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**CONTRACT DOCUMENTS**

**CITY OF LINCOLN, NEBRASKA,  
LANCASTER COUNTY,  
LINCOLN-LANCASTER COUNTY  
PUBLIC BUILDING COMMISSION**

**Unit Price Contract for  
Miscellaneous Roofing Services  
Bid No. 12-186**

**Sprague Roofing Company  
3515 No. 39<sup>th</sup> St. Circle  
Lincoln, NE 68504  
402-467-1949**

**CITY OF LINCOLN,  
LANCASTER COUNTY, NEBRASKA and  
LINCOLN-LANCASTER COUNTY PUBLIC BUILDING COMMISSION  
CONTRACT AGREEMENT**

THIS CONTRACT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012 by and between **Sprague Roofing kCompany, 3515 No. 39<sup>th</sup> St. Circle, Lincoln, NE 68504**, hereinafter called the Contractor, and the City of Lincoln, Nebraska, a municipal corporation, and the County of Lancaster, Nebraska, a political subdivision of the State of Nebraska, and the Lincoln-Lancaster County Public Building Commission hereinafter called the "Owners".

WHEREAS, the Owners have caused to be prepared, in accordance with law, Specifications, Plans, and other Contract Documents for the Work herein described, and has approved and adopted said documents and has caused to be published an advertisement for and in connection with said Work, to-wit:

**Unit Price Contract for Miscellaneous Roofing Services, Bid No. 12-186**

and

WHEREAS, the Contractor, in response to such advertisement, has submitted to the Owners, in the manner and at the time specified, a sealed Proposal/Supplier Response in accordance with the terms of said advertisement; and

WHEREAS, the Owners, in the manner prescribed by law has publicly opened, read aloud, examined, and canvassed the Proposals/Supplier Responses submitted in response to such advertisement, and as a result of such canvass has determined and declared the Contractor to be the lowest responsible bidder for the said Work for the sum or sums named in the Contractor's Proposal/Supplier Response, a copy thereof being attached to and made a part of this Contract.

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor and the mutual covenants herein contained, the Contractor and the Owners have agreed and hereby agree as follows:

1. The Contractor agrees to (a) furnish all tools, equipment, supplies, superintendence, transportation, and other construction accessories, services, and facilities; (b) furnish all materials, supplies, and equipment specified to be incorporated into and form a permanent part of the complete work; (c) provide and perform all necessary labor in a substantial and workmanlike manner and in accordance with the provisions of the Contract Documents; and (d) execute, construct, and complete all Work included in and covered by the Owner's award of this Contract to the Contractor, such award being based on the acceptance by the Owner of the Contractor's Proposal, or part thereof, as follows:

**Agreement to full proposal.**

2. The Owners agree to pay to the Contractor for the performance of the Work embraced in this Contract, the Contractor agrees to accept as full compensation therefore, the following sums and prices for all Work covered by and included in the Contract award and designated above, payment thereof to be made in the manner provided by the Owner:

**The Owners will pay for products/services, according to the Line Item pricing as listed in Contractors Proposal/Supplier Response, a copy thereof being attached to and made a part of this Contract. Owners shall order on an as needed basis for the duration of the contract.**

3. EQUAL EMPLOYMENT OPPORTUNITY: In connection with the carrying out of this project, the Contractor shall not discriminate against any employee, applicant for employment, or any other person because of race, color, religion, sex, national origin, ancestry, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, disability, age or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.
  
4. E-VERIFY: In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section.
  
5. GUARANTEE: The Purchasing Division will require a \$25,000.00 Performance and Payment Bond from each Contractor for the duration of the Contract.
  
6. ASSIGNMENT: This Contract shall not be assigned by Contractor to any other party without first obtaining the written consent of the Owners.
  
7. TERMINATION: This Contract may be terminated by the following:
  - a) Termination for Convenience. Either party may terminate this Contract upon thirty (30) days written notice to the other party for any reason without penalty.
  - b) Termination for Cause. The Owners may terminate the Contract for cause if the Contractor:
    - 1) Refuses or fails to supply the proper labor, materials and equipment necessary for services and/or commodities.
    - 2) Disregards Federal, State or local laws, ordinances, regulations, resolutions or orders.
    - 3) Otherwise commits a substantial breach or default of any provision of the Contract Document. In the event of a substantial breach or default the Owners will provide the Contractor written notice of said breach or default and allow the Contractor ten (10) days from the date of the written notice to cure such breach or default. If said breach or default is not cured within ten (10) days from the date of notice, then the contract shall terminate.
  
