

**AGREEMENT FOR MINOR CONSTRUCTION SERVICES BETWEEN  
CITY OF TEMECULA AND TWM ROOFING, INC.**

**PARK RESTROOMS, RENOVATION, EXPANSION AND ADA IMPROVEMENTS**

**THIS AGREEMENT** is made and effective as of **June 11, 2019**, between the **City of Temecula**, a municipal corporation (hereinafter referred to as "City"), and **TWM Roofing, Inc.**, a Corporation (hereinafter referred to as "Contractor"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

**1. TERM**

This Agreement shall commence on **June 11, 2019**, and shall remain and continue in effect until tasks described herein are completed, but in no event later than **June 30, 2020**, unless sooner terminated pursuant to the provisions of this Agreement.

**2. SCOPE OF WORK**

Contractor shall construct and install all of the work described in the Scope of Work, attached hereto and incorporated herein as Exhibit A. ("Work"), and shall provide and furnish all the labor, materials, necessary tools, expendable equipment, and all utility and transportation services required for the Work. All of said Work to be performed and materials to be furnished for the Work shall be in strict accordance with the specifications set forth in the Scope of Work. The Work shall be completed on or before **June 30, 2020**. Contractor shall not commence the Work until such time as directed in writing by the City.

**3. PAYMENT**

a. The City agrees to pay Contractor monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, Payment Rates and Schedule, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. Any terms in Exhibit B, other than the scope of work, payment rates and schedule of payment are null and void. This amount shall not exceed Thirty Nine Thousand Nine Hundred and Forty Eight Dollars and Fifty Five Cents (**\$39,948.55**) unless additional payment is approved as provided in this Agreement.

b. Contractor shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Contractor shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Contractor at the time City's written authorization is given to Contractor for the performance of said services.

The City Manager may approve additional work up to ten percent (10%) of the amount of the Agreement as approved by City Council. Any additional work in excess of this amount shall be approved by the City Council.

c. Contractor will submit invoices monthly for actual services performed. Invoices shall be submitted between the first and fifteenth business day of each month, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Contractor's fees, it shall give written notice to Contractor within thirty (30) days of receipt of an invoice of any disputed

fees set forth on the invoice. For all reimbursements authorized by this Agreement, Contractor shall provide receipts on all reimbursable expenses in excess of fifty dollars (\$50) in such form as approved by the Director of Finance.

**4. PERFORMANCE**

Contractor shall at all time faithfully, competently and to the best of his or her ability, experience, and talent, perform all tasks described herein. Contractor shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Contractor hereunder in meeting its obligations under this Agreement.

**5. CITY APPROVAL**

All labor, materials, tools, equipment, and services shall be furnished and work performed and completed subject to the approval of City or its authorized representatives, and the quality of the workmanship shall be guaranteed for one year from date of acceptance.

**6. WAIVER OF CLAIMS**

On or before making final request for payment under Paragraph 3 above, Contractor shall submit to City, in writing, all claims for compensation under or arising out of this Agreement. The acceptance by Contractor of the final payment shall constitute a waiver of all claims against City under or arising out of this Agreement, except those previously made in writing and request for payment. Contractor shall be required to execute an affidavit, release and indemnify Agreement with each claim for payment.

**7. PREVAILING WAGES**

Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the City Council has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in this locality for each craft, classification, or type of workman needed to execute this Agreement from the Director of the Department of Industrial Relations. Copies may be obtained from the California Department of Industrial Relations Internet website at <http://www.dir.ca.gov>. Contractor shall provide a copy of prevailing wage rates to any staff or sub-contractor hired, and shall pay the adopted prevailing wage rates as a minimum. Contractor shall comply with the provisions of Sections 1720, 1725.5, 1771.1(a), 1773.8, 1775, 1776, 1777.5, 1777.6, and 1813 of the Labor Code. Pursuant to the provisions of 1775 of the Labor Code, Contractor shall forfeit to the City, as a penalty, the sum of \$200.00 for each calendar day, or portion thereof, for each laborer, worker, or mechanic employed, paid less than the stipulated prevailing rates for any work done under this Agreement, by him or by any subcontractor under him, in violation of the provisions of the Agreement. This project, work, or service will be subject to compliance monitoring and enforcement by the Department of Industrial Relations (DIR) pursuant to Labor Code Section 1771.4.

