

## HOME IMPROVEMENT CONTRACT

Complies with Section 7159 of California Business and Professions Code, and  
Civil Code Section 3097(1) as amended)

**BMR Enterprises**

**License #901546**

**The Notice of Cancellation may be mailed to the address of the contractor shown below:**

520 S. Burnside Ave # 7H, Los Angeles, CA 90036  
(ph) 323-217-9550 (fax) 323-571-8651

This Building Construction Improvement Agreement, dated XXXXXXXX is between BMR Enterprises (“Contractor”) and XXXXXXXX (“Owner”). Owner is the owner of the residential property located at XXXXXXXX, Los Angeles, CA (the “Real Property”).

Owner wants to hire the Contractor to do work on the Real Property and the Contractor wants to accept such request, subject to the terms and conditions of this agreement.

### SCOPE OF WORK

Contractor will provide all materials, equipment, and labor for the following work except where noted otherwise:

The Allowance equals the total cost to acquire the material and/or merchandise including tax and special shipping charges. Contractor will add a 20% handling/ supervision/ overhead fee to any and all Allowance amounts exceeding the Allowance. Allowance settlement amounts that are less than the contract allowance amount (credits) will be refunded as per the monetary difference, along with the appropriate sales tax amount for the credit amount. Credit will be applied to the final contract payment.

### PROJECT COST

Owner agrees to pay the Contractor the fixed price of:

### PAYMENT SCHEDULE

\$xxxx Upon completion of....

\$xxxx Substantial completion of scope of work.

**Schedule of Progress Payments: The schedule of progress payments must specifically describe each phase of work, including the type and amount of**

**work or services scheduled to be supplied in each phase, along with the amount of each proposed progress payment.**

**IT IS AGAINST THE LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR WORK NOT YET COMPLETED OR FOR MATERIALS NOT YET DELIVERED. HOWEVER, A CONTRACTOR MAY REQUIRE A DOWNPAYMENT.**

**THE DOWN PAYMENT MAY NOT EXCEED \$1000 OR 10 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS LESS.**

### WORK SCHEDULE

**Approximate start date:**

**Approximate completion date:**

Excusable Delays. The completion date shall be adjusted with written notice from Contractor to Owner according to unforeseeable delays in the work including, without limitation, excessive rain or other unforeseeable inclement weather, material shortages or delivery delays, strikes and other labor disputes, fire, earthquake, vandalism, flooding, riot, national or state emergencies, acts of war, or government moratorium, delays caused by Owner's failure to timely approve, disapprove, or select design options and/or finish material, and all other Owner inflicted causes beyond the reasonable control of the Contractor.

### OBLIGATIONS OF CONTRACTOR

1. The Contractor accepts the relationship of trust and confidence established between his company and the Owner by this agreement. He covenants with the Owner to furnish his best skill and judgment in furthering the interest of the Owner. He agrees to furnish at all times an adequate supply of workers and materials, and to perform the work in a most expeditious, economical and workmanlike manner.
2. General Supervision of Construction. Contractor shall be responsible for all construction performed pursuant to this agreement, including the coordination and implementation of all techniques, procedures and sequences with respect to the construction of the project. Contractor shall supervise and direct all such construction work to the best of its ability and shall spend such time at the Real Property as is necessary to so supervise and direct the work.

3. Site meetings and visits by Owner. In order to minimize the impact on the construction schedule, it is agreed that the owner will not require the contractor to devote more than five hours per week to discussions with the owner at the job site.
4. Clean-up. Contractor shall maintain a neat jobsite by collecting rubbish in a designated spot until the quantity warrants its removal.
5. Safety. Contractor shall at all times enforce strict discipline and good order among its employees and its subcontractors and all other persons performing any of the work. Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work, and without limiting the foregoing, shall take all reasonable precautions for the safety of, and shall provide for all reasonable protections to prevent damage, injury or loss to any of its employees or subcontractors.
6. Guarantee of Workmanship and Materials. Contractor guarantees that all materials, appliances, mechanical devices, supplies, tools and equipment incorporated in the work will be new, unless otherwise specified. Owner shall have the benefit of all warranties and guarantees with respect to any of the foregoing given by the manufacturer, retailer, or other supplier thereof. Contractor further guarantees that all work will be of good quality, free from faults and defects and in conformance with this agreement.

