

WEATHERIZATION INDEPENDENT CONTRACTOR AGREEMENT

This Independent Contractor Agreement Extension is made this 1st day of _____ by and between _____ (hereafter referred to as "**Contractor**") and **Capital Area Community Action Agency, Inc.** (hereafter referred to as "**Agency**") for services described in Section II and the Scope of Work. The parties have mutually agreed as follows:

I. RELATIONSHIP

Nothing contained in this Agreement shall be deemed or construed as creating any other business relationship, partnership or joint venture between **Contractor** and **Agency**.

II. SERVICES TO BE PERFORMED

Contractor agrees to provide services listed in the **Scope of Work (Attachment A)** to the satisfaction of the **Agency** and in accordance with federal and state regulations for the Weatherization Assistance Program.

III. MANNER OF PERFORMANCE

Contractor shall properly supervise and direct completion of weatherization measures on all units assigned under this agreement. **Contractor** shall be solely responsible for coordinating all work conducted under the contract. **Contractor** shall provide and pay for all labor, materials, equipment, tools, equipment/machinery, transportation and services necessary for the proper completion of work. **Contractor** shall comply with all laws, ordinances, rules, regulations and orders of any governmental authority bearing on the performance of the work, including local building codes and permits. **Contractor** shall be responsible for the acts and omissions of employees and subcontractors. **Contractor**, at all times, shall keep the premises free from accumulation of waste materials or rubbish caused by the operation. At completion, **Contractor** shall remove all waste and surplus materials and rubbish from and about the premises, shall clean all glass surfaces and shall leave the work "broom clean."

IV. CONFIDENTIALITY

Contractor agrees to keep **confidential** all information provided to **Contractor** and/or employees by **Agency**, excepting such information as is already known to the public, and not to release, use, disclose same, directly or indirectly, to any other person or business, except with prior written permission of **Agency**.

V. NON-EXCLUSIVE RELATIONSHIP

Neither **Contractor** nor **Agency** has an exclusive relationship with the other. **Contractor** is free to perform the above described services for any other person or business, so long as this does not interfere with **Contractor's** satisfactory and timely performance of services for **Agency** under this Agreement.

VI. SUBCONTRACTS

Contractor shall not enter into any subcontract with any subcontractor who has been debarred from performing work by any Agency of the United States Government or by the State of Florida. **Contractor** shall be fully responsible for the acts or omissions of Subcontractors, and of

persons either directly or indirectly employed by them. At no time shall any contract or agreement between **Contractor** and a subcontractor be construed as a relationship, formal or informal, between the subcontractor and **Agency**.

VII. CONTRACTOR'S GUARANTEE

Contractor guarantees all work performed for a period of one (1) year from the date of final acceptance of all work required by the contract. **Contractor** warrants to the Owner/Occupant and **Agency** that all materials and equipment used in the work will be new and free of defects, unless otherwise specified and approved in advance by authorized representative of **Agency**. All manufacturers' and suppliers' written guarantees and warranties covering such materials and equipment shall be furnished to the owner or weatherization household. **Contractor** agrees to correct any defects due to faulty workmanship, materials or equipment and shall pay for or repair any damage to other work resulting there from for a period of one year from the date of final acceptance of the contract work.

VIII. COMMENCEMENT OF WORK

Contractor warrants good title to all materials, supplies and equipment incorporated in the work and free from any claims, liens or charges and that neither **Contractor** nor any other person, firm or corporation shall have any right to put a lien upon the premises or materials, supplies or equipment. **Contractor** must contact the homeowner within 15 days of receiving a Notice to Proceed and must complete all work within 30 days of receiving said Notice.

IX. PROTECTION OF WORK AND PROPERTY

Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work and complying with all applicable laws, ordinances, rules, regulations. **Contractor** shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to (1) all employees on the work site and other affected persons, (2) all work and materials and equipment at the site, and (3) other property at the site. Any damage or loss to any property caused in whole or in part by **Contractor**, Subcontractor or Employees shall be remedied by **Contractor** and **Agency** shall be held harmless.

