

CITY CLERK ORIGINAL

C-7779
09/27/2011

CONSTRUCTION AGREEMENT

This Construction Agreement ("Agreement") is entered into this 27th day of September, 2011, and is effective between the City of Glendale, an Arizona municipal corporation ("City"), and Diamond Roofing, Inc, an Arizona corporation authorized to do business in the State of Arizona ("Contractor").

RECITALS

- A. City intends to undertake a project for the benefit of the public, with public funds, that is more fully set forth in **Exhibit A** attached ("Project");
- B. City desires to retain the services of Contractor to perform those specific duties and produce the specific work as set forth in the Project;
- C. City and Contractor desire to memorialize their agreement with this document.

AGREEMENT

In consideration of the Recitals, which are confirmed as true and correct and incorporated by this reference, the mutual promises and covenants contained in this Agreement, and other good and valuable consideration, City and Contractor agree as follows:

1. Project.

1.1 Scope. Contractor will provide all services and material necessary to assure the Project is completed timely and efficiently consistent with Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other contractors, providers or consultants retained by City.

1.2 Project Team.

- (A) **Project Manager.** Contractor will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's opinion, to complete the Project and handle all aspects of the Project such that the work produced by Contractor is consistent with applicable standards as detailed in this Agreement.
- (B) **Project Team.**
 - (1) The Project Manager and all other employees assigned to the Project by Contractor will comprise the "Project Team."
 - (2) Project Manager will have responsibility for and will supervise all other employees assigned to the Project by Contractor.
- (C) **Sub-contractors.**
 - (1) Contractor may engage specific technical contractor (each a "Sub-contractor") to furnish certain service functions.
 - (2) Contractor will remain fully responsible for Sub-contractor's services.
 - (3) Sub-contractors must be approved by the City, unless the Sub-contractor was previously mentioned in the response to the solicitation.
 - (4) Contractor shall certify by letter that contracts with Sub-contractors have been executed incorporating requirements and standards as set forth in this Agreement.

2. **Schedule.** The Project will be undertaken in a manner that ensures it is completed in a timely and efficient manner. If not otherwise stated in Exhibit A, the Project shall be completed no later than September, 30, 2011.
3. **Contractor's Work.**
 - 3.1 **Standard.** Contractor must perform services in accordance with the standards of due diligence, care, and quality prevailing among contractors having substantial experience with the successful furnishing of services and materials for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.
 - 3.2 **Licensing.** Contractor warrants that:
 - (A) Contractor and Sub-contractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of services ("Approvals"); and
 - (B) Neither Contractor nor any Sub-contractor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").
 - (1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments or to examine Contractor's contracting ability.
 - (2) Contractor must notify City immediately if any Approval or Debarment changes during the Agreement's duration and the failure of the Contractor to notify City as required will constitute a material default of this Agreement.
 - 3.3 **Compliance.** Services and materials will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, or other standards and criteria designated by City.
 - 3.4 **Coordination; Interaction.**
 - (A) If the City determines that the Project requires the coordination of professional services or other providers, Contractor will work in close consultation with City to proactively interact with any other contractors retained by City on the Project ("Coordinating Entities").
 - (B) Subject to any limitations expressly stated in the budget, Contractor will meet to review the Project, schedules, budget, and in-progress work with Coordinating Entities and the City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.
 - (C) If the Project does not involve Coordinating Entities, Contractor will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.
 - 3.5 **Hazardous Substances.** Contractor is responsible for the appropriate handling, disposal of, and if necessary, any remediation and all losses and damages to the City, associated with the use or release of hazardous substances by Contractor in connection with completion of the Project.
 - 3.6 **Warranties.** At any time within two years after completion of the Project, Contractor must, at Contractor's sole expense and within 20 days of written notice from the City, uncover, correct and remedy all defects in Contractor's work. City will accept a manufacturer's warranty on approved equipment.
 - 3.7. **Bonds.** Upon execution of this Agreement, and if applicable, Contractor must furnish Payment and Performance Bonds as required under A.R.S. § 34-608.

4. Compensation for the Project.

4.1 Compensation. Contractor's compensation for the Project, including those furnished by its Sub-contractors will not exceed \$20,285.00, as specifically detailed in **Exhibit B** ("Compensation").