**8. REGISTRATION WITH THE DEPARTMENT OF INDUSTRIAL RELATIONS**

Registration with the Department of Industrial Relations (DIR) is mandatory as a condition for bidding, providing certain services, and working on a public works project as specified in Labor Code Section 1771.1(a). Contractor and any subcontractors must be registered with the Department of Industrial Relations to be qualified to bid, or provide a proposal and/or time and

material quote or be listed in a bid, proposal or quote, subject to the requirements of Public Contract Code Section 4104; or engage in the performance of any contract that is subject to Labor Code Section 1720 et seq., unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Contractor and subcontractors will be required to provide proof of registration with the DIR. For more information regarding registration with the Department of Industrial Relations, refer to <http://www.dir.ca.gov/Public-Works/PublicWorks.html>

## **9. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE**

a. The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Contractor at least ten (10) days prior written notice. Upon receipt of said notice, the Contractor shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

b. In the event this Agreement is terminated pursuant to this Section, the City shall pay to Contractor the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Contractor will submit an invoice to the City, pursuant to Section entitled "**PAYMENT**" herein.

## **10. DEFAULT OF CONTRACTOR**

a. The Contractor's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Contractor is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Contractor for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Contractor. If such failure by the Contractor to make progress in the performance of work hereunder arises out of causes beyond the Contractor's control, and without fault or negligence of the Contractor, it shall not be considered a default.

b. If the City Manager or his delegate determines that the Contractor is in default in the performance of any of the terms or conditions of this Agreement, it shall serve the Contractor with written notice of the default. The Contractor shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Contractor fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

## **11. INDEMNIFICATION**

The Contractor agrees to defend, indemnify, protect and hold harmless the City of Temecula, Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency, its officers, officials, employees, and volunteers (hereinafter "indemnified parties") from and against any and all claims, demands, losses, defense costs or expenses, including attorney fees and expert witness fees, or liability of any kind or nature which the indemnified parties may sustain or incur or which may be imposed upon them for injury to or death of persons, or damage to property arising out of Contractor's negligent or wrongful acts or omissions arising out of or in any way related to the performance or non-performance of this Agreement, excepting only liability arising out of the negligence of the indemnified parties.

## 12. INSURANCE REQUIREMENTS

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

a. Minimum Scope of Insurance. Coverage shall be at least as broad as:

1) Insurance Services Office Commercial General Liability form No. CG 00 01 11 85 or 88.

2) Insurance Services Office Business Auto Coverage form CA 00 01 06 92 covering Automobile Liability, code 1 (any auto). If the Contractor owns no automobiles, a non-owned auto endorsement to the General Liability policy described above is acceptable.

3) Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance. If the Contractor has no employees while performing under this Agreement, worker's compensation insurance is not required, but Contractor shall execute a declaration that it has no employees.

b. Minimum Limits of Insurance. Contractor shall maintain limits no less than:

1) General Liability: One million (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2) Automobile Liability: One million (\$1,000,000) per accident for bodily injury and property damage.

3) Worker's Compensation as required by the State of California; Employer's Liability: One million dollars (\$1,000,000) per accident for bodily injury or disease.

c. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions shall not exceed Twenty Five Thousand Dollars and No Cents (\$25,000).

d. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1) The indemnified parties are to be covered as insured's, as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the indemnified parties.

2) For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the indemnified parties. Any insurance or self-insured maintained by the indemnified parties shall be excess of the Contractor's insurance and shall not contribute with it.

3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the indemnified parties.

4) The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5) Each insurance policy required by this agreement shall be endorsed to state: should the policy be canceled before the expiration date the issuing insurer will endeavor to mail thirty (30) days' prior written notice to the City.

6) If insurance coverage is canceled or, reduced in coverage or in limits the Contractor shall within two (2) business days of notice from insurer phone, fax, and/or notify the City via certified mail, return receipt requested of the changes to or cancellation of the policy.

e. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of A-:VII or better, unless otherwise acceptable to the City. Self insurance shall not be considered to comply with these insurance requirements.

f. Verification of Coverage. Contractor shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the City. All endorsements are to be received and approved by the City before work commences. As an alternative to the City's forms, the Contractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

g. By executing this Agreement, Contractor hereby certifies:

I am aware of the provision of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workman's Compensation or undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this Contract.