X. CHANGE ORDERS/WAIVERS

Any change orders must be approved in writing by the Owner/Occupant, **Contractor**, Weatherization Field Coordinator and Weatherization Program Manager, with review and sign off by the Program Director, prior to the commencement of such work. **Waivers** for any work, as specified by state and federal Weatherization Assistance Program guidelines, must be requested by **Agency** in advance and approved by state agency prior to commencement of such work. Any change order or waiver work commenced prior to authorization shall be considered unauthorized work and **will not be reimbursed** by **Agency**.

XI. COMPENSATION

Upon completion of the work for each home, **Contractor** shall submit invoice(s) to **Agency**. **Agency's** Weatherization Field Coordinator, **Contractor** and Owner/Occupant shall inspect the work; if satisfactory, the Field Coordinator shall approve invoice(s) payment. Payment may be withheld on account of defective work or failure of **Contractor** to make payments properly for labor, materials or equipment. **Contractor** invoices will be processed for reimbursement upon

verification that all conditions under the agreement have been met. Reimbursements will be issued within two weeks of satisfactory completion, post inspection, and verification of all billing data.

XII. INDEMNIFICATION

Contractor agrees to sole responsibility, and shall hold harmless **Agency**, its officers, directors, and employees for any and all claims brought against either **Contractor** or **Agency**, or for liabilities incurred by **Agency** as a result of actions or omissions by the **Contractor**, whether under workers' compensation laws, or under any other federal, state, or municipal laws, rules or regulations which may be applicable to other relationships in the Agency-employee context, or which may be applicable to any other set of circumstances not specifically addressed herein.

XIII. INSURANCE

By the date of the execution of this Contract, **Contractor** shall procure and maintain for the duration of this contract, insurance against injuries to persons and damages to property which may arise out of, or in connection with, the performance of the contract. **Contractor** shall furnish evidence of Commercial General Liability, Automobile Liability, and Pollution Occurrence Insurance. **Contractor** shall add **Agency** to its policies as an additional insured and shall provide a certificate of insurance and policy endorsement as evidence of coverage. **Contractor** shall be allowed to seek coverage as an additional insured under **Agency's** Pollution Occurrence Insurance by providing the required premium to **Agency** prior to the date of execution of this contract.

XIV. WORKER'S COMPENSATION

Contractor will remain in compliance with the Workers' Compensation laws for the State of Florida through the duration of this contract. **Contractor** shall provide a certificate of insurance or letter of exemption by the date of execution of this contract.

XV. EQUAL EMPLOYMENT OPPORTUNITY

Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or nation origin. **Contractor** will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. **Contractor** agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. All advertisement will state that all qualified applicants will receive consideration without regard to their race, color, religion, sex or national origin.

XVI. EMPLOYMENT ELIGIBILITY VERIFICATION

Contractor shall use the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by **Contractor** during this contract term. If **Contractor** uses a labor firm, **Contractor** must ensure that the labor firm has verified employment eligibility of the new employees. There is no charge for the E-Verify system and it can be found at www.uscis.gov/e-verify.

XVII. COPELAND “ANTI-KICKBACK” ACT

Contractor shall comply with the provisions of the federal Copeland “Anti-Kickback” Act and agrees to mandate such compliance by its subcontractors. **Contractor** or its subcontractors shall not in any way induce an employee to give up any part of the compensation to which he/she is entitled under his/her contract for employment.

XVIII. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Contractor shall comply with the provisions of the federal Contract Work Hours and Safety Standards Act. **Contractor** shall compute wages of every mechanic and laborer on the basis of a standard 40-hour work week. **Contractor** shall pay wages to laborers and mechanics at a **rate not less than the minimum wage** as set by the federal Department of Labor or the State of Florida, whichever is higher. For work in excess of the standard work week, **Contractor** shall compensate worker(s) at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. **Contractor** shall not require any laborer or mechanic to work in surroundings or under working conditions that are unsanitary, hazardous or dangerous.