## RIGHTS OF CONTRACTOR

1. General Authority and Powers. Contractor shall have full power and authority to:
  - a. Specify all techniques and sequences of construction, furnish and select all labor, construction equipment, tools, materials, machinery, and all other facilities and services necessary for the proper completion of the work, and to execute and deliver contracts and agreements with subcontractors, materialmen, suppliers and others for the performance or provision of every service or supply deemed by Contractor to be necessary or appropriate for the construction of the project.
  - b. Dismiss contractors, subcontractors, materialmen, suppliers and employees of contractor who, in Contractor's opinion, shall not be properly performing the tasks which shall have been assigned to them.
  - c. Perform, supervise, or direct any and all other tasks which Contractor shall in its sole discretion and opinion deem to be necessary or appropriate to facilitate the construction of the project in accordance with this agreement.
2. Selection of Materials; Variation from the Plans. Unless otherwise specified or provided for by "allowances" or otherwise in the plans or in any notice from Owner (Which shall supercede the plans), and subject to all governmental requirements, Contractor shall select all materials, appliances, mechanical

devices, supplies, tools and equipment to be used in connection with the construction of, or to be incorporated into, the project. If any of the foregoing items specifically referred to or provided for as an "allowance" or otherwise in the plans shall not be readily available, or if owner so elects, at any time prior to purchase of such items Contractor, Owner shall have the right to designate an available substitute item of equal or lesser cost (or of greater cost pursuant to an Additional Work Authorization) or, failing such designation, any delay caused by the unavailability of such item shall be deemed an "Excusable Delay" with respect to the portion of the work affected.

### OBLIGATIONS OF OWNER

1. If Owner has personal property on the site or adjacent thereto which the Owner considers to be valuable, Owner shall remove said property or request Contractor, in writing, to take specific reasonable precautions for the safety of said property. Owner's failure to give the Contractor such written notice shall constitute a waiver by the Owner of any and all claims against Contractor for negligence towards the safety of said personal property.
2. Owner shall be responsible for purchasing and maintaining property insurance in the amount equal to or greater than the estimated project cost on a replacement cost basis. Such insurance shall include interests of Owner, Contractor, its subcontractors and sub-subcontractors in the work. The property insurance shall be an all risk policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, false work, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements. If said insurance should be canceled, Owner shall notify Contractor in writing within 30 days prior to cancellation. If Owner fails to purchase such property insurance with all of the coverages referenced above, Owner shall so inform Contractor in writing within 30 days prior to the commencement of work. Contractor will then have the option to effect insurance in accordance with its insurable interest on an all risk policy form to protect the interest of Contractor, subcontractors and sub-subcontractors in the work, and by appropriate change order, charge the costs thereof to Owner. If no written notice of failure to purchase such property insurance by Owner or no written notice of cancellation of said insurance is given by Owner to Contractor, then Owner shall bear all costs attributable to any damage for which coverage has not been obtained. Under no circumstances shall Contractor be obligated to pay any amounts in excess of the proceeds of Owner's insurance policies in connection with the reconstruction of the work after a casualty.
3. Access to Job Site. Contractor, its employees, subcontractors, suppliers, and materialmen, and their respective employees shall have access to the work site between the hours of 7:00am and 8:00pm.

4. Owner shall pay for and maintain a continuous utility connection providing both power and water for use by Contractor, its employees, subcontractors, suppliers, and materialmen, and their respective employees.

#### RIGHTS OF OWNER.

Owner shall have the full and absolute authority and power to convey to Contractor all instructions with respect to construction, and Contractor shall be bound and obligated to comply with all such instructions, provided such instructions are consistent with the express terms and intent of this agreement, including the expressed understanding that all work is to be done according to the plans and that wherever not specified, the selection of materials, construction techniques and sequencing will be made by the Contractor, in keeping with industry standards and at levels consistent with existing conditions. Any instruction requesting work to be done using materials, techniques, or sequencing specified by Owner but not included in the plans may constitute additional work increasing the project cost.

#### CONTRACTOR'S DEFAULTS AND OWNER'S REMEDIES.

1. Contractor's Defaults. The following occurrences shall be considered material defaults of Contractor hereunder:
  - a. The failure of Contractor to perform any material obligation required of Contractor in connection with the performance and completion of the work, if Contractor does not take corrective action within five (5) business days following written notice from Owner specifying the manner in which Contractor is in default.
  - b. The failure of Contractor promptly to pay his subcontractors, laborers, materialmen, and suppliers for work performed or material supplied provided Owner has made timely payment of Contractor's Payment Applications.
  - c. The making by Contractor of any general assignment for the benefit of creditors; the filing by or against Contractor of a petition to have Contractor adjudged a bankrupt or be discharged of his debts or of a petition for reorganization or arrangement under any law relating to bankruptcy unless, in the case of a petition for reorganization or arrangement under any law relating to bankruptcy unless, in the case of a petition filed against Contractor, the same is dismissed within 60 days of the filing thereof; or the appointment of a trustee or receiver to take possession of all or substantially all of Contractor's assets located at the real property where such appointment is not vacated within 30 days.