### **13. PERFORMANCE AND LABOR MATERIAL BONDS**

Prior to the commencement of the Work, Contractor shall provide the City with a Labor and Materials Bond in form of Exhibit C, Labor and Materials Bond, and a Performance Bond in the form of Exhibit D, Performance Bond, each bond in the amount of the cost of the Work as described in Paragraph 3. Exhibits C and D are attached hereto and incorporated herein by this reference as though set forth in full

### **14. TIME OF THE ESSENCE**

Time is of the essence in this Agreement.

### **15. INDEPENDENT CONTRACTOR**

a. Contractor is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Neither City nor any of its officers, employees, agents, or volunteers shall have control over the conduct of Contractor or any of Contractor's officers, employees, or agents except as set forth in this Agreement. Contractor shall not at any time or in any manner represent that it or any of its officers,

employees or agents are in any manner officers, employees or agents of the City. Contractor shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner.

b. No employee benefits shall be available to Contractor in connection with the performance of this Agreement. Except for the fees paid to Contractor as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Contractor for performing services hereunder for City. City shall not be liable for compensation or indemnification to Contractor for injury or sickness arising out of performing services hereunder.

#### **16. LEGAL RESPONSIBILITIES**

The Contractor shall keep itself informed of all local, State and Federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Contractor shall at all times observe and comply with all such ordinances, laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Contractor to comply with this section.

#### **17. CONTRACTOR'S INDEPENDENT INVESTIGATION**

No plea of ignorance of conditions that exist or that may hereafter exist or of conditions of difficulties that may be encountered in the execution of the work under this Agreement, as a result of failure to make the necessary independent examinations and investigations, and no plea of reliance on initial investigations or reports prepared by City for purposes of letting this Agreement out to proposal will be accepted as an excuse for any failure or omission on the part of the Contractor to fulfill in every detail all requirements of this Agreement. Nor will such reasons be accepted as a basis for any claims whatsoever for extra compensation or for an extension of time.

#### **18. CONTRACTOR'S AFFIDAVIT**

After the completion of the Work contemplated by this Agreement, Contractor shall file an affidavit with the City Manager stating that all workmen and persons employed, all firms supplying materials, and all subcontractors on the Work have been paid in full, and that there are no claims outstanding against the project for either labor or materials, except certain items, if any, to be set forth in an affidavit covering disputed claims or items in connection with a Stop Notice which has been filed under the provisions of the laws of the State of California.

#### **19. BOOKS AND RECORDS**

Contractor's books, records, and plans or such part thereof as may be engaged in the performance of this Agreement, shall at all reasonable times be subject to inspection and audit by any authorized representative of the City.

#### **20. UTILITY LOCATION**

City acknowledges its responsibilities with respect to locating utility facilities pursuant to California Government Code Section 4215.

#### **21. REGIONAL NOTIFICATION CENTERS**

Contractor agrees to contact the appropriate regional notification center in accordance with Government Code Section 4215.

**22. INSPECTION**

The Work shall be subject to inspection and testing by City and its authorized representatives during manufacture and construction and all other times and places, including without limitation, the plans of Contractor and any of its suppliers. Contractor shall provide all reasonable facilities and assistance for the safety and convenience of inspectors. All inspections and tests shall be performed in such manner as to not unduly delay the Work. The Work shall be subject to final inspection and acceptance notwithstanding any payments or other prior inspections. Such final inspection shall be made within a reasonable time after completion of the Work. Inspection of the work shall not relieve the Contractor of the obligation to fulfill all obligations under this Agreement.

**23. DISCRIMINATION**

Contractor represents that it has not, and agrees that it will not, discriminate in its employment practices on the basis of race, creed, religion, national origin, color, sex, age, or handicap.

**24. WRITTEN NOTICE**

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice. Notice shall be effective upon delivery to the addresses specified below or on the third business day following deposit with the document delivery service or United States Mail as provided above.

