

STATE OF TEXAS  
COUNTY OF HIDALGO

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## AGREEMENT

This Agreement, made and entered into on this the 13<sup>th</sup> day of February, 2007 by and between **Hidalgo County-Urban County Program** and on behalf of Hidalgo County Precinct #3 hereinafter referred to as "ENTITY," a political subdivision of the State of Texas and La Joya Water Supply Corporation a private not-for-profit organization, hereinafter referred to as "SUB RECIPIENT".

## WITNESSETH

WHEREAS, the **SUBRECIPIENT** desires to carry out eligible activities as described in Exhibit A and permitted by 24 CFR §570.201 (l); and

WHEREAS, the **ENTITY** proposes to contract with **SUBRECIPIENT** in order that the *eligible* activities described in Exhibit A can be carried out in the **ENTITY's** jurisdiction;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That for and in consideration of the mutual covenants and agreements herein set forth and other good and valuable consideration, the **ENTITY** and the **SUBRECIPIENT** do mutually agree as follows:

### SECTION I Rules and Regulations

The **SUBRECIPIENT** agrees to cooperate with the **ENTITY** in respect to the implementation of Community Development Block Grant (CDBG) activities to be carried out by **SUBRECIPIENT** pursuant to 24 CFR Part 570 and other rules, regulations and decisions as may be made by the Department of Housing and Urban Development (HUD) or any other federal or state **ENTITY** that may legally exercise its jurisdiction over expenditures of CDBG funds.

### SECTION II Statement of Work

**SUBRECIPIENT** agrees to perform services as outlined in **Exhibit A: Statement of Work**, of this Agreement for and in consideration of CDBG funding in the amount of \$486,220.00 enumerated in **Exhibit B-1: Grant Budget** and **B-2: Payment Schedule**.

### SECTION II Statement of Work (Continued)

**SUBRECIPIENT** agrees to notify **ENTITY** *in writing* of any changes in its Statement of Work, Grant Budget and Payment Schedule. **SUBRECIPIENT** shall obtain approval *in writing* from **ENTITY** prior to commencing work on any changes made to the Statement of Work, Grant Budget and Payment Schedule.

**ENTITY** shall not be liable for costs incurred or performances rendered by **SUBRECIPIENT** before commencement of this agreement or after termination of this agreement.

**SUBRECIPIENT** agrees to follow the schedule outlined in **Exhibit D: Schedule of Activity**, of this Agreement, and shall notify **ENTITY**, in writing, of any changes, delays or departures from the schedule. If **SUBRECIPIENT** demonstrates that delays or departure from the schedule is due to circumstances beyond its control, **ENTITY** and **SUBRECIPIENT** may amend such Schedules of Activities.

### **SECTION III Records and Reports**

**SUBRECIPIENT** agrees to maintain records and reports as outlined in **Exhibit C: Records and Reports** and agrees to make those records and reports available to the **ENTITY**, HUD, and any other local, state or federal entity or authority that may exercise jurisdiction over expenditure of CDBG funds.

### **SECTION IV Monitoring Visits**

**SUBRECIPIENT** agrees that **ENTITY** shall conduct on-site monitoring visits to assure compliance with applicable Federal requirements and that performance goals are being achieved as per 24 CFR Part 85.40 (a).

### **SECTION V Payment Requests and Program Income**

**SUBRECIPIENT** agrees to follow administrative directions from the **ENTITY** regarding documenting and processing payment requests as defined in **Exhibit E: Requests for Payments**.

**ENTITY** agrees that the program income stipulation is not applicable to **SUBRECIPIENT**.

**SUBRECIPIENT** and **ENTITY** agree that all unused CDBG funds will be returned to **ENTITY** at the end or termination of this agreement for either reallocation or to be reprogrammed by **ENTITY**.

### **SECTION VI Religious Activities**

**The SUBRECIPIENT** and **ENTITY** both agree that none of the funds expended or activities undertaken shall be used in support of any sectarian or religious activity, nor shall any building or structure funded under this Agreement be used for sectarian or religious activities.

### **SECTION VII Other Program Requirements**

**SUBRECIPIENT** agrees to comply with "Other Program Requirements" as listed in 24 CFR §§570.600 - 611 except for those environmental review requirements listed as 24 CFR §570.604.

