

Document 00001

TITLE SHEET

PROJECT MANUAL
FOR
CITY OF WESLACO
UTAH AVENUE WATER LINE IMPROVEMENTS

FOR

WESLACO, TEXAS



4-29-15

CITY ENGINEER

Signature

4/29/15 Addendum No. 2

Date

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Document 00003

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*1 For newspaper publication; not included as part of Project Manual.

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Document 00500

AGREEMENT BETWEEN OWNER AND CONTRACTOR

THIS AGREEMENT is by and between The City of Weslaco, Texas
(hereinafter called OWNER) and _____
(hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 – WORK

1.01 CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Street Paving and Water Distribution.

ARTICLE 2 – THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

Utah Avenue Waterline Improvements

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by City of Weslaco who is herein after called ENGINEER and who is to act as OWNER’s representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 - CONTRACT TIMES

4.01 TIME OF THE ESSENCE

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 DAYS TO ACHIEVE SUBSTANTIAL COMPLETION AND FINAL PAYMENT

A. The Work will be substantially completed within the time stated in Document 00020 – Notice to Bidders.

4.03 LIQUIDATED DAMAGES

A. CONTRACTOR and OWNER recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in



proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER for each day that expires after the time specified in paragraph 4.02 for Substantial Completion until the Work is substantially complete, as shown on table below. After Substantial Completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER \$ 1,000.00 for each day that expires after the time specified in paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

Amount of Contract Range	Cost per Day
\$5000.00 to \$25,000.00	\$100.00
\$25,000.01 to \$100,000.00	\$200.00
\$100,000.01 to \$500,000.00	\$350.00
\$500,000.01 and over	\$500.00

*City inspection cost not included in this price.

ARTICLE 5 – CONTRACT PRICE

5.01 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amount determined pursuant to paragraph 5.01. A below:

- A. For all Work, at the prices stated in CONTRACTOR's Bid, attached hereto as an exhibit.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 SUBMITTAL AND PROCESSING OF PAYMENTS

- A. CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

6.02 PROGRESS PAYMENTS; RETAINAGE

- A. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment on or about the 25th day of each month during performance of the Work as provided in paragraphs 6.02. A. 1 below. All such payments will be measured by the schedule of values established in paragraph 2.07. A. of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as ENGINEER may determine or OWNER may withhold, in accordance with paragraph 14.02 of the General Conditions:
 - a. 90% of Work completed (with the balance being retainage).
 - b. 90% of cost of materials and equipment not incorporated in the Work (with the balance being retainage).



6.03 FINAL PAYMENT

- A. Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 14.07 and upon approval by the Weslaco City Commission. All closing documents must be received by Owner's representative before a recommendation for final payment is given to the Weslaco City Commission.

ARTICLE 7 – INTEREST

- 7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the prevailing money market rate.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce OWNER to enter this Agreement, CONTRACTOR makes the following representations:
 - A. CONTRACTOR has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
 - B. CONTRACTOR has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, including applying the specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by CONTRACTOR, and safety precautions and programs incident thereto.
 - E. CONTRACTOR does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
 - F. CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Contract Documents.
 - G. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the Site, and all examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
 - H. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Documents, and the written resolutions thereof by ENGINEER is acceptable to CONTRACTOR.



- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 CONTENTS

- A. The Contract Documents consist of the documents listed in the table of contents of the Project Manual and the drawings listed on the Sheet Index in the Drawings. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 1. Written Amendments;
 2. Work Change Directives;
 3. Change Order(s).
- B. The documents listed in paragraph 9.01. A. are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in paragraph 3.04 of the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 TERMS

- A. Terms used in this Agreement will have the meanings indicated in the General Conditions.

10.02 ASSIGNMENT OF CONTRACT

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 SUCCESSORS AND ASSIGNS

- A. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 SEVERABILITY

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.



IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in duplicate. One counterpart each has been delivered to OWNER and CONTRACTOR. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or on their behalf.

This Agreement will be effective on _____, 20__ (which is the Effective Date of the Agreement).

OWNER:

CONTRACTOR:

City of Weslaco, Texas

By: _____
David Suarez, Mayor

By: _____

[CORPORATE SEAL]

Attest _____
Elizabeth M. Walker, City Secretary

Attest _____

As to Form: _____
Frank J. Garza, City Attorney

Address for giving notices:

Address for giving notices:

255 S. Kansas Avenue

Weslaco, Texas 78596

License No. _____
(Where Applicable)

Agent for service of process: _____

(If CONTRACTOR is a corporation or a partnership, attach evidence of authority to sign.)