8. INDEPENDENT CONTRACTOR: It is the express intent of the parties that this contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the Owners and employees of the Owners shall not be deemed to be employees of the Contractor. The Contractor and the Owners shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the Owners' employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.

9. Owner Inclusion. It is understood and agreed by all parties that "Owner/s" shall include the City of Lincoln, Lancaster County, Nebraska and Lincoln-Lancaster County Public Building Commission. Whenever in the Contract documents, including the instructions to bidders, specifications, insurance requirements, bonds, and terms and conditions or any other documents which are a part of the Contract, a singular entity is referenced (i.e., "the City" or "the County" or "Building Commission") it shall mean the "Owners" encompassing the City of Lincoln, Lancaster County and Lincoln-Lancaster County Building Commission.
10. Contract Term. This Contract shall be effective upon execution by all parties. The term of the Contract shall be a four (4) year term.
11. The Contract Documents comprise the Contract, and consist of the following:
  1. Contract Agreements
  2. Accepted Proposal
  3. Addendums No. 1 and 2
  4. Specifications
  5. Unit Price Service Contract Instructions
  6. Unit Price Quotation - Attachment 1
  7. Instructions to Bidders
  8. Insurance Requirements
  9. Employee Classification Act, Executive Order 83319
  10. Employee Classification Act Affidavit
  11. Construction Bonds
  12. Sales Tax Exemption Forms 13 & 17
  13. Notice to Bidders

This Contract Agreement, together with the other Contract Documents herein above mentioned, form this Contract, and are a part of the Contract as if hereto attached.

The Contractor and the Owners hereby agree that all the terms and conditions of this Contract shall be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Contractor and the Owners do hereby execute this contract.

**EXECUTION BY THE CITY OF LINCOLN, NEBRASKA**

ATTEST:

Joan E. Roach  
City Clerk



CITY OF LINCOLN, NEBRASKA

[Signature]  
Mayor

Approved by Resolution No. \_\_\_\_\_

dated Oct. 19, 2012

**LINCOLN-LANCASTER COUNTY PUBLIC BUILDING COMMISSION**

Attest:

Red Cooper  
Public Building Commission Attorney

[Signature]  
Chairperson, Public Building Commission

dated 10-16-12

**EXECUTION BY LANCASTER COUNTY, NEBRASKA**

Contract Approved as to Form:

[Signature]  
Lancaster County Attorney

The Board of County Commissioners of  
Lancaster, Nebraska

[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]

dated 8/28/12

**EXECUTION BY CONTRACTOR**

IF A CORPORATION:

ATTEST:

Secretary

*Patricia A. Sprague* (SEAL)

Sprague Roofing Company

Name of Corporation

3515 North 39<sup>th</sup> St. Circle  
Lincoln, Nebraska 68504

(Address)

By: *Gregory M. Sprague*  
Duly Authorized Official

President

Legal Title of Official

IF OTHER TYPE OF ORGANIZATION:

Name of Organization

Type of Organization

(Address)

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

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

IF AN INDIVIDUAL:

Name

Address

Signature

## COMMENTARY TO ACCOMPANY CONSTRUCTION BONDS

### A. GENERAL INFORMATION

There are two types of construction bonds that are required by statutes for public work in many jurisdictions and are widely used for other projects as well.

Construction Performance Bond  
Construction Payment Bond

The Construction Performance Bond is an instrument that is used to assure the availability of funds to complete the construction.

The Construction Payment Bond is an instrument that is used to assure the availability of sufficient funds to pay for labor, materials and equipment used in the construction. For public work the Construction Payment Bond provides rights of recovery for workers and suppliers similar to their rights under the mechanics lien laws applying to private work.

The objective underlying the re-writing of construction bond forms was to make them more understandable to provide guidance to users. The intention was to define the rights and responsibilities of the parties, without changing the traditional rights and responsibilities that have been decided by the courts. The new bond forms provide helpful guidance regarding time periods for various notices and actions and clarify the extent of available remedies.

The concept of pre-default meeting has been incorporated into the Construction Performance Bond. All of the participants favored early and informal resolution of the problems that may precipitate a default, but some Surety companies were reluctant to participate in pre-default settings absent specific authorization in the bond form.

The responsibilities of the Owner and the options available to the Surety when a default occurs are set forth in the Construction Performance Bond. Procedures for making a claim under the Construction Payment Bond are set forth in the form.

EJCDC recommends the use of two separate bonds rather than a combined form. Normally the amount of each bond is 100 percent of the contract amount. The bonds have different purposes and are separate and distinct obligations of the Surety. The Surety Association reports that the usual practice is to charge a single premium for both bonds and there is no reduction in premium for using a combined form or for issuing one bond without the other.

