

MAINTENANCE SERVICES AGREEMENT

THIS AGREEMENT is made this 11th day of March, 2023, by the **CITY OF GARDEN GROVE**, a municipal corporation, referred to as ("CITY"), and **AME Builders, Inc. dba AME Roofing**, hereinafter referred to as ("CONTRACTOR").

RECITALS

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to Council approval dated April 11, 2023.
2. The Scope of Work is defined on Bid Proposal for the project described as: **CITY OF GARDEN GROVE - SILICONE ROOFING PROJECT 11277 GARDEN GROVE NO. 02-2023**, Line Item Number 4 (one-year maintenance).
3. CITY desires to utilize the services of CONTRACTOR to **provide roof maintenance services that includes, but not limited to, all material, labor, and transportation to clean, inspect, and maintain the silicone roof as required by the CITY.**
3. CONTRACTOR is qualified by virtue of experience, training, education, and expertise to accomplish the required services.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term and Termination:** The term of the Agreement shall be valid from full execution of the Agreement and shall remain in effect for one year after completion of the roofing work performed pursuant to the roofing construction project agreement number 02-2023. This Agreement may be terminated by the CITY without cause. In such event, the CITY will compensate CONTRACTOR for work performed to date in accordance with proposal which is attached as Attachment "A" and is hereby incorporated by reference. CONTRACTOR is required to present evidence to support performed work.
2. **Services to be Provided:** The services to be performed by CONTRACTOR shall consist of tasks as set forth in the CONTRACTOR's Proposal, which is attached hereto as (Attachment "A") and incorporated herein by reference. The proposal and this Agreement do not guarantee any specific amount of work. CONTRACTOR warrants that all services will be performed in a competent, professional and satisfactory manner in accordance with customary and usual practices in CONTRACTOR's profession and the standards prevalent in the industry for such services. By executing this Agreement, CONTRACTOR warrants that it has carefully considered how the work should be performed and fully understands

the facilities, difficulties, and restrictions attending performance of the work under this Agreement.

3. **Compensation.** CONTRACTOR shall be compensated as follows:

- 3.1 **Amount.** Total compensation under this Agreement shall not exceed (NTE) the total amount of Nine Thousand Three Hundred Sixty Dollars and 00/100 cents (\$9,360.00), payable in arrears and in accordance with the Proposal in Attachment "A" and incorporated herein by reference.
- 3.2 **Payment.** For work under this Agreement, payment shall be made per invoice for work completed. For extra work not a part of this Agreement, a written authorization by CITY will be required, and payment shall be based on schedule included in the Proposal (Attachment "A").
- 3.3 **Records of Expenses.** CONTRACTOR shall keep complete and accurate records of all costs and expenses incidental to services covered by this Agreement. These records will be made available at reasonable times to CITY.
- 3.4 **Termination.** CITY and CONTRACTOR shall each have the right to terminate this Agreement, without cause, by giving thirty (30) days written notice of termination. If the Agreement is terminated by CITY, then the provisions of paragraph 3 would apply to that portion of the work completed.

4. **Insurance Requirements**

- 4.1 **Commencement of Work.** CONTRACTOR shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the CITY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the CITY of any material change, cancellation, or termination at least thirty (30) days in advance and provide a Waiver of Subrogation in favor of the CITY.
- 4.2 **Workers' Compensation Insurance.** During the duration of this Agreement, CONTRACTOR and all SUB-CONTRACTORS shall maintain Workers' Compensation Insurance in the amount and type required by law, if applicable.
- 4.3 **Insurance Amounts.** CONTRACTOR shall maintain the following insurance for the duration of this Agreement:
 - a) Commercial general liability in an amount of \$1,000,000 per occurrence; **(claims made and modified occurrence policies are not acceptable)**; Insurance companies must be acceptable to the CITY and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the CITY;

- b) Automobile liability in an amount of \$1,000,000 combined single limit (**claims made and modified occurrence policies are not acceptable**); Insurance companies must be approved by the CITY and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the CITY.

An **On-going and Completed Operations Additional Insured Endorsement** for the policy under section 4.3 (a) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

An Additional Insured Endorsement for the policy under section 4.3 (b) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for automobiles owned, lease, hired, or borrowed by CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

For any claims related to this Agreement, CONTRACTOR's insurance coverage shall be primary insurance as respects to CITY, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.

