

FIRST AMENDMENT  
TO  
CONSTRUCTION AGREEMENT

THIS FIRST AMENDMENT to the Construction Agreement dated April 4, 2016, is made and entered into October 3, 2016 (the "First Amendment") between Irwin Contracting, Inc., having an office located at 671 Old Willets Path, Hauppauge, NY 11788 ("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 #201510\_40 on January 12, 2016; and

WHEREAS, Contractor was a successful bidder pursuant to an initial Invitation for Bid (IFB) #003E issued on February 9, 2016; and

WHEREAS, HTFC and Contractor entered into a Construction Agreement (the "Agreement") on April 4, 2016 and made effective April 4, 2016, 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 particular Agreement; and

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

WHEREAS, GOSR wishes to clarify and amend the insurance provisions contained in the original Agreement, with no change in Term, effective August 1, 2016, in order to replace the "Builders Risk Insurance" requirement with a "Structural Movers Cargo or Riggers Liability Insurance" requirement; and

WHEREAS, GOSR seeks such additional services in the amount of \$2,000,000.00, thereby increasing Exhibit B's "Fee Schedule" to a total amount of \$3,000,000.00; and

WHEREAS, HTFC/GOSR and Contractor desire to amend the Agreement by means of this First Amendment in order to amend and clarify the insurance provisions, increase the Contract Price, and otherwise to continue to perform the services that are within the scope of services provided by Contractor under the Construction 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 \$3,000,000.00 (“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 \$3,000,000.00**”

2. Schedule A (Form of Work Order for Each Project) Requirements section 4 is hereby deleted and replaced with the following:

“Contractor shall have delivered to HTFC certificates of insurance evidencing compliance with the Required Insurance Coverage Types, Insurance Limits, and Endorsements as set forth herein in Sections A and B of Schedule B of this contract, and in the Work Order. “

3. Schedule A (Form of Work Order for Each Project) Work Order Terms and Conditions section H is hereby deleted and replaced with the following:

“Check “yes” or “no” for Structural Movers Cargo or Riggers Liability insurance requirement.”

4. Schedule A (Form of Work Order for Each Project) Work Order Template- Terms and Conditions- The first sentence of section D is hereby deleted and replaced with the following:

“The “Work Order Price” is \$\_\_\_\_\_. The Work Order Price includes the cost of the Bonds and the Structural Movers Cargo or Riggers Liability Insurance, if required, and the cost of all other Required Insurance.”

5. Schedule A (Form of Work Order for Each Project) Work Order Template- Terms and Conditions- Section G is hereby deleted and replaced with the following:

“STRUCTURAL MOVERS CARGO OR RIGGERS LIABILITY INSURANCE

[  ] YES or [  ] NO – Structural Movers Cargo or Riggers Liability Insurance is required for the Work under this Work Order.”

6. Section A (5) of Schedule B (Required Insurance) is hereby deleted and replaced with the following:

“Contractor shall require that all Subcontractors carry liability and property damage insurance of the same types and coverages as specified in paragraphs 2 and 3 of this

section A (except for the coverage under (b)(viii)), as well as coverage specified in section C below (where applicable); and Contractor shall require each Subcontractor to furnish the same documentation of such coverage as required of Contractor hereunder, unless and except as HTFC agrees otherwise in writing.”

7. Section C of Schedule B (Required Insurance) is hereby deleted in its entirety and replaced with the following:

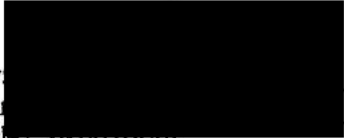
“Structural Movers Cargo or Riggers Liability Insurance

If required by the applicable Work Order, Contractor shall secure and maintain, without interruption during the course of any construction work which includes home elevation through completion, Structural Movers Cargo or Riggers Liability Insurance, on a completed replacement value basis, covering, at least, property of others in the care, custody and control of Contractor and its subcontractors which are performing the elevation work (“elevation subs”), during rigging operations, transport, loading or unloading, rigging, hoisting, erecting, lowering, placing and removing with a crane and in conjunction with other equipment (which may include, but not limited to, forklifts, dollies, skids), and insuring against collapse and all other perils associated with elevation activities, with HTFC, GOSR, the State of New York, and Homeowner as Additional Insureds. The deductible shall be in an amount approved by HTFC and Contractor will be responsible for paying the same for all claims. The policy(ies) will provide primary coverage for the obligations assumed by Contractor and/or its elevation subs and will provide for a waiver of subrogation against HTFC, GOSR, the State of New York, and Homeowner. Homeowner shall have the exclusive right to adjust and negotiate any claims against the Structural Movers Cargo or Riggers Liability Insurance in its sole discretion.”

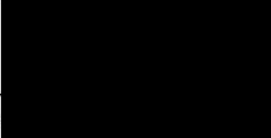
8. All other terms and conditions, including appendices, attachments, exhibits, riders, prior Amendments, and Letter Agreements to the Agreement are hereby continued in full force and effect as though set forth herein.

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

**Irwin Contracting, Inc.**

By:  \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: President  
Date: 10/18/16

**Housing Trust Fund Commission**

By:  \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: General Counsel,  
Governor's Office of Storm Recovery  
Date: 10/24/16