- d. Failure of Contractor to have an adequate number of laborers or subcontractors at the real property who are actively and productively working on the project for seven successive business days, unless excusable delays or cause exist for such absence.

2. Owner's Remedies.

- a. In the event of any material default of Contractor specified above, or elsewhere in this Agreement, provided that Contractor has not cured or commenced to cure (and promptly thereafter completes the cure) the default, Owner may terminate this agreement by written notice specifying the effective date of termination of the agreement. Upon any termination of this agreement, Owner may enter upon the real property and finish the work and provide the materials or contract with others to do so; and in case of such termination, Contractor shall be entitled to receive payment only for work completed up until time of termination.
- b. Owner's Right to Terminate. Whether or not Contractor is in breach hereof, Owner may terminate Contractor's services at any time by written notice to Contractor. In such event, without limitation of any of Owner's rights with respect to breach by Contractor, Owner's obligation to Contractor shall be to pay Contractor for the work completed up to the date of termination (plus equipment and materials ordered which cannot be canceled).

OWNER'S DEFAULTS AND CONTRACTOR'S REMEDIES.

1. Owner's Defaults. The following shall be deemed material defaults of Owner hereunder:
  - a. The failure of Owner to comply with any of his material obligations hereunder in the time and manner prescribed, including, without limitation, the payment of all or any part of the project expenses in accordance with this agreement.
  - b. The making by Owner of any general assignment for the benefit of creditors; the filing by or against Owner of a petition to have Owner adjudged a bankrupt or be discharged of his debts or of a petition for reorganization or arrangement under any law relating to bankruptcy unless, in the case of a petition for reorganization or arrangement under any law relating to bankruptcy unless, in the case of a petition filed against Owner, the same is dismissed within 60 days of the filing thereof; or the appointment of a trustee or receiver to take possession of all or substantially all of Owner's assets where possession is not restored to Owner within 30 days of such taking of possession.
2. Contractor's Remedy.
  - a. In the event of any material default of Owner hereunder, Contractor shall give Owner notice specifying the nature of such breach. If payment from Owner has not been received by Contractor within five

calendar days of invoice date, Contractor reserves the right to cease work until such payment has been received. Completion date of the work shall be extended automatically by Contractor giving Owner written notice of material default and cessation of work for the number of days for the cessation of work. If Owner has not commenced to cure in full the breach on or before the expiration of five calendar days from receipt of Contractor's notice, Contractor may, in addition to all other remedies he may have at law or in equity, terminate this agreement upon two business days' notice specifying the effective date of termination of this agreement.

- b. If Contractor terminates this agreement with cause, Contractor shall be entitled to receive compensation for all work done up to the termination date plus any materials or equipment rentals that can not be returned as well as any and all other damages allowable by law.

### MISCELLANEOUS PROVISIONS

1. Time of Essence. Time is of the essence of this agreement and each of the terms and conditions hereof.
2. The Owner shall not solicit the employees of Contractor to do sidework without the written consent of Contractor.
3. Governing Law. This agreement has been executed in, and shall be governed by, and construed and enforced in accordance with, the laws of the State of California.
4. Unenforceability of this Agreement. If any provision of this Agreement, or any portion of any such provision, shall be invalid or unenforceable for any reason whatsoever, this Agreement shall be deemed amended to exclude any such invalid or unenforceable provision or portion, and the remaining provisions of this Agreement shall remain in full force and effect.
5. Severability. If any provision of this Agreement shall, for any reason, be held by a court or other tribunal of competent jurisdiction to be invalid, void or unenforceable, in whole or in part, such adjudication shall in no way affect any other provisions of this Agreement or the validity or enforcement of the remainder of this release, and any provision thus affected shall itself be modified only to the extent necessary to the provision within the applicable requirements of the law.
6. Arbitration and Attorney's Fees. All claims or disputes arising out of this agreement, or the breach hereof, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then in effect, unless the parties mutually agree otherwise. Notice of Demand for Arbitration shall be filed in writing with the other party to this contract and with the American Arbitration Association in Los Angeles, California, and shall be made within a reasonable time after the dispute has arisen. In any such arbitration, or any other proceeding pursuant to this agreement, the prevailing party shall be entitled to collect from the losing

party its reasonable attorneys' fees and costs of arbitration including, without limitation, expert witness fees and costs.

