

Purchasing

10/3/12

**PROFESSIONAL SERVICES CONTRACT  
BETWEEN  
THE COUNTY OF GLOUCESTER  
AND  
KERNAN CONSULTING ENGINEERS**

**THIS CONTRACT** is made effective this 3rd day of October, 2012, by and between **THE COUNTY OF GLOUCESTER**, a body politic and corporate, with offices in Woodbury, New Jersey, hereinafter referred to as "**County**", and **KERNAN CONSULTING ENGINEERS**, of 935 Kings Highway, Suite 100, Thorofare, New Jersey, hereinafter referred to as "**Contractor**".

**RECITALS**

**WHEREAS**, the County of Gloucester has determined that there is a need for the services of a Housing Inspection/Engineering Services for its Owner Occupied Rehabilitation Program funded by the Community Development Block Grant (CDBG) and HOME Investment Partnership Programs as per RFP-012-047, dated July 12, 2012; and

**WHEREAS**, this contract is awarded pursuant to and consistent with Gloucester County's fair and open procurement process and the terms and provisions of N.J.S.A. 19:44A-20.4; and

**WHEREAS**, Contractor represents that it is qualified to perform said services and desires to so perform pursuant to the terms and provisions of this Contract.

**NOW, THEREFORE**, in consideration of the mutual promises, agreements and other considerations made by and between the parties, the County and the Contractor do hereby agree as follows:

**TERMS OF AGREEMENT**

1. **TERM**. The term of the contract shall be for the period commencing September 1, 2012 and concluding August 31, 2013. Contractor shall commence services upon the execution of this Contract and shall complete all services within the twelve (12) month term.

2. **COMPENSATION**. Contractor shall be compensated pursuant to and subject to all terms and provisions of the original RFP-012-047, dated July 12, 2012, and/or in accordance with Schedule A attached hereto and incorporated into and made part of this Contract, with the minimum contract amount of zero and a maximum contract amount of \$50,000.00.

It is agreed and understood that this is an open-ended contract, thereby requiring the County to use Contractor's services only on an as-needed basis. There is no obligation on the part of the County to make any purchase whatsoever.

Contractor shall be paid in accordance with this Contract document upon receipt of an invoice and a properly executed voucher. After approval by County, the payment voucher shall be placed in line for prompt payment.

Each invoice shall contain an itemized, detailed description of all work performed during the billing period. Failure to provide sufficient specificity shall be cause for rejection of the invoice until the necessary details are provided.

It is also agreed and understood that the acceptance of the final payment by Contractor shall be considered a release in full of all claims against the County arising out of, or by reason of, the work done and materials furnished under this Contract.

**3. DUTIES OF CONTRACTOR.** The specific duties of the Contractor shall be as set forth in Contractor's Qualifications Statement and/or Scope of Services attached hereto as Schedule B, and in accordance with the specifications of the County as per RFP-012-047, which are incorporated in its entirety and made a part of this Contract. Should there occur a conflict between this form of contract and RFP-012-047, this contract shall prevail.

Contractor agrees that it has or will comply with, and where applicable shall continue throughout the period of this Contract to comply with, all of the requirements of the bid documents.

**4. FURTHER OBLIGATIONS OF THE PARTIES.** During the performance of this Contract, the parties agree as follows, where applicable:

A. Contractor will not discriminate against any employee or applicant for employment because of gender, age, race, creed, color, religion, Vietnam-era veteran status, national origin, ancestry, marital status, disability, affectional or sexual orientation, genetic information, sex or atypical hereditary cellular or blood trait. Contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment without regard to their gender, age, race, creed, color, religion, Vietnam-era veteran status, national origin, ancestry, marital status, disability, affectional or sexual orientation, genetic information, sex or atypical hereditary cellular or blood trait. Such actions shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this non-discrimination clause.

B. The Contractor or subcontractor, where applicable, will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to gender, age, race, creed, color, religion, Vietnam-era veteran status, national origin, ancestry, marital status, disability, affectional or sexual orientation, genetic information, sex or atypical hereditary cellular or blood trait.

C. The Contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Agency Contracting

Officer advising the labor union or workers' representative of the Contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

**D.** The Contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to P.L. 1975, c.127, as amended and supplemented from time to time.