### B. COMPLETING THE FORMS

Bonds have important legal consequences; consultation with an attorney and a bond specialist is encouraged with respect to federal, state and local laws applicable to bonds and with respect to completing or modifying the bond forms.

Both bond forms have a similar format and the information to be filled in is ordinarily the same on both bonds. If modification is necessary, the modifications may be different.

The bond forms are prepared for execution by the Contractor and the Surety. Evidence of authority to bind the Surety is usually provided in the form of a power of attorney designating the agent who is authorized to sign on behalf of the Surety. The power of attorney should be filed with the signed bonds.

Each bond must be executed separately since they cover separate and distinct obligations.

Preferably the bond date should be the same date as the contract, but in no case should the bond date precede the date of the contract.

To accompany the Construction Performance Bond (EJCDC No.1910-28A) and the Construction Payment Bond (EJCDC No. 1910-28B)  
Prepared by the Engineers' Joint Contract Documents Committee

CONSTRUCTION PERFORMANCE BOND

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

**Sprague Roofing Company**  
**3515 No. 39<sup>th</sup> St. Circle**  
**Lincoln, NE 68504**

SURETY (Name and Principal  
Place of Business):

Owner (Name and Address):

**City of Lincoln, Lancaster County and**  
**Lincoln-Lancaster County Public Building Commission**  
**555 South 10th St.**  
**Lincoln, NE 68508**

CONSTRUCTION CONTRACT

Date: **07/24/12**  
Amount: **\$ 25,000.00**

Description (Name and Location):

**For all labor, material and equipment necessary for Unit Price Contract for Miscellaneous Roofing Services, Bid No. 12-186**

BOND

Date: **07/24/12**  
Amount: **\$ 25,000.00**

Modifications to this Bond Form:

CONTRACTOR AS PRINCIPAL

Company: (Corp. Seal)  
**Sprague Roofing Company**  
**3515 No. 39<sup>th</sup> St. Circle**  
**Lincoln, NE 68504**

SURETY

Company: (Corp. Seal)

Signature: \_\_\_\_\_  
Name and Title:

Signature: \_\_\_\_\_  
Name and Title:

EJCDC NO. 1910-28a (1984 Edition)

Prepared through the joint efforts of The Surety Assoc. of America, Engineers' Joint Contract Documents Committee, The Associated General Contractors of America, and the American Institute of Architects.

1. The Contractor and the Surety, jointly and severally, bind themselves their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.
3. If there is no Owner Default, the Surety's obligation under this Bond shall arise after:
  - 3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below, that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default and
  - 3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Sub-paragraph 3.1; and
  - 3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.
4. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
  - 4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract, or
  - 4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors: or
  - 4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default, or
  - 4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:
    1. After investigation, determine the amount for which it may be liable to the Owner and as soon as practicable after the amount is determined tender payment therefor to the Owner; or
    2. Deny liability in whole or in part and notify the Owner citing reasons therefor.
5. If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4 and the Owner refuses payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.
6. After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:
  - 6.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
  - 6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and
  - 6.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
7. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, or successors.
8. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related sub-contracts, purchase orders and other obligations.
9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
10. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.
11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
12. Definitions.
  - 12.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.
  - 12.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.
  - 12.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.
  - 12.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

CONSTRUCTION PAYMENT BOND

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

**Sprague Roofing Company  
3515 No. 39<sup>th</sup> St. Circle  
Lincoln, NE 68504**

SURETY (Name and Principal Place  
Of Business):

Owner (Name and Address):

**City of Lincoln, Lancaster County and  
Lincoln-Lancaster County Public Building Commission  
555 South 10th St.  
Lincoln, NE 68508**

CONSTRUCTION CONTRACT

Date: **07/24/12**

Amount: **\$ 25,000.00**

Description (Name and Location):

**For all labor, material and equipment necessary for Unit Price Contract for Miscellaneous Roofing Services,  
Bid No. 12-186**

BOND

Date: **07/24/12**

Amount: **\$ 25,000.00**

Modifications to this Bond Form:

CONTRACTOR AS PRINCIPAL

Company: (Corp. Seal)

**Sprague Roofing Company  
3515 No. 39<sup>th</sup> St. Circle  
Lincoln, NE 68504**

SURETY

Company: (Corp. Seal)

Signature: \_\_\_\_\_

Name and Title:

Signature: \_\_\_\_\_

Name and Title:

EJCDC NO. 1910-28B (1984 Edition)

Prepared through the joint efforts of The Surety Assoc. of America. Engineers' Joint Contract Documents Committee. The Associated General Contractors of America, and the American Institute of Architects.