4.2 Change in Scope of Project. The Compensation may be equitably adjusted if the originally contemplated scope of services as outlined in the Project is significantly modified by the City.

(A) Adjustments to the Scope or Compensation require a written amendment to this Agreement and may require City Council approval.

(B) Additional services which are outside the scope of the Project and not contained in this Agreement may not be performed by the Contractor without prior written authorization from the City.

5. Billings and Payment.

5.1 Applications.

(A) Unless Exhibit B (Compensation) dictates otherwise, the Contractor will submit monthly invoices (each, a "Payment Application") to City's Project Manager and City will remit payments based upon the Payment Application as stated below.

(B) The period covered by each Payment Application will be one calendar month ending on the last day of the month.

5.2 Payment.

(A) After a full and complete Payment Application is received, City will process and remit payment within 30 days.

(B) Payment may be subject to or conditioned upon City's receipt of:

(1) Completed work generated by Contractor and its Sub-contractors; and

(2) Unconditional waivers and releases on final payment from Sub-contractors as City may reasonably request to assure the Project will be free of claims arising from required performances under this Agreement.

5.3 Review and Withholding. City's Project Manager will timely review and certify Payment Applications.

(A) If the Payment Application is rejected, the Project Manager will issue a written listing of the items not approved for payment.

(B) City may withhold an amount sufficient to pay expenses that City reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.

(C) Contractor will provide, by separate cover, and concurrent with the execution of this Agreement, all required financial information to the City, including City of Glendale Transaction Privilege License and Federal Taxpayer identification numbers.

(D) City will temporarily withhold Compensation amounts as required by A.R.S. § 34-221(C).

6. Termination.

6.1 For Convenience. City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than 15 days following the date of delivery.

- (A) Contractor will be equitably compensated any services and materials furnished prior to receipt of the termination notice and for reasonable costs incurred.
- (B) Contractor will also be similarly compensated for any approved effort expended and approved costs incurred that are directly associated with Project closeout and delivery of the required items to the City.

6.2 For Cause. City may terminate this Agreement for cause if Contractor fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.

- (A) Contractor will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Contractor for Service and Repair furnished, City will pay the amount due to Contractor, less City's damages.
- (B) If City's direct damages exceed amounts otherwise due to Contractor, Contractor must pay the difference to City immediately upon demand; however, Contractor will not be subject to consequential damages more than \$1,000,000 or the amount of this Agreement, whichever is greater.

7. Insurance.

7.1 Requirements. Contractor must obtain and maintain the following insurance ("Required Insurance"):

- (A) Contractor and Sub-contractors. Contractor, and each Sub-contractor performing work or providing materials related to this Agreement must procure and maintain the insurance coverages described below (collectively "Contractor's Policies"), until each Parties' obligations under this Agreement are completed.
- (B) General Liability.
 - (1) Contractor must at all times relevant hereto carry a commercial general liability policy with a combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
 - (2) Sub-contractors must at all times relevant hereto carry a general commercial liability policy with a combined single limit of at least \$1,000,000 per occurrence.
 - (3) This commercial general liability insurance must include independent contractors' liability, contractual liability, broad form property coverage, products and completed operations, XCU hazards if requested by the City, and a separation of insurance provision.
 - (4) These limits may be met through a combination of primary and excess liability coverage.
- (C) Auto. A business auto policy providing a liability limit of at least \$1,000,000 per accident for Contractor and 1,000,000 per accident for Sub-contractors and covering owned, non-owned and hired automobiles.
- (D) Workers' Compensation and Employer's Liability. A workers' compensation and employer's liability policy providing at least the minimum benefits required by Arizona law.
- (E) Equipment Insurance. Contractor must secure, pay for, and maintain all-risk insurance as necessary to protect the City against loss of owned, non-owned, rented or leased capital equipment and tools, equipment and scaffolding, staging, towers and forms owned or rented by Contractor or its Sub-contractors.

