

CONSULTANT SERVICE CONTRACT

This Contract, made this ____ day of _____, 2017, by and between the NORTHFIELD HOUSING AND REDEVELOPMENT AUTHORITY, a public body corporate and politic under the laws of the State of Minnesota, 801 Washington Street, Northfield, MN 55057 (the "HRA"), and THREE RIVERS COMMUNITY ACTION, INC., a nonprofit corporation organized under the laws of the state of Minnesota, 1414 North Star Drive, Zumbrota, MN 55992 ("CONSULTANT"), (collectively the "Parties").

WHEREAS, the HRA requires professional services to assist the HRA in completing its Home Matters Program, which is a neighborhood revitalization project that promotes home improvements neighborhoods within the City of Northfield, by providing matching grant funds (up to \$10,000.00) to qualified homeowners to make exterior improvements (roofing and gutter replacement, foundation repairs) and interior improvements (HVAC systems, electrical and plumbing) (the "Project"); and

WHEREAS, CONSULTANT agrees to furnish the various professional services required by the HRA.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the Parties agree as follows:

SECTION I – CONSULTANT'S SERVICES AND RESPONSIBILITIES

- A. **Scope of Services.** CONSULTANT agrees to:
1. Accept and process client applications for the Home Matters Program
 2. Follow up with eligible applicants to collect appropriate documentation and income verification, etc. (estimated time: 8 hours per application)
 3. Provide applicants two weeks (maximum) to deliver requested documents in order to maintain an "active" application
 4. Provide client status reports to the Northfield HRA, as needed
- B. **Compensation.** CONSULTANT will be provided compensation based on the following calculations.
1. The HRA shall pay CONSULTANT for its administrative expenses in an amount not to exceed \$3,300 for processing up to 11 applications
 2. CONSULTANT will provide HRA quarterly invoices for services delivered
- C. **Changes to Scope of Services/Additional Services.** Upon mutual agreement of the parties hereto pursuant to Section VI, Paragraph G of this Contract, a change to the scope of services detailed above may be authorized. In the event that such a change to the scope of services detailed above requires additional services by CONSULTANT, CONSULTANT shall give written notice to the HRA of any additional services prior to furnishing such additional services, and shall reach agreement with the HRA on any additional compensation that will be required for such additional services prior to furnishing such additional services. The HRA may request an estimate of additional cost

from CONSULTANT, and upon receipt of the request, CONSULTANT shall furnish such cost estimate in writing, prior to the HRA's authorization of the changed scope of services.

- D. **Standard of Care.** Services provided by CONSULTANT or its subcontractors and/or sub-consultants under this Contract will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of CONSULTANT's profession or trade.

D. **Insurance.**

1. CONSULTANT agrees to maintain, at CONSULTANT's expense, statutory worker's compensation coverage.
2. CONSULTANT agrees to maintain, at CONSULTANT's expense, general liability insurance coverage insuring CONSULTANT against claims for bodily injury, death or property damage arising out of CONSULTANT's general business activities (including automobile use).
 - i. The liability insurance policy shall provide coverage for each occurrence in the minimum amount of \$1,000,000.
 - ii. The liability insurance policy shall name the City of Northfield as additional insured.
 - iii. The liability insurance policy shall provide a minimum aggregate limit of \$2,000,000.
3. True, accurate and current certificates of insurance, showing evidence of the required insurance coverages, are hereby provided to the HRA by CONSULTANT and are attached hereto as Exhibit 2.

SECTION II – THE HRA'S RESPONSIBILITIES

- A. The HRA shall promptly compensate CONSULTANT as services are performed to the satisfaction of the HRA Staff Liaison, in accordance with Section III of this Contract.
- B. The HRA shall provide access to any and all previously acquired information relevant to the scope of services detailed in Exhibit 1, attached hereto, in its custody to CONSULTANT for its use, at CONSULTANT's request.
- C. The HRA's Staff Liaison shall serve as the liaison person to act as the HRA's representative with respect to services to be rendered under this Contract. Said representative shall have the authority to transmit instructions, receive instructions, receive information, interpret and define the HRA's policies with respect to the Project and CONSULTANT's services.

Such person shall be the primary contact person between the HRA and CONSULTANT with respect to the services from CONSULTANT under this Contract. The HRA reserves the right to substitute the authorized contact person at any time and shall notify CONSULTANT thereof.