1. The Contractor and the Surety, jointly and severally, bind themselves their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference.
  2. With respect to the Owner, this obligation shall be null and void if the Contractor:
    - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
    - 2.2 Defends, indemnifies and holds harmless the Owner from all claims, demands, liens or suits by any person or entity who furnished labor, materials or equipment for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.
  3. With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.
  4. The Surety shall have no obligation to Claimants under this Bond until:
    - 4.1 Claimants who do not have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof to the Owner, stating that a claim is being made under this Bond and with substantial accuracy the amount of the claim.
    - 4.2 Claimants who do not have a direct contract with the Contractor:
      1. Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed, and
      2. Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and
      3. Not having been paid within the above 30 days, have sent a written notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.
  5. If a notice required by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.
  6. When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:
    - 6.1 Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
    - 6.2 Pay or arrange for payment of any undisputed amounts.
  7. The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
  8. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond.
- By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to the funds for the completion of the work.
9. The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
  10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.
  11. No suite or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the work or part of the work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Subparagraph 4.1 or Clause 4.1 (iii), or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
  12. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.
  13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted here from and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is, that this Bond shall be construed as a statutory bond and not as a common law bond.
  14. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.
  15. DEFINITIONS
    - 15.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials, or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.
    - 15.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.
    - 15.3 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

(FOR INFORMATION ONLY - NAME, ADDRESS AND TELEPHONE)  
 AGENT OR BROKER: OWNER'S REPRESENTATIVE (ARCHITECT, ENGINEER OR OTHER PARTY)

**Certified Statement Pursuant to Neb. Rev. Stat. § 77-1323**

§ 77-1323 Every person, partnership, limited liability company, association, or corporation furnishing labor or material in the repair, alteration, improvement, erection, or construction of any public improvement shall furnish a certified statement to be attached to the contract that all equipment to be used on the project, except that acquired since the assessment date, has been assessed for taxation for the current year, giving the county where assessed.

Pursuant to Neb. Rev. Stat. § 77-1323, I, \_\_\_\_\_, do hereby certify that all equipment to be used on Bid No. 12-186, except that equipment acquired since the assessment date, has been assessed for taxation for the current year, in \_\_\_\_\_ County, Nebraska.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2012.

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

Title: \_\_\_\_\_

STATE OF NEBRASKA )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2012, before me, the undersigned Notary Public duly commissioned for and qualified in said County, personally came \_\_\_\_\_, to me known to be the identical person, whose name is affixed to the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed.

Witness my hand and notarial seal the day and year last above written.

\_\_\_\_\_  
Notary Public

(SEAL)

# City of Lincoln/Lancaster County (Lincoln Purchasing) Supplier Response

Bid Information		Contact Information		Ship to Information	
Bid Creator	Suzanne Siemer Asst. Purchasing Agent	Address	Purchasing 440 S. 8th St. Lincoln, NE 68508	Address	
Email	ssiemer@lincoln.ne.gov	Contact	Suzanne Siemer Asst. Purchasing Agent	Contact	
Phone	(402) 441-7414				
Fax	(402) 441-6513				
Bid Number	12-186 Addendum 3	Department	Purchasing	Department	
Title	Unit Price Contract for Roofing	Building	Suite 200	Building	
Bid Type	Bid	Floor/Room		Floor/Room	
Issue Date	06/22/2012	Telephone	(402) 441-7414	Telephone	
Close Date	7/12/2012 12:00:00 PM CST	Fax	(402) 441-6513	Fax	
Need by Date		Email	ssiemer@lincoln.ne.gov	Email	

## Supplier Information

Company Sprague Roofing Company  
 Address 3515 North 39th Street Circle  
 Lincoln, NE 68504  
 Contact  
 Department  
 Building  
 Floor/Room  
 Telephone 1 (402) 467-1949  
 Fax 1 (402) 467-4212  
 Email  
 Submitted 7/11/2012 9:32:18 PM CST  
 Total \$268.00