**Mailing Address:** City of Temecula  
Attn: City Manager  
41000 Main Street  
Temecula, CA 92590

**To Contractor:** TWM Roofing, Inc.  
Attn: Tom Marshall  
5256 S. Mission Rd., Ste. 703  
Bonsall, CA 92003

**25. ASSIGNMENT**

The Contractor shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Upon termination of this Agreement, Contractor's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Contractor.

**26. LICENSES**

At all times during the term of this Agreement, Contractor shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

**27. PROHIBITED INTEREST**

No officer, or employee of the City of Temecula that has participated in the development of this agreement or its approval shall have any financial interest, direct or indirect, in this Agreement, the proceeds thereof, the Contractor, or Contractor's sub-contractors for this project, during his/her tenure or for one year thereafter. The Contractor hereby warrants and represents to the City that no officer or employee of the City of Temecula that has participated in the development of this agreement or its approval has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, the proceeds thereof or in the business of the Contractor or Contractor's sub-contractors on this project. Contractor further agrees to notify the City in the event any such interest is discovered whether or not such interest is prohibited by law or this Agreement.

**28. GOVERNING LAW**

The City and Contractor understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the City of Temecula. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

**29. ENTIRE AGREEMENT**

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

**30. AUTHORITY TO EXECUTE THIS AGREEMENT**

The person or persons executing this Agreement on behalf of Contractor warrants and represents that he or she has the authority to execute this Agreement on behalf of the Contractor and has the authority to bind Contractor to the performance of its obligations hereunder. The City Manager is authorized to enter into an amendment on behalf of the City to make the following non-substantive modifications to the agreement: (a) name changes; (b) extension of time; (c) non-monetary changes in scope of work; (d) agreement termination.

**31. PERFORMANCE BOND**

Contractor shall execute and provide to City concurrently with this Agreement a Performance Bond in the amount of the total, not-to-exceed compensation indicated in this Agreement, and in a form provided or approved by the City in Exhibit D. No payment will be made to Contractor until it has been received and approved by the City.



**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year first above written.

**CITY OF TEMECULA**

**TWM ROOFING, INC.**

*(Two Signatures of corporate officers required unless corporate documents authorize only one person to sign the agreement on behalf of the corporation.)*

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

Michael S. Naggar, Mayor

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

Tom Marshall, President, Secretary & Treasurer

**ATTEST:**

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

Randi Johl, City Clerk

**APPROVED AS TO FORM:**

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

Peter M. Thorson, City Attorney

**CONTRACTOR**

TWM Roofing, Inc.

Attn: Tom Marshall

5256 S. Mission Rd., Ste. 703

Bonsall, CA 92003

Phone Number: (760) 978-0777

TWMSince1978@gmail.com

PM Initials:   
Date: 5/08/19

# **EXHIBIT “A”**

## **SCOPE OF WORK**

### **PW17-06 Ronald Reagan Sports Park North/South Fields Restroom Building**

- 1) Remove and dispose of existing shingles and flat roof systems down to wood substrate.
- 2) Replace all damaged wood and paint new wood similar to existing.
- 3) Remove or cut substantial nails protruding through the overhangs.

**Note:** The existing overhangs are plywood and have nails protruding/visible thru the sheeting. This plywood will NOT be replaced – only wood that is substantially structurally damaged wood will be replaced, cosmetic damage to be repaired by others.

- 4) Remove and dispose of existing Announcer’s Booth/Crows Nest.
- 5) Construct a gable end roof over area that Announcer’s Booth/Crows Nest was located. New gable roof to tie into the existing hip roof framing. New wood to be painted similar to existing.
- 6) Construct new shed style overhang roof over concession window extending a minimum of 6’ out from building x minimum 12’ wide with posts and beams as needed. Install torch membrane roof system similar color to shingle roof.
- 7) Install 4 new O’Hagin attic vents.
- 8) Install one layer #30 ASTM rated and/or synthetic underlayment.
- 9) Install factory pre-painted drip edge metal at eaves. Choice of colors: white, brown or charcoal
- 10) Install new starter strip to all perimeter edges.
- 11) Replace all plumbing, heating and fan flashings with new galvanized flashings.
- 12) Seal flashings with Vulkem #116 polyurethane or similar sealant and paint similar to new shingles.
- 13) Install GAF Timberline Reflector 50-Year/Lifetime Shingles – Title 24 Cool Roof Approved.
- 14) Install GAF Ridglass to peaks of roof.
- 15) Remove all waste upon completion.
- 16) Job is estimated for approximately 10 working days.
- 17) Performance Bond

GAF provides 50-year/lifetime warranty on shingles Dibiten provides 12-year warranty on torch membrane

TWM provides a (5) FIVE- year workmanship warranty. Proper routine maintenance of this roof is required to ensure optimum roof life waterproof integrity and warranty validity.

