

## Agreement For Construction/Installation of Public Works Project:

### Public Safety Roof

This Agreement for Roofing Services made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2013 by and between the Town of Lauderdale By-The-Sea, hereinafter called the "Town" and \_\_\_\_\_, hereinafter called the "Contractor."

#### WITNESSETH:

The Contractor, in consideration of the sum to be paid to him by the Town, and other good and valuable consideration, hereby agrees with the Town as follows:

1. Scope of Work the Project consists of all labor, materials and equipment for the work described herein and more particularly described in Part II of this Invitation to Bid (the "Work"). Bids (which are referred to herein as "bids" or "proposals") shall be evaluated on a unit price basis and may be segregated for portions of the Work as specified in Part II hereof; however, a total base bid must be specified. Bid security in the amount of five percent (5%) of the total base bid amount must accompany the proposal in accordance with the Instructions to Bidders, part "B" below. The term "Bidder" is used herein to refer to any person or entity submitting a bid to the Town. The term "Contractor" is used herein to refer to the successful Bidder who receives a Notice of Award or executes a contract for the Work.
2. Payment. Town shall pay Contractor the sum of \$\_\_\_\_\_ as compensation for the Work. Upon completion of the Work, Contractor shall submit a written itemized statement identifying the Work order number, the nature of the Work performed, units provided and/or hours performed, as applicable. The Town shall make payment to Contractor within thirty (30) days from the date of receipt of a correct and approved invoice for payment and approval of the Work.
3. Warranty. Contractor agrees to remedy all defects appearing in the Work or developing in the materials furnished and the workmanship performed under this Contract for the period of one year after acceptance of the Work by Town.
4. Indemnity. The Contractor shall indemnify, defend and hold harmless the Town, its officers, and employees from liabilities, damages, losses, and costs, including, but not limited to, attorney's fees at any level, to the extent caused by or arising from the Contractor's acts or failures to act under this Contract or by persons employed or utilized by Contractor in the performance of this Contract or in any way arising directly or indirectly from this Contract. This indemnification shall obligate Contractor to defend at its own expense to and through appellate, supplemental, or bankruptcy proceeding, or to provide for such defense, at the Town's option, any and all claims of liability and all suits and actions of every

name and description covered above which may be brought against the Town, whether performed by Contractor, or persons employed or utilized by Contractor. The covenants and representations herein relating to this indemnification shall continue after termination of this Contract and continue in full force and effect as to the Contractor's responsibility to indemnify.

5. Contract and Performance Time. The Work shall be substantially performed on or before \_\_\_\_\_ and fully performed on or before \_\_\_\_\_. The term of this Contract is for the greater of: \_\_\_\_\_ days, or until completion of the Work and approval by Town, unless terminated earlier in accordance with the terms hereof. Town and Contractor recognize that time is of the essence in this Contract and that the Town will suffer financial loss if the Work is not completed within the performance time specified herein. The Contractor also recognizes the delays, expense and difficulties involved in proving the actual loss suffered by Town if the Work is not completed on time. Accordingly, instead of requiring any such proof, Town and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the Town one hundred (\$100) dollars for each calendar day that expires after the time specified for substantial completion of the Work. After substantial completion, if Contractor shall neglect, refuse or fail to complete the remaining Work within the time specified for final completion, Contractor shall pay the Town one hundred (100)dollars for each calendar day that expires until Town acceptance of the Work. For these purposes "substantial completion" means a level of completion indicating substantial compliance with the Contract Documents such that the Town can have beneficial use or occupancy of the Work in all respects for its intended purpose.

6. Default/Termination.

A. Termination for Default. This Contract may be terminated by Town upon five (5) calendar days' written notice to the Contractor for breach of any material term or condition of this Contract, for failure to perform the Work in a diligent, efficient, workmanlike, skillful, careful manner and in accordance with the provisions hereof, in the event the Contractor is adjudged bankrupt or has made an assignment for the benefit of creditors, has become insolvent, or for failure to make payments to laborers, subcontractors or materialmen. In such event, Town shall provide a description of the nature of the default in a written notice and if Contractor has not fully cured such default within the aforesaid five (5) day period, the Town shall have the right to terminate the Contract. In the event that Contractor abandons this Contract or causes it to be terminated by the Town, the Contractor shall and hereby does indemnify, defend and hold harmless the Town against any loss pertaining to this termination. In the event of such termination, if the Contractor has neglected to perform Work properly or abandons the Work or the Work is incomplete, without prejudice to any other remedy available to Town, the Town may make good all Work, may use all equipment left remaining at no cost to Town, and may take such action as may be necessary in the circumstances to resolve any public safety or welfare issues with no liability or

consequences therefore. If after such termination it is determined that the Contractor was not in default or sufficient cause for termination did not exist, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Town as described herein below.

