

THIS AGREEMENT made this _____ day of _____, 2018

BETWEEN: **GOVERNMENT OF PRINCE EDWARD ISLAND**, as represented by
the Minister of Family and Human Services

(hereinafter referred to as the "Government")

OF THE FIRST PART

AND: a body corporate, duly incorporated under the laws of Prince Edward
Island and having its head office at

(hereinafter referred to as the "Contractor")

OF THE SECOND PART

WHEREAS the Government wishes to engage the services of the Contractor to carry out the
work described in Schedule "A" herein;

AND WHEREAS the Contractor has agreed to provide the Government with these services on
certain terms and conditions;

NOW THEREFORE the parties agree that the terms and conditions of their relationship are as
follows:

Covenants of the Contractor and the Government

1. The Contractor shall perform the services, assume all those responsibilities and diligently
execute all those duties described in the attached Schedule "A" (the "work"), in a manner
satisfactory to the Government.
2.
 - a. Subject to the termination clause, the term of this agreement shall commence on
the ___ day of _____ and end on the ___ day of _____.
 - b. Subject to the termination clause of this agreement and notwithstanding the date
of signing of this agreement, it is acknowledged by both parties that the
Contractor commenced the performance of the duties as set out to this contract on
the ___ day of _____. It is further agreed that the contract sum of \$ _____
inclusive of all applicable taxes, is the maximum for the project and includes all
amounts which may be owed for the work done since the ___ day of _____,
_____.

Payments, Records and Accounts

3. The Government shall make payments to the Contractor in the following manner:
 - a. Payment for work rendered under this Agreement shall be for a fixed lump sum of
\$ _____, inclusive of all applicable taxes. The payments described herein
shall be paid upon the basis of the submission of an invoice by the Contractor.
Such invoice shall be submitted to the Government and the Government shall pay
the amount owing within 30 days of receipt.
 - b. All payments are subject to a hold back of an amount equal to 15 % of the amount
billed. The hold back shall be paid upon the completion of and acceptance of the
work. The lien period will commence upon final approval by the Government
services of all work.

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Conditions and Records of Employment

- 4.
 - a. The parties agree that the Contractor shall act as an independent contractor and that it is entitled to no other benefits or payments whatsoever than those specified in paragraph 3 hereof.
 - b. The parties agree that entry into this agreement will not result in the appointment or employment of the Contractor as an officer, clerk or employee of the Government, nor shall the *Civil Service Act*, R.S.P.E.I. 1988, Cap. C-8 apply.

- 5.
 - a. The Contractor agrees to accept sole responsibility to submit any applications, reports, payments or contributions for Sales Taxes, Income Tax, Canada Pension Plan, Employment Insurance, Workers Compensation assessments, Harmonized Sales Tax or any other similar matter which the Contractor may be required by law to make in connection with the work to be performed under this Agreement.
 - b. The Contractor agrees to accept sole responsibility to comply with all Federal, Provincial and Municipal legislation which may have application to the work being performed under this Agreement.
 - c. The Contractor, before undertaking any work under this Agreement, shall provide a certificate of good standing by the Workers Compensation Board.
 - d. The Contractor shall comply with all provincial and federal legislation affecting conditions of work and wage rates including the *Employment Standards Act* R.S.P.E.I. 1988, Cap W-3, the *Workers Compensation Act* R.S.P.E.I. 1994 Cap 67, or any other laws that impose obligations in the nature of employers' obligations.
 - e. The Contractor agrees to accept the full cost of doing those things required under sub-paragraphs 5 (a), 5 (b), 5 (c) and 5 (d) above, and will not charge or seek reimbursement from the Government in any way; such costs having been taken into consideration and included in the rates of payment stipulated in paragraph 3 above.

- 6. Any payment under this Agreement is subject to a provincial appropriation for the payment being approved by the Legislative Assembly of Prince Edward Island for Government's fiscal year in which payment is to be made.

Reports and Administration

- 7. The work is to be performed at the location set forth in Schedule "A".
- 8. The Government shall provide such support, direction, decisions and information as it deems necessary or appropriate under this Agreement and may appoint a person to administer this agreement and direct the activities of the Contractor.