Signature \_\_\_\_\_

Supplier Notes \_\_\_\_\_

Bid Notes \_\_\_\_\_

Bid Activities \_\_\_\_\_

Bid Messages \_\_\_\_\_

Please review the following and respond where necessary

#	Name	Note	Response
1	Instructions to Bidders	I acknowledge reading and understanding the Instructions to Bidders.	Yes
2	Insurance Requirements	I acknowledge reading and understanding the Insurance Requirements.	Yes
3	Specifications	I acknowledge reading and understanding the specifications.	Yes
4	Unit Price Quotation Form	I acknowledge reading and understanding the Unit Price Quotation Form.	Yes
5	Unit Price Instructions	I acknowledge reading and understanding the Unit Price Instructions.	Yes
6	Employee Class Act EO	I acknowledge reading and understanding the Employee Classification Act, Executive Order 83319.	Yes
7	Employee Class Act Affidavit	I acknowledge if awarded the contract I will abide by the law, notarize and attach the Employee Classification Act Affidavit to my contract.	Yes
8	Sample Contract	I acknowledge reading and understanding the sample contract.	Yes
9	Performance/Payment Bond	I acknowledge that a \$25,000 Performance Bond and Payment Bond will be required with the signed contract upon award of this job.	Yes
11	Percentage Markup of Rental Equipment	Percentage Markup of Rental Equipment.  ONLY ENTER A NUMBER IN THE SPACE PROVIDED! An invoice showing the type of equipment AND cost of rental from 3rd Party Vendor may be requested with the final invoice to verify quoted price.	15
12	Percentage Markup of Material, excluding freight	Percentage Markup of Material, Excluding Freight.  ONLY ENTER A NUMBER IN THE SPACE PROVIDED! An invoice showing the material type AND cost of material from 3rd Party Vendor may be requested with the final invoice to verify quoted price.	25
13	Percentage Markup of all Subcontractors Cost	Percentage Markup of Sucontractor Costs.  ONLY ENTER A NUMBER IN THE SPACE PROVIDED! An invoice showing the amount charged by Subcontractor may be requested with the final invoice to verify quoted price.	10
14	Construction Codes	I acknowledge reading and understanding the Construction Codes in the City of Lincoln at <a href="http://www.lincoln.ne.gov/city/build/comercl/codes.htm">http://www.lincoln.ne.gov/city/build/comercl/codes.htm</a>	Yes
15	License Attachments	I acknowledge attaching any applicable licenses for the services provided under this bid.	Yes
16	References	I have attached my References to the Response Attachment section of this bid.	Yes
17	Contact	Name of person submitting this bid:	Gregory M. Sprague
18	Agreement to Addendum No. 1	Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid. Reason: See Bid Attachments section for Addendum information (replaced the "Specifications" Attachment with the correct version).	Yes

- |    |  |   |  |
|----|--|---|--|
| 19 | Agreement to Addendum No. 2                | Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid.<br>Reason: See Bid Attachments section for Addendum information.   | Yes                                    |
| 20 | Agreement to Addendum No. 3                | Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid. Reason: See the Attribute section - changed the "Term Clause with Escallation/De-Escalation" attribute to allow for a text response.   | Yes                                    |
| 21 | Term Clause with Escallation/De-Escalation | I acknowledge that the term of the contract will be a (4) four year term from the date of the executed contract.<br>(a) Bid prices firm for the first full contract period.<br>YES or NO<br>(b) Bid prices subject to escalation/de-escalation YES or NO<br>(c) If (b), state period for which prices will remain firm: through _____ | Yes (a) No, (b) Yes, (c) July 12, 2013 |
| 22 | Electronic Signature                       | Please check here for your electronic signature.  | Yes                                    |

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**Line Items**

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#	Qty	UOM	Description	Response
1	1	EA	Foreman - Labor rate per hour	\$70.00
Item Notes: LABOR RATES: Amount that the contractor will bill the owner for services provided. Labor rates shall include all health and welfare benefits, insurance, taxes, overhead and profit and all other applicable fringe benefits.				
Supplier Notes: Price is good until 07/12/2013 and then is subject to escalation or De-escalation.				
2	1	EA	Roofer - Labor rate per hour	\$68.00
Item Notes: LABOR RATES: Amount that the contractor will bill the owner for services provided. Labor rates shall include all health and welfare benefits, insurance, taxes, overhead and profit, and all other applicable fringe benefits.				
Supplier Notes: Price is good until 07/12/2013 and then is subject to escalation or De-escalation.				
3	1	EA	Roofer's Helper - Labor rate per hour	\$66.00
Item Notes: LABOR RATES: Amount that the contractor will bill the owner for services provided. Labor rates shall include all health and welfare benefits, insurance, taxes, overhead and profit, and all other applicable fringe benefits.				
Supplier Notes: Price is good until 07/12/2013 and then is subject to escalation or De-escalation.				
4	1	EA	Laborer - Labor rate per hour	\$64.00
Item Notes: LABOR RATES: Amount that the contractor will bill the owner for services provided. Labor rates shall include all health and welfare benefits, insurance, taxes, overhead and profit, and all other applicable fringe benefits.				
Supplier Notes: Price is good until 07/12/2013 and then is subject to escalation or De-escalation.				
Response Total:				\$268.00