B. Termination for Convenience. This Contract may be terminated by the Town for convenience upon five (5) calendar days' written notice to the Contractor. In the event of such a termination, the Contractor shall incur no further obligations in connection with the Contract or Work and shall, to the extent possible, terminate any outstanding obligations relating thereto. The Contractor shall be compensated for all Work performed to the satisfaction of the Town

7. Assignment. Contractor may not assign this Contract without the written approval by Town, which may be withheld in Town's sole discretion.
8. Changes to Contract. Any changes to the terms of this Contract must be contained in a written amendment, executed by the parties hereto.
9. Independent Contractor. This Contract does not create an employee/employer relationship between the parties. It is the intent of the parties that Contractor is an independent contractor under this Contract and not the Town's employee for any or all purposes, including, but not limited to, the application of the Fair Labor Standards Act, minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers Compensation Act, and the State unemployment insurance law. No officer or employee of the Town, during his or her term of employment or for one year thereafter, shall have any interest, direct or indirect, in this Contract or the proceeds thereof. No Contractor shall give, solicit for, deliver or provide a campaign contribution directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of mayor or commissioner of Town.
10. Insurance. Contractor shall provide evidence of insurance to the Town that complies with the insurance laws of the state of Florida, including workers compensation insurance as required by law, and liability insurance as required below, issued by an insurance company rated B+ or better (A.M. Best rating), together with an endorsement naming the Town as an additional or named insured.

Comprehensive General Liability Insurance	\$1,000,000.00;
	\$2,000,000.00 Aggregate
Workers' Compensation Insurance	Statutory requirements
Comprehensive Automobile Liability Insurance	\$1,000,000.00;

11. Contract Documents. All Work shall be performed in a professional manner and form as required by all applicable Federal, State, and local rules, regulations, laws, codes, and ordinances, including without limitation Fla. St. Ch. 119 (Public Records), and in accordance with the Contract documents (the "Contract Documents") which are fully incorporated herein and made a part of this Contract for all purposes and are as follows:

This Contract, including exhibits and amendments;  
Work Orders;  
Notice to Proceed;  
Request for Proposal or Invitation to Bid;  
Contractor's Proposal or Bid.

In the event of any conflict between the individual Contract Documents, they shall govern in the order listed above.

The Contract Documents as described herein, together with any exhibits, constitute the final and entire agreement between the Contractor and Town and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding this Contract shall be deemed to exist or to bind either party, unless same be in writing, dated subsequent to the date hereto, and duly executed by the party to be charged.

12. Severability. Should any provision, paragraph, sentence, word, or phrase contained in this document be determined by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word, or phrase shall be deemed modified to the extent necessary in order to conform with such laws, and the remainder shall remain unmodified and in full force and effect.
13. Waiver of Jury Trial. Town and Contractor knowingly, irrevocably, voluntarily and intentionally waive any right either may have to a trial by jury in state and or federal court proceedings in respect to any action, proceeding, lawsuit or counterclaim based upon this Contract and/or arising out of, under, or in connection with the Work performed hereunder, or any course of conduct, course of dealing, statements or actions or inactions of any party hereto.
14. Prevailing Party. If either the Town or Contractor is required to enforce the terms of this Contract by court proceedings or otherwise, whether or not formal legal action is required, the prevailing party shall be entitled to recover from the other party all such costs and expenses, including, but not limited to, court costs, and reasonable attorneys' fees.
15. Notice. Whenever any party is required to give or deliver any notice to any other party, or desires to do so, such notices shall be sent via certified mail or hand delivery to:

**FOR CONTRACTOR:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**FOR TOWN:**

\_\_\_\_\_  
Town of Lauderdale  
\_\_\_\_\_  
4501 Ocean Drive  
\_\_\_\_\_  
Lauderdale By The Sea, Florida 33308  
\_\_\_\_\_  
ATTN: Town Manager  
\_\_\_\_\_

**WITH COPY TO:**

\_\_\_\_\_  
Town of Lauderdale By The Sea  
\_\_\_\_\_  
4501 Ocean Drive  
\_\_\_\_\_  
Lauderdale By The Sea, Florida 33308  
\_\_\_\_\_  
ATTN: Town Attorney  
\_\_\_\_\_

IN WITNESS WHEREOF, the parties have made and executed this Contract on the respective dates under each signature.

ATTEST:

LAUDERDALE-BY-THE-SEA, FLORIDA

\_\_\_\_\_  
Vanessa Castillo, CMC Town Clerk

By: \_\_\_\_\_  
Constance Hoffmann, Town Manager

\_\_\_\_\_ day of \_\_\_\_\_, 2012.

APPROVED AS TO FORM AND SUFFICIENCY:

By: \_\_\_\_\_  
TOWN ATTORNEY

WITNESS

CONTRACTOR

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

By \_\_\_\_\_

(Signature and Title)

(Corporate Seal)

\_\_\_\_\_  
(Type Name/Title signed above)

\_\_\_\_ day of \_\_\_\_\_, 2012.