Termination of Agreement

- 9. Notwithstanding other provisions of this Agreement, the Government may terminate this Agreement in its entirety, or any part thereof, at any time by a notice in writing, signed by or on behalf of the Government and either delivered to the Contractor or mailed to the Contractor's address at the last-known place of business. This agreement shall be determined to have ended upon the date of delivery, sending by electronic communications or mailing of such notice in which event the Contractor shall have no further claim against the Government, except for the following: The Contractor will be paid pursuant to and in accordance with paragraph 3 for the work performed up to the date of termination by

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written notice. Such payment shall include all firm commitments made by the Contractor prior to the receipt of the notice and for which the Contractor is liable for payment, less any sums paid by the Government or the Contractor on account.

10. Notice in this agreement is deemed to have been effected on the day of delivery in person, facsimile, electronic communication, or upon mailing of the notice.

Confidentiality

11. Any and all information, knowledge or data made available to the Contractor as a result of this Agreement shall be treated as confidential information. The Contractor will not directly or indirectly disclose or use it for purposes unrelated to the agreement at any time without first obtaining the written consent of the Government, unless the information, knowledge or data is generally available to the public.

Conflict of Interest

12. The Contractor warrants that as at the date of this Agreement, no conflict of interest, or any circumstance that might interfere with independent and objective exercise of judgment, exists or is likely to arise in relation to execution of this Agreement or its subject matter. The Contractor shall immediately notify Government, in writing, if any such actual or potential conflict of interest should arise at any time during the Term. In the event Government discovers or is notified by the Contractor of an actual or potential conflict of interest, Government, in its sole discretion, may either:
 - (a) allow the Contractor to resolve the actual or potential conflict to the satisfaction of Government; or
 - (b) terminate the Agreement in accordance with the Termination section of this Agreement.

Freedom of Information and Protection of Privacy Act

13. Any information provided on this contract may be subject to release under the *Freedom of Information and Protection of Privacy Act*. The Contractor may be consulted prior to release of any information.
14. Contractors whose work for government involves the collection or use of personal information are subject to the *Freedom of Information and Protection of Privacy Act*. Personal information may not be released to any third party or unauthorized individual.

Indemnification and Assumption of Liability

15. The Contractor shall indemnify and hold harmless the Government, its agents, representatives and employees from and against all claims, demands, losses, costs, damages, actions, suits or proceedings of every nature and kind whatsoever arising out of or resulting from the performance of work (herein called the "claims"), provided that any such claim is caused in whole or in part by any act, error or omission, including, but not limited to, those of negligence of the Contractor or anyone directly or indirectly employed by the Contractor or anyone for whom the Contractor may be liable.
16.
 - a. The Contractor shall maintain, as a minimum, commercial general liability insurance providing not less than Three Million Dollars (\$3,000,000) in the form the same as, or at least as broad as, the current Insurance Bureau of Canada (IBC) form and shall add the Government as an additional insured and provide whatever information the Government may require on the insurance that is available.

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- b. The policy shall include, but not be limited to, bodily and personal injury, property damage, non-owned automobile liability, cross liability, blanket contractual liability and 30 days' notice of cancellation to the insured and the Government.
- c. Automobile liability insurance with limits of at least Two Million Dollars (\$2,000,000) on all owned, leased or rented vehicles licensed to drive on a highway.
- d. As the Contractor shall be responsible for all materials and equipment forming part of the contract until such time as they have been installed and accepted by Government in accordance with this agreement and attached Schedule "A" herein, the Contractor may, at its option and cost, protect its interests with insurance.
- e. The policy required by this Agreement shall be in a form and with insurers satisfactory to the Government. The foregoing insurance shall be primary and not require the sharing of any loss by any insurer of government, nor by any other form of recovery available such as the Provincial Self Insurance and Risk Management Fund. A certificate of insurance shall be delivered to the Government prior to execution of the agreement. Default of delivery or receipt by the Government shall not be construed as acknowledgment or concurrence that there has been compliance with the terms of this agreement.