7. Notice to Owner. **You, the owner or tenant have the right to require the Contractor to have a performance and payment bond; however, the Contractor can charge you for the costs of procuring a bond.**
8. Correction of Work. After the contract is substantially completed, the Contractor and the Owner shall jointly inspect the work and a single list (punch list) shall be prepared identifying all work to be completed or corrected. There shall be only one such written list of work identified to be incomplete or incorrect, and the Owner shall sign the list. The Contractor shall then expeditiously complete all work stated on the punch list for which it is responsible in the terms of this agreement. The Owner shall not contract with any alternative contractor for the performance or completion of work within the scope of the Agreement, nor shall the Owner claim a credit or back charge the cost of completing an item stated on the written punch list, nor shall the Owner occupy or use the stated work until and unless the Contractor is first given reasonable written notice and opportunity to correct the work stated on the punch list referred to above. If the Owner does contract with an alternate contractor to perform the punch list work or otherwise completes the project without first affording the above described opportunity to the Contractor or if the Owner commences to use or occupy the space or work in which the Contractor performed work, the Owner then agrees to accept all work "as is" and thereby waives claim against the Contractor under the terms of this agreement.



**You are entitled to a completely filled in copy of this agreement, signed by both you and the contractor, before any work may be started.**

**List of documents to be incorporated into the contract: Notice concerning Commercial General Liability Insurance (CGL); Notice of Cancellation; Arbitration of Disputes; Three Day Right to Cancel; Mechanic’s Lien Warning; Information about Contractor’s State License Board.**

\_\_\_\_\_ **Owner acknowledges receipt of a fully completed copy of this agreement and all documents listed above:**

\_\_\_\_\_ **ARBITRATION: OWNER, CONTRACTOR IF YOU AGREE TO ARBITRATION, REVIEW THE “ARBITRATION OF DISPUTES” SECTION ATTACHED AND PLACE YOUR INITIALS.**

\_\_\_\_\_ The law requires that the Contractor give you a notice explaining your right to cancel. Initial here if the Contractor has given you a “Notice of the Three-Day Right to Cancel.”

X \_\_\_\_\_ (Date)  
(Owner Sign Here – Read Notice on Arbitration, Mechanic’s Lien Warning.)

X \_\_\_\_\_ (Date)  
(If more than one Owner, Sign here.)

X \_\_\_\_\_  
(Contractor’s Firm Name)

X \_\_\_\_\_ (Date)  
(Contractor or Agent Sign Here.)

## **MECHANICS' LIEN WARNING**

Anyone who helps improve your property, but who is not paid, may record what is called a mechanics' lien on your property. A mechanics' lien is a claim, like a mortgage or home equity loan, made against your property and recorded with the county recorder. Even if you pay your contractor in full, unpaid subcontractors, suppliers, and laborers who helped to improve your property may record mechanics' liens and sue you in court to foreclose the lien. If a court finds the lien is valid, you could be forced to pay twice or have a court officer sell your home to pay the lien. Liens can also affect your credit.

To preserve their right to record a lien, each subcontractor and material supplier must provide you with a document called a "20-day Preliminary Notice." This notice is not a lien. The purpose of the notice is to let you know that the person who sends you the notice has the right to record a lien on your property if he or she is not paid.

**BE CAREFUL.** The Preliminary Notice can be sent up to 20 days after the subcontractor starts work or the supplier provides material. This can be a big problem if you pay your contractor before you have received the Preliminary Notices. You will not get Preliminary Notices from your prime contractor or from laborers who work on your project. The law assumes that you already know they are improving your property.

**PROTECT YOURSELF FROM LIENS.** You can protect yourself from liens by getting a list from your contractor of all the subcontractors and material suppliers that work on your project. Find out from your contractor when these subcontractors started work and when these suppliers delivered goods or materials. Then wait 20 days, paying attention to the Preliminary Notices you receive.

**PAY WITH JOINT CHECKS.** One way to protect yourself is to pay with a joint check. When your contractor tells you it is time to pay for the work of a subcontractor or supplier who has provided you with a Preliminary Notice, write a joint check payable to both the contractor and the subcontractor or material supplier.