**E.** The Contractor or subcontractor, where applicable, agrees to attempt in good faith to employ minority and female workers consistent with the applicable County employment goals prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, C. 127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable County employment goals determined by Affirmative Action Office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, C. 127, as amended and supplemented from time to time.

**F.** The Contractor or subcontractor, where applicable, agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of gender, age, creed, color, religion, Vietnam-era veteran status, national origin, ancestry, marital status, affectional or sexual orientation, or disability and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

**G.** The Contractor or subcontractor, where applicable, agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decision of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

**H.** The Contractor or subcontractor, where applicable, agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to gender, age, creed, color, religion, Vietnam-era veteran status, national origin, ancestry, marital status, affectional or sexual orientation, or disability and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey and applicable Federal law and applicable Federal court decisions.

**I.** The Contractor or subcontractor, where applicable, shall furnish such report or other document to the Affirmative Action Office as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (N.J.A.C. 17:27).

J. Only manufactured products of the United States of America, wherever available, shall be used in the execution of the work specified herein.

K. In accordance with the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), it is expressly understood that if the net amount paid to Contractor pursuant to this Contract exceeds Ten Thousand Dollars (\$10,000.00) in a twelve-month period, Contractor will grant to the Department of Health and Human Services and/or the general Accounting Office access to such of Contractor's books, documents, and records as are necessary to verify the nature and extent of costs of services furnished under this Contract. Contractor agrees to grant such access until the expiration of four (4) years after the services are furnished under the contract. In the event that Contractor carries out any duties of the contract through a subcontract with a related organization which will result in payment to the related organization of Ten Thousand Dollars (\$10,000.00) or more over a twelve-month period, Contractor agrees that any such subcontract shall require that the related organization shall make available such books, documents, and records which are necessary to verify the nature and extent of the costs.

5. **LICENSING AND PERMITTING.** If the Contractor or any of its agents is required to maintain a license, or to maintain in force and effect any permits issued by any governmental or quasi-governmental entity in order to perform the services which are the subject of this Contract, then prior to the effective date of this Contract, and as a condition precedent to its taking effect, Contractor shall provide to the County a copy of all current licenses and permits required to operate in the State of New Jersey, which license and permits shall be in good standing and shall not be subject to any current action to revoke or suspend, and shall remain so throughout the term of this Contract.

Contractor shall notify the County immediately in the event of suspension, revocation or any change in status (or in the event of the initiation of any action to accomplish such suspension, revocation and/or change in status) of license or certification held by Contractor or its agents and/or subcontractors.

6. **TERMINATION.** This Contract may be terminated as follows:

A. Pursuant to the termination provisions set forth in the RFP or bid specifications or proposal documents, whichever the case may be, which are specifically referred to and incorporated herein by reference.

B. If Contractor is required to be licensed in order to perform the services which are the subject of this Contract, then this Contract may be terminated by County in the event that the appropriate governmental entity with jurisdiction has instituted an action to have the Contractor's license suspended, or in the event that such entity has revoked or suspended said license. Notice of termination pursuant to this subparagraph shall be effective immediately upon the giving of said notice.

C. If, through any cause, the Contractor or subcontractor, where applicable, shall fail to fulfill in timely and proper manner his obligations under this Contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Contract, the County shall thereupon have the right to terminate this Contract by giving written notice to the Contractor of such termination and specifying the effective date thereof. In such event, all finished or unfinished documents, data, studies, and reports prepared by the Contractor under this Contract, shall be forthwith delivered to the County.

D. The County may terminate this Contract any time by a notice in writing from the County to the Contractor. If the Contract is terminated by the County as provided herein, the Contractor will be paid for the services rendered to the time of termination.

E. Notwithstanding the above, the Contractor or subcontractor, where applicable, shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by the Contractor, and the County may withhold any payments to the Contractor for the purpose of set off until such time as the exact amount of damages due the County from the Contractor is determined.

F. Termination shall not operate to affect the validity of the indemnification provisions of this Contract, nor to prevent the County from pursuing any other relief damages to which it may be entitled, either at law or in equity.

7. **NO ASSIGNMENT OR SUBCONTRACT.** This Contract may not be assigned nor subcontracted by the Contractor, except as otherwise agreed in writing by both parties. Any attempted assignment or subcontract without such written consent shall be void with respect to the County and no obligation on the County's part to the assignee shall arise, unless the County shall elect to accept and to consent to such assignment or subcontract.