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CITY OF LINCOLN LANCASTER COUNTY AND PUBLIC BUILDING COMMISSION

ATTACHMENT 1

UNIT PRICE QUOTATION

ROOFING SERVICES, Spec. 12-186

Date: \_\_\_\_\_

TO DEPARTMENT/AGENCY REPRESENTATIVE: \_\_\_\_\_  
 FROM (CONTRACTOR): \_\_\_\_\_  
 PROJECT NUMBER: \_\_\_\_\_  
 PROJECT DESCRIPTION: \_\_\_\_\_

When making a quotation please breakdown the Total Cost into the following categories: Labor, Materials, Equipment, Overhead and Subcontractors Costs. Fill in the following Tables in the areas as shown. If an item does not apply, please do not make an entry in that column.

TIME OF COMPLETION

Estimated Start Date	
Number of Days to Complete	

LABOR COST TABLE

CONTRACTOR	RATE	NO. HOURS	TOTAL \$ AMOUNT
Foreman	\$ 70.00		
Roofer	\$ 68.00		
Roofer's Help	\$ 66.00		
Laborer	\$ 64.00		
Other			
TOTAL LABOR			

EQUIPMENT AND MATERIAL COSTS

ITEM	COST	% of Markup	TOTAL \$ AMOUNT
Total Equipment Costs		15%	
Total Materials Cost		25%	
Total Shipping Cost			

SUBCONTRACTORS COSTS

SUB-CONTRACTOR (NAME)	COST	% of Markup	TOTAL \$ AMOUNT
Sub No. 1		10%	
Sub No. 2			
Sub No. 3			
Sub No. 4			
Sub No. 5			

TOTAL PRICE (NOT TO EXCEED)

\$ \_\_\_\_\_

FIRM: Sprague Roofing Company  
 BY: [Signature]  
 ADDRESS: \_\_\_\_\_

Change Order #: \_\_\_\_\_  
 Accepted: \_\_\_\_\_  
 Not Accepted: \_\_\_\_\_

PHONE \_\_\_\_\_

APPROVED BY: \_\_\_\_\_

Department/Agency Representative

DATE: \_\_\_\_\_

Quality Workmanship Since 1961  
**Sprague Roofing Company**  
3515 North 39<sup>th</sup> Street Circle  
Lincoln, NE 68504  
Ph: 402-467-1949  
Fax: 402-467-4212

07/09/2012

Attention: City of Lincoln  
References as requested for the: Unit Price Contract for Roofing Services

Tim Loeske - Lincoln Public Schools  
Facilities and Maintenance  
800 South 24<sup>th</sup> Street Lincoln, NE  
402-436-1072

Sprague Roofing Company has completed numerous projects for Lincoln Public Schools in the past several years. This work has been administrated through various architects and general contractors under the supervision of Mr. Loeske and staff.

Robert McNally – Lincoln Airport Authority  
2400 West Adams Street  
Lincoln, NE  
402-458-2423

Chris Beardslee – (Architect) – Sinclair Hille Architects  
700 Q Street  
Lincoln, NE  
402-476-7331

Please contact our office with any questions or concerns. Thank you.

Greg Sprague  
Sprague Roofing Company.



Department of Labor  
Labor Law / Contractor Registration  
550 South 16<sup>th</sup> Street, 3<sup>rd</sup> Floor  
Lincoln, NE 68508  
(402) 471 - 2239

### **Registered Contractors and Subcontractors Locator**

Contractor/Subcontractor Name:	SPRAGUE ROOFING COMPANY
Address:	3515 N 39TH ST CIR
City:	LINCOLN
State:	NE
Zip:	68504
Telephone:	402-467-1949
Certificate Number:	22002
Certificate Expiration:	10/15/2012
Contractor Option:	2

## Unit Price Service Contracts Instructions

The City/County Purchasing Division has established "unit price" bids from our local repair and service contractors in an effort to streamline the process necessary to obtain services from various trades to perform small emergency and routine maintenance and repair for our facilities. Without this type of arrangement the specification and notice to proceed were unduly delayed or administratively prohibitive.