Designated Representative:

Designated Representative:

Name: Mike R. Perez

Name: _____

Title: City Manager

Title: _____

Address: 255 S. Kansas Avenue

Address: _____

Weslaco, Texas, 78596



Phone: _____ 956-968-3181 _____

Phone: _____

Facsimile: _____

Facsimile: _____

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Document 00641

**AFFIDAVIT AND WAIVER OF LIEN
PRIME CONTRACTOR**

THE STATE OF TEXAS

§

§

KNOW ALL MEN BY THESE PRESENTS:

THE COUNTY OF _____

Personally appeared before me, the undersigned Notary Public for said County and State
_____ (Name of Individual),

_____ (Title) of _____

(Prime Contractor), who being duly sworn by me states on oath that all product suppliers and Subcontractors, payrolls, sales tax, privilege tax or license, old age benefits tax, state and federal unemployment insurance, and other liabilities incurred in the performance of _____

(Type of Contract) Contract for the construction of improvements at **Project No. #** _____

Project Title _____ (**Name of Project**), have been paid in full and

that the above named Prime Contractor waives any claims and released _____

(Owner) from any rights or claims (including lien rights) for debts due and owing by virtue of the furnishing of any labor, products, and supplies furnished for such improvements.

The above named Prime Contractor agrees to indemnify the Owner and save him harmless on account of any loss he may sustain in reliance upon this Affidavit and Waiver of Lien including the amount of any lien he may be compelled to pay all costs relating thereto and a reasonable attorney's fee.

[Prime Contractor's Signature]

SWORN AND SUBSCRIBED before me on _____.

[Date]

Notary Public in and for the State of TEXAS

[Print or type Notary Public name]

[Notary Seal]

My Commission Expires: _____

[Expiration Date]

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Document 00642

**RELEASE AND WAIVER OF CLAIMS BY
SUBCONTRACTORS AND PRODUCT VENDORS**

THE STATE OF TEXAS

§

§

KNOW ALL MEN BY THESE PRESENTS:

THE COUNTY OF _____

Personally appeared before me the undersigned authority in and for said County and State (Name of Individual), _____ (Title) of _____ (Company), who, being duly sworn by me states on oath that all bills for labor and products, sales tax, privilege tax or license, old age benefits tax, state and federal unemployment insurance and other liability have been paid in full, or that funds are in hand to discharge such liabilities when due, incurred in the performance of its Subcontract for furnishing labor or products in the construction of improvements at **Project No. #** _____ **Project Title** _____ (Name of Project & Location), upon receipt of check in the amount \$ _____, the undersigned company waives any claims and releases (Owner) _____ (Contractor) from any rights or claims for debts due and owing by virtue of the furnishing of any labor or products and any lien therefore.

[NAME OF COMPANY]

SWORN AND SUBSCRIBED before me on _____
[Date]

Notary Public in and for the State of TEXAS

[Print or type Notary Public name]

[Notary Seal]

My Commission Expires: _____
[Expiration Date]

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Document 00643

**CONTRACTOR'S AFFIDAVIT
AS TO STATUS OF LIENS**

THE STATE OF TEXAS

§

§

KNOW ALL MEN BY THESE PRESENTS:

THE COUNTY OF _____

Personally appeared before me, the undersigned Notary Public for said County and State,
_____(Name of Individual), _____ (Title), of _____ (Prime Contractor),
who being duly sworn by me states on oath that to the best of his knowledge and belief, except as
listed below, the Releases and Waivers of Claim attached hereto include all Subcontractors and all
suppliers of labor, products, and equipment provided by all persons who may have lien against the
property of _____ (Owner), **Project No. #__ Project Title _____**,
located at _____(Location of Project),
arising out of the construction of improvements thereon.

Exceptions: (If none, write "NONE." Any exception listed shall be bonded by the Contractor to
indemnify the Owner, and a copy of each such bond shall be attached hereto.)

- 1.
- 2.
- 3.
- 4.

[NAME OF COMPANY]

SWORN AND SUBSCRIBED before me on _____
[Date]

Notary Public in and for the State of TEXAS

[Print or type Notary Public name]

[Notary Seal]

My Commission Expires: _____
[Expiration Date]

END OF DOCUMENT



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