For other ways to prevent liens, visit CSLB's Web site at [www.cslb.ca.gov](http://www.cslb.ca.gov) or call CSLB at 800-321-CSLB (2752).

**REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING A LIEN PLACED ON YOUR HOME.** This can mean that you may have to pay twice, or face the forced sale of your home to pay what you owe.

## **STATUTORY NOTICES**

Information about the Contractors' State License Board (CSLB): **CSLB is the state consumer protection agency that licenses and regulates construction contractors.**

**Contact CSLB for information about the licensed contractor you are considering, including information about disclosable complaints, disciplinary actions and civil judgments that are reported to CSLB.**

**Use only licensed contractors.** If you file a complaint against a licensed contractor within the legal deadline (usually four years), CSLB has authority to investigate the complaint. If you use an unlicensed contractor, CSLB may not be able to help you resolve your complaint. Your only remedy may be in civil court, and you may be liable for damages arising out of any injuries to the unlicensed contractor or the unlicensed contractor's employees

**For more information:**

Visit CSLB's Web site at [www.cslb.ca.gov](http://www.cslb.ca.gov)

Call CSLB at 800-321-CSLB (2752)

Write CSLB at P.O. Box 26000, Sacramento, CA 95826.

**ARBITRATION OF DISPUTES**

**Arbitration of Disputes:** Any controversy or claim arising out of or related to this contract, or breach thereof, shall be settled by binding arbitration in accordance with the construction industry arbitration rules of the American Arbitration Association, and judgment upon the award rendered the by arbitrator(s) may be entered in any court having jurisdiction thereof. Claims within the monetary limit of the small claims court shall be litigated in such court at the request of either party, so long as both parties limit their right to recovery to the jurisdiction of the small claims court.

Any claim filed in small claims court shall not be deemed to be a waiver of the right to arbitrate, and if a counter claim in excess of the jurisdiction of the small claims court is filed in the municipal or superior court, then the party filing in small claims court may demand arbitration pursuant to this paragraph.

**Notice:** By initialing in the space below you are agreeing to have any dipute arising out of the matters included in the “arbitration of disputes” provision decided by neutral arbitration as provided by California law and you are giving up any rights you might possess to have the dispute litigated in a court or jury trial. By initialing in the space below you are giving up judicial rights to discovery and appeal, unless those rights are specifically included in the “Arbitration of Disputes” provision. If you refuse to submit to arbitration after agreeing to the provision, you may be compelled to arbitrate under the authority of the business and professions code or other applicable laws. Your agreement to this arbitration provision is voluntary.

We have read and understand the foregoing and agree to submit disputes arising out of the matters included in the “Arbitration of Disputes” provision to neutral arbitration.

**I agree to arbitration. X** \_\_\_\_\_  
(Buyer's Signature)

**I agree to arbitration. X** \_\_\_\_\_  
(Contractor's Signature)

In the event that contractor and owner have not each initialed the arbitration provision above, then it shall be conclusively agreed without a subsequent written agreement by all parties, that neither party agrees to arbitrate and the arbitration of disputes provision shall not be deemed to be a part of this agreement.

**COMMERCIAL GENERAL LIABILITY INSURANCE (CGL)**

This contractor does carry commercial general liability insurance. A copy of the policy is available upon request.

**THREE-DAY RIGHT TO CANCEL**

**You, the buyer, have the right to cancel this contract within three business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor’s place of business by midnight of the third business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.**

**If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received it, any goods delivered to you under this contract or sale. Or you may, if you wish, comply with the contractor’s instructions on how to return the goods at the contractor’s expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract.**

**I, \_\_\_\_\_ hereby acknowledge that on \_\_\_\_\_ I was provided**  
(Buyer’s Printed Name) (Date)  
**this document entitled “Three-Day Right to Cancel.”** \_\_\_\_\_  
(Buyer’s Signature)

**NOTICE OF CANCELLATION**

**DATE \_\_\_\_\_**

**You may cancel this transaction, without any penalty or obligation, within three business days from the above date.**

**If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be cancelled.**

**If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller’s expense and risk.**

**If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods, available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.**

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a FAX to \_\_\_\_\_ at

(Name of Seller)

\_\_\_\_\_ not later than midnight of \_\_\_\_\_  
(Address of Seller’s place of business) (Date)

**I hereby cancel this transaction** \_\_\_\_\_  
(Buyer’s Signature)

\_\_\_\_\_  
(Date)