- (F) Notice of Changes. Contractor's Policies must provide for not less than 30 days' advance written notice to City Representative of:
- (1) Cancellation or termination of Contractor or Sub-contractor's Policies;
 - (2) Reduction of the coverage limits of any of Contractor or and Sub-contractor's Policies; and
 - (3) Any other material modification of Contractor or Sub-contractor's Policies related to this Agreement.
- (G) Certificates of Insurance.
- (1) Within 10 business days after the execution of the Agreement, Contractor must deliver to City Representative certificates of insurance for each of Contractor and Sub-contractor's Policies, which will confirm the existence or issuance of Contractor and Sub-contractor's Policies in accordance with the provisions of this section, and copies of the endorsements of Contractor and Sub-contractor's Policies in accordance with the provisions of this section.
 - (2) City is and will be under no obligation either to ascertain or confirm the existence or issuance of Contractor and Sub-contractor's Policies, or to examine Contractor and Sub-contractor's Policies, or to inform Contractor or Sub-contractor in the event that any coverage does not comply with the requirements of this section.
 - (3) Contractor's failure to secure and maintain Contractor Policies and to assure Sub-contractor policies as required will constitute a material default under this Agreement.
- (H) Other Contractors or Vendors.
- (1) Other contractors or vendors that may be contracted by Contractor with in connection with the Project must procure and maintain insurance coverage as is appropriate to their particular agreement.
 - (2) This insurance coverage must comply with the requirements set forth above for Contractor's Policies (e.g., the requirements pertaining to endorsements to name the parties as additional insured parties and certificates of insurance).
- (I) Policies. Except with respect to workers' compensation and employer's liability coverages, the City must be named and properly endorsed as additional insureds on all liability policies required by this section.
- (1) The coverage extended to additional insureds must be primary and must not contribute with any insurance or self insurance policies or programs maintained by the additional insureds.
 - (2) All insurance policies obtained pursuant to this section must be with companies legally authorized to do business in the State of Arizona and acceptable to all parties.

7.2 Sub-contractors.

- (A) Contractor must also cause its Sub-contractors to obtain and maintain the Required Insurance.
- (B) City may consider waiving these insurance requirements for a specific Sub-contractor if City is satisfied the amounts required are not commercially available to the Sub-contractor and the insurance the Sub-contractor does have is appropriate for the Sub-contractor's work under this Agreement.

- (C) Contractor and Sub-contractors must provide to the City proof of Required Insurance whenever requested.

7.3 Indemnification.

- (A) To the fullest extent permitted by law, Contractor must defend, indemnify, and hold harmless City and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the "Indemnified Parties"), for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense," collectively, "Demands or Expenses") asserted by a third-party (i.e. a person or entity other than City or Contractor) and that arises out of or results from the breach of this Agreement by the Contractor or the Contractor's negligent actions, errors or omissions (including any Sub-contractor or other person or firm employed by Contractor), whether sustained before or after completion of the Project.
- (B) This indemnity and hold harmless provision applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Contractor shall be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Contractor or of any person or entity for whom Contractor is responsible.
- (C) Contractor is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

7.4 Waiver of Subrogation. Contractor waives, and will require any Subcontractor to waive, all rights of subrogation against the City to the extent of all losses or damages covered by any policy of insurance.

8. Immigration Law Compliance.

- 8.1 Contractor, and on behalf any subcontractor, warrants, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program.
- 8.2 Any breach of warranty under subsection 8.1 above is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.
- 8.3 City retains the legal right to inspect the papers of any Contractor or subcontractor employee who performs work under this Agreement to ensure that the Contractor or any subcontractor is compliant with the warranty under subsection 8.1 above.
- 8.4 City may conduct random inspections, and upon request of City, Contractor shall provide copies of papers and records of Contractor demonstrating continued compliance with the warranty under subsection 8.1 above. Contractor agrees to keep papers and records available for inspection by the City during normal business hours and will cooperate with City in exercise of its statutory duties and not deny access to its business premises or applicable papers or records for the purposes of enforcement of this section.
- 8.5 Contractor agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Contractor and expressly accrue those obligations directly to the benefit of the City. Contractor also agrees to require any subcontractor to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.

8.6 Contractor's warranty and obligations under this section to the City is continuing throughout the term of this Agreement or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.

8.7 The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

9. **Conflict.** Contractor acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

10. **Foreign Prohibitions.** Contractor certifies under A.R.S. §§ 35-391 *et seq.*, and 35-393 *et seq.*, that it does not have, and during the term of this Agreement will not have, "scrutinized" business operations, as defined in the preceding statutory sections, in the countries of Sudan or Iran.