### **SECTION VIII Uniform Administrative Requirements**

**SUBRECIPIENT** agrees to comply with the requirements and standards of OMB Circular No. A-122, "Cost Principles for Nonprofit Organizations" and the following attachments to OMB Circular No. A-110 as applicable:

- (1) Attachment A, "Cash Depositories", except for paragraph 4 concerning deposit insurance;
- (2) Attachment B, "Bonding and Insurance";
- (3) Attachment C, "Retention and Custodial Requirements for Records", except that in lieu of the provisions in paragraph 4, the retention period for records pertaining to individual CDBG activities starts from the date of submission of the annual performance and evaluation report, as prescribed in 24 CFR §570.507, in which the specific activity is reported on for the final time;
- (4) Attachment F, "Standards for Financial Management Systems";
- (5) Attachment H, "Monitoring and Reporting Program Performance", paragraph 2;
- (6) Attachment N, "Property Management Standards," except for paragraph 3 concerning the standards for real property and except that paragraphs 6 and 7 are modified so that in all cases in which personal property is sold, the proceeds not needed by the **SUBRECIPIENT** for CDBG activities shall be transferred to the **ENTITY** for the use of the CDBG program or shall be retained after compensating the **ENTITY** for the original cost of such property or the portion thereof acquired with CDBG Funds; and
- (7) Attachment O, "Procurement Standards".

### **SECTION IX Audit Requirements**

**SUBRECIPIENT** agrees to comply with the applicable requirements and standards as set forth in OMB Circular A-133, Audits of States, Local Governments and Non-Profit organizations. **SUBRECIPIENT** agrees to provide to **ENTITY** a copy of its Financial Report.

### **SECTION X Suspension and Termination**

**SUBRECIPIENT** understands that this agreement may be suspended or terminated, in accordance with 24 CFR §85.43, if the **SUBRECIPIENT** materially fails to comply with the provisions of this agreement or the provisions so listed on Exhibits A through E.

This agreement may be terminated for convenience by either party at any time prior to the full term of the Agreement period, provided that written notice is given to the other party thirty (30) days in advance.

It is expressly agreed that this Agreement may not be amended except upon the joint action of both **Hidalgo County, Urban County Program and La Joya Water Supply Corporation**

**SECTION XI**  
**Assets**

**SUBRECIPIENT** shall not purchase any asset unless so permitted by the **ENTITY** and such procurement shall be done in the form and manner so prescribed by the **ENTITY**.

Any asset acquired or improved in part or in whole with CDBG funds in excess of \$25,000 must be used in an activity that meets one of the national objectives listed in 24 CFR §570.208 for a period of five years after the expiration of this Agreement or a longer period if so determined by the **ENTITY**.

The disposition of any asset improved or acquired in part or in whole with CDBG funds by the **SUBRECIPIENT** must be done with prior approval of the **ENTITY** and the **ENTITY** shall be reimbursed for the asset, if sold, in the full amount of the disposed value of the asset. The **ENTITY** may, at its option, request that such asset be transferred to **ENTITY** if the asset is no longer being used to meet one of the national objectives or in any case where the **SUBRECIPIENT** no longer provides services shown on Exhibit A.

**SECTION XII**  
**Indemnity Clause**

**SUBRECIPIENT** agrees to hold **ENTITY** harmless from, and indemnify **ENTITY** for and defend **ENTITY** against any and all claims brought against **ENTITY** by employees or officers of **SUBRECIPIENT** or brought by any third person arising in any manner directly or indirectly from **SUBRECIPIENT** programs, activities or events conducted pursuant to this Agreement.

**SUBRECIPIENT** shall acquire, maintain and furnish to **ENTITY** a Certificate of Insurance as proof that it has secured and paid for policies of public liability and automobile insurance to cover all operations and services under the contract agreement with limits of not less than \$300,000.00 per occurrence, \$300,000.00 aggregate, covering all risks incident to or in connection with the execution, performance, attempted performance or non-performance of this Agreement. This requirement shall be to meet **SUBRECIPIENT**'s duty of indemnification under this paragraph.

**SECTION XIII**  
**Procurement**

**SUBRECIPIENT** agrees to follow the rules of the **ENTITY** on the procurement of services, supplies or non-real property in relation to **ENTITY**-funded projects. The legal standards that will apply include the Procurement Standards of the Hidalgo County Urban County Program which includes 24 CFR 85.36, and the Texas County Purchasing Act. In such case as **SUBRECIPIENT** has developed procurement standards governing its operation, such standards shall be reviewed by **ENTITY** to ensure compliance with the Standards implemented by **ENTITY**.

**SECTION XIV**  
**Conflict of Interest**

The **SUBRECIPIENT** covenants that no member of its organization or staff member who exercises influence on the decision-making process presently has or will have any interest, direct or indirect, with any person, corporation, company or association that is hired to carry out any of the activities so listed on

## **Exhibit A.**

The **SUBRECIPIENT** agrees that no person who is an elected official, officer, director, employee, consultant, or agent of the **SUBRECIPIENT**'s organization or the **ENTITY**'s organization shall gain any interest in any corporation, company, or association that is hired to carry out any of the activities so listed in **Exhibit A** during their tenure or for a period of one year thereafter.