8. **INDEMNIFICATION.** The Contractor or subcontractor, where applicable, shall be responsible for, shall keep, save and hold the County of Gloucester harmless from, and shall indemnify and shall defend the County of Gloucester against any claim, loss, liability, expense (specifically including but not limited to costs, counsel fees and/or experts' fees), or damage resulting from all mental or physical injuries or disabilities, including death, to employees or recipients of the Contractor's services or to any other persons, or from any damage to any property sustained in connection with this contract which results from any acts or omissions, including negligence or malpractice, of any of its officers, directors, employees, agents, servants or independent contractors, or from the Contractor's failure to provide for the safety and protection of its employees, or from Contractor's performance or failure to perform pursuant to the terms and provisions of this Contract. The Contractor's liability under this agreement shall continue after the termination of this agreement with respect to any liability, loss, expense or damage resulting from acts occurring prior to termination.

9. **INSURANCE.** Contractor shall, if applicable to the services to be provided, maintain general liability, automobile liability, business operations, builder's insurance, and Workers' Compensation insurance in amounts and with companies deemed satisfactory by County, and which shall be in compliance with any applicable requirements of the State of New Jersey. Contractor shall, simultaneously with the execution of this Contract, deliver certifications of said insurance to County, naming County as an additional insured.

If Contractor is a member of a profession that is subject to suit for professional malpractice, then Contractor shall maintain and continue in full force and effect an insurance policy for professional liability/malpractice with limits of liability acceptable to the County. Contractor shall, simultaneously with the execution of this Contract, and as a condition precedent to its taking effect, provide to County a copy of a certificate of insurance, verifying that said insurance is and will be in effect during the term of this Contract. The County shall review the certificate for sufficiency and compliance with this paragraph, and approval of said certificate and policy shall be necessary prior to this Contract taking effect. Contractor also hereby agrees to continue said policy in force and effect for the period of the applicable statute of limitations following the termination of this Contract and shall provide the County with copies of certificates of insurance as the certificates may be renewed during that period of time.

10. **SET-OFF.** Should Contractor either refuse or neglect to perform the service which Contractor is required to perform in accordance with the terms of this Contract, and if expense is incurred by County by reason of Contractor's failure to perform, then and in that event, such expense shall be deducted from any payment due to Contractor. Exercise of such set-off shall not operate to prevent County from pursuing any other remedy to which it may be entitled.

11. **PREVENTION OF PERFORMANCE BY COUNTY.** In the event that the County is prevented from performing this Contract by circumstances beyond its control, then any obligations owing by the County to the Contractor shall be suspended without liability for the period during which the County is so prevented.

12. **METHODS OF WORK.** Contractor agrees that in performing its work, it shall employ such methods or means as will not cause any interruption or interference with the operations of County or infringe on the rights of the public.

13. **NONWAIVER.** The failure by the County to enforce any particular provision of this Contract, or to act upon a breach of this Contract by Contractor, shall not operate as or be construed as a waiver of any subsequent breach, nor a bar to any subsequent enforcement.

14. **PARTIAL INVALIDITY.** In the event that any provision of this Contract shall be or become invalid under any law or applicable regulation, such invalidity shall not affect the validity or enforceability of any other provision of this Contract.

15. **CHANGES.** This Contract may be modified by approved change orders, consistent with applicable laws, rules and regulations. The County, without invalidating this Contract, may order changes consisting of additions, deletions, and/or modifications, and the contract sum shall be adjusted accordingly. This Contract and the contract terms may be changed only by change order. The cost or credit to the County from change in this Contract shall be determined by mutual agreement before executing the change involved.

16. **NOTICES.** Notices required by this Contract shall be effective upon mailing of notice by regular and certified mail to the addresses set forth above, or by personal service, or if such notice cannot be delivered or personally served, then by any procedure for notice pursuant to the Rules of Court of the State of New Jersey.

17. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall at all times during the course of the effective period of this Contract comply with and be subject to all applicable laws, rules and regulations of the State of New Jersey and of the United States and of any other entity having jurisdiction pertaining to the performance of Contractor's services.

18. **INDEPENDENT CONTRACTOR STATUS.** The parties acknowledge that Contractor is an independent contractor and is not an agent of the County.

19. **CONFIDENTIALITY.** Contractor agrees not to divulge or release any information, reports, or recommendations developed or obtained in connection with the performance of this Contract, during the term of this Contract, except to authorized County personnel or upon prior approval of the County.