11. **Non-Discrimination Policies.** Contractor must not discriminate against any employee or applicant for employment on the basis of race, religion, color sex or national origin. Contractor must develop, implement and maintain non-discrimination policies and post the policies in conspicuous places visible to employees and applicants for employment. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section.

12. **Notices.**

12.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:

(A) The Notice is in writing, and

(B) Delivered in person or by private express overnight delivery service (delivery charges prepaid), certified or registered mail (return receipt requested).

(C) Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:

(1) Received on a business day, or before 5:00 p.m., at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier on or before 5:00 p.m.; or

(2) As of the next business day after receipt, if received after 5:00 p.m.

(D) The burden of proof of the place and time of delivery is upon the Party giving the Notice.

(E) Digitalized signatures and copies of signatures will have the same effect as original signatures.

12.2 **Representatives.**

(A) Contractor. Contractor's representative ("Contractor's Representative") authorized to act on Contractor's behalf with respect to the Project, and his or her address for Notice delivery is:

Diamond Roofing, Inc.
Attn: Stephen Mullis
7520 West Sweetwater Avenue
Peoria, Arizona 85381

(B) City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale
Attn: Elaine Adamczyk
Glendale Public Housing Administrator
5850 West Glendale Avenue
Glendale, Arizona 85301

With required copies to:

City of Glendale
City Manager
5850 West Glendale Avenue
Glendale, Arizona 85301

City of Glendale
City Attorney
5850 West Glendale Avenue
Glendale, Arizona 85301

(C) Concurrent Notices.

- (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.
- (2) A notice will not be considered to have been received by City's representative until the time that it has also been received by City Manager and City Attorney.
- (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Contractor identifying the designee(s) and their respective addresses for notices.

(D) Changes. Contractor or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

13. **Financing Assignment.** City may assign this Agreement to any City-affiliated entity, including a non-profit corporation or other entity whose primary purpose is to own or manage the Project.

14. **Entire Agreement; Survival; Counterparts; Signatures.**

14.1 **Integration.** This Agreement contains, except as stated below, the entire agreement between City and Contractor and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.

- (A) Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.
- (B) Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.
- (C) Any solicitation, addendums and responses submitted by the Contractor are incorporated fully into this Agreement as Exhibit A. Any inconsistency between Exhibit A and this Agreement will be resolved by the terms and conditions stated in this Agreement.

14.2 **Interpretation.**

- (A) The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.
- (B) The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.
- (C) The Agreement will be interpreted in accordance with the laws of the State of Arizona.

- 14.3 **Survival.** Except as specifically provided otherwise in this Agreement each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.
- 14.4 **Amendment.** No amendment to this Agreement will be binding unless in writing and executed by the parties. Any amendment may be subject to City Council approval.
- 14.5 **Remedies.** All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.
- 14.6 **Severability.** If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be reformed to conform to applicable law.
- 14.7 **Counterparts.** This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.
15. **Dispute Resolution.** Each claim, controversy and dispute ("Dispute") between Contractor and City will be resolved in accordance with Exhibit C. The final determination will be made by the City.
16. **Exhibits.** The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.
- | | |
|-----------|--------------------|
| Exhibit A | Project |
| Exhibit B | Compensation |
| Exhibit C | Dispute Resolution |

(The remainder of this page left blank intentionally. Signatures appear on the following page.)

The parties enter into this Agreement as of the date shown above.

City of Glendale,
an Arizona municipal corporation



By: Jim Colson
Its: Deputy City Manager

ATTEST:



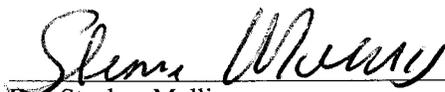
City Clerk (SEAL)

APPROVED AS TO FORM:



City Attorney

Diamond Roofing Inc.
an Arizona Corporation



By: Stephen Mullis
Its: President

WOMEN-OWNED/MINORITY BUSINESS [] YES [] NO

**EXHIBIT A
CONSTRUCTION AGREEMENT**

PROJECT

[See attached]



SUBMITTED TO City of Glendale Housing Authority	PHONE 632 930 3707	DATE 08 - 10 - 2010
STREET 6842 N. 61 Ave	JOB NAME Cholla Vista Apartments	
CITY/STATE/ZIP Glendale Az 85301	JOB LOCATION 5320 W. Maryland	

Diamond Roofing proposes to provide skilled labor and material to complete the reroofing and repairs at the above referenced residence in accordance with the following. The various scope and options are listed in order below.