No **ENTITY** employees, elected officials, consultants and/or agents shall solicit nor accept gratuities, favors, or anything of monetary value from any person, corporation, company, or association that has been hired or expects to be hired to perform any of the activities so described on **Exhibit A**.

### **SECTION XV Legal Action and Venue**

The **SUBRECIPIENT** agrees to notify the **ENTITY** when a problem arises that may lead to legal action or claim against the **SUBRECIPIENT**. The **SUBRECIPIENT** agrees to furnish to the **ENTITY** any information with respect to such action or claim. The **SUBRECIPIENT** agrees not to take any action with respect to any legal action or claim sought against the **SUBRECIPIENT** without the advice and consent of the **ENTITY**.

Venue and jurisdiction of any suit, right or cause of action arising under or in connection with this Agreement shall lie exclusively in Hidalgo County.

### **SECTION XVI Miscellaneous Provisions**

14.01 **Conflict with Applicable Law.** Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between any provision of this Agreement and any present or future law, ordinance or administrative, executive or judicial regulation, order or decree, or amendment thereof, contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the affected provision or provisions of this Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflict exists.

14.02 **No Waiver.** No waiver by **ENTITY** of any breach of any provision of this Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.

14.03 **Entire Agreement.** This Agreement contains the entire contract between the parties hereto, and each party acknowledges that neither has made (either directly or through any agent or representative) any representations or agreements in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed by **ENTITY** and **SUBRECIPIENT**, and not otherwise.

14.04 **Texas Law to Apply.** This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hidalgo County, Texas. The parties hereby consent to personal jurisdiction in Hidalgo County, Texas.

14.05 **Notice.** Except as may be otherwise specifically provided in this Agreement, all notices, demands, requests or communications required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or (iii) by facsimile, at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

If to ENTITY:

Hidalgo County  
Attention: Urban County Program  
1916 Tesoro Blvd.  
Pharr, Texas 78577

If to SUBRECIPIENT:

La Joya Water Supply Corporation  
P.O. Box A  
La Joya, TX 78560

**SECTION XVI**  
**Miscellaneous Provisions (Continued)**

14.05 (Continued) Each notice, demand, request or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee or, if mailed, at such time as it is deposited in the United States mail.

14.06 **Additional Documents.** The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.

14.07 **Successors.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.

14.08 **Assignment.** This Agreement shall not be assignable by SUBRECIPIENT. ENTITY may assign this Agreement without the consent of SUBRECIPIENT.

14.09 **Headings.** The headings and captions contained in this Agreement are solely for convenient reference and shall not be deemed to affect the meaning or interpretation of any provision or paragraph hereof.

14.10 **Gender and Number.** All pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine or neuter gender, and the singular shall include the plural whenever and as often as may be appropriate.

14.11 **Authority to Execute.** The execution and performance of this Agreement by ENTITY and SUBRECIPIENT have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of ENTITY and SUBRECIPIENT in accordance with its terms.

**SECTION XVII**  
**Effective Date**

The effective date of this contract shall be the 13<sup>th</sup> day of February, 2007, such date being the date the County Commissioners' Court approved entering into this Agreement with SUBRECIPIENT, and shall terminate on the 30<sup>th</sup> day of June, 2007.

Approved and signed this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Pablo Vela, Receiver

**SUBRECIPIENT Firm Name:** La Joya Water Supply Corporation  
**Address:** P.O. Box A  
**City/State/Zip:** La Joya, TX 78560  
**Fed. I.D. # or Soc. Sec. #:**

STATE OF TEXAS        {  
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COUNTY OF HIDALGO {

\_\_\_\_\_, personally appeared before me and declared that he/she signed this application in the capacity designated, if any, and further states that, he/she has read the above application, and the statements therein contained are true.

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary - Signature

\_\_\_\_\_  
\_\_\_\_\_  
**COUNTY OF HIDALGO**  
**URBAN COUNTY PROGRAM**

\_\_\_\_\_  
**Witness:**

\_\_\_\_\_  
**Diana R. Serna**  
**UCP Executive Director**

**Exhibit A**  
**Statement of Work**

Describe the type and amounts of services provided by your agency that will result from the use of grant Funds. (Please explain in detail. If additional space is needed, use additional paper.)

The funding of \$486,220.00 will:

Replace 17,025 linear feet of waterline with upgraded 12 inch DR25 fire-rated line from the Havana Water Plant going east on Highway 83. The upgraded line will defer the 30% water loss currently experienced by the present line and will also allow for the commercial and industrial development of the service area by offering fire protection (fire hydrants) that the current line cannot offer. All engineering fees shall be borne by the LJWSC.