Warranty is NOT valid until job has been paid for in full.

TWM Roofing Inc. (hereafter referred to as TWM) agrees to respond to a call for a roof leak & investigate the cause of a leak for a period of (5) Five Years after the date of completion of work described above. TWM will determine the scope of the roof repairs needed and correct the roof leak, if the leak is due to TWM's installation workmanship. Warranty excludes cost to remove/re-install solar panel or other equipment - this to be owner's responsibility. This warranty agreement is between the current owner and TWM and is not transferable to other parties. Owner agrees that TWM will not be responsible for any consequential damages associated with any leaks, including but not limited to damages to structure, interior, interior contents, mold, mildew or personal damages. Owner agrees to notify TWM first before any repairs are made. Owner agrees that TWM will not be liable for any repairs made by others without written permission of TWM. Occasionally water leaks originate from areas outside of our proposed work area such as other roof areas, chimney walls/tops, wood siding, stucco, windows, doors, skylight domes or frames, etc. Owner agrees that TWM will not be held liable for any such leaks. Material warranties that require registration, will be recompleted upon receipt of full payment of contract. Workmanship Warranty only valid upon full payment of contract.

## **EXHIBIT “B”**

### **PAYMENT RATES AND SCHEDULE**

All material is guaranteed to be as specified for work in Exhibit A, and will be completed in a substantial workmanlike manner for the Lump Sum of \$39,948.55.

# **EXHIBIT "C"**

**CITY OF TEMECULA  
DEPARTMENT OF PUBLIC WORKS  
BOND NO. [INSERT BOND NUMBER]**

**LABOR AND MATERIALS BOND  
FOR  
PARK RESTROOMS, RENOVATION, EXPANSION AND ADA IMPROVEMENTS  
PROJECT NO. PW17-06**

**KNOW ALL PERSONS BY THESE PRESENTS:**

THAT, WHEREAS, the City of Temecula has awarded to:

**TWM Roofing, Inc.  
5256 S. Mission Rd., Ste. 703  
Bonsall, CA 92003**

Hereinafter called "Contractor," a contract for the work described as follows:

**PARK RESTROOMS, RENOVATION, EXPANSION AND ADA IMPROVEMENTS, PROJECT NO. PW17-06**, hereinafter called "Contract," and

WHEREAS, said Contractor is required by the provisions of Sections 3247-3252 of the Civil Code to furnish a bond in connection with said Contract, as hereinafter set forth.

NOW, THEREFORE, WE, the undersigned Contractor, as Principal, and [INSERT NAME AND ADDRESS OF SURETY] duly authorized to transact business under the laws of the State of California, as Surety, hereinafter called "Surety," are held and firmly bound unto the City of Temecula, California, and all contractors, subcontractors, laborers, materialmen, and other persons employed in the performance of the aforesaid Contract and referred to in Title 15 of the Civil Code, in the penal sum of [INSERT WRITTEN AND NUMERICAL DOLLAR AMOUNT], lawful money of the United States, said sum being not less than one hundred (100%) of the estimated amount payable by the said City of Temecula under the terms of the Contract, for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that, if said Contractor, or its heirs, executors, administrators, successors, and assigns, or subcontractors, shall fail to pay for any materials, provisions, provender or other supplies, or teams, implements or machinery, used in, upon, for, or about the performance of the work under the Contract to be done, or for any work or labor thereon of any kind or for amounts due under the Unemployment Insurance Code with respect to such work or labor, as required by the provisions of Chapter 7 of Title 5 of Part 4 of Division 3 of the Civil Code, and provided that the claimant shall have complied with the provisions of said Civil Code, the Surety shall pay for the same in an amount not exceeding the sum specified in this bond, otherwise the above obligation shall be void.