Fascia Board Damage

Cover ground areas with tarps as needed. Remove sections of rotted damaged fascia. Inspect the roof deck and replace any deteriorated plywood panels at \$ 45 per sheet only if needed. Install new fascia boards where needed. Scope to include removing the drip edge and first courses of shingles in order to access the wood that requires changing. Shingles and drip edge will be replaced as needed. New materials will be primed and painted to blend back in with existing. Shingle dialot may differ slightly. Cost per ft. for repairs is approx. \$ 30 – 40 per ft; depending upon length of run and whether its a 1 or 2 story elevation.

General Repairs

Clean debris from roofs to include screen walls. Replace any missing, torn or damaged shingles. Inspect sidewalls and fasten lifted wall flashings. Inspect roof penetrations and seal any open voids and gaps. Detail all flashing work with paint.

WE PROPOSE hereby to furnish material and labor - complete in accordance with above specifications, for the sum of:
Not to exceed including sales taxes \$ 10,733.....\$ 10,733.00
Payment to be made as follows: **SALES TAX RATE is 6.175 %**

All material is guaranteed to be as specified. All work to be completed in a substantial workman like manner according to the specifications submitted, and as per standard trade practices. Any alteration or deviation from the above specifications involving extra costs will be performed only upon written orders, with extra charges over and above this estimate. diamond Roofing carries 1 million general liability insurance
Our workers are covered by Workmen's Compensation insurance.

Authorized Signature

NOTE: This proposal may be withdrawn by us if not accepted within days.

ACCEPTANCE OF PROPOSAL The above prices, specifications and conditions are satisfactory and are hereby accepted. You are therefore authorized to do the work as specified. Payment will be made as outlined above.

Signature

Date of Acceptance

Signature



DIAMOND ROOFING, INC. - Proposal & Contract

SUBMITTED TO CITY OF GLENDALE HOUSING AUTHORITY	PHONE	DATE AUG 10, 2011
STREET 6842 N. 61 Ave	JOB NAME LAMAR ADMINISTRATION BLDG.	
CITY/STATE/ZIP GLENDALE AZ	JOB LOCATION 6842 N. 61 AVE	

FOR AND IN CONSIDERATION THE AGREEMENT PRICE set forth below, DIAMOND ROOFING, INC. proposes to provide and install at the JOB LOCATION the following labor, material and services:

INCLUDES ALL OF ADMIN. BLDG AND DETACHED RECORDS BLDG

- Tarp cover driveway set up area and protect grounds, plants and walkways prior to job start, as required.
- Neatly mask off areas not intended to be foamed to insure straight line terminations.
- FOAM APPLICATION. - AS NEEDED TO REPAIR EXISTING FOAM**
 - TEAR OFF:** Remove existing roofing to a smooth workable surface and haul away debris from premises.
Inspect substrate and remove and replace any rotted lumber (additional charges. Plywood at N/A per sheet, labor and materials.)
Roofing work performed by DIAMOND ROOFING, INC. will be left in watertight condition at the end of each day's work.
 - RECOVER:** Clean surface, remove blisters and fasten loose membrane to the deck to insure a solid substrate.
Apply Final Cure primer at all presently ponded or deteriorated areas to insure proper adhesion of new foam roof system.
- Install new galvanized metal foamstop flashing at eaves of roof. Factory Finish: WHITE BROWN
- Raise AC units and/or coolers. Apply foam system completely underneath FOAM A/C DUCT ELBOW.
- ~~Apply and average one (1) inch of Therm-O Flex Polyurethane Foam in a seamless fashion to roof deck.~~ **RESURFACING OF BRAND NEW ROOF JUNE 2010**
Foam flash parapet wall bases and all rooftop penetrations into system: stacks, vents, drains, skylights, chimneys, etc.
- Additional work included in proposal:
REPAIR SURFACE punctures done from hail storm of OCT 5, 2010. POWER WASH ENTIRE SURFACE OF DEBRIS AND BIRD WASTE. RESURFACE ENTIRE ROOF AREA WITH 2 COATS ELASTOMERIC COATING
- COATING APPLICATION:** Apply Therm-O Flex Artic White Elastomeric Seal Coating over entire foam system at a rate of 2 1/4 Gallons per 100 sq. ft.
- Clean and detail premises, removing all job related debris on a daily basis to an approved licensed dumpsite.
- DIAMOND ROOFING, INC. 5 Year workmanship warranty against leaks. FROM DATE OF COMPLETION RENEWS WARRANTY DATE**
- Option/Notes:
INCLUDES REPAIR OF LEAK AT SOUTH CENTER