If CONTRACTOR maintains higher insurance limits than the minimums shown above, CONTRACTOR shall provide coverage for the higher insurance limits otherwise maintained by the CONTRACTOR.

5. **Non-Liability of Officials and Employees of the CITY.** No official or employee of CITY shall be personally liable to CONTRACTOR in the event of any default or breach by CITY, or for any amount, which may become due to CONTRACTOR.
6. **Non-Discrimination.** CONTRACTOR covenants there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital status, age, handicap, national origin or ancestry, in any activity pursuant to this Agreement.
7. **Independent CONTRACTOR.** It is agreed to that CONTRACTOR shall act and be an independent CONTRACTOR and not an agent or employee of CITY, and shall obtain no rights to any benefits which accrue to CITY's employees.
8. **Compliance With Law.** CONTRACTOR shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government. CONTRACTOR shall comply with, and shall be responsible for causing all

CONTRACTORS and SUB-CONTRACTORS performing any of the work pursuant to this Agreement to comply with, all applicable federal and state labor standards, including, to the extent applicable, the prevailing wage requirements promulgated by the Director of Industrial Relations of the State of California Department of Labor. The City makes no warranty or representation concerning whether any of the work performed pursuant to this Agreement constitutes public works subject to the prevailing wage requirements.

9. **Notices.** All notices shall be personally delivered or mailed to the below listed address, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.

(a) (CONTRACTOR)
AME Builders, Inc. dba AME Roofing
1242 Transit Avenue
Pomona, CA 91766
Attention: Don Seo

(b) (Address of CITY)	(with a copy to)
Paul Guerrero	City Attorney
Real Property Division	City of Garden Grove
City of Garden Grove	P.O. Box 3070
P.O. Box 3070	Garden Grove, CA 92840
Garden Grove, CA 92840	

10. **CONTRACTOR's Proposal.** This Agreement shall include CONTRACTOR's proposal, Exhibit "A" hereto, which shall be incorporated herein. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.
11. **Licenses, Permits and Fees.** At its sole expense, CONTRACTOR shall obtain a Garden Grove Business License, all permits and licenses as may be required by this Agreement.
12. **Familiarity With Work.** By executing this Agreement, CONTRACTOR warrants that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the facilities, difficulties and restrictions of the work under this Agreement. Should CONTRACTOR discover any latent or unknown conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY of this and shall not proceed, except at CONTRACTOR's risk, until written instructions are received from CITY.
13. **Time of Essence.** Time is of the essence in the performance of this Agreement.

14. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability and reputation of CONTRACTOR, its principals and employees were a substantial inducement for CITY to enter into this Agreement. CONTRACTOR shall not contract with any other entity to perform the services required without written approval of the CITY. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of CITY. If CONTRACTOR is permitted to subcontract any part of this Agreement, CONTRACTOR shall be responsible to CITY for the acts and omissions of its sub-contractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationship between any sub-contractor and CITY. All persons engaged in the work will be considered employees of CONTRACTOR. CITY will deal directly with and will make all payments to CONTRACTOR.
15. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.
16. **Indemnification.** To the fullest extent permitted by law, CONTRACTOR agrees to protect, defend, and hold harmless CITY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damages of any nature, including interference with use of property, arising out of, or in any way connected with the negligence, recklessness and/or intentional wrongful conduct of CONTRACTOR, CONTRACTOR's agents, officers, employees, sub-contractors, or independent CONTRACTORS hired by CONTRACTOR in the performance of the Agreement. The only exception to CONTRACTOR's responsibility to protect, defend, and hold harmless CITY, is due to the negligence, recklessness and/or wrongful conduct of CITY, or any of its elective or appointive boards, officers, agents, or employees.

This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONTRACTOR.