1. **DEFINITIONS:** For the purposes of this process the following definitions shall apply:
  - 1.1 **Unit Price Contract:** This series of contracts for routine maintenance, repair and /or remodel with the Owners for labor and material projects equal to or less than \$25,000.00 per project will establish approved hourly rates for the same utilizing a fair and competitive bid process. The Purchasing Division will require proof of insurance and a \$25,000 performance bond from each contractor for the duration of the contract. During the course of the contract period (which is one year with two each one year renewal options), any Owners Department / Division / Agency may utilize the established unit price contract for maintenance, repair and small remodeling projects under \$25,000. In addition, for contracts over \$5,000, involving the repair of any public building or other public structure or improvement, and to which the general provisions of the mechanics' lien laws do not apply, a payment bond in the project estimate amount shall be provided. Unit Price Service Contracts shall not include contracts involving: a) any street, alley bridge or highway, or b) the new construction, furnishing, erection or installation of any building or structure.
  - 1.2 **Labor and Materials:** (time and materials) The contractor will be paid for labor and materials instead of charging a fixed price or percentage of costs. Contractor shall provide a quote to the Owners for time and materials for the actual projected labor hours and material incorporated into or used solely for the project.
  - 1.3 **Unit Price Contractor:** Shall mean any person that enters into a Unit Price Service Contract as a service provider.
  - 1.4 **Maintenance and Repair:** Unit price contracts are restricted to ONLY MAINTENANCE, REPAIR SERVICES AND LIMITED REMODELING THAT TOTAL no more than \$25,000 FOR THE ENTIRE PROJECT. Project Managers shall not divide work or phase project to avoid this limitation. Maintenance and repair shall be limited in scope to expenditure needed to preserve a property's original status and functionality or to compensate for wear and tear and minor remodeling to improve the regular compliance for the facility.
  - 1.5 **Owners** shall mean the agencies, departments and offices of the City of Lincoln, Lancaster County, or City of Lincoln/Lancaster County Public Building Commission, Nebraska.

- 1.6 **Owner's Project Manager:** The "Project Manager" as used in this process shall mean the Owner's department / division or agency manager / supervisor or by or through that person's duly authorized assistants. The Project Manager shall be responsible for general management (getting quotes, selecting contractor, scheduling work, supervising the work and insuring payment to the contractor for said work) of work performed utilizing the Unit Price Contracts.
- 1.7 **Project:** The Unit Price Contracts are restricted to projects for \$25,000 or less. Projects shall mean the entire scope of the work incorporated into a planned undertaking of related activities to reach an objective that has a beginning and an end.
- 1.8 **Quotation:** A proposed estimation of the labor and materials of the individual project to determine an appropriate price to complete the work. May be verbal for small projects (under \$5,000) and written for projects \$5,000 and over.

## 2. **SELECTION POLICIES AND PROCEDURES:**

- 2.1 Any Owner Department, Division or Agency may utilize the unit price contracts for maintenance and repair services with a total project cost of \$25,000 or under.
  - 2.1.1 0 to \$5,000: Verbal quote obtained from approved unit price contractor(s).
  - 2.1.2 \$5,001 to \$9,999: Written (fax is acceptable) price quotes from two or more (if available) approved unit price contractors.
  - 2.1.3 \$10,000 to \$25,000: Written (fax is acceptable) price quotes from two or more (if available) approved unit price contractors, and a notice of approval from the Purchasing Division. (See link on Unit Price Contract page for this form)
- 2.2 Right to Audit: The Purchasing Agent has the right to audit any project for compliance with this procedure. The Purchasing Agent may suspend any Project Manager from using this procedure for non-compliance including, but not limited to the following:
  - 2.2.1 Project is over \$25,000
  - 2.2.2 Project was subdivided into small phases to avoid the \$25,000 Project limit
  - 2.2.3 If proper documentation has not been retained by the Project Manager.
  - 2.2.4 If Purchasing Agent has reason to believe the Project Manager is not providing fair and open access to all available Unit Price Contractors for the work covered under this program.