III – CONSIDERATION

- A. **Fees.** The HRA will compensate CONSULTANT as detailed in Exhibit 3, Schedule of Fees, which is attached hereto and incorporated herein by reference, for CONSULTANT's performance of services under this Contract.
- B. If the HRA fails to make any payment due CONSULTANT for services performed to the satisfaction of the HRA Staff Liaison as detailed in Exhibit 3, CONSULTANT, without waiving any claim or right against the HRA and without incurring liability whatsoever to the HRA, suspend services due under this Contract until CONSULTANT has been paid in full all amounts due for services, expenses and charges.

SECTION IV – TERM AND TERMINATION

- A. **Term.** This Contract shall be in effect until such time as the Project is completed, but in no event later than December 31, 2020.
- B. **Default.** If CONSULTANT fails to satisfy any of the provisions of this Contract, or so fails to perform and/or administer the services detailed in Section 1A, pursuant to the requirements of Section I of this Contract, in such a manner as to endanger the performance of the Contract or the services provided hereunder, this shall constitute default. Unless CONSULTANT's default is excused by HRA, HRA may, upon written notice, immediately cancel this Contract or exercise any other rights or remedies available to HRA under this Contract or law. In the event of CONSULTANT's default, CONSULTANT shall be liable to HRA for any and all costs, disbursements, attorney and consultant fees reasonably incurred by HRA in enforcing this Contract.
- D. **Suspension of Work.** If any work performed by CONSULTANT is abandoned or suspended in whole or in part by the HRA, CONSULTANT shall be paid for any services performed to the satisfaction of the HRA Staff Liaison prior to CONSULTANT's receipt of written notice from the HRA of such abandonment or suspension, but in no event shall the total of HRA's payments to CONSULTANT under this Contract be required to exceed a percentage of the total contract price (calculated by either the Contract price or the maximum price set forth in Exhibit 3, attached hereto) equivalent to the percentage of the scope of services completed by CONSULTANT to the satisfaction of the HRA Staff Liaison as determined by the HRA.

SECTION V – INDEMNIFICATION

- A. CONSULTANT shall indemnify, protect, save, hold harmless and insure the HRA, and its respective officers, directors, employees and members and agents, from and against any and all claims and demands for, or litigation with respect to, all damages which may arise out of or be caused by CONSULTANT or its agents, employees, contractors, subcontractors, or sub-consultants with respect to CONSULTANT's performance of its obligations under this Contract. CONSULTANT shall defend the HRA against the foregoing, or litigation in connection with the foregoing, at CONSULTANT's expense, with counsel reasonably acceptable to the HRA. The HRA, at its expense, shall have the right to participate in the defense of any Claims or litigation and shall have the right to approve any settlement, which approval shall not be unreasonably withheld. The indemnification provision of this Section shall not apply to damages or other losses proximately caused by the negligence or willful misconduct of the HRA. All indemnification obligations shall survive termination, expiration or cancellation of this Contract.
- B. Nothing contained in this Contract shall create a contractual relationship with or a cause of action in favor of a third party against the HRA or CONSULTANT. CONSULTANT's services under this Contract are being performed solely for the HRA's benefit, and no other entity shall have any claim against CONSULTANT because of this Contract or the performance or nonperformance of services provided hereunder.

SECTION VI – GENERAL TERMS

- A. **Voluntary and Knowing Action.** The PARTIES, by executing this Contract, state that they have carefully read this Contract and understand fully the contents thereof; that in executing this Contract they voluntarily accept all terms described in this Contract without duress, coercion, undue influence, or otherwise, and that they intend to be legally bound thereby.
- B. **Authorized Signatories.** The PARTIES each represent and warrant to the other that (1) the persons signing this Contract are authorized signatories for the entities represented, and (2) no further approvals, actions or ratifications are needed for the full enforceability of this Contract against it; each party indemnifies and holds the other harmless against any breach of the foregoing representation and warranty.
- C. **Notices.** The PARTIES' representatives for notification for all purposes are:

THE HRA:

801 Washington Street S.

Northfield, MN 55057

Phone: (507) 645-3047

Email: Janine.atchison@ci.northfield.mn.us

CONSULTANT:

Leah Hall

Three Rivers Community Action, Inc.