The following services will be performed in this manner:

The installation of the line will be performed by the LJWSC through its own contractor under service agreement utilizing accepted construction methods.

The following services will be expanded/added as a result of CDBG funds:

Increased access to water service for customers of the LJWSC by negating water service loss due to constant breaks in the existing line. Increased access to fire protection along Highway 83.

The following type of beneficiaries will be served:

At least 51% of service area covered by the line are persons of low/mod income.

The services will be provided at the following address and/or location(s):

CT 24201 BG 1-4; CT 24202 BG1-4

**Exhibit B-1**  
**Grant Budget**  
City: \_\_\_\_\_ / Pct.:   3  

TYPE OF EXPENDITURES	BUDGETED AMOUNT
12" PVC, 17025 LINEAR FEET AT \$22.00 PER FT	\$ 374,550.00
12" PVC 90 DEGREE BEND; 1 AT \$750.00 EACH	\$ 750.00
6" FLUSH VALVES 10 AT \$1,250.00 EACH	\$ 12,500.00
TIE-IN TO EXISTING WATERLINE; 2 AT \$2,500.00 EACH	\$ 5,000.00
12" VALVE AND BOX; 12 AT \$2,500.00 EACH	\$ 30,000.00
SUBTOTAL	\$ 422,800.00
15% CONSTRUCTION CONTINGENCY	\$ 63,420.00
	\$
<b>TOTAL GRANT BUDGET:</b>	<b>\$ 486,220.00</b>

**EXHIBIT B-2**  
**PAYMENT SCHEDULE**  
City: \_\_\_\_\_ / Pct.: \_\_\_\_\_

2007 _ For the Months of...	Estimated Amount of Expenditures	Type of Budgeted Expenditures
JULY	\$	
AUGUST	\$	
SEPTEMBER	\$	
OCTOBER	\$	
NOVEMBER	\$	
DECEMBER	\$	
JANUARY	\$	
FEBRUARY	\$ 486,220.00	CONSTRUCTION AND SUPPLY COSTS
MARCH	\$	
APRIL	\$	
MAY	\$	
JUNE	\$	
<b>TOTALS:</b>	\$ 486,220.00	

**Exhibit C**  
**Records & Reports**

City: \_\_\_\_\_ / Pct.: 3

A). When requesting payment, attach a cover letter summarizing the expenditures with the following documents:

- Copies of Invoices
- Other Supporting Documents

**Payment requests must be submitted to Urban County by the 15<sup>th</sup> of each month.**

B). 1 Performance report must be submitted to the Urban County Program at the completion of the project. The performance report must have the following items:

- Period covered by Performance Report
- Type of services provided
- Type of Equipment/Supplies Purchased
- Amount of fund Expended
- Number of Beneficiaries Served & Ethnicity Data
  - 4000 White, non Hispanic
  - 600 Black, non Hispanic
  - Native American
  - 75 Asian or Pacific Islander
  - 19000 Hispanic
  - 23675 Total
- Other significant Information

**\*BECAUSE OF THE NATURE OF THIS PROJECT, THE URBAN COUNTY PROGRAM WILL ASSUME THE LEAD IN GATHERING THE DATA ABOVE (BENEFICIARY AND ETHNICITY DATA) FOR FILE COMPLIANCE.**

C). SUBRECIPIENT must maintain a file of all records and reports submitted to the Urban County Program.

SUBRECIPIENT must maintain files of all original contract agreements, amendments, and correspondence.

D.) SUBRECIPIENT must maintain proper financial records.

**Exhibit D**  
**Schedule of Activity**  
City: \_\_\_\_\_ / Pct.: 3

SUBRECIPIENT hereby agrees to perform services as outlined in Exhibit A.

A proposed monthly schedule of activity should be provided in this space. Schedule should not exceed SUBRECIPIENT contract time frame of twelve months from contract date.

<u>20 07</u> For the Months of...	Number of Beneficiaries	Services
JULY		
AUGUST		
SEPTEMBER		
OCTOBER		
NOVEMBER		
DECEMBER		
JANUARY		
FEBRUARY	0	Order materials for project
MARCH	0	Commence project construction
APRIL	0	Continue and complete construction
MAY	23675	Increased access to water for LJWSC customers and fire protection along hwy 83
JUNE		

**EXHIBIT E**  
**REQUESTS FOR PAYMENT**

City: \_\_\_\_\_ / Pct.: 3

- A) **SUBRECIPIENT shall submit one invoice for the entire cost of the project. This invoice can be submitted at the onset of the project. Entity will pay in advance the total cost of the project.**
  
- B) **ENTITY will only reimburse for those costs and areas eligible as identified in Exhibits A, B, C, and D.**