17. **Prevailing Wages.** The CITY has been advised that the Prevailing Wages Law applies to the work. CONTRACTOR and its subcontractors must be registered with the California Department of Industrial Relations pursuant to Labor Code Section 1725.5. This Agreement shall not be effective until CONTRACTOR provides proof of registration to the CITY. CONTRACTOR shall be responsible for CONTRACTOR's compliance in all respects with the Prevailing Wage Law, including the payment of the prevailing wage rates to all the laborers involved, and with California Labor Code Section 1770 et seq., including the keeping of all records required by the provisions of Labor Code Section 1776 and the implementing administrative regulations. CONTRACTOR shall submit payroll records to the Labor Commissioner pursuant to Labor Code section 1771.4(a)(3) and shall comply with the job site notices posting requirements

established by the Labor Commissioner pursuant to Title 8, California Code of Regulations Section 16461(e) or other regulation promulgated pursuant to Labor Code Section 1771.4(a)(2). Pursuant to Labor Code Section 1771.4, this Project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations. The CITY shall be a third party beneficiary of the forgoing covenant with rights to enforce the same as against the CONTRACTOR.

18. **Appropriations.** This Agreement is subject to and contingent upon funds being appropriated therefor by the Garden Grove City Council for each fiscal year covered by the term of this Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to the CITY.

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[AGREEMENT SIGNATURE BLOCK ON NEXT PAGE]

IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

Date: _____

"CITY"
CITY OF GARDEN GROVE

By: _____
Lisa L. Kim, City Manager

ATTESTED:

City Clerk

Date: _____

"CONTRACTOR"
AME Builders, Inc. dba AME Roofing

By: _____

Name: _____

Title: _____

Date: _____

Tax ID No.: _____

DIR Registration No.: _____

Expiration Date: _____

Contractor's Classification: _____

Contractor's License: _____

Expiration Date: _____

If CONTRACTOR is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to the CITY.

APPROVED AS TO FORM:

Garden Grove City Attorney

Date: _____

ATTACHMENT "A"

Scope of Work Includes the Following:

CONTRACTOR'S PROPOSAL

CONTRACTOR'S NAME (BIDDER): AME Builders Inc dba AME Roofing

THE HONORABLE MAYOR AND GARDEN GROVE CITY COUNCIL MEMBERS
11222 ACACIA PARKWAY, GARDEN GROVE, CALIFORNIA 92842

SUBJECT PROJECT: CITY OF GARDEN GROVE – SILICONE ROOFING PROJECT 11277 GARDEN GROVE NO. 02-2023

Contractors, the undersigned, having carefully examined the Plans and Specifications for the above subject Project and having personally visited the site, work, and made familiar with the conditions, HEREBY PROPOSE to furnish all labor, materials, equipment, and transportation, and do all the work required to complete the said work in accordance with said Plans and Specifications for the unit prices named in the following bid proposal:

TOTAL BID PROPOSAL

ITEM	APPROX. QUANTITY	◆ BELOW, FOR EACH ITEM, WRITE UNIT PRICE IN WORDS	UNIT PRICE	ITEM TOTAL
1.	16200 L.S.	Prep, Inspect, Apply 100% Silicone Roof Deck ◆ <u>One Hundred Twenty Seven Thousand Six Hundred Fifty Six Dollars</u> Per Lump Sum	\$ 7.88	\$ 127,656.00
2.	1 EA.	Remove and Install new Steel Roof Access Hatch ◆ <u>Three Thousand Seven Hundred Dollars</u> Per Each	\$ 3,700.00	\$ 3,700.00
3.	1 EA.	Install Safety Corner Grab Bar ◆ <u>Three Hundred Eighty Dollars</u> Per Each	\$ 380.00	\$ 380.00
4.	2 EA.	Wash, Inspect, and Maintain, Two Times, One Year ◆ <u>Four Thousand Six Hundred Eighty Dollars</u> Per Each	\$ 4,680.00	\$ 9,360.00
TOTAL BID PROPOSAL (Total of Items 1 through 4):			\$ 141,096.00	
Total Bid Proposal Shall be in Written Words Below:				
* One Hundred Forty One Thousand Ninety Six Dollars				

The foregoing quantities are approximate only, being given as a basis for the comparison of bids, and the CITY does not expressly or by implication, agree that the actual amount of work will correspond therewith, but reserves the right to increase or decrease the amount of any class of portion of the work as may be deemed necessary or expedient by the CITY's representative.

NOTES:

1. Contract will be awarded to lowest responsible bidder, based on amount shown under TOTAL BID PROPOSAL.
2. In case of discrepancy between the words and figures, the words shall prevail.
3. The Project is pending the award of Grant Funds and the Contract award will be made within one hundred and eighty (180) calendar days after the opening of the proposals.
4. See attached Appendix "A" and Special Provisions.