Subcontractors

- 17.
 - a. The Contractor agrees that the list of names of subcontractors supplied prior to the signing of the Agreement, and attached as Schedule "B" to this Agreement, is the list of subcontractors intended to be used to carry out those parts of the work noted thereon. Said list is subject to approval by the Government, which approval shall not be unreasonably withheld. The Contractor shall not employ any subcontractor to whom the Government may reasonably object.
 - b. In the event that approval is obtained, the Contractor shall be responsible for ensuring that any and all subcontractors shall have the same insurance as the Contractor is required to have under this contract.
 - c. If the change of any name on the subcontractor list is required by the Government, and the work has to be awarded to a higher bidder, the contract sum shall be increased by the difference between the two bids.
 - d. The Contractor acknowledges that this Agreement does not create any contractual relations between the Government and any subcontractor which the Contractor employs, and the Contractor shall make no such assertions or promises of that nature to any subcontractor.

Entire Agreement

- 18. This agreement shall not be assigned or subcontracted in whole or in part by the Contractor without the prior written consent of the Government.
- 19. This agreement shall enure to the benefit of and be binding upon the parties hereto and, subject to above assignment and subcontracting clause, their executors, administrators, successors and assigns.
- 20. This agreement shall be interpreted and applied in accordance with the laws and in the Courts of the Province of Prince Edward Island.

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21. This agreement, including Schedules “A” and “B”, constitutes and expresses the entire agreement of the parties hereto and any amendment or addition thereto shall be in writing and signed by the respective parties.
22. The headings are inserted in this Agreement for reference only and shall not form part of the Agreement.
23. The provisions of this Agreement which, by their terms, are intended to survive or which must survive in order to give effect to continuing obligations of the Parties, shall survive the termination or expiry of this Agreement.
24. If any provision of this Agreement is for any reason invalid, that provision shall be considered separate and severable from this Agreement, and the other provisions of this Agreement shall remain in force and continue to be binding upon the Parties as though the invalid provision had never been included in this Agreement.

IN WITNESS WHEREOF the parties thereto have executed this Agreement as of the day and year above written.

SIGNED, SEALED & DELIVERED)
 in the presence of:)
)
)
)
 _____)
)

Government of Prince Edward Island,
 as represented by the Minister of
 Family and Human Services

SIGNED, SEALED & DELIVERED)
 in the presence of:)
)
)
)
 _____)
)

SCHEDULE "A"

“THE WORK”

**To Contract between the Government of Prince Edward Island and _____
dated the ___ day of _____, 2018**

1. The Contractor shall supply all materials, labour, and equipment required to perform exterior repairs to Duvar Court Seniors Housing, located at 20 Duvar Court, Charlottetown, PEI.
2. The Contractor shall:
 - a. remove and dispose of existing eavestrough and downspouts and broken splash pads;
 - b. remove all wooden board under old eavestrough. If rotten wood is found behind existing fascia board, contact Housing Services to inspect and issue a change order to repair;
 - c. install new wood # 1 spruce to existing size and width;
 - d. install flat stock aluminium to cover new wood;
 - e. install new preformed 5" aluminium gutters complete with downspouts, tie backs, kick outs and new drip stones. This includes over existing end doors on buildings to prevent dripping on tenants;
 - f. ensure kick outs are at least 4' and drip stones are sloped away from foundation.
3. The Contractor shall:
 - a. provide all protection of the works, property, and persons against accident or injury until the work is formally accepted, including the erection of temporary barricades, fencing or warning signals around the work site for the safe passage of persons to and from the buildings;
 - b. inform tenants of work so they can remove items from walls before work commences;
 - c. give 48 hours notice to the tenants and to the Government before starting any work;
 - d. maintain suitable means to save the building and its contents from weather injury, dust and defacement during the progress of the work, including the removal of rubbish and debris from the site on a daily basis;
 - e. be responsible for the repair of any damage to the building, units, tenant property or grounds resulting from the work of this Agreement;
 - f. ensure, when job is completed, that a thorough site cleaning is done;
 - g. ensure building is secured at the end of each work day.

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