, New York 12207 ("HTFC").

WITNESSETH:

WHEREAS, Contractor was successfully admitted to the Prequalified List (PQL) for RFQ#201703\_055 on June 16, 2017; and

WHEREAS, Contractor was a successful bidder pursuant to an initial Invitation for Bid (IFB) #003 issued on October 9, 2017; and

WHEREAS, HTFC and Contractor entered into a Construction Agreement (the "Agreement") on December 5, 2017, and made effective December 5, 2017, pursuant to which Contractor provides certain services in support of HTFC's administration of the State of New York's Community Development Block Grant-Disaster Recovery ("CDBG-DR") program; and

WHEREAS, HTFC's Governor's Office of Storm Recovery ("GOSR") is specifically tasked with administering the State of New York's CDBG-DR program and therefore oversees and administers this Agreement; and

WHEREAS, HTFC and Contractor's Contract Price in the Construction Agreement totaled \$1,000,000.00; and

WHEREAS, GOSR wishes to obtain additional services from Contractor that are within the scope of services sought under the RFQ and provided by Contractor under the Agreement; and

WHEREAS, HTFC/GOSR seeks such additional services in the amount of \$1,000,000.00, thereby increasing the Contract Price to a Total Amount of \$2,000,000.00, in order to allow Contractor to perform additional services; and

WHEREAS, HTFC/GOSR seeks to amend the record retention provisions of the Construction Agreement at Article 11.1 relative to the retention of documents; and

WHEREAS, HTFC/GOSR and Contractor desire to amend the Agreement by means of this First Amendment in order to increase the Contract Price to \$2,000,000.00, with no change in Contract Term, and to amend the record retention provisions of the Agreement;

NOW, THEREFORE, pursuant to and in consideration of the above, and other mutual covenants and obligations herein contained, it is

STIPULATED AND AGREED as follows:

1. The Third and Fourth sentences of Article 3 Section 3.1 are hereby deleted and replaced with the following:

“Notwithstanding the latter, Contractor agrees that in no event will HTFC pay the Contractor more than \$2,000,000.00 (“Contract Price”) for the Services under all applicable work orders under this Construction Agreement unless the Contract Price is first modified in writing by a fully executed Amendment to this Construction Agreement. For the avoidance of doubt, the Contract Price for all work to be performed pursuant to this Construction Agreement **shall not exceed \$2,000,000.00.**”

2. Article 11.1 of the “General Conditions” of the Demolition Agreement is hereby deleted in its entirety and replaced with the following:


“Contractor shall keep and maintain the following (the “Books and Records”): (a) complete accounts and cost records of all payments by HTFC to Contractor and/or by Contractor to any Subcontractor or other Person in connection with the Work, including records of all Extra Work and Disputed Work performed; (b) copies (and originals, as appropriate) of all documents of any kind prepared, issued, or received by Contractor in connection with the Work or the Project; (c) all payroll records, receiving documents, time books, job diaries and reports, cost analyses, cancelled checks, sales or excise tax filings and returns (or exemptions therefrom), other government filings, and other documents showing acts or transactions in connection with (or relating to or arising by reason of) the Work, the Contract, or any Subcontract; and (d) one complete set of the Demolition Specifications marked to record all changes by Contractor during the demolition and specifying the applicable Change Orders. Contractor shall, upon written notice from HTFC, produce any or all Books and Records for examination, audit, and/or copying, during regular business hours, at Contractor's office, by a representative of HTFC. Contractor shall keep and maintain all Books and Records connected with this Agreement in accordance with GOSR’s Record Retention Policy as follows:

The State has determined that it will apply a more stringent policy relative to the retention of documents. This more stringent requirement also ensures the State’s compliance with the requirements noted in the CPD Notice issued February 11, 2014. State grantees and/or Contractors (as applicable) shall be required to retain all financial records, supporting documents, statistical records, and all other pertinent records and documents (collectively, the “Records”) (i) for three (3) years from the time of closeout of HUD’s grant to the State or for the period provided in the CDBG regulations at 24 CFR 570.487 (or other applicable laws and program requirements) and 24 CFR 570.488, or (ii) six (6) years after the closeout of a CDBG-funded project pursuant to 42 USC 12707(a) (4) and New York Civil Practice Law and Rules §213, whichever may be longer. Notwithstanding the latter, in the event that litigation, claims, audits, negotiations, or other actions that involve any of the records cited commences prior to the retention period, then all such records must be retained until completion of the actions and resolution of all issues, or for the retention period, whichever occurs later.”


3. All other terms and conditions, including appendices, attachments, exhibits, riders, prior Amendments, and Letter Agreements to the Agreement are hereby continued in full force and effect as though set forth herein.

IN WITNESS WHEREOF, the parties executed this First Amendment on the day and year first above written.

**Richmond Construction, Inc**

By:   
Name: Richie Dillon  
Title: Project Manager  
Date: 3/7/18

**Housing Trust Fund Corporation**

By:   
Name: Daniel Greene  
Title: General Counsel,  
Governor's Office of Storm Recovery  
Date: 3/7/18