Agreement Price \$ 9552 Deposit \$ _____ Balance Upon Completion \$ _____ Approved by Buyer _____

Additional Terms: **INCLUDES RENEWING OF WARRANTY (S) FIVE YEARS FROM COMPLETION. SCOPE OF WORK CONSTITUTES REHABILITATION FROM STORM OF OCT 5, 2010**

- General Provisions:
- DIAMOND ROOFING, INC. agrees to remove all job related debris and broom clean premises upon completion of project.
 - Wood replacement will be charged to the customer according to DIAMOND ROOFING, INC.'s latest published wood replacement schedule.
 - All work shall be completed in a workmanship like manner and in compliance with all building codes and other applicable laws.
 - To the extent required by law, all work shall be performed by individuals duly licensed by law to perform said work.
 - DIAMOND ROOFING, INC. may at its discretion engage subcontractors to perform work hereunder, provided DIAMOND ROOFING, INC. shall fully pay said subcontractor and in all instances remain responsible for the proper completion of this Agreement.
 - DIAMOND ROOFING, INC. shall not be liable for any delay due to circumstances beyond its control, including strikes, casualty, war, general, unavailability of materials, acts of God, weather or unusual circumstances.
 - AFTER final payment is processed by DIAMOND ROOFING, INC. warranties will be issued to our customers.

If any undisclosed, hidden or other unusual conditions of the structure upon which the work is to be performed, shall be discovered during the work, this price may be adjusted upon mutual consent in writing. No Verbal agreements are binding. The buyer hereby acknowledges that he/she has read and understood the terms and conditions of this contract, which are hereby approved and accepted.

Initial _____ Date _____

**EXHIBIT B
CONSTRUCTION AGREEMENT**

COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

\$20,285.00 - Based on time and materials.

NOT-TO-EXCEED AMOUNT

The total amount of compensation paid to Contractor for full completion of all work required by the Project during the entire term of the Project must not exceed \$20,285.00.

DETAILED PROJECT COMPENSATION

100% of payment upon completion.

**EXHIBIT C
CONSTRUCTION AGREEMENT**

DISPUTE RESOLUTION

1. Disputes.

- 1.1 Commitment. The parties commit to resolving all disputes promptly, equitably, and in a good-faith, cost-effective manner.
- 1.2 Application. The provisions of this Exhibit will be used by the parties to resolve all controversies, claims, or disputes ("Dispute") arising out of or related to this Agreement-including Disputes regarding any alleged breaches of this Agreement.
- 1.3 Initiation. A party may initiate a Dispute by delivery of written notice of the Dispute, including the specifics of the Dispute, to the Representative of the other party as required in this Agreement.
- 1.4 Informal Resolution. When a Dispute notice is given, the parties will designate a member of their senior management who will be authorized to expeditiously resolve the Dispute.
- (A) The parties will provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any Dispute in order to assist in resolving the Dispute as expeditiously and cost effectively as possible;
 - (B) The parties' senior managers will meet within 10 business days to discuss and attempt to resolve the Dispute promptly, equitably, and in a good faith manner, and
 - (C) The Senior Managers will agree to subsequent meetings if both parties agree that further meetings are necessary to reach a resolution of the Dispute.

2. Arbitration.

- 2.1 Rules. If the parties are unable to resolve the Dispute by negotiation within 30 days from the Dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the Dispute will be decided by binding arbitration in accordance with Construction Industry Rules of the AAA, as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.
- (A) The parties will exercise best efforts to select an arbitrator within 5 business days after agreement for arbitration. If the parties have not agreed upon an arbitrator within this period, the parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, who will then select the arbitrator. The parties will equally share the fees and costs incurred in the selection of the arbitrator.
 - (B) The arbitrator selected must be an attorney with at least 15 years experience with commercial construction legal matters in Maricopa County, Arizona, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.
- 2.2 Discovery. The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within ten (10) days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering party's possession that are relevant to the dispute.
- 2.3 Hearing. The arbitration hearing will be held within 90 days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Glendale, Arizona unless otherwise agreed by the parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.