Instruction reviewed by City Law Department August 2005

F:\FILES\SHARPURC\Kathy\Unit Price Contracts\Unit Price Procedure.final 05.wpd

**SPECIFICATIONS FOR  
UNIT PRICE CONTRACT FOR  
ROOFING SERVICES  
PROJECT INFORMATION**

**1. SCOPE OF CONTRACT**

- 1.1 Lancaster County, Nebraska; the Public Building Commission; and the City of Lincoln (hereinafter referred to as "Owners"), desire to retain qualified contractors on a Unit Price Construction Contract basis to perform Roofing Services for the term of the contract.
- 1.2 A sample Unit Price Contract describing the obligations of the Owners and the Contractor is attached to the E-Bid.
  - 1.2.1 A copy of the Unit Price Service Contract Instructions is attached to the E-Bid.
- 1.3 It is estimated that the total amount of work for all departments/agencies of the Owners for the term of the contracts is approximately **\$150,000.00**.
  - 1.3.1 Individual Unit Price Projects under the terms of this Contract will range from \$0.00 to \$25,000.00.
  - 1.3.2 The Purchasing Division will require a \$25,000.00 Performance/Payment Bond from each Contractor for the duration of the Contract.
- 1.4 Labor rates being bid shall include all health and welfare benefits, insurance, taxes, overhead, profit, and all other applicable fringe benefits in the per hour rate shown in the Line Item Unit Price box.
- 1.5 No adjustments in labor rates or markup percentages being bid will be allowed on work awarded during the annual contract period.
  - 1.5.1 Any future fluctuation in the labor market and/or markup calculations will only be on an annual basis.
- 1.6 The term of the contract shall be a four (4) year term with no option for renewals.
- 1.7 The contract will be for **NON-GRANT** funded projects only.

**2. CONTRACT AND INSURANCE**

- 2.1 Within fourteen (14) calendar days after the award of bid the Contractor(s) must execute a written Unit Price Construction Contract between the Contractor and the Owners and the required performance/payment bond.
- 2.2 Also, within such time period the Contractor must furnish with the executed contract a certificate of insurance in accordance with the "Insurance Clause" to be used for All Unit Price Construction Contracts", naming Lancaster County, and the Public Building Commission and the City of Lincoln as additional insured.

**3. BIDDING PROCEDURE**

- 3.1 Bidders shall submit bid documents and all supporting material via E-Bid.
- 3.2 All inquiries regarding these specifications shall be directed via e-mail to Suzanne Siemer, Assistant Purchasing Agent ([ssiemer@lincoln.ne.gov](mailto:ssiemer@lincoln.ne.gov))
- 3.3 These inquires and/or responses shall be distributed to prospective Vendors electronically as an addenda.
  - 3.3.1 Only written inquiries received within five (5) calendar days of the bid opening will be addressed.
- 3.4 No direct contact is allowed between vendor and other City staff throughout the bid process.
  - 3.4.1 Failure to comply with this directive may result in vendor bid being rejected.

- 3.5 Award of Contract
  - 3.5.1 The following factors shall be considered in determining the low responsible bids:
    - 3.5.1.1 Ability, capacity and skill of the bidder to comply with the specifications and perform the work required by the contract.
    - 3.5.1.2 Character, integrity, reputation, judgment, experience and efficiency of the bidder.
    - 3.5.1.3 Ability of the bidder to perform the work within the time specified for each project.
    - 3.5.1.4 Previous and current compliance of the bidder with laws and regulations relating to the work.
    - 3.5.1.5 Information obtained from the references provided by the bidder.
    - 3.5.1.6 Pricing from the Unit Price bid.
    - 3.5.1.7 Any other information deemed relevant to the contract by the Owners.
  - 3.5.2 Contracts resulting from bid proposals shall not be on an all-or-none basis, and may be awarded to several bidders based on price, scheduling, the ability to complete work on time, quality of work and previous inspection and acceptance of past projects.
  - 3.5.3 The Owners further reserve the right to analyze bid proposals in detail and to award contracts which the Owners believe to be in their best interests.
  - 3.5.4 The Owners may make any investigation deemed necessary to determine the ability of a bidder to perform in accordance with the specifications.
  - 3.5.5 The Owners reserve the right to reject any bid based on facts resulting from any investigation which indicates that a bidder is not properly qualified to perform the obligations of any resulting contract.

4. **BIDDER QUALIFICATIONS**

- 4.1 Bidders must be registered or licensed in accordance with the Lincoln Municipal Code
- 4.2 Bidders shall attach a list of references for similar projects in the Bidders Response Section of this bid.
  - 4.2.1 References to be submitted with the bidding documents shall include a minimum of three (3) references of similar projects completed in the last five (5) years.
  - 4.2.2 References should include: name of firm, contact person, address, and telephone number, and may include references of work previously performed for any one of the Owners.

**Addendum No. 2**  
**Unit Price Contract for Roofing**  
**RFP 12-186**

Addenda are instruments issued by the City prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction.

Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Be advised of the following changes and clarifications to the City's specification and bidding documents:

1.     Question:     I do not see an Addendum as stated; will there be one coming?  
       Answer:     Addendum No. 1 was issued to replace the specifications attachment only; there is no separate attachment to view for Addendum No. 1. However, the corresponding attribute for Addendum No. 1 was inadvertently not included. Therefore, an attribute acknowledging both Addendum No. 1 and Addendum No. 2 has now been added to the attribute section of the e-bid.

All other terms and conditions shall remain unchanged.

Dated this 5th day of July, 2012.

Suzanne M. Siemer  
Assistant Purchasing Agent