As a part of the obligation secured hereby and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees incurred by the City of Temecula in successfully enforcing this obligation, all to be taxed as costs and included in any judgment rendered.

This bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Section 3181 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond, and shall also cover payment for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Contractor or its subcontractors pursuant to Section 13020 of the Unemployment Insurance Code.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract, or to the work to be performed thereunder, or to the specifications accompanying the same, shall in any way affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration, or addition to the terms of the Contract, or to the work to be performed thereunder, or to the specifications accompanying the same.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named, on the [INSERT DATE] of [INSERT MONTH], [INSERT YEAR].

(Seal)

**SURETY**

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

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Peter M. Thorson, City Attorney

**PRINCIPAL**

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

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

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

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

**Attach Notarial Acknowledgement or Jurat for both the Surety and Principal Signatures**

# **EXHIBIT "D"**

**CITY OF TEMECULA  
DEPARTMENT OF PUBLIC WORKS  
BOND NO. [INSERT BOND NUMBER]**

**PERFORMANCE BOND  
FOR  
PARK RESTROOMS, RENOVATION, EXPANSION AND ADA IMPROVEMENTS  
PROJECT NO. PW17-06**

**KNOW ALL PERSONS BY THESE PRESENTS:**

THAT, WHEREAS, the City of Temecula, State of California, entered into a contract on this [INSERT DATE] of [INSERT MONTH], [INSERT YEAR], hereinafter called "Contract," with:

**TWM Roofing, Inc.  
5256 S. Mission Rd., Ste. 703  
Bonsall, CA 92003**

Hereinafter called "Principal," for the work described as follows:

**PARK RESTROOMS, RENOVATION, EXPANSION AND ADA IMPROVEMENTS,  
PROJECT NO. PW17-06, and**

WHEREAS, the said Principal is required under the terms of said Contract to furnish a bond for the faithful performance of said Contract.

NOW, THEREFORE, WE, the Principal, and **[INSERT NAME OF SURETY]**, duly authorized to transact business under the laws of the State of California, as Surety, hereinafter called "Surety," are held and firmly bound unto the City of Temecula in the penal sum of [INSERT WRITTEN AND NUMERICAL DOLLAR AMOUNT], lawful money of the United States, for the payment of which sum we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that, if the Principal, its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, and well and truly keep and perform the covenants, conditions and agreements in the said Contract, and in any alteration thereof made as therein provided, on its part to be kept and performed, at the time and in the manner therein specified, in all respects according to their true intent and meaning, and shall indemnify and save harmless the City of Temecula, its officers and agents, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and virtue.

As a part of the obligation secured hereby and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees incurred by the City of Temecula in successfully enforcing this obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract, or to the work to be performed thereunder, or to the specifications accompanying the same, shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract, or to the work, or to the Specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named, on the [INSERT DATE] of [INSERT MONTH], [INSERT YEAR].

(Seal)

**SURETY**

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

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Peter M. Thorson, City Attorney

**PRINCIPAL**

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

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

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

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

**Attach Notarial Acknowledgement or Jurat for both the Surety and Principal Signatures**



State of California  
Secretary of State

CERTIFICATE OF STATUS

ENTITY NAME:

TWM ROOFING, INC.

FILE NUMBER: C2292758  
FORMATION DATE: 12/06/2002  
TYPE: DOMESTIC CORPORATION  
JURISDICTION: CALIFORNIA  
STATUS: ACTIVE (GOOD STANDING)

I, DEBRA BOWEN, Secretary of State of the State of California,  
hereby certify:

The records of this office indicate the entity is authorized to  
exercise all of its powers, rights and privileges in the State of  
California.

No information is available from this office regarding the financial  
condition, business activities or practices of the entity.



IN WITNESS WHEREOF, I execute this certificate  
and affix the Great Seal of the State of  
California this day of June 18, 2012.

*Debra Bowen*

DEBRA BOWEN  
Secretary of State

RKS



**State of California**  
**Secretary of State**

**S**

**E-F00240**

**FILED**

In the office of the Secretary of  
State of the State of California

**May - 5 2011**

This Space For Filing Use Only

**Statement of Information**  
(Domestic Stock and Agricultural Cooperative Corporations)

**FEES (Filing and Disclosure): \$25.00. If amendment, see instructions.**

**IMPORTANT - READ INSTRUCTIONS BEFORE COMPLETING THIS FORM**

**1. CORPORATE NAME**

C2292758

TWM ROOFING, INC.