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Corporate Inquiry	
File Number: -0833429-1	Check Corporate Status
Corp. Name: DIAMOND ROOFING, INC.	

Domestic Address

7520 W SWEETWATER
PEORIA, AZ 85381

Statutory Agent Information

Agent Name: STEPHEN W MULLIS
Agent Mailing/Physical Address:
7520 W SWEETWATER
PEORIA, AZ 85381
Agent Status: APPOINTED 02/26/1998

Additional Corporate Information

Corporation Type: BUSINESS	Business Type: CONTRACTOR
Incorporation Date: 02/26/1998	Corporate Life Period: PERPETUAL
Domicile: ARIZONA	County: MARICOPA
Approval Date: 02/26/1998	Original Publish Date: 06/01/1998

Officer Information

STEPHEN W MULLIS
 PRESIDENT
 7520 W SWEETWATER AVE
 PEORIA, AZ 85381
Date of Taking Office: 02/26/1998
Last Updated: 04/27/2006

Director Information

STEPHEN W MULLIS
 DIRECTOR
 7520 W SWEETWATER AVE
 PEORIA, AZ 85381
Date of Taking Office: 02/26/1998
Last Updated: 07/09/2009

Annual Reports

Next Annual Report
Due: 02/26/2012

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2011	02	04/11/2011			
2010	02	03/04/2010			
2009	02	06/09/2009			
2008	02	12/24/2007			
2007	02	01/30/2007			
2006	02	03/07/2006			
2005	02	02/22/2005			
2004	02	03/05/2004			
2003	02	04/21/2003			
2002	02	02/03/2003			
2001	02	01/02/2001			
2000	02	11/13/2000			
1999	02	05/28/1999			

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Document Number	Description	Date Received
-00308793	99 ANNUAL REPORT	05/28/1999
00229416	00 ANNUAL REPORT	11/13/2000
00245544	01 ANNUAL REPORT	01/02/2001
00641422	02 ANNUAL REPORT	02/03/2003
00692274	03 ANNUAL REPORT	04/21/2003
00887062	04 ANNUAL REPORT	03/05/2004
01137787	05 ANNUAL REPORT	02/22/2005
01501226	06 ANNUAL REPORT	03/07/2006
01870345	07 ANNUAL REPORT	01/30/2007
02258175	08 ANNUAL REPORT	12/24/2007
02815444	09 ANNUAL REPORT	06/09/2009
03056914	10 ANNUAL REPORT	03/04/2010
03449531	11 ANNUAL REPORT	04/11/2011

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Notices of Pending Administrative Dissolution

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Date	Reason
06/01/2009	DELINQUENT ANNUAL REPORT

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Administrative Dissolutions and Reinstatements

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Administrative Dissolution Date	Administrative Dissolution Reason	Reinstatement Date
11/05/2002	AD-DISSOLVED - FILE A/R	02/03/2003

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Location	Date Received	Description
11208005032	02/26/1998	ARTICLES
20226032043	06/01/1998	PUB OF ARTICLES
31535001673	05/28/1999	99 ANNUAL REPORT
31598002777	11/13/2000	00 ANNUAL REPORT
31603000815	01/02/2001	01 ANNUAL REPORT
31671002211	06/16/2002	NOTICE OF PENDING ADMINISTRATIVE DISSOLUTION
31678002345	11/05/2002	CERTIFICATE OF DISSOLUTION
20316030025	02/03/2003	CERTIFICATE OF REINSTATEMENT
31700001709	02/03/2003	02 ANNUAL REPORT
31720001666	04/21/2003	03 ANNUAL REPORT
31795000498	03/05/2004	04 ANNUAL REPORT
31862000529	02/22/2005	05 ANNUAL REPORT
31955000656	03/07/2006	06 ANNUAL REPORT
32027003177	01/30/2007	07 ANNUAL REPORT
32099000749	12/24/2007	08 ANNUAL REPORT
11879003017	08/02/2010	LEGAL DOCUMENT

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