XIX. CLEAN AIR/WATER ACT AND FEDERAL WATER POLLUTION CONTROL ACT

For contracts of \$100,000 or more, **Contractor** and its subcontractors shall comply with all applicable standard orders or requirements issued under section 306 of the Clean Air Act, Section 508 of the Clean Water Act, and the Federal Water Pollution Control Act.

XX. BYRD ANTI-LOBBYING AMENDMENT

For contracts of \$100,000 or more, **Contractor** certifies that he/she will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any Agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. 1352.

XXI. LEAD-BASED PAINT POISONING PREVENTION ACT

Contractor shall comply with the Lead-Based Point Poisoning Prevention Act (42 U.S.C. 4018 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

XXII. TRAFFICKING VICTIMS PROTECTION ACT OF 2000

Contractor and employees shall abide by the Trafficking Victims Protection Act of 2000 as amended (22 U.S.C. 7104((g)) 2 CFR 175.15. **Contractor** and employees may not (a) engage in severe forms of trafficking in persons during the period of time that the award is in effect; (b) procure a commercial sex act during the period of time that the award is in effect; or (c) use forced labor in the performance of the award or subawards under the award.

XXIII. DISAGREEMENTS AND DISPUTES

In the event that either **Contractor** or **Agency** commences an action for damages, injunctive relief, or to enforce the provisions of this Agreement, and either party prevails in any such

action, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and all costs incurred in connection therewith as determined by the court in any such action.

XXIV. GOVERNING LAW

This Agreement shall be governed in accordance with the laws of the State of Florida, and venue for any action enforcing the terms of this Agreement shall be Leon County, Florida.

XXV. ENTIRE AGREEMENT

This Agreement sets forth the entire understanding between the parties hereto with respect to the subject hereof, and shall not be changed, modified, or amended, except by an instrument in writing, signed by the parties hereto. There are no other agreements or understandings, oral or written, between the parties hereto, with regard to the subject matter thereof that are not merged herein or superseded hereby.

XXVI. ASSIGNMENT

This Agreement may not be assigned without prior written consent of both parties.

XXVII. SEVERABILITY

The parties agree that the covenants of this Agreement are severable and that if any single clause or clauses shall be found unenforceable, the entire Agreement shall not fail but shall be construed and enforced without any severed clauses in accordance with the terms of this Agreement.

XXVIII. DURATION AND TERMINATION

This Agreement shall remain valid and in force from _____.

If **Contractor** defaults or neglects to carry out any work in accordance with this Agreement, contract documents and/or pre-work order or fails to perform any provision of the contract, **Agency** may after written notice to **Contractor**, make good such deficiencies and may deduct the cost incurred from the payment due to **Contractor** and/or **Agency** may terminate the contract and take possession of the site and of all materials, equipment, tools and construction equipment and machinery owned by **Contractor**, which were purchased with weatherization funds, may finish the work. If the expense of finishing the work exceeds the unpaid balance to **Contractor**, **Contractor** shall be liable for payment of the difference to **Agency**.

Contractor and **Agency** can terminate the contract at any time for any reason upon 30 days' notice to either party. **Contractor** shall be required to satisfactorily finish all work in progress prior to termination of the contract. Failure to do so by **Contractor** shall result in forfeiture of payment for any work in progress.

XXIX. EXAMINATION AND RETENTION OF CONTRACTOR'S RECORDS

Contractor shall retain records relating to this contract for four years after final payment is made under the contract. If an audit, litigation, or other action involving the records is started before the end of the four-year period, records must be retained until all issue arising out of the

action are resolved, or until the end of the four-year period, whichever is later. **Agency**, or any of its authorized representatives, shall have access to **Contractor** records.

XXX. HEADINGS

The headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, Contractor and Agency have executed this Independent Contractor Agreement as of the date first above written.