20. **BINDING EFFECT.** This Contract shall be binding on the undersigned and their successors and assigns.

21. **CONTRACT PARTS.** This Contract consists of this Contract and Contractor's "Qualifications Statement, Qualifications for Professional Services" and/or other proposal documents submitted in accordance with RFP-012-047 in the amount of \$50,000.00, which is attached hereto and made a part hereof. If there should occur a conflict between this Contract or RFP-012-047 and the Contractor's proposal, then this Contract or the RFP, as the case may be, shall prevail.

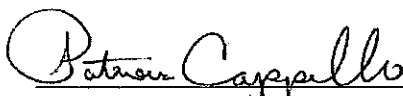
**THIS CONTRACT** is dated this 3rd day of October, 2012.

**IN WITNESS WHEREOF**, the County has caused this instrument to be signed by its Director, attested by its Clerk, and its corporate seal affixed hereunto, and Contractor has caused this instrument to be signed by its properly authorized representative and its corporate seal affixed the day and year first above written.

**ATTEST:**

  
\_\_\_\_\_  
**ROBERT N. DILELLA, CLERK**

**ATTEST:**

  
\_\_\_\_\_  
**PATRICIA CAPPELLA**

**COUNTY OF GLOUCESTER**

  
\_\_\_\_\_  
**ROBERT M. DAMMINGER, DIRECTOR**

**KERNAN CONSULTING ENGINEERS**

  
\_\_\_\_\_  
**J. TIMOTHY KERNAN, PRESIDENT**

## SCHEDULE A

### **Payment Schedule**

Consistent with the Cost proposal submitted with Vendors response to the RFP, the services provided under this agreement shall be paid for monthly by the County, payable after the services are completed and the invoice is submitted and approved by the County. Purchasing will then match the invoice with the voucher, receiving report and purchase order. After all paperwork is reviewed the voucher will be prepared for payment.

Cost for the rehabilitation inspection/engineering services of one (1) unit: \$820 per unit

1. Appointment and initial site inspection with homeowner	\$340
2. Work write-up in bid spec format plus photos	\$340
3. Provide construction administration with maximum of two (2) site visits which includes final inspection	<u>\$140</u>
	<b>\$820</b>

- ♦ Work write-up shall be separated into bid spec format (roof, heater, electrical, plumbing.
- ♦ Submissions shall give a conclusive per unit cost
- ♦ Construction administration required beyond the two (2) site visits quoted will be billed as an additional charge of \$140 per site visit.



## **Schedule B** **Scope of Services**

Housing Inspection and Engineering Services for its Owner Occupied Rehabilitation Program. The Owner Occupied Rehabilitation Program provides direct financial assistance to low and moderate income households for housing rehabilitation. Upon direction by the County, the Housing Inspector/Engineer shall, with approval by the County, Property Owner, and the Local Building Code Official, perform the following services:

- Inspect designated property within 10 working days of receiving request.
- Create detailed work write-ups with associated estimated construction costs;
- Provide construction administration as needed to ensure quality of work by construction contractor which may include additional site visits.
- Final inspections must be made within five working days of receiving write up request.
- Approve contractor requisitions for payment.
- Site visits and work write-ups for emergency rehabs must be completed within 48 hours of notification.
- All non-emergency project work write-ups must be submitted within two weeks of notification.
- "Before" and "After" pictures to be taken of Project and submitted to the Community Development Office. Additional photos required for compliance with State Historical Preservation Office (SHPO) for structures over 50 years old.

A 1% monetary penalty will be assessed for every day beyond the 10 day (initial inspection) or 5 day (final inspection) work write up request.

In inspecting and providing work write-ups indicating items that need repair, the Housing Inspector and/or Engineer must ascertain that the following standards and codes are enforced to ensure housing quality:

1. The Housing Quality Standards (HQS) for the Section 8 Existing Housing Program of the U.S. Dept. of Housing and Urban Development including Lead-based paint requirements;
2. The BOCA (Building Offices and Code Administrators) Building and Housing Property Maintenance Code;
3. The Uniform Construction Code of the State of New Jersey;
4. The Cost Effective Energy Conservation and Effectiveness Standards;
5. Other applicable local codes, rehabilitation standards, or ordinances.

The County estimates that it will provide assistance for the rehabilitation of approximately 60 housing units during a designated 12 month period.