1414 North Star Drive

Zumbrota, MN 55992

Phone: 507-732-8510

Email: jlarson@threeriverscap.org

- D. **Independent Contractor Status.** CONSULTANT, at all times and for all purposes hereunder, shall be an independent contractor and is not an employee of the HRA for any purpose. No statement contained in this Contract shall be construed so as to find CONSULTANT to be an employee of the HRA, and CONSULTANT shall not be entitled to any of the rights, privileges, or benefits of employees of the HRA, including but not limited to, workers' compensation, health/death benefits, and indemnification for third-party personal injury/property damage claims.

CONSULTANT acknowledges that no withholding or deduction for State or Federal income taxes, FICA, FUTA, or otherwise, will be made from the payments due CONSULTANT, and that it is CONSULTANT's sole obligation to comply with the applicable provisions of all Federal and State tax laws.

CONSULTANT shall at all times be free to exercise initiative, judgment and discretion as to how to best perform or provide services identified herein.

CONSULTANT is responsible for hiring sufficient workers to perform the services/duties required by this Contract, withholding their taxes and paying all other employment tax obligations on their behalf.

- E. **Subcontracting.** The CONSULTANT is free to enter into subcontracts for services provided under this Contract for the completion of any/all tasks identified in the Scope of Services without the express written consent of the HRA, provided that any such subcontractor shall be required by the CONSULTANT to comply with all of the terms hereof which may reasonably apply. The CONSULTANT shall pay subcontractors for undisputed services within ten (10) days of the CONSULTANT'S receipt of payment from the HRA. The CONSULTANT shall pay interest of 1.5 percent per month or part of a month to the subcontractor if payment is late and shall pay a minimum monthly interest penalty payment of \$10 for unpaid balance of \$100 or more.
- F. **Assignment.** This Contract may not be assigned by either Party without the written consent of the other Party.
- G. **Modifications/Amendment.** Either party may request a modification or amendment to this Contract by presenting a written request to the other Party explaining the change requested and the reason(s) for such request. The Party to whom the request is addressed shall then consider and respond to such request within 60 days after receiving the request, but nothing herein shall require any Party to agree to a proposed modification or

amendment, and nothing herein shall authorize a proposed change or amendment to take effect without the consent of the non-requesting Party. Any alterations, variations, modifications, amendments or waivers of the provisions of this Contract shall only be valid when they have been reduced to writing, and signed by authorized representative of the HRA and CONSULTANT.

- H. **Records—Availability and Retention.** Pursuant to Minn. Stat. § 16C.05, subd. 5, CONSULTANT agrees that the HRA, the City of Northfield, the State Auditor, or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of CONSULTANT and involve transactions relating to this Contract.

CONSULTANT agrees to maintain these records for a period of six years from the date of termination of this Contract.

- I. **Force Majeure.** The PARTIES shall each be excused from performance under this Contract while and to the extent that either of them are unable to perform, for any cause beyond its reasonable control. Such causes shall include, but not be restricted to fire, storm, flood, earthquake, explosion, war, total or partial failure of transportation or delivery facilities, raw materials or supplies, interruption of utilities or power, and any act of government or military authority. In the event either party is rendered unable wholly or in part by force majeure to carry out its obligations under this Contract then the party affected by force majeure shall give written notice with explanation to the other party immediately.
- J. **Compliance with Laws.** CONSULTANT shall abide by all Federal, State and local laws, statutes, ordinances, rules and regulations now in effect or hereinafter adopted pertaining to this Contract or to the facilities, programs and staff for which CONSULTANT is responsible.
- K. **Covenant Against Contingent Fee.** CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from award or making of this Contract.
- L. **Covenant Against Vendor Interest.** CONSULTANT warrants that it is not employed by any vendor of equipment or service provider that could result in a commission, percentage, brokerage, or contingent fee as a result of CONSULTANT's association with the HRA.
- M. **Non-Discrimination.** The provisions of any applicable law or ordinance relating to civil rights and discrimination shall be considered part of this Contract as if fully set forth herein.