CONTRACTOR

By: _____
Signature

Printed Name

Date: _____

AGENCY

By: _____
Signature

Printed Name

Date: _____

ATTACHMENT A: SCOPE OF WORK

All weatherization measures to be provided to homes governed by this Agreement must be in accordance with the "Pre-Work Order" and Weatherization Assistance Program rules and regulations as mandated by the Florida Department of Economic Opportunity. The following are the procedures for completing the Scope of Work per this Agreement:

1. **Contractor** shall generally be assigned homes on a rotational basis with other contractors and based on **Contractor's** location and ability to finish homes in a timely fashion.
2. **Contractor** shall provide such measures as determined by the "Pre-Work Orders" provided to **Contractor** by **Agency**.
3. Upon receipt of the Pre-Work Order, **Contractor** shall provide **Agency** a quote per home for the cost of completion of weatherization measures as indicated in the Pre-Work Order(s).
4. **Contractor** shall comply with all laws, ordinances, rules, regulations and orders of any governmental authority bearing on the performance of the work, including local building codes and permits.
5. **Agency's Weatherization Program Manager** shall approve the quotes. Such approval will be verified by the **Program Manager's** signature on the quote.
6. **Contractor** shall contact all Owner/Occupants of the property within 15 days of bid approval and shall complete all work within 30 days of receipt of the notice.
7. **Contractor** shall follow the Pre-Work Order as written by **Agency** and approved by Owner/Occupant.
8. If Owner/Occupant refuses a measure, **Contractor** shall contact Weatherization Field Coordinator immediately and the Owner/Occupant must sign a Refusal of Measure form. If the refusal will cause the **Agency** to be in non-compliance, it must be referred to the Program Manager to advise the client that if the measure prevents elimination of air infiltration, we cannot weatherize the home unless the Owner/Occupant approves the measure. To the extent possible, all measures approved for the unit should be reviewed by staff with Owner/Occupant in pre-work phase and approval obtained before commencing work. The only exception would be in the rare case of change orders due to unforeseen conditions.
9. Any change orders must be approved in writing by the Owner, **Contractor**, Weatherization Field Coordinator and Weatherization Program Manager, with review and sign off by the Program Director, prior to the commencement of such work. All change orders must include the cost of the requested measures.
10. **Waivers** for any work, as specified by state and federal Weatherization Assistance Program guidelines, must be requested by **Agency** in advance and approved by state agency prior to commencement of such work. Any change order or waiver work commenced prior to authorization shall be considered unauthorized work and **will not be reimbursed** by **Agency**.
11. Following completion of the Pre-Work Order, Weatherization Field Coordinator, Owner/Occupant and **Contractor** shall inspect the home. Any incomplete or defective measures discovered during the final inspection must be corrected by **Contractor**. Upon

correction, another inspection shall be conducted by the Weatherization Coordinator, Owner/Occupant, and **Contractor**.

12. Upon a satisfactory final inspection, **Contractor** shall submit all invoices to Weatherization Field Coordinator for approval. Weatherization Field Coordinator shall review invoices for compliance with quotes and provide invoices to Weatherization Program Manager for approval and submission for payment. If invoice costs exceed the quote and no change order was approved, the invoice will be approved only for the amount provided in the quote.

13. Upon verification that all contracted work has been completed, a quality assurance inspection will be conducted by the Agency-appointed certified Quality Control Inspector to ensure that all completed work is in compliance with all applicable codes and standards as warranted by the weatherization program. If any work is not within compliance, the **Contractor** must meet with the QCI inspector to mediate any discrepancies and/or anomalies as indicated within the QCI inspector's report. Once all items are addressed, the Quality Control Inspector and **Contractor** must sign off on the QCI report for future verification purposes.

14. A copy of the final QCI report will be placed within the client's file as well as the contractor's file. These reports will be used to evaluate each **Contractor's** progress throughout the contract period and unsatisfactory reports may affect their ability to perform weatherization work on future homes.

15. If **Contractor** is unable to complete the home within the required 30-day time frame, **Contractor** must advise **Agency** and Owner/Occupant as to the reason for the delay. Failure to complete the home within 30 days may result in a delay in receiving future homes or may result in termination of contract.