**Due Date:**

**Complete Addresses for the Following** (Do not abbreviate the name of the city. Items 2 and 3 cannot be P.O. Boxes.)

2. STREET ADDRESS OF PRINCIPAL EXECUTIVE OFFICE	CITY	STATE	ZIP CODE
165 ACACIA AVENUE CARLSBAD CA 92008			

3. STREET ADDRESS OF PRINCIPAL BUSINESS OFFICE IN CALIFORNIA, IF ANY	CITY	STATE	ZIP CODE
165 ACACIA AVENUE CARLSBAD CA 92008			

4. MAILING ADDRESS OF THE CORPORATION, IF DIFFERENT THAN ITEM 2	CITY	STATE	ZIP CODE

**Names and Complete Addresses of the Following Officers** (The corporation must list these three officers. A comparable title for the specific officer may be added; however, the preprinted titles on this form must not be altered.)

5. CHIEF EXECUTIVE OFFICER/	ADDRESS	CITY	STATE	ZIP CODE
TOM MARSHALL	165 ACACIA AVENUE	CARLSBAD, CA	92008	

6. SECRETARY	ADDRESS	CITY	STATE	ZIP CODE
TOM MARSHALL	165 ACACIA AVENUE	CARLSBAD, CA	92008	

7. CHIEF FINANCIAL OFFICER/	ADDRESS	CITY	STATE	ZIP CODE
TOM MARSHALL	165 ACACIA AVENUE	CARLSBAD CA	92008	

**Names and Complete Addresses of All Directors, Including Directors Who Are Also Officers** (The corporation must have at least one director. Attach additional pages, if necessary.)

8. NAME	ADDRESS	CITY	STATE	ZIP CODE
TOM MARSHALL	165 ACACIA AVENUE	CARLSBAD, CA	92008	

9. NAME	ADDRESS	CITY	STATE	ZIP CODE

10. NAME	ADDRESS	CITY	STATE	ZIP CODE

**11. NUMBER OF VACANCIES ON THE BOARD OF DIRECTORS, IF ANY:**

**Agent for Service of Process** (If the agent is an individual, the agent must reside in California and Item 13 must be completed with a California street address (a P.O. Box address is not acceptable). If the agent is another corporation, the agent must have on file with the California Secretary of State a certificate pursuant to California Corporations Code section 1505 and Item 13 must be left blank.)

**12. NAME OF AGENT FOR SERVICE OF PROCESS**

TOM MARSHALL

13. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL	CITY	STATE	ZIP CODE
165 ACACIA AVENUE CARLSBAD, CA 92008			

**Type of Business**

**14. DESCRIBE THE TYPE OF BUSINESS OF THE CORPORATION**

ROOFING CONTRACTOR

**15. BY SUBMITTING THIS STATEMENT OF INFORMATION TO THE CALIFORNIA SECRETARY OF STATE, THE CORPORATION CERTIFIES THE INFORMATION CONTAINED HEREIN, INCLUDING ANY ATTACHMENTS, IS TRUE AND CORRECT.**

05/05/2011

DATE

TOM MARSHALL

TYPE OR PRINT NAME OF PERSON COMPLETING THE FORM

CHIEF EXECUTIVE OFFICER

TITLE

SIGNATURE

2292758

**FILED**

In the Office of the Secretary of State  
of the State of California

**ARTICLE OF INCORPORATION**

**DEC 06 2002**

I

*Bill Jones*  
BILL JONES, Secretary of State

The name of this corporation is TWM ROOFING, INC.

II

The purpose of the corporation is to engage in any lawful act or activity for which a corporation may be organized under the GENERAL CORPORATION LAW of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

III

The name and address in the State of California of this corporation's initial agent for service of process is:

Name: LINDA J. MARSHALL

Address: 4445 ESTATE DRIVE

City : FALLBROOK State: California, Zip 92028

IV

This corporation is authorized to issue only one class of shares of stock; and the total number of shares which this corporation is authorized to issue is 100.

*Linda J. Marshall*  
Linda J. Marshall, Incorporator