- N. **Interest by HRA or City Officials.** No elected official, officer, or employee of the HRA or the City of Northfield shall during his or her tenure or employment and for one year thereafter, have any interest, direct or indirect, in this Contract or the proceeds thereof.
- O. **Work Product.** All materials such as reports, exhibits, models, graphics, computer files, maps, charts, and supporting documentation produced under work authorized by this Contract ("Materials") may be used for HRA purposes unless disclosure of the information is proprietary or trademarked.
- P. **Governing Law.** This Contract shall be deemed to have been made and accepted in Rice County, Minnesota, and the laws of the State of Minnesota shall govern any interpretations or constructions of the Contract without regard to its choice of law or conflict of laws principles.
- Q. **Data Practices.** The PARTIES acknowledge that this Contract is subject to the requirements of Minnesota's Government Data Practices Act, Minnesota Statutes, Section 13.01 *et seq.*
- R. **No Waiver.** Any Party's failure in any one or more instances to insist upon strict performance of any of the terms and conditions of this Contract or to exercise any right herein conferred shall not be construed as a waiver or relinquishment of that right or of that Party's right to assert or rely upon the terms and conditions of this Contract. Any express waiver of a term of this Contract shall not be binding and effective unless made in writing and properly executed by the waiving Party.
- S. **Mechanic's Liens.** CONSULTANT hereby covenants and agrees that CONSULTANT will not permit or allow any mechanic's or materialman's liens to be placed on the HRA's interest in any Property that is the subject of the Project during the term hereof. Notwithstanding the previous sentence, however, in the event any such lien shall be so placed on HRA's interest, CONSULTANT shall take all steps necessary to see that it is removed within thirty (30) days of its being filed; provided, however, that CONSULTANT may contest any such lien provided CONSULTANT first posts a surety bond, in favor of and insuring HRA, in an amount equal to 125% of the amount of any such lien.
- T. **Severability.** The invalidity or unenforceability of any provision of this Contract shall not affect the validity or enforceability of any other provision. Any invalid or unenforceable provision shall be deemed severed from this Contract to the extent of its invalidity or unenforceability, and this Contract shall be construed and enforced as if the Contract did not contain that particular provision to the extent of its invalidity or unenforceability.
- U. **Entire Contract.** These terms and conditions constitute the entire Contract between the PARTIES regarding the subject matter hereof. All discussions and negotiations are deemed merged in this Contract.

- V. **Headings and Captions.** Headings and captions contained in this Contract are for convenience only and are not intended to alter any of the provisions of this Contract and shall not be used for the interpretation of the validity of the Contract or any provision hereof.
- W. **Survivability.** All covenants, indemnities, guarantees, releases, representations and warranties by any Party or PARTIES, and any undischarged obligations of the HRA and CONSULTANT arising prior to the expiration of this Contract (whether by completion or earlier termination), shall survive such expiration.
- X. **Execution.** This Contract may be executed simultaneously in two or more counterparts that, when taken together, shall be deemed an original and constitute one and the same document. The signature of any Party to the counterpart shall be deemed a signature to the Contract, and may be appended to, any other counterpart. Facsimile and email transmissions of executed signature pages shall be deemed as originals and sufficient to bind the executing Party.

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SECTION VII –SIGNATURES

IN WITNESS WHEREOF, the PARTIES have hereunto executed this document the day and year first above written.

CONSULTANT: THREE RIVERS COMMUNITY ACTION, INC.:

By: _____
(Signature)
Title: _____
Print Name: _____

Date: _____

By: _____
(Signature)
Title: _____
Print Name: _____

Date: _____

NORTHFIELD HOUSING AND REDEVELOPMENT AUTHORITY:

By: _____
Dayna Norvold, Its Chair

Date: _____

By: _____
Jayne Hager Dee, Its Secretary

Date: _____

EXHIBIT 1

SCOPE OF SERVICES

- E. **Scope of Services.** CONSULTANT agrees to:
1. Accept and process client applications for the Home Matters Program
 2. Follow up with eligible applicants to collect appropriate documentation and income verification, etc. (estimated time: 8 hours per application)
 3. Provide applicants two weeks (maximum) to deliver requested documents in order to maintain an “active” application
 4. Provide client status reports to the Northfield HRA, as needed

EXHIBIT 2

CERTIFICATES OF REQUIRED INSURANCE COVERAGES

[Certificates of Insurance attached hereto]

EXHIBIT 3

COMPENSATION

Subject to the limitations set forth in this Exhibit, the HRA will pay CONSULTANT compensation for CONSULTANT's services, including expenses, under this Contract, as follows:

Citywide Program: The HRA shall pay CONSULTANT for its administrative expenses in accepting and processing Home Matters Residential Rehab applications in an amount not to exceed \$3300.00, upon receipt of quarterly time cards. These administrative expenses must be drawn down by 12/31/2020.